

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 878

INTRODUCER: Committee on Education and Senator Galvano

SUBJECT: Education Accountability

DATE: March 12, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	ED	Fav/CS
2.	Elwell	Hansen	AP	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 878 addresses performance accountability for public schools by improving and strengthening access to quality data, and aligning school grading and school improvement rating criteria and systems.

The bill does not change the current process regarding how the Florida Department of Education (DOE or department) provides data to researchers. The bill formalizes procedures for accessing and reporting data pursuant to the federal Family Educational Rights and Privacy Act (FERPA).

The bill will require the DOE to reprioritize its use of existing funding to implement the new web-based interface and Research Engine of the K-20 data warehouse.

The bill requires the Commissioner of Education to improve and 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 designed to serve as a single location for public to access aggregated data from the K-20 data warehouse.

- A self-service, restricted access component of the K-20 data warehouse called the “Research Engine” that is capable of providing student-level data to organizations and authorized representatives under FERPA.

Additionally, the bill:

- Identifies authorized representatives and outlines specific guidelines regarding the Research Engine and prescribes specific duties of the Articulation Coordinating Committee, the Higher Education Coordinating Council, public and private postsecondary institutions, and the Commissioner of Education to streamline the data accessibility and reporting process.
- Aligns school accountability mechanisms by defining colocated schools, prescribing conditions for determining and assigning school grade and school improvement rating, and requiring clearly specified criteria for assigning master school identification number.
- Repeals section 1008.31(3)(d) and (e), Florida Statutes, relating to Paperwork Reduction.

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

The bill amends the following sections of the Florida Statutes: 1002.22, 1004.015, 1005.22, 1007.01, 1008.31, 1008.34, 1008.341, and 1008.385.

II. Present Situation:

CS/SB 878 is comprised of two key components:

- K-20 data warehouse
- K-12 school performance accountability

K-20 Data Warehouse

Florida’s K-20 education performance accountability system

In 2001, the Legislature created the K-20 education performance accountability system “to assess the effectiveness of Florida’s seamless K-20 education delivery system.”¹ The K-20 education performance accountability system is established as a “single, unified accountability system” consisting of state and sector-specific performance measures and standards to assess student outcomes.² The Commissioner of Education (commissioner) determines the standards for the data that are collected, monitors data quality, and measures improvements.³

Data reporting systems

The DOE receives data from a variety of sources including:

¹ 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.

² Section 1008.31(1)-(2), F.S.

³ Section 1008.31(3)(c), F.S.

- School districts and public postsecondary educational institutions must maintain information systems to provide to the State Board of Education (SBE), the Board of Governors of the State University System (BOG), and the Legislature, information regarding Florida's K-20 education system. All data collected from the state universities must be integrated into the K-20 data warehouse and the commissioner must have unlimited access to such data solely for the purposes of conducting studies, reporting annual and longitudinal student outcomes, and improving college readiness and articulation. All public educational institutions must provide data to the K-20 data warehouse in a format specified by the commissioner.⁴
- Not-for-profit independent colleges and universities which are eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program must report student-level data for each student who receives state funds in a format prescribed by the DOE. At a minimum, the data must include retention rates, transfer rates, completion rates, graduation rates, employment and placement rates, and earnings of graduates.⁵
- The Commission for Independent Education (CIE) which regulates independent postsecondary educational institutions⁶ must collect, and all the institutions licensed by the commission must report, student-level data for each student who receives state funds.⁷ The CIE serves as a central agency for collecting and distributing current information regarding the independent postsecondary educational institutions licensed by the commission. 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.⁸

Data access procedures

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 DOE 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.⁹ Researchers who wish to gain access to the data maintained by the K-20 data warehouse must meet the following criteria established by the DOE:¹⁰

⁴ Section 1008.31(3)(a), F.S.

⁵ Section 1008.31(3)(b), F.S.

⁶ The Commission for Independent Education regulates independent postsecondary educational institutions that 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. Section 1005.02(11), F.S.

⁷ The CIE is responsible for matters concerning consumer protection, program improvement, and licensure for institutions under the purview of the commission. The granting of diplomas and degrees by independent postsecondary educational institutions under CIE's jurisdiction must be authorized by the CIE. Sections 1005.21(1) and (2) and 1005.22(1)(i), F.S.

⁸ Section 1005.22(1)(i), F.S.

⁹ Florida Department of Education, *Research*, <http://www.fldoehub.org/Research/Pages/default.aspx> (last visited Jan. 28, 2013).

¹⁰ 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>.

- Complete forms specified by the DOE and submit data requests by close-of-business on October 1, February 1, or June 1 of each year.¹¹
- Indicate how the request for data supports the DOE's Research Agenda.

If the DOE's Data Request Review Committee determines that a data request meets the department's Research Agenda but the committee determines that the DOE lacks sufficient staff resources to fulfill the data request within an evaluation period, such data request is automatically placed for reconsideration by the DOE'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.¹²

The DOE 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 DOE receives within an evaluation period. After approving a data request, the department places the data request in a queue of approved data requests. However, the DOE routinely adjusts the timeline for providing data to researchers because requests for data by the Governor, the Legislature, and the SBE are prioritized over data requests by researchers.¹³

Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., s. 1232g, is a Federal privacy law¹⁴ that protects the privacy of students' education records.¹⁵ FERPA is administered by the Family Policy Compliance Office (FPCO) in the United States Department of Education (U.S. DOE). FERPA permits the disclosure education records of students that may contain personally identifiable information (PII) to following entities:¹⁶

- 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) conducting audits or evaluations of Federal-or State-supported education programs to ensure that these programs comply with Federal legal requirements.^{17,18, 19}

¹¹ 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>.

¹² 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>.

¹³ *Id.*

¹⁴ 73 FR 74834 (Dec. 9, 2008)

¹⁵ 34 C.F.R., s. 99.2

¹⁶ 34 C.F.R., Part 99; see also United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-1and A-2, <http://www2.ed.gov/policy/gen/guid/fpc0/hottopics/index.html> (last visited Jan. 28, 2013).

¹⁷ The U.S. DOE 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.

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.²⁰

Both the studies and the audit or evaluation exceptions, under FERPA, specifically require the educational authority and the organization or authorized representative to execute a written agreement to protect the PII from education records of students.^{21,22}

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 and comprises 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.²³ The ACC is responsible for reviewing and monitoring the different components of Florida's articulation system and making policy recommendations to facilitate seamless articulation between and

U.S. DOE's current interpretation of state and local educational authority does not include tribal education agencies (TEAs). An 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).

¹⁸ The U.S. DOE 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 U.S. DOE "is not delegating its statutory authority to address violations of FERPA under 20 U.S.C. 1232g(f). The [U.S. DOE] 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).

¹⁹ 34 C.F.R., s. 99.3. An 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).

²⁰ 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).

²¹ The U.S. DOE "defers to State law governing contracts and written agreements, including the imposition of allowable sanctions." The U.S. DOE 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).

²² 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). The U.S. DOE recommends consideration of items for inclusion in a written agreement for work under both the studies and the audit or evaluation exceptions (i.e., items regarding limits and requirements for using PII, review and approval of requests, conditions and penalties for using PII, and conflict resolution and termination). 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).

²³ 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.

among public schools, career and technical education centers, FCS institutions, state universities, and nonpublic postsecondary institutions.²⁴

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.²⁵ The council comprises of the following members: the commissioner; 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.²⁶ The HECC serves as an advisory board to the Legislature, the SBE, and the BOG, and makes policy recommendations regarding fostering an integrated continuum of education for Florida's students from kindergarten through graduate school.²⁷ 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 ways to align education policies and outcomes to state goals.²⁸

K-12 School Performance Accountability

All students attending public schools are required to take statewide assessments, except as otherwise provided by law.²⁹ By assessing how well students have mastered the standards, parents and educators are able to determine whether the student needs remediation, is ready for the next grade level, or is equipped to pursue college or career study.³⁰ Based on student performance data from statewide assessments, the schools are assigned a school grade.³¹ Alternative schools, may, however choose to receive either a school grade or a school improvement rating.³²

An alternative school is any school that provides dropout prevention and academic intervention services. Alternative schools may serve students in grades 1-12 who:³³

- 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;

²⁴ Section 1007.01((3), F.S.

²⁵ Section 1004.015(1), F.S.; *see s. 13, ch. 2010-78, L.O.F.*

²⁶ Section 1004.015(2), F.S.

²⁷ Section 1004.015(3), F.S.

²⁸ Section 1004.015(4), F.S.

²⁹ Section 1008.22(3)(c)8., F.S. Statewide assessments include the FCAT and all statewide, standardized end-of-course (EOC) assessments.

³⁰ Section 1008.22(1), F.S.

³¹ Section 1008.34(2), F.S.

³² Sections 1008.34(3)(a)2. and 1008.341(2), F.S. 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. Section 1008.34(3)(a)2., F.S.

³³ Sections 1008.341(2) and 1003.53(1)(b)-(c), F.S.

- Have a pattern of excessive absenteeism or are habitual truants; or
- Have a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school.³⁴

However, for accountability purposes, the definition of an alternative school excludes “second chance schools”, 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.^{35,36}

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 student’s home school.^{37,38}

School Grades

The DOE assigns school grades to all public schools, including charter schools, with 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.³⁹ For the mathematics portion of the school grade, high schools must have at least 10 students with valid Algebra 1 end-of-course (EOC) assessment scores in 2011-12 and, beginning in 2012-13, at least 10 students with valid Geometry EOC assessment scores or Florida Alternate Assessment (FAA) scores in the current and previous years to receive a school grade.⁴⁰ 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.⁴¹

To qualify for a school grade of “A,” a school must test at least 95 percent of the school’s eligible students. To qualify for a grade of “B,” “C,” or “D,” a school must test at least 90 percent of the school’s eligible students.⁴² If less than 90 percent of the eligible students are assessed, an “I” (Incomplete) is assigned.⁴³

³⁴ 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.

³⁵ 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.

³⁶ 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.)

³⁷ “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.

³⁸ Section 1008.34(3)(c)3., F.S.; *see also* s. 1008.341, F.S.

³⁹ Rule 6A-1.09981(3)(a), F.A.C.; *see also* s. 1008.34(3)(a)1., F.S.

⁴⁰ Rule 6A-1.09981(3)(a), F.A.C.; *see also* s. 1008.34(3)(a)1., F.S.

⁴¹ Section 1008.34 (3)(c)3., F.S.

⁴² Rule 6A-1.09981(1)(a)4., F.A.C.

⁴³ Rule 6A-1.09981(8)(b)2., F.A.C.

School Improvement Ratings

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.⁴⁴ 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;⁴⁵ 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.⁴⁶

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, or EOC assessment scores in mathematics for the current and previous two years.⁴⁷

An alternative school that earns a school improvement rating receives one of the following:⁴⁸

- “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.

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 in the home school's grade calculation.⁴⁹

Comprehensive Management Information Systems

The commissioner must develop and implement an integrated information system for educational management to collect and transfer student and school performance data required to determine the degree to which schools and school districts are meeting state performance standards.⁵⁰ The DOE maintains a Master School Identification (MSID) number to provide accurate identification

⁴⁴ Section 1008.341(2), F.S.; *see also* Rule 6A-1.099822, F.A.C.

⁴⁵ Section 1008.341(3)(a), F.S.

⁴⁶ Section 1008.341(3)(b), F.S.

⁴⁷ Rule 6A-1.099822(5)(a), F.A.C.

⁴⁸ Section 1008.341(2), F.S.

⁴⁹ 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.

⁵⁰ Section 1008.385(2), F.S.

regarding each public school in the state of Florida. The MSID number is used to report data to the department's Student and Staff Automated Database Systems and provides the foundation for accountability reporting, including annual school grades, and reporting to the U.S. DOE.⁵¹

III. Effect of Proposed Changes:

K-20 Data Warehouse

K-20 education performance accountability system

CS/SB 878 does not change current process regarding how the DOE provides data to researchers.⁵² The bill formalizes procedures for accessing and reporting data pursuant to FERPA.

Data reporting systems

The bill updates the DOE procedures to reflect revised FERPA regulations and strengthens protocols and practices regarding access to and use of data by establishing the requirements listed below.⁵³

- All public educational institutions must annually provide data to the K-20 data warehouse in a format identified by the commissioner. The bill specifies that each year, the data must be reported from the prior year and the data that are reported must be based on data elements identified by the commissioner.
- The BOG must provide to the DOE data that must be integrated into the K-20 data warehouse. The bill specifies that the BOG must make available to the DOE, all data within the State University Database System (SUDS). The SUDS is a combination of several standard educational data subsystems regarding students, facilities, personnel, and finance.⁵⁴ The bill allows the commissioner to use such data to address data requests from organizations and authorized representatives in addition to the purposes for data usage that are specified under current law: conducting studies, reporting annual and longitudinal student outcomes, and improving college readiness and articulation.⁵⁵
- Colleges and universities which are eligible to participate in the FRAG Program must annually report to the DOE, in a format prescribed by the DOE, student-level data from the prior year for each student enrolled in such institutions who receives state funds. The bill requires the FRAG-eligible colleges and universities to annually report student-level data to

⁵¹ E-mail, Florida Department of Education, Division of Accountability, Research and Measurement (Feb. 28, 2013).

⁵² Before providing data to researchers, the DOE masks personally identifiable information. Additionally, the DOE also performs data matches in-house to protect data when addressing data requests that require matching data across multiple databases. However, the DOE does provide personally identifiable information to Florida state agencies that request such data to perform data matches regarding individuals who receive services under programs administered by multiple state agencies. Telephone interview with staff from the Division of Accountability, Research, and Measurement, Florida Department of Education (Feb. 26, 2013). The U.S. DOE provides guidance regarding statistical methods to protect PII. 76 FR 75620 (Dec. 2, 2011).

⁵³ The revised FERPA regulations are effective January 3, 2012. 76 FR 75604 (Dec. 2, 2011).

⁵⁴ E-mail, Board of Governors, Information Resource Management (Feb. 18, 2013), on file with the Committee on Education staff.

⁵⁵ Section 1008.31(3), F.S.

the DOE by October 1 of each year. For the 2012-2013 academic year, the bill extends the deadline for reporting of data by the FRAG-eligible colleges and universities to December 31, 2013.

- Institutions licensed by the CIE must annually report to the CIE, in a format prescribed by the DOE, student-level data from the prior year for each student enrolled in such institutions who receives state funds. CIE must annually collect student-level data from the institutions licensed by the CIE and by October 1 of each year report such data to the DOE. For the 2012-2013 academic year, the bill extends the deadline for reporting of data by the CIE to December 31, 2013.
- The commissioner must, pursuant to the bill, collaborate with the executive director of the Department of Economic Opportunity to develop procedures to link student-level data to student and workforce outcome data contained in the Wage Record Interchange System (WRIS)^{56,57}. Linking student education and workforce data will allow Florida to assess education and workforce outcomes to determine the state's return on investment and strategies to address specific concerns.
- By June 30, 2014, the commissioner must improve and streamline access to data maintained by the K-20 data warehouse by creating and fully implementing two systems:
 - A web-based interface designed to serve as a single location for public to access aggregated data from the K-20 data warehouse.
 - Currently, to access reports prepared by the DOE, researchers must navigate the DOE's Internet website extensively to find links to the reports that are housed in "multiple and disparate website locations".⁵⁸ To improve and streamline access to data, the DOE is in the process of developing a single, customer-friendly, Web-based interface.⁵⁹ The DOE estimates that the department will implement the Web-based interface by June 2014.⁶⁰ The bill codifies the Web-based interface.

⁵⁶ The WRIS "facilitates the exchange of wage data among participating states for the purpose of assessing and reporting on state and local employment and training program performance, evaluating training provider performance, and for other purposes allowed under the WRIS Data Sharing Agreement. The exchange permits state workforce program performance agencies to secure wage data of individuals who have participated in workforce investment programs in one state, then subsequently secured employment in another state. By participating in WRIS, states have a more robust picture of the effectiveness of their workforce investment programs, and are able to report more comprehensive outcomes against their performance measures." Currently, all 50 states, the District of Columbia, and Puerto Rico participate in the WRIS. United States Department of Labor, *Wage Record Interchange System (WRIS)*, <http://www.doleta.gov/performance/wris.cfm> (last visited Feb. 14, 2013).

⁵⁷ The WRIS Advisory Group developed the WRIS 2 Data Sharing Agreement for wage record data sharing with non-U.S. Department of Labor (U.S. DOL) programs. This Agreement was developed based on the interest expressed by some states regarding sharing aggregate outcomes with partner programs that are not covered under the terms of the WRIS Data Sharing Agreement. The WRIS 2 extends the WRIS data sharing model to One-Stop Career Center partner programs such as education programs and other programs that are not under the jurisdiction of the U.S. DOL, as well as other programs. United States Department of Labor, *Wage Record Interchange System (WRIS) 2*, <http://www.doleta.gov/performance/wris2.cfm> (last visited Feb. 14, 2013). Currently, 24 states and one territory participate in the WRIS 2: Arizona, Arkansas, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Texas, Utah, and Wyoming. E-mail, Florida Department of Economic Opportunity (Jan. 25, 2013), on file with the Committee on Education staff.

⁵⁸ Florida Department of Education, *Florida's Race To The Top Application for Initial Funding* (Jan. 19, 2010), at 90, available at <http://www.fldoe.org/arra/pdf/rttt-apbud.pdf>.

⁵⁹ Florida Department of Education, *Florida's Race To The Top Application for Initial Funding* (Jan. 19, 2010), at 93-94, available at <http://www.fldoe.org/arra/pdf/rttt-apbud.pdf>.

⁶⁰ Telephone interview with staff from the Division of Accountability, Research, and Measurement, Florida Department of Education (March 1, 2013).

- A self-service, restricted access component of the K-20 data warehouse called the “Research Engine” that is capable of providing student-level data to organizations and authorized representatives under FERPA. The Research Engine must be accessible at the DOE’s headquarters or by other secure means as agreed upon by the organizations or authorized representatives and the department.
- The DOE is in the process of developing a system to provide “authorized users with single sign-on access to confidential student and staff information” pursuant to the FERPA regulation. Additionally, the DOE is working to further enhance the availability of statewide longitudinal data systems by automating the approval process for gaining access to student-level data and by implementing a self-service, restricted access data repository called the “Sandbox” for authorized users.⁶¹ The DOE estimates that the Sandbox will be implemented by June 2014.⁶² The bill codifies the Research Engine.

The bill requires that authorized representatives include the Executive Office of the Governor, the Florida Legislature, the Florida Auditor General, the Office of Program Policy Analysis and Government Accountability, the district school boards, the Florida College System institutions, and Florida’s state universities or entities approved by the DOE. Requests from the Executive Office of the Governor, the Florida Legislature, the Florida Auditor General, the Office of Program Policy Analysis and Government Accountability must be given priority over other data requests and must be provided free of charge.

The bill requires the DOE to adopt procedures regarding implementation of the web-based interface and the Research Engine.

Data access procedures

Pursuant to the revised guidelines provided by the U.S. DOE regarding FERPA, the bill specifies that the Legislature intends that the commissioner interpret FERPA in the least restrictive manner possible to allow data linkages among institutions across all educational delivery systems.⁶³ However, the bill also specifies that that legislative intent does not abrogate the provisions of current state law regarding student records and FERPA.

The bill requires that access to the Research Engine must not be conditioned upon or limited to studies, audits, or evaluations that support the research agenda of the SBE, commissioner, or the DOE. The procedures to access data through the Research Engine are:

- The commissioner must create a website for organizations and authorized representatives to submit data requests. The website must generate an automated acknowledgement of each data request.

⁶¹ Florida Department of Education, *Florida’s Race To The Top Application for Initial Funding* (Jan. 19, 2010), at 94-95 and 106, available at <http://www.fldoe.org/arra/pdf/rttt-apbud.pdf>; see also Florida Department of Education, *Statewide Longitudinal Data Systems*, <http://www.fldoe.org/arm/slds/default.asp> (last visited March 1, 2013).

⁶² Telephone interview with staff from the Division of Accountability, Research, and Measurement, Florida Department of Education (March 1, 2013).

⁶³ 76 FR (Dec. 2, 2011).

- Each acknowledgement of a data request must include a username and password to view the order and status of completion of that data request and a link to the directory of data elements which provides a detailed description of each data request.
- Within 90 days after acknowledging each data request, the DOE must provide technical assistance regarding the written agreement which organizations or authorized representatives must execute with the commissioner before access to data is granted by the department. However, the bill does not require organizations and authorized representatives to wait for 90 days to obtain access to data through the Research Engine. Organizations or authorized representatives may execute the written agreement with the DOE at any time after submitting a data request.
- Data requests must be completed within 90 days after the written agreement is executed, unless the written agreement specifies otherwise. The bill authorizes organizations and authorized representatives to request additional data from the DOE after executing the written agreement with the department by amending the written agreement. The deadline for fulfilling such data request may be adjusted accordingly.
 - Based on the U.S. DOE's recommendations for items that should be considered for inclusion in a written agreement to protect data, the bill specifies the terms and conditions regarding data access and use that should be included in the written agreement.
 1. An explicit statement of the purpose, scope, and duration of the activity to clarify that the activity is permissible under FERPA and that the activity does not further a commercial, trade, or profit interest.
 2. Identification of data elements to complete a study, an audit, or an evaluation.
 3. Identification of the FERPA exception relied upon to obtain data.
 4. Requirements regarding procedures to secure data.
 5. Requirements limiting the use of data to meet only the purpose stated in the written agreement.
 6. Requirements regarding disciplinary policies for organizations and authorized representatives which violate FERPA or the written agreement.
 7. Prohibitions regarding unauthorized access to or use of data obtained pursuant to the written agreement.
 8. Requirements regarding destruction of PII data.
 9. Requirements regarding background screening of organizations and authorized representatives.
 10. Requirements regarding the assessment of liquidated damages for unauthorized disclosure of PII data or violation of the terms and conditions of the written agreement.
 11. Identification of deliverables (e.g., a copy of the final study, audit, or evaluation) to be provided by organizations or authorized representatives within 1 year after the date of execution of the written agreement, unless the written agreement specifies otherwise. If all the deliverables are not provided timely to the DOE, the commissioner may assess liquidated damages as specified in the written agreement.

The DOE must maintain a copy of reports prepared and submitted by such entities. This requirement will enable the DOE to confirm that organizations and authorized

users use data for the purposes specified in the written agreement pursuant to the recommendations for best practices regarding FERPA⁶⁴.

12. Requirements regarding maintaining the confidentiality of information that are exempt from public disclosure pursuant to federal or state law.
13. Requirements regarding service charge to access data through the Research Engine. The DOE must create and implement a pricing structure that is self-sustainable to recover actual costs to fulfill a data request. This requirement will allow the DOE to address workload and staffing issues regarding data requests. The bill authorizes the commissioner to waive or reduce the service charge. Funds collected from the service charge must be deposited in the Operating Trust Fund⁶⁵.

The DOE must maintain and continually update a list of organizations and authorized representatives that obtain data from the Research Engine on the web-based interface. The list must include the date of receipt of each data request, response time to address each data request, and current status of each data request. This requirement will promote greater transparency and accountability regarding access to and use of data maintained by the K-20 data warehouse. The bill provides to the DOE rulemaking authority regarding the written agreement and the service charge.

Articulation Coordinating Committee

The bill adds to the responsibilities of the ACC by specifying that the committee facilitate timely reporting of statewide education data by all educational delivery systems and make recommendations regarding access, quality, and reporting of data maintained by the K-20 data warehouse.

Higher Education Coordinating Council

The bill adds to the purposes of the HECC by specifying that the council must facilitate solutions to data issues identified by the ACC and promote the adoption of a common set of data elements identified by the National Center for Education Statistics to facilitate sharing of data within and across states.

K-12 SCHOOL PERFORMANCE ACCOUNTABILITY

School Grades

The bill defines 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 a facility that is shared with another school that has its own unique MSID number and provides education for each of its enrolled students. If a colocated school does not receive a school grade or school

⁶⁴ United States Department of Education, *Guidance for Reasonable Methods and Written Agreements*, at A-3, A-5, and A-7, <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/index.html> (last visited Jan. 28, 2013).

⁶⁵ The Operating Trust Fund which is created within the DOE “is established for use as a depository for funds to be used for program operations funded by program revenues.” Section 1001.281(1) and (2), F.S.

improvement rating, the student performance data for all the schools located at that facility must be aggregated and assigned to each of the respective schools.

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.

Alternative Schools

The bill provides that if an 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 students who attend schools that do not receive a school grade or school improvement rating.

The bill authorizes an alternative school to receive a school improvement rating if at least 80% of the students in that alternative school are tested on statewide assessments. An alternative school that tests less than 90% of the students in the school may not receive a school improvement rating higher than "Maintaining."

The bill clarifies that for the purposes of determining school grade, the achievement scores and learning gains for a hospital- or homebound student must be assigned to the student's home school if the student was enrolled in the home school during the October and February FTE count in the prior school year.

Comprehensive Management Information Systems

The bill requires the DOE to develop criteria for issuing and revoking master school identification numbers to support the maintenance of education records, to enforce and support education accountability, and support the distribution of funds to school districts and school districts' financial reports, and assist the commissioner in carrying out the duties set forth in current law⁶⁶.

Finally, the bill repeals section 1008.31(3)(d) and (e), Florida Statutes, relating to Paperwork Reduction. Legislation enacted in 2010 required the commissioner to annually monitor and review paperwork, data collection, and reporting requirements and report recommendations for eliminating or consolidating such requirements.⁶⁷ Although this provision is intended to reduce paperwork, it actually creates more paperwork for the DOE and school districts. The DOE and school district superintendents concur with the repeal of these provisions.⁶⁸

⁶⁶ Sections 1001.10 and 1001.11, F.S.

⁶⁷ Section 199, ch. 2010-102, L.O.F., *codified at* s. 1008.31(3)(d)-(e), F.S.

⁶⁸ Florida Department of Education, *School District Superintendent Survey* (Oct. 25, 2012), at 3, http://www.fldoe.org/news/2012/2012_11_05-2.asp (last visited March 1, 2013). The School District Superintendent Survey incorrectly references s. 1001.42(24), F.S. for reducing paperwork and data collection and reporting.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will require the DOE to reprioritize its use of existing funding to implement the new web-based interface and Research Engine of the K-20 data warehouse.

However, the SBE must adopt rules prescribing a pricing structure that is self-sustainable with the goal that the service charge for use of the Research Engine recovers the actual costs to fulfill the data request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on March 6, 2013:

The committee substitute differs from SB 878 in that the committee substitute:

- Clarifies legislative intent regarding the commissioner interpreting the FERPA in the least restrictive manner for the purposes of allowing data linkages among institutions across all education delivery systems and specifies that the intent does not abrogate the provisions of state and federal law.
- Authorizes the DOE to approve entities as authorized representatives in addition to the entities that are specified in the bill.
- Replaces K-12 accountability language regarding schools-within-a-school with language that is more specific to colocated schools and criteria for the determination of school grades and school improvement ratings for all public schools including alternative schools.
- Clarifies for the purposes of determining school grade, the scores for a hospital- or homebound student must be assigned to the student's home school if the student was enrolled in the home school during the October and February FTE count in the prior school year.
- Repeals s. 1008.31(3)(d) and (e), F.S. regarding paperwork reduction.

B. Amendments:

None.