

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2733

AN ACT

AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-249 AND 15-249.01; RELATING TO THE DEPARTMENT OF EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 2, article 2, Arizona Revised Statutes,
3 is amended by adding sections 15-249 and 15-249.01, to read:

4 15-249. Department of education; contracts for evaluation of
5 data collection, compilation and reporting and for
6 updating of student accountability information
7 system; reports; review; reversion

8 A. SUBJECT TO APPROPRIATION OF STATE FUNDS, OR RECEIPT OF FEDERAL
9 FUNDS OR PRIVATE DONATIONS OR GRANTS FROM ANY LAWFUL PUBLIC OR PRIVATE SOURCE
10 FOR THIS PURPOSE, THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL ENTER INTO
11 CONTRACTS WITH PUBLIC OR PRIVATE ENTITIES TO CARRY OUT THE PURPOSES OF THIS
12 SECTION.

13 B. ON OR BEFORE AUGUST 1, 2010, THE DEPARTMENT OF EDUCATION SHALL
14 ISSUE A REQUEST FOR PROPOSALS TO EVALUATE THE EXISTING SYSTEM OF DATA
15 COLLECTION, COMPILATION AND REPORTING CONDUCTED BY THE DEPARTMENT. THE
16 DEPARTMENT SHALL AWARD A CONTRACT PURSUANT TO THIS SUBSECTION NO LATER THAN
17 OCTOBER 1, 2010 SUBJECT TO APPROPRIATION OF STATE FUNDS, OR RECEIPT OF
18 FEDERAL FUNDS OR PRIVATE DONATIONS OR GRANTS FROM ANY LAWFUL PUBLIC OR
19 PRIVATE SOURCE FOR THIS PURPOSE. THE REQUEST FOR PROPOSALS SHALL REQUIRE THE
20 EVALUATION OF THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM PRESCRIBED IN
21 CHAPTER 9, ARTICLE 8 OF THIS TITLE AND THE DATA WAREHOUSE AND MUST INCLUDE:

22 1. A DETAILED DESCRIPTION OF THE EXISTING HARDWARE, SOFTWARE AND
23 NETWORKING INFRASTRUCTURE.

24 2. THE IDENTIFICATION AND DESCRIPTION OF THE EXISTING DATA ELEMENTS
25 PROCESSED AND STORED ON BOTH SYSTEMS.

26 3. THE IDENTIFICATION AND DESCRIPTION OF THE EXISTING USERS OF BOTH
27 SYSTEMS INCLUDING A USER NEEDS-BASED ANALYSIS.

28 4. THE IDENTIFICATION AND DESCRIPTION OF THE RESOURCES REQUIRED TO
29 MAINTAIN BOTH SYSTEMS IN ORDER TO MEET THE CURRENT REPORTING AND DATA
30 ANALYSIS FUNCTIONS.

31 5. THE CURRENT SYSTEMS' CAPABILITY TO INCORPORATE THE NEW DATA
32 ELEMENTS REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT BY SEPTEMBER
33 30, 2011.

34 6. OPTIONS TO REPLACE OR UPGRADE THE EXISTING SYSTEMS WHICH MUST
35 INCLUDE:

36 (a) COST ESTIMATES TO REPLACE OR UPGRADE THE EXISTING SYSTEMS AT THEIR
37 CURRENT LEVEL OF FUNCTIONALITY.

38 (b) COST ESTIMATES FOR OPTIMAL SYSTEMS.

39 (c) COST ESTIMATES TO PRIVATIZE SOME OR ALL OF THE SYSTEMS' FUNCTIONS.

40 (d) ANALYSIS OF OTHER STATES' DATA SYSTEMS WHICH IDENTIFIES AND
41 DESCRIBES OPTIMAL SYSTEMS AND OTHER STATES' EXPERIENCES WITH PRIVATIZATION.

42 7. A WRITTEN REPORT DETAILING THE EVALUATION FINDINGS.

43 C. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL PROVIDE COPIES OF
44 THE WRITTEN REPORT PRODUCED PURSUANT TO SUBSECTION B TO THE GOVERNOR, THE
45 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE AND

1 THE JOINT LEGISLATIVE BUDGET COMMITTEE WITHIN THIRTY DAYS OF RECEIVING THE
2 REPORT.

3 D. SUBJECT TO APPROPRIATION OF STATE FUNDS, OR RECEIPT OF FEDERAL
4 FUNDS OR PRIVATE DONATIONS OR GRANTS FROM ANY LAWFUL PUBLIC OR PRIVATE SOURCE
5 FOR THIS PURPOSE, THE DEPARTMENT OF EDUCATION SHALL ISSUE, IN ADDITION TO THE
6 REQUEST FOR PROPOSALS PRESCRIBED IN SUBSECTION B, A REQUEST FOR PROPOSALS TO
7 REPLACE OR UPDATE THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM PRESCRIBED IN
8 CHAPTER 9, ARTICLE 8 OF THIS TITLE AND TO BRING THAT SYSTEM INTO COMPLIANCE
9 WITH THE AMERICAN RECOVERY AND REINVESTMENT ACT. IF THE SUPERINTENDENT OF
10 PUBLIC INSTRUCTION DIRECTS THE DEPARTMENT TO ISSUE A CONTRACT PURSUANT TO
11 THIS SUBSECTION THE CONTRACT SHALL REQUIRE THE CONTRACTOR TO:

12 1. SUCCESSFULLY ATTAIN PERFORMANCE GOALS PRESCRIBED BY THE
13 SUPERINTENDENT OF PUBLIC INSTRUCTION RELATING TO IMPROVEMENT OF THE DATA
14 COLLECTION, COMPILATION AND REPORTING DUTIES PRESCRIBED IN THIS TITLE.

15 2. DEVELOP AND MAINTAIN A SYSTEM THAT IS ACCESSIBLE THROUGH COMMONLY
16 USED INTERNET WEB BROWSERS TO CARRY OUT THE DATA COLLECTION, COMPILATION AND
17 REPORTING DUTIES PRESCRIBED IN THIS TITLE.

18 3. DEMONSTRATE THAT IT HAS THE QUALIFICATIONS, OPERATIONS AND
19 MANAGEMENT EXPERIENCE AND EXPERIENCED PERSONNEL NECESSARY TO CARRY OUT THE
20 TERMS OF THE CONTRACT AND THE ABILITY TO COMPLY WITH APPLICABLE STANDARDS.

21 4. PROVIDE A HISTORY OF SUCCESSFULLY OPERATING AND MANAGING DATA
22 COLLECTION, COMPILATION AND REPORTING TASKS.

23 5. PROVIDE A HISTORY OF SUCCESSFULLY DELIVERING SERVICES RELATED TO
24 DATA COLLECTION, COMPILATION, SERVICE DELIVERY AND REPORTING TASKS.

25 E. ANY CONTRACT AWARDED PURSUANT TO SUBSECTION D OF THIS SECTION SHALL
26 ALLOW THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO RENEW THE CONTRACTS FOR TWO
27 SUBSEQUENT PERIODS OF NOT MORE THAN THREE YEARS EACH AND SHALL PRESCRIBE THE
28 CIRCUMSTANCES UNDER WHICH THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY
29 TERMINATE THE CONTRACTS. THE CONTRACTS SHALL ALLOW THE STATE TO CANCEL ANY
30 CONTRACT AT ANY TIME AFTER THE FIRST YEAR OF OPERATION, WITHOUT PENALTY TO
31 THIS STATE, ON NINETY DAYS' WRITTEN NOTICE AND SHALL REQUIRE THE CONTRACTOR
32 TO BE IN COMPLIANCE AT ALL TIMES WITH STATE AND FEDERAL LAW.

33 F. ANY CONTRACT AWARDED PURSUANT TO SUBSECTION D OF THIS SECTION MAY
34 PROVIDE FOR ANNUAL CONTRACT PRICE OR COST ADJUSTMENTS, EXCEPT THAT ANY
35 ADJUSTMENTS MAY BE MADE ONLY ONCE EACH YEAR EFFECTIVE ON THE ANNIVERSARY OF
36 THE CONTRACT'S EFFECTIVE DATE. ANY ADJUSTMENT MADE PURSUANT TO THE TERMS OF
37 THE CONTRACT MUST BE APPLIED TO THE TOTAL PAYMENTS MADE TO THE CONTRACTOR FOR
38 THE PREVIOUS CONTRACT YEAR AND SHALL NOT EXCEED THE PERCENTAGE OF CHANGE IN
39 THE AVERAGE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT
40 OF LABOR, BUREAU OF LABOR STATISTICS BETWEEN THAT FIGURE FOR THE LATEST
41 CALENDAR YEAR AND THE NEXT PREVIOUS CALENDAR YEAR. ANY PRICE OR COST
42 ADJUSTMENTS THAT ARE DIFFERENT THAN THOSE AUTHORIZED IN THIS SUBSECTION MAY
43 BE MADE ONLY IF THE LEGISLATURE SPECIFICALLY AUTHORIZES THE ADJUSTMENTS AND
44 APPROPRIATES MONIES FOR THAT PURPOSE, IF REQUIRED.

1 G. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT AWARD A CONTRACT
2 PURSUANT TO THIS SECTION UNLESS:

3 1. IT RECEIVES AN ACCEPTABLE PROPOSAL PURSUANT TO ANY REQUEST FOR
4 PROPOSALS. FOR THE PURPOSES OF THIS PARAGRAPH, "ACCEPTABLE PROPOSAL" MEANS A
5 PROPOSAL THAT SUBSTANTIALLY MEETS ALL OF THE REQUIREMENTS OR CONDITIONS
6 PRESCRIBED IN THIS SECTION AND IN THE REQUEST FOR PROPOSALS.

7 2. THE PROPOSAL OFFERS A LEVEL AND QUALITY OF SERVICES THAT EQUAL OR
8 EXCEED THOSE THAT WOULD BE PROVIDED BY THIS STATE.

9 3. THE CONTRACTOR PROVIDES AUDITED FINANCIAL STATEMENTS FOR THE
10 PREVIOUS FIVE YEARS, OR FOR EACH YEAR THE CONTRACTOR HAS BEEN IN OPERATION IF
11 FEWER THAN FIVE YEARS, AND PROVIDES OTHER FINANCIAL INFORMATION AS REQUESTED.

12 H. THE SOVEREIGN IMMUNITY OF THIS STATE DOES NOT APPLY TO ANY
13 CONTRACTOR WHO IS A PARTY TO ANY CONTRACT PURSUANT TO THIS SECTION. THE
14 CONTRACTOR OR ANY AGENT OF THE CONTRACTOR MAY NOT PLEAD THE DEFENSE OF
15 SOVEREIGN IMMUNITY IN ANY ACTION ARISING OUT OF THE PERFORMANCE OF THE
16 CONTRACT.

17 I. THE TERMS OF ANY CONTRACT PURSUANT TO THIS SECTION ARE SUBJECT TO
18 REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE BEFORE PLACEMENT OF ANY
19 ADVERTISEMENT THAT SOLICITS A RESPONSE TO A REQUEST FOR PROPOSALS. ANY
20 PROPOSED MODIFICATION OR AMENDMENT TO THE CONTRACT IS SUBJECT TO PRIOR REVIEW
21 BY THE JOINT LEGISLATIVE BUDGET COMMITTEE.

22 J. DURING ITS FIRST YEAR OF OPERATION UNDER A CONTRACT PURSUANT TO
23 THIS SECTION, THE CONTRACTING ENTITY SHALL SUBMIT MONTHLY REPORTS TO THE
24 DEPARTMENT AS PRESCRIBED BY THE DEPARTMENT. THEREAFTER, THE CONTRACTING
25 ENTITY SHALL SUBMIT QUARTERLY REPORTS TO THE DEPARTMENT AS PRESCRIBED BY THE
26 DEPARTMENT.

27 K. AT THE END OF THE SECOND YEAR OF THE CONTRACT PURSUANT TO THIS
28 SECTION, AN INDEPENDENT EVALUATOR SELECTED BY THE SUPERINTENDENT OF PUBLIC
29 INSTRUCTION SHALL CONDUCT AND COMPLETE A PERFORMANCE REVIEW TO DETERMINE IF
30 THE CONTRACTING ENTITY HAS MET THE GOALS SPECIFIED IN THE CONTRACT. THE
31 INDEPENDENT EVALUATOR SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GOVERNOR,
32 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON
33 OR BEFORE MAY 1, AND SHALL PROVIDE A COPY OF ITS REPORT TO THE SECRETARY OF
34 STATE.

35 L. ALL APPROPRIATED MONIES THAT REMAIN UNEXPENDED AND UNENCUMBERED ON
36 THE EXPIRATION DATE OF ANY CONTRACT ENTERED INTO PURSUANT TO THIS SECTION
37 REVERT TO THE STATE GENERAL FUND.

38 15-249.01. Data governance commission; membership; terms;
39 duties

40 A. THE DATA GOVERNANCE COMMISSION IS ESTABLISHED IN THE DEPARTMENT OF
41 EDUCATION CONSISTING OF:

42 1. THE CHIEF TECHNOLOGY MANAGERS, OR THE MANAGERS' DESIGNEES, OF EACH
43 OF THE UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

44 2. THE CHIEF TECHNOLOGY MANAGER, OR THE MANAGER'S DESIGNEE, OF A
45 COMMUNITY COLLEGE DISTRICT LOCATED IN A COUNTY WITH A POPULATION OF EIGHT

1 HUNDRED THOUSAND PERSONS OR MORE WHO HAS EXPERTISE IN TECHNOLOGY AND WHO IS
2 APPOINTED BY THE GOVERNOR.

3 3. THE CHIEF TECHNOLOGY MANAGER, OR THE MANAGER'S DESIGNEE, OF A
4 COMMUNITY COLLEGE DISTRICT LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN
5 EIGHT HUNDRED THOUSAND PERSONS WHO HAS EXPERTISE IN TECHNOLOGY AND WHO IS
6 APPOINTED BY THE GOVERNOR.

7 4. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA EARLY CHILDHOOD
8 DEVELOPMENT AND HEALTH BOARD OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

9 5. AN OFFICER OR EMPLOYEE OF A SCHOOL DISTRICT LOCATED IN A COUNTY
10 WITH A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE WHO HAS EXPERTISE
11 IN TECHNOLOGY AND WHO IS APPOINTED BY THE GOVERNOR.

12 6. AN OFFICER OR EMPLOYEE OF A SCHOOL DISTRICT LOCATED IN A COUNTY
13 WITH A POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS WHO HAS
14 EXPERTISE IN TECHNOLOGY AND WHO IS APPOINTED BY THE GOVERNOR.

15 7. AN OFFICER OR EMPLOYEE OF A CHARTER SCHOOL LOCATED IN A COUNTY WITH
16 A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE WHO HAS EXPERTISE IN
17 TECHNOLOGY AND WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

18 8. AN OFFICER OR EMPLOYEE OF A CHARTER SCHOOL LOCATED IN A COUNTY WITH
19 A POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS WHO HAS EXPERTISE IN
20 TECHNOLOGY AND WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
21 REPRESENTATIVES.

22 9. TWO REPRESENTATIVES OF THE BUSINESS COMMUNITY, ONE OF WHOM IS
23 APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM IS APPOINTED BY THE
24 SPEAKER OF THE HOUSE OF REPRESENTATIVES.

25 10. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S
26 DESIGNEE.

27 B. THE INITIAL APPOINTED MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO
28 TERMS OF TWO, THREE AND FOUR YEARS IN OFFICE. ALL SUBSEQUENT APPOINTED
29 MEMBERS OF THE COMMISSION SHALL SERVE FOUR YEAR TERMS. THE CHAIRPERSON SHALL
30 NOTIFY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
31 PRESIDENT OF THE SENATE ON APPOINTMENTS OF THESE TERMS. MEMBERS OF THE
32 COMMISSION SHALL ELECT A CHAIRPERSON FROM AMONG THE MEMBERS OF THE
33 COMMISSION. MEMBERS OF THE COMMISSION SHALL NOT RECEIVE COMPENSATION. THE
34 DEPARTMENT OF EDUCATION SHALL PROVIDE ADEQUATE STAFF SUPPORT FOR THE
35 COMMISSION.

36 C. THE COMMISSION SHALL IDENTIFY, EXAMINE AND EVALUATE THE NEEDS OF
37 PUBLIC INSTITUTIONS WHO PROVIDE INSTRUCTION TO PUPILS IN PRESCHOOL,
38 KINDERGARTEN, GRADES ONE THROUGH TWELVE AND POSTSECONDARY PROGRAMS IN ARIZONA
39 AND SHALL:

40 1. ESTABLISH GUIDELINES RELATED TO THE FOLLOWING:

41 (a) MANAGED DATA ACCESS.

42 (b) TECHNOLOGY.

43 (c) PRIVACY AND SECURITY.

44 (d) ADEQUACY OF TRAINING.

45 (e) ADEQUACY OF DATA MODEL IMPLEMENTATION.

- 1 (f) PRIORITIZATION OF FUNDING OPPORTUNITIES.
- 2 (g) RESOLUTION OF DATA CONFLICTS.
- 3 2. PROVIDE RECOMMENDATIONS ON TECHNOLOGY SPENDING.
- 4 3. PROVIDE ANALYSES AND RECOMMENDATIONS OF THE FOLLOWING:
- 5 (a) THE CONTROL OF DATA CONFIDENTIALITY AND DATA SECURITY FOR STORED
- 6 DATA AND DATA IN TRANSMISSION.
- 7 (b) ACCESS PRIVILEGES AND ACCESS MANAGEMENT.
- 8 (c) DATA AUDIT MANAGEMENT, INCLUDING DATA QUALITY METRICS, SANCTIONS
- 9 AND INCENTIVES FOR DATA QUALITY IMPROVEMENT.
- 10 (d) DATA STANDARDS FOR STORED DATA AND DATA IN TRANSMISSION, INCLUDING
- 11 RULES FOR DEFINITION, FORMAT, SOURCE, PROVENANCE, ELEMENT LEVEL AND
- 12 CONTEXTUAL INTEGRITY.
- 13 (e) DOCUMENTATION STANDARDS FOR DATA ELEMENTS AND SYSTEMS COMPONENTS.
- 14 (f) DATA ARCHIVAL AND RETRIEVAL MANAGEMENT SYSTEMS, INCLUDING CHANGE
- 15 CONTROL AND CHANGE TRACKING.
- 16 (g) PUBLICATION OF STANDARD AND AD HOC REPORTS FOR STATE AND LOCAL
- 17 LEVEL USE ON STUDENT ACHIEVEMENT.
- 18 (h) PUBLICATION OF IMPLEMENTATION TIMELINES AND PROGRESS.
- 19 4. SUBMIT AN ANNUAL REPORT ON OR BEFORE DECEMBER 1 REGARDING THE
- 20 COMMISSION'S ACTIVITIES TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF
- 21 REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE DATA GOVERNANCE
- 22 COMMISSION SHALL PROVIDE COPIES OF THIS REPORT TO THE SECRETARY OF STATE.
- 23 Sec. 2. Task force on data systems; delayed repeal
- 24 A. The task force on data systems is established consisting of the
- 25 following members, each of whom shall have expertise in educational
- 26 technology:
- 27 1. Two members who are appointed by the state board of education.
- 28 2. Two members who are appointed by the Arizona board of regents.
- 29 3. One person who is employed by a community college district in this
- 30 state and who is appointed by the state board of education.
- 31 4. One member who is appointed by the president of the senate.
- 32 5. One member who is appointed by the speaker of the house of
- 33 representatives.
- 34 B. The state board of education shall select one of the appointed
- 35 members to serve as the task force chairperson.
- 36 C. The task force shall:
- 37 1. Design a request for proposals form to be used by the department of
- 38 education to solicit proposals from private entities to carry out the
- 39 purposes of section 15-249, Arizona Revised Statutes, as added by this act.
- 40 2. Submit the request for proposals form to the department of
- 41 education by December 31, 2010.
- 42 D. The task force may use the services and expertise of the staff of
- 43 the legislature and the staff of the department of education.
- 44 E. This section is repealed from and after April 30, 2011.