

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CIS 13-02 Education Accountability

SPONSOR(S): Choice & Innovation Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Choice & Innovation Subcommittee	10 Y, 3 N	Fudge	Fudge

SUMMARY ANALYSIS

The bill increases school accountability by:

- Defining a colocated school as one that: has its own Master School Identification (MSID) number; provides the education for each of its enrolled students; and operates at the same facility as another school with its own MSID number and providing education for its enrolled students.
- Clarifying that if one school operating in a facility of colocated schools does not receive a school grade or school improvement rating, the student performance data of all schools will be aggregated and assigned to all schools at the facility.
- Requiring that all traditional schools that meet or exceed the minimum sample size of 10 shall receive a school grade.
- Requiring the DOE to include retakes when calculating the school improvement rating and to issue a school improvement rating when the school tests over 80% of its students, rather than 90%.
- Designating Exceptional Student Education Centers as alternative schools for accountability purposes.
- Requiring the DOE to define, in rule, ESE Center Schools that provide instruction in accordance with requirements in s. 1003.57(1)(d), F.S.
- Clarifying that achievement scores and learning gains of students attending ESE Centers will not be included in the students' home school, if the student had not been enrolled in or attended a public school in the district within the last three years, other than the ESE Center School.
- Clarifying that achievement scores and learning gains for hospital- or homebound students will only be assigned to their home school if the student was enrolled in the home school during the October and February FTE counts.

The bill also requires the Commissioner of Education to streamline access to data maintained in the K-20 data warehouse by creating and fully implementing, by June 30, 2014, the following:

- A web-based interface for public access to aggregated data from the K-20 data warehouse
- A restricted access "Research Engine" capable of providing access to specific student education records by authorized representatives under the federal Family Educational Rights and Privacy Act (FERPA).

The bill outlines specific guidelines regarding the Research Engine including: functionality; execution of a written agreement that must be adopted in State Board of Education rule; implementation of a pricing structure; and maintenance of an updated list of organizations and representatives authorized to access the data. The bill identifies authorized representatives and prescribes specific duties of the Articulation Coordinating Committee (ACC), the Higher Education Coordinating Council (HECC), public and private postsecondary institutions, and the Commissioner of Education, in an effort to streamline the data reporting process and data accessibility.

The bill may have a fiscal impact on state government. See FISCAL ANALYSIS.

The effective date of the bill is July 1, 2013.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02a.CIS

DATE: 2/25/2013

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Grades

Current Situation

All public schools, including charter schools, which have at least 30 full-year-enrolled students with valid Florida Comprehensive Assessment Test (FCAT) scores in reading for the current and prior years and at least 30 full-year-enrolled students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade.¹ For the mathematics portion of the school grade, high schools must have at least 10 students with valid Algebra 1 EOC assessment scores in 2011-12 and, beginning in 2012-13, at least 10 students with valid Geometry EOC assessment scores or FAA scores in the current and previous years in order to receive a school grade.² Because learning gains for high school students may be measured using FCAT 2.0 Mathematics scores for the prior-year scores, these scores are also counted toward the minimum cell-size requirements. Department of Juvenile Justice schools are not graded, and alternative schools that provide dropout prevention and academic intervention services have the option of earning a school grade or a school improvement rating.³ If an alternative school chooses to receive a school improvement rating instead of a school grade, student performance is also included in the school grade of the students' home school.⁴

To earn an "A," a school must test at least 95 percent of eligible students. To earn a "B," "C," or "D," a school must test at least 90 percent of the eligible students.⁵ If less than 90 percent of the eligible students are assessed, an "I" (Incomplete) is assigned.⁶

Effect of Proposed Changes

The bill defines a colocated school as a school with its own unique master school identification number which provides for the education of each of its enrolled students and operates at the same facility as another school that has its own unique master school identification number that provides for the education of each of its enrolled students. If more than one school operates at the same facility and one of the schools does not earn a school grade or school improvement rating, then the student performance data of all schools must be aggregated to develop a school grade that will be assigned to all schools at the facility.

To increase the number of schools receiving a school grade, the bill requires all schools that meet or exceed the minimum sample size of 10 to receive a school grade. Currently, a school may not receive a school grade if it has less than the minimum sample size of 30.

Alternative Schools

Current Situation

An alternative school is any school that provides dropout prevention and academic intervention services. Alternative schools may serve students in grades 1-12 who:

¹ Rule 6A-1.09981(3)(a), F.A.C.; s. 1008.34(3)(a)1., F.S.

² Rule 6A-1.09981(3)(a), F.A.C.; *see also* s. 1008.34(3)(a)1., F.S.

³ Beginning in 2011-12, ESE Center Schools, as a subset of alternative schools, are also eligible to choose between receiving a regular school grade or a school improvement rating. Florida Department of Education, *Notice of Intent* (February 28, 2012), *available at* <http://www.fldoe.org/esea/pdf/NoticeofIntent.pdf>.

⁴ Section 1008.34(3)(c)3., F.S.; *see also* s. 1008.341, F.S. "Home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. Section 1008.34(3)(c)3., F.S.

⁵ Rule 6A-1.09981(1)(a)4., F.A.C.

⁶ Rule 6A-1.09981(8)(b)1., F.A.C.

- Are academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or district proficiency levels in reading, mathematics, or writing;
- Have a pattern of excessive absenteeism or are habitual truants; or
- Have a history of disruptive behavior⁷ in school or has committed an offense that warrants out-of-school suspension or expulsion from school.⁸

However, for accountability purposes, the definition of an alternative school excludes “second chance schools”,⁹ educational programs operated or contracted by Department of Juvenile Justice facilities, and district school board programs that serve students officially enrolled in dropout retrieval programs.¹⁰ There are 266 alternative schools subject to accountability.

Beginning July 1, 2012, the department classified schools serving students with disabilities exclusively as Alternative Centers for reporting purposes.¹¹

School Improvement Ratings

Alternative schools must receive a school improvement rating.¹² School improvement ratings are indicators of whether an alternative school’s performance has improved, remained the same, or declined compared to the prior year based on student statewide, standardized assessment scores.¹³ However, in lieu of a school improvement rating, an alternative school may choose to receive a school grade. For charter schools that meet the definition of an alternative school, i.e., charter alternative schools, the decision to receive a school grade is the decision of the charter school governing board.¹⁴ The school improvement rating must include:

- The aggregate scores on statewide assessments for all eligible students who were assigned to and enrolled in the school during the October or February FTE count and who have FCAT or comparable scores for the preceding school year;¹⁵ and
- The aggregate scores on statewide assessments for all eligible students who were assigned to and enrolled in the school during the October or February FTE count and who have scored in the lowest 25th percentile of students in the state on FCAT Reading.¹⁶

The achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services are credited back to the home school for inclusion the home school’s grade calculation. “Home school” means the school to which the student would be assigned if the student were not assigned to an alternative school.¹⁷ Alternative

⁷ For the purposes of this program, “disruptive behavior” is behavior that interferes with the student’s own learning or that of others and requires a degree of individual attention that is not practicable in a traditional program or results in frequent conflicts of a disruptive nature or that severely threatens the general welfare of students or others. Section 1003.53(1)(c)3.a.-b., F.S.

⁸ Section 1003.53, F.S.

⁹ A “second chance school” means district school board programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. Section 1003.53(1)(d)1., F.S.

¹⁰ Section 1008.341(2), F.S.; Rule 6A-1.099822(2)(a), F.A.C.; *cf.* s. 1008.341(3), F.S. (stating that the assessment scores of students who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice may not be included in an alternative school’s school improvement rating.)

¹¹ Notice of Intent from Commissioner of Education Gerard Robinson, Feb. 28, 2012, *available at* <http://www.fldoe.org/esea/pdf/NoticeofIntent.pdf>.

¹² Section 1008.341(2), F.S.

¹³ Section 1008.341(2), F.S.; *see also* Rule 6A-1.099822, F.A.C.

¹⁴ Section 1008.34(3)(a)2., F.S.

¹⁵ Section 1008.341(3)(a), F.S.

¹⁶ Section 1008.341(3)(b), F.S.

¹⁷ Section 1008.34(3)(c)3., F.S.; *cf.* rule 6A-1.099822(6), F.A.C. (stating that the student performance of eligible students shall be included in the students’ home school’s grade as well as the school’s school improvement rating, if the school is not a charter alternative school). This presumes that students are not assigned to charter alternative schools.

schools include ESE Centers for the purposes of school accountability. An alternative school that earns a school improvement rating receives one of the following:

- “Improving” – students are making more academic progress at the alternative school than when the students were served in their home schools;
- “Maintaining” – students are making progress at the alternative school equivalent to academic progress made when the students were served in their home schools; or
- “Declining” – students are making less academic progress at the alternative school than when the students were served in their home schools.¹⁸

In order to receive a school improvement rating, an alternative school must have a minimum of 10 students with valid FCAT or FAA scores in reading for the current and previous two years and a minimum of 10 students with valid FCAT, FAA, and/or EOC assessment scores in mathematics for the current and previous two years.¹⁹

Effect of Proposed Changes

The bill provides that if the alternative school serves at least 10 students who are tested on statewide assessments in the current and prior year, the alternative school must report to the parents of each enrolled student: learning gains, industry certification rate, college readiness rate, dropout rate, graduation rate, and the student’s progress toward meeting high school graduation requirements. This additional information will enable parents to make informed decisions regarding the education of their students, especially for those students attending schools that do not receive a school grade or school improvement rating.

To increase the number of alternative schools receiving a school improvement rating, the bill requires the department to include retakes when calculating the school improvement rating and to issue a school improvement rating when a school tests over 80% of its students. However, an alternative school may not earn a rating higher than “Maintaining” if the school tests less than 90% of its students. In addition, if an alternative school chooses not to receive a school grade but has student performance data for 10 or more students in the current and prior year, the alternative school must receive a school improvement rating.

ESE Center Schools

Current Situation

As part of Florida’s Elementary and Secondary Education Act Flexibility Waiver the department was required to include in Florida’s school accountability system, schools that provide specialized services to students with disabilities who cannot be served in the general school setting. The department identified these schools as Exceptional Student Education Center Schools. On February 28, 2012, the department issued a Notice of Intent to classify schools serving students with disabilities exclusively as alternative centers.²⁰ This action by the department would allow ESE Center Schools to either receive a school grade or school improvement rating. However, by choosing a school improvement rating the learning gains of the students at the ESE Center are reported to the homeschool and included in that school’s grade.

Effect of Proposed Changes

The bill designates, for accountability purposes, ESE Center Schools as alternative schools and requires the department to define, in rule, ESE Center Schools that provide instruction in accordance

¹⁸ *Id.*

¹⁹ Rule 6A-1.099822(5)(a), F.A.C.

²⁰ Notice of Intent – Classification of ESE Centers as Alternative Schools, *available at*

<http://www.fldoe.org/esea/pdf/NoticeofIntent.pdf>.

with the requirements of s. 1003.57(1)(d).²¹ The department must monitor districts regarding the placement of students with disabilities.

The achievement scores and learning gains of students attending ESE Center Schools who were not enrolled in or in attendance at a public school within the school district during the previous three years, other than an exceptional student education center are not included in the grade of the students' home school.

The bill also provides that student assessment data for students designated as hospital- or homebound are assigned to their home school for purposes of school grades only if the student was enrolled in the home school during the October and February FTE count.

Florida's K-20 education performance accountability system

Current Situation

In 2001, the Legislature created the K-20 education performance accountability system which is intended "to assess the effectiveness of Florida's seamless K-20 education delivery system."²² The K-20 education performance accountability system was established as a "single, unified accountability system" consisting of state and sector-specific performance measures and standards to assess student outcomes.²³

Data from Florida's public educational institutions and not-for-profit independent colleges and universities which are eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program, are integrated into the K-20 data warehouse which is maintained by the Florida Department of Education (DOE or department). FRAG-eligible not-for-profit independent colleges and universities must report student-level data annually in a format prescribed by the department. At a minimum, the data must include retention rates, transfer rates, completion rates, graduation rates, employment and placement rates, and earnings of graduates. The Commissioner of Education determines the standards for the data that are collected, monitors data quality, and measures improvements.²⁴

The K-20 data warehouse is designed to serve the education information interests of the state and the general public by providing data that follows student cohorts over time to determine trends in education research. Effective July 1, 2011, the department established a Research Agenda to encourage research in areas of specific interest to the department and amended the process for providing researchers access to data maintained by the K-20 data warehouse.²⁵

Researchers who want to access data maintained by the K-20 data warehouse must meet the following criteria established by the department:²⁶

- Fill-out forms²⁷ specified by the department and submit data requests by close-of-business on October 1, February 1, or June 1 of each year.

²¹ Section 1003.57(1)(d), F.S., states that "[i]n providing for the education of exceptional students, the district school superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional exceptional students to the maximum extent appropriate. Segregation of exceptional students shall occur only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

²² Section 1008.31(1)(a), F.S. Section 9, ch. 2001-170, L.O.F., was initially codified at s. 229.007, F.S., and was redesignated in 2002 as s. 1008.31, F.S.

²³ Section 1008.31(1)-(2), F.S.

²⁴ Section 1008.31(3)(a)-(c), F.S.

²⁵ Florida Department of Education, *Research*, <http://www.fldoehub.org/Research/Pages/default.aspx> (last visited Jan. 28, 2013).

²⁶ Florida Department of Education, *The Florida Department of Education's Research Agenda for 2012-13*, at 4, available at <http://www.fldoehub.org/Research/Pages/default.aspx>.

- Indicate how the request for data supports the department’s Research Agenda.

If the department’s Data Request Review Committee determines that a data request meets the department’s Research Agenda, but that the department lacks sufficient staff resources to fulfill the data request within an evaluation period, such data request is automatically placed for reconsideration by the department’s Data Request Review Committee during the next evaluation period. The data request may not be carried forward for reconsideration to more than one evaluation period.²⁸

The department provides status of data requests to researchers after the department’s Data Request Review Committee completes a review of all the data requests that the department receives within an evaluation period. After approving a data request, the department places the data request in a queue of approved data requests. The department routinely adjusts the timeline for providing data to researchers because requests for data by the Governor, the Legislature, and the State Board of Education (SBE) are prioritized over data requests by researchers.²⁹

Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., s. 1232g, is a Federal privacy law³⁰ that protects the privacy of students’ education records³¹. FERPA is administered by the Family Policy Compliance Office (FPCO) in the United States Department of Education (USDOE). FERPA permits the disclosure of education records of students which may contain personally identifiable information (PII)³² to:³³

- Organizations conducting studies for, or on behalf of, schools, school districts, or postsecondary institutions. Studies can be for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.
- Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, and State or local educational authorities (FERPA-permitted entities)^{34,35} conducting audit or evaluation of Federal- or State-

²⁷ DOE requires researchers to fill-out and submit either the Unit Data Request Packet or the Additional Years Request Form to place a data request. Florida Department of Education, *The Florida Department of Education’s Research Agenda for 2012-13*, at 4, available at <http://www.fldoehub.org/Research/Pages/default.aspx>.

²⁸ Florida Department of Education, *The Florida Department of Education’s Research Agenda for 2012-13*, at 4, available at <http://www.fldoehub.org/Research/Pages/default.aspx>.

²⁹ *Id.*

³⁰ 73 FR 74834 (Dec. 9, 2008)

³¹ 34 C.F.R., s. 99.2

³² 34 C.F.R., s. 99.3; “Personally Identifiable Information”, includes, but is not limited to: student’s name; name of the student’s parent or other family members; address of the student or student’s family; a personal identifier, such as the student’s social security number, student number, or biometric record; other direct identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

³³ 34 C.F.R., Part 99; see also United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-1 and A-2, <http://www2.ed.gov/policy/gen/guid/fpc/hottopics/index.html> (last visited Jan. 28, 2013).

³⁴ The USDOE interprets state and local educational authority to refer to a State educational agency (SEA), a State postsecondary commission, United States Department of the Interior’s Bureau of Indian Education (BIE), or any other entity that is responsible for and authorized under local, State, or Federal law to supervise, plan, coordinate, advise, audit, or evaluate elementary, secondary, or postsecondary Federal- or State-supported educational programs and services in the State. USDOE’s current interpretation of state and local educational authority does not include tribal education agencies (TEAs). Educational agency, under 34 C.F.R., s. 99.1(a)(2), “is an entity that is authorized to direct and control public elementary or secondary schools or postsecondary institutions. 76 FR 75606, 75607, and 75615 (Dec. 2, 2011).

³⁵ The USDOE permits “State and local educational authorities, the Secretary of Education, the Comptroller General, and the Attorney General of the United States to have greater flexibility and discretion to designate authorized representatives who may access PII from education records as needed to conduct an audit, evaluation, or enforcement or compliance activity specified in [34 C.F.R.,] s. 99.35”. In adopting the definition of the term “Authorized Representative”, the USDOE “is not delegating its statutory authority to address violations of FERPA under 20 U.S.C. 1232g(f). The [USDOE] is simply delegating the authority to the entities specified in 20 U.S.C. 1232g(b)(1)(C) and (b)(3) to determine who may serve as their authorized representatives to conduct an audit, evaluation, or enforcement or compliance activity.” 76 FR 75617 and 75618 (Dec. 2, 2011).

supported education program³⁶, or to enforce or comply with Federal legal requirements that relate to those education programs.

FERPA requires organizations conducting a study or authorized representatives conducting an audit or an evaluation to publish results in a way that protects the privacy and confidentiality of students and their parents.³⁷

Both the studies and the audit or evaluation exceptions, under FERPA, require the educational authority and the organization or authorized representative to execute a written agreement³⁸ to protect the PII from education records of students.³⁹ The USDOE recommends consideration of the following items for inclusion in a written agreement for work under both the studies and the audit or evaluation exceptions.⁴⁰

- Bind individuals to the agreement.
- Agree on limitations on use of the PII from education records.
- Agree to not redisclose PII from education records.
- Specify points of contact and data custodians.
- Mention Institutional Review Board (IRB) review and approval.
- State ownership of PII from educational records.
- Identify penalties.
- Set terms for data destruction.
- Include funding terms.
- Maintain right to audit.
- Identify and comply with all legal requirements.
- Have plans to handle data breach.
- Review and approve reported results.
- Define terms for conflict resolution.
- Specify modification and termination procedures.

Articulation Coordinating Committee

The Articulation Coordinating Committee (ACC) serves as an advisory board to the SBE and the BOG on postsecondary transition issues. The committee provides a unique K-20 forum for cross-sector collaboration that informs the policy decisions of the SBE and the BOG regarding the implementation of the statewide articulation agreement. The ACC reports to the Commissioner of Education and is comprised of the following members: two members each representing the State University System (SUS), the Florida College System (FCS), public career and technical education, public K-12 education, and non-public education, and one member representing students.⁴¹

³⁶ 34 C.F.R. s. 99.3. Education program must be “principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution. United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-2, <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/index.html> (last visited Jan. 28, 2013).

³⁷ United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-4, <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/index.html> (last visited Jan. 28, 2013).

³⁸ The USDOE “defers to State law governing contracts and written agreements, including the imposition of allowable sanctions.” The USDOE encourages “FERPA-permitted entities to consider specifying additional remedies or sanctions as part of the written agreements with their authorized representatives under [34 C.F.R.] s. 99.35 in order to protect PII from education records.” 76 FR 75620 and 75624 (Dec. 2, 2011).

³⁹ 76 FR 75619 (Dec. 2, 2011); *see also* United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-2, <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/index.html> (last visited Jan. 28, 2013).

⁴⁰ United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-7, A-8, and A-9, <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/index.html> (last visited Jan. 28, 2013).

⁴¹ Section 1007.01(2)-(3), F.S. The ACC was initially codified at 229.551, F.S., but was repealed January 7, 2003, by s. 3(7), ch. 2000-321. In 2011, the ACC was again codified in law by amending s. 1007.01, F.S. Section 7, ch. 2011-177, L.O.F.

The ACC must:⁴²

- Monitor the alignment between the exit and admission requirements of education systems and make recommendations for improving transfer of students from one education system to another education system.
- Propose guidelines for interinstitutional articulation agreements between and among public schools, career and technical education centers, FCS institutions, state universities, and nonpublic postsecondary institutions.
- Annually recommend dual enrollment course and high school subject area equivalencies for approval by the SBE and the BOG.
- Annually review the statewide articulation agreement⁴³ and make recommendations for revision.
- Annually review the statewide course numbering system (SCNS), the levels of courses, and the application of transfer credit requirements among public and non-public institutions participating in the SCNS and identify instances of student transfer and admissions difficulties.
- Annually publish a list of courses that meet common general education and common degree program prerequisite requirements at public postsecondary institutions.⁴⁴
- Examine statewide data regarding articulation to identify issues and make recommendations to improve articulation throughout the K-20 education system.
- Recommend roles and responsibilities of public education entities in interfacing with the statewide computer-assisted student advising component of the Florida Virtual Campus.⁴⁵

Higher Education Coordinating Council

The Legislature created the Higher Education Coordinating Council (HECC) in 2010 to identify unmet needs and facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers.⁴⁶ The council is comprised of the following members: the Commissioner of Education; the Chancellor of the SUS; the Chancellor of the FCS; the Executive Director of the Commission for Independent Education (CIE); the President of the Independent Colleges and Universities of Florida (ICUF); and two members of the business community, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives.⁴⁷

The HECC serves as an advisory board to the Legislature, the State Board of Education, and the Board of Governors of the State University System of Florida (BOG). Recommendations of the council must be consistent with the following guiding principles:⁴⁸

- To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students.
- To promote consistent education policy across all educational delivery systems, focusing on students.
- To promote substantially improved articulation across all educational delivery systems.
- To promote a system that maximizes educational access and allows the opportunity for a high-quality education for all Floridians.
- To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the educational delivery systems.

By December 31 of each year, the HECC must submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the BOG, and the SBE outlining recommendations relating to:⁴⁹

⁴² Section 1007.01(3), F.S.

⁴³ Statewide articulation agreement is established pursuant to s. 1007.23, F.S.

⁴⁴ See s. 1007.25, F.S.

⁴⁵ The Legislature established the Florida Virtual Campus in 2012. Section 14, ch. 2012-134, L.O.F.

⁴⁶ Section 1004.015(1), F.S.; see s. 13, ch. 2010-78, L.O.F.

⁴⁷ Section 1004.015(2), F.S.

⁴⁸ Section 1004.015(3), F.S.

⁴⁹ Section 1004.015(4), F.S.

- The primary core mission of public and nonpublic postsecondary education institutions within the context of state access demands and economic development.
- Performance outputs and outcomes designed to meet annual and long-term state goals. Performance measures must be consistent across sectors and allow for a comparison of Florida's performance to that of other states.
- Florida's articulation policies and practices.
- The alignment of workforce education data collected and reported by FCS institutions and school districts including the establishment of common data elements and definitions for data that are used for state and federal funding and program accountability.

The Commission for Independent Education

The Commission for Independent Education (CIE) regulates independent postsecondary educational institutions which operate in Florida or make application to operate in Florida and that are not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government. The CIE is responsible for matters concerning consumer protection, program improvement, and licensure for institutions under the purview of the commission.⁵⁰ The granting of diplomas and degrees by independent postsecondary educational institutions under CIE's jurisdiction must be authorized by the CIE.⁵¹

The CIE serves as a central agency for collecting and distributing current information regarding the independent postsecondary educational institutions licensed by the commission. The CIE must collect, and all the institutions licensed by the commission must report, student-level data for each student who receives state funds. The data must be reported annually and at a minimum, must include retention rates, transfer rates, completion rates, graduation rates, employment and placement rates, and earnings of graduates.⁵²

Effect of Proposed Changes

The bill requires the Articulating Coordinating Committee to make recommendations regarding access, quality, and reporting of data maintained by the K-20 data warehouse and facilitate timely reporting of data by all educational delivery systems. The ACC must also facilitate the timely reporting of data by the K-20 data warehouse to organizations and authorized representatives. The Higher Education Coordinating Council shall facilitate solutions to data issues identified by the Articulating Coordinating Committee and promote the adoption of a common set of data elements by the members of the council.

The commissioner must collaborate with the executive director of the Department of Economic Opportunity to develop procedures for the ability to tie student-level data to student and workforce outcome data. The commissioner must also improve and streamline access to the K-20 data warehouse by creating and implementing a web-based interface for public access to aggregated data which does not contain personally identifiable information.

In addition, the commissioner must develop restricted access component of the K-20 data warehouse, called the "Research Engine." The Research Engine must allow organizations and authorized representatives, to submit data requests. The list of authorized representatives includes, but is not limited to, the Executive Office of the Governor, the Legislature, the Auditor General, the Office of Program Policy Analysis and Government Accountability, district school boards, Florida College System institutions, and Florida state universities. The department and the requestor must enter into a written agreement that:

- Identifies the purpose, scope, and duration of the research activity,
- Identifies the data elements necessary to complete a study, audit, or evaluation,

⁵⁰ Sections 1005.21(2) and 1005.02(11), F.S.

⁵¹ Section 1005.21(1), F.S.

⁵² Section 1005.22(1)(i), F.S.

- Identifies the FERPA exception relied upon to obtain education records that may contain students' personally identifiable information,
- Requires procedures for securing data,
- Establishes disciplinary policies for organizations and authorized representatives that violate FERPA or the agreement,
- Requires destruction of all personally identifiable information from education records of students,
- Assesses liquidated damages for unauthorized disclosure of education records or for violation of the agreement,
- Identifies deliverables to be provided by the organization or authorized representative, and
- Requires a service charge for the actual cost to fulfill the data request.

The data request must be completed within 90 days of execution of the written agreement unless otherwise specified in the written agreement. The department must create and implement a pricing structure that is self-sustainable with the goal that the service charge for use of the Research Engine recovers costs to fulfill a data request.

The department must maintain a list of organizations and authorized representatives that request data from the Research Engine, when the request was made, the current status of the request, and a copy of any reports submitted by the organizations or authorized representatives.

The bill also requires the department to develop criteria for issuing and revoking master school identification numbers to support the maintenance of education records, to enforce and support education accountability, to support the distribution of funds to school districts, to support the preparation and analysis of school districts financial reports, and to assist the Commissioner of Education in carrying out the duties set forth in ss. 1001.10 and 1001.11, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.22 to require the State Board of Education to notify the Legislature of any major changes in federal law which may affect the state's K-20 education performance accountability system.

Section 2: Amends s. 1004.015, providing a purpose and guiding principle of the Higher Education Coordinating Council to improve the K-20 education performance accountability system and to support data exchange

Section 3: Amends s. 1005.22, to revise the duties of the Commission for Independent Education regarding the collection and distribution of current data on institutions licensed by the commission.

Section 4: Amends s. 1007.01, F.S., to require the Articulating Coordinating Committee to make recommendations related to statewide policies and issues regarding access, quality, and reporting of data maintained by the K-20 data warehouse.

Section 5: Amends s. 1008.31, F.S., to require the Board of Governors to make data available to the Department of Education to be integrated into the K-20 data warehouse; require the Commissioner of Education to have access to certain data for the purpose of providing data to organizations and authorized representatives; require certain educational institutions to annually provide data from the prior year to the K-20 data warehouse or to the department; require the commissioner to collaborate with the Department of Economic Opportunity to develop procedures to tie student-level data to student and workforce outcome data; require the commissioner to improve access to data maintained by the K-20 data warehouse by implementing a web-based interface and a restricted access component of the K-20 data warehouse called the "Research Engine"; provide requirements for the Research Engine and for a written agreement to access the Research Engine; require the adoption of rules and procedures; require the Department of Education to share education records of students which may contain students' personally identifiable information with organizations and authorized representatives pursuant to exceptions under the Family Educational Rights and Privacy Act;

Section 6: Amends s. 1008.34, F.S., to revise the criteria for issuing school grades to certain schools, to identify the circumstances when student performance is reflected in a school's grade, and to require the issuance of a school grade if a school meets or exceeds the minimum sample size.

Section 7: Amends s. 1008.341, F.S., revise provisions relating to alternative schools that are assigned a school improvement rating, including an exceptional student education center; revise the student data used in determining an alternative school's school improvement rating; provide requirements for the content and distribution of student report cards for alternative schools

Section 8: Amends s. 1008.385, F.S., to require the department to develop criteria for the issuance and revocation of master school identification numbers.

Section 9: Providing an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a fiscal impact on the department to implement the web-based interface and Research Engine.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase the cost organizations may pay for data requests submitted to the department.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the department to adopt rules regarding the written agreement between the department and organizations and authorized representatives, and the service charges associated with such agreements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2013, the Choice & Innovation Subcommittee reported the proposed committee bill (PCB) 13-02 favorably. There were no amendments to the bill.