

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)

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) COST ESTIMATES FOR OPTIMAL SYSTEMS.

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

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

42 7. A WRITTEN REPORT DETAILING THE EVALUATION FINDINGS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 15-249.01. Data governance commission; membership; terms;  
37 duties

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

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

42 2. THE CHIEF TECHNOLOGY MANAGER, OR THE MANAGER'S DESIGNEE, OF A  
43 COMMUNITY COLLEGE DISTRICT LOCATED IN A COUNTY WITH A POPULATION OF EIGHT  
44 HUNDRED THOUSAND PERSONS OR MORE WHO HAS EXPERTISE IN TECHNOLOGY AND WHO IS  
45 APPOINTED BY THE GOVERNOR.

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

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

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

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

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

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

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

23          10. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S  
24 DESIGNEE.

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

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

38           1. ESTABLISH GUIDELINES RELATED TO THE FOLLOWING:

39           (a) MANAGED DATA ACCESS.

40           (b) TECHNOLOGY.

41           (c) PRIVACY AND SECURITY.

42           (d) ADEQUACY OF TRAINING.

43           (e) ADEQUACY OF DATA MODEL IMPLEMENTATION.

44           (f) PRIORITIZATION OF FUNDING OPPORTUNITIES.

45           (g) RESOLUTION OF DATA CONFLICTS.

46           2. PROVIDE RECOMMENDATIONS ON TECHNOLOGY SPENDING.

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

APPROVED BY THE GOVERNOR MAY 11, 2010.

H.B. 2733

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