



To: Florida District School Superintendents
From: Brian T. Moore, FADSS General Counsel
Subject: FADSS Legislative Update – Week of April 26, 2021
Date: Friday, April 30, 2021

The Legislature will complete the 2021 Regular Session today following the adoption of the 2021-22 budget this afternoon. Quite a few bills made it through both chambers this week and will be sent to the Governor, including a few that have come close in years past. While I will leave it to Jim Hamilton to provide a more complete analysis of the budget (hopefully by early next week), there were many bills passed this week that will require school district action prior to the start of the next school year if the Governor signs them into law.

2021-22 Fiscal Year Budget

The 2021-22 budget materials were filed shortly after noon on Tuesday, starting the 72-hour cooling off period at 12:06 pm. The Legislature should approve the budget this afternoon and then adjourn the 2021 Session. However, they will be back in three weeks for a special session on the gaming pact the Governor recently negotiated.

While you may hear some boasting about a one billion dollar increase in education funding and a \$38 increase in the per student funding, the reality is that most districts will see a reduction in funding with an overall decrease of roughly \$200 per FTE student. Creative accounting using the 4th Calculation from 2020-21, reserving roughly \$450 million for scholarship students and unexpected new enrollees, and sending a lot more money to the virtual schools create the false impression of a large funding increase.

However, many districts will see an increase in FTE coupled with a decrease in funding. Other districts will see a slight increase in funding that is proportionally much lower than their increase in FTE. For example, Okaloosa County has an 11% increase in unweighted FTE students but will receive nearly a 1% decrease in its funding, and Collier County will see a 3% increase in FTE but only a 0.43% increase in funding. On the other hand, Florida Virtual School is set to see a decrease of more than 6% in unweighted FTE but an overall increase in funding of more than 15%. Finally, even if the per student funding increased \$38, that is about the same as it will cost districts to cover the FRS increase next year.

I have attached the FEFP 4th Calculation for this year and the Legislature’s calculation for the coming year. In comparing these two documents, you will see that the Legislature built its FEFP summary by using the actual 4th Calculation enrollment numbers and then pretending that districts were funded based on those numbers like they would have been had districts not been dealing with a pandemic for the last year.

Legislation

Passed This Week

CS/CS/HB3 (Trabulsy) – New Worlds Reading Initiative – After passing the House unanimously last week, the Senate substituted HB 3 for its own bill and also passed it unanimously. The bill establishes the New Worlds Reading Initiative, which is designed to get free books sent to the homes of K-5 students reading below grade level. Districts will need to partner with local entities to help identify eligible students and spread the word about the program. The program includes students enrolled in charter schools. As part of the budget process, the Legislature has set aside \$200 million for this program, including \$125 million from federal COVID-19 relief funds. **CS/SB 1372 (Burgess)**

HB 5 (Zika)– Civic Education Curriculum – This bill unanimously passed the House several weeks ago. The Senate substituted it for its own bill and passed it unanimously as well. This bill would require that the U.S. Government class required for high school graduation include comparative discussions of political ideologies that conflict with the freedom and democracy established in the United States. It also requires the DOE to develop oral history resources that can be used in the curriculum. This oral history program would be called the “Portraits in Patriotism Act.” **SB 1450 (Rodriguez)**

CS/HB 35 (Fine) – Legal Notices – The House passed this bill several weeks ago. The Senate took it up late this week, amended it to match its version of the bill, and sent it back to the House. Originally, this bill would have allowed school districts and other government entities to publish legal notices on their own website. The final version instead allows districts to publish notices on a newspaper website instead of the print version if the Board finds, at a public hearing, that an internet-based publication is in the public interest and the residents of the district have sufficient access to the Internet. All Internet notices will also be published on the statewide legal notice website – www.FloridaPublicNotices.com. **CS/CS/SB 402 (Rodrigues)**

CS/CS/SB 52 (Rodrigues) – Postsecondary Education – The Senate passed this bill in March, and the House substituted it for its version of the bill and passed it this week. The bill would provide dual enrollment scholarships for private and home school students, as well as public school students enrolled in summer courses. **CS/HB 281 (Duggan and Zika)**

CS/CS/HB 131 (Duggan) – Educator Conduct – The House unanimously passed this bill a couple weeks ago, and the Senate did the same this week. The bill prohibits districts from employing anyone who was terminated or resigned in lieu of termination for sexual misconduct with a student. A district will also need to report the employee and the disqualifying circumstance to the DOE for inclusion on the disqualification list maintained by DOE, which

prohibits individuals who have committed sexual misconduct with a student from being employed. The bill also requires the DOE to conduct an investigation within 90 days. If the employee resigns during the investigation in lieu of termination, an affidavit must be executed explaining the reasons and that there was an allegation of sexual misconduct with a student that led the employee to resign. Before someone can be employed by a district, the employment history check conducted by the district must include a review of any such affidavits. This applies to charter schools as well. [CS/SB 1864 \(Perry\)](#)

[SB 146 \(Brandes\)](#) – [Civic Education](#) – The Senate unanimously passed this bill as amended by the House. The bill establishes a nonpartisan civic literacy practicum, which high schools could choose to incorporate into their US Government courses. Those schools that successfully implement this practicum could then be eligible for designation as a Freedom School. [CS/HB 611 \(Diamond\)](#)

[CS/HB 149 \(Dubose and Plasencia\)](#)– [Students with Disabilities in Public Schools](#) – After the House passed this bill unanimously two weeks ago, the Senate substituted it for its own version of the bill and unanimously passed it as well. The bill would prohibit the use of seclusion in a school and impose greater restrictions on the use of restraints. Only authorized personnel would be able to use restraints and only after all positive behavior interventions and supports have been exhausted. In addition, certain restraint techniques, including straightjackets and handcuffs, cannot be used in a way that would obstruct breathing or blood flow or used at all when a student is placed face-down with his hands restrained behind his back. [CS/SB 192 \(Book\)](#)

[CS/HB 157 \(Hawkins and Busatta Cabrera\)](#) – [K-12 Physical Health Requirements / Cardiopulmonary Resuscitation Training in Public Schools](#) – This bill passed both chambers this week. The bill would require basic first aid instruction and CPR training to be incorporated into 9th and 11th grade instruction. [SB 280 \(Baxley\)](#)

[CS/CS/HB 259 \(Williamson and Byrd\)](#) – [Safety of Religious Institutions](#) – This bill passed the House a month ago. The Senate substituted it for its own version of the bill and passed it with a party-line vote of 24-16. The bill is designed to fix what is described as a loophole – a person cannot carry a concealed weapon at a church or other religious institution on the weekend if the institution has its own school on site due to the prohibition on firearms at all school properties. However, the language goes way beyond addressing this loophole and puts districts, as property owners, at great risk. As mentioned in an earlier update, I strongly encourage every district to examine its use of facilities agreements and existing leases, because many schools lease parts of their campuses to churches, other religious entities, and other groups on the weekends and outside of school hours. This bill would allow those lessees, not the district as the owner of the property, to decide whether people can bring concealed firearms onto the property.

This is the language of the bill in its entirety, “**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.”

Please note the language in bold. This law will prevail over any law that says no firearms on public school grounds. Furthermore, it only respects the private property rights of religious institutions. No other private property owners have their basic rights acknowledged by this bill. More than once, the bill sponsors claimed that this bill does not prevent an owner from putting firearm language into a lease, but what recourse would the owner have if the church decides to act under this law and allow people to bring firearms to the public school campus it leases on the weekend? Also, what recourse does a property owner have if there is already a lease in place for a term of years? Finally, how are districts going to comply with the SESIR reporting requirements that have generated so much interest with the MSD Commission and statewide grand jury? Possession of a firearm on school campus is a SESIR-level offense. If a church leases school property on the weekend and allows people to bring concealed firearms, how will the district accurately report this?

If it were not an important source of revenue and community good will for many schools to rent their facilities to religious institutions on the weekends, I might urge every district to end every lease it has with every entity, because it would probably be seen as a violation to refuse to lease your property to religious organizations while allowing it for non-religious groups. So, banning all leases is the only way districts can feel certain that they will not lose the right to maintain a firearm-free campus. Short of that drastic step, every use of facilities agreement needs to make it as clear as possible that any policy that would allow firearms to be brought onto school grounds would be considered a breach of the agreement and grounds for immediate termination of the lease. Hopefully, this decision to give a renter more rights than the owner of the property will fail to withstand a legal challenge. [CS/SB 498 \(Gruters\)](#)

[CS/CS/CS/HB 337 \(DeCeglie\)](#) – Impact Fees – After passing the House last week, the Senate took up the bill this week and passed it by a vote of 28-12. The bill puts some restrictions on impact fees, particularly with respect to raising those fees any given year. If a fee is to increase less than 25%, it must be phased in over two years. If the fee will increase between 25 and 50%, it must be phased in over four years. No fee could increase more than 50% without engaging in a new study applying the rational nexus test, and a fee cannot be increased more than once every four years. The final version of the bill includes the language that would allow impact fees to be used to purchase school buses and the equipment necessary to outfit the bus for official use.

[CS/CS/CS/SB 750 \(Gruters\)](#)

[CS/CS/SB 366 \(Hutson\)](#) – Education Opportunities Leading to Employment – After the Senate passed the bill last week, the House passed it with amendments. The Senate then voted unanimously to accept the House’s amendments. The bill seeks to improve and expand upon apprenticeship and pre-apprenticeship programs in the state’s career and technical education (CTE) system. Originally, the bill established that students in a pre-apprenticeship program or a course that includes a work-based component would be considered state employees for worker’s compensation purposes (medical benefits only). One of the late amendments from the House changed this provision to provide that the student apprentice would be considered an employee

of the school district in unpaid apprenticeships or the actual employer if it is a paid apprenticeship. In addition, the final version authorizes the DOE to reimburse employers, including districts, for the cost of the worker's compensation coverage for these students.

[CS/CS/HB 791](#) (Harding)

[CS/HB 419](#) (Grall) – Early Learning and Early Grade Success – After the House unanimously approved this bill last week, the Senate substituted it for its version of this bill and passed it unanimously as well. The bill would change the way early learning is governed in the State of Florida starting with the repeal the Office of Early Learning (OEL) and replacing it with a Division of Early Learning within the DOE. This would then provide the State Board of Education (SBE) with rulemaking and oversight authority over both the voluntary prekindergarten (VPK) and school readiness programs. The bill also moves the Gold Seal Quality Care Program from the Department of Children and Families (DCF) to the DOE, and it brings Early Learning Coalitions (ELCs) under the SBE's oversight. In addition, the bill will create a VPK accountability system that looks at student outcomes, learning gains, and student-teacher interactions. The Commissioner of Education will develop a screening and progress monitoring system for VPK through third grade to assess VPK performance. **[CS/SB 1282](#) (Harrell)**

[CS/CS/CS/HB 429](#) (Learned and Maney) – Purple Star Campuses – After the House passed its bill unanimously last week, the Senate substituted the House version of the bill for its own and passed it unanimously as well. The bill is designed to recognize schools that support children of military members and veterans. **[CS/CS/SB 938](#) (Wright)**

[CS/HB 519](#) (Yarborough) – Required Health Education Instruction – After the House unanimously passed this bill two weeks ago, the Senate took it up and did the same this week. The bill requires that health education be age and developmentally-appropriate and that it include information on preventing child sexual abuse, exploitation, and human trafficking. Additionally, abstinence and teen pregnancy instruction is limited to grades 6-12. **[CS/SB 1094](#) (Bean)**

[CS/CS/HB 545](#) (Chaney) – Reproductive Health and Disease Education (fka Materials Harmful to Minors) – The House passed this bill 82-24 last week, and the Senate took it up this week and passed it with a vote of 36-4. The bill requires districts to notify parents of their right to make a written request to exempt their child from certain reproductive health instruction. It also requires that sex education curriculum be approved annually by the School Board. **[CS/SB 410](#) (Rodriguez)**

[CS/SB 590](#) (Harrell) – Involuntary Examination of Minors / School Safety – As mentioned last week, the Senate amended this bill last week to bring it more in line with the House's school safety bill, HB 7035. The House passed the Senate version of the bill unanimously this week. The bill still addresses the involuntary examination of minors (Baker Act), including a requirement that a school make reasonable attempts to notify a parent before a child is removed from school unless the principal believes that delaying the removal would harm the student. A reasonable attempt is defined as "Use available methods of communication to contact the student's parent, guardian, or other known emergency contact, including but not limited to,

telephone calls, text messages, emails, and voice mail messages following the decision to initiate an involuntary examination of the student.” The types and number of attempts must also be documented.

The bill also now requires timely notification of parents of “threats, unlawful acts, and significant emergencies pursuant to s. 1006.07(4) and (7)” and a “right to access school safety and discipline incidents as reported pursuant to s. 1006.07(9).” Significant emergencies include weapon “possession or use when there is intended harm towards another person, hostage, and active assailant situations; . . . murder, homicide, or manslaughter; sex offenses . . . ; natural emergencies . . . ; and exposure as a result of a manmade emergency.” The bill will also require a board policy directing Superintendents to report annually to the DOE the number of Baker Acts initiated at school or school activities.

Finally, among other changes to the law, the bill requires that the code of student conduct include criteria for recommending to law enforcement that a student who commits a criminal offense be referred to a civil citation or other diversion program, as well as criteria for assigning a student who commits petty acts of misconduct to a school-based intervention program. [CS/CS/HB 383 \(Plasencia\)](#)

[CS/HB 723 \(Massullo\)](#) – [Juvenile Justice Education Programs](#) – The House unanimously passed this bill two weeks ago, and the Senate did the same this week. The bill increases the percentage of certain funds that must be spent on specified costs; requires contracts between district school boards and juvenile justice education programs to be in writing; requires the DOE to provide mediation services for certain disputes; and prohibits school boards from delaying certain payments pending receipt of local funds. [CS/SB 486 \(Bradley\)](#)

[CS/CS/SB 1028 \(Hutson\)](#) – [Charter Schools / Education](#) – This bill became a hot potato bill, as both chambers sent it back and forth with amendments more than once as different provisions from other bills that had not made it to the finish line yet found a home here. While this bill started as a bill related to charter schools and would allow colleges and universities to accept charter school applications and serve as a charter sponsor, it became a place for school board term limits, transgender athletics, parental retention of elementary students, water safety information, virtual SAC meetings, and more. Ultimately, the House agreed to drop school board term limits in exchange for reviving the transgender athletics bill. After several hours of contentious debate about the last-minute addition of transgender athletics into the bill despite the issue having died in the Senate a couple weeks ago, the final version of this bill passed each chamber essentially along party lines. [CS/CS/HB 51 \(McClain\)](#); [CS/CS/SB 200 \(Berman\)](#); [CS/SB 358 \(Berman\)](#); [CS/HB 1475 \(Tuck\)](#); [SB 2012 \(Stargel\)](#)

[CS/CS/SB 1108 \(Diaz\)](#) – [Education](#) – The House passed this bill with amendments, which the Senate voted unanimously to accept. The bill would authorize the DOE to hold patents, copyrights, trademarks etc., and to sell or license any materials for which they control the rights. It also requires students to take a civic literacy assessment after their U.S. Government class. Students who pass the assessment would then be exempt from this bill’s newly required civic literacy course requirement for Florida college and university students. Finally, it requires

school districts to administer either the SAT or ACT for all 11th grade, public school students. [CS/CS/HB 507 \(Rizo\)](#)

[CS/HB 1159 \(Busatta Cabrera\)](#) – Educator Preparation and Certification / Education – The Senate passed the House version of the bill after amending it to include the K-5 retention language that is also now in SB 1028 (above), as well as language that would require VAM scores to be released by July 31 every year. The House waited several days but finally passed the bill unanimously with the Senate amendments. The bill would also modify the core curricula for teacher preparation programs and Education Preparation Institutes (EPI) competency-based program requirements, remove the General Knowledge Test as a prerequisite for admission into a teacher preparation program, address the shortage of qualified CTE teachers, provide that a master’s degree or higher may demonstrate mastery of general knowledge, and modify and expand the reach and scope of the William Cecil Golden Professional Development Program for School Leaders. [CS/CS/SB 934 \(Wright\)](#)

[CS/CS/CS/HB 1507 \(Yarborough\)](#) – Workforce Related Programs and Services – The House passed this bill unanimously two weeks ago, and the Senate unanimously passed it after substituting it for SB 98, which had been amended recently to more closely align with the House bill. This bill, which is entitled the Reimagining Education and Career Help (REACH) Act, would seek to live up to its name by completely redefining workforce education in the State of Florida, starting with the creation of an Office of Reimagining Education and Career Help in the Governor’s Office. Among other things, the bill would create a Money-Back Guarantee Program, whereby school districts would have to refund the cost of tuition to students who cannot find a job within six months of completing certain programs. It would also change workforce performance funding to be based on one-third of the funding determined by student job placement and two-thirds determined by the student’s earnings with additional weight for underserved populations. [CS/SB 98 \(Albritton\)](#)

[CS/HB 7011 \(Aloupis\)](#) – Student Literacy – The House unanimously passed this bill last week, and the Senate took it up and did the same this week. This bill seeks to create new systems of support for students with substantial deficiencies in reading, allowing them to be identified as early as possible, and providing them with teachers and parents able to provide effective instruction and interventions. It would also require that a progress monitoring system covering VPK through 8th grade be created beginning in August of 2022. In addition, it 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). One of the main goals of the bill is to better align the transition from prekindergarten to kindergarten. [SB 1898 \(Rodriguez\)](#)

[HB 7033 \(Koster\)](#) – Task Force on Closing the Achievement Gap for Boys – This bill unanimously passed the House last week and did the same in the Senate this week. It would create a task force to examine the problem of the large achievement gap for boys (test scores, discipline rates, disability rates, etc.) and make recommendations to close that gap. One Superintendent who has implemented programs and strategies to close the achievement gap for boys with the assistance of a local non-profit will be a member of the task force. **[SB 1816 \(Rouson\)](#)**

[CS/HB 7045 \(Fine\)](#)– School Choice – Last week, the House passed this bill and the Senate substituted the House version for its own. This week, the Senate voted 25-14 to pass the bill. This bill seeks to revamp all the school choice programs currently embodied in Gardiner, McKay, Family Empowerment Scholarships (FES), Hope Scholarships, and the Florida Tax Credit (FTC) Scholarship Program. However, unlike SB 48, this bill does not move Hope and FTC into the FES program or combine McKay and Gardiner. Instead, the funding process and award amounts for the programs will change, and the Gardiner program will no longer exist and instead will become part of the FES program. The FES will now be open to dependents of military members, siblings of students with a disability receiving the scholarship, and students who have not previously attended public school. All of these FES program scholarships will be funded in the FEFP with state funds only. **[CS/CS/SB 48](#)** (Diaz)

Close but No Cigar

[HB 1635 \(Ingolia\)](#) – Hernando County School District, Hernando County – This bill would have overturned the voters and School Board of Hernando County who approved an appointed Superintendent in 1992 by forcing them to vote again on the issue in 2022. Although it passed the House with some objections, it was not heard in the Senate (the Senate President also represents Hernando County).

Passed Last Week

[CS/CS/HB 173 \(Tant\)](#)– IEP Requirements for Students with Disabilities – This bill passed both chambers last week. This is the bill that would start transition planning for students with disabilities earlier (7th grade) and requires that information about all transition services and options be shared with parents. **[SB 726 \(Taddeo\)](#)**

[HB 241 \(Grall\)](#) – Parents’ Bill of Rights – This bill creates the “Parents’ Bill of Rights,” providing that no governmental entity can infringe upon these fundamental rights of a parent unless the action is reasonable, necessary, and narrowly-tailored in the service of a compelling state interest. There are too many rights spelled out to list them all here, but some of the enumerated rights that may give rise to issues in school districts based on differing interpretations of their meaning include:

- The right to “direct” the education and care of his or her minor child.
- The right, pursuant to s. 1002.20(13), to access and review all school records relating to his or her minor child (this is the language that causes concerns for LGBTQ advocates).

- The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of his or her minor child (there are exceptions for recordings related to a legitimate academic or athletic activity, security videos, and photo identification cards).

School boards will also be required to adopt a policy, after consulting with parents, teachers, and administrators, that promotes parental involvement in the school system. There are several requirements regarding notice to parents about parental involvement, and the ultimate policy and parent information can be posted on the district's website. [CS/CS/SB 582 \(Rodrigues\)](#)

[HB 529 \(Fine\)](#)– [Moments of Silence in Public Schools](#) – These bills require a one to two-minute moment of silence at the start of each school day for public school students. Teachers may not suggest to students how they will spend their moment of silence and instead must encourage parents to discuss it with their children. [CS/SB 282 \(Baxley\)](#)

[HB 827 \(Hawkins\)](#) – [School District Funding / Education](#) – The bill would require that the 80% bonus funding required to be distributed to the schools include programs administered by the University of Cambridge Local Examinations Syndicate, which prepares prospective students to enroll in AICE courses. In addition to the regular \$50 bonus paid to a teacher for each student successfully passing an AICE examination, a \$25 bonus would be paid to a pre-AICE teacher for each student who passes the pre-AICE examination. [SB 918 \(Bradley\)](#)

Signed into Law as of 4/29/21

[CS/HB 1 \(Fernandez-Barquin and Byrd\)](#) – [Combating Public Disorder](#) – Although not previously discussed or directly related to schools, this law sparked quite a bit of controversy and may have an effect on school districts in the event of any student protests or other public protests on school grounds.

[CS/CS/SB 50 \(Gruters\)](#) – [Sales and Use Tax](#). This law calls for the collection of sales taxes on essentially all internet purchases. The additional revenue will be used to replenish the Unemployment Compensation Trust Fund to prevent rate hikes as a result of the pandemic.

[CS/SB 72 \(Brandes\)](#) – [Civil Liability for Damages Relating to COVID-19](#) – This law will protect school districts from tort claims filed related to COVID-19.

Up Next

As mentioned above, Jim Hamilton is completing his analysis of the 2021-22 Budget, including the implementing and confirming bills, and we hope to have that out to you early next week. We will also be reviewing all the bills that passed, including all of the last-minute amendments to those bills, to make sure we identify any actions or policies that may be required in the near future. Finally, there is new Superintendent training in Gainesville next week, and the third regional FADSS meeting will take place in Osceola County on May 10th.