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11 **ARIZONA SUPERIOR COURT**

12 **MARICOPA COUNTY**

13 ARIZONA SCHOOL BOARDS) No. CV2021-012741
ASSOCIATION, INC., an Arizona nonprofit)
14 corporation; CHILDREN'S ACTION)
ALLIANCE, INC., an Arizona nonprofit) COMPLAINT FOR DECLARATORY
15 corporation; ARIZONA EDUCATION) AND INJUNCTIVE RELIEF
ASSOCIATION, an Arizona nonprofit)
16 corporation; ARIZONA ADVOCACY) (Tier 2)
17 NETWORK, an Arizona nonprofit corporation;)
18 STEVE GALLARDO, an Arizona resident;) (Expedited Consideration Requested)
LELA ALSTON, an Arizona resident; DAVID)
19 LUJAN, an Arizona resident; BETH LEWIS,)
20 an Arizona resident; RAQUEL MAMANI, an)
Arizona resident; JUSTIN MONNET, an)
21 Arizona resident; CORINA ONTIVEROS, an)
Arizona resident; MARY CATHERINE)
22 HARREL, M.D., an Arizona resident; RUTH)
23 FRANKS SNEDECOR, M.D., an Arizona)
resident, SHARON KIRSCH, an Arizona)
24 resident; RICHARD NEWHAUSER, an)
25 Arizona resident)
)

v.)
STATE OF ARIZONA, a body politic,)
Defendant.)

Plaintiffs, for their Complaint against Defendant, allege as follows:

Overview

1. This is an action seeking to enjoin unconstitutional legislation that undermines our representative democracy, and to uphold the fundamental right of Arizona's public schoolchildren.

2. Article IV, part 2, section 13 of the Arizona Constitution places two important limitations on laws passed the Legislature: (1) the laws can cover only one subject, and (2) their contents must be properly noticed in the title of the bill.

3. This legislative session, the Legislature passed several so-called “budget reconciliation bills” that violate these constitutional mandates.

4. They passed three bills (HB 2898, SB 1824, and SB 1825) with titles claiming that the contents of the act relate to health or education “budget reconciliation,” yet the contents of each bill include substantive policy provisions that have nothing to do with the budget.

5. The Legislature also passed a bill (SB 1819) with a title claiming that its contents relate to “budget procedures” and “budget reconciliation,” but it likewise includes substantive policy legislation that has nothing to do with the budget. Beyond that, SB 1819 covers a hodgepodge of completely unrelated subjects in violation of the single subject rule.

6. The kindergarten through grade twelve budget reconciliation bill (HB 2898) also violates Arizona's equal protection clause under Article II, section 13 of the Arizona Constitution.

7. HB 2898 bans all public and charter schools – but not private schools – from requiring students and staff to wear masks in school to protect against the spread of COVID-19.

1 The Legislature passed this bill in the face of a public health crisis, when the COVID-19 virus
2 is mutating and spreading rapidly across the country and this state, including among children.

3 8. This legislation unfairly discriminates against Arizona’s public and charter school
4 students as compared to their private school peers regarding their right to a safe education, a
5 fundamental right under Arizona law.

6 **Parties, Jurisdiction and Venue**

7 9. Plaintiff Arizona School Boards Association, Inc. (“ASBA”) is an Arizona non-
8 profit corporation dedicated to cultivating excellence in locally governed school districts to help
9 provide the best schools in every Arizona community. ASBA provides training, leadership, and
10 essential services to its members. Protection of local decision-making regarding education
11 decisions, along with enabling schools to provide reasonably safe environments for children and
12 school employees is paramount to ASBA’s mission. ASBA has diverted significant time and
13 resources to addressing the unconstitutional provisions the Legislature improperly included in
14 “budget reconciliation bills” this session, which provisions are the subject of this action. ASBA
15 has diverted resources including communicating to its members and organizing grassroots
16 opposition, conveying the legislation’s requirements to its membership through multiple
17 platforms, writing model policy for districts to consider to address the legislation’s contents, and
18 seeking legal advice regarding the requirements of the law.

19 10. ASBA’s members include nearly all of the school districts in the state represented
20 through their governing boards and individual members of school district governing boards.
21 ASBA has a keen interest in empowering its members to make decisions that are in the best
22 interests of their students and staff, including their safety. Its members’ efforts to provide a
23 quality public education in a reasonably safe environment for its employees and the children
24 whose safety it is their job to protect have been impeded and will be impeded by the illegal and
25 unconstitutional laws that are the subject of this challenge.

26 11. Plaintiff Children’s Action Alliance, Inc. (“CAA”) is an Arizona non-profit

1 corporation dedicated to identifying and eliminating barriers to the well-being of children and
2 families. CAA is an independent voice for children and families in the community and at the
3 state capitol to create opportunities through partnerships and policy solutions. CAA's vision is
4 an Arizona where all children and families thrive. Protection of the health and safety of
5 Arizona's children is a core mission of CAA.

6 12. CAA spends about eighty percent of its organizational workload focusing on
7 policies at the state level enacted by the state Legislature. It has fifteen full-time policy and
8 communications experts who work on a wide range of issues, including education from early
9 childhood, to kindergarten through grade twelve, to higher education. The manner in which
10 many of the provisions were enacted in budget reconciliation bills this legislative session
11 prevented CAA from doing the usual type of advocacy work that it normally employs to express
12 the public's opposition to legislative policies through proper legislative channels. The passage
13 of bills discussed below as part of the "budget reconciliation process" deprived CAA of the
14 ability to provide proper advocacy regarding the bills that are the subjects of this action.

15 13. Plaintiff Arizona Education Association ("AEA") is an Arizona non-profit
16 corporation, and a professional association and a labor union advocating on behalf of students,
17 staff, and teachers in Arizona. AEA has more than 20,000 members consisting of Arizona
18 students, educators, workers, and allies, and it has a mission of promoting quality public
19 education in our state. AEA has diverted significant time and resources in response to the bills
20 that were unconstitutionally enacted within "budget reconciliation bills" that are the subject of
21 this action. AEA's has been forced to divert its resources including communicating to its
22 members and organizing grassroots opposition, conveying the legislation's requirements to its
23 membership, responding to its members who are trying to determine how to protect the
24 children's safety as well as their own, and seeking legal advice regarding the requirements of the
25 law.

26 14. AEA members' working conditions and ability to provide an appropriate and

adequate education in a reasonably safe environment are being and will be impeded by unconstitutional laws that are the subject of this action. The ability of teachers to teach appropriate curriculum without threat of penalties that chill their ability to convey information is also part of the core mission of the AEA. AEA has had to divert considerable resources in responding to members' concerns about section 21 of House Bill 2898, which was unconstitutionally included in a budget reconciliation bill.

15. Plaintiff Arizona Advocacy Network ("AZAN") is an Arizona non-profit corporation dedicated to defending and deepening Arizona's commitment to democracy. AZAN believes the cornerstones of such a democracy are meaningful voting rights and access to the ballot, political decisions driven by voters instead of money, and a fair and independent judiciary and adherence to the Arizona Constitution. AZAN's mission, including allowing citizen participation in the legislative process, is frustrated by the legislature's conduct of improperly including various provisions in the budget reconciliation bills in violation of the constitution as explained in this complaint. AZAN is committed to preserving a truly representative political system in which all Arizonans make their voices heard. Ensuring Arizonans' right to vote and sanctity and privacy of its voter information is a core mission of AZAN.

16. AZAN has diverted significant time and resources analyzing the impact of various election-related provisions in the budget reconciliation bills this legislative session. This legislative session, two full time staff were devoted to jointly working with coalition partners to block legislative attacks on voting rights and democracy through advocacy, education, and organizing. AZAN's ability to advocate for and defend a truly representative political system was impeded, however, by the policies passed through budget reconciliation bills this session as part of larger effort by the legislative majorities to undermine Arizona's democracy.

17. Plaintiff Steve Gallardo is an individual residing in Maricopa County, Arizona, a member of the Maricopa County Board of Supervisors, and a member of the Phoenix Union High School Governing Board. Supervisor Gallardo brings this lawsuit his individual capacity.

1 18. Plaintiff Gallardo strives to protect the health and safety of the children who are
2 entrusted to his district, as well as the faculty and staff of the district's employees. The Phoenix
3 Union High School Governing Board has implemented a policy requiring masks. The
4 unconstitutionally adopted statutes that are the subject of this case threaten his ability to work to
5 protect his district's students and staff when the budget reconciliation bills go into effect on
6 September 29, 2021. The unconstitutionally adopted statutes that are the subject of this case
7 threaten Plaintiff Gallardo's ability to exercise local control to protect the health and safety of
8 his community.

9 19. Plaintiff Lela Alston is an individual residing in Maricopa County, Arizona, a
10 member of the Arizona State Senate, and the President of the Phoenix Union High School
11 Governing Board. Senator Alston brings this lawsuit in her individual capacity.

12 20. Plaintiff Alston strives to protect the health and safety of the children who are
13 entrusted to her district, as well as the faculty and staff of the district's employees. The Phoenix
14 Union High School Governing Board has implemented a policy requiring masks. The
15 unconstitutionally adopted statutes that are the subject of this case threaten her ability to work to
16 protect her district's students and staff when the budget reconciliation bills go into effect on
17 September 29, 2021.

18 21. Plaintiff David Lujan is an individual residing in Maricopa County, Arizona, the
19 President and CEO of CAA, and a former Arizona legislator. Mr. Lujan has worked in public
20 policy in Arizona for 20 years, and he is committed to advocating for the well-being of children,
21 including in their educational environment. Mr. Lujan's ability to advocate for policies this
22 legislative session was impeded by the unconstitutional manner in which the Legislature passed
23 policies through budget reconciliation bills.

24 22. Plaintiff Beth Lewis is an individual residing in Maricopa County, Arizona. Ms.
25 Lewis is a public school teacher in the Tempe Elementary School District and the parent of minor
26 children who attend public schools that "encourage" but do not mandate masks. Ms. Lewis's

1 children are under the age of 12 and not yet eligible to receive the COVID-19 vaccine. Ms.
2 Lewis's ability to work in a reasonably safe environment and to have her minor children attend
3 school in a reasonably safe environment is being impeded and threatened by the unconstitutional
4 laws that are the subject of this action.

5 23. Plaintiff Raquel Mamani is an individual residing in Maricopa County, Arizona.
6 Ms. Mamani is a substitute teacher in the Madison Elementary School District and the parent of
7 minor children who attend public schools that currently mandate masks. Ms. Mamani's children
8 are under the age of 12 and not yet eligible to receive the COVID-19 vaccine. Ms. Mamani's
9 ability to work in a reasonably safe environment and to have her minor children attend school in
10 a reasonably safe environment is being impeded and threatened by the unconstitutional laws that
11 are the subject of this action.

12 24. Plaintiff Justin Monnet is an individual residing in Maricopa County, Arizona and
13 the parent of four minor children who attend public school. Mr. Monnet's youngest child, who
14 is in kindergarten, is immunocompromised and at a higher risk for severe illness if he contracts
15 COVID-19. Mr. Monnet's ability to have his minor children attend school in a reasonably safe
16 environment is being impeded and threatened by the unconstitutional laws that are the subject
17 of this action.

18 25. Plaintiff Corina Ontiveros is an individual residing in Pima County, Arizona and
19 a teacher in the Tucson Unified School District. The Tucson Unified School District currently
20 has a mask mandate for staff. Ms. Ontiveros teaches language arts and social studies and is
21 currently assigned as a third grade substitute teacher, and she is the parent of minor children who
22 attend public school. She is highly trained and experienced in culturally responsive curriculum,
23 an approach that makes teachers aware of their own centeredness, biases, and perspectives, and
24 centers the students' cultures and identities in classroom lessons and discussions. Her ability to
25 provide instruction will be chilled by the vague and otherwise improper provisions of a provision
26 of that was improperly included in the budget reconciliation process, as discussed further below.

1 Ms. Ontiveros's ability to work in a reasonably safe environment and to have her minor children
2 attend school in a reasonably safe environment is being impeded and threatened by the
3 unconstitutional laws that are the subject of this action.

4 26. Plaintiff Mary Catherine "Cadey" Harrel, MD is an individual residing in Pima
5 County, Arizona and a family medicine physician who has dedicated her career to maternal and
6 child health and reducing health disparities. Dr. Harrel is also the parent to minor children who
7 attend public school in Arizona. Dr. Harrel recently unenrolled her children who are students
8 from a school that did not require masks because she was concerned about their safety, and
9 enrolled them in a school that currently has a mask mandate. Dr. Harrel's ability to have her
10 minor children attend school in a reasonably safe environment is being impeded and threatened
11 by the unconstitutional laws that are the subject of this action.

12 27. Plaintiff Ruth Franks Snedecor, MD is an individual residing in Maricopa County,
13 Arizona, and a physician who cares for hospitalized patients. Throughout the COVID-19
14 pandemic, Dr. Franks has advised a public school district about the reopening of schools and
15 COVID-19 mitigation measures. Dr. Franks has three children who attend public schools, two
16 who are under the age of 12 and not yet eligible to receive the COVID-19 vaccine, and one who
17 is vaccinated. Dr. Franks's ability to have her minor children attend school in a reasonably safe
18 environment is being impeded and threatened by the unconstitutional laws that are the subject
19 of this action.

20 28. Plaintiff Sharon Kirsch is an individual residing in Maricopa County, Arizona who
21 teaches English and Rhetorical Studies at Arizona State University. Professor Kirsch teaches in-
22 person classes at ASU where students engage in interactive discussions in small classrooms.
23 Professor Kirsch's ability to work in a reasonably safe environment is being impeded and
24 threatened by the unconstitutional laws that are the subject of this action.

25 29. Plaintiff Richard Newhauser is an individual residing in Maricopa County,
26 Arizona who teaches English at Arizona State University. Professor Newhauser is at a higher

1 risk for severe illness if he contracts COVID-19 because of his age and an underlying medical
2 condition. Professor Newhauser’s ability to work in a reasonably safe environment is being
3 impeded and threatened by the unconstitutional laws that are the subject of this action.

4 30. Plaintiffs all have an interest in ensuring that the Legislature complies with its
5 constitutional obligations and that Arizonans are safe in their educational and work
6 environments.

7 31. Defendant State of Arizona is a body politic.

8 32. Jurisdiction over this action is proper pursuant to A.R.S. §§ 12-123, 12-1831, and
9 the Arizona Constitution.

10 33. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

11 **Factual Allegations**

12 **The Single Subject and Title Requirements in Ariz. Const. art. IV, pt. 2 § 13**

13 34. Article IV, part 2, § 13 of the Arizona Constitution requires that every act passed
14 by the Legislature “shall embrace but one subject and matters properly connected therewith,
15 which subject shall be expressed in the title; but if any subject shall be embraced in an act which
16 shall not be expressed in the title, such act shall be void only as to so much thereof as shall not
17 be embraced in the title.”

18 35. Section 13 has two distinct constitutional mandates: (1) legislation may only
19 embrace one subject, known as the “single subject rule,” and (2) the subject of the legislation
20 must be properly addressed in the title of the act.

21 36. The title requirement in Section 13 “was designed to enable legislators and the
22 public upon reading the title to know what to expect in the body of the act so that no one would
23 be surprised as to the subjects dealt with by the act.” *State v. Sutton*, 115 Ariz. 417, 419 (1977)
24 (quotation omitted).

25 37. The “act’s title need not be a synopsis or a complete index of the act’s provisions,”
26 *Hoyle v. Superior Ct. In & For Cty. of Maricopa*, 161 Ariz. 224, 230 (App. 1989), but the “title

1 must be worded so that it puts people on notice as to the contents of the act,” *Sutton*, 115 Ariz.
2 at 419.

3 38. When the title of an amendatory act “particularizes some of the changes to be made
4 by the amendment, the legislation is limited to the matters specified and anything beyond them
5 is void, however germane it may be to the subject of the original act.” *Hoyle*, 161 Ariz. at 230.

6 39. When a component of an act is not properly reflected in the title, the act is “void
7 only as to so much thereof as shall not be embraced in the title.” Ariz. Const. art. IV, pt. 2, § 13.

8 40. For its part, the single subject rule is “aimed at the practice of ‘logrolling’, or the
9 combining of disparate minorities into a majority through a combination of unrelated legislative
10 goals in a single bill,” and it is “designed to prevent the evils of omnibus bills, surreptitious and
11 ‘hodgepodge’ legislation.” *Litchfield Elementary Sch. Dist. No. 79 of Maricopa Cty. v. Babbitt*,
12 125 Ariz. 215, 223–24 (App. 1980).

13 41. “A bill that deals with multiple subjects creates a serious ‘logrolling’ problem
14 because an individual legislator is thus forced, in order to secure the enactment of the proposition
15 which he considers the most important, to vote for others of which he disapproves.” *Bennett v.*
16 *Napolitano*, 206 Ariz. 520, 528 ¶ 37 (2003) (quotations and citations omitted).

17 42. The “subject” of legislation includes “all matters having a logical or natural
18 connection.” *Litchfield Elementary*, 125 Ariz. at 224 (citation omitted). Thus, to comply with
19 the single subject rule, “all matters treated of should fall under some one general idea, be so
20 connected with or related to each other, either logically or in popular understanding, as to be
21 parts of, or germane to, one general subject.” *Id.*

22 43. When a bill violates the single subject rule, it is “infected by reason of the
23 combination of its various elements rather than by any invalidity of one component,” so “the
24 entire act must fall.” *Id.* at 226.

25 44. While the single subject rule and title requirement under Section 13 are
26 “interpreted liberally so as not to impede or embarrass the legislature in its business,” they

1 shouldn't be interpreted "so foolishly liberal as to render the constitutional requirements
2 nugatory." *Id.* at 224 (quotations omitted).

3 45. These constitutional requirements are critical to a representative democracy. They
4 ensure that, to pass substantive policy, legislators must gather enough votes from representatives
5 of the majority of constituents who support the policy – not slip them into omnibus budget bills.

6 **The Legislature's "Budget Reconciliation" Bills**

7 46. Each legislative session, the Legislature often passes budget reconciliation bills
8 ("BRBs") to effectuate the state's budget set forth in separate appropriations bills.

9 47. According to the Legislative Council's Arizona Legislative Manual, BRBs "are
10 used for statutory adjustments that must be implemented to carry out the adopted budget." Ariz.
11 Leg. Council, Ariz. Legislative Manual (2003),
12 <https://www.azleg.gov/alispdfs/Council/legman2003.pdf> (last visited August 9, 2021). A true
13 and correct excerpt is attached as "Exhibit A."

14 48. The Legislature is well-aware that the title requirement in Section 13 applies to all
15 legislation it passes, including BRBs. *See* 2020 Bill Drafting Manual at 9,
16 https://www.azleg.gov/alispdfs/council/2021-2022_bill_drafting_manual.pdf ("A title is a
17 constitutional requirement of every bill and has a significant legal effect. The Arizona Supreme
18 Court has ruled that the title need not be a complete description or index of the substantive law
19 in the bill, but it may not be deceptive or misleading. While the title need not be a synopsis of
20 the bill's contents, it must state the subject of the legislation with sufficient clarity to enable
21 persons reading the title to know what to expect in the body of the act."). A true and correct
22 excerpt is attached as "Exhibit B."

23 49. The Legislature's Bill Drafting Manual also makes clear that the words "relating
24 to" in an act's title "should be a single phrase containing a general statement of the single subject
25 of the bill." *Id.* at 10.

26 50. Despite these constitutional mandates, the Legislature passed – and the Governor

signed – a number of so-called BRBs this legislative session (detailed below) that clearly and unconstitutionally erode the legislative process and procedures.

HB 2898 (kindergarten through grade twelve budget reconciliation)

51. HB 2898's title is:

AN ACT AMENDING SECTIONS 5-568, 15-119, 15-181 AND 15-185, ARIZONA REVISED STATUTES; AMENDING SECTION 15-203, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 2, SECTION 2; AMENDING SECTIONS 15-213.01 AND 15-213.03, ARIZONA REVISED STATUTES; REPEALING SECTION 15-240, ARIZONA REVISED STATUTES; AMENDING SECTION 15-251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 2, SECTION 3; AMENDING SECTIONS 15-341 AND 15-342, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-342.05; AMENDING SECTION 15-350, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 2, SECTION 4; AMENDING SECTIONS 15-393, 15-393.01, 15-481 AND 15-491, ARIZONA REVISED STATUTES; AMENDING SECTION 15-505, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2021, CHAPTER 2, SECTION 5; AMENDING SECTION 15-512, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 2, SECTION 6; AMENDING SECTION 15-514, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 2, SECTION 7; AMENDING TITLE 15, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-711.01 AND 15-717.02; AMENDING SECTION 15-746, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-747; AMENDING SECTIONS 15-774, 15-816, 15-816.01 AND 15-901, ARIZONA REVISED STATUTES; AMENDING SECTION 15-901.08, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2021, CHAPTER 299, SECTION 4; AMENDING SECTIONS 15-907 AND 15-911, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 9, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-924; AMENDING SECTIONS 15-943, 15-945, 15-964, 15-973, 15-995, 15-996, 15-1021, 15-1043 AND 15-1107, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13; AMENDING TITLE 15, CHAPTER 10.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1286; AMENDING SECTION 15-1304, ARIZONA REVISED STATUTES; REPEALING SECTION 15-2003, ARIZONA

1 REVISED STATUTES; PROVIDING FOR TRANSFERRING AND
2 RENUMBERING; AMENDING SECTIONS 15-2401, 15-2402, 15-2403, 35-
3 185.01, 35-212, 35-313, 37-221, 37-521, 41-1092.02, 41-1276, 41-1750, 41-2632,
4 41-3022.18 AND 41-3026.01, ARIZONA REVISED STATUTES; AMENDING
5 TITLE 41, CHAPTER 56, ARTICLE 1, ARIZONA REVISED STATUTES, AS
6 TRANSFERRED AND RENUMBERED, BY ADDING SECTIONS 41-5701
7 AND 41-5701.01; AMENDING SECTIONS 41-5701.02, 41-5702, 41-5703, 41-
8 5704, 41-5705, 41-5711, 41-5721, 41-5731, 41-5741, 41-5751, 41-5752, 41-5753,
9 41-5754, 41-5755, 41-5757, 41-5758, 41-5759, 41-5760, 41-5761, 41-5763, 41-
10 5764, 41-5781, 41-5782, 41-5783, 41-5784, 41-5785, 41-5787, 41-5788, 41-5789,
11 41-5790, 41-5791, 41-5793, 41-5794, 41-5805, 41-5810, 41-5832, 41-5841, 41-
12 5851, 41-5853, 41-5854, 41-5857 AND 41-5858, ARIZONA REVISED
13 STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING
14 SECTIONS 42-5030.01 AND 43-1089.02, ARIZONA REVISED STATUTES;
15 AMENDING LAWS 2020, CHAPTER 26, SECTION 1; **APPROPRIATING**
16 **MONIES; RELATING TO KINDERGARTEN THROUGH GRADE**
17 **TWELVE BUDGET RECONCILIATION.**

18 (Emphasis added).

19 52. Despite the title limiting the scope of the act’s contents to provisions “relating to
20 kindergarten through grade twelve budget reconciliation,” HB 2898 includes substantive policies
21 that have nothing to do with the budget.

22 53. First, Section 12 prohibits a “a county, city, town, school district governing board
23 or charter school governing body” from “requir[ing] the use of face coverings by students or
24 staff,” and prohibits school districts and charter schools from “requir[ing] a student or teacher to
25 receive a vaccine for COVID-19 or to wear a face covering to participate in in-person
26 instruction.”

54. Section 12 applies to students in public and charter schools, but not students in
private schools.

55. The Legislature also curiously included a retroactivity provision in Section 118,
stating that Section 12 “applies retroactively to from and after June 30, 2021.” The Arizona
Constitution provides that any legislation does not become effective until 90 days after the close

1 of the legislative session. The effective date for legislation passed this past legislative session is
2 September 29, 2021. The Constitution provides the only means by which the Legislature can
3 make laws immediately effective. Ariz. Const. art. IV, pt. 1 § 1(3). Specifically, to do so requires
4 an emergency clause and passage by a two-thirds super majority. Indeed, the Senate fact sheet
5 for HB 2898 states, “the Arizona Constitution provides that [BRBs] become effective on the
6 general effective date, unless an emergency clause is enacted.” HB 2898 Senate Fact Sheet, 55th
7 Leg., 1st Reg. Sess. (Ariz. June 30, 2021)
8 https://www.azleg.gov/legtext/55leg/1R/summary/S.2898APPROP_ASPASSED_COW.pdf.
9 (Ex. C) HB 2898 includes no emergency provision and was passed by a bare majority in each
10 house.

11 56. Second, Section 21 prohibits “a teacher, administrator or other employee of a
12 school district, charter school or state agency who is involved with students and teachers in
13 grades preschool through the twelfth grade” from teaching curriculum “that presents any form
14 of blame or judgment on the basis of race, ethnicity or sex.”

15 57. Section 21 goes on to prohibit various vague “concepts” from being taught to
16 public and charter school students, including the idea that an individual “should feel discomfort,
17 guilt, anguish, or any other form of psychological distress because of the individual’s race,
18 ethnicity or sex,” or that “academic achievement, meritocracy or traits such as hard work ethic
19 are racist or sexist or were created . . . to oppress members or another race, ethnic group or sex.”

20 58. What’s more, Section 21 authorizes the State Board of Education to take
21 “disciplinary action” against a teacher who violates this section, “including the suspension or
22 revocation of the teacher’s certificate,” and it authorizes the relevant County Attorney and the
23 Attorney General to initiate an enforcement action against the teacher.

24 59. Third, Section 50 of HB 2898 grants authority to the Attorney General to initiate
25 civil actions against a “public official, employee or agent of this State” who uses public resources
26 “including email, equipment, or compensated work time” to “organize, plan or execute any

1 activity that impedes or prevents a public school from operating for any period of time”

2 60. Section 50 also authorizes the Attorney General to initiate civil actions against a
3 teacher, administrator, or other state employee “whose violation of [Section 21] resulted in an
4 illegal use of public monies.”

5 **SB 1825 (budget reconciliation for higher education)**

6 61. SB 1825’s title is:

7 AN ACT AMENDING TITLE 3, CHAPTER 1, ARTICLE 3, ARIZONA
8 REVISED STATUTES, BY ADDING SECTION 3-127; AMENDING TITLE 15,
9 CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
10 SECTIONS 15-1647 AND 15-1650.05; AMENDING SECTION 15-1671,
11 ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 13,
12 ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; AMENDING
13 SECTION 15-1781, ARIZONA REVISED STATUTES; AMENDING TITLE 15,
14 CHAPTER 13, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING
15 SECTION 15-1781.01; AMENDING TITLE 15, CHAPTER 14, ARTICLE 5,
16 ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1851.01;
17 REPEALING SECTIONS 15-1854 AND 15-1855, ARIZONA REVISED
18 STATUTES; AMENDING SECTION 15-1877, ARIZONA REVISED
19 STATUTES; REPEALING LAWS 2008, CHAPTER 287, SECTION 39, AS
20 AMENDED BY LAWS 2009, FIRST SPECIAL SESSION, CHAPTER 6,
21 SECTION 3; **APPROPRIATING MONIES; RELATING TO BUDGET
RECONCILIATION FOR HIGHER EDUCATION.**

18 (Emphasis added).

19 62. Despite the title limiting the scope of the act’s contents to provisions “relating to
20 budget reconciliation for higher education,” SB 1825 includes substantive policy legislation that
21 has nothing to do with the budget.

22 63. In Section 2 (A.R.S. § 15-1650.05), subject to limited exceptions, “the Arizona
23 Board of Regents, a public university, or a community college may not require that a student
24 obtain a COVID-19 vaccination or show proof of receiving a COVID-19 vaccination or place
25 any conditions on attendance or participation in classes or academic activities, including
26 mandatory testing or face covering usage, if the person chooses not to obtain a COVID-19

1 vaccination or disclose whether the person has been vaccinated[.]”

2 64. It also prohibits public universities from implementing testing requirements
3 unless: (1) “a significant COVID-19 outbreak occurs in a shared student housing setting that
4 poses a risk to the students or staff,” and (2) the university first gets “approval from the
5 department of health services.”

6 **SB 1824 (health budget reconciliation)**

7 65. SB 1824’s title is:

8 AN ACT AMENDING TITLE 8, CHAPTER 4, ARTICLE 4, ARIZONA
9 REVISED STATUTES, BY ADDING SECTION 8-512.02; AMENDING TITLE
10 20, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
11 SECTION 20-126; AMENDING TITLE 23, CHAPTER 2, ARTICLE 1,
12 ARIZONA REVISED STATUTES, BY ADDING SECTION 23-206;
13 AMENDING SECTION 30-654, ARIZONA REVISED STATUTES;
14 AMENDING TITLE 36, CHAPTER 1, ARTICLE 2, ARIZONA REVISED
15 STATUTES, BY ADDING SECTIONS 36-147 AND 36-148; AMENDING
16 SECTIONS 36-446.02, 36-446.04, 36-557, 36-591, 36-592, 36-594 AND 36-672,
17 ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6,
18 ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.2; AMENDING
19 SECTIONS 36-694, 36-694.01 AND 36-1201, ARIZONA REVISED
20 STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY
21 ADDING CHAPTER 31; REPEALING SECTION 41-3021.11, ARIZONA
22 REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2,
23 ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3022.26;
24 AMENDING SECTION 46-452.02, ARIZONA REVISED STATUTES;
25 **APPROPRIATING MONIES; RELATING TO HEALTH BUDGET**
26 **RECONCILIATION.**

(Emphasis added).

22 66. Despite the title limiting the scope of the act’s contents to provisions “relating to
23 health budget reconciliation,” SB 1824 includes substantive policies that have nothing to do with
24 the budget.

25 67. First, Section 12 provides that “an immunization for which a United States Food
26 and Drug Administration emergency use authorization has been issued” cannot be required for

1 school attendance, and it provides that immunizations cannot be required for school attendance
2 unless set forth in a rule by the Director of the Department of Health Services.

3 68. Second, Section 13 prohibits the State or any city, town, or county “from
4 establishing a COVID-19 vaccine passport,” or requiring that any person “be vaccinated for
5 COVID-19” or that any business obtain “proof of the COVID-19 vaccination status of any patron
6 entering the business establishment.”

7 **SB 1819 (budget procedures)**

8 69. SB 1819’s title is:

9 AN ACT AMENDING SECTION 5-110, ARIZONA REVISED STATUTES;
10 AMENDING TITLE 5, CHAPTER 5.1, ARTICLE 2, ARIZONA REVISED
11 STATUTES, BY ADDING SECTION 5-576; AMENDING SECTION 5-1318,
12 ARIZONA REVISED STATUTES; AMENDING TITLE 16, CHAPTER 1,
13 ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 16-
14 132, 16-133 AND 16-138; AMENDING TITLE 16, CHAPTER 4, ARTICLE 6,
15 ARIZONA REVISED STATUTES, BY ADDING SECTION 16-504;
16 AMENDING TITLE 16, CHAPTER 4, ARTICLE 10, ARIZONA REVISED
17 STATUTES, BY ADDING SECTION 16-604; AMENDING SECTIONS 26-302,
18 26-303, 35-192, 36-405, 36-787, 38-803, 38-832, 38-840.01, 38-848, 38-848.02,
19 38-866, 38-883, 39-201 AND 41-121.02, ARIZONA REVISED STATUTES;
20 AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED
21 STATUTES, BY ADDING SECTION 41-191.12; AMENDING SECTION 41-
22 714, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1033,
23 ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021,
24 CHAPTER 340, SECTION 1; AMENDING SECTIONS 41-1277 AND 41-
25 1279.03, ARIZONA REVISED STATUTES; AMENDING TITLE 41,
26 CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-1306; PROVIDING FOR TRANSFERRING AND
RENUMBERING; AMENDING SECTION 41-1307, ARIZONA REVISED
STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING
SECTION 41-1365, ARIZONA REVISED STATUTES; AMENDING TITLE 41,
CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-1506.02; AMENDING TITLE 41, ARIZONA REVISED
STATUTES, BY ADDING CHAPTER 16; REPEALING TITLE 41, CHAPTER
16, ARIZONA REVISED STATUTES; AMENDING LAWS 2019, CHAPTER
232, SECTION 1; **APPROPRIATING MONIES; RELATING TO STATE
BUDGET PROCEDURES.**

1 (Emphasis added).

2 70. Despite the title limiting the scope of the act’s contents to provisions “relating to
3 state budget procedures,” SB 1819 includes substantive policy legislation that has nothing to do
4 with budget procedures.

5 71. Section 4 (16-138) requires the Secretary of State to give access to the statewide
6 voter registration database to any “person or entity that is designated by the legislature” to review
7 voters who are registered to vote for federal only races.

8 72. Section 5 sets forth various requirements for “fraud countermeasures” used in
9 paper ballots.

10 73. In Section 33, the Legislature grants the Attorney General the authority to defend
11 election laws, provides that in “any disagreement between the attorney general and the secretary
12 of state or any other state official concerning the defense of a state election law, the authority of
13 the attorney general to defend the law is paramount,” authorizes the Attorney General to “speak[]
14 for this state” in “any proceeding in which the validity of a state election law is challenged”
15 “through January 2, 2023,” and states that “[a]mong state officials, the attorney general has sole
16 authority to direct the defense of the state election law or laws being challenged.”

17 74. Section 35 provides that “the secretary of state shall submit to the United States
18 election assistance commission a request that the commission include on the federal voter
19 registration form this state’s state-specific instructions to provide proof of citizenship.”

20 75. In Section 39, the bill prohibits a “county, city or town” from adopting “any order,
21 rule, ordinance or regulation related to mitigating the COVID-19 pandemic that impacts private
22 businesses, schools, churches or other private entities, including an order, rule, ordinance or
23 regulation that mandates using face coverings, requires closing a business or imposes a curfew.”

24 76. Plaintiffs Harrel and Ontiveros live in a county in which “COVID-19 cases [have]
25 more than quadrupled from the first week of July to the first week of August.” Nicole Ludden,
26 Kathryn Palmer, *Pima County supervisors reject vaccine mandate for employees, mask mandate*

1 *for schools*, Ariz. Daily Star, Aug. 11, 2021, [https://tucson.com/news/local/pima-county-](https://tucson.com/news/local/pima-county-supervisors-reject-vaccine-mandate-for-employees-mask-mandate-for-schools/article_01324294-f9f5-11eb-a88c-5b35d95c8ad9.html?utm_medium=social&utm_source=email&utm_campaign=user-share)
2 [supervisors-reject-vaccine-mandate-for-employees-mask-mandate-for-](https://tucson.com/news/local/pima-county-supervisors-reject-vaccine-mandate-for-employees-mask-mandate-for-schools/article_01324294-f9f5-11eb-a88c-5b35d95c8ad9.html?utm_medium=social&utm_source=email&utm_campaign=user-share)
3 [schools/article_01324294-f9f5-11eb-a88c-](https://tucson.com/news/local/pima-county-supervisors-reject-vaccine-mandate-for-employees-mask-mandate-for-schools/article_01324294-f9f5-11eb-a88c-5b35d95c8ad9.html?utm_medium=social&utm_source=email&utm_campaign=user-share)
4 [5b35d95c8ad9.html?utm_medium=social&utm_source=email&utm_campaign=user-share](https://tucson.com/news/local/pima-county-supervisors-reject-vaccine-mandate-for-employees-mask-mandate-for-schools/article_01324294-f9f5-11eb-a88c-5b35d95c8ad9.html?utm_medium=social&utm_source=email&utm_campaign=user-share).

5 77. The unconstitutionally adopted statutes that are the subject of this case are already
6 impeding Pima County’s ability to exercise local control to protect its residents, including
7 Plaintiffs Harrel and Ontiveros, during a public health emergency.

8 78. Indeed, at a Pima County Board of Supervisors meeting on August 10, the board
9 considered proposals for local COVID-19 mitigation measures, including a local vaccine
10 requirement and a mask mandate in schools, but the proposals did not pass. *Id.*

11 79. In voting no on the vaccine mandate, the supervisors noted the provisions in the
12 BRBs prohibiting local control over COVID-19 mitigation. *Id.* Supervisor Rex Scott “called the
13 law prohibiting vaccine mandates ‘a reckless, irresponsible, ignorant decision,’” but “he didn’t
14 want to put a mandate in place that’s ‘essentially toothless’ because of the state law.” *Id.*

15 80. The school mask mandate failed by a 3-2 vote. In voting no, Supervisor Scott again
16 referenced the BRBs: “If we pass it, we are putting school districts and public charter schools in
17 between us and the state[.]” *Id.*

18 81. Section 47 establishes a “special committee” to (1) “Receive and review the
19 findings of the senate audit of the 2020 general election in Maricopa county,” and (2)
20 “Recommend to the president of the senate the appropriate legislative action based on the
21 findings of the audit, including a call for a special session of the legislature to implement the
22 special committee’s recommendations.”

23 82. Even more, SB 1819 contains legislation on multiple, unrelated subjects.

24 83. Among other subjects, SB 1819 covers: dog racing permitting; requirements for
25 the Arizona Game and Fish Department to assist with voter registration; the Governor’s
26 emergency powers related to public health; amending the definition of a “newspaper” under

1 Arizona law; local authority to pass COVID mitigation measures; amending the study committee
2 on missing and indigenous peoples; authorizing investigations of the practices of social media
3 platforms and internet search engines relating to political contributions; the creation of a “special
4 committee” to review the Maricopa County election “audit”; and requirements for the agreement
5 of unit owners to terminate a condominium.

6 84. None of these subjects have any logical connection to each other.

7 **These BRBs Violate the Title Requirement and Single Subject Rule**

8 85. The path these BRBs took through the legislative process makes clear that they are
9 exactly the type of legislation article IV, part 2, § 13 was intended to prohibit.

10 86. By way of background, Republicans hold a majority by only one vote in each
11 chamber of the Legislature, and they were having a difficult time gathering enough votes to pass
12 the budget this year.

13 87. To put pressure on the Legislature to pass the budget, Governor Ducey vetoed 22
14 bills, and announced that he would not sign any legislation until the Legislature passed the
15 budget. Jeremy Duda, *Ducey vetoes 22 bills, says nothing will be signed until budget is approved*,
16 Ariz. Mirror, May 28, 2021, [https://www.azmirror.com/2021/05/28/ducey-vetoes-22-bills-says-](https://www.azmirror.com/2021/05/28/ducey-vetoes-22-bills-says-nothing-will-be-signed-until-budget-is-approved/)
17 [nothing-will-be-signed-until-budget-is-approved/](https://www.azmirror.com/2021/05/28/ducey-vetoes-22-bills-says-nothing-will-be-signed-until-budget-is-approved/).

18 88. Running out of time, lawmakers amended the BRBs with a hodgepodge of
19 substantive policy legislation to get the votes they needed to pass the budget in violation of the
20 constitution.

21 89. Representative Kelly Townsend announced that she would not “vote for the
22 education budget bill with a provision that gives authority to school boards to mandate masks on
23 our kids,” and she would vote no on the BRB “unless there is language that puts the decision
24 into the hands of the parent.” Twitter, May 25 2021 8:56 a.m.,
25 <https://twitter.com/AZKellyT/status/1397220158926688264?s=20--Kelly>; Twitter, May 25,
26 11:55 a.m., <https://twitter.com/AZKellyT/status/1397265181990817792?s=20--Kelly>. True and

1 correct copies are attached as “Exhibit C.”

2 90. In a radio interview after the House passed the budget, Representative Joseph
3 Chaplik discussed how certain conservative policies “got put into the budget at the last hour.”
4 Rep. Chaplik explained that it is difficult to get “all 31 Republicans” to pass the budget, and he
5 boasted that he told fellow lawmakers “I’m not signing onto [HB 2898]” unless it included the
6 ban on mask mandates for students. The Morning Ritual with Garret Lewis, KNST, June 27,
7 2021, [https://www.iheart.com/podcast/82-garret-lewis-28403290/episode/the-morning-ritual-](https://www.iheart.com/podcast/82-garret-lewis-28403290/episode/the-morning-ritual-with-garret-lewis--84194700/)
8 [with-garret-lewis--84194700/](https://www.iheart.com/podcast/82-garret-lewis-28403290/episode/the-morning-ritual-with-garret-lewis--84194700/).

9 91. Rep. Chaplik also proclaimed on Twitter that he “wouldn’t sign the #AZBudget
10 until masks were made optional in schools.” Twitter, July 27, 2021 12:56 p.m.,
11 <https://twitter.com/JosephChaplik/status/1420110753151913985>. A true and correct copy is
12 attached as “Exhibit D.”

13 92. Representative Bret Roberts likewise boasted that he pressed for the ban on
14 vaccination requirements in HB 1824 after the same policy failed to garner enough support to
15 pass through the ordinary legislative process. Twitter, June 24, 2021 7:23 p.m.,
16 <https://twitter.com/BretRbrts/status/1408249404163649536?s=20> (“#SB1824 would not have
17 the Anti-Vax Passport policy in it today if I caved on #HB2190 several weeks ago. It’s not
18 exactly the policy I wanted however it’s more than what was being proposed at the time. Proud
19 to have stood tall on this issue.”). A true and correct copy is attached as “Exhibit E.”

20 93. The ban on teaching certain concepts related to race, ethnicity, and gender also
21 appeared at the last minute through a BRB amendment after it failed to pass through the usual
22 legislative channels and process, with an opportunity for a hearing and testimony.

23 94. After the House passed a bill with this teaching prohibition (SB 1532), it failed in
24 the Senate. But the Legislature was able to pass nearly identical language through an amendment
25 to HB 2898. Floor Amendment, HB 2898, 55th Leg., 1st Reg. Sess. (Ariz. 2021),
26 https://www.azleg.gov/legtext/55leg/1R/adopted/H.2898FloorCOBB3_Merged.pdf.

1 95. Never before has the legislature so ignored the normal process and procedure for
2 enacting laws as they did this session.

3 96. It is up to the courts to enforce the dictates of the Arizona Constitution before
4 article 4, part 2, § 13 is rendered wholly meaningless.

5 97. Under the constitution, substantive policies that aren't adequately described and
6 noticed in the title and that have no relation to budget reconciliation do not belong in a BRB.

7 98. Indeed, the Arizona Supreme Court has noted – without deciding because the
8 parties did not raise the issue – that BRBs similar to those described above appeared to violate
9 “the single subject rule in the legislative process.” *Bennett*, 206 Ariz. at 528 ¶ 39.

10 **HB 2898 Bans Mask Mandates – Only in Public and Charter Schools – in the Face of**
11 **Public Health Crisis**

12 99. Across the country and in Arizona, the number of COVID-19 cases is climbing,
13 including among children.

14 100. As of August 5, there were 4,292,120 total child COVID-19 cases nationwide, and
15 Arizona has 156,740 cumulative child cases. Joint Report of the American Academy of
16 Pediatrics and the Children's Hospital Association, Aug. 5, 2021,
17 [https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-](https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf)
18 [%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf](https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf).

19 101. Arizona has the highest reported rate of child COVID-19 hospitalizations in the
20 country. *Id.*

21 102. “Some doctors on the front lines say they are seeing more critically ill children
22 than they have at any previous point of the pandemic and that the highly contagious Delta variant
23 is likely to blame.” Emily Anthes, *The Delta Variant Is Sending More Children to the Hospital.*
24 *Are They Sicker, Too?*, NY Times, Aug. 9, 2021 11:16 a.m.,
25 <https://www.nytimes.com/2021/08/09/health/coronavirus-children-delta.html>.

1 103. “As the more contagious delta variant has become the dominant strain of COVID-
2 19 in Arizona and nationally, there’s been an overall uptick in infections, including kids getting
3 sick. Children under 12 are still not eligible to get the vaccine, making them more vulnerable to
4 infection, especially in areas where fewer adults around them are vaccinated.” Alison Steinbach,
5 *7 things to know about kids, COVID-19 and other circulating viruses*, Ariz. Republic, Aug 5,
6 2021 8:00 a.m., [https://www.azcentral.com/story/news/local/arizona-health/2021/08/05/7-](https://www.azcentral.com/story/news/local/arizona-health/2021/08/05/7-things-know-covid-19-rsv-other-illnesses-arizona-kids/5469543001/)
7 [things-know-covid-19-rsv-other-illnesses-arizona-kids/5469543001/](https://www.azcentral.com/story/news/local/arizona-health/2021/08/05/7-things-know-covid-19-rsv-other-illnesses-arizona-kids/5469543001/).

8 104. “At Banner Health, Arizona’s largest health care system, pediatric patients
9 currently account for about 5% of all COVID-19 hospital admissions, chief clinical officer Dr.
10 Marjorie Bessel said Tuesday. And Phoenix Children’s Hospital is seeing an increasing number
11 of unvaccinated children ending up in the hospital with COVID-19.” *Id.*

12 105. As of August 5, 2021, Arizona had the second highest number of child COVID-
13 19 deaths in the country. [https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-](https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf)
14 [%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf](https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%208.5%20FINAL.pdf).

15 106. In a recent research report by Dr. Joe Gerald of the University of Arizona, COVID-
16 19 rates in Arizona have been increasing for eight straight weeks, signaling that a “substantial
17 surge is imminent in the coming weeks.” *Joe Gerald, MD, PhD*, Weekly Arizona COVID-19
18 Data Report: Researcher Analyzes Arizona COVID-19 Spread Models for Decision-Makers,
19 Univ. of Ariz., Aug. 6, 2021, [https://publichealth.arizona.edu/news/2021/covid-19-forecast-](https://publichealth.arizona.edu/news/2021/covid-19-forecast-model)
20 [model](https://publichealth.arizona.edu/news/2021/covid-19-forecast-model).

21 107. Not surprisingly, the “CDC recommends universal indoor masking for all teachers,
22 staff, students, and visitors to schools, regardless of vaccination status.” CDC, *Interim Public*
23 *Health Recommendations for Fully Vaccinated People*, July 28, 2021,
24 <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>.

25 108. Public health experts all agree that wearing masks in schools is an important
26 science and evidence-based policy for minimizing the spread of COVID-19 among children and

1 teachers. See American Academy of Pediatrics, *COVID-19 Guidance for Safe Schools*,
2 [https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-](https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/)
3 [guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/](https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/) (last
4 visited Aug. 12, 2021); Arizona Medical Association, *Arizona Medical Association's Statement*
5 *on Upholding Public Health Policies in K-12 Schools*, July 16, 2021,
6 [https://www.azmed.org/news/573753/Arizona-Medical-Associations-Statement-on-Upholding-](https://www.azmed.org/news/573753/Arizona-Medical-Associations-Statement-on-Upholding-Public-Health-Policies-in-K-12-Schools.htm)
7 [Public-Health-Policies-in-K-12-Schools.htm](https://www.azmed.org/news/573753/Arizona-Medical-Associations-Statement-on-Upholding-Public-Health-Policies-in-K-12-Schools.htm); Arizona Academy of Family Physicians, *AzAFP*
8 *Position Statement on COVID-19 Back To School Safety*, [http://www.azafp.org/site/azafp-](http://www.azafp.org/site/azafp-position-statement-on-covid-19-back-to-school-safety-a/)
9 [position-statement-on-covid-19-back-to-school-safety-a/](http://www.azafp.org/site/azafp-position-statement-on-covid-19-back-to-school-safety-a/) (last visited Aug. 12, 2021).

10 109. Several Arizona school districts have adopted mask mandates in line with this
11 expert guidance, including (among others) Phoenix Union High School District, Madison
12 Elementary School District, Alhambra Elementary School District, Roosevelt Elementary
13 School District, and Phoenix Elementary School District, and Tucson Unified School District.

14 110. In response, 25 Republican lawmakers issued a statement arguing that the
15 Legislature “very thoughtfully attached a retroactivity clause to [HB 2898],” claiming that school
16 districts’ mask mandates “border[] on anarchy and destabilizes the very foundation of our
17 society,” and calling on the Governor to withhold funding from and “[i]nitiate legal action
18 against any school district that is non-compliant” with HB 2898. News Release, Ariz. House of
19 Rep., Rep. Hoffman, Aug. 11, 2021,
20 <https://www.azleg.gov/press/house/55LEG/1R/210811HOFFMAN.pdf>. A true and correct copy
21 is attached as “Exhibit F.”

22 111. Unless HB 2898 is declared unconstitutional and enjoined, school districts’ mask
23 mandates will be unlawful when HB 2898 takes effect on September 29, and public schools
24 could be left powerless to protect their students and staff.

25 112. Even more, they are at risk of adverse action being taken against them, as urged
26 by Republican lawmakers.

1 113. Private schools, on the other hand, will be unaffected by HB 2898 and may
2 continue to require masks to keep students and staff safe.

3 114. Brophy College Preparatory, for example, has a mask mandate for students and
4 staff, and will be able to extend that policy even if HB 2898 takes effect. Letter from the Brophy
5 Principal's Office, Aug. 4, 2021,
6 [https://brophyprep.myschoolapp.com/podium/push/default.aspx?i=435655&s=750&snd](https://brophyprep.myschoolapp.com/podium/push/default.aspx?i=435655&s=750&snd=8a1d17dc-bce7-442e-ac99-633ceceb5911)
7 [=8a1d17dc-bce7-442e-ac99-633ceceb5911](https://brophyprep.myschoolapp.com/podium/push/default.aspx?i=435655&s=750&snd=8a1d17dc-bce7-442e-ac99-633ceceb5911) (last visited Aug. 12, 2021). A true and correct copy
8 is attached as "Exhibit G."

9 115. Because of Section 12 of HB 2898, students in Arizona's public and charter
10 schools will be less safe in their educational environment than students in private schools.

11 116. According to Dr. Gerald, "[r]esumption of in-person instruction (K-12 and
12 universities) in the face of high community transmission, low vaccination rates, prohibition of
13 universal masking, lack of surveillance testing, and minimal physical distancing will
14 undoubtedly lead to frequent school-related outbreaks and accelerating community
15 transmission." *Joe Gerald, MD, PhD*, Weekly Arizona COVID-19 Data Report: Researcher
16 Analyzes Arizona COVID-19 Spread Models for Decision-Makers, Univ. of Ariz., Aug. 6, 2021,
17 <https://publichealth.arizona.edu/news/2021/covid-19-forecast-model>.

18 117. Indeed, many Arizona schools are already reporting concerning COVID outbreaks.

19 118. There are currently 22 active outbreaks in Maricopa County schools, according to
20 County health data. *See* Maricopa County, Schools COVID-19 Dashboard & Guidance,
21 <https://www.maricopa.gov/5594/School-Metrics#map> (last visited Aug. 11, 2021). The cases
22 include 1,158 students and 390 staff. *Id.*

23 119. For example, the Chandler Unified School District has 200 active cases. 2021-22
24 CUSD COVID-19 Dashboard, <https://www.cusd80.com/coviddashboard> (last visited Aug. 12,
25 2021).

120. The J.O. Combs Unified School District has 111 active cases, and one school in the district, Ellsworth Elementary, had to close all 5th and 6th grade classrooms this week. COVID-19 Case Dashboard, J.O. Combs Unified School District, https://www.jocombs.org/apps/pages/index.jsp?uREC_ID=908409&type=d&pREC_ID=19639

121. In Yavapai County, Ash Fork School District had to close its schools because of a COVID outbreak a mere two weeks after school started. *See* Rocio Hernandez, *Yavapai County School District Cancels Classes Due To COVID-19 Cases*, KJZZ, July 29, 2021 5:34 p.m., <https://kjzz.org/content/1703792/yavapai-county-school-district-cancels-classes-due-covid-19-cases>.

122. Arizona students have a right to physical safety in their school environment. And parents must be able to expect that Arizona schools will keep students safe and will take appropriate measures to protect children while they attend school.

123. HB 2898 takes this right away from children in public and charter schools – but not private schools – in violation of the Equal Protection clause of the Arizona Constitution.

Count I

(Declaratory Judgment – Violation of the Title Requirement)

124. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set forth herein.

125. Article IV, part 2, § 13 of the Arizona Constitution requires that every act passed by the Legislature “shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.”

126. The title of HB 2898 does not give notice of the contents of Sections 12, 21, and 50 of HB 2898.

127. Sections 12, 21, and 50 of HB 2898 are not related to kindergarten through grade twelve budget reconciliation.

128. The title of SB 1825 does not give notice of the contents of Section 2 (A.R.S. § 15-1650.05) of SB 1825.

129. Section 2 (A.R.S. § 15-1650.05) of SB 1825 is not related to budget reconciliation for higher education.

130. The title of SB 1824 does not give notice of the contents of Sections 12 and 13 of SB 1824.

131. Sections 12 and 13 of SB 1824 are not related to health budget reconciliation.

132. The title of SB 1819 does not give notice of the contents of Section 4 (16-138) and Sections 5, 33, 35, 39, and 47 of SB 1819.

133. Section 4 (16-138) and Sections 5, 33, 35, 39, and 47 of SB 1819 are not related to budget procedures.

134. An actual and justiciable controversy exists regarding the constitutionality of HB 2898, SB 1825, SB 1824, and SB 1819 because they were signed by the Governor on June 30, 2021 and become effective on September 29, 2021.

135. Plaintiffs request a declaration that HB 2898, Sections 12, 21, and 50; SB 1825, Section 2 (A.R.S. § 15-1650.05); SB 1824, Sections 12 and 13; and SB 1819, Section 4 (16-138) and Sections 5, 33, 35, 39, and 47 violate the title requirement in article IV, part 2, section 13 of the Arizona Constitution.

Count II

(Injunctive Relief – Violation of the Title Requirement)

136. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set forth herein.

137. For the reasons set forth in this Complaint, HB 2898, Sections 12, 21, and 50; SB 1825, Section 2 (A.R.S. § 15-1650.05); SB 1824, Sections 12 and 13; and SB 1819, Section 4

1 (16-138) and Sections 5, 33, 35, 39, and 47 violate the title requirement in article IV, part 2,
2 section 13 of the Arizona Constitution.

3 138. Absent the entry of an injunction, Defendants will implement and enforce HB
4 2898, Sections 12 and 21; SB 1825, Section 2 (A.R.S. § 15-1650.05); SB 1824, Sections 12 and
5 13; and SB 1819, Section 4 (16-138) and Sections 5, 33, 35, 39, and 47.

6 139. Absent the entry of an injunction, Plaintiffs will suffer irreparable harm caused by
7 the substantive policies enacted through unconstitutional legislation as detailed in this
8 Complaint.

9 140. Absent the entry of an injunction, Plaintiffs Lewis, Mamani, and Ontiveros and
10 Plaintiff AEA's teacher members will be subject to an unconstitutional and vague prohibition on
11 teaching certain "concepts" to their students, including the risk of disciplinary action and civil
12 enforcement actions if they do not comply.

13 141. Absent the entry of an injunction, Plaintiffs Kirsch's and Newhauser's ability to
14 work in a reasonably safe environment is being impeded and threatened.

15 142. Absent the entry of an injunction, Plaintiffs Alston and Gallardo and Plaintiff
16 ASBA's school board members will be left powerless to take reasonable measures to keep
17 students and staff safe in schools.

18 143. Indeed, if Arizona public and charter schools cannot impose reasonable COVID-
19 19 mitigation measures, students and teachers will get sick, and some may die.

20 144. Absent the entry of an injunction, Plaintiffs Lujan and CAA's and AZAN's core
21 mission and values on which they have devoted significant resources will be threatened and
22 impeded by this unconstitutional legislation.

23 145. The balance of hardships and public interest both favor Plaintiffs, who seek to
24 uphold the Arizona Constitution and protect the health and safety of Arizonans.

1 **Count III**

2 **(Declaratory Judgment – Violation of the Single Subject Rule)**

3 146. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set forth
4 herein.

5 147. Article IV, part 2, § 13 of the Arizona Constitution requires that every act passed
6 by the Legislature “shall embrace but one subject and matters properly connected therewith....”

7 148. Article IV, part 2, § 20 of the Arizona Constitution requires that “appropriations
8 shall be made by separate bills, each embracing but one subject.”

9 149. SB 1819 contains multiple subjects that have no “logical or natural connection” to
10 each other, nor do they “fall under some one general idea, be so connected with or related to
11 each other, either logically or in popular understanding, as to be parts of, or germane to, one
12 general subject.” *Litchfield Elementary*, 125 Ariz. at 224.

13 150. An actual and justiciable controversy exists regarding the constitutionality of SB
14 1819 because it was signed by the Governor on June 30, 2021 and becomes effective on
15 September 29, 2021.

16 151. Plaintiffs request a declaration that SB 1819 violates the single subject requirement
17 in article IV, part 2, section 13 of the Arizona Constitution.

18 152. To the extent SB 1819 is considered an appropriations bill, Plaintiffs request a
19 declaration that SB 1819 violates the single subject requirement in article IV, part 2, section 20
20 of the Arizona Constitution.

21 **Count IV**

22 **(Injunctive Relief – Violation of the Single Subject Rule)**

23 153. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set
24 forth herein.

25 154. For the reasons set forth in this Complaint, SB 1819 violates the single subject
26 requirement in article IV, part 2, section 13 of the Arizona Constitution.

155. Absent the entry of an injunction, the State and its agents will implement and enforce SB 1819.

156. Absent the entry of an injunction, Plaintiffs will suffer irreparable harm caused by the policies enacted through this unconstitutional legislation as detailed in this Complaint.

157. The balance of hardships and public interest both favor Plaintiffs, who seek to uphold the Arizona Constitution and protect the health and safety of Arizonans.

Count V

(Declaratory Judgment – Violation of Equal Protection)

158. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set forth herein.

159. Article II, section 13 of the Arizona Constitution provides that “[n]o law shall be enacted granting to any citizen, class of citizens, or corporation . . . which, upon the same terms, shall not equally belong to all citizens or corporations.”

160. When a statute that treats two classes differently with respect to a “fundamental right,” Arizona courts “subject it to strict scrutiny and will only uphold it if it is necessary to promote a compelling state interest.” *Big D Const. Corp. v. Ct. of Appeals for State of Ariz., Div. One*, 163 Ariz. 560, 566 (1990).

161. Under Arizona law, education is a fundamental constitutional right.

162. HB 2898's distinction between children in Arizona's public schoolchildren and private schoolchildren regarding their physical safety in schools is not necessary to promote any compelling state interest.

163. Even under a rational basis standard, Section 12 of HB 2898 irrationally and arbitrarily discriminates against Arizona's public schoolchildren, and the distinction is not reasonably related to furthering any legitimate state purpose.

164. An actual and justiciable controversy exists regarding the constitutionality of Section 12 of HB 2898 because it was signed by the Governor on June 30, 2021 and becomes

1 effective on September 29, 2021.

2 165. Plaintiffs request a declaration that Section 12 of HB 2898 violates article II,
3 section 13 of the Arizona Constitution.

4 **Count VI**

5 **(Injunctive Relief – Violation of Equal Protection)**

6 166. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully set forth
7 herein.

8 167. Absent the entry of an injunction, the State and its agents will implement and
9 enforce Section 12 of HB 2898.

10 168. Section 12 of HB 2898 violates article II, section 13 of the Arizona Constitution
11 for the reasons set forth in this Complaint.

12 169. Absent the entry of an injunction, the minor children of Plaintiffs Lewis, Mamani,
13 Franks, Ontiveros, Harrel, and Monnet will suffer irreparable harm caused by the substantive
14 policies enacted through unconstitutional legislation.

15 170. Indeed, if Arizona public and charter schools cannot impose reasonable COVID-
16 19 mitigation measures, students and teachers will get sick, and some may die.

17 171. As a result, Section 12 of HB 2898 will also cause significant harm to Arizona's
18 public and charter school students, teachers, and their families.

19 172. The balance of hardships and public interest both favor Plaintiffs, who seek to
20 uphold the Arizona Constitution and protect the health and safety of children.

21 **Prayer for Relief**

22 WHEREFORE, Plaintiffs respectfully requests that this Court provide the following
23 relief:

24 A. A declaratory judgment declaring that HB 2898, Sections 12, 21, and 50, violate
25 the title requirement in article IV, part 2, § 13 of the Arizona Constitution;

26 B. A declaratory judgment declaring that SB 1825, Section 2 (A.R.S. § 15-1650.05),

1 violates the title requirement in article IV, part 2, § 13 of the Arizona Constitution;

2 C. A declaratory judgment declaring that SB 1824, Sections 12 and 13, violate the
3 title requirement in article IV, part 2, § 13 of the Arizona Constitution;

4 D. A declaratory judgment declaring that SB 1819, Section 4 (16-138) and Sections
5 5, 33, 35, 39, and 47, violate the title requirement in article IV, part 2, § 13 of the Arizona
6 Constitution;

7 E. A declaratory judgment declaring that SB 1819 violates the single subject
8 requirement in article IV, part 2, § 13 of the Arizona Constitution;

9 F. Alternatively, a declaratory judgment declaring that SB 1819 violates the single
10 subject requirement in article IV, part 2, § 20 of the Arizona Constitution;

11 G. A declaratory judgment declaring that Section 12 of HB 2898 violates article II,
12 section 13 of the Arizona Constitution;

13 H. A preliminary and permanent injunction enjoining the State and its agents from
14 implementing or enforcing HB 2898, Sections 12, 21, and 50; SB 1825, Section 2 (A.R.S. § 15-
15 1650.05); SB 1824, Sections 12 and 13; and SB 1819;

16 I. An order awarding the Plaintiffs their taxable costs under A.R.S. §§ 12-341 and
17 12-1840;

18 J. An order awarding Plaintiffs their attorneys' fees under the private attorney
19 general doctrine and any other applicable statute or equitable doctrine; and

20 K. Any other relief as may be appropriate.
21
22
23
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25
26

1 RESPECTFULLY SUBMITTED this 12th day of August, 2021.

2 **COPPERSMITH BROCKELMAN PLC**

3 By /s/ Roopali H. Desai

4 Roopali H. Desai

5 D. Andrew Gaona

6 Kristen Yost

7 **ARIZONA CENTER FOR LAW IN THE**
8 **PUBLIC INTEREST**

9 Daniel J. Adelman

10 *Attorneys for Plaintiffs*

EXHIBIT A

Chapter Seven

The State Budget Process

Preparing the state’s annual spending plan is a year-round process that determines the size and scope of government in Arizona. Two state agencies share the responsibility for developing the annual budget. They are the Office of Strategic Planning and Budgeting (OSPB) in the executive branch and the Joint Legislative Budget Committee (JLBC) in the legislative branch.

On or before June 1 of each year, OSPB issues instructions to the state budget units (agencies) to guide them in preparing their budget requests for the fiscal year (July 1 through June 30) following the calendar year in which the budgets are prepared. The budget units submit their requests for the next two fiscal years.

The budget units must submit their requests to the Governor by September 1, or within an extension of 30 days thereafter if approved by the director of OSPB. OSPB sends a copy of each agency’s budget request to the staff of the JLBC, which begins to develop its own budget proposals. Analysts from each office work closely with the budget unit financial officers to determine the programs and funding for each agency function.

Between September 1 and the opening day of the legislative session, the executive and legislative staffs review the budget submissions and prepare the executive budget recommendations and the proposed legislative budget recommendations, respectively. These documents contain operating and capital outlay expenditure plans, estimated revenues and federal funds proposals.

Annually, no later than five days after the regular legislative session convenes, the Governor must submit a budget to the Legislature. The budget must contain a complete plan of proposed expenditures and all monies and revenues estimated to be available. Also required is an explanation of the basis of the estimates and recommendations, including proposed legislation, if any, that the Governor deems necessary to provide revenues to meet the proposed expenditures. JLBC must then prepare an analysis of the Governor’s budget as soon as possible, with recommendations for revisions in expenditures.

Legislative review and deliberation of the two budget options begin shortly after the regular session convenes. Public hearings occur before both the Senate and House Appropriation Committees. The committees may adopt the executive budget or the JLBC staff budget, or they may elect to adopt a budget containing elements of both budgets or entirely new elements.

The Appropriations Committees of each house develop budget recommendations. Both committees are divided into subcommittees that cover the broad functional areas of state government. The approximately 115 state agencies are divided among three subcommittees in a

manner that attempts to equalize work loads. The budget is developed through a process that includes public hearings, subcommittee deliberations and caucus deliberations. During the first week of the session, the JLBC staff briefs the Appropriations Committees on the JLBC budget recommendation. The staff also compares and contrasts its recommendation to the Governor's recommendations. The next step is for subcommittees to "adopt" their budget recommendations for each agency. The subcommittee provides recommendations with regard to funding levels, the number of authorized full-time equivalent (FTE) employee positions, footnotes containing directions and limitations on how the money should be spent, statutory revisions and appropriations report guidance. On completion of the subcommittee work, full committee work and caucus deliberations, the full House and Senate will consider the general appropriations bill with the goal of having the legislation to the Governor before the end of March.

During the legislative session, public hearings are conducted, and before July 1 the budget is adopted by the Legislature through the passage of a general appropriations act, a capital outlay bill and various omnibus reconciliation bills (ORBs). In certain years, the budget bills have been considered during a special session of the Legislature to provide time for their enactment before the beginning of the new fiscal year on July 1. The capital outlay bill is for the purchase and construction of land and buildings. The reconciliation bills are used for statutory adjustments that must be implemented to carry out the adopted budget. A bill to pay past claims against the state, known as the "named claimants bill," and numerous supplemental appropriations bills are also considered during each regular session of the Legislature. Once adopted, the bills are presented to the Governor for approval.

In addition to the normal options of signing or vetoing the bills or allowing them to become law without signature, the Governor may "line-item veto" individual items of appropriations. The Legislature may attempt to override a line-item veto in the same manner as a normal veto override attempt.

Originally enacted in 1993, a budgetary process called "strategic program area review" (SPAR) requires each state agency to develop plans and performance measures to support its budget requests. The agency responsible for a program subject to SPAR initiates the process by conducting a self-assessment of the program. This assessment answers specific questions in various categories: background information, program funding, strategic planning, performance measurement, performance results and other issues posed by the Legislature, the executive branch or the agency. Agencies are required to submit their written self-assessments to the OSPB and JLBC by September 1 of the preceding year. In the second phase, the OSPB and JLBC staffs jointly review the agency self-assessments and gather additional information, as appropriate, to validate agency responses. Together the two staffs prepare a draft report of their findings for each of the programs under review. Before the legislative session begins, agencies are afforded an opportunity to review and comment on the draft reports. The OSPB and JLBC staffs then determine whether revisions are necessary based on the additional information provided by the agencies. Each agency reviews the final product and prepares a formal response for inclusion in the published reports. By law, the OSPB and JLBC staffs are required to publish a final joint report for each SPAR by January 1. The staffs also prepare a composite SPAR document that is provided to each legislator, the Governor and the affected agencies. In the third phase of the SPAR process, Appropriations Committees or other standing committees hold at least one public hearing to recommend whether to retain, eliminate or modify (REM) funding and related statutory references for the programs.

The Joint Committee on Capital Review was established by the Legislature in 1986 and consists of 14 members, including the chairmen of the Senate and House of Representatives

Appropriations Committees, the Majority and Minority Leaders of the Senate and the House, four members of the Senate Appropriations Committee appointed by the President and four members of the House Appropriations Committee appointed by the Speaker of the House. The primary powers and duties of the Joint Committee on Capital Review relate to ascertaining facts and making recommendations to the Legislature regarding state expenditures for land, buildings and improvements. This portion of the state budget is known as “capital outlay.” The Committee has the following powers and duties:

- Develop and approve a uniform formula for computing annual building renewal funding needs and a uniform format for the collection of data for the formula.
- Approve building systems for the purposes of computing and funding building renewal and for preparing capital improvement plans.
- Review the state capital improvement plan and make recommendations to the Legislature concerning funding for land acquisition, capital projects and building renewal.
- Review the expenditure of all monies appropriated for land acquisition, capital projects and building renewal.
- Before the release of monies for construction of a new capital project that has an estimated total cost of more than \$250,000, review the scope, purpose and estimated cost of the project.

The state operating budget is prepared and enacted using what is called the cash basis of accounting. Budgetary cash basis of accounting recognizes expenditures when they are estimated to be paid and revenues when they are estimated to be received by the State Treasurer. Budgetary control is maintained through legislative appropriation and an executive branch “allotment process.” The allotment process allocates appropriations into quarterly allotments according to the appropriation level. The state also maintains an encumbrance accounting system to further enhance budgetary control. With the exception of capital outlay items, encumbrances outstanding at the end of the fiscal year can be paid during a four-week administrative period known as the 13th month. Capital outlay appropriations and their encumbrances continue until the project is completed or abandoned. Unspent appropriations revert to the state general fund after the 13th month unless they are specifically exempted from lapsing, in which case they are retained in the agency fund until they are used, as determined by the Legislature.

EXHIBIT B

2.4 REFERENCE TITLE

The reference title, sometimes referred to as the short title, appears in the upper right-hand corner of each bill, resolution and memorial. (This is not to be confused with the short title discussed in § 4.32.) The reference title gives a brief idea of the nature of the measure and aids in indexing, but it is not part of the substantive law of the measure. The reference title is limited to five or fewer words; commonly used acronyms may be included. Words and phrases used in the reference title are separated by a semicolon. Only proper nouns are capitalized. Do not begin a reference title with a number.

Use identical reference titles only for identical bills, and add a period to the end of one of the reference titles to distinguish that bill from the other. Identical reference titles without a period may be used for a bill and a companion resolution relating to the same subject matter.

Pursuant to council rule 22, the legislative council has determined that the reference title must be an accurate and inclusive description of the contents of the measure and may not reflect political, promotional or advocacy considerations. Legislative council staff must make the final determination of the contents of the reference title of each measure that is introduced. (Adopted 11/7/1996.)

2.5 INTRODUCING BODY AND LEGISLATIVE SESSION DESIGNATION

The words in the upper left portion of the bill title page designate the legislative body, session of the legislature and year in which the bill is presented. This information is automatically formatted by the bill drafting computer program.

2.6 BILL NUMBER AND SPONSOR

The letters "S.B. ____" or "H.B. ____" and the phrase "Introduced by _____" indicate the legislative body in which the bill will be introduced and the name or names of the sponsor or cosponsors. On introduction, the blanks are filled in by House or Senate staff who assign a number to the bill and enter the name or names of the sponsor or cosponsors.

2.7 BILL TITLE

Constitutional Requirements

A title is a constitutional requirement of every bill and has a significant legal effect. The Arizona supreme court has ruled that the title need not be a complete description or index of the substantive law in the bill, but it may not be deceptive or misleading. While the title need not be a synopsis of the bill's contents, it must state the subject of the legislation with sufficient clarity to enable persons reading the title to know what to expect in the body of the act. See White v. Kaibab Rd. Improvement Dist., 113 Ariz. 209 (1976); Hoyle v. Superior Court, 161 Ariz. 224 (App. 1989).

The courts will not invalidate a bill merely because a better title might have been devised if the title fairly states the subject of the legislation to give notice. See In re Lewkowitz, 70 Ariz. 325 (1950).

Order of Title

The bill title is completely capitalized and begins with the phrase "AN ACT". This is followed immediately by:

- A listing of all changes to the Arizona Revised Statutes (e.g., amendments, repeals and additions of statutory sections). The order of the list generally follows the order that these sections appear in the bill. The drafter should individually list each title, chapter, article or section being amended, repealed or added. Never use "through" in a bill title.
- A listing of amendments to or repeals of previously enacted temporary laws.
- "APPROPRIATING MONIES" if the bill contains an appropriation or multiple appropriations in temporary (session) law. If a bill has as its sole purpose the appropriation of monies, the bill title should state that the bill is appropriating monies and name the agency or fund receiving the appropriation. For example, "APPROPRIATING MONIES TO THE DEPARTMENT OF LAW". Transfers, reductions, distributions, allocations and specified or permissive uses of monies are also appropriations and should be included in the bill title as "APPROPRIATING MONIES". Note that appropriations made in statutory sections are not included in the bill title as "APPROPRIATING MONIES". Rather, statutory sections that include appropriations are listed in the bill title as amended or added sections.
- "RELATING TO...." This should be a single phrase containing a general statement of the single subject of the bill (art. IV, part 2, § 13, Constitution of Arizona). Since this is a statement of a subject, do not use a verb. (For example, use "RELATING TO SCHOOL BOARD ELECTIONS" rather than "RELATING TO ELECTING SCHOOL BOARDS".) There is no limit to the length of the "relating to" clause, except that it should be a single, brief comprehensive statement. The heading of the existing article or chapter in which the statutory changes are located may be used as an appropriate "relating to" clause. However, it is a best practice to not use a new chapter or article heading being added in that bill unless the subject is already addressed in current statute. If the bill contains only temporary law, the clause may begin with "RELATING TO", "PROVIDING FOR", "ESTABLISHING" or any other appropriate phrase. If the bill contains new temporary law that includes an appropriation, the clause should also include "APPROPRIATING MONIES".

Each phrase in the bill title is separated by a semicolon. The bill title ends with a period.

Title Format

If a bill amends, repeals or adds statutory text, note the change in the title by using the appropriate phrase from the following list:

• AMENDING SECTION(S) _____, ARIZONA REVISED STATUTES;
(Note: This example also applies when the only change is to a section heading in the Uniform Commercial Code (title 47). See § 1-212, A.R.S.)

• AMENDING TITLE ____, ARIZONA REVISED STATUTES, BY ADDING CHAPTER _____;

• AMENDING TITLE ____, CHAPTER ____, ARIZONA REVISED STATUTES, BY ADDING ARTICLE _____;

• AMENDING TITLE ____, CHAPTER ____, ARTICLE ____, ARIZONA REVISED STATUTES, BY ADDING SECTION _____;

• AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS ADDED BY PROPOSITION _____, SECTION _____, ELECTION OF _____;

• REPEALING SECTION(S) _____, ARIZONA REVISED STATUTES;
(Note: Use this example for both a regular repeal and a delayed repeal.)

• REPEALING TITLE ____, CHAPTER ____, ARIZONA REVISED STATUTES;

• REPEALING TITLE ____, CHAPTER ____, ARTICLE ____, ARIZONA REVISED STATUTES;

Note: If a specific version of a statute is being amended or repealed, cite that version as, for example, "AMENDING (OR REPEALING) SECTION _____, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS ____, CHAPTER ____, SECTION _;"

If a bill repeals a section, article or chapter and also adds a new section, article or chapter with the same number, use the word "new" in the title as follows:

• REPEALING SECTION 12-1624, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 12-1624;

• REPEALING TITLE 12, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 7;

• REPEALING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 9;

If a bill amends or repeals previously enacted temporary law, note the change in the title by using the appropriate phrase from the following list:

• AMENDING LAWS ____, CHAPTER ____, SECTION _____;

• REPEALING LAWS ____, CHAPTER ____, SECTION _____;

Note: The repeal of a new temporary law in conjunction with the law's enactment is not included in the title.

Note also: Refer to a special session as, for example, "LAWS 2015, FIRST SPECIAL SESSION, CHAPTER 5, SECTION 17".

If a bill transfers or renumbers or transfers and renumbers a section, article or chapter, note the change in the title by using the appropriate phrase from the following list (without noting the section, article or chapter number):

- PROVIDING FOR TRANSFERRING;
- PROVIDING FOR RENUMBERING;
- PROVIDING FOR TRANSFERRING AND RENUMBERING;

Note: Include the appropriate phrase in the bill title only once even if the bill contains multiple transfers or renumberings in one or more sections of the bill.

If a bill amends a section that the bill has also transferred, renumbered or transferred and renumbered, the title must contain the following appropriate phrase for each amended section:

- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS TRANSFERRED;
- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS RENUMBERED;
- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED;

Not Included in Title

The following are not noted in the bill title:

- Delayed effective dates and retroactivity.
- Emergency clauses.
- Proposition 105 requirements.
- Proposition 108 requirements.
- Conditional enactments.
- Conditional repeals.
- Heading changes or repeals (of a statutory title, chapter or article).
- New temporary laws, unless the temporary law is the only provision in the bill.

EXHIBIT C



Tweet



Senator Kelly Townsend

@AZKellyT



I will not be able to vote for the education budget bill with a provision that gives authority to school boards to mandate masks on our kids. Amend it out.

8:56 AM · May 25, 2021 · Twitter for Android

113 Retweets **7** Quote Tweets **612** Likes



Senator Kelly Townsend
@AZKellyT



Kelly Townsend

Just now ·



Ok, here is the deal. The K-12 budget includes language giving school boards final say regarding masks on kids. I cannot get on board with this, because I believe that parents have the final say. The idea behind the bill was to keep cities and counties from mandating them. It is too late to ammend the bill in today's committee, and they will need my vote when this goes to the floor. I will therefore vote to move this bill forward, but will be a no on the floor unless there is language that puts the decision into the hands of the parent. Something along the lines that a parent can sign an exemption for their child, and the child will not be singled out, shamed, isolated, etc.

11:55 AM · May 25, 2021 · Twitter for Android

12 Retweets 4 Quote Tweets 40 Likes

EXHIBIT D



Tweet



Joseph Chaplik 
@JosephChaplik



In Arizona we have some politicians and school boards who are desperate to bring them back.

With my bill that became law [#HB2770](#), no business will ever have to enforce masks with their customers.

I also wouldn't sign the [#AZBudget](#) until masks were made optional in schools.



Charlie Kirk  @charliekirk11 · Jul 27

No more masks.

12:56 PM · Jul 27, 2021 · Twitter Web App

83 Retweets **9** Quote Tweets **339** Likes

EXHIBIT E



Thread



Bret Roberts @BretRbrts · Jun 24



[#SB1824](#) would not have the Anti-Vax Passport policy in it today if I caved on [#HB2190](#) several weeks ago. It's not exactly the policy I wanted however it's more than what was being proposed at the time. Proud to have stood tall on this issue.



Bret Roberts @BretRbrts · Jun 24



Thank you [@AZKellyT](#) [@LivingstonLD22](#) [@NancyBarto](#) [@AZDavidGowan](#)

For working with me.



EXHIBIT F



NEWS RELEASE

Arizona House of Representatives

Representative Jake Hoffman (R-12)

1700 West Washington • Phoenix, Arizona • 85007

Wednesday, August 11, 2021

FOR IMMEDIATE RELEASE

Statement from Legislative Republicans on School Districts' Refusal to Follow State Law

STATE CAPITOL, PHOENIX – State Representative Jake Hoffman, along with 25 legislative Republicans, issued the following statement on the local Arizona governments refusing to follow state law:

Under Arizona's constitutional form of government, local governments do not have the authority or power to usurp state law simply because they disagree, yet that is precisely the kind of illegal activity in which many local governments are presently engaged. The Arizona legislature, with the Governor concurring, very intentionally enacted the laws at hand to protect Arizonans and Arizona children from the threat of government mandating them to wear a mask or be injected with a vaccine. Additionally, the legislature very thoughtfully attached a retroactivity clause to the law, so that there would be clear and consistent application of the statute for families and children throughout Arizona.

It borders on anarchy and destabilizes the very foundation of our society to have local governments effectively refusing to comply with the law. It must not be allowed to stand. Any local government that willfully and intentionally flaunts state law must be held accountable.

We sincerely appreciate the Governor's conversations with us over the last few days and hope to see that result in swift action; however, the window to hold the rogue local governments refusing to follow state law accountable is closing and the people of Arizona's patience is running short.

Stated plainly, the legislature did its job by passing common sense laws to protect the children and students of Arizona from anti-science mask and vaccine mandates, now we are eager to see the executive branch do its job to ensure that those laws are faithfully executed by the various levels of government within this state.

We have called upon the Governor privately, and are now calling upon him publicly on behalf of our constituents, to immediately take the following action:

1. Withhold the federal funding currently under the Governor's management from any school district that is non-compliant with state law.
2. Authorize temporary Empowerment Scholarship Accounts (ESAs) for all students trapped within any school district that is non-compliant with state law.

3. Send a notice to all families within the boundaries of a school district that is non-compliant with state law empowering them with the following information:

- a. The retroactive June 30, 2021 effective date of the law prohibiting mask mandates.**
- b. The availability of the newly authorized temporary Empower Scholarship Accounts (item #2 above) and how to take advantage of them.**
- c. The abundance of school choice options afforded to them by state law including, but not limited to, public school open enrollment, public school out of boundary enrollment, public charter school enrollment, Empowerment Scholarship Accounts, micro-schools, learning pods, STO scholarships, online curriculum, and home school opportunities.**

4. Initiate legal action against any school district that is non-compliant with state law.

The blatant disregard for the State of Arizona’s authority exhibited by the non-compliant local governments is an affront to the very core of our state and nation’s form of government. A resounding message must be delivered to any local government or subdivision of the state considering defying state law—lawlessness will not be tolerated.

I, and my colleagues identified below, call on Governor Ducey in the strongest of terms to immediately take the action outlined above to address this gross miscarriage of governance by local Arizona governments.

Signed,

**Representative Jake Hoffman
Speaker Pro Tempore Travis Grantham
House Majority Whip Leo Biasiucci
Representative Brenda Barton
Representative Walt Blackman
Representative Shawwna Bolick
Representative Judy Burges
Representative Joseph Chaplik
Representative John Fillmore
Representative Mark Finchem
Representative Steve Kaiser
Representative Quang Nguyen
Representative Becky Nutt**

**Representative Jacqueline Parker
Representative Beverly Pingerelli
Representative Bret Roberts
Representative Justin Wilmeth
Senate Majority Whip Sonny Borrelli
Senator Nancy Barto
Senator Sine Kerr
Senator David Livingston
Senator J.D. Mesnard
Senator Warren Petersen
Senator Wendy Rogers
Senator Kelly Townsend
Senator Michelle Ugenti-Rita**

Jake Hoffman is a Republican member of the Arizona House of Representatives serving Legislative District 12, encompassing Gilbert & Queen Creek, and parts of Pinal County.

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EXHIBIT G



BROPHY

A Catholic, Jesuit School for Young Men

From the Principal's Office

August 4, 2021

Dear Brophy Community,

This week all school offices reopened and campus is buzzing with preparations as we look forward to welcoming our students back to school. Orientation is next Wednesday with classes beginning on Thursday. You can find back-to-school details [here](#).

Over the past months, as we've planned for the reopening of school, we've established priorities that have guided the COVID protocols we will adopt to start this new year, all under the banner of keeping our students, faculty, and staff safe and healthy. Our first priority is to have all students and teachers on campus, in the classroom, for in-person learning. While I'm proud of the way our community navigated the challenges of last year, we are returning to a fully in-person environment this year — there will be no hybrid option for students.

Our second priority is to minimize restrictions (such as masks, distancing, and quarantining) while maintaining everyone's health and safety. In order to have a functioning, in-person learning environment and a return to normal activities and gatherings, we need to do what we can to minimize the number of students and teachers sick or in quarantine.

Over the last six months, it has become increasingly clear that the most effective way to contain the spread of the virus is to have a vaccinated community. Therefore, effective September 13, every student, teacher, and staff member will need to have proof of vaccination on file with the school or get tested for COVID regularly. Additionally, effective Monday, August 9, and for the foreseeable future, any student who wishes to participate in overnight retreats or any school-related travel outside of the Phoenix metro area will be required to have proof of vaccine on file.

Below are the back-to-school health protocols for everyone on campus.

- Students should be mindful of their own health, and if they are too sick to come to school, they should stay home and have a parent/guardian [notify the Dean's Office](#). Students out sick with Covid-like illness will need to submit a negative COVID test before returning to campus.
- If a student, or any member of his household, tests positive for COVID, parents must [notify the Dean's Office](#) and further guidance will be provided based on the specific circumstances.
- We will continue to follow CDC guidance for isolation and quarantine. Students who test positive for COVID will be required to isolate at home for 10 days. Unvaccinated

students who are close contacts of a positive COVID case — either a household member or a classmate — will be required to quarantine. The Dean's Office will provide the quarantine timeline, in accordance with public health guidelines.

- When indoors, everyone on campus will need to wear a mask through Friday, September 10 (unless alone in a classroom or office). Masks are optional in all outdoor areas. I realize, and share, the frustration this news might cause vaccinated members of our community. However, in light of the current surge and until we have a better sense of the vaccination rate among students, we will wear masks indoors in order to reduce illness and quarantine. Beginning Monday, September 13, masks will be optional.
- Also beginning on September 13, all community members — students, faculty and staff — will need to have submitted proof of vaccination (through the Resource Board on [myBrophy](#)), or, if not vaccinated, will have to submit negative COVID test results twice weekly. In the coming weeks we will have more information about the process and the timeline for submitting these tests but please understand that locating and scheduling these tests will be the responsibility of each family, not the school. Testing must occur at a lab or pharmacy; at-home test results will not be accepted as they cannot be verified. As time goes on, the frequency of required testing may change depending on the trajectory of local transmission rates.
- Effective Monday, August 9, all students who plan to participate in overnight retreats or school-related travel outside of the Phoenix area must be vaccinated and have proof of vaccination on file.

We believe, and our medical advisory committee concurs, that this plan will enable us to safely return not only to in-person learning but to the activities and gatherings that are such hallmarks of the Brophy experience. We also believe that the current moment presents another opportunity for our community to live our Ignatian mission to be Men and Women for Others.

Last year, our community faithfully wore masks each day not because the mask provided personal protection but because it protected others, and we ask for that same kind of care and diligence when it comes to getting vaccinated. Although we know that young people are less likely to suffer serious effects from COVID, they can be carriers of the virus and can spread it to vulnerable members of our community. In an interview earlier this year, Pope Francis said, "I believe that morally everyone must take the vaccine. It is the moral choice because it is about your life but also the lives of others."

I look forward to having our students back on campus and to the incomparable energy that comes with it! Thank you for entrusting us with the education of your sons, and their safe-keeping while they are here on campus. These responsibilities inform every decision we make.

AMDG,



Bob Ryan
Principal

[EN ESPAÑOL](#)

