

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2088

AN ACT

AMENDING SECTION 15-101, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-117; AMENDING SECTIONS 15-249 AND 15-741, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-744; RELATING TO PUPIL INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-101, Arizona Revised Statutes, is amended to
3 read:
4 15-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Accommodation school" means either:
7 (a) A school that is operated through the county board of supervisors
8 and the county school superintendent and that the county school
9 superintendent administers to serve a military reservation or territory that
10 is not included within the boundaries of a school district.
11 (b) A school that provides educational services to homeless children
12 or alternative education programs as provided in section 15-308,
13 subsection B.
14 (c) A school that is established to serve a military reservation, the
15 boundaries of which are coterminous with the boundaries of the military
16 reservation on which the school is located.
17 2. "Assessed valuation" means the valuation derived by applying the
18 applicable percentage as provided in title 42, chapter 15, article 1 to the
19 full cash value or limited property value, whichever is applicable, of the
20 property.
21 3. "Charter holder" means a person that enters into a charter with the
22 state board for charter schools. For the purposes of this paragraph,
23 "person" means an individual, partnership, corporation, association or public
24 or private organization of any kind.
25 4. "Charter school" means a public school established by contract with
26 a district governing board, the state board of education, the state board for
27 charter schools, a university under the jurisdiction of the Arizona board of
28 regents, a community college district with enrollment of more than fifteen
29 thousand full-time equivalent students or a group of community college
30 districts with a combined enrollment of more than fifteen thousand full-time
31 equivalent students pursuant to article 8 of this chapter to provide learning
32 that will improve pupil achievement.
33 5. "Child with a disability" means a child with a disability as
34 defined in section 15-761.
35 6. "Class A bonds" means general obligation bonds approved by a vote
36 of the qualified electors of a school district at an election held on or
37 before December 31, 1998.
38 7. "Class B bonds" means general obligation bonds approved by a vote
39 of the qualified electors of a school district at an election held from and
40 after December 31, 1998.
41 8. "Competency" means a demonstrated ability in a skill at a specified
42 performance level.
43 9. "Course" means organized subject matter in which instruction is
44 offered within a given period of time and for which credit toward promotion,

1 graduation or certification is usually given. A course consists of knowledge
2 selected from a subject for instructional purposes in the schools.

3 10. "Course of study" means a list of required and optional subjects
4 to be taught in the schools.

5 11. "Dual enrollment course" means a ~~college-level~~ COLLEGE-LEVEL
6 course that is conducted on the campus of a high school or on the campus of a
7 joint technical education district, that is applicable to an established
8 community college academic degree or certificate program and that is
9 transferable to a university under the jurisdiction of the Arizona board of
10 regents. A dual enrollment course that is applicable to a community college
11 occupational degree or certificate program may be transferable to a
12 university under the jurisdiction of the Arizona board of regents.

13 12. "Elementary grades" means kindergarten programs and grades one
14 through eight.

15 13. "Fiscal year" means the year beginning July 1 and ending June 30.

16 14. "Governing board" means a body organized for the government and
17 management of the schools within a school district or a county school
18 superintendent in the conduct of an accommodation school.

19 15. "Lease" means an agreement for conveyance and possession of real
20 or personal property.

21 16. "Limited property value" means the value determined pursuant to
22 title 42, chapter 13, article 7. Limited property value shall be used as the
23 basis for assessing, fixing, determining and levying primary property taxes.

24 17. "NONTTEST" MEANS NOT RELATING TO KNOWLEDGE OR SKILLS IN READING,
25 WRITING, MATHEMATICS, SOCIAL STUDIES OR SCIENCE.

26 ~~17-~~ 18. "Parent" means the natural or adoptive parent of a child or a
27 person who has custody of a child.

28 ~~18-~~ 19. "Person who has custody" means a parent or legal guardian of
29 a child, a person to whom custody of the child has been given by order of a
30 court or a person who stands in loco parentis to the child.

31 ~~19-~~ 20. "Primary property taxes" means all ad valorem taxes except
32 for secondary property taxes.

33 ~~20-~~ 21. "Private school" means a nonpublic institution where
34 instruction is imparted.

35 ~~21-~~ 22. "School" or "public school" means any public institution
36 established for the purposes of offering instruction to pupils in programs
37 for preschool children with disabilities, kindergarten programs or any
38 combination of elementary grades or secondary grades one through twelve.

39 ~~22-~~ 23. "School district" means a political subdivision of this state
40 with geographic boundaries organized for the purpose of the administration,
41 support and maintenance of the public schools or an accommodation school.

42 ~~23-~~ 24. "Secondary grades" means grades nine through twelve.

43 ~~24-~~ 25. "Secondary property taxes" means ad valorem taxes used to pay
44 the principal of and the interest and redemption charges on any bonded
45 indebtedness or other lawful long-term obligation issued or incurred for a

1 specific purpose by a school district or a community college district and
2 amounts levied pursuant to an election to exceed a budget, expenditure or tax
3 limitation.

4 ~~25.~~ 26. "Subject" means a division or field of organized knowledge,
5 such as English or mathematics, or a selection from an organized body of
6 knowledge for a course or teaching unit, such as the English novel or
7 elementary algebra.

8 Sec. 2. Title 15, chapter 1, article 1, Arizona Revised Statutes, is
9 amended by adding section 15-117, to read:

10 15-117. Surveys; assessments; pupil information; parental
11 permission and informed consent; exceptions; notice;
12 penalties; definitions

13 A. NOTWITHSTANDING ANY OTHER LAW, EACH SCHOOL DISTRICT, SCHOOL AND
14 CHARTER SCHOOL SHALL PROVIDE WRITTEN NOTICE TO AND OBTAIN WRITTEN INFORMED
15 CONSENT FROM THE PARENT BEFORE ADMINISTERING TO ANY PUPIL ANY SURVEY THAT
16 BECOMES A PART OF THE PUPIL'S PERMANENT EDUCATION RECORD AND THAT SOLICITS
17 PERSONAL INFORMATION ABOUT THE PUPIL, THE PUPIL'S FAMILY OR THE PUPIL'S
18 HOUSEHOLD, INCLUDING SURVEYS REGARDING ANY OF THE FOLLOWING:

- 19 1. CRITICAL APPRAISALS OF ANOTHER PERSON WITH WHOM A PUPIL HAS A CLOSE
20 RELATIONSHIP.
- 21 2. GUN OR AMMUNITION OWNERSHIP.
- 22 3. ILLEGAL, ANTISOCIAL, SELF-INCRIMINATING OR DEMEANING BEHAVIOR.
- 23 4. INCOME OR OTHER FINANCIAL INFORMATION.
- 24 5. LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS RELATIONSHIPS, SUCH AS
25 RELATIONSHIPS WITH A LAWYER, PHYSICIAN OR MEMBER OF THE CLERGY.
- 26 6. MEDICAL HISTORY OR MEDICAL INFORMATION.
- 27 7. MENTAL HEALTH HISTORY OR MENTAL HEALTH INFORMATION.
- 28 8. POLITICAL AFFILIATIONS, OPINIONS OR BELIEFS.
- 29 9. PUPIL BIOMETRIC INFORMATION.
- 30 10. THE QUALITY OF HOME INTERPERSONAL RELATIONSHIPS.
- 31 11. RELIGIOUS PRACTICES, AFFILIATIONS OR BELIEFS.
- 32 12. SELF-SUFFICIENCY.
- 33 13. SEXUAL BEHAVIOR OR ATTITUDES.
- 34 14. VOTING HISTORY.

35 B. NOTWITHSTANDNG ANY OTHER LAW:

36 1. THE PARENT'S WRITTEN INFORMED CONSENT PURSUANT TO THIS SECTION IS
37 LIMITED TO THE SPECIFIC SURVEY REFERENCED IN THE OFFICIAL WRITTEN NOTICE FROM
38 THE SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL AND DOES NOT EXTEND TO ANY
39 SUBSEQUENT SURVEY PURSUANT TO SUBSECTION A OF THIS SECTION.

40 2. FOR ANY PUPIL WHO IS AT LEAST EIGHTEEN YEARS OF AGE, THE PERMISSION
41 OR CONSENT THAT WOULD OTHERWISE BE REQUIRED FROM THE PUPIL'S PARENT PURSUANT
42 TO THIS SECTION IS REQUIRED ONLY FROM THE PUPIL.

43 3. THIS SECTION DOES NOT ALLOW SCHOOL DISTRICTS, CHARTER SCHOOLS,
44 SCHOOLS, TEACHERS OR OTHER SCHOOL EMPLOYEES TO SURVEY PUPILS OR COLLECT ANY

1 PUPIL DATA RELATING TO MATTERS ADDRESSED BY SUBSECTION A OF THIS SECTION
2 WITHOUT WRITTEN INFORMED CONSENT FROM THE PARENT.

3 4. ALL SURVEYS CONDUCTED PURSUANT TO SUBSECTION A OF THIS SECTION
4 SHALL BE APPROVED AND AUTHORIZED BY THE SCHOOL DISTRICT, SCHOOL OR CHARTER
5 SCHOOL. THE SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL IS LIABLE FOR ANY
6 VIOLATION OF THIS SECTION AND IS SUBJECT TO THE PENALTIES PRESCRIBED IN
7 SUBSECTION L OF THIS SECTION. A PERSON WHO IS INJURED BY A VIOLATION OF THIS
8 PARAGRAPH MAY COMMENCE A CIVIL ACTION IN SUPERIOR COURT.

9 5. A TEACHER OR OTHER SCHOOL EMPLOYEE MAY NOT ADMINISTER ANY SURVEY
10 PURSUANT TO SUBSECTION A OF THIS SECTION WITHOUT WRITTEN AUTHORIZATION FROM
11 THE SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL.

12 C. THIS SECTION APPLIES TO ALL SURVEYS CONDUCTED PURSUANT TO
13 SUBSECTION A OF THIS SECTION:

14 1. REGARDLESS OF THE STATED PURPOSE OF THE SURVEY.

15 2. REGARDLESS OF THE QUANTITY OR PERCENTAGE OF QUESTIONS THAT SOLICIT
16 DATA PURSUANT TO SUBSECTION A OF THIS SECTION.

17 3. INCLUDING WRITTEN, DIGITAL OR VERBAL SURVEYS OR ANY OTHER METHOD OF
18 SURVEY OR DATA COLLECTION.

19 4. INCLUDING NATIONAL, STATE OR MULTISTATE ASSESSMENTS OR SURVEYS.

20 D. THIS SECTION DOES NOT APPLY TO:

21 1. MENTAL HEALTH SCREENING PURSUANT TO SECTION 15-104 OR THE
22 IDENTIFICATION OF OR PROGRAMMING FOR CHILDREN WITH DISABILITIES OR GIFTED
23 PUPILS.

24 2. CLASS INSTRUCTION, DISCUSSION OR ASSIGNMENTS ON SUBJECTS WITHIN THE
25 PURVIEW OF THE COURSE, IF WRITTEN OR SPOKEN STATEMENTS BY A PUPIL DO NOT
26 BECOME A PART OF THE PUPIL'S EDUCATIONAL RECORD.

27 3. PRIVATE SCHOOLS.

28 E. NOTWITHSTANDING ANY OTHER LAW, A PENALTY MAY NOT BE IMPOSED ON A
29 PUPIL OR THE PARENT OF A PUPIL WHO DOES NOT PARTICIPATE IN ANY SURVEY
30 CONDUCTED PURSUANT TO SUBSECTION A OF THIS SECTION. PARTICIPATION IN ANY
31 SURVEY PURSUANT TO SUBSECTION A OF THIS SECTION IS NOT REQUIRED:

32 1. TO DEMONSTRATE THAT A PUPIL HAS MET COMPETENCY REQUIREMENTS FOR ANY
33 GRADE LEVEL, COURSE OR SUBJECT.

34 2. FOR A PUPIL TO QUALIFY FOR PLACEMENT INTO ANY GRADE LEVEL, COURSE
35 OR SUBJECT, INCLUDING COLLEGE OR UNIVERSITY PLACEMENT TESTS.

36 3. FOR A PUPIL TO BE PROMOTED TO THE NEXT GRADE.

37 4. FOR A PUPIL TO RECEIVE CREDIT FOR ANY COURSE OR AS PART OF A LETTER
38 GRADE FOR ANY COURSE.

39 5. FOR A PUPIL TO GRADUATE FROM HIGH SCHOOL.

40 6. FOR A PUPIL TO OBTAIN A HIGH SCHOOL EQUIVALENCY DIPLOMA.

41 7. FOR A PUPIL TO PARTICIPATE IN ANY COURSE, PROGRAM OR ACTIVITY
42 OFFERED TO PUPILS WHO PARTICIPATE IN THE SURVEY PURSUANT TO SUBSECTION A OF
43 THIS SECTION.

44 F. A PARENT MAY ELECT IN WRITING IN THE MANNER PRESCRIBED IN THIS
45 SECTION FOR THAT PUPIL TO PARTICIPATE IN SURVEYS CONDUCTED PURSUANT TO

1 SUBSECTION A OF THIS SECTION. A PARENT IS NOT REQUIRED TO RESPOND TO A
2 WRITTEN NOTICE PROVIDED BY A SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL
3 PURSUANT TO THIS SECTION. IF A PARENT DOES NOT RESPOND TO A WRITTEN NOTICE
4 TRANSMITTED BY A SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL PURSUANT TO THIS
5 SECTION, THE PARENT IS DEEMED NOT TO CONSENT FOR THAT PUPIL TO PARTICIPATE IN
6 THE SURVEY PURSUANT TO SUBSECTION A OF THIS SECTION.

7 G. A SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL SHALL PROVIDE AN
8 ALTERNATIVE EDUCATIONAL ACTIVITY FOR ANY PUPIL WHOSE PARENT DOES NOT CONSENT
9 FOR THAT PUPIL TO PARTICIPATE IN A SURVEY CONDUCTED PURSUANT TO SUBSECTION A
10 OF THIS SECTION.

11 H. NOTWITHSTANDING ANY OTHER LAW, ANY PUPIL WHOSE PARENT DOES NOT GIVE
12 WRITTEN INFORMED CONSENT FOR THAT PUPIL TO PARTICIPATE IN ANY SURVEY PURSUANT
13 TO SUBSECTION A OF THIS SECTION AND WHO ATTENDS THE ALTERNATIVE EDUCATIONAL
14 ACTIVITY PURSUANT TO THIS SECTION SHALL BE COUNTED TOWARD DAILY ATTENDANCE
15 AND AVERAGE DAILY MEMBERSHIP FOR THE SCHOOL PURSUANT TO SECTION 15-901 AND
16 MAY NOT BE COUNTED ABSENT FROM SCHOOL.

17 I. NOTWITHSTANDING ANY OTHER LAW, RESPONSES TO ANY SURVEY PURSUANT TO
18 SUBSECTION A OF THIS SECTION MAY NOT BE INCLUDED:

19 1. AS PART OF A SCHOOL ACADEMIC PERFORMANCE INDICATOR PURSUANT TO
20 SECTION 15-241, OR AS PART OF ANY OTHER SIMILAR SCHOOL RATING SYSTEM.

21 2. IN THE EDUCATION LEARNING AND ACCOUNTABILITY SYSTEM PURSUANT TO
22 SECTION 15-249, OR IN ANY OTHER SIMILAR SYSTEM.

23 3. IN THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM PURSUANT TO
24 SECTION 15-756.10 OR 15-1041, OR IN ANY OTHER SIMILAR SYSTEM.

25 4. IN ANY SCHOOL, ADMINISTRATOR OR TEACHER RATING SYSTEM.

26 J. A PENALTY MAY NOT BE IMPOSED ON AND A REWARD MAY NOT BE GRANTED TO
27 A TEACHER, ADMINISTRATOR, OTHER SCHOOL EMPLOYEE, SCHOOL DISTRICT, SCHOOL OR
28 CHARTER SCHOOL BASED ON THE PUPIL PARTICIPATION RATE IN ANY SURVEY CONDUCTED
29 PURSUANT TO SUBSECTION A OF THIS SECTION.

30 K. ANY WRITTEN NOTICE PROVIDED BY A SCHOOL DISTRICT, SCHOOL OR CHARTER
31 SCHOOL PURSUANT TO THIS SECTION SHALL BE PRINTED IN TWELVE-POINT OR LARGER
32 FONT AND:

33 1. SHALL INCLUDE:

34 (a) THE NAME OF THE SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL THAT
35 APPROVED THE SURVEY.

36 (b) THE NAME OF THE SURVEY.

37 (c) THE DATE OR DATES ON WHICH THE SURVEY WILL BE ADMINISTERED.

38 (d) THE METHOD OR METHODS OF COLLECTING DATA FOR THE SURVEY CONDUCTED
39 PURSUANT TO SUBSECTION A OF THIS SECTION. IF A COMPUTER IS USED TO
40 ADMINISTER OR RECORD THE DATA, THE NOTICE SHALL INCLUDE A STATEMENT OF
41 WHETHER THE DATA COLLECTED WILL BE TRANSMITTED ELECTRONICALLY FROM THE
42 COMPUTER OR THE LOCATION WHERE THE SURVEY IS ADMINISTERED.

43 (e) THE APPROXIMATE NUMBER OF HOURS THAT THE PUPIL WILL BE
44 ADMINISTERED THE SURVEY.

1 (f) THE TYPE OF DATA TO BE COLLECTED PURSUANT TO SUBSECTION A OF THIS
2 SECTION.
3 (g) THE REASONS FOR COLLECTION OF THE DATA.
4 (h) A STATEMENT INDICATING THAT THE PARENT'S WRITTEN INFORMED CONSENT
5 PURSUANT TO THIS SECTION IS LIMITED TO THE SPECIFIC SURVEY REFERENCED IN THAT
6 SPECIFIC WRITTEN NOTICE AND DOES NOT EXTEND TO ANY SUBSEQUENT SURVEY.
7 2. SHALL REQUIRE, ON THE RIGHT SIDE OF THE PAPER, THE PARENT'S
8 INITIALS TO AFFIRMATIVELY ACKNOWLEDGE EACH OF THE FOLLOWING:
9 (a) THAT PARTICIPATION IN THE SURVEY IS VOLUNTARY AND THAT WRITTEN
10 PARENTAL CONSENT IS REQUIRED BEFORE THE PUPIL PARTICIPATES IN THE SURVEY.
11 (b) THAT PUPILS WHO DO NOT PARTICIPATE IN THE SURVEY SHALL BE PROVIDED
12 AN ALTERNATIVE EDUCATIONAL ACTIVITY DURING THE TIME THE SURVEY IS
13 ADMINISTERED.
14 (c) THAT PENALTIES WILL NOT BE IMPOSED AGAINST A PUPIL OR THE PARENT
15 OF A PUPIL WHO DOES NOT PARTICIPATE IN THE SURVEY.
16 (d) WHETHER THE PUPIL'S PERSONALLY IDENTIFIABLE DATA COLLECTED BY THE
17 SURVEY WILL BE ANONYMOUS, AGGREGATED AND DE-IDENTIFIED.
18 (e) THE NAMES OF THE FEDERAL AND STATE AGENCIES, INSTITUTIONS AND
19 THIRD PARTIES THAT WILL HAVE ACCESS TO THE DATA COLLECTED BY THE SURVEY,
20 WHETHER THESE PARTIES WILL KEEP THIS DATA PRIVATE OR SHARE THIS DATA WITH
21 OTHER PARTIES AND WHETHER THESE PARTIES WILL DESTROY THIS DATA WHEN THE PUPIL
22 IS NO LONGER SERVICED BY THE SCHOOL DISTRICT, SCHOOL OR CHARTER SCHOOL OR
23 WHEN THE PUPIL REACHES EIGHTEEN YEARS OF AGE.
24 3. SHALL REQUIRE AND CLEARLY PROVIDE SPACE FOR:
25 (a) THE PUPIL'S NAME AND THE PARENT'S NAME.
26 (b) THE PARENT'S SIGNATURE AND THE DATE OF THE SIGNATURE.
27 4. IS NOT VALID WITHOUT ALL OF THE INFORMATION REQUIRED BY THIS
28 SUBSECTION.
29 5. SHALL BE RETAINED IN PHYSICAL OR ELECTRONIC FORM BY THE SCHOOL
30 DISTRICT OR CHARTER SCHOOL FOR TWO YEARS AFTER THE DATE OF THE SURVEY.
31 L. NOTWITHSTANDING ANY OTHER LAW:
32 1. ANY SCHOOL DISTRICT, CHARTER SCHOOL OR SCHOOL THAT FAILS TO COMPLY
33 WITH ANY REQUIREMENT IMPOSED UNDER THIS SECTION WITH RESPECT TO ANY
34 INDIVIDUAL SHALL BE LIABLE FOR DAMAGES TO THE INJURED PARTY IN THE AMOUNT
35 DETERMINED UNDER PARAGRAPH 2 OF THIS SUBSECTION.
36 2. FOR AN INDIVIDUAL ACTION, THE SUM AWARDED FOR LIABILITY UNDER
37 PARAGRAPH 1 OF THIS SUBSECTION SHALL BE:
38 (a) IN THE CASE OF A FIRST VIOLATION, AN AMOUNT OF AT LEAST TWO
39 HUNDRED FIFTY DOLLARS PLUS THE COSTS OF THE ACTION AND REASONABLE ATTORNEY
40 FEES.
41 (b) IN THE CASE OF A SECOND VIOLATION INVOLVING THE SAME PUPIL, AN
42 AMOUNT OF AT LEAST FIVE HUNDRED DOLLARS PLUS THE COSTS OF THE ACTION AND
43 REASONABLE ATTORNEY FEES.
44 (c) IN THE CASE OF A THIRD OR ANY SUBSEQUENT VIOLATION INVOLVING THE
45 SAME PUPIL, AN AMOUNT OF AT LEAST ONE THOUSAND DOLLARS PLUS THE COSTS OF THE

1 ACTION AND REASONABLE ATTORNEY FEES.

2 3. THE COURT OR THE JURY MAY AWARD PUNITIVE DAMAGES IN ADDITION TO
3 THOSE SET FORTH IN PARAGRAPH 2 OF THIS SUBSECTION.

4 4. FOR THE PURPOSES OF THIS SUBSECTION, EACH VIOLATION OF THIS SECTION
5 SHALL BE CONSIDERED A SEPARATE VIOLATION IF IT INVOLVES A DIFFERENT SURVEY
6 PURSUANT TO SUBSECTION A OF THIS SECTION OR IF THE VIOLATION INVOLVES A
7 DIFFERENT VERSION OF OR ADMINISTRATION OF THE SAME SURVEY PURSUANT TO
8 SUBSECTION A OF THIS SECTION.

9 5. THE INJURED PARTY OR PARTIES MAY COMMENCE A CIVIL ACTION IN
10 SUPERIOR COURT PURSUANT TO THIS SECTION OR THE PARTY OR PARTIES MAY REQUEST
11 THE ATTORNEY GENERAL TO COMMENCE A CIVIL ACTION ON THEIR BEHALF PURSUANT TO
12 THIS SECTION. ON REQUEST FROM THE INJURED PARTY OR PARTIES, THE ATTORNEY
13 GENERAL SHALL RESPOND WITHIN THIRTY DAYS. IF THE ATTORNEY GENERAL DENIES THE
14 REQUEST FOR CIVIL ACTION, THE INJURED PARTY OR PARTIES MAY PROCEED WITH A
15 CIVIL ACTION.

16 6. THE PROCEEDS FROM ANY MONETARY AWARD UNDER THIS SUBSECTION SHALL BE
17 PAID TO THE INJURED PARTY OR PARTIES.

18 7. IN THE CASE OF AN ADMISSION OF GUILT OR A SETTLEMENT BEFORE A
19 FORMAL CONVICTION OF A FIRST OR SECOND VIOLATION, DAMAGES SHALL BE ASSESSED
20 AND PAID PURSUANT TO THIS SUBSECTION.

21 8. ANY SCHOOL DISTRICT, CHARTER SCHOOL OR SCHOOL THAT FAILS TO COMPLY
22 WITH ANY REQUIREMENT OF THIS SECTION WITH RESPECT TO ANY INDIVIDUAL SHALL
23 HAVE THE OPPORTUNITY TO CURE THE FAILURE TO COMPLY WITHIN A REASONABLE PERIOD
24 OF TIME AND WITHOUT PENALTY.

25 M. FOR THE PURPOSES OF THIS SECTION:

26 1. "AGGREGATED" MEANS REPORTED FOR THE POPULATION AS A WHOLE.

27 2. "COMPETENCY REQUIREMENTS" MEANS THE MINIMUM STANDARDS OF KNOWLEDGE
28 AND SKILLS THAT MUST BE DEMONSTRATED BY A PUPIL TO ADVANCE TO THE NEXT LEVEL,
29 ACHIEVE CREDIT FOR A CERTAIN COURSE OR SUBJECT OR GRADUATE FROM A PROGRAM OF
30 STUDY.

31 3. "PARENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-101, EXCEPT
32 THAT PARENT DOES NOT MEAN THIS STATE IF THE PUPIL IS A WARD OF THE STATE.

33 4. "PERMANENT EDUCATIONAL RECORD" MEANS INFORMATION THAT IS KEPT ABOUT
34 A STUDENT IN A PHYSICAL OR DIGITAL FORMAT AFTER THE END OF THE SCHOOLYEAR AND
35 THAT MAY BE IN THE POSSESSION OF THE PUPIL'S SCHOOL, CHARTER SCHOOL OR SCHOOL
36 DISTRICT, AN ELECTED OR APPOINTED GOVERNMENT OFFICIAL, A GOVERNMENT AGENCY OR
37 ANY THIRD-PARTY. PERMANENT EDUCATION RECORD DOES NOT INCLUDE AN ASSIGNMENT
38 IN THE POSSESSION OF A TEACHER WHILE IT IS BEING GRADED.

39 5. "SURVEY" MEANS:

40 (a) WHEN USED AS A NOUN, AN INSTRUMENT THAT INVESTIGATES THE
41 ATTITUDES, BEHAVIORS, BELIEFS, EXPERIENCES, OPINIONS OR THOUGHTS OF A PUPIL
42 OR GROUP OF PUPILS.

43 (b) WHEN USED AS A VERB, TO INVESTIGATE THE ATTITUDES, BEHAVIORS,
44 BELIEFS, EXPERIENCES, OPINIONS OR THOUGHTS OF A PUPIL OR GROUP OF PUPILS.

1 Sec. 3. Section 15-249, Arizona Revised Statutes, is amended to read:

2 15-249. Department of education; education learning and
3 accountability system; reports; reviews

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

13 B. The education learning and accountability system shall:

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

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

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

22 C. ~~STUDENT LEVEL NONTEST DATA IS PROHIBITED FROM INCLUSION IN~~
23 ~~LONGITUDINAL, STUDENT LEVEL DATA UNLESS APPROVED IN A PUBLIC MEETING OF THE~~
24 ~~STATE BOARD OF EDUCATION AND LINKED ON THE STATE BOARD'S HOME PAGE PURSUANT~~
25 ~~TO SECTION 15-741, SUBSECTION A, PARAGRAPH 7.~~

26 ~~E.~~ D. The department of education may contract with a third party to
27 carry out the purposes of this section. ~~ANY CONTRACT UNDER THIS SUBSECTION~~
28 ~~SHALL STATE THE DATE THAT THE DATA IS TO BE RETURNED TO THE DEPARTMENT OF~~
29 ~~EDUCATION AND DESTROYED BY THE THIRD-PARTY CONTRACTOR. THE THIRD-PARTY~~
30 ~~CONTRACTOR MAY NOT SHARE OR SELL STUDENT DATA OR USE STUDENT DATA IN ANY WAY~~
31 ~~THAT IS NOT STATED IN THE CONTRACT WITH THE DEPARTMENT. THE THIRD-PARTY~~
32 ~~CONTRACTOR SHALL CERTIFY UNDER OATH THAT THE PUPIL DATA COLLECTED UNDER THE~~
33 ~~CONTRACT HAS BEEN DESTROYED PURSUANT TO THE CONTRACT. THE THIRD-PARTY~~
34 ~~CONTRACTOR IS LIABLE FOR ANY VIOLATION OF THIS SUBSECTION.~~

35 ~~D.~~ E. The department of education, in coordination with the data
36 governance commission, shall develop a detailed plan to develop and implement
37 the education learning and accountability system.

38 ~~E.~~ F. The department of education shall present the plan developed
39 pursuant to subsection ~~D.~~ E of this section to the state board of education
40 for review and approval. The department of education shall continue to
41 provide quarterly reports to the state board of education, or on request, for
42 review and approval of the state board of education, on the development and
43 implementation of the education learning and accountability system. All
44 reports provided shall include progress and expenditures to date, timelines
45 and cost estimates for completion.

1 ~~F.~~ G. Any contract awarded pursuant to subsection ~~E~~ D of this
2 section shall allow the superintendent of public instruction to renew the
3 contracts for two subsequent periods of not more than three years each and
4 shall prescribe the circumstances under which the superintendent of public
5 instruction may terminate the contracts. The contracts shall allow this
6 state to cancel any contract at any time after the first year of operation,
7 without penalty to this state, on ninety days' written notice and shall
8 require the contractor to be in compliance at all times with state and
9 federal law.

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

22 ~~H.~~ I. The superintendent of public instruction shall not award a
23 contract pursuant to this section unless:

24 1. The superintendent of public instruction receives an acceptable
25 proposal pursuant to any request for proposals. For the purposes of this
26 paragraph, "acceptable proposal" means a proposal that substantially meets
27 all of the requirements or conditions prescribed in this section and in the
28 request for proposals.

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

31 3. The contractor provides audited financial statements for the
32 previous five years, or for each year that the contractor has been in
33 operation if fewer than five years, and provides other financial information
34 as requested.

35 ~~I.~~ J. The sovereign immunity of this state does not apply to any
36 contractor who is a party to any contract pursuant to this section. The
37 contractor or any agent of the contractor may not plead the defense of
38 sovereign immunity in any action arising out of the performance of the
39 contract.

40 ~~J.~~ K. The terms of any contract pursuant to this section are subject
41 to review by the joint legislative budget committee before placement of any
42 advertisement that solicits a response to a request for proposals. Any
43 proposed modification or amendment to the contract is subject to prior review
44 by the joint legislative budget committee.

1 ~~K.~~ L. During the first year of operation under a contract executed
2 pursuant to this section, the contracting entity shall submit monthly reports
3 to the department of education as prescribed by the department. After the
4 first year of operation under the contract, the contracting entity shall
5 submit quarterly reports to the department as prescribed by the department.

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

14 Sec. 4. Section 15-741, Arizona Revised Statutes, is amended to read:

15 15-741. Assessment of pupils

16 A. The state board of education shall:

17 1. Adopt rules for purposes of this article pursuant to title 41,
18 chapter 6.

19 2. Adopt and implement an Arizona instrument to measure standards test
20 to measure pupil achievement of the state board adopted academic standards in
21 reading, writing and mathematics in at least four grades designated by the
22 board. The board shall determine the manner of implementation. The board
23 may administer assessments of the academic standards in social studies and
24 science, except that a pupil shall not be required to meet or exceed the
25 social studies or science standards measured by the Arizona instrument to
26 measure standards test.

27 3. Ensure that the tests prescribed in this section are uniform
28 throughout the state.

29 4. Ensure that the tests prescribed in this section are able to be
30 scored in an objective manner and that the tests are not intended to advocate
31 any sectarian, partisan or denominational viewpoint.

32 5. ENSURE THAT THE TESTS PRESCRIBED IN THIS ARTICLE COLLECT ONLY TYPES
33 OF PUPIL NONTEST DATA THAT ARE APPROVED BY THE STATE BOARD OF EDUCATION AT A
34 PUBLIC MEETING AND PUBLISHED ON THE WEBSITE OF THE STATE BOARD OF EDUCATION
35 PURSUANT TO PARAGRAPH 7 OF THIS SUBSECTION.

36 ~~5.~~ 6. Include within its budget all costs pertaining to the tests
37 prescribed in this article. If sufficient monies are appropriated, the state
38 board may provide achievement test services to school districts that request
39 assistance in testing pupils in grades additional to those required by this
40 section.

41 ~~6.~~ 7. Survey teachers, principals and superintendents on achievement
42 related nontest indicators, including information on graduation rates by
43 ethnicity and dropout rates by ethnicity for each grade level. Before the
44 survey, the state board of education shall approve at a public meeting the
45 nontest indicators on which data will be collected AND SHALL POST IN A

1 PROMINENT POSITION ON THE HOME PAGE OF THE STATE BOARD'S WEBSITE A LINK TO
2 THE NONTTEST INDICATORS ENTITLED "WHAT NONACADEMIC DATA DOES THE STATE OF
3 ARIZONA COLLECT ABOUT ARIZONA PUPILS?". THE LINKED WEB PAGE SHALL STATE THE
4 TYPES OF DATA COLLECTED, THE REASONS FOR THE COLLECTION OF THE DATA AND THE
5 ENTITIES WITH WHICH THE DATA IS SHARED. In conducting the survey and
6 collecting data, the state board of education shall not violate the
7 provisions of the family educational rights and privacy act (P.L. 93-380), as
8 amended, nor disclose personally identifiable information.

9 ~~7-~~ 8. Establish a fair and consistent method and standard by which
10 test scores from schools in a district may be evaluated taking into
11 consideration demographic data. The board shall establish intervention
12 strategies to assist schools with scores below the acceptable standard. The
13 board shall annually review district and school scores and shall offer
14 assistance to school districts in analyzing data and implementing
15 intervention strategies. The board shall use the adopted test and methods of
16 data evaluation for a period of at least ten years.

17 ~~8-~~ 9. Participate in other assessments that provide national
18 comparisons as needed.

19 B. The achievement tests adopted by the state board as provided in
20 subsection A of this section shall be given at least annually. Nontest
21 indicator data and other information shall be collected at the same time as
22 the collection of achievement test data.

23 C. Local school district governing boards shall:

24 1. Administer the tests prescribed in subsection A of this section.

25 2. Survey teachers, principals and superintendents on achievement
26 related nontest indicator data as required by the state board, including
27 information related to district graduation and dropout rates. In conducting
28 the survey and collecting data, the governing board shall not violate the
29 provisions of the family educational rights and privacy act (P.L. 93-380), as
30 amended, nor disclose personally identifiable information.

31 D. Any additional assessments for high school pupils that are adopted
32 by the state board of education after November 24, 2009 shall be designed to
33 measure college and career readiness of pupils.

34 E. A test for penmanship shall not be required pursuant to this
35 article.

36 Sec. 5. Title 15, chapter 7, article 3, Arizona Revised Statutes, is
37 amended by adding section 15-744, to read:

38 15-744. Third-party assessment contracts; requirements;
39 penalties

40 A. NOTWITHSTANDING ANY OTHER LAW:

41 1. A THIRD-PARTY ASSESSMENT CONTRACTOR ASSUMES ALL RESPONSIBILITY FOR
42 ANY VIOLATION OF STATE, FEDERAL OR LOCAL LAW, WHETHER THE VIOLATION WAS
43 INTENTIONAL OR UNINTENTIONAL OR WAS ASSOCIATED WITH THE USE OF ANY ASSESSMENT
44 INSTRUMENT OFFERED BY THE THIRD PARTY.

1 2. ANY CONTRACT ENTERED INTO BETWEEN THE STATE BOARD OF EDUCATION OR
2 THE DEPARTMENT OF EDUCATION AND ANY THIRD-PARTY ASSESSMENT CONTRACTOR SHALL
3 SPECIFY:

4 (a) THE TYPES OF PUPIL LEVEL NONTEST DATA THE THIRD-PARTY ASSESSMENT
5 CONTRACTOR WILL COLLECT.

6 (b) THE DATE THAT ALL PUPIL LEVEL DATA WILL BE DELIVERED TO THE STATE
7 BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION AND DESTROYED BY THE
8 THIRD-PARTY ASSESSMENT CONTRACTOR. THIS DATE SHALL BE WITHIN ONE HUNDRED
9 EIGHTY DAYS AFTER THE COLLECTION OF THE DATA.

10 3. ANY THIRD-PARTY ASSESSMENT CONTRACTOR THAT CONTRACTS WITH THE STATE
11 BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION, OR BOTH, IS PROHIBITED
12 FROM:

13 (a) SOLICITING OR COLLECTING PUPIL NONTEST DATA UNLESS THAT DATA IS
14 APPROVED IN A PUBLIC MEETING OF THE STATE BOARD OF EDUCATION AND LINKED ON
15 THE STATE BOARD'S HOME PAGE PURSUANT TO SECTION 15-741, SUBSECTION A,
16 PARAGRAPH 7.

17 (b) USING PUPIL DATA FOR RESEARCH OR ANY OTHER PURPOSE NOT STATED IN
18 THE CONTRACT WITH THE STATE BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION
19 DURING THE TIME THE THIRD-PARTY ASSESSMENT CONTRACTOR POSSESSES THE DATA.

20 (c) SELLING PUPIL DATA.

21 (d) KEEPING OR STORING ANY PUPIL DATA AFTER THE CONTRACTUAL DATE THE
22 DATA IS TO BE RETURNED TO THE STATE BOARD OF EDUCATION OR THE DEPARTMENT OF
23 EDUCATION AND DESTROYED BY THE THIRD-PARTY ASSESSMENT CONTRACTOR.

24 4. ANY THIRD-PARTY ASSESSMENT CONTRACTOR THAT CONTRACTS WITH THE STATE
25 BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION, OR BOTH, SHALL CERTIFY
26 UNDER OATH THAT THE PUPIL DATA COLLECTED UNDER THE CONTRACT HAS BEEN
27 DESTROYED PURSUANT TO THE CONTRACT.

28 5. THE THIRD-PARTY ASSESSMENT CONTRACTOR IS LIABLE FOR ANY VIOLATION
29 OF THIS SUBSECTION AND IS SUBJECT TO THE PENALTIES PRESCRIBED IN SUBSECTION B
30 OF THIS SECTION. A PERSON WHO IS INJURED BY A VIOLATION OF THIS SECTION MAY
31 COMMENCE A CIVIL ACTION IN SUPERIOR COURT.

32 B. NOTWITHSTANDING ANY OTHER LAW:

33 1. ANY THIRD-PARTY ASSESSMENT CONTRACTOR THAT FAILS TO COMPLY WITH ANY
34 REQUIREMENT OF THIS SECTION WITH RESPECT TO ANY INDIVIDUAL SHALL BE LIABLE
35 FOR DAMAGES TO THE INJURED PARTY IN THE AMOUNT DETERMINED UNDER PARAGRAPH 2
36 OF THIS SUBSECTION.

37 2. FOR AN INDIVIDUAL ACTION, THE SUM AWARDED FOR LIABILITY UNDER
38 PARAGRAPH 1 OF THIS SUBSECTION SHALL BE:

39 (a) IN THE CASE OF A FIRST VIOLATION, AN AMOUNT OF AT LEAST TWO
40 HUNDRED FIFTY DOLLARS PLUS THE COSTS OF THE ACTION AND REASONABLE ATTORNEY
41 FEES.

42 (b) IN THE CASE OF A SECOND VIOLATION INVOLVING THE SAME PUPIL, AN
43 AMOUNT OF AT LEAST FIVE HUNDRED DOLLARS PLUS THE COSTS OF THE ACTION AND
44 REASONABLE ATTORNEY FEES.

1 (c) IN THE CASE OF A THIRD OR ANY SUBSEQUENT VIOLATION INVOLVING THE
2 SAME PUPIL, AN AMOUNT OF AT LEAST ONE THOUSAND DOLLARS PLUS THE COSTS OF THE
3 ACTION AND REASONABLE ATTORNEY FEES.

4 3. THE COURT OR THE JURY MAY AWARD PUNITIVE DAMAGES IN ADDITION TO
5 THOSE SET FORTH IN PARAGRAPH 2 OF THIS SUBSECTION.

6 4. FOR THE PURPOSES OF THIS SUBSECTION, EACH VIOLATION OF THIS SECTION
7 SHALL BE CONSIDERED A SEPARATE VIOLATION IF THE VIOLATION INVOLVES A
8 DIFFERENT CONTRACT OR ADMINISTRATION OF AN ASSESSMENT.

9 5. THE INJURED PARTY OR PARTIES MAY COMMENCE A CIVIL ACTION IN
10 SUPERIOR COURT PURSUANT TO THIS SECTION OR THE PARTY OR PARTIES MAY REQUEST
11 THE ATTORNEY GENERAL TO COMMENCE A CIVIL ACTION ON THEIR BEHALF PURSUANT TO
12 THIS SECTION. ON REQUEST FROM THE INJURED PARTY OR PARTIES, THE ATTORNEY
13 GENERAL SHALL RESPOND TO THE REQUEST WITHIN THIRTY DAYS. IF THE ATTORNEY
14 GENERAL DENIES THE REQUEST FOR CIVIL ACTION, THE INJURED PARTY OR PARTIES MAY
15 PROCEED WITH A CIVIL ACTION.

16 6. THE PROCEEDS FROM ANY MONETARY AWARD UNDER THIS SUBSECTION SHALL BE
17 PAID TO THE INJURED PARTY OR PARTIES.

18 7. IN THE CASE OF AN ADMISSION OF GUILT OR A SETTLEMENT BEFORE A
19 FORMAL CONVICTION OF A FIRST OR SECOND VIOLATION, DAMAGES SHALL BE ASSESSED
20 AND PAID PURSUANT TO THIS SUBSECTION.