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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 261

HOUSE BILL 2521

AN ACT

AMENDING SECTION 15-341, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-341, Arizona Revised Statutes, is amended to read:

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.

2. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character.

3. Manage and control the school property within its district.

4. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

5. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

6. Furnish, repair and insure, at full insurable value, the school property of the district.

7. Construct school buildings on approval by a vote of the district electors.

8. Make in the name of the district conveyances of property belonging to the district and sold by the board.

9. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

10. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

11. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

12. Hold pupils to strict account for disorderly conduct on school property.

13. Discipline students for disorderly conduct on the way to and from school.

14. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

15. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section 15-521, paragraph 2, the parent or legal guardian may request in writing that the governing board review the teacher's decision. Nothing in this paragraph shall be construed to release school districts from any liability relating to a child's promotion or retention.

16. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

17. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

18. Make an annual report to the county school superintendent on or before October 1 in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

19. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 20 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

20. Establish a bank account in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank account at least monthly to the county treasurer for deposit as provided in paragraph 19 of this subsection and in accordance with the uniform system of financial records.

21. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

22. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include

notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

23. Notwithstanding section 13-3108, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

24. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district sponsored practice sessions, games or other interscholastic athletic activities, including the provision of water.

25. Prescribe and enforce policies and procedures regarding the smoking of tobacco within school buildings. The policies and procedures shall be adopted in consultation with school district personnel and members of the community and shall state whether smoking is prohibited in school buildings. If smoking in school buildings is not prohibited, the policies and procedures shall clearly state the conditions and circumstances under which smoking is permitted, those areas in a school building that may be designated as smoking areas and those areas in a school building that may not be designated as smoking areas.

26. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

27. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

28. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

29. Ensure that insurance coverage is secured for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

30. Keep on file the resumes of all current and former employees who provide instruction to pupils at a school. Resumes shall include an individual's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the resume information and shall make the resume information available for inspection on request of parents and guardians of pupils enrolled at a school. Nothing in this paragraph shall be construed to require any school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

31. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

32. In conjunction with local law enforcement agencies and local medical facilities, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

33. Provide written notice to the parents or guardians of all students affected in the school district at least thirty days prior to a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than thirty days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school.

34. Incorporate instruction on Native American history into appropriate existing curricula.

35. Prescribe and enforce policies and procedures allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including auto-injectable epinephrine, while at school and at school sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses auto-injectable epinephrine while at school and at school sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made

and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of wanton or wilful neglect.

36. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label on the medication container or on the handheld inhaler device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration shall be sufficient proof that the pupil is entitled to the possession and self-administration of the medication. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on a good faith implementation of the requirements of this paragraph.

37. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops and at school sponsored events and activities that include the following components:

(a) A procedure for pupils to confidentially report to school officials incidents of harassment, intimidation or bullying.

(b) A procedure for parents and guardians of pupils to submit written reports to school officials of suspected incidents of harassment, intimidation or bullying.

(c) A requirement that school district employees report suspected incidents of harassment, intimidation or bullying to the appropriate school official.

(d) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. If a school maintains documentation of reported incidents of harassment, intimidation or bullying, the school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred.

(e) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying.

(f) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(g) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

38. Prescribe and enforce policies and procedures regarding changing or adopting attendance boundaries that include the following components:

(a) A procedure for holding public meetings to discuss attendance boundary changes or adoptions that allows public comments.

(b) A procedure to notify the parents or guardians of the students affected.

(c) A procedure to notify the residents of the households affected by the attendance boundary changes.

(d) A process for placing public meeting notices and proposed maps on the school district's website for public review, if the school district maintains a website.

(e) A formal process for presenting the attendance boundaries of the affected area in public meetings that allows public comments.

(f) A formal process for notifying the residents and parents or guardians of the affected area as to the decision of the governing board on the school district's website, if the school district maintains a website.

(g) A formal process for updating attendance boundaries on the school district's website within ninety days of an adopted boundary change. The school district shall send a direct link to the school district's attendance boundaries website to the department of real estate.

(h) If the land that a school was built on was donated within the past five years, a formal process to notify the entity that donated the land affected by the decision of the governing board.

39. If the state board of education determines that the school district has committed an overexpenditure as defined in section 15-107, provide a copy of the fiscal management report submitted pursuant to section 15-107, subsection H on its website and make copies available to the public on request. The school district shall comply with a request within five business days after receipt.

40. ENSURE THAT THE CONTRACT FOR THE SUPERINTENDENT IS STRUCTURED IN A MANNER WHERE AT LEAST TWENTY PER CENT OF THE TOTAL ANNUAL COMPENSATION AND BENEFITS INCLUDED FOR THE SUPERINTENDENT IN THE CONTRACT IS CLASSIFIED AS PERFORMANCE PAY. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE SCHOOL DISTRICTS TO INCREASE TOTAL COMPENSATION FOR SUPERINTENDENTS. UNLESS THE SCHOOL DISTRICT GOVERNING BOARD VOTES TO IMPLEMENT AN ALTERNATIVE PROCEDURE AT A PUBLIC MEETING CALLED FOR THIS PURPOSE, THE PERFORMANCE PAY PORTION OF THE SUPERINTENDENT'S TOTAL ANNUAL COMPENSATION SHALL BE DETERMINED AS FOLLOWS:

(a) TWENTY-FIVE PER CENT OF THE PERFORMANCE PAY SHALL BE DETERMINED BASED ON THE PERCENTAGE OF ACADEMIC GAIN DETERMINED BY THE DEPARTMENT OF EDUCATION OF PUPILS WHO ARE ENROLLED IN THE SCHOOL DISTRICT COMPARED TO THE ACADEMIC GAIN ACHIEVED BY THE HIGHEST RANKING OF THE FIFTY LARGEST SCHOOL DISTRICTS IN THIS STATE. FOR THE PURPOSES OF THIS SUBDIVISION, THE DEPARTMENT OF EDUCATION SHALL DETERMINE ACADEMIC GAIN BY THE ACADEMIC GROWTH ACHIEVED BY EACH PUPIL WHO HAS BEEN ENROLLED AT THE SAME SCHOOL IN A SCHOOL DISTRICT FOR AT LEAST FIVE CONSECUTIVE MONTHS MEASURED AGAINST THAT PUPIL'S ACADEMIC RESULTS IN THE 2008-2009 SCHOOL YEAR. FOR THE PURPOSES OF THIS SUBDIVISION, OF THE FIFTY LARGEST SCHOOL DISTRICTS IN THIS STATE, THE SCHOOL DISTRICT WITH PUPILS WHO DEMONSTRATE THE HIGHEST STATEWIDE PERCENTAGE OF

OVERALL ACADEMIC GAIN MEASURED AGAINST ACADEMIC RESULTS FOR THE 2008-2009 SCHOOL YEAR SHALL BE ASSIGNED A SCORE OF 100 AND THE SCHOOL DISTRICT WITH PUPILS WHO DEMONSTRATE THE LOWEST STATEWIDE PERCENTAGE OF OVERALL ACADEMIC GAIN MEASURED AGAINST ACADEMIC RESULTS FOR THE 2008-2009 SCHOOL YEAR SHALL BE ASSIGNED A SCORE OF 0.

(b) TWENTY-FIVE PER CENT OF THE PERFORMANCE PAY SHALL BE DETERMINED BY THE PERCENTAGE OF PARENTS OF PUPILS WHO ARE ENROLLED AT THE SCHOOL DISTRICT WHO ASSIGN A LETTER GRADE OF "A" TO THE SCHOOL ON A SURVEY OF PARENTAL SATISFACTION WITH THE SCHOOL DISTRICT. THE PARENTAL SATISFACTION SURVEY SHALL BE ADMINISTERED AND SCORED BY AN INDEPENDENT ENTITY THAT IS SELECTED BY THE GOVERNING BOARD AND THAT DEMONSTRATES SUFFICIENT EXPERTISE AND EXPERIENCE TO ACCURATELY MEASURE THE RESULTS OF THE SURVEY. THE PARENTAL SATISFACTION SURVEY SHALL USE STANDARD RANDOM SAMPLING PROCEDURES AND PROVIDE ANONYMITY AND CONFIDENTIALITY TO EACH PARENT WHO PARTICIPATES IN THE SURVEY. THE LETTER GRADE SCALE USED ON THE PARENTAL SATISFACTION SURVEY SHALL DIRECT PARENTS TO ASSIGN ONE OF THE FOLLOWING LETTER GRADES:

(i) A LETTER GRADE OF "A" IF THE SCHOOL DISTRICT IS EXCELLENT.

(ii) A LETTER GRADE OF "B" IF THE SCHOOL DISTRICT IS ABOVE AVERAGE.

(iii) A LETTER GRADE OF "C" IF THE SCHOOL DISTRICT IS AVERAGE.

(iv) A LETTER GRADE OF "D" IF THE SCHOOL DISTRICT IS BELOW AVERAGE.

(v) A LETTER GRADE OF "F" IF THE SCHOOL DISTRICT IS A FAILURE.

(c) TWENTY-FIVE PER CENT OF THE PERFORMANCE PAY SHALL BE DETERMINED BY THE PERCENTAGE OF TEACHERS WHO ARE EMPLOYED AT THE SCHOOL DISTRICT AND WHO ASSIGN A LETTER GRADE OF "A" TO THE SCHOOL ON A SURVEY OF TEACHER SATISFACTION WITH THE SCHOOL. THE TEACHER SATISFACTION SURVEY SHALL BE ADMINISTERED AND SCORED BY AN INDEPENDENT ENTITY THAT IS SELECTED BY THE GOVERNING BOARD AND THAT DEMONSTRATES SUFFICIENT EXPERTISE AND EXPERIENCE TO ACCURATELY MEASURE THE RESULTS OF THE SURVEY. THE TEACHER SATISFACTION SURVEY SHALL USE STANDARD RANDOM SAMPLING PROCEDURES AND PROVIDE ANONYMITY AND CONFIDENTIALITY TO EACH TEACHER WHO PARTICIPATES IN THE SURVEY. THE LETTER GRADE SCALE USED ON THE TEACHER SATISFACTION SURVEY SHALL DIRECT TEACHERS TO ASSIGN ONE OF THE FOLLOWING LETTER GRADES:

(i) A LETTER GRADE OF "A" IF THE SCHOOL DISTRICT IS EXCELLENT.

(ii) A LETTER GRADE OF "B" IF THE SCHOOL DISTRICT IS ABOVE AVERAGE.

(iii) A LETTER GRADE OF "C" IF THE SCHOOL DISTRICT IS AVERAGE.

(iv) A LETTER GRADE OF "D" IF THE SCHOOL DISTRICT IS BELOW AVERAGE.

(v) A LETTER GRADE OF "F" IF THE SCHOOL DISTRICT IS A FAILURE.

(d) TWENTY-FIVE PER CENT OF THE PERFORMANCE PAY SHALL BE DETERMINED BY OTHER CRITERIA SELECTED BY THE GOVERNING BOARD.

B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district, its governing board members, its school council members and its employees are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in a reduction of pupil square footage unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in a reduction that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district capital outlay revenue limit monies pursuant to the direction of the school

1 facilities board. Except as provided in section 15-342, paragraph 10,
2 proceeds from the sale of school sites, buildings or other equipment shall be
3 deposited in the school plant fund as provided in section 15-1102.
4 H. Subsections C through G of this section apply to a county board of
5 supervisors and a county school superintendent when operating and
6 administering an accommodation school.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.