

LEADERSHIP ADVOCACY SERVICE

FADSS

FLORIDA ASSOCIATION OF DISTRICT SCHOOL SUPERINTENDENTS



2021 DRAFT Legislative Summary

Prepared by: Brian Moore, General Counsel, FADSS

and

Jim Hamilton, Consultant, FADSS

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Achievement / Literacy

HB 3 – Home Book Delivery for Elementary Students

By: Representative Trabulsy

Effective Date: Upon Becoming Law

Approved by Governor:

What Does the Bill Do?

The bill establishes the New Worlds Reading Initiative, which is designed to get free books sent to the homes of students in kindergarten through fifth grade who are reading below grade level.

Who Is Responsible or Affected by the Bill?

Most of the responsibilities with this bill will fall on the state-level administrator the DOE selects to run the program. That administrator will consult with Just Read, Florida!, to develop a book list, distribute the books through the mail, assist school districts and partner nonprofit organizations with publicizing the initiative, and develop training materials for parents. The DOE will select the state-level administrator, publicize the initiative, and report on the achievement of the children participating in the program beginning September 30, 2022.

School districts will need to:

- Notify the parent of a student who scored below a 3 on the English / Language Arts FSA or who has demonstrated a substantial reading deficiency (§ 1008.25(5)(c), F.S.) that their child is eligible to receive free books through the Initiative;
- Provide the parent with the application form created by the administrator, which must allow parents to select book topics and genres of interest (this selection of topics and genres will happen every year);
- Coordinate with the state-level administrator so that books can start getting delivered by October each year (December 31, 2021, is the deadline for the first year);
- Partner with local, non-profit organization(s) to raise awareness about the Initiative (marketing materials will be developed by the administrator), coordinate delivery with the administrator, identify eligible students, and notify parents. At a minimum this will include:
 - Providing information about the Initiative in the student handbook;
 - Making the Initiative part of the parent notification process for reading deficiencies in section 1008.25(5)(c);
 - Hosting a parent or curriculum night or separate initiative awareness event at each elementary school; and,

- Partnering with the county library to host awareness events, which should coincide with other initiatives such as library card drives, family library nights, summer access events, and other family engagement programming.
- Coordinate with each charter school it sponsors to help identify eligible students, notify parents, coordinate book delivery, and raise awareness about the Initiative;

How Will the Bill Be Implemented?

Districts will be able to identify most of the struggling readers in 3rd, 4th, and 5th grade when the FSA scores are released. For the students in grades K, 1, and 2, as well as those students in the higher grades who did not take the FSA this year, districts need to review section 1008.25(5) and make this new initiative part of that process.

Districts will also need to decide how they are going to publicize the initiative. For those districts that do not create a student handbook every year, what other ways can you reach students and their parents? Can it be an addendum in your code of conduct? Do you publish a parents’ guide?

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules. Although the Department will report on the learning gains of the participants every year, the bill does not set forth reporting requirements for school districts. However, the DOE will still need to obtain information about which students are participating and how they are progressing.

Creates: Section 1003.485, Florida Statutes

Amends: Section 1008.25, Florida Statutes

HB 419 (Ch. 21-10) – Early Learning and Early Grade Success

By: Representative Grall

Effective Date: July 1, 2021

Approved by Governor: May 4, 2021; Chapter 2021-10, Laws of Florida

What Does the Bill Do?

This lengthy bill completely changes the state’s approach to and structure of early learning. It eliminates the somewhat independent Office of Early Learning and creates a Division of Early Learning within the Department of Education (DOE). This puts the ultimate responsibility for voluntary prekindergarten (VPK) and school readiness programs under the State Board of Education, including its rulemaking authority. Additionally, some of the child care responsibilities currently housed with the Department of Children and Families (DCF), including the Gold Seal Quality Care Program, will be moved to the DOE. There will also be a Council for Early Grades Success created within the DOE to administer and coordinate a screening and progress monitoring program for VPK through third grade.

The Commissioner of Education is required to develop this new progress monitoring and screening program for implementation starting in the 2022-23 school year. The program will be aligned with state standards for both elementary school and VPK and will assess learning gains to measure VPK provider performance. VPK providers will be assigned some sort of designation (e.g., excellent,

highly proficient, proficient, emerging proficiency, or unsatisfactory) beginning in the 2023-24 school year, but it cannot be a letter grade. These designations will affect how much money a provider can receive, as there will be a performance-based differential payment of up to 15% for providers scoring above proficient.

Early Learning Coalitions (ELC) will also see some changes under this bill. There can be up to 30 ELCs, and there are some changes to the required membership of the ELC. Accountability and evaluation measures for the executive director of each ELC will be developed by the DOE for an annual evaluation due by August 30 of each year. Oversight of the ELCs will move from the Office of Early Learning to the DOE, which will adopt performance standards and outcome measures for the ELCs, which will include a customer satisfaction survey.

In addition, there will be new standards for VPK providers, including new standards for the VPK director credential. New standards for the director and teachers will include implementation of curriculum, use of student data to inform instruction, and emergent literacy training. Summer VPK programs run by school districts will need to give priority to those teachers who have completed the emergent literacy and VPK standards training.

VPK curriculum standards will also be changing to include early math and executive functioning skills designed to prepare children for kindergarten. The DOE will review and revise the end of VPK screening standards at least every three years. The current kindergarten readiness rate and Florida Kindergarten Readiness Screener (FLKRS) has been repealed, and a new VPK performance metric will be put in place for the 2022-23 school year. Each ELC will be responsible for assessing the programs under its jurisdiction, but the State Board of Education will adopt the necessary rules governing that assessment process. This assessment will include things like the quality of teacher and student interactions, classroom organization, emotional and behavioral support, and instructional support for the VPK students. The process will assess learning gains for these VPK students all the way through third grade. Beginning in 2022-23, VPK students will be assessed once at the start of the school year, again at mid-year, and once more at the end of the school year. Those students demonstrating a substantial reading deficiency must be referred to the school district where they can receive intensive reading interventions.

Who Is Responsible or Affected by the Bill?

Primary responsibility for implementing this bill will fall on the DOE, which will now have a Division of Early Learning and oversight responsibility for the Gold Seal Quality Care program currently overseen by DCF. School districts with VPK programs will fall under the new accountability measures, and the DOE will now be tracking the progress and learning gains of students as they move through VPK programs, enter kindergarten, and complete the early grades of elementary school before starting the current statewide testing system that begins with the third grade assessments.

How Will the Bill Be Implemented?

There will be a monumental overhaul of current standards and practices as the new Division is created and starts preparing for all of these changes. The State Board of Education will need to adopt multiple new rules as an entire accountability system for VPK-3 will be developed. In

addition, the current ELCs may see membership changes, and the new Council for Early Grades Success will also need to be formed and start preparing to carry out its responsibilities.

What Rulemaking or Reports Are Required?

Right now, the rulemaking and reporting requirements are exclusively with the State Board of Education and the DOE, but school boards may need to adopt or amend their policies to address the coming changes to both VPK and early learning as they are adopted by the DOE. There will also be a great deal of data reporting involved under the new accountability and progress monitoring system being created.

Creates: Section 1002.68 and 1008.2125, Florida Statutes

Amends: Chapter 1002, Part V; sections 1008.25, 1008.32, Florida Statutes (among others)

SB 1108 – Education

By: Senator Diaz

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill covers a few, somewhat unrelated topics:

- Of primary interest to school districts is the provision that requires school districts to offer the SAT or ACT test for all 11th grade, public school students in the district, including students in alternative schools and Department of Juvenile Justice programs. This requirement is subject to appropriation.
- Authorizes the Department of Education to hold patents, copyrights, trademarks, and service marks, which may be necessary should the Department elect to develop its own curriculum for some of the new civics programs rather than adopt something that already exists.
- Creates a pilot program “to develop and measure innovative blended learning and real-time weekly student assessment educational models that improve the educational progress of this state’s students and help close achievement gaps for this state’s traditionally underserved students.” Only high-performing districts and charter schools are eligible to participate in this pilot program.
- Character development curriculum for grades 11 and 12 must include instructions on voting.
- Requires statewide English and Math assessments to be paper-based for grades 3-6.
- Requires state college and university students to demonstrate competency in civic literacy by passing an assessment and completing a civic literacy course.
- Creates a new assessment for the United States Government course – an assessment of civic literacy. Students who pass the assessment will satisfy the new requirement created for postsecondary students.
- Allows some English Language Learners to demonstrate grade-level expectations on formative assessments instead of passing the 10th grade English Language Arts assessment.

Who is Responsible or Affected by the Bill?

For school districts not already doing so, the primary issue will be choosing between the SAT and the ACT and then managing the logistics of administering it for all 11th grade students. Consistent with multiple bills passed this year, there are also some changes needed for the United States Government course curriculum, as well as preparation for the new civic literacy assessment that will be administered at the end of the semester. Finally, any high-performing district wishing to participate in a pilot program looking at effective teaching methods when students are simultaneously participating from home and the classroom will need to watch for the Department of Education's request for applications.

How Will the Bill Be Implemented?

School districts will make arrangements for the SAT or ACT testing and make appropriate adjustments to the character development and United States Government curriculum.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Sections 1001.23, 1003.42, 1003.4282, 1007.25, 1008.22, Florida Statutes

Creates: Section 1002.334, Florida Statutes

HB 7011 (Ch. 21-9) – Student Literacy

By: Representative Aloupis

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

Similar to HB 419 above, this bill looks to better align the transition from prekindergarten to kindergarten and expand progress monitoring beginning with VPK students. However, where HB 419 creates an accountability system and tracks students from VPK through third grade, this bill establishes a progress monitoring system for students from VPK all the way through eighth grade. The goal is to provide teachers with reliable data that can identify students with substantial reading deficiencies as early as possible and then monitor the efficacy of interventions which can then be shared with parents as well. This new, expansive progress monitoring system would start with the 2022-23 school year.

In addition, the bill creates the Reading Achievement Initiative for Scholastic Excellence (RAISE) Program, which will establish 20 regional literacy expert support teams throughout the state. To support the initiatives, the bill would enhance educator training; create a new route to the reading endorsement; require the Just Read, Florida! Office to identify instructional materials that implement evidence-based practices; and require Districts to support parents by keeping them up-to-date on their student's progress with interventions and making them fully aware of all systems of support available in Florida for students with disabilities (e.g., ESE options, school choice options).

Who Is Responsible or Affected by the Bill?

The bill assigns many responsibilities to the Office of Early Learning, which is eliminated by HB 419. Presumably, these responsibilities will fall on the Department of Education and the new Division of Early Learning. Similarly, new educator training requirements and options, as well as the required changes to the reading endorsement, will be developed by the Department.

How Will the Bill Be Implemented?

Initially, the Department will be responsible for developing the new progress monitoring system and establishing the 20 regional literacy support teams for full implementation in the 2022-23 school year. As the new requirements and processes take shape, school districts will need to be ready to adopt and adapt to the new requirements. Early Learning Coalitions will also be required to adopt a best practice plan for the transition from prekindergarten to kindergarten.

Although it is largely unrelated to the focus of the bill, there is a requirement placed on school districts with respect to training. Each district must now train its librarians and media specialists about the prohibition against distributing harmful materials to minors under both section 847.012, Florida Statutes, and applicable case law. Chapter 847, Florida Statutes, addresses crimes involving obscenity. The new training must also include best practices for providing students access to age-appropriate materials and resources.

What Rulemaking or Reports Are Required?

The State Board of Education has numerous rulemaking obligations assigned to it by this bill, but there are none initially required of school boards. However, board policies may need to be adopted or amended in response to the various State Board rules adopted to implement this bill. There will also be numerous reporting requirements associated with the new progress monitoring system tracking students from VPK through eighth grade.

Creates: Section 1008.365, Florida Statutes

Amends: Chapter 1002, Part V; sections 1001.42, 1008.25, and 1011.62, Florida Statutes (among many)

HB 7033 – Task Force on Closing the Achievement Gap for Boys

By: Representative Koster

Effective Date: Upon Becoming Law

Approved by Governor:

What Does the Bill Do?

This bill creates a task force in the Department of Education to find evidence-based strategies for closing the achievement gap between boys and girls. The task force will then make recommendations to the Department, the Legislature, and the Governor for things like professional development; curriculum; and academic, behavioral, and mental health supports.

Who Is Responsible or Affected by the Bill?

The members of the task force will be selected by July 1, 2021. It will be chaired by the Commissioner of Education or his designee, and the members will be selected by the Governor,

Senate President, and Speaker of the House. Members will include a parent, an elementary teacher, a VPK teacher, a school psychologist, a Superintendent, and a principal. There will also be a couple early learning representatives, as well as a Senator and a Representative.

How Will the Bill Be Implemented?

The task force will begin meeting by August 1, 2021, and its report is due by December 1, 2021. The task force will then expire on June 30, 2022.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports. Only the task force will issue a report with its recommendations.

Curriculum

HB 5 – Civic Education Curriculum

By: Representative Zika

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill revises the Social Studies requirements for high school graduation by requiring that the half-credit United States Government course include “a comparative discussion of political ideologies, such as communism and totalitarianism, that conflict with the principles of freedom and democracy essential to the founding principles of the United States.”

The bill also includes the Portraits in Patriotism Act, which will develop oral history resources based on the personal stories of various people, including those who were the victims of other governing philosophies who will compare life under those other philosophies compared to life in the United States.

Who Is Responsible or Affected by the Bill?

The Department of Education will “develop or approve an integrated civic education curriculum” that all public schools will incorporate in grades K-12. The curriculum is supposed to help students understand their shared rights and responsibilities as citizens, foster a sense of civic pride, and create a sense of civic awareness in how government works and how citizens are responsible for keeping it working. The DOE will also approve “integrated civic education curricula submitted by school districts and charter schools that meet the requirements of this subsection.”

How Will the Bill Be Implemented?

Districts will need to watch for this new curriculum from the Department and then integrate it into the local K-12 Social Studies curriculum, especially any new material for 7th grade Civics and the high school United States Government class.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Sections 1003.4282 and 1003.44, Florida Statutes

SB 146 – Civic Literacy Education

By: Senator Brandes

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill requires the Commissioner of Education to develop a “civic literacy practicum that helps students evaluate the roles, rights, and responsibilities of United States citizens and identify effective methods of active participation in society, government, and the political system.” This practicum will then be available for districts to incorporate it into its United States Government course beginning in the 2022-23 school year.

The bill also creates the Citizen Scholar Program at the University of South Florida, which will allow students participating in the YMCA’s Youth and Government program to obtain undergraduate credit and be designated a Citizen Scholar.

Who Is Responsible or Affected by the Bill?

The Commissioner will develop the practicum. The purpose is to teach students about the ways in which local, state, and federal governments interact with the citizens they represent. It will also be designed to get students to participate in activities like unpaid government internships, observing government in action, and learning about the process of becoming a naturalized citizen. Participation in these activities will count towards the community service requirements of the Bright Futures program, and school districts are encouraged to recognize these activities. Students participating in the practicum will also complete a research paper.

How Will the Bill Be Implemented?

School districts will have to decide whether they wish to incorporate the practicum into their United States Government course

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Creates: Section 1004.342, Florida Statutes

Amends: Section 1003.44, Florida Statutes

HB 157 – First Aid Training in Public Schools

By: Representatives Hawkins and Busatta Cabrera

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

School districts currently are encouraged to provide basic first aid training, including cardiopulmonary resuscitation (CPR), beginning in the 6th grade and then every two years thereafter. This bill amends the law to encourage districts to provide this training in grades 6 and 8 and then requires it in grades 9 and 11. The CPR instruction must be based on a one-hour, nationally recognized program that offers current, evidence-based guidelines. This mandatory instruction must allow students “to practice the psychomotor skills associated with performing [CPR]” and, if the district has the equipment, to learn how to use an automated external defibrillator (AED).

Who Is Responsible or Affected by the Bill?

School districts are responsible for incorporating the required instruction into the curriculum. The law encourages districts to seek out private or public partnerships to help with the training and necessary funding.

How Will the Bill Be Implemented?

Seeking out partnerships should be a priority, as this may prove somewhat expensive without help. For example, the American Heart Association sells a CPR in Schools Training Kit for \$649 a piece.

Districts must also decide when and how this hour of instruction will be incorporated into the 9th and 11th grade schedules, as well as which staff members will be trained to provide the instruction.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Section 1003.453, Florida Statutes

HB 519 – Required Health Education Instruction

By: Representative Yarborough

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill amends the required health and sexual education instruction districts must provide students. It adds that the instruction must be “age-appropriate and developmentally appropriate.” It also adds the requirement that the instruction include “prevention of child sexual abuse, exploitation, and human trafficking.” Finally, it clarifies that the abstinence and teenage pregnancy instruction be limited to grades 6-12.

Who Is Responsible or Affected by the Bill?

School districts are still required to incorporate the required instruction into their curriculum. The State Board of Education is still “encouraged” to adopt standards and assessments for these requirements.

How Will the Bill Be Implemented?

Districts will need to review their health education curriculum to ensure that the instruction at different grades is both age- and developmentally appropriate. Districts will also need to go through this process while following the new requirements established in HB 545 (below).

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Section 1003.42(2)(n), Florida Statutes

HB 545 – Reproductive Health and Disease Education

By: Representative Chaney

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill requires greater parental notice of and participation in a school district’s sexual education curriculum.

Who Is Responsible or Affected by the Bill?

School Districts must notify parents of their right to opt their children out of sexual education instruction, make the instructional materials used to teach the material available to parents, and annually approve all instructional materials used to teach sexual education.

How Will the Bill Be Implemented?

School districts need to post information for parents on the district’s website informing them of their right to request a written exemption from the teaching of sexual education. The district homepage must also include a link for parents to access and review the instructional materials used in the sexual education curriculum. In addition, those instructional materials must be approved annually by the school board. Finally, as with the adoption of all instructional materials, the adoption of sexual education materials must follow the same process, which includes a process for public review of and comment on those materials.

What Rulemaking or Reports Are Required?

Section 1006.40(4), Florida Statutes, requires school boards to adopt rules to provide for the public review of and comment on the adoption of instructional materials. This bill clarifies that this process includes sexual education and sexually transmitted disease materials, but districts should already have a rule or policy adopted for this process. Also, while the bill should not require school

boards to adopt or amend any particular policies/rules, it does add the requirement that school boards annually approve at an open, public meeting all instructional materials that will be used to teach about reproductive health and sexually transmitted diseases, including HIV/AIDS. Finally, there are no new reports required by this bill.

Amends: Sections 1002.20(3), 1003.42, 1006.40, Florida Statutes

Exception Student Education (ESE)

HB 149 – Students with Disabilities in Public Schools

By: Representatives DuBose and Plascencia

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill creates definitions for seclusion, restraints, crisis intervention plans, and positive behavior intervention and supports (PBIS). It then prohibits the use of seclusion in public schools and provides limits for the use of restraints. It also requires districts to adopt positive behavioral supports and interventions, provide specific training, and identify which personnel are authorized to use restraints. Additionally, the bill creates a pilot program in Broward County where a parent can request the district to install a camera inside a self-contained classroom.

The new statutory definitions are:

- "Crisis Intervention Plan" means an individualized action plan for school personnel to implement when a student exhibits dangerous behavior that may lead to imminent risk of serious injury.
- "Imminent risk of serious injury" means the threat posed by dangerous behavior that may cause serious physical harm to self or others.
- "Restraint" means the use of a mechanical or physical restraint.
 - 1. "Mechanical restraint" means the use of a device that restricts a student's freedom of movement. The term does not include the use of devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes.
 - 2. "Physical restraint" means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student's body. The term does not include briefly holding a student in order to calm or comfort the student or physically escorting a student to a safe location.
- "Positive behavior interventions and supports" means the use of behavioral interventions to prevent dangerous behaviors that may cause serious physical harm to the student or others.
- "Seclusion" means the involuntary confinement of a student in a room or area alone and preventing the student from leaving the room or area. The term does not include time-out used as a behavior management technique intended to calm a student.
- "Student" means a child with an individual education plan enrolled in grades kindergarten through 12 in a school, as defined in s. 1003.01(2), or the Florida School for the Deaf and

Blind. The term does not include students in prekindergarten, students who reside in residential care facilities under s. 1003.58, or students participating in a Department of Juvenile Justice education program under s. 1003.52.

The use of restraint will be limited to “authorized school personnel” only after “all positive behavior interventions and supports have been exhausted.” Furthermore, restraint may only be used “when there is an imminent risk of serious injury and shall be discontinued as soon as the threat posed by the dangerous behavior has dissipated.” The force used must be limited to the amount necessary to protect the student or others from harm, and restraints are restricted to protecting the safety of students, staff or others – not as a means of discipline or correcting noncompliance. Additionally, physical tools to restrain, like zip ties or straightjackets, cannot be used in a way that would restrict breathing or blood flow, nor can they be used while a student is face down with his or her hands restrained behind the student’s back. Finally, they cannot be used to gain compliance or inflict pain.

Who Is Responsible or Affected by the Bill?

School districts will need to amend their policies to prohibit seclusion and limit the use of restraints in public schools, and they will need to adopt PBIS plans and strategies. Adopted policies and procedures will also need to address required training programs and the district’s plan for reducing the use of restraints. In addition to the current monitoring reporting requirements for seclusion and restraint, districts will also need to analyze its restraint data to identify trends and help steer the district’s ongoing goal of reducing the use of restraints.

Districts will also need to determine which personnel are authorized to use restraints and then make sure that they are trained in PBIS every year. The training must include using PBIS; risk assessment to identify when it would be appropriate to use restraint; examples of when PBIS techniques have failed so that the imminent risk of serious injury can be reduced; examples of safe and appropriate restraint techniques, including techniques when working with more than one staff member; instruction on the district’s documentation and reporting requirements; procedures to identify potential medical emergencies that may arise during the use of a restraint; and CPR. These training procedures must also be included in the district’s special policies and procedures (SP&P) manual.

In addition, districts will need to develop crisis intervention plans for any student who is restrained twice in one semester. These plans will be developed by a team, which will include the parent or guardian, appropriate school personnel, and appropriate physical or behavioral health professionals. The plan developed for the student will have to include specific PBIS plans for the student to sue in response to dangerous behaviors; known physical or behavioral health concerns; and a timetable for the review and, if necessary, revision of the plan.

How Will the Bill Be Implemented?

Districts will need to start with a review and revision of their current policies and procedures regarding seclusion and restraint. At the beginning of every school year, the current policies and procedures on seclusion and restraint need to be “publicly post[ed].”

Next, districts will need to determine which staff members are authorized to use restraints and then make sure that they receive the required annual training. Going forward, the information reported

following the use of a restraint must include information about the person who used the restraint, including the date the person was last trained on the use of PBIS. The report must also include a description of the PBIS strategies used to try to prevent the restraint and de-escalate the situation. Finally, if the student already had a crisis intervention plan, the report must include the date it was last updated and whether any changes to the plan were recommended.

Even with the properly identified staff members, necessary training, and appropriate documentation, districts will still need to address incidents that arise suddenly where it may not be known if a student is disabled. For example, if two students start fighting in the cafeteria, delaying intervention until enough “authorized school personnel” arrive to separate and, if necessary, restrain the combatants in case any of them are disabled could put students at risk of harm. Obviously, it is also too late to attempt PBIS strategies in the middle of a fight or other violent or dangerous act. This bill clearly was focused on solo activities involving a student whose behavior progressively escalates and eventually becomes dangerous to the student or others. Unfortunately, this is not how all incidents that may lead to the use of restraints begin.

What Rulemaking or Reports Are Required?

This bill will require school districts to amend their seclusion and restraint policies to prohibit the use of seclusion and restrict the use of restraints consistent with the new law. For example, many districts use some version of NEOLA’s Policy 5630.01, which offers definitions and restrictions on the use of those practices, as well as requirements for monitoring and reporting of such incidents consistent with the current law.

Additionally, those districts that adopt their SP&P through the rulemaking process will need to update the policy in which they incorporate the SP&P by reference once it has been updated.

Finally, school districts already have to report on incidents involving the use of restraints, but there will be new details required with these reports, including who used the restraint, when that person was last trained, what PBIS strategies were attempted, and whether there was a crisis intervention plan already in place.

Creates: Section 1003.574, Florida Statutes

Amends: Sections 1003.573 and 1012.582, Florida Statutes

HB 173 – Individual Education Plan Requirements for Students with Disabilities

By: Representative Tant

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

The bill makes some timing modifications to the transition planning for students with Individual Education Plans (IEP). The current law requires the IEP team to start the transition process before a student turns 14-years-old. Under the new law, the process needs to start by the time the student turns 12 or enters 7th grade, whichever occurs earlier. The transition plan must then be operational

when the student starts high school. In addition, the transition planning must include providing the student and parent with information about the district's transition services, career and technical education options, and district collegiate programs. The IEP must also share transition services information and referral forms for outside agencies and organizations that provide services, such as the Division of Vocational Rehabilitation, the Agency for Persons with Disabilities, and the Florida Centers for Independent Living.

The bill also requires some additional statements to be added to certain IEPs. For the IEP in effect during the first year of high school or when the student turns 14, whichever is earlier, there must be a statement of intent about the student's diploma (currently required at age 16). The IEP must also include a discussion about diploma deferment. Finally, during the IEP in effect during the student's expected graduation year, there must be a signed statement from the parent or student (if 18 and not subject to a guardianship) that the person understands the process for deferment and whether or not they will defer graduation.

Who Is Responsible or Affected by the Bill?

The district's ESE department will need to make sure that IEP teams are aware of the age changes and start scheduling appropriate IEP meetings for 12- and 13-year-olds who have not yet started the process of adding transition services and planning to their IEPs. Additionally, the appropriate discussions and statements will need to happen at the high school level as well, particularly for incoming freshman and those entering their senior year.

The Department of Education will conduct a review of transition services and programs and then publish uniform best practices for these programs by July 1, 2022.

How Will the Bill Be Implemented?

The Department will likely amend the appropriate State Board of Education rules, but this new law will be implemented by the ESE departments and IEP teams in the districts.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports. However, the State Board of Education will need to amend Rule 6A-6.03028, and the Department will be publishing its findings of best practices on its website.

Amends: Section 1003.5716, Florida Statutes

District Operations

HB 35 (Ch. 21-17) – Legal Notices

By: Representative Fine

Effective Date: January 1, 2022

Approved by Governor: May 7, 2021

What Does the Bill Do?

This new law, which does not take effect until January 1, 2022, amends the criteria for publishing legal notices in a local newspaper and allows, in some instances, government agencies, including school districts, to publish certain legal notices on a newspaper’s online platform instead of in the print edition.

For legal notices published with the local newspaper, the newspaper needs to be published at least once per week, have an audience of at least ten (10) percent of the households in the district (with at least 25% of the paper copies delivered to a home or business) or holds a current periodicals permit, which will be good through 2023. There are exceptions for publications in “fiscally-constrained” counties. Also, the newspaper cannot have more than 75% of its content be advertising.

For notices published in the print edition, the newspaper is also required to publish the notice online on the same day for no additional charge. The notice also must be sent to the statewide website run by the Florida Press Association, which acts as a repository for all legal notices published in the state. Legal notices placed on the online version of a newspaper will also be sent to the statewide repository.

Who is Responsible or Affected by the Bill?

School districts that publish legal notices pursuant to Chapter 120, Florida Statutes, such as rulemaking/policy notices, certain meetings related to rulemaking or other Chapter 120 activities, and other notices required under Chapter 120 will now be able to publish their notices on the newspaper’s website instead of in the print edition. The new law specifically references the newspaper requirement established in section 120.81, Florida Statutes, which applies to school districts.

Among the other types of notices listed in the new law are millage and budget notices under section 200.065, Florida Statutes. However, the law does not reference section 1001.372, Florida Statutes, which requires school boards to meet at least monthly and provide “due public notice” in a newspaper of general circulation of all general and special meetings. This new law specifically provides, “[A]ny other statute requiring the publication of an official legal notice in the print edition of a newspaper may not be construed to be superseded.” There is specific language in 1001.372 requiring publication in a local newspaper. It does not say “print” edition, but the new law lists numerous statutory provisions for which it applies, including the school district-specific 120.81. Section 1001.372 is not among those listed. Thus, it is at best questionable whether a legal notice published under 1001.372 can be internet-only.

How Will the Bill Be Implemented?

If a school district wishes to start publishing allowable legal notices on the local newspaper's website, instead of the print edition, the school board must first hold a public hearing (noticed in the print edition). If the board finds that internet publication is in the public interest and that local residents have sufficient Internet access, it can choose to publish notices online only. However, it would then need to publish a notice in the print edition at least once per week to let people know that not all legal notices appear in the print edition and that they should also refer to the online edition of the newspaper. Also, the local newspaper can still charge up to the same amount for an online notice as it would charge for the print edition.

In short, this started off as a bill that might have produced some significant cost savings for school districts, but the final product will be of little use to a district now unless it publishes a lot of legal notices and gets charged a much lower rate for the online publication to offset the cost of the required, weekly print notice.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports. However, it does require the public hearing and specific findings before any notices can be published online-only.

Amends: Chapter 50 and sections 120.81 and 200.065, Florida Statutes (among others)

SB 72 (Ch. 21-1) – Civil Liability for Damages Relating to COVID-19

By: Senator Brandes

Effective Date: Upon Becoming Law

Approved by Governor: March 29, 2021

What Does the Bill Do?

This new law extends greater civil liability protections from COVID-19-related lawsuits to school districts and other businesses. It also applies retroactively to cover decisions and actions made throughout the pandemic, not just those made after this became the first new law of 2021.

Who is Responsible or Affected by the Bill?

School districts, as well as businesses, religious organizations, and other government entities, are immune from suit unless plaintiffs plead their complaints with specificity, submit an affidavit from a doctor confirming the doctor's belief that the COVID-19 injury occurred because of the district's conduct, and prove by clear and convincing evidence that the district was grossly negligent. If a plaintiff cannot demonstrate that a district failed to make a good faith effort to substantially comply with government standards and guidance available at the time, the district cannot be found grossly negligent and would be immune from liability.

How Will the Bill Be Implemented?

With respect to the previous year, school districts have been operating under approved re-opening/operational plans, which were created pursuant to state standards and guidance. One

would think that this would satisfy the immunity standard that districts made a good faith effort to follow the standards and guidance of local, state, or federal officials.

Unfortunately, as time passed, a lot of the available guidance changed or became contradictory. However, the law specifically addresses the potential for conflicting or contradictory guidance, and districts need only comply with one set of controlling or authoritative standards and guidelines to satisfy the requirements of this new law.

As districts prepare for the new school year, they should continue to work with local and state health officials and the Department of Education to make sure that they remain aware of current conditions within both the district and state and then make a good faith effort to comply with any guidance they offer.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts.

Creates: Sections 768.38 and 768.381, Florida Statutes

HB 241 – Parents’ Bill of Rights

By: Representatives Grall and Byrd

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill creates an entirely new chapter within the Florida Statutes specifically to establish and highlight what the Legislature has deemed to be fundamental parental rights with respect to education and health care. Chapter 1014, which will be entitled “Parents’ Bill of Rights,” is created to consolidate many of the parental rights already established elsewhere in statute, such as section 1002.20, Florida Statutes, and it explicitly strengthens these rights and requires school districts to acknowledge their supremacy.

The new law first includes the Legislature’s findings that parents have a fundamental right “to direct the upbringing, education, and care of their minor children.” As a fundamental right, school districts and other government agencies may not infringe upon these rights unless there is a compelling state interest to do so, and then the actions taken must be narrowly tailored to achieve that compelling interest in a way that does not restrict a parent’s rights any more than necessary. The Legislature also found that school districts need to disclose information to parents about the health, well-being, and education of their children, which should be done through a consistent notification mechanism.

The new section 1004.04 spells out the parental rights, which include such broad concepts as “the right to direct the education and care of his or her minor child” and “the right to direct the upbringing and the moral or religious training of his or her minor child.” There is also a right to provide written consent before a child can be audio- or video-recorded, but there are exceptions

for maintaining order and discipline in the common areas of a school or on a school bus (security video), for purposes related to legitimate academic or extracurricular activities, a photo identification card, and for purposes related to regular classroom instruction.

Who is Responsible or Affected by the Bill?

Most of the responsibilities created by this new law fall on the school districts, which will now have to navigate this concept that almost every action it takes with respect to educating and caring for children may be subject to an individual parent's objection that it infringes upon the parent's right to direct the child's education. Further, any government employee who encourages or coerces a minor child to withhold information from the child's parent may be subject to disciplinary action. This provision, as well as some of the other language, raised numerous concerns for school counselors and others who may have a student reach out to them about difficult issues, such as LGBTQ issues, for which they do not feel safe or supported at home.

Notably, the new Parents' Bill of Rights uses a different definition of a parent than the one for the Education Code (Chapters 1000-1013, Florida Statutes). Section 1001.21(5) defines a parent as "either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, *or any person exercising supervisory authority over a student in place of the parent.*" (Emphasis added) For the new bill of rights, a parent is limited to "a person who has legal custody of a minor child as a natural or adoptive parent or a legal guardian." Thus, this new law may not apply to stepparents or other adults districts recognize as parents because they are acting in the role of a parent in the absence of a parent or legal guardian.

Also, athletic trainers and other health care providers have expressed concern about the new language that provides that a "health care practitioner may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor without first obtaining written consent." There is no language exempting emergency situations, such as those that might arise when a student gets injured in a sporting event. The FHSAA is looking to revise its required consent forms to prevent any confusion here.

How Will the Bill Be Implemented?

Most of this new law is already in place, at least to some extent, in other statutes. School districts will need to review and adopt policies, as discussed below, and make sure that employees are trained on some of these requirements so as not to risk potential disciplinary actions or otherwise run afoul of the law. Districts will also need to update their websites to make sure that all of the information required to be shared with parents is available directly on the district website.

Districts are also going to need to prepare for parents who will feel emboldened to demand more direct control of their child's public-school education. Parents have a right to choose between traditional public schools, charter schools, private schools, or home school. A uniform public school system with required instruction and standards cannot function if each parent thinks that he or she can "direct the education and care" of the child on a daily basis while attending public schools. They can direct their education and care by choosing which schooling option works best for the family, but many parents may take this new law as authorizing them to direct the child's teacher, select the instructional materials, or otherwise try to individualize the public-school setting that operates under prescribes standards and expectations.

What Rulemaking or Reports Are Required?

Section 1014.05 is created to direct school districts on the notification and involvement of parents. It requires school boards, in consultation with parents, teachers, and administrators, to adopt a policy to promote parental involvement in the schools. The policy must include:

- A plan to improve parent and teacher cooperation in homework, attendance, and discipline.
- A process for parents to learn about their child’s curriculum and the education materials being used to teach it.
- Procedures under section 1006.28(2)(a)2. for parents to object to instructional materials based on their religious or moral beliefs that the material is harmful.
- Procedures under section 1002.20(3)(d) for parents to opt their children out of sex education instruction.
- Procedures for parents to learn about “the nature and purpose” of school clubs and activities.
- Procedures for parents to learn about parental rights and responsibilities, including:
 - Opting your child out of sexual education (sec. 1002.20(3)(d))
 - Sharing information about school choice options, including controlled open enrollment (sec. 1002.20(6))
 - Exemptions for immunization requirements (sec. 1002.20(3)(b))
 - Reviewing statewide, standardized assessment results (sec. 1008.22)
 - Enrollment in gifted or special education programs (sec. 1003.57)
 - Inspecting instructional materials (1006.28(2)(a)1.)
 - Accessing information about the district’s student progression plan, including policies for promotion, retention, and graduation (sec. 1008.25)
 - Receiving a school report card and being informed of attendance requirements (sec. 1002.20(14))
 - Accessing information about the state education system, report card requirements, state standards, attendance requirements, and instructional materials requirements (sec. 1002.23)
 - Participating in parent-teacher associations and organizations (sec. 1002.23(4))
 - Opting out of any district-level data collection effort not required by law (sec. 1002.222(1)(a))

The required information can be sent to parents electronically or be posted on the district’s website. A parent can make a direct request to the Superintendent for all of the information required in section 1014.05, and it must be provided within 10 days. Failure to respond or provide the information within 10 days gives the parent the right to appeal directly to the school board, which must hear the appeal at its next public meeting (unless the appeal is filed too late to be on the next agenda). School boards may need to adopt a policy establishing the appeal process and standards the board will use in case there is an appeal, but superintendents should be able to avoid this situation by posting all of the required information on the district website.

Creates: Chapter 1014, Florida Statutes

HB 259 – Safety of Religious Institutions
By: Representatives Williamson and Byrd
Effective Date: Upon Becoming Law
Approved by Governor:

What Does the Bill Do?

This new law was designed to fix what was called a loophole – people were unable to carry a concealed weapon at church or other religious institution on the weekend if the institution had its own school on site because of the prohibition on firearms at all school properties in the state. However, with just a couple of sentences, this new law went well beyond closing this loophole and undermined the rights of property owners throughout the state, including all school districts.

This is the entirety of the new law:

Notwithstanding any other law, for the purposes of safety, security, personal protection, or any other lawful purpose, a person licensed under this section may carry a concealed weapon or firearm on property owned, rented, leased, borrowed, or lawfully used by a church, synagogue, or other religious institution. This subsection does not limit the private property rights of a church, synagogue, or other religious institution to exercise control over property that the church, synagogue, or other religious institution owns, rents, leases, borrows, or lawfully uses. [emphasis added]

On its face, this says that it is up to the religious institution to decide whether its members can carry firearms, even if the institution is leasing someone else’s property, including a public school. The private property rights of the religious institution leasing space on school board property are not limited, but the law is silent about the private property rights of the school board that owns the facility.

Who is Responsible or Affected by the Bill?

Most, if not all, school districts lease space within their schools to outside groups, including religious institutions. This new law says that the group renting the district’s property has final say on whether people can carry concealed weapons. Thus, districts need to make sure that all leases and short-term use of facilities agreements make it clear that the agreement will be rendered null and void if the lessee permits persons to carry concealed firearms on campus while the outside organization is leasing school board property.

Also, it remains a SESIR offense for someone to bring a firearm onto a school campus at any time. Both the Stoneman Douglas Commission and the statewide grand jury focused on perceived errors and omissions in SESIR reporting over the last two years, and now this law creates more opportunities for SESIR offenses that are difficult to detect and report.

How Will the Bill Be Implemented?

If you have not done so already, please make it a priority to review your use of facilities agreements and all existing rental or lease agreements you might have in the district. Every new agreement should include a provision that firearms are not permitted on school board property at any time

(other than law enforcement officers, guardians, and other authorized personnel) and that any lessee that attempts to allow concealed weapons will have their lease terminated immediately.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts. However, school districts may want to review their Use of Facilities policies and forms.

Amends: Section 790.06, Florida Statutes

HB 429 – Purple Star Campuses

By: Representatives Learned and Maney

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill creates the Purple Star Campus program to identify and recognize schools that provide extra supports for military-connected families.

Who is Responsible or Affected by the Bill?

The Department of Education will adopt the criteria necessary for being designated a Purple Star Campus. At a minimum, the criteria for schools wishing to become a Purple Star Campus will include:

- A staff member designated as the military liaison;
- A webpage on the school’s website that has resources for military students and their families;
- A student-led transition program to assist military students who are new to the school;
- Professional Development training opportunities for staff members on issues that military students and families face; and
- At least 5% of controlled open enrollment seats reserved for military students.

The Department may also include additional criteria, including hosting an annual military recognition day, school projects that connect the school with the military, partnering with a local military installation, and providing outreach to military parents and their children.

How Will the Bill Be Implemented?

Once the Department has established the criteria for the program, school districts and individual schools will need to decide whether they wish to seek the Purple Star Campus designation and then make the necessary arrangements.

What Rulemaking or Reports Are Required?

The State Board of Education will adopt a rule to establish the criteria for being designated a Purple Star Campus. School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts. However, for those schools seeking

the designation, school boards may need to amend their controlled open enrollment policy to set aside the required percentage.

Creates: Section 1003.051, Florida Statutes

HB 529 – Moments of Silence in Public Schools

By: Representative Fine

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill requires public schools to set aside one to two minutes each day during the first period for students to have a moment of silence.

Who Is Responsible or Affected by the Bill?

The bill provides that principals must require first-period teachers in all public schools to provide this one to two-minute moment of silence every day. Students cannot interfere with other students in their use of this moment of silence, and it is up to the student to determine how he or she wishes to use the time.

How Will the Bill Be Implemented?

Teachers may not suggest to students how they might choose to use the moment of silence. Instead, all first period teachers must encourage parents to discuss the moment of silence with their children and suggest how best to use this time. For elementary teachers and students who do not have their days divided into periods, it is expected that the time and requirements will apply to the first subject taught at the beginning of the school day.

School districts will need to review their daily schedules and instructional hours to determine if this added time to the school day will require amending school times to meet the required hours of instruction.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Section 1003.45, Florida Statutes

HB 723 – Juvenile Justice Education Programs

By: Representative Massullo

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill makes several small adjustments to Department of Juvenile Justice (DJJ) education programs throughout the state. It allows the 250-day requirement to be calculated using equivalent hours as permitted by State Board of Education Rule, increases the share of the Florida Education Finance Program (FEFP) funds that must be spent on instruction from 90 to 95% of FEFP, and provides that DJJ programs are entitled to 100% of the formula-based categorical generated by the students in the programs.

Additionally, the bill requires that all contracts between school districts and education providers in DJJ facilities be in writing and executed or renewed within 40 days. The parties can agree to extend this deadline, and the Department of Education will provide mediation services if the parties are unable to reach an agreement. It also requires school districts to pay DJJ program invoices within 15 days or pay 1% interest per month. Finally, districts cannot delay payment pending receipt of local funds.

Who is Responsible or Affected by the Bill?

Those districts with DJJ facilities for which they contract without an outside entity to provide educational services will need to review their agreements and funding formulas.

How Will the Bill Be Implemented?

Applicable districts will need to adjust the funding process to account for the new provisions and to include the appropriate categorical, and any districts not currently paying invoices within 15 days will need to adjust their timelines.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports.

Amends: Sections 1003.01, 1003.51, and 1003.52, Florida Statutes

Human Resources

HB 131 – Educator Conduct

By: Representative Duggan

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

The bill seeks to prevent school employees who have engaged in sexual misconduct with students from avoiding any consequences of their actions by resigning and then seeking employment in another district. It requires school districts to complete investigations into allegations of this nature and others that affect the health, safety, or welfare of a student, even if the employee resigns. Districts must also execute an affidavit of separation when an employee is terminated or resigns in lieu of termination, and the affidavit needs to include the facts and reasons for the separation from employment. It absolutely must disclose when the employment ended because of a report of sexual misconduct with a student. These requirements are not limited to just teachers and administrators but also apply now to education support personnel.

The Department of Education must also expedite investigations into such allegations, and the Commissioner must make a probable cause determination within 90 days of receiving a complaint of sexual misconduct with a student (unless a state attorney requests in writing that this finding be held in abeyance during the criminal proceedings). The Department will also be required to maintain a disqualification list identifying people prohibited from employment in a district, charter, or scholarship-accepting private school. This list will include those who have been convicted of disqualifying offenses under section 1012.315, Florida Statutes; have been terminated or resigned in lieu of termination as a result of sexual misconduct with a student; and have lost their certification permanently as a result of an Education Practices Commission action. The only way to remove your name from the list is to prove that your name was added in error or complete the criminal process without a conviction and have the employer determine that there is no probable cause to support a finding of sexual misconduct. An employer that submitted a person's name may also request removal if sufficient documentation is provided in support.

School districts must check the Department's disqualification list and review every affidavit of separation from previous employers before hiring anyone into a position that requires direct contact with a student. Finally, when a school district is notified that an employee has been arrested for a felony or misdemeanor involving the abuse of a child or for the sale of a controlled substance, the principal must notify within 24 hours the parents of students who had direct contact with the employee and inform the parents of at least the employee's name and the charges. This new law explicitly provides that this notification requirement is "notwithstanding" any of the confidentiality language in section 1012.31(3)(a)1., Florida Statutes, concerning employee investigations.

Who is Responsible or Affected by the Bill?

Obviously, employees who engage in sexual misconduct or other offenses against students will not be able to escape any repercussions by resigning before an investigation can be concluded and then moving to another district or school without anyone knowing about the prior allegations.

In addition, this bill will require extensive implementation by both school districts and the Department of Education. The Department will need to maintain an accurate disqualification list, and districts will need to adjust their human resources practices to comply with the new requirements.

Also, it is worth noting that a school board member can forfeit a year of salary if the board does not adopt a policy requiring a complete investigation of all reports of alleged misconduct by any school board employee if the misconduct affects the health, safety, or welfare of a student, even if the employee resigns before the investigation can be concluded. At the conclusion of the investigation, the Superintendent must notify the Department of the result and whether the misconduct warranted termination, even if the employee has already resigned or was terminated prior to the conclusion. Failure to complete such an investigation can result in the Superintendent forfeiting a year of salary.

Finally, these prohibitions and requirements apply to charter schools and any private school that accepts state scholarship dollars. They will also need to complete investigations, make the necessary reports, and conduct the required background checks.

How Will the Bill Be Implemented?

School board may need to amend their policies/rules on standards of ethical conduct to include education support employees in addition to instructional personnel and administrators. Further, they will need to amend or adopt policies directing certain employee investigations be completed even if the employee resigns during the investigation. Finally, whether through internal procedures or board policy, districts will need to make sure than all human resources practices are in compliance with the new requirements, such as reviewing all affidavits of separation from prior employers.

The Department will adopt rules to implement the creation and maintenance of the disqualification list, and it will also adopt by rule a standardized affidavit for all districts to use.

What Rulemaking or Reports Are Required?

The State Board of Education is required to adopt rules for the maintenance of the disqualification list and creation of the affidavit of separation. School board will need to adopt or amend policies covering education support employees and district practices for investigations into alleged misconduct affecting the health, safety, or welfare of students.

Amends: Sections 1001.10, 1001.42, 1001.51, 1002.33, 1012.27, 1012.31, 1012.315, 1012.795, 1012.796, 1012.797, Florida Statutes (among others)

HB 1159 – Education

By: Representative Busatta Cabrera

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This is one of the bills that became something of a collection point for some unrelated bills that did not make it through to final passage on their own. It started with a focus on educator certification requirements, which remain part of the final bill. However, it also became one of two bills to include the language about parents being able to retain their children in grades K-5 this year (see SB 1028 below), and a late amendment added the language requiring the Department of Education to release VAM data to the districts by July 31 of each year.

With respect to educator certification and preparation, the bill:

- Requires teacher preparation programs to require passage of the General Knowledge Test by the time of graduation (and no more ability to waive the requirements for up to 10% of students admitted)
- Requires teacher preparation programs and educator preparation institutes (EPI) to add mental health issue identification and referrals to the core curricula, as well as the use of technology in education and distance learning
- Allows applicants for certification to show professional competence by completing an approved EPI, instead of just through passing an examination
- Allows receipt of a master's degree or higher from an accredited postsecondary institution approved by the Department of Education (DOE) to substitute as a method for demonstrating mastery of general knowledge

Also, the William Cecil Golden Professional Development Program for School Leaders was amended to expand its reach from just principals to teacher leaders, assistant principals, principals, and district leaders. The program will focus on more than just the enhancement of student achievement and will now include civic education, coaching and mentoring, mental health awareness, distance learning, and school safety.

Who is Responsible or Affected by the Bill?

The K-5 retention language is addressed below with SB 1028, because the language in HB 1159 does not take effect until July 1, 2021, which is after the deadline for parents to make the request. The DOE is largely responsible for the rest of this bill.

How Will the Bill Be Implemented?

Colleges, universities, and other teacher preparation entities will need to make some amendments to their curriculum. The DOE will need to help with the expansion of the William Cecil Golden Professional Development Program. Finally, the DOE will need to expedite the processing of statewide standardized tests so that student learning gains and VAM data can be reported by July 31st every year. It has already been established that test results will be delayed this year as a result of COVID and expanded testing windows, so this deadline will not apply until July 31, 2022.

What Rulemaking or Reports Are Required?

This bill does not require school boards to adopt or amend any particular policies/rules, nor does it require any additional reports other than the report on the number of retained students, which is discussed below with SB 1028.

Amends: Sections 1012.34, 1012.56, and 1012.986, Florida Statutes (among others)

School Safety

SB 590 – School Safety

By: Senator Harrell

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

When initially filed, this bill focused on the involuntary commitment of minors (Baker Act) and sought to require parental notification prior to the child’s removal from school. Late in the Session, the bill expanded to include several school safety provisions and ultimately took the place of the more expansive school safety bill, HB 7035.

The bill requires principals to make a “reasonable” attempt to notify parents before a child is Baker Acted from a school, school bus, or school activity, unless the principal or designee believes that waiting until the parent could be notified would jeopardize the health and safety of the student. The law defines reasonable attempt as attempts to reach a parent, guardian, or emergency contact, including at a minimum telephone calls, text messages, emails, and voicemails, as available. These efforts must be documented. If the emergency contact is reached instead of the parent, the principal can only share that the parent needs to contact the school. Also, the Office of Safe Schools will be collecting data on the number of involuntary examinations initiated at a school, at a school function, or on a school bus. These prior notice and data-collection provisions apply to charter schools as well.

The new law also requires schools to notify parents in a timely manner of any threats, unlawful acts, or significant emergencies that happened on campus. This would include events like:

- Use or possession of a weapon when there is intended harm toward another person, such as a hostage or active assailant situation
- Murder, homicide, or manslaughter
- Sex offenses to include rape, sexual assault, or sexual misconduct with a student by a district employee
- Natural Emergencies, like a hurricane, and
- Exposure as a result of a manmade emergency

Unfortunately, in another example of poor drafting, the Legislature added a provision to the original parent and student rights statute (not to be confused with the new Chapter on parents’

rights discussed above with HB 241) which says that parents “have a right to access school safety and discipline incidents as reported pursuant to s[ection] 1006.07(9).” That subsection refers to the School Environmental Safety Incident Reporting (SESIR). SESIR events, as originally reported to the Department of Education, include personally identifiable information, so this new language from the Legislature may confuse parents into believing that they can see an unredacted incident report for every SESIR event that happens. Nothing in this new law requires schools to violate the Family Educational Rights and Privacy Act (FERPA).

In addition, the law requires two changes to the code of student conduct (see below), and it requires that school safety officers (district-employed law enforcement officers) complete mental health crisis intervention training to improve their skills as first responders to incidents with students having an emotional disturbance. Another late addition to the bill was the requirement that all student identification cards issued by a district to grades 6-12 include telephone numbers for national and statewide crisis and suicide hotlines.

Finally, the bill adds some new requirements to the Mental Health Assistance Allocation plan that each district must adopt. The plans must now include procedures to assist a mental health services provider or properly trained school resource or school safety officer in attempting to de-escalate a student in crisis before looking to Baker Act the child. The plans must also include details of school board policies requiring that law enforcement officers will make a reasonable attempt to contact a mental health professional capable of initiating an involuntary examination before deciding on their own to do so. This contact can be done in person or through telehealth measures. There would be an exception if the officer believed that the child poses an imminent danger to himself or others.

Who is Responsible or Affected by the Bill?

The parent notification provision responsibility falls primarily on the principal at each school. This may place principals in the awkward position of attempting to stop a law enforcement officer from removing a student from school so that a parent can be contacted first. Also, anyone who has been in a school in the last 10 years or more knows that many parents are notorious for failing to update contact information, so school districts are going to want to emphasize the need for parents to tell the school how to reach them in an emergency so that principals do not have to delay response to a crisis so that multiple phone numbers, email addresses, mobile numbers, and former emergency contacts can be contacted to no avail.

How Will the Bill Be Implemented?

Districts will need to adopt or amend their policies; revise their crisis plans; encourage even more than they already do that parents provide current contact information; initiate training if they have safe schools officers on staff; and look to partner with a managing entity, community behavioral health provider, or mobile response team to be on call when a school resource or safe school officer has a student in crisis who may be in need of involuntary commitment.

Districts with charter schools will want to make sure that the parental notice provisions apply to them as well. This includes both the involuntary examination notification and the timely notice of serious threats and emergencies on campus. Also, districts that issue student identification cards

to students will need to make sure that suicide and crisis hotline numbers are printed on each of the cards issued to students in grades 6-12.

What Rulemaking or Reports Are Required?

There are a couple rulemaking requirements in this bill, and data about involuntary examinations needs to be collected and reported. Districts will want to make sure that this data is kept accurately and that principals document and report on the efforts to contact the parent. It might be wise to include this documentation in the threat assessment report that is likely to be generated as a result of the crisis.

With respect to policies, there are two new requirements for student codes of conduct. First, they must include criteria for recommending to law enforcement that a student who has committed a criminal offense instead be allowed to participate in a civil citation or other diversion program as an alternative to arrest or expulsion. Second, the code of conduct must have criteria for assigning students who commit petty acts of misconduct to a school-based intervention program. These petty acts of misconduct are identified by the districts pursuant section 1006.13(2)(c) and probably should be incorporated into any SRO/SRD agreements you have with local law enforcement agencies.

Finally, school boards need to adopt a policy that requires the Superintendent to report annually to the Department of Education the number of involuntary examinations that were initiated at a school, at a school event, or on a school bus.

Amends: Sections 1001.212, 1002.20, 1002.33, 1006.07, 1006.12, 1008.386, 1011.62, Florida Statutes (among others)

Charter Schools / School Choice / District Operations

SB 1028 (Ch. 21-35) – Education

By: Senator Hutson

Effective Date: July 1, 2021 (except K-5 retention provision, which takes effect upon becoming law)

Approved by Governor: June 1, 2021

What Does the Bill Do?

This bill does a little bit of everything. It started out focused on charter schools and the idea to allow state colleges and universities to become charter school sponsors if they chose to do so. During the last week of session, the Legislature added numerous unrelated topics to the bill, including virtual meetings for school board advisory committees, water safety information, parental retention for grades K-5, and a ban on transgender females from playing on female sports teams.

There is no real sensible way to try to group the different provisions of this bill together, so this is a list of what the bill does almost section by section:

- Members of special and advisory committee can attend their meetings virtually (the bill does not say school boards, school advisory councils, collective bargaining sessions, and other meeting types that are required to be open to the public).
- Universities are not limited to one lab school if they are going to open another one to serve military families.
- Virtual charter schools may serve part-time students, not just full-time.
- *Charter Schools* –
 - State universities or colleges may accept and approve an application for a charter school and then become the sponsor and local education agency (LEA) for that charter school. These schools would be funded from the Florida Education Finance Program (FEFP).
 - The college or university can deny an application for any reason.
 - Charter schools sponsored by colleges and universities can offer postsecondary courses.
 - Department of Education (DOE) will develop a process for evaluating charter school sponsors.
 - Removes the deadline for charter school applications and provides that the charter school can decide on its own when it will open (applications can be submitted any day of the year, and charter schools can decide to open any day of the year, even if they pick a day well into the school year so as to avoid accountability for the first year).
 - Authorizes attorney’s fees and costs to the prevailing party in an application dispute or when a district refuses to implement a court decision.
 - Allows a charter school to skip mediation and go straight to DOAH in a contract dispute.
 - Makes it more difficult to justify the immediate, emergency closure of a charter school by requiring that the immediate and serious danger is likely to continue and that termination is necessary as a result.
 - In the event the sponsor seeks emergency closure, the sponsor no longer takes over the school or shuts it down if continued operation would threaten students. Instead, the school district must now seek an injunction in court to get an order prohibiting the continued operation of the school. Otherwise, the school presumably can continue to operate despite the district finding of a serious danger to the welfare of students.
 - Charter school racial and ethnic balances will be measured against “nearby” schools instead of all other schools in the district.
 - Charter schools that are exceptional education centers and receive two consecutive ratings of just “maintaining” are considered exceptional enough to replicate their program in other districts.
 - Charter schools may offer career and professional academies.
- *High-Performing Charter Schools*
 - A charter that receives funding through the National Fund of the Charter School Growth Fund for its first three years of operation will be considered a high-performing charter school as long as it did not receive a school grade of D or F.
 - High-performing charters may not submit two applications to open additional schools each year
- *Persistently low-performing schools* – the definition has been amended to look at three of the last five years for which the school received a grade.

- *Schools of Hope*
 - Non-profit entities operating more than one school of hope
 - May be designated as the LEA
 - May report their FTE directly to the DOE
 - Provide a quarterly financial report to the district that covers all the schools the non-profit operates within the district
 - Provide an annual audit that includes all the schools of hope it operates within the state, not specifically to schools within the district
 - May use their unrestricted capital assets for any other school it operates within the district.
 - Employees hired by a school of hope can file their fingerprints directly with the school of hope, and they can have their fingerprints taken by anyone authorized to take fingerprints. They do not need to go through the school district anymore.
 - Schools of Hope are eligible for charter school capital outlay funding.
- *Facilities Usage* – The DOE will now take the district’s Florida Inventory of School Houses (FISH) report and provide an annual list of all underused, vacant, or surplus facilities, which a hope operator could then demand to use. The DOE list will be released on January 1st every year, at which point districts will have 30 days to provide evidence of any errors. Then, by April 1, the DOE will publish the final list.
- *Water Safety* – starting in 2022-23, every public school has to give the parent of every new enrollee to the school information about the way swimming lessons and water safety education courses save lives. The information must also include “local options for age-appropriate water safety courses and swimming lessons that result in a certificate indicating successful completion, including courses and lessons offered for free or at a reduced price.” If the new enrollee is between the ages of 18-21, the information must be given directly to the student. The information must be given either electronically or as a hard copy.
- Academically high-performing school districts may decide to offer up to two (2) days (or hourly equivalent) of virtual instruction as part of the 180 day requirement, subject to approval by the DOE.
- Transgender females may not play on female sports teams under what is called the “Fairness in Women’s Sports Act.” All sports are to be labeled male, female, or coed. Everyone can play on a male or coed team, but only biological females can play on female teams. A person’s biological sex is to be determined by looking at the birth certificate created at or near the time of birth. There are no provisions for children who may have been adopted and do not have access to their birth records. Anyone who reports their suspicion about another player has a cause of action if someone retaliates or is mean to them later, but there are no provisions protecting a student wrongly accused of being biologically male at birth or penalties for people making false claims.
- Adding on to the Dual Enrollment Scholarship Program created in SB 52 (see below), school district career centers will be reimbursed at the in-state tuition rate.
- Retention – Notwithstanding all the accountability measures in place, a parent can decide to retain a student in grades K-5 this year for academic reasons. The request to do so must be made before June 30th, and the principal and teachers can review the request and try to come up with a different solution if they do not think it is a good idea. However, the final decision belongs to the parent as long as the request was made before June 30th and was made for academic reasons, which are not defined. This provision takes effect upon becoming law.

- The effective date of the state’s name, image, and likeness law for athletes, which was enacted last year, is delayed for another year in this bill, but then HB 845 passed with a last-second provision overriding this one.

Who is Responsible or Affected by the Bill?

Focusing first on the charter school provisions, most of this, per usual, falls on the school districts. The bill language does not take into account the number of incorrect and incomplete charter school applications submitted each year, nor does it recognize the amount of work and oversight charter schools require from the district. Nevertheless, charter school applicants will now be able to apply whenever they want, no matter the disruption it may cause to convene charter review committees year-round. Charter schools will also be able to start classes whenever they want, which may be disruptive to schools and impact school staffing.

The bill is a significant step in limiting school district input and oversight of charter schools. However, efforts to restrict school district input and oversight of charter schools are often not taken into account when a charter school has problems, so Superintendents should remain diligent in exercising their statutory responsibilities. The bill also appears to open the door to removing school districts from the charter school approval process. It bears watching for future legislation that may expand who is eligible to sponsor a charter school beyond colleges and universities.

Focusing on the other collection of ideas in this bill, district facility teams need to be exceptionally careful with their FISH reporting. Are portable classrooms being accounted for properly? Is there a risk that a hope operator could force itself onto a district facility that only appears to have space available because of portables or some other misleading item in the FISH report?

Before the start of the 2022-23 school year, districts will need to create some sort of water safety pamphlet and find out if there are any local courses, including low-cost or free courses, available. Some smaller counties may not have a swimming program that fits the bill, so those districts may need to provide the information about the importance of swimming lessons but then advise the parent (or 20-year-old enrollee at an adult education course) that there are no local options available.

Finally, and most immediately, districts need to prepare their school principals for retention requests that may be received throughout June of this year.

How Will the Bill Be Implemented?

The DOE will be responsible for adopting a charter school sponsor evaluation tool and perhaps the criteria for high-performing districts to implement a plan for offering up to two (2) days of virtual instruction. The Florida High School Athletic Association (FHSAA) will presumably need to amend its eligibility rules to address transgender issue. School districts will need to prepare immediately for retention requests, but they have a year to prepare for the water safety information to provide to newly-enrolled students.

What Rulemaking or Reports Are Required?

School boards may need to amend policies about meeting requirements for district advisory committees to allow virtual meetings. They also may need to amend their charter school policies

to remove application deadlines and emergency closure procedures. Finally, school districts will need to make sure that principals document all retention requests received so that the number of retentions requested and granted can be reported to the DOE by June 30, 2022.

Amends: Sections 1001.43, 1002.33, 1002.331, 1002.333, 1002.45, 1013.62, Florida Statutes (among others)

Creates: Sections 1003.225 and 1006.205, Florida Statutes

HB 7045 (Ch. 21-27) – School Choice

By: House Education and Employment Committee

Effective Date: July 1, 2021

Approved by Governor: May 11, 2021

What Does the Bill Do?

This bill revamps, consolidates, and yet at the same time expands the state’s voucher program for students to get taxpayer funds to attend private schools. It technically eliminates the Gardiner Scholarship Program (Gardiner) effective with start of the 2021-22 school year and then the McKay Scholarship Program (McKay) effective with the start of the 2022-23 school year. However, the main provisions of both of these programs will be merged into the Family Empowerment Scholarship Program (FES), and the rules that currently apply only to Gardiner recipients will now apply to all students eligible for FES due to a qualifying disability. In the meantime, current Gardiner and McKay students will be able to receive the higher amount between their current scholarship amount and the new amount determined under the FES.

Eligibility for the FES has been expanded as well. There is no longer a prior public school enrollment requirement, and military dependents and siblings of students with a disability receiving FES will now be eligible. Also, households earning as much as 375% of the federal poverty level (just under \$100,000 per year) are now eligible for FES, and this level will increase by 25 percentage points each year that more than five (5) percent of the available scholarship funds are not awarded. Priority is still given to households not exceeding 185% of the federal poverty level. The same is true for the Florida Tax Credit (FTC), which increased from 260% to 375% of the federal poverty level.

Scholarship amounts for the FTC, FES, and Hope Scholarship increase to 100% of the calculated amount in the FEFP instead of the current 95%. All of the FEFP funds used to support the scholarships must come from state funds, not local funds. For the FES, students with a Level 1 to 3 matrix score or an appropriate diagnosis from a physician or psychologist will receive an award based on their grade level and home school district to equal the unweighted FTE amount for an ESE student plus a proportionate share of all the categorical. For matrix levels 4 and 5, the student will receive the same amount the district would have received plus the proportionate share of categoricals.

Going forward, parents of students who qualify for FES funds based on income level may use the funds for private school tuition and fees or transportation to a different public school (up to

\$750). For students eligible for FES funds under what were Gardiner or McKay standards, the funds can be used for:

- Instructional materials, including digital devices and assistive technology devices
- Curriculum
- Specialized services, such as speech-language pathology, physical therapy, occupational therapy, and applied behavior analysis (ABA) services
- Tuition or fees for full-time or part-time enrollment in a home education program, virtual school, or private school
- Fees for standardized tests, certification examinations, Advanced Placement tests, and more
- Contributions to the Florida Prepaid College Program
- Contracted services with a school district
- Tutoring services
- Summer and after-school education programs
- Transition services
- Home school evaluation fees
- VPK fees
- Music Therapy

The nonprofit scholarship funding organizations will now be audited once every three years instead of annually.

School districts must notify eligible students about the FES programs by January 1 each year, rather than April 1, and they must be prepared to develop or reevaluate an IEP and matrix of services for these students within 30 days, even if they have not previously been enrolled in a public school; been through any interventions; or undergone any appropriate, education-based evaluations. After receiving the request, districts must notify the parent that they have 30 days to complete the IEP and matrix of services. When developing the IEP, the IEP team must accept the diagnosis and consider the service plan submitted by a licensed professional. Within 10 days of the IEP, the district must notify the parent of all options available under the FES and also offer the parent “an opportunity to enroll the student in another public school in the school district.” The parent can choose to accept the scholarship or the other public school. If the latter is chosen, the child can stay there until the student graduates from high school, and the district must provide transportation to the school selected by the parent.

Districts are required to report all students who are receiving a scholarship under the FES, and they must report them separately from other students reported for the FEFP. The DOE is required to notify districts of a parent’s participation in the FES program.

Who is Responsible or Affected by the Bill?

For the most part, responsibility for this bill largely falls on the DOE, the scholarship recipients, and the scholarship funding organizations. However, school districts will feel the impact in two major ways. First, tax dollars will continue to be lost from the public school system as these voucher programs continue to grow. Second, district ESE staff may experience a workload increase since they are required to expedite the creation of IEPs for students seeking an FES

scholarship may have never enrolled in a public school and may not intend to use the IEP. This may impact their ability to serve public school disabled students who need services.

How Will the Bill Be Implemented?

With respect to school district responsibilities, district ESE department will have to act quickly when a request for an FES IEP is received to determine if there is any feasible way to meet the 30-day deadline without violating federal law. If the parent expects things like physical therapy, occupational therapy, speech-language therapy, assistive technology, or other provisions to be part of the IEP, the proper evaluations may need to be obtained first. A diagnosis from a doctor alone will not be enough, and even a doctor's recommendation for something like occupational therapy does not necessarily mean that it is needed for educational purposes. It may not be possible to conduct the appropriate evaluations and make the appropriate team decisions within 30 days of a request for a student who is entirely unknown to the public schools. Similarly, there may be no way to determine the appropriate least restrictive environment for a student who has never been to public school and for whom the parent may not have any desire to set specific goals. Unfortunately, this law will probably put districts in the unenviable task of deciding between approval of a legally insufficient IEP or meeting an arbitrary 30-day deadline.

Districts will also need to adjust their schedules to send out the required notices by January 1st instead of April 1st.

What Rulemaking or Reports Are Required?

There are no new rulemaking requirements for school boards, nor are any new reports created.

Amends: Sections 1002.39, 1002.394, 1002.395, 1011.62, Florida Statutes (among others)

Repeals: Sections 1002.385 and (effective July 1, 2022) 1002.39, Florida Statutes

Finance and Budget

HB 337 – Impact Fees

By: Representative DiCeglie

Effective Date: Upon Becoming Law

Approved by Governor:

What Does the Bill Do?

This bill adds several restrictions to local governments and their use of impact fees, particularly with respect to raising the amount of the fees. First, on the positive side, the bill defines “infrastructure” to include school buses and the equipment necessary to equip them for official use. Thus, fixed capital expenditures on the construction, reconstruction, or improvement of public facilities; land acquisition and improvement; and design, engineering, and permitting costs can include costs associated with purchasing and equipping school buses.

However, the bill also restricts the ability of local governments to increase impact fees. If a fee is going to be increased less than 25%, that increase must be implemented in two equal parts over two years. If the fee is going to increase between 25 and 50%, the increase has to be implemented over 4 annual, equal adjustments. No impact fee can increase more than 50% of the current rate, and impact fees cannot be increased more than once every four years. The only exception requires a new rational nexus test that is backed by a recent study, at least two public meetings, and a two-thirds vote by the governing body. Also, to make sure no local governments tried to increase their impact fees before the bill could be signed by the Governor, these limitations on the fees are retroactive to January 1, 2021.

Finally, the school districts annual financial report will need to include an affidavit from the Chief Financial Officer attesting that, to the best of his or her knowledge, all impact fees were collected and spent in accordance with the statute and with the local ordinance or resolution establishing the fees and that they complied with the spending period established in the local ordinance or resolution.

Who is Responsible or Affected by the Bill?

This bill will affect all school districts with impact fees in place or planning to impose them soon. More frequent adjusting of impact fee rates appears to be more common with counties and other local governments, but the new limitations could have an impact on school districts too.

How Will the Bill Be Implemented?

For those districts with existing impact fees, any needed fee increases will have to be implemented slowly, and districts will want to make sure that they do not underestimate the needed increases, because they can only increase once every four years now. For districts seeking to impose a new impact fee, they will want to make sure that the fees are set as high as they truly need to be, because the opportunities to increase them as needed will be limited.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts. However, there are numerous new procedural restrictions in place that will be part of the county impact fee process going forward.

Amends: Section 163.31801

HB 827 – School District Funding

By: Representative Hawkins

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill makes some amendments to the law outlining how the bonus funds for Advanced International Certificate of Education (AICE) courses must be distributed. While it remains required to send 80% of the funds to the school program, the 80% requirement will also apply to

school programs administered by the Cambridge Local Examinations Syndicate, which prepares students to enroll in AICE courses. The funds can only be used for:

- payment of costs associated with the application and registration process;
- program fees and site licenses;
- training, professional development, salaries, benefits, and bonuses for instructional personnel and program coordinators;
- examination and diploma fees;
- membership fees;
- supplemental books, instructional supplies, materials, and equipment; and
- other activities that identify prospective AICE students or prepare prospective students to enroll in AICE courses.

Also, teacher bonuses will also apply to teachers of pre-AICE courses. With the elimination of the AICE half-credit course, teachers of AICE courses can get \$50 per passing student (E or higher), while teachers of pre-AICE courses can get \$25 (E or higher). If this happens at a D or F school, the AICD teacher can get a \$500 bonus if one student gets an E or higher, and the pre-AICE teacher can get \$250.

Who is Responsible or Affected by the Bill?

This bill will affect only those districts that have an AICE program.

How Will the Bill Be Implemented?

The district's finance and curriculum teams will need to review the relatively minor changes to the law to make sure that the correct amount is sent to the appropriate programs and that the eligible teachers receive the appropriate bonuses.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts.

Amends: Section 1011.62(1)(m), Florida Statutes

SB 2500 – Appropriations - See Budget and Finance Review section of this report.

Approved by Governor: June 2, 2021

SB 2502 – Implementing - See Budget and Finance Review section of this report.

Approved by Governor: June 2, 2021

HB 5101 – Education Funding - See Budget and Finance Review section of this report.

Approved by Governor: June 2, 2021

SB 7018 – State-administered Retirement Systems See Budget and Finance Review section of this report.

Approved by Governor: June 2, 2021

Workforce / CTE / Postsecondary

SB 52 – Postsecondary Education

By: Senator Rodrigues

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill establishes the responsibilities of state colleges and school districts with respect to creating an “early college” program, which previously was known as the collegiate high school program. This is a structured acceleration program for high school students to take postsecondary courses towards an associates degree with an emphasis on core general education courses. The bill also authorizes charter schools to enter into an agreement with the local state college or other authorized institution directly.

The bill also creates the Dual Enrollment Scholarship Program. This program will allow private and home school students to participate in dual enrollment programs without cost, including instructional materials. It will also reimburse colleges and universities for public school students taking dual enrollment courses during the summer.

Who is Responsible or Affected by the Bill?

This bill primarily affects colleges and universities, but public school students will be able to take summer school dual enrollment classes beginning in the summer of 2022. Districts may need to make some amendments to articulation agreements based on the new terminology established in this bill.

How Will the Bill Be Implemented?

The State Board of Education is authorized to adopt rules for the Dual Enrollment Scholarship Program, and state colleges and universities may expand their dual enrollment options if there is increased demand from private and home school students. School districts will not have to do much with this bill other than ensure their local articulation agreements remain consistent with the law and use the new “Early College” terminology rather than “Collegiate High School Program.”

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts. The State Board has rulemaking authority, and local colleges and universities will have some reporting requirements for reimbursement.

Amends: Section 1007.273, Florida Statutes

Creates: Section 1009.30, Florida Statutes

SB 366 – Educational Opportunities Leading to Employments

By: Senator Hutson

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill was one of several the Legislature considered this year to revamp and reimagine workforce programs in the state. There are two provisions of particular concern to school districts. First, the bill provides that unpaid students interning or getting workplace experience as part of an education program will be considered employees of the school district for worker’s compensation purposes. Specifically, the law now provides:

A student 18 years of age or younger who is in a paid work-based learning opportunity shall be covered by the workers’ compensation insurance of his or her employer in accordance with chapter 440. For purposes of chapter 440, a school district or Florida College System institution is considered the employer of a student 18 years of age or younger who is providing unpaid services under a work-based learning opportunity provided by the school district or Florida College System institution. [emphasis added]

Subject to appropriation, the Department of Education may help reimburse employers or school districts for the added costs to their insurance premiums to include these students, but this is of no use to school districts who are self-insured. The Legislature appropriated \$2 million towards the premium reimbursements this year.

Second, the bill slightly modifies the eligibility requirements for dual enrollment in college credit courses. Instead of a 3.0 unweighted GPA and the appropriate score on a placement test, the requirement is now a 3.0 unweighted GPA and “a demonstrated level of achievement of college-level communication and computation skills as provided under s. 1008.30(1) or (2).” Section 1008.30 then provides that the common placement test must assess communication and computation skills. It also provides that the Department has until January 31, 2022, to adopt rules necessary to develop alternative means of assessing a student’s communication and computational skills, which can then be used instead of the common placement tests. Thus, students seeking to take college-level dual enrollment courses will either pass the common placement test or demonstrate the appropriate communication and computational skills using the alternative methods to be developed by the Department.

Who is Responsible or Affected by the Bill?

School district risk management departments will need to work closely with any CTE programs or other district programs that could place students into workplaces, because these students will now be considered employees of the district for worker’s compensation purposes should they be injured at the worksite. The rest of the provisions fall primarily on the Department or state colleges to implement.

How Will the Bill Be Implemented?

For any school districts that purchase worker's compensation coverage, they will want to determine the cost of adding district students to the coverage and then seek reimbursement from the Department for the added cost. For those districts which are self-insured, they will need to make sure accurate records are kept and any necessary adjustments to reserve balances are made as a result of this additional coverage.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts.

Amends: Sections 1007.271 and 1008.30, Florida Statutes (among others)

Creates: Section 446.54, Florida Statutes

HB 1507 – Workforce Related Programs and Services

By: Representatives Yarborough and Melo

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill, called the Reimagining Education and Career Help (REACH) Act is an attempt to reimagine workforce education in the state. It creates the REACH Office within the Executive Office of the Governor, and it seeks to create a seamless, coordinated statewide program for Floridians to gain access to educational programs that will lead to high-needs, high-wage jobs. There will be greater accountability and analysis of the market to make sure that the programs across the state are best meeting the workforce needs of the state. A Credentials Review Committee will examine credentials and degree programs, look to prioritize them based on state needs, and develop a "returned-value" funding formula. The REACH Office will then create an online portal for Floridians to access available resources and services with information to help people decide what skills or training to pursue.

For school districts, there are a couple specific provisions of note. First, an Open Door Workforce Grant Program is created, which could cover up to two-thirds of the costs for short-term, high-demand programs. Both school districts and state colleges are eligible for these grants. Next, the Legislature has created a Money-Back Guarantee Program. Beginning in 2022-23, school districts will need to designate at least three programs as eligible for a money back guarantee if they cannot find employment within six months of completing the program. Finally, the bill changes the performance funding model from \$1,000 per successful completion to a payment where one-third (1/3) of the payment is based the student finding employment and the remaining two-thirds (2/3) based on the student's earnings in that employment. This funding formula will be developed by the Credentials Review Committee, and it also takes effect with the 2022-23 school year.

Who is Responsible or Affected by the Bill?

Most of the responsibilities under this new law fall on other agencies, but those districts with technical centers will need to develop their money-back guarantee process, look at grant

opportunities, and prepare for a different performance funding methodology. The money-back guarantee does not apply to regular, district Career and Technical Education (CTE) students in the K-12 system, because they do not pay any tuition to participate in their CTE programs.

How Will the Bill Be Implemented?

The Department of Education and other agencies will need to adopt new rules to implement the numerous provisions of this bill. District technical centers will need to develop their money-back guarantee program and designate which three (or more) programs will receive the guarantee. Districts can and should attach numerous requirements and put the burden on the student to demonstrate eligibility for the money-back guarantee if they do not obtain employment within six months of completing the program. Eligibility criteria can include:

- Attendance standards
- Performance within the program standards
- Attendance at Career Day and other Career planning events
- Participation in an internship or work-study program
- Appropriate job search, with documentation to support it
- Whether the student developed a career plan with the school's career services department.

What Rulemaking or Reports Are Required?

School boards in districts with postsecondary technical centers probably need to adopt new rules/policies for the money-back guarantee program. Multiple state agencies are also given rulemaking authority to implement various parts of the bill.

Also, each school district must report to the Department of Education by July 1, 2022, what money-back guarantee programs it offers. This information also must be posted on the district's website. Then, by November 1 of each year, the Department must present the collected results from each district, college, and program to the Governor, Senate President, and Speaker of the House.

Amends: Sections 1003.42, 1003.492, 1004.013, 1008.44, 1011.80, Florida Statutes (among others)

Creates: Sections 1006.75, 1009.895, 1011.803, Florida Statutes

Public Records

HB 311 – Public Records/Assessment Instruments

By: Representative Silvers

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill expands the public records exemption for and confidentiality of examination and assessment instruments. The bill specifically references multiple statutes, including those that cover kindergarten screening, Department of Juvenile Justice programs, English Language Learners, statewide assessments and accountability, and educator certification.

Who is Responsible or Affected by the Bill?

Responsibility for this bill will fall almost entirely on the Department of Education and the Board of Governors. However, district personnel often get requests to see the assessment instruments from parents or advocates, so this update to the law and the rules that will result from it may help district staff when faced with those requests.

How Will the Bill Be Implemented?

The State Board of Education will adopt rules for the access, maintenance, and destruction of the instruments and related materials.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts. The State Board of Education will adopt rules, and the Board of Governors will adopt similar regulations.

Amends: Section 1008.23, Florida Statutes

SB 400 – Public Records

By: Senator Rodrigues

Effective Date: July 1, 2021

Approved by Governor:

What Does the Bill Do?

This bill prohibits a public agency from responding to a public records request by filing an action for declaratory relief to determine whether the requested record is public, confidential, or exempt.

Who is Responsible or Affected by the Bill?

School districts, as government agencies, are responsible for complying with Florida's public records law. However, while school districts maintain numerous public records, the bulk of the maintained records are student records, which are confidential. This can often lead to confusion, particularly when there may be education records comingled with other types of records, like we might see in an employee investigation report.

How Will the Bill Be Implemented?

There is nothing to implement with this bill. For whatever reason, the Legislature has decided to preclude government agencies from accessing the courts for clarification when they are uncertain as to their legal responsibilities under public records law. Instead, districts that are uncertain will have to use their best judgment and then risk costly litigation, as well as potential fines and penalties for violating public records law should a court determine that choosing to err on the side of caution, particularly with respect to education or security records, was a violation.

What Rulemaking or Reports Are Required?

School boards will not need to adopt or amend any of their rules/policies, and the bill does not require any new reports from school districts.

Amends: Section 119.07, Florida Statutes

2021 Regular Session Budget Reports

Prepared by Jim Hamilton

Summary of the Appropriations Process

The fiscal year (FY) 2021-2022 Legislative Pre-K-12 budget process began on March 24 when the Senate Education Appropriations Subcommittee adopted the Chair’s budget recommendations and forwarded them to the Senate Appropriations Committee. On March 25 the House Pre-K-12 Appropriations Subcommittee heard the Chair’s budget proposal. The Senate General Appropriations Act (GAA) was Senate Bill (SB) 2500 and the House GAA was House Bill (HB) 5001. The Senate package included SB 2502, the implementing bill, and SB 7018 the Florida Retirement System (FRS) rate bill. The House package included HB 5003 its implementing bill, HB 5007 its FRS rate bill and HB 5101 House the education conforming bill. The Senate did not have a companion for HB 5101, but the bill was entered into the conference process.

The Senate and the House completed floor action on their competing budget proposals and the presiding officers began the budget conference. The budget conference process was completed, and the budget was closed. The original budget bills were written without current revenue and enrollment forecasts, but the allocations for the conference process incorporated the April FTE enrollment and revenue forecasts.

Federal funds from the recent COVID emergency and stimulus bills passed by Congress provided revenues that were in play during the budget conference meetings. Legislative appropriating authority and specific appropriation line items for funds from the ESSER II package and from the “American Rescue Plan” (ARP) are included in the budget and are discussed in this report. Many of the items related to these appropriations are included in “the back of the bill,” a reference to the unclassified appropriations that are added outside the main body and organizational structure of the budget.

The law requires that there must be 72 hours between the time the conference reports are placed “on the desk” of the members of the Legislature and when the bills are voted on by each chamber. The conference process concluded, and the bills were placed “on the desk” on April 27 in time for the Legislature to act and end the session on time on April 30. The bills will be reviewed by staff, enrolled, signed by the presiding officers and sent to the Governor for his action, which may include vetoes of specific line items. The Governor has 15 days to act from the time the budget is received.

Introduction

Attached is an analysis of the final conference report on SB 2500, the General Appropriations Act (GAA) and related bills. Included in the report on the GAA are issues in the back of the bill that provide appropriations authorization for a number of items including Special Facilities Construction projects, teacher and principal bonuses, expenditure rules for Local Education Agency (LEA) American Rescue Plan (ARP) revenues, and legislatively mandated bonuses for “first responders” and childcare workers.

The report provides a narrative that examines and analyzes the specific appropriations by line item that are of statewide importance and general interest to school district leaders. The report will focus most attention on significant changes in funding and appropriations policies that require attention as planning, budgeting and staffing proceeds for fiscal year (FY) 2021-2022. There is particular attention focused on the way in which the Legislature addressed ESSER II and ARP revenue.

Also, in the back of the bill, the Legislature provided appropriations authority for the funds provided in the American Rescue Plan for non-public schools. Because of a concern that some might think that the funds came from revenue for school districts it was decided to add the section to the report.

Also addressed in the report are the final conference reports on SB 2502, the implementing bill, SB 7018, the Florida Retirement System Rate bill (which was provided earlier), and HB 5101, the education conforming bill. **Section 4 for HB 5101 has very important long-term implications for the district's process of negotiating teacher salary increases. The language dictates the terms of district salary increases, particularly, but not exclusively until the beginning teacher salary reaches \$47,500.** It is important to remember that unless stated differently in the bill, the changes in law made by a "conforming" bill are "permanent" changes in statute until a bill in a subsequent session amends the language again.

There is a spreadsheet attached that compares the statewide 2020-2021 FEFP Second and Fourth Calculations to each other and to the Final Conference Report FEFP which will become the 2021-2022 First Calculation. There are some important conclusions to be drawn from the spreadsheet. The statewide analysis in the FEFP from the Final Conference Report only uses Fourth Calculation comparisons.

First it is clear that the hold harmless provisions of Commissioner Corcoran's Executive Order saved the districts from some very adverse consequences from the loss of enrollment due to COVID-19. However, it is also clear, no matter how the FEFP Calculations for FY 2020-2021 are "adjusted" districts will have fewer dollars in FY 2021-2022 than they had in 2020-2021. When compared to the FEFP Second or the FEFP Fourth Calculation for 2020-2021, the First Calculation for FY 2021-2022 will have about \$150,000,000 less than FY 2020-2021.

When comparing the projected enrollment in 2021-2022 to the projected enrollment for the Second Calculation of FY 2020-2021, there are about 21,788 fewer UFTE students. The enrollment comparison used in the Final Conference Report compares the projected enrollment to the reported enrollment for the Fourth Calculation of FY 2020-2021, which was an enrollment low point. Therefore, the comparison shows an increase of 54,260 students.

Additionally, the reported increase of \$38.71 per Unweighted FTE student was calculated after reducing the 2020-2021 Fourth Calculation total funds by the value of the impact of the hold harmless provisions of the Executive Order and dividing the reduced funding by the reduced enrollment to create a comparison of what would have been the funding without the hold harmless with the new appropriation. That may be a mathematically reasonable exercise, but it does not mean that the districts will average \$38.71 per student more than they had **available** in 2020-2021.

To have a fair understanding of the districts' position, the decrease in total funds for about \$150,000,000 when comparing the Second or Fourth Calculations with the Conference Report calculations shows the impact of the decrease in enrollment that is projected to persist from the 2020-2021 Second Calculation to the 2021-2022 Conference Report. If student retrieval efforts are successful, which many districts have reported is expected to be the case, the district will have recovered from the pandemic at about the same position they were in when it started. That would be quite a success story considering the initial impact of COVID on the economy and enrollment. Of course, the funds available from ESSER II and the ARP will further ease the transition recovery.

Major GAA Pre-K-12 Budget and FEFP Line Items

The line-item numbers presented below are from the final conference report on SB 2500. Section One of the budget makes the appropriations for the Educational Enhancement Trust Fund (EETF), the Lottery. Every year when the budget is approved citizens ask how funds from the Lottery are used. Items SA1-SA9 below answer that question with regard to school district revenues.

SA 1: Provides \$28,954,268 in Lottery funds to pay Classrooms First debt service. This is a required expenditure to pay bonds from the 1997 Legislative special session on school construction. The amount has decreased over \$140 million a year and should soon be eliminated.

SA 2: Provides \$128,655,782 in Lottery funds required to pay Class Size Reduction debt service. This item pays for the construction that was required to add classrooms when the Constitution was changed to reduce class and cap class sizes. This cost continues to decline as the debt is retired.

SA 5: Provides \$623,261,360 in Lottery funds for Bright Futures Scholarships. Bright Futures Scholarships are associated with public schools, but the scholarships are part of the Higher Education Student Financial Aid package, not public school funding.

Proviso language states that a Florida Academic Scholar will receive 100% of the tuition and applicable fees for the fall, spring and summer terms. Medallion Scholars will receive 75% of the tuition and fees for the fall, spring, and summer terms. The item also provides that Medallion Scholars enrolled in an associate degree program in a Florida College System institution will receive 100% of the required tuition and fees. The bill eliminates the \$300 per semester payment to Florida Academic Scholars for instructional materials. That change was projected to reduce the cost of the program about \$37 million a year. It is interesting to note that Section 23 in the back of the bill provides \$18,822,920 to fund the deficit in the Bright Futures program. This is in addition to the funding in SA 5. There was concern about language in a bill during the session that stated the funding for Bright Futures Scholarships was dependent upon an appropriation from the Florida Legislature. That language was taken out of the bill, but it should be recognized that virtually every program is dependent on an annual appropriation.

SA 7: Provides \$626,929,962 for the FEFP from Lottery funds. These dollars replace state General Revenue to fund the daily operations of K-12 public schools.

SA 8: Provides \$103,776,356 of Lottery funds for Class Size Reduction. These dollars replace state General Revenue to fund the daily operations of K-12 public schools.

SA 9: Provides \$106,651,312 in Lottery funds for district Workforce programs. These dollars replace state General Revenue to fund the daily operations of district Workforce programs.

SA 19 – SA 135 in this report are from Section Two of the Budget, the Education Section.

SA 19: Provides \$182,864,353 in PECO funds Maintenance, Repair, Renovation and Remodeling of public schools. All of the funds are for charter schools. None of the funds are for district operated public schools. The appropriation fully funds the projected charter school capital outlay funding needs for FY 2021-2022. Districts will not be required to distribute funds from the district discretionary capital outlay millage levy to charter schools. The proviso language states, “Funds in Specific Appropriation 19 are provided to charter schools and shall be distributed in accordance with section 1013.62, Florida Statutes.”

The only other public school capital outlay funding is provided in Section 152 in the back of the bill items. Section 152 makes authorizes spending the Florida’s share of the American Rescue Plan. (ARP). The Legislature funded all Special Facilities Program projects currently under construction or on the approved list. Section 152 in the back of the bill provides:

PUBLIC EDUCATION CAPITAL OUTLAY The nonrecurring sum of \$401,247,449 from the General Revenue Fund is appropriated to the Department of Education as Fixed Capital Outlay for the following projects:

SPECIAL FACILITY CONSTRUCTION ACCOUNT

Baker	\$28,441,721
Bradford	\$36,098,899
Calhoun	\$19,049,614
Jackson	\$35,045,700
Levy	\$24,832,326
Okeechobee	\$66,832,629
Total:	\$210,300,889

The balance of the total funding for DOE Fixed Capital Outlay is used for higher education construction.

SA 73A: Provides \$15,550,000 in state General Revenue to support public postsecondary institutions in providing dual enrollment. The funds reimburse eligible postsecondary institutions for tuition and related instructional materials cost for private school and home education students in the fall and spring semesters, and for public school, private school, and home education students for the summer term.

SA 80A: Provides: “LUMP SUM FEDERAL CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL ACT (CRRSA) FUND FROM CHILD CARE AND DEVELOPMENT BLOCK GRANT TRUST FUND: \$348,285,903:

The Office of Early Learning is authorized to submit a budget amendment(s) requesting the release of funds, pursuant to the provisions of chapter 216, Florida Statutes. Release of funds for each budget amendment shall be contingent upon submission of a detailed plan, developed in

collaboration with the early learning coalitions, childcare providers, the Florida Children’s Council that represents local match funders, and Florida-based childcare provider associations, that describes how the funds requested for release will be expended in compliance with the provisions of the Coronavirus Response and Relief Supplemental Appropriations Act and enumerated in the federal Notice of Award number 2101FLCCC5 dated February 1, 2021.”

Districts do have an interest in the Early Learning Programs, and it was thought that the districts would benefit from seeing the language used to as appropriating authority for these non-recurring federal funds.

SA 80B: Provides \$186,238,432 for Early Learning Instruction Bonuses from the Child Care and Development Block Grant Trust Fund. There are several items providing for bonuses for groups identified as worthy of the rewards. The associated language and issues associated with this, and the other bonuses will be discussed in the section of the report related to that topic.

SA 83: Provides \$689,927,228 School Readiness Services and is allocated to early learning coalitions. Sums allocated to selected coalitions include: Alachua: \$11,548,748; Escambia: \$16,200,732; Lake: \$8,117,929; Leon, Gadsden, Jefferson, Liberty, Madison, Wakulla, and Taylor: \$19,386,136; Marion: \$11,068,807; Orange: \$43,320,473; Osceola: \$7,536,138; Pinellas: \$34,601,941; and Santa Rosa: \$4,392,601.

SA 86: Provides \$408,568,112 from General Revenue for the VPK program. The Base Student Allocation (BSA) per full time equivalent (FTE) student in the school year program is \$2,486 and in the summer program is \$2,122. This is the same BSA as was authorized in 2020-2021.

SA 90: Provides \$9,294,820,217 from General Revenue, funds, \$144,273,902 from the Principal State School Trust Fund, and as was noted in SA 7, \$626,929,962 from the Educational Enhancement Trust Fund for the Florida Education Finance Program. (FEFP).

Included with this report is a spreadsheet that compares all of the items in the FEFP from the 2020-2021 Second and Fourth Calculations to the 2021-2022 FEFP First Calculation. The emphasis in analysis below will focus on specific items that are of unique importance, items for which there is a change from the historical proviso language, or items for which there are changes in the amount of appropriations not related to changes in enrollment workload.

The Final Conference Report on SB 2500 adopts a BSA of \$4,372.91, an increase of \$53.42.

The Final Conference Report on SB 2500 provides a base FEFP of \$13,842,965,369, an increase of \$473,004,686 compared to the 2020-2021 FEFP Fourth Calculation. Compared to the Second Calculation the Base FEFP increased \$70,594,073. This does show that the Legislature did help offset the impact of the loss of Weighted FTE student enrollment of 22,669.85 when the 2021-2022 enrollment forecast is compared to the 2020-2021 Second Calculation.

The Final Conference Report for SB 2500 increased the Teacher Salary Increase Allocation by \$50,000,000 compared to FY 2020-2021 and retained the same proviso language requirements as the language for 2020-2021.

The Final Conference Report on SB 2500 retains the statutory DCD and is unchanged from 2020-21.

The Final Conference Report on SB 2500 provides \$55,500,000 for the Sparsity Supplement.

The Final Conference Report on SB 2500 uses these Program Cost Factors (PCF): K-3 Basic: 1.126; 4-8 Basic: 1.000; 9-12 Basic: 1.010; ESE Support Level 4: 3.648; ESE Support Level 5: 5.340; ESOL: 1.199; Grades 9-12 Career Education: 1.010.

The Final Conference Report on SB 2500 projects the same RLE millage rate as was applied in 2020-2021, 3.720. The maximum Discretionary Local Effort operating millage remained at .748 mills. The total projected FEFP millage rate is 4.468 mills.

The Final Conference Report on SB 2500 provides a Required Local Effort of \$8,218,314,071.

The Final Conference Report on SB 2500 provides \$1,064,584,063 is provided to school districts as an Exceptional Student Education (ESE) Guaranteed Allocation as authorized by law to provide educational programs and services for exceptional students. The ESE Guaranteed Allocation funds are provided in addition to the funds for each exceptional student in the per FTE student calculation. The proviso states clearly that **these funds are reserved specifically to provide additional services for exceptional education students** as required by their individual education plans. The language in HB 7045 and SB 1028 that defines the method of calculating the amount of Family Empowerment scholarships and charter school funding **states** that all students receiving that money are entitled to receive funding that includes a per student share of all categoricals, which seems to imply including this one.

SB 2500 provides \$180,000,000 for the Safe Schools Allocation, an amount and proviso that is unchanged from the prior years.

The Final Conference Report on SB 2500 provides \$714,704,630 for the SAI, an increase of \$14,703,282 based on a workload increase from the 2020-2021 FEFP Fourth Calculation. This is still a significant reduction compared to the Second Calculation due to workload decreases. HB 5101 includes a provision repealing the requirement that the 300 elementary schools with the lowest reading scores use their SAI allocation to provide an additional hour of reading instruction every school day.

SB 2500 maintains the Turnaround Supplement at \$24,383,056, the level reported in the 2020-2021 FEFP Fourth Calculation. The proviso provides \$500 per student for the services specified for schools in Turnaround status.

SB 2500 provides \$130,000,000 for the Reading Allocation. The item is unchanged from the prior year.

The Final Conference Report on SB 2500 provides \$241,135,805 for Instructional Materials including \$12,733,273 for Library Media Materials, \$3,480,428 for the purchase of science lab materials and supplies, \$10,794,729 for dual enrollment instructional materials, and \$3,255,285

for the purchase of digital instructional materials for students with disabilities. The proviso language for this item is the same as it was in the current year.

SB 2500 provides \$458,641,984 for student transportation. There are no changes in proviso language.

The Final Conference Report on SB 2500 provides \$54,143,375 for the Teacher Supply Allocation. There are no changes in the amount and the proviso language.

SB 2500 provides an unchanged \$8,000,000 for the Digital Classroom Allocation. There are no changes in proviso language.

The Mental Health Allocation is increased the by \$20,000,000 to \$120,000,000. There is no change in the proviso language, but HB 5101 changed the calculation for the Florida Virtual School to include the Mental Health Allocation and made other changes in the calculation of funding for the Virtual School that increased funding substantially.

The Funding Compression and DCD Hold Harmless Allocation decreases to \$50,235,191. The funds are distributed based on the language in current law, with a cap on increasing the average dollars per student remaining at \$100. The decrease in the total appropriation reflects the impact on the average dollars per UFTE of the decrease in enrollment.

The Declining Enrollment Supplement and the Virtual Education Contribution are not funded and are permanently repealed in the conference committee report on HB 5101.

The Final Conference Report on SB 2500 created a new FEFP item named the Student Reserve Allocation and appropriated \$464,287,903. The funds are only to be distributed if there is an increase in FTE enrollment reported. The Legislature has passed HB 7045 which eliminated the Gardiner Scholarship Program and the McKay Scholarship Program and revised the provisions of the Family Empowerment Scholarship to include the students currently eligible for those two programs. The Gardiner Scholarship program had been funded by a line item outside of the FEFP. That line item has been eliminated, and the \$189 million that it had provided and the projected workload cost of \$21 million comprise \$210 million of the \$464,287,903 in this item. The students receiving these services will consume at least that much of this allocation. Because students who are not included in the present enrollment forecast are now eligible to receive these funds it is quite possible that a much larger share of these dollars will be consumed by scholarship program growth. It was stated that the projected changes in the scholarship programs in HB 7045 would generate an increase of \$200 million in the program. If that projection is accurate its impact plus the migration of the Gardiner Scholarships to the FEFP will consume virtually all of the Student Reserve Allocation.

SA 91: Provides \$2,647,815,051 from General Revenue funds, \$86,161,098 from the Principal State School Trust Fund, and as was noted \$103,776,356 from the Educational Enhancement Trust Fund for the Class Size Reduction (CSR) allocation. The total Senate allocation is \$2,837,752,505, a reduction of -\$308,042,880. The per student allocations are: Grades Pre-K-3: \$984.42 per Weighted FTE, Grades 4-8 \$937.92 per Weighted FTE: and Grades 9-12: \$942.19 per weighted

FTE. The House Subcommittee Chair, Representative Randy Fine stated that the Legislature had been using the wrong calculations for Class Size Reduction and has been over funding the categorical. The bill makes the “correction.”

Public Schools Major Non-FEFP Grants

The analysis below presents Non-FEFP grants of general interest to multiple districts. compares the Senate and House proposals for major Non-FEFP Pre-K-12 budget items. The budget line item numbers from the Final Conference Report on SB 2500 are noted. The Final Conference Report included an unusually large number of member projects funded by the substantial amount of non-recurring revenue that is available. Most of those projects are of interest to a specific district, private school, charter school, vendor, or community program, and will not be reported below. That information is readily available.

SA 93: Aaron Feis Guardian Fund provides \$6,500,000 to fund Guardian certification and training.

SA 94: Assistance to Low Performing Schools provides \$4,000,000 The funds may be used to contract for the operation of the Florida Partnership for Minority and Underrepresented Student Achievement and shall be expended for teacher professional development for Advanced Placement classroom teachers.

SA 95: Take Stock in Children provides \$6,125,000.

SA 96: Mentoring Student Assistance provides \$10,222,988. Specific programs that are supported are listed with the associated appropriation in the budget.

SA 97: College Reach Out program provides \$1,000,000.

SA 98: Florida Diagnostic and Learning Resource Centers provides \$2,700,000.

SA 99: District Foundation Matching Grants provides \$6,000,000, an increase of \$1,000,000. The proviso language associated with the appropriation is detailed and appears to be essentially the same as the prior year. Foundations seeking these funds will of course carefully review the proviso requirements.

SA 100, 101, and 102 continue to provide Educator Professional Liability Insurance, Teacher and School Administrators Death Benefits, and Risk Management Insurance with no changes from the prior year.

SA 103: Regional Autism Programs provides \$9,400,000 distributed among seven regional autism centers and providers across the state.

SA 104: Regional Education Consortium Services provides \$1,750,000, the same amount as the prior year. There is no associated proviso language.

SA 105: Teacher Professional Development provides \$17,169,426. Funding includes \$10,000,000 to continue Computer Science Certification and Teacher Bonuses, \$5,500,000 for Mental Health Awareness and Assistance Training and **\$500,000 for FADSS Superintendent's Training.**

SA 106: Strategic Statewide Initiatives provides \$12,964,983 for specific initiatives with statewide impact. Included in this item is \$2,530,645 in recurring and \$3,469,355 in non-recurring funds for a total of \$6,000,000 for the School District Intensive Reading Initiative. The proviso for this initiative is:

From the funds in Specific Appropriation 106, \$2,530,645 in recurring funds and \$3,469,355 in nonrecurring funds is provided for the School District Intensive Reading Initiative Pilot. **These funds are provided to Collier, Escambia, Gulf, Highlands, Lafayette, Indian River, Pasco, St. Johns, Santa Rosa, and Sarasota school districts** to provide additional reading intervention opportunities to students in kindergarten through grade 5 enrolled in a public school who either scored below a Level 3 on the English Language Arts (ELA) assessment in the prior year or who the district has determined through progress monitoring to be below grade level and in need of additional reading intervention. Each school district shall receive \$300,000 plus a pro rata share of the balance of the appropriation based on the district's 2020-2021 K-5 student FTE. School districts may use the funds for: (a) salaries and stipends for reading coaches, specialists, interventionists, and other instructional staff qualified to provide reading intervention as defined in section 1011.62 (9)(d)1., Florida Statutes, during the school year or a summer program; (b) salaries or stipends for local reading coordinators to facilitate a district-managed reading intervention response to improve student reading outcomes; or (c) curriculum, resources, and materials necessary to implement explicit and systematic instructional strategies.

Each participating school district shall report to the Department of Education no later than June 30, 2022, on the following: (a) program expenditures by category; (b) numbers of students served by the pilot program by grade level; (c) student outcomes as evidenced by progress monitoring results or 2021-2022 ELA assessment results; and (d) best practices and lessons learned during implementation which may benefit expansion of the pilot to the statewide level. The department must provide a summary report of the pilot program based on the individual district reports to the Governor, President of the Senate, and Speaker of the House of Representatives by August 1, 2022.

Also included in this item, from the funds in Specific Appropriation 106, \$640,000 in recurring funds is provided to the Department of Education for use of the Florida Safe Schools Assessment Tool at all public school sites, pursuant to section 1006.1493, Florida Statutes, and from the funds in Specific Appropriation 106, \$3,000,000 in recurring funds is provided to the Department of Education to implement the provisions as provided in section 1001.212(6), which is the centralized state repository of information related to safe schools.

SA 107: There is no SA 107. SA 107 was the Gardiner Scholarships line item, but the program has been repealed and folded into the FEFP as discussed above.

SA 108: Provides \$7,600,000 to continue the "Reading Scholarship" program that offers \$500 for parents to choose added reading support for students.

SA 108A: Schools of Hope: Provides \$60,000,000 for the Schools of Hope. The allocation has \$40,000,000 in recurring and \$20,000,000 in non-recurring revenue. Ironically in the back of the bill there is a reversion of \$50,000,000 of unused Schools of Hope funds from the 2017 GAA.

SA 109: Provides \$7,180,571 for the Community School Grants program.

SA 110: Provides \$34,903,184 in recurring and non-recurring funds for a multitude of member projects.

SA 111: Provides \$5,679,708 for Exceptional Education grants and aids including The Family Café, Learning Through Listening, and Special Olympics.

SA 113A: Provides \$44,801,800 for Grants and Aids to Local Governments and Nonstate Entities: Fixed Capital Outlay Public Schools Special Projects. Included is \$42,000,000 for School Hardening Grants. The proviso states: “From the funds provided in Specific Appropriation 113A, \$42,000,000 in nonrecurring funds is provided for the School Hardening Grant program to improve the physical security of school buildings based on the security risk assessment required by section 1006.1493, Florida Statutes. Funds may only be used for capital purchases. Funds shall be allocated initially based on each district’s capital outlay FTE and charter school FTE. No district shall be allocated less than \$42,000. Funds shall be provided based on district application, which must be submitted to the Department of Education by February 1, 2022.”

SA 439: School Health Services: Funding for School Health Services and Full Service Schools is provided outside the Education section of the budget. SA 439 provides from General Revenue \$16,909,412 from GR and \$1,000,000 from the Federal Grants Trust Fund for School Health Services. Funds in Specific Appropriation 439 from the General Revenue Fund are provided as state match for Title XXI administrative funding for school health services in Specific Appropriations 476 through 478, 481, and 484. From the funds in Specific Appropriation 439, not less than \$6,000,000 from the General Revenue Fund shall be provided for the Full Services Schools program pursuant to section 402.3026, Florida Statutes.

District Workforce and Adult Education

SA 120: Provides \$6,500,000 for performance-based incentives for programs that earned industry certifications during the 2020-2021 school year. The detailed proviso language is essentially the same as the prior year.

SA 121: Provides \$46,606,796 for Adult Basic Education Flow-Through Grants

SA 121A: Provides \$15,000,000 from the Governor’s Emergency Education Relief Fund (GEER) for District Workforce Education to implement the provisions related to the Open Door Grant Program in HB 1507 contingent on the passage of the bill or a similar bill.

SA 122: Provides a total of \$372,356,891 from General Revenue and Lottery funds for District Workforce Education programs. The proviso language is essentially unchanged from previous years but should be reviewed by district program directors to ensure compliance. The funds

provided for selected districts include: Alachua: \$536,075; Escambia: \$3,840,386; Lake: \$4,755,613; Leon: \$6,386,855; Marion: \$3,964,712; Orange: \$31,942,536; Osceola: \$6,731,307; Pinellas: \$25,958,745; Santa Rosa: \$2,201,116.

SA 123: Provides \$10,000,000 for the Pathways to Career Opportunities Grants. The proviso states, in part, “The Department of Education shall administer the competitive grant program, determine eligibility, and distribute grants. Grantees include high schools, career centers, charter technical career centers, Florida College System institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program, as defined in section 446.021, Florida Statutes. The funds may be used to establish new apprenticeship or preapprenticeship programs or expand existing programs.”

SA 124: Provides \$73,997,159 for Vocational Formula Funds.

Federal Grants K-12 Programs

The Final Conference Report for SB 2500 provides a series of specific appropriations from ESSER II funds. The items are deemed by the Legislature to be an expression of the exclusive authority of the Legislature to provide appropriating authority for any funds that are drawn from the state treasury. It is important to remember that the Federal rules associated with these funds must be followed, and those rules specified that the dollars would be distributed to districts based on the district’s share of specified Federal grants. Therefore, districts with fewer eligible students will receive less dollars.

The appropriation of CARES Act funds, ESSER II funds, GEER funds and the American Rescue Plan (ARP) funds will provide billions of dollars to school districts and charter schools and are the subject of intense interest to Superintendents and Board Members. This chapter of the report will include specific line items in the K-12, State Board of Education and Department of Education Federal Grants sections of the budget, as well as certain items from the back of the bill. Because of the districts’ need for direct information, language will be pasted from the Final Conference Report on SB 2500, and from the controlling language in the Final Conference Report for HB 5101. There is no language in the Final Conference Report on SB 2502 related to these items. This is intended to at least help reduce the need for the district to search through the 460 page budget bill and the 39 page conforming bill.

SA 115 A: Grants and Aids Federal Elementary and Secondary School Emergency Relief (ESSER) Fund- Nonenrollment Assistance: From Federal Grants Trust Fund: \$112,329,220. The language specifying how the ESSER funds in this SA are to be spent are in the Final Conference Report on HB 5101. The language states (emphasis added):

Section 5. (1) Each school district **shall use a portion** of its nonenrollment allocation from the federal Elementary and Secondary School Emergency Relief Fund as provided in the 2021-2022 General Appropriations Act **to locate unaccounted students within the school district**. For purposes of this section, the term "unaccounted student" means a student who: (a) Was enrolled in a district or charter school in the 2019-2020 academic year but was not counted in either the October 2020 full-time equivalent student membership survey or the February 2021 full-time

equivalent student membership survey and for whom the school district or charter school does not have a record of the student's withdrawal from the district or charter school; or (b) Completed enrollment at a district or charter school for the 2020-2021 academic year but was not counted in either the October 2020 full-time equivalent student membership survey or the February 2021 full-time equivalent student membership survey and for whom the school district or charter school does not have record of the student delaying enrollment until the 2021-2022 academic year.

(2) Each school district **shall establish a multiagency workgroup** comprised of local and state agencies, including, but not limited to, district school personnel; law enforcement; the state attorney's office; and staff from the Department of Children and Families, the Department of Juvenile Justice, and the Department of Health for the purpose of locating and determining the well-being of the unaccounted students. Once an unaccounted student is located, if the student's parent or caregiver continues to prohibit or facilitate his or her child's access to education, the school district shall initiate a truancy petition pursuant to s. 984.151, Florida Statutes.

(3) **By September 1, 2021, each school district shall submit a report** to the Department of Education that identifies the total number of unaccounted students and their status.

(4) This section expires July 1, 2022.

When reviewing the conforming bill language controlling this item it is important to notice that the district is required to “use a portion” of this item for the purposes specified. Clearly a good faith effort to use as much of the revenue as needed to accomplish the task is expected by the Legislature. However, educators and district leaders across the state clearly have as a very major priority finding all the missing students and restoring enrollment to pre-pandemic projections and beyond. Districts that had significant growth prior to the pandemic clearly did not enroll the students who were projected to relocate to the district, and those students will not be found as result of the efforts required by HB 5101.

SA 115 B: Grants and Aids Federal Elementary and Secondary School Emergency Relief (ESSER) Fund- Academic Acceleration: From Federal Grants Trust Fund: \$561,646,121. The language specifying how the ESSER funds in this SA are to be spent are in the Final Conference Report on HB 5101. The language states (emphasis added):

Section 6. (1) Each school district **shall use a portion** of its academic acceleration allocation from the federal Elementary and Secondary Education Emergency Relief Fund as provided in the 2021-2022 General Appropriations Act **to remediate the learning loss among kindergarten through grade 12 students**, including, but not limited to, students with disabilities, students experiencing homelessness, students who attended virtual classes or classes offered through an online learning environment during the 2020-2021 school year, and children and youth in foster care.

(2) Each school district shall:

(a) Use pre-assessments and post-assessments that are valid and reliable and have been approved by the Department of Education to assess students' academic progress and assist classroom teachers in meeting the students' academic needs through differentiating instruction;

(b) Implement evidence-based interventions to meet the comprehensive needs of students by using in classroom instruction both during and outside of the regular school day and year;

(c) Use classroom teachers who have received professional development on the use of a multi-tiered system of supports; and

(d) Provide information and assistance to parents on how they can effectively support students.

(3) By February 1, 2022, the Department of Education shall submit a status report to the Office of Policy and Budget in the Executive Office of the Governor and the chairs of the Senate and the House of Representatives appropriations committees regarding the effectiveness of the evidence-based intervention strategies implemented by school districts using the pre-assessment and post-assessment data submitted by school districts and charter schools.

(4) This section expires on July 1, 2022.

One item of caution is important. The language of HB 5101 clearly required that the pre and post assessments that the district uses are not just valid and reliable but that they are approved by the Department of Education. It is suggested that districts take steps immediately to ensure they have and are trained to properly administer and interpret the results from Department approved tests.

SA 115 C: Grants and Aids Federal Elementary and Secondary School Emergency Relief (ESSER) Fund- Technology Assistance: From Federal Grants Trust Fund: \$140,411,531. There is no language in the Final Conference Report on HB 5101 related to this Specific Appropriation and there is no clarifying proviso language.

SA 116: Provides in SA 116: Aid to Local Governments:

Grants and Aids-Federal Grants and Aids:

From the Administrative Trust Fund: \$353,962.

From Federal Grants Trust Fund: \$2,282,126,657.

116A: Provides Lump Sum Federal Elementary and Secondary School Emergency Relief (ESSER) Fund:

From Federal Grants Trust Fund: \$1,158,329,431. There is no language in the Final Conference Report of HB 5101 related to this line item but there is proviso language controlling the appropriation. The language is: The Department of Education is authorized to submit a budget amendment(s) requesting the release of funds, pursuant to the provisions of chapter 216, Florida Statutes. Release of the funds shall be contingent upon submission of a detailed spending plan that describes the amount that will be allocated to each school district and how each school district will be expending its funds in compliance with the provisions of the Elementary and Secondary School Emergency Relief as authorized in section 313 of the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021. The department shall include in the budget amendment(s) detailed information about how these funds will be disbursed to the school districts.

This language is directive to the Department of Education. However, in explaining how each district will be expending its funds in compliance with the Federal law, there is a clear implication that the district will have to present a plan specifying how the funds will be spent. All districts with which contact has been made have indicated they already have developed such plans.

The revenue appropriated in SA 115A, SA 115B, SA 115C, and 116A total \$1,972,716,303 of the \$2,820,490,851 total ESSER II funding for Local Education Agencies. The balance of the funds, \$847,774,548, has been allocated to school districts who have spent at least 55% of their ESSER I funds as an advanced lump sum which must be spent by September 1. However, the expectation is that the balance of these funds will be reappropriated by Legislature during the 2022 legislative session.

Below is pasted SA 134A. The item provides appropriations authorization for Federal ESSER II funds that were allocated to the State Education Agency. These are State Education Agency (SEA) funds currently in reserve but authorized for expenditure through budget amendments.

“134A Lump Sum: Federal Elementary and Secondary School Emergency Relief (ESSER) Fund: State Education Agency Reserve from Federal Grants Trust Fund: Provides: \$255,009,999

The Department of Education is authorized to submit budget amendments requesting the release of funds, pursuant to the provisions of chapter 216, Florida Statutes. Release of the funds for each budget amendment shall be contingent upon submission of a detailed spending plan that describes how the funds requested for release will be expended in compliance with the provisions of the Elementary and Secondary School Education Relief (ESSER) Fund as provided in the Coronavirus Response and Relief Supplemental Appropriations Act, 2021. The detailed spending plan must specify each anticipated deliverable, the cost associated with each deliverable and the timeline for completion of each deliverable.”

Back of the Bill Language and One-Time Bonuses for Selected Workers

There are a number of items in “the back of the bill” that are of interest and importance this budget year, including reversions of funds that clawed back hundreds of millions of dollars of General Revenue from a number of budget silos, including Education. There were trust fund sweeps that removed unspent balances from a number of trust funds and transferred the dollars to General Revenue. The sweeps will add several hundred million dollars to the General Revenue Fund when the post-session GR Outlook is completed this summer. That will bolster reserves and revenues for FY 2021-2022 and FY 2022-2023.

Below are back of the bill items that have a direct impact on school districts, because they relate to the availability and use of revenue from the American Rescue Plan (ARP). Section 45 addresses the LEA portion of the ARP:

SECTION 45. For Fiscal Year 2020-2021, there is hereby appropriated to the Department of Education in the Federal Grants Trust Fund the nonrecurring sum of \$6,822,520,978 awarded to the department in the American Rescue Plan (ARP) Act. These funds shall be placed in reserve. The department is authorized to submit budget amendments requesting the release of funds pursuant to the provisions of chapter 216, Florida Statutes. Release of the funds shall be contingent upon submission of detailed plans that describe how the funds requested for release will be expended in compliance with the provisions of the ARP Act. The unexpended balance of funds as of June 30, 2021, shall revert and is appropriated to the department for the same purpose for the 2021-2022 fiscal year. This section shall take effect upon becoming a law.

Section 45 from the back of the bill provides the appropriations authority for the school district’s share of the K-12 Local Education Agencies share of the revenue from the American Rescue Plan. The Legislature has taken the position that to disburse funds from the state Treasury the Legislature must provide the appropriation authority. This item meets that requirement for over \$6.8 billion. The authority calls for the Department of Education to file budget amendments through the Legislative Budget Commission and for there to be a “detailed spending plans” that show that how the funds will be spent and how those expenditures will be consistent and compliant with the

provisions of the Federal Law. Districts have generally developed these plans and have taken steps to follow the requirements of the Federal grant, just as districts do every year for Title One and other Federal grants. The item will take effect upon becoming law, which will allow funds to flow after the Governor signs the budget and as soon as the Department can establish a process plans and disbursements.

For your information pasted below is Section 48 from the back of the bill. It provides appropriations authority for the revenue in the ARP to support the Emergency Assistance to Non-Public Schools Program:

SECTION 48. For Fiscal Year 2020-2021, there is hereby appropriated to the Department of Education in the Federal Grants Trust Fund the nonrecurring sum of \$221,188,900 awarded to the department in section 2002 of the American Rescue Plan (ARP) Act under the Emergency Assistance to Non-Public School (EANS) program. These funds shall be placed in reserve. The department is authorized to submit budget amendments requesting the release of funds pursuant to the provisions of chapter 216, Florida Statutes. Release of the funds shall be contingent upon submission of detailed plans that describe how the funds requested for release will be expended in compliance with the provisions of the ARP Act. The unexpended balance of funds as of June 30, 2021, shall revert and is appropriated to the department for the same purpose for the 2021-2022 fiscal year. This section shall take effect upon becoming a law.

Section 46 from the back of the bill addresses a use of the State Education Agency's (Department of Education) portion of the ARP:

SECTION 46. For Fiscal Year 2020-2021, there is hereby appropriated to the Department of Education in the Federal Grants Trust Fund the nonrecurring sum of \$215,725,460, from the state education agency's portion of the funds awarded to the department in the American Rescue Plan (ARP) Act. These funds are provided for the department to provide full time classroom teachers, to include certified prekindergarten teachers funded in the Florida Education Finance Program, and principals in district schools and charter schools and the Florida School for the Deaf and Blind with a one-time bonus of \$1,000. In addition to funds for the \$1,000 bonus, funds are provided for **the employer share of FICA** and \$3,519,100 for the department to administer the program. The unexpended balance of funds as of June 30, 2021, shall revert and is appropriated for Fiscal Year 2021-2022 to the department for the same purpose. This section shall take effect upon becoming a law.

Section 46 appropriates \$215,725,460 of the Department of Education's share of the Federal Revenue from the ARP to provide one-time \$1,000 bonuses for full time classroom teachers, including Pre-K teachers funded in the FEFP (ESE pre-K teachers). The funds include added revenue for the employer share of FICA. No mention is made of the employer's share of FRS rates because bonuses are not included as salaries for FRS purposes. The Legislature did not use CRRSA ESSER II funds for this.

The bonuses for teachers and principals are not the only bonuses provided by the Legislature in the Final Conference Report for SB 2500. The items below provided one-time bonuses for certain "first responders" and for childcare workers. Those bonuses were provided in the items below.

First Responder Bonus Language from the Back of the Bill:

SECTION 152. Contingent upon the Department of Financial Services receiving and depositing into the General Revenue Fund any amount from the state's allocation from the federal Coronavirus State Fiscal Recovery Fund (Public Law 117-2), the following nonrecurring appropriations from the General Revenue Fund are authorized for the 2020-2021 fiscal year for the purpose of responding to the negative economic impacts of the COVID-19 public health emergency:

PAYMENTS TO PANDEMIC FIRST RESPONDERS PAYMENTS TO PANDEMIC FIRST RESPONDERS The nonrecurring sum of \$208,437,342 from the General Revenue Fund is appropriated to the Department of Economic Opportunity to distribute a one-time bonus payment of \$1,000 to each essential first responder. An essential first responder is an individual who is a first responder, considered an essential frontline worker in responding to the COVID-19 pandemic, and employed by a state or local government who is a sworn law enforcement officer, emergency medical technician, firefighter, paramedic, Institutional Security Officer, Chief, Specialist, or Supervisor of the Department of Children and Families or Agency for Persons with Disabilities, or Department of Corrections' Certified Correctional Officer, Certified Correctional Probation Officer, or IG Inspector. The bonus payment shall be adjusted to include 7.65 percent for Federal Insurance Contribution Act (FICA) tax. Each bonus payment shall be pro-rated based on the full-time equivalency of the employee's position. Employees classified as being other personnel services (OPS) or temporary employees are not eligible for the bonus payment. Impacted collective bargaining units are not precluded from bargaining over wages; however, the funding allocation for the one-time bonus payment must be used solely to comply with the requirements of this section.

Child Care Bonus Language: These funds were included in the Front of the Bill in SA 80B:

The funds provided in Specific Appropriation 80B are provided to the Office of Early Learning to administer two bonuses to Florida's childcare and early learning instructors totaling a net amount of \$1,000 each. Applications for the first bonus shall be available no later than July 1, 2021, and funds shall be distributed no later than October 30, 2021. Applications for the second bonus shall be available no later than January 1, 2022, and funds shall be distributed no later than April 30, 2022. The office is authorized to provide these bonus funds through a sub-recipient to ensure direct payment to instructors. Administrative costs associated with the distribution of bonuses shall not exceed \$500,000.

The childcare bonus language is for "Florida's childcare and early learning instructors." It does not include a definition of who those workers are not for whom those people work. The language seems to give these employees of childcare businesses two \$1,000 bonuses.

The diverse types of employees chosen to receive bonuses has caused some questions about if and how other school district employees critical to the successful opening and operation of the state's public schools during the virulent COVID-19 pandemic. The budget provided in the Final Conference Report on SB 2500 clearly does not include enough revenue to fund additional employee bonuses. The Legislature funded the one-time bonuses for classroom teachers and

principals by using the state’s portion of the education funding in the American Rescue Plan. The districts’ shares of the ARP appears to be the only source of funds that might support such an expenditure. The rationale used by the Legislature for the other bonuses may provide some insight into options open to the districts. To foster thinking about an approach to \$1,000 bonuses the thoughts below are offered.

Below is a brief rationale for the use of district American Rescue Plan funds for \$1,000 bonuses for other school level employees not included in the state budget. The language used in the Final Conference Report for SB 2500 for the bonuses for principals, teachers, child care workers, and “first responders” is provided above to help provide a frame of reference. It is critical that district legal staff and the district’s federal grants staff examine carefully the language in the American Rescue Plan and the accompanying federal program guidance to determine if this is a lawful use of the local district’s American Rescue Plan funds. It is also suggested that Superintendents confer with the Commissioner of Education prior to considering a provision for more bonuses in the district plan. It should also be determined of the bonuses can be provided outside the collective bargaining process or if a simplified MOU can be ratified.

The leadership and support of Governor Ron DeSantis and Education Commissioner Richard Corcoran including the Commissioner’s Executive Orders made it possible for Florida’s schools to be open to educate our students during the difficult time of the COVID-19 pandemic. Our students benefited greatly by continuing to have access to high quality, in-person instruction.

Governor DeSantis’s advocacy for a one-time bonus for district and charter school principals and teachers who were part of the team that opened our schools, and instructed our students is admirable, and is consistent with the goal of economic stimulus upon which the American Rescue Plan was based. The leaders of the Legislature have provided an appropriation from the state level funds to be received from the American Recovery Plan (ARP) to provide full time classroom teachers and principals supported by the Florida Education Finance Program with a one-time \$1,000 bonus.

Successfully opening and operating the schools required the leadership of principals and the engagement of teachers in the planning and delivery of instruction. While principals and teachers are necessary, their efforts alone are not sufficient to have successfully opened and operated schools. The custodians who disinfected the schools every day were also critical. The bus drivers who safely picked up the students, disinfected the buses between runs and took the students home safely every day were also necessary. The school nurses who helped sick children were necessary. The counselors and assistant principals who helped students and parents with the multiple social-emotional health issues and other problems exacerbated by the pandemic were necessary. The teacher aides who provided one-on-one assistance to students were necessary. Student nutrition service workers who provided food for families from the time schools closed in March 2020 through the summer and all of this year were necessary. All the front-line workers in our schools were needed to have the necessary and sufficient conditions to successfully open and operate our public schools during a pandemic.

Based on the advocacy of Governor DeSantis and the action of the Legislature providing one-time \$1,000 bonuses to classroom teachers, principals, and also to first responders, prison worker and

childcare workers who faced the risks of the pandemic and opened schools, protected the public and normalized our state, awarding one-time \$1,000 bonuses from the revenue from the American Rescue Plan, would seem to be a valid use of the funds.

Therefore, it may be an equally appropriate use of a small portion of the school district's share of the American Rescue Plan revenue to include in the detailed spending plans a similar one-time \$1,000 bonus to the other school district employees directly engaged in the operation of the schools. These employees include the other non-classroom instructional employees including guidance counselors and media specialists, other school level administrators, teacher aides and other paraprofessionals, clerical and other education support personnel, custodians, maintenance workers whose assignments include working at schools, school bus drivers, bus attendants, district security officers and food service workers.

District leaders who think that expanded bonuses would help improve employee morale and performance will need to develop a strategy to determine the position of the state leaders on such a proposal.

SB 2502 the Budget Implementing Bill

Every year the Appropriations package includes an implementing bill for the General Appropriations Act (GAA). Like the GAA the provisions of the implementing bill expire in one year, on the last day of the fiscal year for which it was passed. There are a few items that apply to K-12 public education.

Senate Bill 2502 specifies that the calculations provided in the Florida Education Finance Program, commonly referred to as the "FEFP runs" are incorporated into the GAA by reference. The bill provides that the funds for Instructional Materials shall be distributed as provided in proviso language not as specified in the statutes. This provision has been included in the bill for several years and does not represent a change.

The bill stipulates that the provisions for funding charter school capital outlay costs in current law shall continue to be effective for 2021-2022. It also stipulates that the language in that section of law would revert to the language that existed prior to this change, which simply deletes the limitation of using state appropriated funds to pay for charter school capital outlay needs.

HB 5101 the Education Conforming Bill

The House of Representatives Staff Analysis of the Final Conference Report on HB 5101 provides a concise summary of the substantive changes to Florida Statutes in the conforming bill.

Section 1 amends s. 1002.37, F.S., to revise the calculation methodology for determining the amount of FEFP funds appropriated to the Florida Virtual School by adding the Mental Health Assistance Allocation to the calculation.

Section 2 amends s. 1002.45, F.S. to specify the number of virtual instruction options a school district must offer to its part-time and full-time students; revise the allowable expenditure of

unexpended virtual instruction funds; limits the enrollment of virtual full-time students residing outside of the school district providing the virtual instruction to no more than 50 percent of the total virtual full-time students residing inside the school district providing the virtual instruction; this applies to any virtual instruction contract or agreement that is entered into for the first time after June 30, 2021; however, a school district may not enroll more virtual full-time equivalent students residing outside of the school district than the total number of reported full-time equivalent students residing inside the school district.

Section 3 amends s. 1011.62, F.S., to delete the requirement that the 300 lowest performing elementary schools on the statewide reading assessment must use their portion of the Supplemental Academic Instruction Allocation on an extra hour of reading per day; repeals the Decline in Full-Time Students Allocation, and the Virtual Education Contribution.

Section 4 for HB 5101 has very important long-term implications for the district’s process of negotiating teacher salary increases. It is important to remember that unless stated differently in the bill, the changes in law made by a “conforming” bill are “permanent” changes in statute until a bill in a subsequent session amends the language again.

Section 4 amends s. 1012.22, F.S., to specify the annual percent increase to the minimum base salary of instructional personnel on the performance salary schedule; specify the annual percent increase to the salary adjustment of an employee on the performance salary schedule rated as highly effective.

Specifically, the bill requires: “Beginning July 1, 2021, and until such time as the minimum base salary as defined in s. 1011.62(16), equals or exceeds \$47,500, the annual increase to the minimum base salary shall not be less than 150 percent of the largest adjustment made to the salary of an employee on the grandfathered salary schedule. Thereafter, the annual increase to the minimum base salary shall not be less than 75 percent of the largest adjustment for an employee on the grandfathered salary schedule.” It also requires: “The annual salary adjustment under the performance salary schedule for an employee rated as highly effective must be at least 25 percent greater than the highest annual salary adjustment available to an employee of the same classification through any other salary schedule adopted by the district”

Section 5 requires each school district to use a portion of its nonenrollment allocation from the federal ESSER funds to locate and evaluate the well-being of any unaccounted-for students within the school district; expires 7/1/22.

Section 6 requires each school district to use a portion of its academic acceleration allocation from the federal ESSER funds to remediate student learning loss; expires 7/1/22.

ESSER II SPENDING REQUIREMENTS CONTAINED IN HB 5101 ENROLLED

HB 5101 Enrolled, is the final version of the education “conforming bill” adopted by the budget conference chairs. The budget report that was provided included a very brief summary of the

contents of the bill related to the expenditure of federal ESSER II funds as addressed in Specific Appropriations (SA) 115 A, 115B, 115C, and 116 A.

The Department of education issued a letter concerning the distribution of the ESSER II funds provided by the federal government. After studying the Chancellor's letter and the distribution formula, the contents of HB 5101 and the accompanying staff analysis were reviewed. It was determined that a readily available reference to the contents of the bill would be of use to Superintendents and district finance officers. Pasted below are the relevant portions of the bill. These two sections are all new language.

Section 5. (1) Each school district shall use a portion of its nonenrollment allocation from the federal Elementary and Secondary School Emergency Relief Fund as provided in the 2021-2022 General Appropriations Act to locate unaccounted students within the school district. For purposes of this section, the term "unaccounted student" means a student who:

(a) Was enrolled in a district or charter school in the 2019-2020 academic year but was not counted in either the October 2020 full-time equivalent student membership survey or the February 2021 full-time equivalent student membership survey and for whom the school district or charter school does not have a record of the student's withdrawal from the district or charter school; or

(b) Completed enrollment at a district or charter school for the 2020-2021 academic year but was not counted in either the October 2020 full-time equivalent student membership survey or the February 2021 full-time equivalent student membership survey and for whom the school district or charter school does not have record of the student delaying enrollment until the 2021-2022 academic year.

(2) Each school district shall establish a multiagency workgroup comprised of local and state agencies, including, but not limited to, district school personnel; law enforcement; the state attorney's office; and staff from the Department of Children and Families, the Department of Juvenile Justice, and the Department of Health for the purpose of locating and determining the well-being of the unaccounted students. Once an unaccounted student is located, if the student's parent or caregiver continues to prohibit or facilitate his or her child's access to education, the school district shall initiate a truancy petition pursuant to s. 984.151, Florida Statutes.

(3) By September 1, 2021, each school district shall submit a report to the Department of Education that identifies the total number of unaccounted students and their status.

(4) This section expires July 1, 2022.

Section 6. (1) Each school district shall use a portion of its academic acceleration allocation from the federal Elementary and Secondary Education Emergency Relief Fund as provided in the 2021-2022 General Appropriations Act to remediate the learning loss among kindergarten through grade 12 students, including, but not limited to, students with disabilities, students experiencing homelessness, students who attended virtual classes or classes offered through an online learning environment during the 2020-2021 school year, and children and youth in foster care.

(2) Each school district shall:

(a) Use pre-assessments and post-assessments that are valid and reliable and have been approved by the Department of Education to assess students' academic progress and assist classroom teachers in meeting the students' academic needs through differentiating instruction;

(b) Implement evidence-based interventions to meet the comprehensive needs of students by using in classroom instruction both during and outside of the regular school day and year;

(c) Use classroom teachers who have received professional development on the use of a multi-tiered system of supports; and (d) Provide information and assistance to parents on how they can effectively support students. submit a status report to the Office of Policy and Budget in the Executive Office of the Governor and the chairs of the Senate and the House of Representatives appropriations committees regarding the effectiveness of the evidence-based intervention strategies implemented by school districts using the pre-assessment and post-assessment data submitted by school districts and charter schools.

(4) This section expires on July 1, 2022.

The language in the bill is very explicit. Section 5 above seems clearly to apply to the appropriation provided on SA 115 A. Section Six above seems clearly to apply to Specific Appropriation 115 B. If there are any questions about the requirements in the bill please call.

The staff analysis does not clarify the specific language in the bill, but it does provide additional background about the ESSER II funds that the district may find helpful.

The sections of the final staff analysis related to the ESSER II funds are pasted below.

Federal Elementary and Secondary School Emergency Relief Funds

Current Situation

Section 311(b) of the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) of 2021 requires the U.S. Department of Education (USDOE) to reserve 67 percent of the Education Stabilization Fund for the Elementary and Secondary School Emergency Relief (ESSER) Fund authorized under section 313 of the CRRSA Act; this total \$54.3 billion.³⁵

Section 313(b) of the CRRSA Act requires the USDOE to allocate the ESSER funds based on the proportion that each state received under Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965 in the most recent fiscal year. To determine the ESSER fund allocations to each state, the USDOE used the fiscal year 2020 state shares of Title I, Part A allocation and based on this calculation, Florida received \$3.1 billion.³⁶ States must distribute at least 90 percent of the ESSER funds to local educational agencies (LEA) based on their proportional share of the state's Title I, Part A allocation. States have the option to reserve 10 percent of the allocation for emergency needs as determined by the state to address issues responding to the coronavirus and for administration.³⁷

The CCRSA Act enumerates the eligible uses of each LEA's ESSER funds to include, but not limited to:

- Any activity authorized by the ESEA of 1965;
- Coordinating the preparedness and response efforts to prevent, prepare for, and respond to coronavirus;
- Providing principals and others school leaders with the resources necessary to address the needs of their individual schools;
- Addressing the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth;
- Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases;
- Purchasing supplies to sanitize and clean the facilities of a LEA, including buildings operated by such LEA;
- Providing mental health services and supports;
- Planning and implementing activities related to summer learning and supplemental afterschool programs;
- Addressing learning loss among students;
- Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and children with disabilities, which may include assistive technology or adaptive equipment.
- Addressing facility repairs and improvements to enable operation of schools to reduce risk of virus transmission;
- Completing maintenance, repair, replacement and upgrade projects to improve the indoor air quality in school facilities; and
- Other activities that are necessary to maintain the operation and continuity of services.

Effect of Bill

The bill requires school districts to use a specified portion of their ESSER funds: (1) to locate unaccounted students within their school districts and (2) to remediate the learning loss among kindergarten to grade 12 students.”

HB 5101 LANGUAGE RELATED TO TEACHER SALARY NEGOTIATIONS

From HB 5101:

Section 4. Paragraph (c) of subsection (1) of section 1012.22, Florida Statutes, is amended to read:

(II) Beginning July 1, 2014, Instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for the first time to a position in the district in the capacity of instructional personnel or school administrator shall be placed on the performance salary schedule. Beginning July 1, 2021, and until such time as the minimum base salary as defined in s. 1011.62(16), equals or exceeds

\$47,500, the annual increase to the minimum base salary shall not be less than 150 percent of the largest adjustment made to the salary of an employee on the grandfathered salary schedule. Thereafter, the annual increase to the minimum base salary shall not be less than 75 percent of the largest adjustment for an employee on the grandfathered salary schedule.

b. Salary adjustments. —Salary adjustments for highly effective or effective performance shall be established as follows:

(I) The annual salary adjustment under the performance salary schedule for an employee rated as highly effective must be at least 25 percent greater than the highest annual salary adjustment available to an employee of the same classification through any other salary schedule adopted by the district.

(II) The annual salary adjustment under the performance salary schedule for an employee rated as effective must be equal to at least 50 percent and no more than 75 percent of the annual adjustment provided for a highly effective employee of the same classification.

(III) A The performance salary schedule shall not provide an annual salary adjustment for an employee who receives a rating other than highly effective or effective for the year.

SB 7018 THE FLORIDA RETIREMENT SYSTEM EMPLOYER RATE INCREASE BILL

SB 7018 establishes the Florida Retirement System employer rates for fiscal year. The current and new rates are displayed in the table below.

FRS Employee Class	Adopted Base Rate 2020-21	Adopted UAL Rate 2020-21	Conference Base Rate 2021-22	Conference UAL Rate 2021-22	Combined Conference Rates: 2021-22
Regular Class	4.84%	3.44%	4.91%	4.19%	9.10%
Special Risk Class	15.13%	7.60%	15.27%	8.90%	24.17%
County Elected Officials	10.07%	37.39%	10.28%	39.42%	49.70%
Sr. Management	6.39%	19.18%	6.49%	20.80%	27.29%
DROP	7.03%	8.29%	7.23%	9.45%	16.68%

FRS Employee Class	Conference HIS Rate	Education and Administration	Conference Total Rate 2021-22	Total Rate 2020-21	Rate Change 2021-2022
Regular Class	1.66%	06%	10.82%	10.00%	.82%
Special Risk Class	1.66%	06%	25.89%	24.45%	1.44%
County Elected Officials	1.66%	.06%	51.42%:	49.18%	2.24%
Sr. Management	1.66%	.06%	29.01%	27.29%	1.72%
DROP	1.66%	.00%	18.34%	16.98%	1.36%

The House staff analysis projected a cost to school districts of \$134.2 million for the FRS Employer Rate bill. That projected cost impact to the districts should be same for the final conference report.

Since the Legislature reduced the FRS rates for school districts in 2011 by about \$859.1 million, with the passage of the final conference report, the cumulative increase for school districts over the ten-year period will be about \$936.4 million. The increase in employer rates is in addition to the 3% FRS rate paid by FRS employees since 2011.

APPENDIX I



FIRST CALCULATION 2021-2022 FEFP VS. 2020-2021 2ND CALCULATION AND 2020-2021 4TH CALCULATION

	2020-2021 2nd Calculation	2020-2021 4th Calculation	2nd vs 4th	2021-2022 First Calculation	20-21 2nd v 21-22 1st	20-21 4th vs 21-22 1st			
Unweighted FTE	2,890,177.27	2,814,128.67	-76,048.60	2,868,388.86	-21,788.41	54,260.19			
Weighted FTE	3,186,169.98	3,092,968.72	-93,201.26	3,163,500.13	-22,669.85	70,531.41			
School Taxable Value	\$2,301,972,931.658	\$2,301,972,931.658	\$0	\$2,369,515,452.989	\$67,542,521.331	\$67,542,521.331			
RLE Millage	3.720	3.720	0.000	3.720	0.000	0.000			
Discretionary Millage	0.748	0.748	0.000	0.748	0.000	0.000			
Total Millage	4.468	4.468	0.000	4.468	0.000	0.000			
Base Student Allocation	\$4,319.49	\$4,319.49	\$0.00	\$4,372.91	\$53.42	\$53.42			
WFTE*BSA*DCD Base FEFP	\$13,772,371,296	\$13,369,960,681	-\$402,410,615	\$13,842,965,369	\$70,594,073	\$473,004,688			
Teacher Salary Increase Allocation	\$500,000,000	\$500,000,000	\$0	\$550,000,000	\$50,000,000	\$50,000,000			
Sparsity	\$55,500,000	\$54,796,831	-\$703,169	\$55,500,000	\$0	\$703,169			
State Funded Discretionary	\$25,552,581	\$37,288,348	\$11,735,767	\$35,591,194	\$10,038,613	-\$1,697,154			
.748 Mill Compression	\$263,201,637	\$262,116,216	-\$1,085,421	\$270,900,495	\$7,698,858	\$8,784,279			
DJJ Supplemental	\$6,312,500	\$5,075,450	-\$1,237,050	\$5,215,808	-\$1,096,692	\$140,358			
Safe Schools	\$180,000,000	\$180,000,000	\$0	\$180,000,000	\$0	\$0			
SAI	\$723,869,528	\$700,001,348	-\$23,868,180	\$714,704,630	-\$9,164,898	\$14,703,282			
Turnaround Supplement	\$26,130,735	\$24,383,050	-\$1,747,685	\$24,383,050	-\$1,747,685	\$0			
Mental Health	\$100,000,000	\$100,000,000	\$0	\$120,000,000	\$20,000,000	\$20,000,000			
Reading	\$130,000,000	\$130,000,000	\$0	\$130,000,000	\$0	\$0			
ESE Guarantee	\$1,092,394,272	\$1,035,304,654	-\$57,089,618	\$1,064,584,063	-\$27,810,209	\$29,279,409			
DJJ Supplemental	\$6,312,500	\$5,075,450	-\$1,237,050	\$5,215,808	-\$1,096,692	\$140,358			
Transportation	\$449,966,033	\$449,966,033	\$0	\$458,641,984	\$8,675,951	\$8,675,951			
Instructional Materials	\$236,574,333	\$236,574,333	\$0	\$241,135,805	\$4,561,472	\$4,561,472			
Teacher Supply Allocation	\$54,143,375	\$54,143,375	\$0	\$54,143,375	\$0	\$0			
Virtual Education	\$6,344	\$13,535	\$7,191	\$0	-\$6,344	-\$13,535			
Digital Classrooms	\$8,000,000	\$8,000,000	\$0	\$8,000,000	\$0	\$0			
Federally Connected	\$13,861,617	\$13,999,453	\$137,836	\$14,049,285	\$187,668	\$49,832			
Funding Compression	\$68,000,000	\$68,000,000	\$0	\$50,235,191	-\$17,764,809	-\$17,764,809			
Total FEFP	\$17,705,884,251	\$17,229,623,307	-\$476,260,944	\$17,820,050,249	\$114,165,998	\$590,426,942			
Less RLE	\$8,016,904,590	\$8,016,904,590	\$0	\$8,218,314,071	\$201,409,481	\$201,409,481			
Gross State FEFP	\$9,688,979,661	\$9,212,718,717	-\$476,260,944	\$9,601,736,178	-\$87,243,483	\$389,017,461			
EO Funding Adjustment	\$0	\$540,878,164	\$540,878,164	\$0	\$0	-\$540,878,164			
Allocated Student Reserve	\$0	\$0	\$0	\$0	\$0	\$0			
Proration to Appropriation	\$0	-\$60,892,079	-\$60,892,079	\$0	\$0	\$60,892,079			
Net State FEFP	\$9,688,979,661	\$9,692,704,802	\$3,725,141	\$9,601,736,178	-\$87,243,483	-\$90,968,624			
Class Size Reduction	\$3,145,795,385	\$3,145,795,385	\$0	\$2,837,752,505	-\$308,042,880	-\$308,042,880			
Total State Funds	\$12,834,775,046	\$12,838,500,187	\$3,725,141	\$12,439,488,683	-\$395,286,363	-\$399,011,504			
RLE	\$8,016,904,590	\$8,016,904,590	\$0	\$8,218,314,071	\$201,409,481	\$201,409,481			
.748 Millage	\$1,653,000,725	\$1,653,000,725	\$0	\$1,701,501,660	\$48,500,935	\$48,500,935			
Total Local Funds	\$9,669,905,315	\$9,669,905,315	\$0	\$9,919,815,731	\$249,910,416	\$249,910,416			
Total Funds	\$22,504,680,361	\$22,508,405,502	\$3,725,141	\$22,359,304,414	-\$145,375,947	-\$149,101,088			
Total Funds per FTE	\$7,786.61	\$7,998.36	\$211.75	\$7,795.07	\$8.46	-\$203.29			
State Funds per FTE	\$4,440.83	\$4,562.16	\$121.33	\$4,336.75	-\$104.08	-\$225.41			
Local Funds per FTE	\$3,345.78	\$3,436.20	\$90.42	\$3,458.32	\$112.54	\$22.12			
Equitable Comparison									
Deduct One Time EO Supplement		-\$681,007,538		\$0		\$681,007,538			
Total Funding w/o Supplement		\$21,827,397,964		\$22,359,304,414		\$531,906,450			
S/UFTE w/o Supplement		\$7,756.36		\$7,795.07		\$38.71			
Student Reserve Allocation	\$0	\$0	\$0	\$464,287,903		\$464,287,903			
Student Reserve Allocation Balance	\$0	\$0	\$0	\$464,287,903		\$464,287,903			
McKay Adjustment	-\$223,357,836	-\$214,275,247	\$9,082,589						
Empowerment Adjustment	-\$102,491,159	-\$220,006,211	-\$117,515,052						
FRS Rate Increase Est.	\$0	\$0	\$0	\$134,200,000	\$134,200,000	\$134,200,000			
HB 5001 SA 115 A				\$112,329,220					
HB 5001 SA 115B				\$561,646,121					
HB 5001 SA 115C				\$140,411,531					
HB 5001 SA 116A				\$1,158,329,431					
Total Appropriated				\$1,972,716,303					
Total Allocation				\$2,820,490,851					
Appropriation-Allocation				-\$847,774,548					