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Arizona House of Representatives
Phoenix, Arizona 85007

May 19, 2010

The Honorable Janice K. Brewer
Governor of the State of Arizona
State Capitol
1700 W. Washington
Phoenix, AZ 85007

Dear Governor Brewer:

On April 29, 2010, House Bill 2733 was transmitted to you for your signature. On May 11, 2010, you signed the bill after which it was transmitted to the Secretary of State who assigned it chapter number 334. During a subsequent reading of the chapter it was discovered that the original version of Senate engrosssd House Bill 2733 contained a manifest clerical error, whereby pages 3 through 5 of the bill were omitted.

House Bill 2733 was amended in the Senate along with two engrossing corrections. It has been determined that those pages were engrossed and transmitted back to the House as a complete bill. Even though the hard copies were missing pages 3 through 5, the electronic version was complete. It is our determination that the measure was legitimately passed and the manifest clerical error was the cause of the incomplete version being delivered to you.

I would like to rectify this situation by delivering the "correct" version of House Bill 2733 to you. If you approve this "correct" version I would request that the version be forwarded to the Secretary of State so that the correct version of Chapter 334 can be printed and distributed.

Thank you for your consideration of this matter.

Sincerely,

Cheryl Laube

Cheryl Laube

Enclosures – HB2733, 49th Legislature, 2nd Regular Session
CC: Speaker Adams
Secretary of State
Senate Secretary
Legislative Council

STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

May 20, 2010

Ms. Cheryl Laube
Chief Clerk
Arizona House of Representatives
1700 W. Washington, Room 203
Phoenix, Arizona 85007

Dear Ms. Laube:

Thank you for your letter dated May 19, 2010, regarding House Bill 2733, which I signed and transmitted to the Secretary of State on May 11, 2010. Your letter notes that the actual bill presented to me on April 29, 2010, was missing pages 3 through 5.

Prior to signing House Bill 2733, my staff and I had carefully reviewed the engrossed version of the bill that had been posted on the Arizona Legislature's website. This bill was signed with the clear understanding of all of its provisions as contained in the engrossed version attached to your letter.

I am copying Secretary of State Bennett on this letter to instruct him to file the final bill as attached to your letter as Chapter 334.

Sincerely,

Janice K. Brewer
Governor

JKB/jk

cc: The Honorable Ken Bennett, Secretary of State of Arizona

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007
602-542-4331 • FAX 602-542-7602

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 334

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)

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

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

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

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

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

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

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

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

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

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

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

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

(b) COST ESTIMATES FOR OPTIMAL SYSTEMS.

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

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

7. A WRITTEN REPORT DETAILING THE EVALUATION FINDINGS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15-249.01. <u>Data governance commission; membership; terms; duties</u>

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

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

2. THE CHIEF TECHNOLOGY MANAGER, OR THE MANAGER'S DESIGNEE, OF A 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.

(f) PRIORITIZATION OF FUNDING OPPORTUNITIES.

(g) RESOLUTION OF DATA CONFLICTS.

2. PROVIDE RECOMMENDATIONS ON TECHNOLOGY SPENDING.

3. PROVIDE ANALYSES AND RECOMMENDATIONS OF THE FOLLOWING:

(a) THE CONTROL OF DATA CONFIDENTIALITY AND DATA SECURITY FOR STORED DATA AND DATA IN TRANSMISSION.

(b) ACCESS PRIVILEGES AND ACCESS MANAGEMENT.

(c) DATA AUDIT MANAGEMENT, INCLUDING DATA QUALITY METRICS, SANCTIONS AND INCENTIVES FOR DATA QUALITY IMPROVEMENT.

(d) DATA STANDARDS FOR STORED DATA AND DATA IN TRANSMISSION, INCLUDING RULES FOR DEFINITION, FORMAT, SOURCE, PROVENANCE, ELEMENT LEVEL AND CONTEXTUAL INTEGRITY.

(e) DOCUMENTATION STANDARDS FOR DATA ELEMENTS AND SYSTEMS COMPONENTS.

(f) DATA ARCHIVAL AND RETRIEVAL MANAGEMENT SYSTEMS, INCLUDING CHANGE CONTROL AND CHANGE TRACKING.

(g) PUBLICATION OF STANDARD AND AD HOC REPORTS FOR STATE AND LOCAL LEVEL USE ON STUDENT ACHIEVEMENT.

(h) PUBLICATION OF IMPLEMENTATION TIMELINES AND PROGRESS.

4. SUBMIT AN ANNUAL REPORT ON OR BEFORE DECEMBER 1 REGARDING THE COMMISSION'S ACTIVITIES TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE DATA GOVERNANCE COMMISSION SHALL PROVIDE COPIES OF THIS REPORT TO THE SECRETARY OF STATE.

Sec. 2. Task force on data systems; delayed repeal

A. The task force on data systems is established consisting of the following members, each of whom shall have expertise in educational technology:

1. Two members who are appointed by the state board of education.

2. Two members who are appointed by the Arizona board of regents.

3. One person who is employed by a community college district in this state and who is appointed by the state board of education.

4. One member who is appointed by the president of the senate.

5. One member who is appointed by the speaker of the house of representatives.

B. The state board of education shall select one of the appointed members to serve as the task force chairperson.

C. The task force shall:

1. Design a request for proposals form to be used by the department of education to solicit proposals from private entities to carry out the purposes of section 15-249, Arizona Revised Statutes, as added by this act.

2. Submit the request for proposals form to the department of education by December 31, 2010.

D. The task force may use the services and expertise of the staff of the legislature and the staff of the department of education.

E. This section is repealed from and after April 30, 2011.

APPROVED BY THE GOVERNOR MAY 11, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.