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Indicates New Matter

AS PASSED BY THE SENATE

May 6, 2014

**H. 3893**

Introduced by Reps. Bedingfield, G.R. Smith, Loftis, Stringer, Burns, Hamilton, Erickson, Taylor, Clemmons, Delleney, Pitts, Willis, Chumley and Henderson

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Read the first time April 15, 2014.

**A** **BILL**

TO AMEND SECTION 59‑18‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ADOPTION OF NEW STATEWIDE EDUCATION STANDARDS AND ASSESSMENTS, SO AS TO PROVIDE SUCH AN ADOPTION MUST NOT BE IMPLEMENTED UNTIL APPROVED BY THE GENERAL ASSEMBLY BY JOINT RESOLUTION.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑490. (A) The provisions of this section must be known and may be cited as the ‘South Carolina Department of Education Data Use and Governance Policy’.

(B) The policy of the State Department of Education with respect to use and governance of student data is to ensure that all data collected, managed, stored, transmitted, used, reported, and destroyed by the department is done so in a way to preserve and protect individual and collective privacy rights and ensure confidentiality and security of collected data. In developing this policy, the State strives to:

(1) maintain compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, at a minimum; and

(2) be mindful that the appropriate use of data is essential to accelerating student learning, program and financial effectiveness and efficiency, and policy development.

(C) The State Department of Education shall not collect individual student data directly from students or families, except as required to meet its obligations under the Individuals with Disabilities Education Act. Each student is assigned a unique student identifier upon enrollment into the student management system to ensure compliance with the privacy rights of the student and his parents or guardians. No personally identifiable individual student data may be shared in federally required reporting.

(D) All data elements collected and transferred from the South Carolina State Department of Education to the United States Department of Education must be based on the reporting requirements contained in EDFacts as provided by the United States Department of Education, or other federal laws and regulations, and only may include aggregated data with no personally identifiable data.

(E) Data collected by the State Department of Education must be maintained within a secure infrastructure environment. Access to this data must be limited to pre‑identified staff who are granted clearance related to their job responsibilities of federal reporting, state financial management, program assessment, and policy development. Training in data security and student privacy laws must be provided to these specific individuals on a regular basis in order to maintain their data use clearance along with a signed Data Use Policy assurance of confidentiality and privacy.

(F) The State Department of Education shall maintain a managed external data request procedure managed through a Data Governance Committee. Each external data request is measured against a pre‑determined set of qualifiers that includes, but must not be limited to, applicability to the goals of the State Board of Education, data availability, report format ability, cost of report development, and adherence to FERPA requirements.

(G) Each school district in this State shall adopt, maintain, and comply with a locally adopted student records governance and use policy. These policies and their implementation shall be monitored by the State Department of Education in a manner prescribed by the department through policy.”

SECTION 2. Article 3, Chapter 18, Title 59 of the 1976 Code is amended by adding:

“Section 59‑18‑355. (A)(1) A revision to a state content standard recommended pursuant to Section 59‑18‑350(A), as well as a new standard or a change in a current standard that the State Board of Education otherwise considers for approval as an accountability measure, may not be adopted and implemented without the:

(a) advice and consent of the Education Oversight Committee; and

(b) approval by a Joint Resolution of the General Assembly.

(2) General Assembly approval required by item (1)(b) does not apply to a revision recommended pursuant to Section 59‑18‑350(A), other approval of a new standard, and other changes to an old standard if the revision, new standard, or changed standard is developed by the State Department of Education.

(B) A revision to an assessment recommended pursuant to Section 59‑18‑350(A), as well as a new assessment or a change in a current assessment that the State Board of Education otherwise considers for approval as an accountability measure, may not be adopted and implemented without the advice and consent of the Education Oversight Committee.

(C) Upon initiating a change to an existing standard, including a cyclical review, the Education Oversight Committee and the Department of Education shall provide notice of their plans and intent to the General Assembly and the Governor.

(D) Nothing in this section may be interpreted to prevent the Department of Education, Board of Education, and Education Oversight Committee from considering best practices in education standards and assessments while developing its own standards and assessments.”

SECTION 3. Section 59‑18‑325 of the 1976 Code, as added by an Act of 2014 bearing Ratification No. 170, is amended by adding an appropriately lettered subsection at the end to read:

“(C)(1) To maintain a comprehensive and cohesive assessment system that signals a student’s preparedness for the next educational level and ultimately culminates in a clear indication of a student’s preparedness for postsecondary success in a college or career and to satisfy federal and state accountability purposes, the Executive Director of the Budget and Control Board, with the advice and consent of the special assessment panel, shall direct the procurement of a summative assessment system for the 2014‑2015 school year, and subsequent years as provided in item (3). The procurement must be completed before September 30, 2014. The summative assessment must be administered to all students in grades three through eight, and if funds are available, administered to students in grades nine and ten. The summative assessment must assess students in English/language arts and mathematics, including those students as required by the federal Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary Education Act. For purposes of this subsection, ‘English/language arts’ includes English, reading, and writing skills as required by existing state standards. The assessment must be a rigorous, achievement assessment that measures student mastery of the state standards, that provides timely reporting of results to educators, parents, and students, and that measures each student’s progress toward college and career readiness. Therefore, the assessment or assessments must meet all of the following minimum requirements:

(a) compares performance of students in South Carolina to other students’ performance on comparable standards in other states with the ability to link the scales of the South Carolina assessment to the scales from other assessments measuring those comparable standards;

(b) be a vertically‑scaled, benchmarked, standards‑based system of summative assessments;

(c) measures a student’s preparedness for the next level of their educational matriculation and individual student performance against the state standards in English/language arts, reading, writing, and mathematics and student growth;

(d) documents student progress toward national college and career readiness benchmarks derived from empirical research and state standards;

(e) establishes at least four student achievement levels;

(f) includes various test questions including, but not limited to, multiple choice, constructed response, and selected response, that require students to demonstrate their understanding of the content;

(g) be administered to students in a paper‑based format in 2014‑2015, in either a paper‑based form or computer‑based format in 2015‑2016, and to all students in a computer‑based format by school year 2016‑2017; and

(h) assists school districts and schools in aligning assessment, curriculum, and instruction.

(2) Additionally, the Executive Director of the Budget and Control Board, with the advice and consent of the special assessment panel, also must direct the procurement of a college and career readiness assessment that meets the requirements of subsection (A). The procurement must be completed before September 30, 2014. In addition to WorkKeys, the assessment must be administered to all students entering the eleventh grade for the first time in the 2014‑2015 school year.

(3) In school years 2014‑2015, 2015‑2016, and 2016‑2017, the department must administer the assessments procured by the Budget and Control Board in English/language arts and mathematics in grades three through eight, and if funds are available, in grades nine and ten. The department must also administer the state‑developed and adopted assessments in science and social studies to all students in grades four through eight, and the college readiness assessment and WorkKeys assessment to all students in grade eleven. If the Education Oversight Committee approves of the assessments pursuant to Section 59‑18‑320 after the 2016‑1017 assessment, the assessments also may be administered in 2017‑2018 and 2018‑2019. Formative assessments must continue to be adopted, selected, and administered pursuant to Section 59‑18‑310.

(4)(a) The special assessment panel must be composed of the following individuals or their designee:

(i) the Chariman of the State Board of Education;

(ii) the Chariman of the Education Oversight Committee;

(iii) the Chariman of the Board of Directors for the South Carolina Chamber of Commerce;

(iv) the Chariman of the South Carolina Commission on Higher Education;

(v) the Chariman of the South Carolina Technical College System Board; and

(vi) the State Superintendent of Education.

(b) A panel member who is authorized to designate a person to serve on the board in his stead only may make the designation if he intends for the designee to serve continuously instead of intermittently with himself or another designee.

(c) The assessment panel must receive input from educators, parents, higher education officials, and business and community leaders on the components of a comprehensive and cohesive assessment system. The assessment panel must convene within two weeks of the effective date of this act, at the request of the Executive Director of the Budget and Control Board. The panel must complete its duties in a timely manner which enables the Executive Director of the Budget and Control Board to procure the assessments by September 30, 2014. Upon the procurement of a summative assessment system, the special assessment panel is dissolved.

(5)(a) The cost of procuring the assessments pursuant to items (1) and (2), and any costs associated with the performance of the special assessment panel’s duties must be borne by the Department of Education.

(b) Staff support to the Executive Director of the Budget and Control Board and the special assessment panel must be provided by the Department of Education, Division of Accountability, Office of Assessment. In addition, if requested by the Executive Director of the Budget and Control Board or the special assessment panel, the Department of Education, the Education Oversight Committee, the State Board for Technical and Comprehensive Education, and the Commission on Higher Education, must provide assistance to implement the provisions of this subsection.

(6) Within thirty days after providing student performance data to the school districts as required by law, the department must provide to the Education Oversight Committee student performance results on assessments authorized in this subsection and end‑of‑course assessments in a format agreed upon by the department and the Oversight Committee. The Education Oversight Committee must use the results of these assessments in school years 2014‑2015 and 2015‑2016 to report on student academic performance in each school and district pursuant to Section 59‑18‑900. The committee may not determine state ratings for schools or districts, pursuant to Section 59‑18‑900, using the results of the assessments required by this subsection until after the conclusion of the 2015‑2016 school year; provided, however, state ratings must be determined by the results of these assessments beginning in the 2016‑2017 school year. The Oversight Committee also must develop and recommend a single accountability system that meets federal and state accountability requirements by the fall of 2016.

(7) The Department of Education must submit a plan for approval and implementation to the Board of Education to mitigate the impact that changes in assessments are projected to have on teacher evaluation systems. If such an impact can be reasonably mitigated by delaying evaluations, the department shall seek a waiver if necessary for federal approval.

(8) When standards are subsequently revised, the Department of Education, the State Board of Education, and the Education Oversight Committee shall approve assessments pursuant to Section 59‑18‑320.”

SECTION 4. Section 59‑18‑350 of the 1976 Code, as last amended by Act 282 of 2008, is further amended to read:

“Section 59‑18‑350. (A) The State Board of Education, in consultation with the Education Oversight Committee, shall provide for a cyclical review by academic area of the state standards and assessments to ensure that the standards and assessments are maintaining high expectations for learning and teaching. At a minimum, each academic area should be reviewed and updated every seven years. After each academic area is reviewed, a report on the recommended revisions must be presented to the Education Oversight Committee and the State Board of Education for consideration. ~~After approval by the Education Oversight Committee and the State Board of Education, the recommendations may be implemented. However,~~ The previous content standards shall remain in effect until ~~approval has been given by both entities~~ the recommended revisions are adopted pursuant to Section 59‑18‑355. As a part of the review, a task force of parents, business and industry persons, community leaders, and educators, to include special education teachers, shall examine the standards and assessment system to determine rigor and relevancy.

(B) For the purpose of developing new college and career readiness English/language arts and mathematics state content standards, a cyclical review must be performed pursuant to subsection (A) for English/language arts and mathematics state content standards not developed by the South Carolina Department of Education. The review must begin on or before January 1, 2015, and the new college and career readiness state content standards must be implemented for the 2015‑2016 school year.

(~~B~~C) The State Department of Education annually shall convene a team of curriculum experts to analyze the results of the assessments, including performance item by item. This analysis must yield a plan for disseminating additional information about the assessment results and instruction and the information must be disseminated to districts not later than January fifteenth of the subsequent year.”

SECTION 5. On the effective date of this act, South Carolina will no longer be a governing or advisory state in the Smarter Balanced Assessment Consortium. Furthermore, South Carolina may not adopt or administer the Smarter Balanced Assessment.

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