

# An Act

HOUSE BILL 11-1077

BY REPRESENTATIVE(S) Peniston, Massey, Hamner, Murray, Ramirez, Schafer S., Solano, Summers, Todd, Beezley, Court, Fields, Fischer, Gardner B., Hullinghorst, Kerr J., Labuda, Levy, Miklosi, Nikkel, Pace, Priola, Stephens, Tyler, Vigil;  
also SENATOR(S) Spence, Heath, Hudak, Jahn, King K., Newell, Nicholson, Schwartz, White, Williams S..

CONCERNING THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT" AS IT REFERS TO GIFTED CHILDREN.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 22-20-102 (3), (4), and (5), Colorado Revised Statutes, are amended to read:

**22-20-102. Legislative declaration.** (3) It is further the intent of this ~~article~~ PART 1 to ensure that there is a coordination of all services available to children with disabilities and to promote interagency operating agreements or contracts between administrative units, other public agencies, nonprofit organizations, and eligible facilities for the provision of appropriate services for children with disabilities.

(4) It is further the intent of the general assembly that this ~~article~~

PART 1, and the rules promulgated pursuant to this ~~article~~ PART 1 by the state board, align closely with the federal "Individuals with Disabilities Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 300 and 34 CFR part 303, as they pertain to child find, in order to minimize the number of rules, regulations, and policies to which administrative units, state-operated programs, and eligible facilities are subject.

(5) Nothing in this ~~article~~ PART 1 shall be construed to affect the placement of children out of the home or alternatives to such placements as provided in section 19-1-116, C.R.S.

**SECTION 2. Repeal.** 22-20-102.5, Colorado Revised Statutes, is repealed.

**SECTION 3.** The introductory portion to 22-20-103 and 22-20-103 (2), (12), (13), (13.5), (15), and (24), Colorado Revised Statutes, are amended to read:

**22-20-103. Definitions.** As used in this ~~article~~ PART 1, unless the context otherwise requires:

(2) ~~"Advanced learning plan" or "ALP" means a written record of gifted and talented programming utilized with each gifted child and considered in educational planning and decision-making.~~

(12) "Exceptional ~~children~~ CHILD" means:

(a) ~~Those children~~ A CHILD defined in subsection (5) of this section as ~~children~~ A CHILD with disabilities. An administrative unit shall serve every child with a disability from three to twenty-one years of age AND MAY SERVE children with disabilities from birth through two years of age. ~~and persons enrolled in special educational programs or receiving special educational services deemed to be "exceptional children" for all purposes of this article.~~

(b) ~~Those children~~ A CHILD defined in ~~subsection (13) of this section~~ SECTION 22-20-202 (6) as ~~gifted children~~ A GIFTED CHILD. Pursuant to ~~section 22-20-104.5 (1)~~ SECTION 22-20-204 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve

gifted children who are at least five years of age.

(13) ~~"Gifted children" means those persons from four to twenty-one years of age whose abilities, talents, and potential for accomplishments are so outstanding that they require special provisions to meet their educational needs.~~

(13.5) ~~"Highly advanced gifted child" means a gifted child who has been identified by an administrative unit, using criteria and a process established by rules promulgated by the state board pursuant to section 22-20-104.5 (5), to be a highly advanced gifted child.~~

(15) "Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with this ~~article~~ PART 1 and the rules promulgated by the state board.

(24) ~~"Special educational services" or "special educational programs" means the services or programs provided to gifted children pursuant to this article.~~

**SECTION 4.** 22-20-104 (1) (a), (1) (b), (2) (a), and (7) (a), Colorado Revised Statutes, are amended to read:

**22-20-104. Administration - advisory committee - rules.**

(1) (a) This ~~article~~ PART 1 shall be administered by the department. Administration of this ~~article~~ PART 1 shall include the recommendation to the state board of reasonable rules necessary to implement this ~~article~~ PART 1, including but not limited to:

(I) Minimum standards for administrative units, state-operated programs, eligible facilities, and personnel;

(II) Criteria for determining disability and eligibility for special ~~educational~~ EDUCATION services;

(III) Procedures regarding the identification of ~~exceptional~~ children WITH DISABILITIES, including but not limited to part C child find and part B child find activities described in section 22-20-118;

(IV) Requirements for parental consent, including but not limited to parental consent for the evaluation of children with disabilities and the initial provision of special education services;

(V) Required IEP content and procedures for IEP development, review, and revision;

(VI) Application of school discipline procedures to children with disabilities;

(VII) Required procedural safeguards;

(VIII) Procedures for special education dispute resolution;

(IX) Extended school year services;

(X) Requirements pursuant to the IDEA regarding children with disabilities who are enrolled in private schools; and

~~(XI) Criteria for administrative units to satisfy in adopting program plans to identify and serve gifted children.~~

(b) The state board shall adopt appropriate recommendations as rules to implement this ~~article~~ PART 1 following public comment and hearing. The rules promulgated by the state board shall be in accord with the legislative ~~declarations~~ DECLARATION set forth in ~~sections~~ SECTION 22-20-102. ~~and 22-20-102.5.~~

(2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this ~~article~~ PART 1, the state board shall appoint a state special education advisory committee of an appropriate size. The members of the advisory committee shall be representative of the state population and shall be composed of persons involved in or concerned with the education of children with disabilities, including parents of children with disabilities ages birth through twenty-six years; individuals with disabilities; teachers; representatives of institutions of higher education that prepare special education and related services personnel; state and local education officials, including officials who carry out activities under section 22-33-103.5; administrators of programs for children with disabilities; representatives of other state agencies involved in the financing or delivery

of related services to children with disabilities; representatives of private schools, district charter schools, and institute charter schools; at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; a representative from child welfare services in the department of human services established pursuant to section 26-5-102, C.R.S.; and representatives from the division of youth corrections in the department of human services and from the department of corrections. A majority of the members of the advisory committee shall be individuals with disabilities or parents of children with disabilities. Members shall be appointed for one-year or two-year terms. Any additions to the composition of the advisory committee shall be made pursuant to the procedures of the state board.

~~(7) (a) In order to implement the provisions of sections 22-20-102.5 and 22-20-104.5, the state board and the department may, at their discretion, provide for such personnel as deemed necessary for such purposes.~~

**SECTION 5. Repeal.** 22-20-104.5, Colorado Revised Statutes, is repealed.

**SECTION 6.** 22-20-106 (1) (b), (2) (b), (3) (a), (3) (c), and (4), Colorado Revised Statutes, are amended to read:

**22-20-106. Special education programs - early intervening services - rules.** (1) (b) The state charter school institute shall be an administrative unit for the purpose of delivering special education services to all institute charter schools and shall meet the criteria established by the state board governing the duties and responsibilities of the director of special education. An administrative unit shall also be a school district or board of cooperative services that meets criteria established by the state board governing the duties and responsibilities of the director of special education and is either a board of cooperative services that conducts special educational EDUCATION programs for all school districts that are members of the board of cooperative services or is a school district that meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education.

~~(2) (b) If an administrative unit receives funding to educate gifted~~

~~children, the administrative unit shall submit an annual plan for educating said children to the department pursuant to rules promulgated by the state board.~~

(3) (a) Each administrative unit, state-operated program, and eligible facility shall make available special education services as specified by the IEP for any child with a disability for whom it is responsible, as defined by the rules adopted by the state board pursuant to this ~~article~~. ~~For the purpose of implementing the program plan adopted by each administrative unit pursuant to section 22-20-104.5, each administrative unit shall ensure that its constituent schools and school districts make available appropriate special provisions for gifted children to the extent that funds are provided for such implementation~~ PART 1.

(c) An administrative unit may annually use no more than fifteen percent of the funding amount that the administrative unit annually receives pursuant to this ~~article~~ PART 1 for the provision of early intervening services.

(4) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain special ~~educational~~ EDUCATION programs for the education of exceptional children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or an administrative unit having fewer than six children who need a particular kind of special ~~educational~~ EDUCATION program may purchase services from one or more administrative units where an appropriate special ~~educational~~ EDUCATION program exists.

**SECTION 7.** 22-20-108 (1), (3) (a), and (6), Colorado Revised Statutes, are amended to read:

**22-20-108. Determination of disability - enrollment.** (1) (a) The determination that a child has a disability and is eligible for special education services shall be made by a multidisciplinary team that shall include, at a minimum, the parent of the child and professionally qualified personnel designated by the responsible administrative unit or state-operated program. The composition of the multidisciplinary team and the procedures to be used for determining a child's eligibility for special education services shall be prescribed by rules promulgated by the state board pursuant to this ~~article~~ PART 1.

(b) The development of an IEP for a child with disabilities and determination of placement shall be made by the child's IEP team, including but not limited to the child's parent and qualified professional personnel designated by the responsible administrative unit or state-operated program. The composition of the IEP team and the procedures to be used for developing the child's IEP shall be prescribed by rules promulgated by the state board pursuant to this ~~article~~ PART 1.

(3) (a) In the event of an appeal of the determination of disability, the determination of eligibility for services, the IEP to be offered, the determination of placement, or the provision of a free appropriate public education for a child with disabilities pursuant to this ~~article~~ PART 1, the administrative unit or state-operated program shall utilize the procedures and timetable for impartial due process hearings established by rules promulgated by the state board pursuant to this ~~article~~ PART 1.

~~(6) Requirements for the placement in special education programs of exceptional children who are identified as gifted are not applicable as stated in this section.~~

**SECTION 8.** 22-20-112 (1), Colorado Revised Statutes, is amended to read:

**22-20-112. Length of school year.** (1) An administrative unit may conduct special ~~educational~~ EDUCATION programs as prescribed in this ~~article~~ PART 1 for any length of time; except that the administrative unit must meet the minimum length of time as established by law for school districts.

**SECTION 9.** 22-20-114 (5), Colorado Revised Statutes, is amended to read:

**22-20-114. Funding of programs.** (5) Payments made under the provisions of this ~~article~~ PART 1 shall not affect the amount of other state aid for which an administrative unit may qualify.

**SECTION 10.** 22-20-114.5 (1) (b), (3) (a), (3) (a.5), and (3) (b) (II) (A), Colorado Revised Statutes, are amended to read:

**22-20-114.5. Special education fiscal advisory committee -**

**special education high-cost grants - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(b) "High costs" means the costs incurred by an administrative unit above a threshold amount determined pursuant to paragraph (e) of subsection (3) of this section in providing special ~~educational~~ EDUCATION services, either directly or by contract, to a child with disabilities regardless of the child's district of residence.

(3) (a) An administrative unit that incurs high costs in providing special ~~educational~~ EDUCATION services to a child with disabilities may apply for a high cost grant to recover all or a portion of such high costs. To receive a grant, an administrative unit shall apply to the committee in a form and manner determined by the committee and provide such information as may be requested by the committee to document the administrative unit's high costs.

(a.5) Of the total amount appropriated in a budget year for the purpose of awarding grants pursuant to this section, the committee shall use fifty percent of the amount to award grants to administrative units that have one or more children being served in an out-of-district placement for special ~~educational~~ EDUCATION services and fifty percent of the amount to award grants to administrative units with one or more children being served in an in-district placement for special ~~educational~~ EDUCATION services.

(b) (II) (A) In awarding grants pursuant to this section to administrative units that have one or more children being served in an out-of-district placement for special ~~educational~~ EDUCATION services, the committee shall first prioritize those administrative units that spent the highest percentages, based on the administrative unit's annual audited operating expenses, in the preceding budget year on high costs incurred in providing special education services to children in such out-of-district placements.

**SECTION 11.** Article 20 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2  
EDUCATION OF GIFTED CHILDREN

**22-20-201. Legislative declaration.** THE GENERAL ASSEMBLY, RECOGNIZING THE OBLIGATION OF THE STATE OF COLORADO TO PROVIDE EDUCATIONAL OPPORTUNITIES TO ALL CHILDREN THAT WILL ENABLE THEM TO LEAD FULFILLING AND PRODUCTIVE LIVES, DECLARES THAT THE PURPOSE OF THIS PART 2 IS TO PROVIDE MEANS FOR IDENTIFYING AND EDUCATING THOSE CHILDREN WHO ARE EXCEPTIONAL. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT TRADITIONAL ASSESSMENT METHODS CURRENTLY USED DO NOT ADEQUATELY IDENTIFY SOME GIFTED CHILDREN, INCLUDING THOSE WHO ARE ECONOMICALLY DISADVANTAGED, THOSE WHO ARE FROM ETHNIC OR CULTURAL MINORITIES, AND THOSE WITH DISABILITIES; AND THAT THE STATE BOARD, THE DEPARTMENT, AND EVERY ADMINISTRATIVE UNIT ARE ENCOURAGED TO GIVE THE HIGHEST PRIORITY TO THE IDENTIFICATION OF GIFTED CHILDREN AND TO THE DEVELOPMENT OF EDUCATIONAL PROGRAMS THAT INCLUDE GIFTED CHILDREN.

**22-20-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTRATIVE UNIT" MEANS A SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, OR THE STATE CHARTER SCHOOL INSTITUTE THAT IS PROVIDING EDUCATIONAL SERVICES TO EXCEPTIONAL CHILDREN AND THAT IS RESPONSIBLE FOR THE LOCAL ADMINISTRATION OF THIS ARTICLE.

(2) "ADVANCED LEARNING PLAN" OR "ALP" MEANS A WRITTEN RECORD OF GIFTED AND TALENTED PROGRAMMING UTILIZED WITH EACH GIFTED CHILD AND CONSIDERED IN EDUCATIONAL PLANNING AND DECISION-MAKING.

(3) "BOARD OF COOPERATIVE SERVICES" MEANS A REGIONAL EDUCATIONAL SERVICES UNIT CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE AND DESIGNED TO PROVIDE SUPPORTING, INSTRUCTIONAL, ADMINISTRATIVE, FACILITY, COMMUNITY, OR ANY OTHER SERVICES CONTRACTED BY PARTICIPATING MEMBERS.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

(5) "EXCEPTIONAL CHILD" MEANS:

(a) A CHILD DEFINED IN SECTION 22-20-103 (5) AS A CHILD WITH A

DISABILITY. AN ADMINISTRATIVE UNIT SHALL SERVE EVERY CHILD WITH A DISABILITY FROM THREE TO TWENTY-ONE YEARS OF AGE AND MAY SERVE CHILDREN WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE.

(b) A CHILD DEFINED IN SUBSECTION (6) OF THIS SECTION AS A GIFTED CHILD. PURSUANT TO SECTION 22-20-204 (1), AN ADMINISTRATIVE UNIT SHALL ADOPT AND SUBMIT TO THE DEPARTMENT A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED CHILDREN WHO ARE AT LEAST FIVE YEARS OF AGE.

(6) "GIFTED CHILD" MEANS A PERSON FROM FOUR TO TWENTY-ONE YEARS OF AGE WHOSE ABILITIES, TALENTS, AND POTENTIAL FOR ACCOMPLISHMENTS ARE SO OUTSTANDING THAT HE OR SHE REQUIRES SPECIAL PROVISIONS TO MEET HIS OR HER EDUCATIONAL NEEDS.

(7) "GIFTED EDUCATION SERVICES" OR "GIFTED EDUCATION PROGRAMS" MEANS THE SERVICES OR PROGRAMS PROVIDED TO GIFTED CHILDREN PURSUANT TO THIS PART 2.

(8) "HIGHLY ADVANCED GIFTED CHILD" MEANS A GIFTED CHILD WHO HAS BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT, USING CRITERIA AND A PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 22-20-204 (6), TO BE A HIGHLY ADVANCED GIFTED CHILD.

(9) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED AND EXISTING PURSUANT TO LAW, BUT SHALL NOT INCLUDE A JUNIOR COLLEGE DISTRICT.

(10) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

**22-20-203. Administration - rules.** (1) (a) THIS PART 2 SHALL BE ADMINISTERED BY THE DEPARTMENT. ADMINISTRATION OF THIS PART 2 SHALL INCLUDE THE RECOMMENDATION TO THE STATE BOARD OF REASONABLE RULES NECESSARY TO IMPLEMENT THIS PART 2, INCLUDING BUT NOT LIMITED TO:

(I) PROCEDURES REGARDING THE IDENTIFICATION OF GIFTED

CHILDREN; AND

(II) CRITERIA FOR ADMINISTRATIVE UNITS TO SATISFY IN ADOPTING PROGRAM PLANS TO IDENTIFY AND SERVE GIFTED CHILDREN.

(b) THE STATE BOARD SHALL ADOPT APPROPRIATE RECOMMENDATIONS AS RULES TO IMPLEMENT THIS PART 2 FOLLOWING PUBLIC COMMENT AND HEARING. THE RULES PROMULGATED BY THE STATE BOARD SHALL BE IN ACCORD WITH THE LEGISLATIVE DECLARATION SET FORTH IN SECTION 22-20-201.

(c) AN ADMINISTRATIVE UNIT THAT PROVIDES PLANS, PROGRAMS, OR SERVICES THAT DO NOT COMPLY WITH THE RULES ADOPTED BY THE STATE BOARD WILL BE PROVIDED BY THE DEPARTMENT WITH A DETAILED ANALYSIS OF ANY DISCREPANCIES NOTED ALONG WITH SPECIFIC RECOMMENDATIONS FOR THEIR CORRECTION. APPLICABLE FEDERAL AND STATE FUNDING WILL BE PROVIDED OR CONTINUED FOR A REASONABLE PERIOD OF TIME, AS DETERMINED BY THE DEPARTMENT, TO ALLOW THE ADMINISTRATIVE UNIT AN OPPORTUNITY TO COMPLY WITH SUCH RULES. AN ADMINISTRATIVE UNIT MAY ESTABLISH A CLAIM FOR VARIANCE BASED UPON CONDITIONS INDIGENOUS TO OR UNIQUE TO THE ADMINISTRATIVE UNIT.

(2) IN ORDER TO IMPLEMENT THE PROVISIONS OF SECTIONS 22-20-201 AND 22-20-204, THE STATE BOARD AND THE DEPARTMENT MAY PROVIDE, AT THEIR DISCRETION, FOR SUCH PERSONNEL AS DEEMED NECESSARY FOR SUCH PURPOSES.

**22-20-204. Plan for academic excellence - inclusion of gifted children - cooperation - rules.** (1) EACH ADMINISTRATIVE UNIT SHALL ADOPT AND IMPLEMENT A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED CHILDREN WHO ARE AT LEAST FIVE YEARS OF AGE. ANY PROGRAM PLAN DEVELOPED AND IMPLEMENTED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL SATISFY ANY CRITERIA ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD FOR THE IMPLEMENTATION OF THIS PART 2. A PROGRAM PLAN ADOPTED BY AN ADMINISTRATIVE UNIT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE ADVANCED LEARNING PLANS OF THE GIFTED CHILDREN WHO ARE IDENTIFIED BY THE ADMINISTRATIVE UNIT, AND THE PROGRAM PLAN SHALL BE IMPLEMENTED TO THE EXTENT THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION. NOTHING IN THIS PART 2 SHALL BE CONSTRUED TO REQUIRE AN

ADMINISTRATIVE UNIT TO IMPLEMENT A PROGRAM PLAN IN THE EVENT THAT SUFFICIENT MONEYS ARE NOT PROVIDED FOR SUCH IMPLEMENTATION.

(2) (a) IN ADOPTING AND IMPLEMENTING A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED CHILDREN PURSUANT TO SUBSECTION (1) OF THIS SECTION, EACH ADMINISTRATIVE UNIT MAY INCLUDE IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN WHO ARE:

(I) FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO KINDERGARTEN IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT; AND

(II) FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST GRADE IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT.

(b) IN MAKING DETERMINATIONS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), AN ADMINISTRATIVE UNIT SHALL APPLY THE CRITERIA AND PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(c) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE ADMINISTRATIVE UNIT SHALL MAKE AVAILABLE UPON REQUEST TO ANY PERSON THE ADMINISTRATIVE UNIT'S CRITERIA AND PROCESS FOR IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED APPROPRIATE, INCLUDING TIME FRAMES, DEADLINES, AND ANY SPECIFIC TESTS AND THRESHOLD SCORES USED BY THE ADMINISTRATIVE UNIT IN IDENTIFYING AND MAKING A FINAL DETERMINATION CONCERNING SUCH A STUDENT.

(d) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE ADMINISTRATIVE UNIT MAY CHARGE A FEE FOR ANY ASSESSMENTS OR OTHER PROCEDURES THAT THE ADMINISTRATIVE UNIT PERFORMS FOR THE PURPOSE OF IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED APPROPRIATE; EXCEPT THAT AN ADMINISTRATIVE UNIT SHALL NOT CHARGE SUCH A FEE FOR ANY SUCH ASSESSMENTS OR OTHER PROCEDURES IF THE CHILD WHO IS THE

SUBJECT OF SUCH ASSESSMENTS OR OTHER PROCEDURES IS ELIGIBLE FOR A REDUCED-COST MEAL OR FREE MEAL PURSUANT TO THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

(e) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN WHO ARE FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO KINDERGARTEN IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT OR WHO ARE FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST GRADE IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT ARE IMPORTANT ELEMENTS OF ACCOUNTABLE EDUCATION REFORM AND EXPANDING THE AVAILABILITY OF PRESCHOOL AND KINDERGARTEN PROGRAMS AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(3) INSTITUTIONS OF HIGHER EDUCATION THAT ARE LOCATED WITHIN THE STATE ARE ENCOURAGED TO WORK WITH THE ADMINISTRATIVE UNITS, THE STATE BOARD, AND THE DEPARTMENT TO PROVIDE STAFF DEVELOPMENT AND IN-SERVICE OPPORTUNITIES TO SUPPORT SUCH MANAGEMENT PLANS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

(4) FUNDING FOR GIFTED PROGRAMS SHALL BE FOR APPROPRIATELY CERTIFIED, ENDORSED, OR LICENSED STAFF, FOR ACTIVITIES RELATED TO SERVING GIFTED CHILDREN, AND FOR EDUCATIONAL EQUIPMENT AND MATERIALS. FUNDING FOR GIFTED PROGRAMS SHALL SUPPLEMENT, NOT SUPPLANT, PROGRAMS FOR STUDENTS WITH DISABILITIES.

(5) FOR EACH FISCAL YEAR, APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO FUND PROGRAMS FOR GIFTED CHILDREN SHALL BE DESIGNATED BY A SEPARATE LINE ITEM IN THE ANNUAL GENERAL APPROPRIATION ACT.

(6) (a) ON OR BEFORE JULY 1, 2008, THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH CRITERIA AND A PROCESS THAT AN ADMINISTRATIVE UNIT SHALL USE, PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, TO MAKE DETERMINATIONS REGARDING THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(b) THE CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE CONSIDERATION OF A CHILD'S:

(I) APTITUDE;

(II) ACHIEVEMENT;

(III) PERFORMANCE;

(IV) READINESS FOR ADVANCED PLACEMENT;

(V) OBSERVABLE SOCIAL BEHAVIOR;

(VI) MOTIVATION TO LEARN; AND

(VII) SUPPORT FROM PARENTS, TEACHERS, AND SCHOOL ADMINISTRATORS.

(c) THE PROCESS ESTABLISHED BY RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE:

(I) A TIMELINE ACCORDING TO WHICH A CHILD'S PARENTS MAY APPLY FOR ADVANCED PLACEMENT FOR THE CHILD;

(II) A DESCRIPTION OF ADMINISTRATIVE UNIT PERSONNEL WHO SHALL BE INVOLVED IN THE PROCESS OF IDENTIFYING HIGHLY ADVANCED GIFTED CHILDREN FOR WHOM ADVANCED PLACEMENT IS APPROPRIATE;

(III) A DESCRIPTION OF HOW EACH CHILD FOR WHOM THE CHILD'S PARENTS ARE SEEKING ADVANCED PLACEMENT SHALL BE EVALUATED;

(IV) A DESCRIPTION OF THE ENTIRE BODY OF EVIDENCE THAT SHALL BE USED TO EVALUATE EACH CHILD FOR WHOM THE CHILD'S PARENTS ARE SEEKING ADVANCED PLACEMENT;

(V) A DESCRIPTION OF HOW DECISIONS CONCERNING THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN SHALL BE MADE COLLABORATIVELY BY ADMINISTRATIVE UNIT PERSONNEL; AND

(VI) A DESCRIPTION OF HOW AN ADMINISTRATIVE UNIT SHALL MONITOR THE PERFORMANCE OF A CHILD WHO HAS RECEIVED AN ADVANCED PLACEMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION.

**22-20-205. Gifted education programs.** (1) IF AN ADMINISTRATIVE UNIT RECEIVES FUNDING TO EDUCATE GIFTED CHILDREN, THE ADMINISTRATIVE UNIT SHALL SUBMIT AN ANNUAL PLAN FOR EDUCATING SAID CHILDREN TO THE DEPARTMENT PURSUANT TO RULES PROMULGATED BY THE STATE BOARD.

(2) FOR THE PURPOSE OF IMPLEMENTING THE PROGRAM PLAN ADOPTED BY EACH ADMINISTRATIVE UNIT PURSUANT TO SECTION 22-20-204, EACH ADMINISTRATIVE UNIT SHALL ENSURE THAT ITS CONSTITUENT SCHOOLS AND SCHOOL DISTRICTS MAKE AVAILABLE APPROPRIATE SPECIAL PROVISIONS FOR GIFTED CHILDREN TO THE EXTENT THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION.

(3) TO COMPLY WITH THIS SECTION, AN ADMINISTRATIVE UNIT MAY CONTRACT WITH ONE OR MORE ADMINISTRATIVE UNITS TO ESTABLISH AND MAINTAIN GIFTED EDUCATION PROGRAMS FOR THE EDUCATION OF EXCEPTIONAL CHILDREN, SHARING THE COSTS THEREOF IN ACCORDANCE WITH THE TERMS OF THE CONTRACT AGREED UPON; OR AN ADMINISTRATIVE UNIT HAVING FEWER THAN SIX CHILDREN WHO NEED A PARTICULAR KIND OF GIFTED EDUCATION PROGRAM MAY PURCHASE SERVICES FROM ONE OR MORE ADMINISTRATIVE UNITS WHERE AN APPROPRIATE GIFTED EDUCATION PROGRAM EXISTS.

**22-20-206. Length of school year.** AN ADMINISTRATIVE UNIT MAY CONDUCT GIFTED EDUCATION PROGRAMS AS PRESCRIBED IN THIS PART 2 FOR ANY LENGTH OF TIME; EXCEPT THAT THE ADMINISTRATIVE UNIT MUST MEET THE MINIMUM LENGTH OF TIME AS ESTABLISHED BY LAW FOR SCHOOL DISTRICTS.

**SECTION 12. Repeal.** Article 26 of title 22, Colorado Revised Statutes, is repealed.

**SECTION 13.** 22-7-402 (8.5), Colorado Revised Statutes, is amended to read:

**22-7-402. Definitions.** As used in this part 4, unless the context

otherwise requires:

(8.5) "Exceptional students" means those students defined in section 22-20-103 (5) as children with disabilities and students defined in ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6) as gifted children.

**SECTION 14.** 22-11-301 (3) (f), Colorado Revised Statutes, is amended to read:

**22-11-301. School district accountability committees - creation - membership.** (3) If a local school board appoints the members of the school district accountability committee, the local school board, to the extent practicable, shall ensure that the parents who are appointed reflect the student populations that are significantly represented within the school district. Said student populations may include, but need not be limited to:

(f) Students who are identified as gifted children as defined in ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6).

**SECTION 15.** 22-11-401 (1) (d) (VI), Colorado Revised Statutes, is amended to read:

**22-11-401. School accountability committee - creation - qualifications - elections.** (1) (d) If the local school board or the institute determines that the members of a school accountability committee should be appointed, the appointing authority shall, to the extent practicable, appoint persons to serve on the school accountability committee who reflect the student populations that are significantly represented within the school. If the local school board or the institute determines that persons shall be elected to serve on the school accountability committee, the school principal shall encourage persons who reflect the student populations that are significantly represented within the school to seek election to the committee. Said student populations may include, but need not be limited to:

(VI) Students who are identified as gifted children, as defined in ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6).

**SECTION 16.** 22-54-103 (10) (a) (IV) (B) and (10) (b) (I) (B), Colorado Revised Statutes, are amended to read:

**22-54-103. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(10) (a) (IV) (B) For purposes of determining pupil enrollment in first grade for the 2007-08 budget year and each budget year thereafter, in addition to the pupils counted pursuant to sub-subparagraph (A) of this subparagraph (IV), a district may count and receive funding for a pupil who is enrolled in first grade who is at least five years old on or before October 1 of the applicable budget year if the pupil attended at least one hundred twenty days of kindergarten in a state other than Colorado. A district may also receive funding for a pupil who is five years old and who has been identified by the district or an administrative unit as a highly advanced gifted child for whom early access to first grade is appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

(b) (I) A pupil enrolled in a kindergarten educational program pursuant to section 22-32-119 (1) shall be counted as not more than a half-day pupil. For the 2005-06 budget year and each budget year thereafter, a district shall count and receive funding only for pupils enrolled in a kindergarten educational program who are:

(B) Four years old as of October 1 of the applicable budget year and who have been identified by an administrative unit to be highly advanced gifted children for whom early access to kindergarten is appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

**SECTION 17. Act subject to petition - effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless

approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO