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Indicates New Matter

AMENDED

April 10, 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 9, 2013.

**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 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 may include only 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 predetermined set of qualifiers that includes, but must not limited to, applicability to the goals of the South Carolina 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 59‑18‑310(B) of the 1976 Code is amended to read:

“(B) The statewide assessment program must include the subjects of English/language arts, mathematics, science, and social studies in grades three through eight, as delineated in Section 59‑18‑320(B), to be first administered in 2009, ~~an exit examination in English/language arts and mathematics to be first administered in a student’s second year of high school enrollment beginning with grade nine,~~ and end‑of‑course tests for gateway courses awarded units of credit in English/language arts, mathematics, science, and social studies. Student performance targets must be established following the 2009 administration. The assessment program must be used for school and school district accountability purposes beginning with the 2008‑2009 school year. The publication of the annual school and school district report card may be delayed for the 2008‑2009 school year until no later than February 15, 2010. A student’s score on an end‑of‑year assessment may not be the sole criterion for placing the student on academic probation, retaining the student in his current grade, or requiring the student to attend summer school. Beginning with the graduating class of 2010, students are required to pass a high school credit course in science and a course in United States history in which end‑of‑course examinations are administered to receive the state high school diploma. Beginning with the graduating class of 2015, students are no longer required to meet the exit examination requirements set forth in this section and State Regulation to earn a South Carolina high school diploma.”

SECTION 4. Article 3, Chapter 18, Title 59 of the 1976 Code is amended by adding:

“Section 59‑18‑325. (A) With the approval of the State Board of Education and the Education Oversight Committee, the South Carolina Department of Education will administer in school year 2014‑2015 a summative assessment and optional interim formative assessments as defined in Section 59‑18‑310 to students in grades three through eight that assesses students in English/language arts and math. The summative assessment, provided by a vendor which is procured by the South Carolina Department of Education under emergency procurement regulations, if needed, must meet the following requirements:

(1) be a vertically‑articulated, benchmarked, standards‑based system of summative assessments;

(2) document student progress toward national college and career benchmarks derived from empirical research evidence and state standards;

(3) be available in paper‑and‑pencil and computer‑based formats by 2015‑2016; and,

(4) be anchored to a national college readiness assessment already used in the state.

The Department will also administer state‑developed or adopted and approved assessments in social studies and science to all students in grades four through eight.

(B) All students entering the eleventh grade for the first time in school year 2014‑2015 and subsequent years, will be administered a career readiness assessment and a college readiness assessment as required by the Elementary and Secondary Education Act and that are provided by vendors procured by the department. The results of the assessments will be provided to each student, to the school and to the state in order to:

(1) assist students, parents, teachers, and guidance counselors in developing individual graduation plans and in selecting courses aligned with each student’s future ambitions;

(2) promote South Carolina’s Work Ready Communities initiative; and

(3) meet federal and state accountability requirements.

Students may then use the results of these assessments to apply to college or to enter careers. The results must be added as part of each student’s permanent record and maintained at the South Carolina Department of Education for at least ten years. The results will also provide instructional information to assist students, parents and teachers to plan for each student’s course selection which might include remediation courses, dual‑enrollment courses, Advanced Placement courses, internships, or other options during the remaining semesters in high school.

(C) The South Carolina Department of Education will provide to the Education Oversight Committee student performance results on assessments authorized in this section and end‑of‑course assessments in a format agreed upon by both the department and the committee and within thirty days of the data being provided to the school districts. The committee will use the results of these assessments in school year 2014‑2015 and in 2015‑2016 to report on student academic performance in each school and district pursuant to Section 59‑18‑900. However, the committee may not determine state ratings for schools or districts using the results of these new assessments pursuant to Section 59‑18‑900 until after the conclusion of the 2015‑2016 school year for public reporting beginning in the fall of 2016. The committee will also develop and recommend a single accountability system that meets federal and state accountability requirements by the fall of 2016.

(D) The South Carolina Department of Education shall submit a plan for approval and implementation to the Education Oversight Committee and the State 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.

(E) After school year 2014‑2015 when standards are revised, the department and committee shall approve assessments pursuant to Section 59‑18‑320.”

SECTION 5. 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) Upon approval of this act, the cyclical review shall be performed pursuant to subsection (A) for English/language arts and Mathematics state standards not developed by the South Carolina Department of Education. The review must be completed no later than July 1, 2016.

(~~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 6. Section 59‑18‑950 of the 1976 Code is amended to read:

“Section 59‑18‑950. Notwithstanding another provision of law to the contrary, the Education Oversight Committee may base ratings for school districts and high schools on criteria that include graduation rates~~, exit examination performance,~~ and other criteria identified by technical experts and appropriate groups of educators and workforce advocates.”

SECTION 7. Section 59‑48‑35 of the 1976 Code is amended to read:

“Section 59‑48‑35. The students enrolled in the Special School of Science and Mathematics who earn a total of twenty units of credit distributed as specified in the Defined Minimum Program for South Carolina school districts, ~~who pass the exit examination described in Section 59‑30‑10(f),~~ and who meet the school’s requirements for graduation, are eligible to receive a state high school diploma. The board of the Special School, in its discretion, may issue its own high school diploma.”

SECTION 8. Upon passage of this legislation, South Carolina will no longer be a governing or advisory state in the Smarter Balanced Assessment Consortium. Furthermore, the State of South Carolina may not adopt or administer the Smarter Balanced Assessment.

SECTION 9. This act takes effect upon approval by the Governor.

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