

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

# SENATE BILL 1446

AN ACT

AMENDING SECTIONS 15-249, 15-249.01, 15-828, 15-1041, 15-1042 AND 15-1043,  
ARIZONA REVISED STATUTES; 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. Section 15-249, Arizona Revised Statutes, is amended to  
3 read:

4 15-249. Department of education: education learning and  
5 accountability system: reports: reviews

6 A. Subject to appropriation of state monies, or receipt of federal  
7 monies, private donations or grants from any lawful public or private source  
8 for this purpose, the department of education, in coordination with the data  
9 governance commission established by section 15-249.01, shall develop and  
10 implement the education learning and accountability system to collect,  
11 compile, maintain and report student level data for students attending public  
12 educational institutions that provide instruction to pupils in preschool  
13 programs, kindergarten programs, grades one through twelve and postsecondary  
14 educational programs in this state.

15 B. The education learning and accountability system shall:

16 1. Maintain longitudinal, student level data, including student  
17 demographic, grade level, assessment, teacher assignment and other data  
18 required to meet state and federal reporting requirements.

19 2. Incorporate the student accountability information system  
20 prescribed in chapter 9, article 8 of this title.

21 3. Be accessible through commonly used internet web browsers to carry  
22 out the data collection, compilation and reporting duties prescribed in this  
23 title.

24 C. The department of education may contract with a third party to  
25 carry out the purposes of this section.

26 D. The department of education, in coordination with the data  
27 governance commission, shall develop a detailed plan to develop and implement  
28 the education learning and accountability system. **THE DEPARTMENT SHALL**  
29 **CONTRACT WITH AN INDEPENDENT THIRD PARTY TO REVIEW AND EVALUATE THE PLAN AND**  
30 **TO MONITOR AND EVALUATE THE IMPLEMENTATION.**

31 E. The department of education shall present the plan **AND THE**  
32 **INDEPENDENT EVALUATION** developed pursuant to subsection D of this section to  
33 the ~~state board of education~~ **JOINT LEGISLATIVE BUDGET COMMITTEE** for review  
34 and approval. The department of education shall continue to provide  
35 quarterly reports to the ~~state board of education~~ **JOINT LEGISLATIVE BUDGET**  
36 **COMMITTEE**, or on request, for review and approval of the ~~state board of~~  
37 ~~education~~ **JOINT LEGISLATIVE BUDGET COMMITTEE**, on the development and  
38 implementation of the education learning and accountability system. All  
39 reports provided shall include progress and expenditures to date, timelines,  
40 ~~and~~ cost estimates for completion **AND THE QUARTERLY INDEPENDENT REVIEW.**

41 F. Any contract awarded pursuant to subsection C **OR D** of this section  
42 shall allow the superintendent of public instruction to renew the contracts  
43 for two subsequent periods of not more than three years each and shall  
44 prescribe the circumstances under which the superintendent of public  
45 instruction may terminate the contracts. The contracts shall allow this

1 state to cancel any contract at any time after the first year of operation,  
2 without penalty to this state, on ninety days' written notice and shall  
3 require the contractor to be in compliance at all times with state and  
4 federal law.

5 G. Any contract awarded pursuant to subsection C OR D of this section  
6 may provide for annual contract price or cost adjustments, except that any  
7 adjustments may be made only once each year effective on the anniversary of  
8 the contract's effective date. Any adjustment made pursuant to the terms of  
9 the contract must be applied to the total payments made to the contractor for  
10 the previous contract year and shall not exceed the percentage change in the  
11 average consumer price index as published by the United States department of  
12 labor, bureau of labor statistics between that figure for the latest calendar  
13 year and the next previous calendar year. Any price or cost adjustments that  
14 are different than those authorized in this subsection may be made only if  
15 the legislature specifically authorizes the adjustments and appropriates  
16 monies for that purpose, if required.

17 H. The superintendent of public instruction shall not award a contract  
18 pursuant to this section unless:

19 1. The superintendent of public instruction receives an acceptable  
20 proposal pursuant to any request for proposals. For the purposes of this  
21 paragraph, "acceptable proposal" means a proposal that substantially meets  
22 all of the requirements or conditions prescribed in this section and in the  
23 request for proposals.

24 2. The proposal offers a level and quality of services that equal or  
25 exceed the services that would be provided by this state.

26 3. The contractor provides audited financial statements for the  
27 previous five years, or for each year that the contractor has been in  
28 operation if fewer than five years, and provides other financial information  
29 as requested.

30 I. The sovereign immunity of this state does not apply to any  
31 contractor who is a party to any contract pursuant to this section. The  
32 contractor or any agent of the contractor may not plead the defense of  
33 sovereign immunity in any action arising out of the performance of the  
34 contract.

35 J. The terms of any contract pursuant to this section are subject to  
36 review by the joint legislative budget committee before placement of any  
37 advertisement that solicits a response to a request for proposals. Any  
38 proposed modification or amendment to the contract is subject to prior review  
39 by the joint legislative budget committee.

40 K. During the first year of operation under a contract executed  
41 pursuant to this section, the contracting entity shall submit monthly reports  
42 to the department of education as prescribed by the department. After the  
43 first year of operation under the contract, the contracting entity shall  
44 submit quarterly reports to the department as prescribed by the department.

1 L. At the end of the second year of a contract executed pursuant to  
2 this section, an independent evaluator selected by the superintendent of  
3 public instruction shall conduct and complete a performance review to  
4 determine if the contracting entity has met the goals specified in the  
5 contract. The independent evaluator shall submit a report of the independent  
6 evaluator's findings to the governor, the president of the senate and the  
7 speaker of the house of representatives on or before May 1, and shall provide  
8 a copy of this report to the secretary of state.

9 Sec. 2. Section 15-249.01, Arizona Revised Statutes, is amended to  
10 read:

11 15-249.01. Data governance commission; membership; terms;  
12 duties

13 A. The data governance commission is established in the department of  
14 education consisting of:

15 1. The chief technology managers, or the managers' designees, of each  
16 of the universities under the jurisdiction of the Arizona board of regents.

17 2. The chief technology manager, or the manager's designee, of a  
18 community college district located in a county with a population of eight  
19 hundred thousand persons or more who has expertise in technology and who is  
20 appointed by the governor.

21 3. The chief technology manager, or the manager's designee, of a  
22 community college district located in a county with a population of less than  
23 eight hundred thousand persons who has expertise in technology and who is  
24 appointed by the governor.

25 4. The chief executive officer of the Arizona early childhood  
26 development and health board or the chief executive officer's designee.

27 5. An officer or employee of a school district located in a county  
28 with a population of eight hundred thousand persons or more who has expertise  
29 in technology and who is appointed by the governor.

30 6. An officer or employee of a school district located in a county  
31 with a population of less than eight hundred thousand persons who has  
32 expertise in technology and who is appointed by the governor.

33 7. An officer or employee of a charter school located in a county with  
34 a population of eight hundred thousand persons or more who has expertise in  
35 technology and who is appointed by the president of the senate.

36 8. An officer or employee of a charter school located in a county with  
37 a population of less than eight hundred thousand persons who has expertise in  
38 technology and who is appointed by the speaker of the house of  
39 representatives.

40 9. Two representatives of the business community, one of whom is  
41 appointed by the president of the senate and one of whom is appointed by the  
42 speaker of the house of representatives.

43 10. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION OR THE DIRECTOR'S  
44 DESIGNEE.

1       ~~10-~~ 11. The superintendent of public instruction or the  
2 superintendent's designee.

3       B. The initial appointed members shall assign themselves by lot to  
4 terms of two, three and four years in office. All subsequent appointed  
5 members of the commission shall serve four year terms. The chairperson shall  
6 notify the governor, the speaker of the house of representatives and the  
7 president of the senate on appointments of these terms. Members of the  
8 commission shall elect a chairperson from among the members of the  
9 commission. Members of the commission shall not receive compensation. The  
10 department of education shall provide adequate staff support for the  
11 commission.

12       C. The commission shall identify, examine and evaluate the needs of  
13 public institutions ~~who~~ THAT provide instruction to pupils in preschool  
14 PROGRAMS, kindergarten PROGRAMS, grades one through twelve and postsecondary  
15 programs in Arizona and shall:

16       1. Establish guidelines related to the following:

17       (a) Managed data access.

18       (b) Technology.

19       (c) Privacy and security.

20       (d) Adequacy of training.

21       (e) Adequacy of data model implementation.

22       (f) Prioritization of funding opportunities.

23       (g) Resolution of data conflicts.

24       (h) THE FORM AND FORMAT OF DATA ELEMENTS THAT ARE REQUIRED FOR STATE  
25 AND FEDERAL REPORTING AND INTERAGENCY DATA SHARING.

26       2. Provide recommendations on technology spending.

27       3. Provide analyses and recommendations of the following:

28       (a) The control of data confidentiality and data security for stored  
29 data and data in transmission.

30       (b) Access privileges and access management.

31       (c) Data audit management, including data quality metrics, sanctions  
32 and incentives for data quality improvement.

33       (d) Data standards for stored data and data in transmission, including  
34 rules for definition, format, source, provenance, element level and  
35 contextual integrity.

36       (e) Documentation standards for data elements and systems components.

37       (f) Data archival and retrieval management systems, including change  
38 control and change tracking.

39       (g) Publication of standard and ad hoc reports for state and local  
40 level use on student achievement.

41       (h) Publication of implementation timelines and progress.

42       4. ENSURE THAT THE GUIDELINES AND RECOMMENDATIONS ADOPTED PURSUANT TO  
43 THIS SUBSECTION REDUCE DUPLICATION AND ADMINISTRATIVE REQUIREMENTS FOR PUBLIC  
44 SCHOOLS, POSTSECONDARY INSTITUTIONS AND PUBLIC AGENCIES.

1           ~~4.~~ 5. Submit an annual report on or before December 1 regarding the  
2 commission's activities to the governor, the speaker of the house of  
3 representatives and the president of the senate. The data governance  
4 commission shall provide copies of this report to the secretary of state.

5           Sec. 3. Section 15-828, Arizona Revised Statutes, is amended to read:  
6           15-828. Birth certificate; school records; exception

7           A. On enrollment of a pupil for the first time in a particular school  
8 district or private school offering instruction to pupils in any kindergarten  
9 programs or grades one through twelve, that school or school district shall  
10 notify the person enrolling the pupil in writing that within thirty days the  
11 person must provide one of the following:

12           1. A certified copy of the pupil's birth certificate.

13           2. Other reliable proof of the pupil's identity and age, including the  
14 pupil's baptismal certificate, an application for a social security number or  
15 original school registration records and an affidavit explaining the  
16 inability to provide a copy of the birth certificate.

17           3. A letter from the authorized representative of an agency having  
18 custody of the pupil pursuant to title 8, chapter 2 certifying that the pupil  
19 has been placed in the custody of the agency as prescribed by law.

20           B. If a child is instructed at home pursuant to section 15-802, the  
21 person who has custody of the child shall, within thirty days after the home  
22 instruction begins, provide to the county school superintendent of the county  
23 in which the child resides one of the following:

24           1. A certified copy of the child's birth certificate.

25           2. Other reliable proof of the child's identity and age, including the  
26 child's baptismal certificate, an application for a social security number or  
27 original school registration records and an affidavit explaining the  
28 inability to provide a copy of the birth certificate.

29           3. A letter from the authorized representative of an agency having  
30 custody of the pupil pursuant to title 8, chapter 2 certifying that the pupil  
31 has been placed in the custody of the agency as prescribed by law.

32           C. On presentation of a document pursuant to this section, a photocopy  
33 of the document shall be placed in the pupil's file and the document that is  
34 presented shall be returned.

35           D. A PUPIL SHALL BE ENROLLED IN THE SCHOOL OR SCHOOL DISTRICT, OR THE  
36 COUNTY SCHOOL SUPERINTENDENT SHALL RECORD THE PUPIL'S NAME, USING THE NAME  
37 THAT IS PRINTED ON THE BIRTH CERTIFICATE, OTHER RELIABLE PROOF OF THE PUPIL'S  
38 IDENTITY, OR LETTER FROM AN AGENCY HAVING CUSTODY OF THE PUPIL PROVIDED  
39 PURSUANT TO THIS SECTION. THIS SUBSECTION DOES NOT PROHIBIT A SCHOOL OR  
40 SCHOOL DISTRICT FROM CALLING A PUPIL BY ANY NAME THE PUPIL'S PARENT OR  
41 GUARDIAN WISHES THE PUPIL TO BE CALLED.

42           ~~D.~~ E. On the failure of a person enrolling a pupil or instructing a  
43 child at home to comply with subsection A or B of this section, the school,  
44 school district or county school superintendent shall notify that person in  
45 writing that, unless the person complies within ten days, the case shall be

1 referred to the local law enforcement agency for investigation. If  
2 compliance is not obtained within the ten day period, the school, school  
3 district or county school superintendent shall refer the case to the local  
4 law enforcement agency.

5 ~~F.~~ F. The school, school district or county school superintendent  
6 shall immediately report to the local law enforcement agency any affidavit  
7 received pursuant to this section which appears inaccurate or suspicious in  
8 form or content.

9 ~~F.~~ G. Within five school days after enrolling a transfer pupil from a  
10 private school or another school district, a school shall request directly  
11 from the pupil's previous school a certified copy of the pupil's record. The  
12 requesting school shall exercise due diligence in obtaining the copy of the  
13 record requested. Notwithstanding any financial debt owed by the pupil, any  
14 school requested to forward a copy of a transferring pupil's record to the  
15 new school shall comply and forward the record within ten school days after  
16 receipt of the request unless the record has been flagged pursuant to section  
17 15-829. If the record has been flagged, the requested school shall not  
18 forward the copy and shall notify the local law enforcement agency of the  
19 request. School districts shall include in the educational records required  
20 by this subsection data collected pursuant to sections 15-741 and 15-766, as  
21 prescribed by the state board of education.

22 ~~G.~~ H. Any disclosure of educational records by the school district or  
23 charter school shall comply with the family educational rights and privacy  
24 act of 1974 (20 United States Code section 1232g).

25 ~~H.~~ I. The provisions of this section do not apply to homeless pupils  
26 as defined in section 15-824, subsection C.

27 Sec. 4. Section 15-1041, Arizona Revised Statutes, is amended to read:

28 15-1041. Student accountability information system

29 The student accountability information system is established to enable  
30 school districts, **JOINT TECHNICAL EDUCATION DISTRICTS** and charter schools to  
31 transmit student level data and school finance data electronically through  
32 the internet to the department of education for the purposes of complying  
33 with the statutory obligations of the department of education and the state  
34 board of education.

35 Sec. 5. Section 15-1042, Arizona Revised Statutes, is amended to read:

36 15-1042. Timeline; student level data; definition

37 A. The department of education shall notify school districts, **JOINT**  
38 **TECHNICAL EDUCATION DISTRICTS** and charter schools of electronic data  
39 submission procedures and shall distribute a list of the specific student  
40 level data elements, **INCLUDING THE STATUTORY OR REGULATORY REFERENCE FOR EACH**  
41 **DATA ELEMENT**, that school districts, **JOINT TECHNICAL EDUCATION DISTRICTS** and  
42 charter schools are required to submit. The department of education shall  
43 not make any changes to the student level data elements to be collected  
44 **UNLESS THE STUDENT LEVEL DATA ELEMENT HAS BEEN REVIEWED AND ADOPTED BY THE**

1 DATA GOVERNANCE COMMISSION ESTABLISHED BY SECTION 15-249.01. ~~except for the~~  
2 ~~following:~~

3 ~~1. Student attendance data for a joint technical education district,~~  
4 ~~including entry date and exit date, for classes that count towards the~~  
5 ~~student's graduation requirements as provided for in section 15-701.01.~~

6 ~~2. Student attendance data for a community college, unless the college~~  
7 ~~is owned, operated or chartered by an Indian tribe, including entry date and~~  
8 ~~exit date, for classes that count towards the student's graduation~~  
9 ~~requirements as provided for in section 15-701.01.~~

10 B. Each school district, JOINT TECHNICAL EDUCATION DISTRICT and  
11 charter school shall submit electronic data on a school by school basis,  
12 including student level data, to the department of education in order for the  
13 school district, JOINT TECHNICAL EDUCATION DISTRICT or charter school to  
14 receive monies for the cost of educating students pursuant to this title.

15 C. The department of education shall grant a school district, JOINT  
16 TECHNICAL EDUCATION DISTRICT or charter school an extension to the deadline  
17 for the submission of student level data or may provide for an alternative  
18 method for the submission of student level data if the school district, JOINT  
19 TECHNICAL EDUCATION DISTRICT or charter school proves that good cause exists  
20 for the extension, and the school district, JOINT TECHNICAL EDUCATION  
21 DISTRICT or charter school shall continue to receive monies for the cost of  
22 educating students pursuant to this title. The request ~~by a school district~~  
23 ~~or charter school~~ for an extension of the deadline for the submission of  
24 student level data PURSUANT TO THIS SUBSECTION shall include a justification  
25 for the extension and the status of current efforts towards complying with  
26 the submission of student level data.

27 D. A pupil or the parent or guardian of a pupil shall not be required  
28 to submit data that does not relate to the provision of educational services  
29 or assistance to the pupil.

30 ~~E. Each student level data element shall include a statutory reference~~  
31 ~~to the law that necessitates its collection.~~

32 ~~F.~~ E. Unless otherwise prescribed, school districts, JOINT TECHNICAL  
33 EDUCATION DISTRICTS and charter schools shall begin to report new data  
34 elements on July 1 of the year that follows the effective date of the law  
35 that requires the collection of the data.

36 ~~G.~~ F. Student level data items submitted to the department of  
37 education by school districts, JOINT TECHNICAL EDUCATION DISTRICTS AND  
38 CHARTER SCHOOLS pursuant to this section shall not be used to adjust funding  
39 levels or calculate the average daily membership for the purpose of funding  
40 school districts at any time other than the fortieth, one hundredth and two  
41 hundredth days of the school year.

42 ~~H.~~ G. A school district, JOINT TECHNICAL EDUCATION DISTRICT or  
43 charter school is not required to submit student level data to the department  
44 of education more often than once every twenty school days.

1           ~~I.~~ H. Notwithstanding subsection ~~I.~~ J of this section, the student  
2 level data shall include reasons for the withdrawal if reasons are provided  
3 by the withdrawing pupil or the pupil's parent or guardian. For the purposes  
4 of this subsection, the department of education shall include in the specific  
5 student level data elements that school districts, JOINT TECHNICAL EDUCATION  
6 DISTRICTS and charter schools are required to submit data relating to  
7 students who withdraw from school because the student is pregnant or because  
8 the student is the biological parent of a child.

9           ~~J. The department of education shall adopt guidelines to remove~~  
10 ~~outdated student level data collected by school districts and charter schools~~  
11 ~~from the student accountability information system.~~

12           ~~K.~~ I. All student level data collected pursuant to this section is  
13 confidential and is not a public record. The data collected may be used for  
14 aggregate research and reporting AND FOR PROVIDING ACCESS OF STUDENT LEVEL  
15 DATA TO SCHOOL DISTRICTS, JOINT TECHNICAL EDUCATION DISTRICTS, CHARTER  
16 SCHOOLS, COMMUNITY COLLEGES AND UNIVERSITIES UNDER THE JURISDICTION OF THE  
17 ARIZONA BOARD OF REGENTS.

18           ~~L.~~ J. For the purposes of this section, "student level data" means  
19 all data elements that are compiled and submitted for each student in this  
20 state and that are necessary for the completion of the statutory requirements  
21 of the department of education and the state board of education relating to  
22 the calculation of funding for public education, the determination of student  
23 academic progress as measured by student testing programs in this state,  
24 state and federal reporting requirements and other duties prescribed to the  
25 department of education or the state board of education by law. Student  
26 level data does not include data elements related to student behavior,  
27 discipline, criminal history, medical history, religious affiliation,  
28 personal physical descriptors or family information not authorized by the  
29 parent or guardian of the pupil OR OTHERWISE REQUIRED BY LAW.

30           Sec. 6. Section 15-1043, Arizona Revised Statutes, is amended to read:

31           15-1043. Student level data: confidentiality

32           A. Any disclosure of educational records compiled by the department of  
33 education pursuant to this article shall comply with the family educational  
34 RIGHTS and privacy ~~rights~~ act (20 United States Code section 1232g).

35           B. Student level data ~~is the property of the school district or~~  
36 ~~charter school and~~ may not be updated unless the change is authorized by the  
37 school district, JOINT TECHNICAL EDUCATION DISTRICT or charter school.

38           C. THE DEPARTMENT OF EDUCATION SHALL ADOPT POLICIES AND PROCEDURES TO  
39 ALLOW ACCESS OF STUDENT LEVEL DATA FOR CURRENTLY ENROLLED STUDENTS TO SCHOOL  
40 DISTRICTS, JOINT TECHNICAL EDUCATION DISTRICTS AND CHARTER SCHOOLS.