



To: Florida District School Superintendents  
From: Brian T. Moore, FADSS General Counsel  
Subject: FADSS Legislative Update – Week of March 1, 2021  
Date: Friday, March 5, 2021

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The 2021 legislative session kicked off this week with the Governor’s State of the State address and a flurry of activity in multiple committees. While the interim committee weeks did not include a lot of activity on bills that would affect school districts, there were at least 20 bills considered this week, including several that were only filed within the last 10 days, that need to be followed as they move forward. As a result, this update is much longer than previous updates have been.

### **State of the State**

Governor DeSantis spent a significant portion of his speech talking about education in Florida. On behalf of Florida parents, he specifically thanked Superintendents, teachers, and others who have made it possible to open the schools for all families since August. “Open schools have been a godsend to parents throughout Florida, especially for single moms responsible for putting food on the table.” With respect to the budget, DeSantis specifically stated that he does not support any reductions in K-12 funding this year.

### **Budget and Other Funding Issues**

Before I get to specific bills considered this week, the Legislature spent quite a bit of time talking about financial issues that are worthy of discussion as well. Both the *Senate Select Committee on Pandemic Preparedness and Response* and the *House Pandemics and Public Emergencies Committee* received a lengthy presentation from the Department of Economic Opportunity (DEO) about the re-employment assistance system in Florida and what has happened with it over the past year. In short, the system was absolutely overwhelmed on a scale never seen before and was not prepared for the pandemic.

There was not a lot of discussion about fraud, but the DEO did indicate that it has fraud detection measures in place and has recently increased anti-fraud efforts as well. Hopefully, these will be effective, as districts across the state have seen an enormous increase in their unemployment bills despite having maintained their workforce and work hours for just about every employee. It is worth noting that Florida was specifically targeted by an international fraud ring in recent months, and several districts have seen very disturbing patterns with some filings received just in

the last month or two. Unfortunately, other than making sure districts devote the resources to individually dispute each of the claims through the CONNECT system, there is not much else the DEO or others have been able to suggest to ease this burden on school districts, which do not need to have 20-30 years' worth of reemployment credits sitting in an account in Tallahassee.

The *House PreK-12 Appropriations Subcommittee* continued to focus on the Florida Education Finance Program (FEFP). As has been discussed previously, five superintendents testified before this committee two weeks ago about COVID spending, federal relief programs, and the issue of lower-than-expected enrollment and what is being done to find these children and get them back in school. This week, Chairman Fine led the subcommittee through a review of the categoricals that are included within the FEFP, including the new Teacher Salary Increase, Class Size Reduction, Safe Schools, Transportation, and numerous others. All together, the categoricals amount to roughly one-third of the overall FEFP.

During Chairman Fine's presentation, a question was raised concerning the ESSER II funds that were approved by Congress in late December but have not yet been released to the districts. Fine indicated that he approved of the DOE not releasing these funds or any guidance on them, because they were recognizing the spending authority of the Legislature. However, as districts start preparing for their efforts to combat the expected COVID-slide this summer and in the years to come, they need to know what resources they will have. Whether it is additional time within the school day or various extended-day programs, these efforts will require paying employees for the additional time, which will not be possible without a significant influx of revenue to cover these costs.

The Superintendents in the Heartland Education Consortium raised this issue at their meeting on February 25, 2021, and three members of Florida's Congressional delegation (Representatives Kathy Castor, Frederica Wilson, and Lois Frankel) sent a letter to Governor DeSantis, Senate President Simpson, Speaker Sprowls, and Commissioner Corcoran urging them to release the roughly \$3.1 billion in ESSER II funding that have been available to Florida since January 6, 2021. They wrote, "It is critical that these emergency funds be disbursed right away to ensure continuity of student learning, [sic] and avoid layoffs and other detrimental consequences. Time is of the essence as school districts are trying to determine plans for graduation ceremonies, summer school, rapid COVID-19 testing, social workers to help bring children back to school, and other critical issues." Dr. Grego, in his letter to Commissioner Corcoran on behalf of FADSS concerning federal accountability waivers, which is discussed below, also raised the issue. He wrote, "Progress monitoring results show that all schools are going to require specific, targeted supports to address learning losses for the next several years through the desperately-needed ESSER II and other pandemic-relief funds."

It is also worth noting that FADSS recently surveyed school districts about safe schools, transportation, and instructional materials funding. Of the approximately 50 districts that responded, the average district is paying twice as much in transportation costs than what it receives from the categorical and roughly 165% more in safe schools costs. Further, most districts are looking at instructional materials purchases over the next few years that will far exceed the annual categorical allocation.

## **2021 Legislation**

Multiple committees considered bills that would affect school districts this week, including several bills that were only filed last week and have not been previously discussed. Bills that were making their second or third committee stop included:

**CS/HB3 (Trabulsy)** – New Worlds Reading Initiative – reported favorably (unanimous) by the *House PreK-12 Appropriations Subcommittee*. 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. This initiative was first introduced by Speaker Sprowls, and early literacy has been one of his main focal points this year. The subcommittee adopted a committee substitute for this bill. The original version left it up to districts to decide whether to participate and placed 50% of the cost on local, non-profit agencies with which the district partnered. After hearing concerns that some districts may not be able to find local partners capable of raising sufficient funds to serve all of the students the bill seeks to serve, the bill was rewritten to make it mandatory in all 67 districts. However, the full cost of the program will now be borne by the State. Districts will still 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. There is no cost estimate available yet, but there would have been approximately 557,000 children eligible for the program based on 2018-19 data. With each child receiving one book per month for nine months out of the year, that would be over five million books distributed each year. The Senate companion, **SB 1372 (Burgess)**, has not received a committee hearing yet.

**HB 529 (Fine)** – Moments of Silence in Public Schools – reported favorably (17-1) by the *House Secondary Education and Career Development Subcommittee*. This is the House version of the moment of silence bill (**SB 282** - Baxley). The bill requires 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. The bill will now move to the *House Education and Employment Committee*. The Senate version is in the *Judiciary Committee*, but it was not heard this week and is not among the 13 bills on next week's agenda.

**CS/SB 48 (Diaz)** – Educational Scholarship Programs – reported favorably (11-8) by the *Senate Appropriations Committee*. The bill underwent another overhaul with a strike-all replacement, and this was its third and final committee stop. For the most part, the bulk of the bill remains the same as originally reported, and it will now move to the Senate floor.

- This bill consolidates the state's K-12 voucher/scholarship programs, converts all existing K-12 scholarship/voucher programs to education savings accounts (ESAs), and funds them through a line item in the FEFP.
- The Florida Tax Credit Scholarship and Hope Scholarship are folded into the Florida Empowerment Scholarship, and the bill also combines the McKay and Gardiner programs into one program (McKay-Gardiner Scholarship).
- Further, the bill removes the requirement of prior public school enrollment for all K-12 scholarship/voucher programs.

All attempts to amend the bill, other than the strike-all replacements, have failed, and the votes in each committee have been along party lines. At this stage, there does not appear to be any interest to include accountability measures on these tax-payer funded programs other than trusting the parents' choices. FADSS continues to watch this bill, particularly with respect to the funding implications for districts, the potential growth of the program to allow rather wealthy families to participate, staff time and resource demands with potential IEP requests, and other potential impacts on district time and resources.

**[CS/HB 7 \(McClure\)](#); **[SB 72 \(Brandes\)](#)** – Civil Liability for Damages Relating to COVID-19 – after being temporarily postponed at the last meeting, the *Senate Commerce and Tourism Committee* reported SB 72 favorably (7-4). It will now move on to the *Senate Rules Committee*.**

In addition, HB 7 was one of the first bills to be heard by either the full House or Senate on second reading. Many of the same arguments and amendments seeking to make it easier to sue a business or government entity that had been raised in the committees were brought forward again but failed. HB 7 will now move on to third reading.

As previously discussed:

- These bills would extend liability protection to school districts facing potential civil lawsuits for COVID-19-related claims.
- Districts, as well as businesses, religious organizations, and other government entities, would be immune from suit unless the plaintiff pleaded their complaint with specificity, submitted an affidavit from a doctor confirming the doctor's belief that the COVID-19 injury occurred because of the district's conduct, and proved 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.

The Legislature also considered numerous bills that have not previously been discussed. These included:

**[HB 5 \(Zika\)](#)** – Civic Education Curriculum – reported favorably (unanimous) by the *House Secondary Education and Career Development Subcommittee*.

- 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 (the bill references communism and totalitarianism).
- It also requires the Department of Education (DOE) to develop an integrated civics education curriculum for all public school grades.
- Finally, it requires the DOE to develop oral history resources that can be used in the curriculum, which would be made up of a diverse group of individuals providing personal stories that demonstrate civic-minded qualities, including people who suffered under

political philosophies different than those established in the United States. This oral history program would be called the “Portraits in Patriotism Act.”

Although there was considerable discussion about singling out communism and not other harmful ideologies, like fascism, the confederacy, and racism, the bill passed unanimously.

**HB 51 (McClain)** – Charter Schools – reported favorably (12-4) by the *House Post-Secondary Education and Lifelong Learning Subcommittee*.

- This bill would allow state universities or colleges to solicit, accept, and approve charter school applications and then serve as the charter sponsor.
- Unlike school districts which must accept and review all charter school applications, colleges and universities would have complete discretion over whether to even consider an application.
- Any schools approved under this bill would not be part of the local school district. The college or university would be considered the local education agency instead.

During questions on the bill, McClain said that this bill was needed so that regional colleges and universities could serve students from multiple districts. However, there is nothing that would prevent that from happening now. A college or university could apply to open a charter school and seek approval from the district in which the school would reside. If it decided to serve students from other districts as well, it would not need to get charter applications approved by all the neighboring districts too. Other than creating a separate charter authorizing process outside of the school districts, it is not clear why the same goals could not be reached by inviting colleges and universities to establish additional laboratory schools. Its Senate companion, **SB 1028 (Hutson)**, has not been set for a committee hearing yet.

**CS/HB 149 (DuBose and Plasencia)** – Students with Disabilities in Public Schools – approved a committee substitute and reported favorably (unanimous) by the *House Early Learning and Elementary Education Subcommittee*. This bill arises from a belief that seclusion and restraint are “too heavily relied on” in schools.

- The bill defines seclusion and restraint and prohibits the use of seclusion.
- It restricts the use of mechanical or physical restraints to instances where it is necessary to protect students or staff due to an imminent risk of serious injury.
- Restraints may only be employed for as long as necessary to dissipate the threat, and they may not be used until positive behavior interventions and supports have been exhausted.
- Certain restraints, such as straitjackets or zip ties, may not be used in ways that restrict breathing or blood flow, nor may students be restrained in a face-down position with their hands behind their backs.
- Restraints are forbidden for disciplinary use, to induce compliance, or to inflict pain.
- School districts must adopt rules and procedures related to positive behavior interventions and supports and to identify all school personnel authorized to use restraint techniques.

- School districts must develop a crisis intervention plan for a student who is restrained more than once during a semester.
- If a student is restrained more than once in a semester, the district must develop a crisis intervention plan for the student.
- In any incident report following the use of a restraint, the report must include the date the person who restrained the student last received training on positive interventions and supports.
- Finally, the bill creates a pilot program for placing a video camera in a self-contained classroom upon the request of a parent. The pilot program will be implemented in Broward County, after the original bill was amended to remove Volusia from the pilot program.

The bill’s Senate companion, [SB 192 \(Rodrigues\)](#), has not been scheduled for a committee hearing yet.

[HB 419 \(Grall\)](#) – Early Learning and Early Grade Success – reported favorably (unanimous) by the *House Early Learning and Elementary Education Subcommittee*. The bill would change the way early learning is governed in the State of Florida.

- It repeals the Office of Early Learning and replaces it with a Division of Early Learning within the DOE, which then provides the State Board of Education (SBE) with rulemaking and oversight authority over both the voluntary prekindergarten (VPK) and school readiness programs.
- It moves the Gold Seal Quality Care Program from the Department of Children and Families (DCF) to the DOE.
- It brings Early Learning Coalitions (ELCs) under the SBE’s oversight.
- It seeks to create a VPK accountability system that looks at student outcomes, learning gains, and student-teacher interactions.
- The Commissioner of Education would develop a screening and progress monitoring system for VPK through third grade to assess VPK performance.

The bill will now move to the *House Children, Families, and Seniors Subcommittee*. The Senate companion, [SB 1282 \(Harrell\)](#), has not been scheduled for a committee hearing yet.

[HB 1505 \(Melo\)](#) – Workforce Programs and Services – reported favorably (unanimous) by the *Secondary Education and Career Development Subcommittee*. This bill was filed on Monday and heard by the subcommittee four days later, but it also has been assigned to four committees. It seeks to create a “consumer-first,” “performance-based” workforce system with the DEO collaborating with both DCF and DOE in this effort. With respect to K-12 students, the bill

- Requires that the middle school career and education planning course include state career planning resources.
- Requires that the character development program for grades 9-12 include instruction on developing a digital resume, researching career pathways, and learning how to use state career planning resources.

This bill has been assigned to four committees and now moves to the *Post-Secondary Education and Lifelong Learning Subcommittee*.

**HB 1507 (Yarborough)** – Workforce Related Programs and Services – reported favorably (unanimous) by the *House Secondary Education and Career Development Subcommittee*. This bill, which is entitled the Reimagining Education and Career Help Act, is much more extensive than HB 1505 and 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. Like HB 1505, this bill was filed Monday and heard in the first of four committees on Thursday.

It is difficult to summarize the entire scope here, but, among other things, the bill would:

- Require DEO and DCF to evaluate how workforce services affected participants in welfare transition programs, including a report on their earnings.
- Require DOE to create a dashboard that measures the State’s return on investment with respect to workforce development.
- Looks to identify the state’s healthcare workforce needs, beginning with nursing.
- Creates the Open Door Workforce Grant Program that would cover up to two-thirds of the cost of school district programs aimed at short-term, high-demand jobs.
- Creates 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.
  - Beginning in the 2022-23 school year, districts would need to designate at least four programs that prepare students to enter “in-demand, high-skill, high wage occupations” and offer a money-back guarantee for those designated programs.
  - The money-back guarantee would also be required for programs designed to meet a critical local need that has not been identified by the Labor Market Estimating Conference as a statewide need.
  - Districts would have to adopt eligibility criteria for the guarantee, which would include attendance, student performance in the program, attendance at a Career Service or Career Day event, participation in an internship or work-study program, documented job search efforts, and development of a career plan within the career service department.
- Workforce performance funding would require that one-third of the funding be based on student job placement and two-thirds be based on the student’s earnings.

The bill will now move to the *Post-Secondary Education and Lifelong Learning Subcommittee*.

**HB 7011** – Student Literacy – a proposed committee bill from the *House Early Learning and Elementary Education Subcommittee* reported favorably (unanimous). A similar bill in the Senate, **SB 1898 (Rodriguez)**, was filed last week but has not yet been set for a committee hearing.

As mentioned above, student literacy is a House focal point this session. This committee 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.
- Require that a progress monitoring system covering VPK through 8<sup>th</sup> grade be created beginning in August of 2022. This system must generate sufficient data to both identify struggling readers and measure how successful attempted interventions are.
- Creates the Reading Achievement Initiative for Scholastic Excellence (RAISE) Program, which will establish 20 regional literacy expert support teams throughout the state. Supports from the RAISE program will include evidence-based professional development and help with data-informed instruction.
- Enhance educator training, including the requirement that the reading endorsement credential be updated.
- Create a new route to the reading endorsement.
- Require the Just Read, Florida! Office to identify instructional materials that implement evidence-based practices.
- 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).
- Better align the transition from prekindergarten to kindergarten.

**SB 188 (Berman)** – Solar Energy Systems Located on the Property of an Educational Facility – reported favorably (unanimous) by the *Senate Education Committee*. This bill would exclude the costs associated with a solar energy system from the cost per student station calculation for new construction. The bill now moves to the *Appropriations Subcommittee on Education*. Its house companion, **HB 551 (Hardy)**, has not been heard in a committee yet.

**CS/SB 366 (Hutson)** – Education Opportunities Leading to Employment – reported favorably (unanimous) as a committee substitute by the *Senate Education Committee*. The bill seeks to improve and expand upon apprenticeship and pre-apprenticeship programs in the state's career and technical education (CTE) system. Among other things, the bill:

- Establishes that students in a pre-apprenticeship program or a course that includes a work-based component are considered state employees for worker's compensation purposes (medical benefits only).
- Makes alterations to the Career and Professional Education (CAPE) program, including authorizing the SBE to adopt rules for CAPE and providing bonus funds for industry certifications that lead to occupations in critical industries.
- Amends dual enrollment eligibility criteria to include the same 3.0 unweighted GPA, as well as "a demonstrated level of achievement of college-level communication and computation skills." In addition to meeting the requirements on a common placement

test, students will be able to demonstrate the necessary level of achievement through alternative methods adopted by the SBE by January 31, 2022.

The bill will next move to the *Senate Appropriations Subcommittee on Education*.

**CS/SB 486 (Bradley)** – Juvenile Justice Education Programs – reported favorably (unanimous) as a committee substitute by the Senate Education Committee. This bill would make amendments to the Department of Juvenile Justice (DJJ) programs operated in school districts. The changes include:

- Allowing the 250-day requirement to be defined by equivalent hours of instruction.
- Increasing the minimum amount of FEFP funds that must be spent on instructional costs for students from 90% to 95%.
- Clarifies that 100% of categorical funds generated by DJJ students must be passed on to the program and spent as designated.
- Requires that all agreements between school districts and DJJ education providers be in writing and that district satisfy DJJ program invoices within 15 days.

This bill did not generate any discussion and now moves to the *Senate Appropriations Subcommittee on Education*. Its House companion, **HB 723 (Massullo)**, has not been heard in any of its four assigned committees yet.

**CS/SB 582 (Rodrigues)** and **HB 241 (Grall)** – Parental Rights – reported favorably (8-3) as a committee substitute by the *Senate Judiciary Committee* and without amendment (13-7) by the *House Health and Human Services Committee*, respectively. 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. According to the sponsor, this bill does not create any new rights but instead gathers them from throughout Florida Statutes and spells them all out in a new Chapter 1014, Florida Statutes.

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.
- 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].
- The right to consent in writing before his or her minor child's grades are released to a law enforcement officer or law enforcement agency by an agency or institution as defined in s. 1002.22 unless such release is authorized by s. 1002.221 and the Family Educational

Rights and Privacy Act, 20 U.S.C. s. 1232g. [This was an amendment to the Senate version only and appears to arise out of some recent controversy in Pasco County.]

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.

The bill now moves to the *Senate Education* and *House Judiciary Committees*.

**SB 886 (Thurston)** – COVID-19 Impact on School Accountability – reported favorably (9-1) by the *Senate Education Committee*. This bill provides that school grades and other state-mandated accountability measures cannot be used this year to:

- Move a school into turnaround status;
- Apply sanctions to a school already in turnaround status for failing to raise its grade;
- Determine third-grade retention;
- Determine graduation eligibility; or
- Calculating student performance for educator performance evaluations.

While there were several calls for a more coordinated effort with DOE with respect to both state and federal accountability requirements, the bill was supported by all but one Senator at this stop. It will now move to the *Senate Appropriations Subcommittee on Education*. Its House companion, **HB 359 (Bartleman)**, has not yet been heard in any of its four assigned committees.

With respect to federal accountability waivers, the letter Dr. Grego wrote to Commissioner Corcoran this week on behalf of FADSS requested that the DOE seek “all waivers deemed necessary and appropriate in response to the US DOE’s invitation, particularly with respect to accountability and school identification.” Dr. Grego addressed the many challenges our students, staffs, and families have faced and continue to face during this pandemic, pointing to the need to address learning loss, not assign punitive measures: “Going forward, we need the assessment results to drive the necessary interventions for all students, especially those who are struggling, not to assign punitive labels on the student, teacher, school, or district.”

**SB 918 (Bradley)** – Advanced International Certificate of Education (AICE) funding – reported favorably (unanimous) by the *Senate Education Committee*. 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. The bill will now move to the *Senate Appropriations Subcommittee on Education*. Its House companion, **HB 827 (Hawkins)**, has not been heard in any of its three assigned committees yet.

[\*\*CS/SB 934 \(Wright\)\*\*](#) – Educator Certification and Teacher Preparation Programs – reported favorably (unanimous) as a committee substitute by the *Senate Education Committee*. The bill would:

- 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.
- Seek to address the shortage of qualified CTE teachers by allowing successful completion of an EPI to demonstrate the necessary education, along with the requisite work experience, for non-degreed CTE teachers.
- Provide that a master’s degree or higher may demonstrate mastery of general knowledge.
- Modify and expand the reach and scope of the William Cecil Golden Professional Development Program for School Leaders.

The bill will now move on to the Senate Appropriations Subcommittee on Education. Its House companion, [\*\*HB 1159 \(Busatta Cabrera\)\*\*](#), has not been heard in any of its three assigned committees as of yet.

### **The Week Ahead**

The Calendars for next week are still taking shape, but both the House and Senate will be back to the grindstone Monday morning. I realize that this was a lot to take in for a weekly summary, and I did not delve into great detail on a number of bills that could affect Superintendents and their districts. If you have any questions or comments relating to any of these bills or any others that may be heard in the upcoming days, please reach out to us.