

FSBA

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Budget Update

The main appropriations committees in the House and Senate have each passed their respective versions of the 2009-2010 budget. It is expected that these appropriations bills will be taken up on the floor of each chamber next week and that a conference committee will be appointed by the following week (April 20) to begin the process of resolving the differences between the two budgets. If legislators are able to stick to this schedule, it is possible that they will be able to take up and pass the final budget in time to adjourn as scheduled on Friday, May 1, 2009 (*please remember that the budget is the ONLY bill that the Legislature is required to pass during the legislative session*). However, meeting this May 1 deadline may prove difficult since there are a variety of significant allocation and policy differences between the House and Senate budgets.

With respect to the proposed House and Senate education appropriations, both budgets provide total FEFP funding at about \$17.9 billion, which is similar to current funding levels. The Senate budget maintains per student FEFP funding at the current year level of \$6,860.36 while the House budget provides a \$30 increase to \$6,890.46. However, this appearance of parity with the current year budget is somewhat misleading. With state funding to the FEFP about \$400 million *below* the current year level, both budgets bolster the FEFP with more than \$1.14 billion in federal and local funds – more than \$865 million in Federal State Fiscal Stabilization (FSFS) funds and nearly \$278 million from another shift of 0.25 mills from district capital outlay millage authority to operating discretionary millage authority. Even with this infusion of federal and local funds, appropriations for nearly every FEFP component are below the current year level and funding for most non-FEFP programs and public school capital outlay projects is severely reduced or eliminated.

Other significant provisions in the House and Senate budget proposals:

- Both the House and Senate budgets rely on \$865,538,623 in Federal State Fiscal Stabilization (FSFS) funds and provide that the funds will be allocated in the FEFP based on each district's proportionate share of base funding. Federal stabilization funds are also used to support several other programs and services including Workforce Education, Prekindergarten Programs, and many of the non-FEFP programs. Although we are optimistic that these funds will be available, Florida's eligibility has not yet been confirmed. Further, if and when a waiver is granted, additional conditions may be placed on the amount, release, and use of these funds.
- Both the House and Senate budgets call for an increase in discretionary operating millage from 0.498 mills to 0.748 mills. This 0.25 mill increase in discretionary millage authority is accomplished by a provision in both the House and Senate conforming bills that reduces – from 1.75 mills to 1.50 mills – the district capital outlay millage authority. However, the conforming bills also provide authority for the district to levy up to 0.25 mills for capital outlay in lieu of levying 0.25 mill in discretionary mills, thus making the millage authority shift voluntary. Even so, the revenue generated by the millage levy does not represent a true increase of funding, but is actually a shift of funding. The only real increase in funding that the school district could realize would be from the compression supplement that might be supplied by the state.

- Both budgets move the funding for the Student Transportation, Instructional Materials, and Teachers Lead categoricals from separate appropriation line items into the FEFP appropriation line item and funding for all three of these categoricals is below the current year levels.
- The House budget proposal provides that, from the funds expended by a school district for personnel, school districts must reduce non-school assigned, non-classroom personnel by 20% or have reduced the salaries of all non-school assigned, non-classroom personnel by 20% prior to the nonrenewal or dismissal of instructional personnel. In addition, the House budget would require that, prior to the elimination of art, music, sports, or other extracurricular programs, the district must eliminate expenditures for all employee travel, cell phones, and blackberries.
- The Senate budget proposal does not include specific funding for Excellent Teaching or for the Merit Award Program. Instead, the Senate budget creates the Discretionary Bonus Program Allocation and provides that funds may be used for the Merit Award Program, the Excellent Teaching Program, a performance award program designed by the district, or for any other purpose the district school board deems appropriate.

We have prepared a side-by-side comparison of the House and Senate education budget proposals and a comparison of the budget conforming bills. These comparisons have been posted on the FSBA website along with this issue of Boarder-Line. *(direct link to the budget comparison: <http://www.fsba.org/userfiles/file/H-S.Budget%20Comparison.pdf>; direct link to the conforming bill comparison: <http://www.fsba.org/userfiles/File/H-S.ConformingBillComparison.pdf>*

As general context when reviewing these education budget proposals, it is important to remember that more than \$1.2 billion has been cut from the FEFP since May 2007. Millions more have also been cut from workforce education, from Pre-K programs, from non-FEFP programs and services, and from other essential programs and services. At the same time, economists predict that state general revenue – as well as local ad valorem revenue – will continue to decline over the next year. Meanwhile, legislators have come to no agreement on strategies to create, capture, or restore state general revenue in response to these losses.

Bill Action

below is a detailed summary and status report on bills that were considered during the past week and/or are of particular interest.

HB 97 – Property Assessments/Exemption by Domino *(Compare to **SB 532** by Lynn)*

The bill proposes an amendment to Article VII, section 6 of the Florida Constitution to provide an additional homestead exemption for a homeowner the first time he or she establishes a homestead in Florida in an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The amount of the exemption cannot exceed \$250,000, and this amount is reduced in each succeeding year for five years by the greater of 20 percent of the initial additional exemption or the difference between just value and assessed value as determined under Constitutional Save Our Homes provisions. This additional exemption would be available for properties purchased after January 1, 2010. However, this additional exemption would not be available to homeowners in the sixth year and subsequent years after the exemption is granted for the homesteaded property. Also, this additional exemption would not be available if any property owner has previously owned homestead property in Florida, and no more than one additional exemption would be allowed per homesteaded property.

Status: Passed House Finance & Tax Council with a CS
(SB 532 is scheduled to be heard in Senate Finance & Tax Committee)

HB 227 – Impact Fees/Challenges by Aubuchon (Compare to **SB 580** by Haridopolos)

The bill provides that, in any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent. The court may not use a deferential standard. In addition, the bill provides that, notwithstanding any law, ordinance, or resolution, a county, municipality, or special district may not increase an impact fee. However, this limitation does not affect impact fees pledged to the retirement of debt. This limitation is repealed July 1, 2011.

Status: Placed on House Calendar on 2nd Reading
(SB 580 is scheduled for Senate Finance & Tax Committee)

SB 270 – Public Records/Insured Dependents by Dockery (Similar to **HB 135** by McKeel)

The bill creates a public records exemption for personal information that identifies a dependent child of a current or former officer or employee of an agency if the minor dependent is insured under an agency group insurance plan. The bill provides that personal information identifying such dependent child is exempt from the public records requirements of Florida law and the State Constitution. This bill also provides that the exemption is remedial in nature and applies to personal identifying information held by an agency before, on, or after the effective date of the exemption. The exemption is subject to legislative review and repeal under the provisions of the Open Government Sunset Review Act.

Status: Passed Senate Governmental Oversight & Accountability Committee
(HB 135 is scheduled for Economic Development & Community Affairs Policy Council)

SB 360 – Growth Management by Bennett (Compare to **HB 7127** by Growth Management)

This bill deals primarily with issues relating to transportation concurrency. However, it also amends sanctions to local governments and school districts to provide that, if the state land planning agency finds that insufficient cause exists for the school board's or local government's failure to enter into an approved interlocal agreement required by s. 163.31777 or for the school board's or local government's failure to implement the provisions relating to public school concurrency, the state land planning agency shall submit its finding to the Administration Commission, which may impose on the local government any of the sanctions set forth in s. 163.3184(11)(a) and (b) and may impose on the district school board any of the sanctions set forth in s. 1008.32(4).

Status: Passed the Senate; available for consideration by the House
(SB 7127 passed Economic Development & Community Affairs Policy Council)

HB 385 – Aggregate Ad Valorem Tax Limitation by Rivera (Identical to **SB 738** by Bennett)

The bill proposes an amendment to Article VII, section 9 of the Florida Constitution to limit the combined amount of ad valorem taxes that can be collected by counties, school districts, municipalities, and special districts from any parcel of real property to 1.35 percent (the equivalent of 13.5 mills) of a parcel's "highest taxable value." However, the 1.35 percent limit does not apply to ad valorem taxes levied for the payment of certain bonds or ad valorem taxes levied for periods not longer than two years when authorized by a vote of the electors. The bill also requires the Legislature to enact general laws governing the distribution of tax revenues derived from parcels for which the combined ad valorem tax levies exceed 1.35 percent of the parcel's highest taxable value. (NOTE: The most recent evaluation of the impact of this proposal would be a loss of annual property tax revenues by at least \$6 billion, assuming constant millage rates.)

Status: Placed on House Calendar on 2nd Reading
(SB 738 passed Senate Community Affairs Committee)

HB 453 – Tax Credits/Scholarships by Weatherford (Similar to **SB 1310** by Gardiner)

The bill renames the program the Florida Tax Credit Scholarship Program (FTCS) to reflect the expansion of the program to include insurance premium tax credits as eligible contributions. The bill allows insurance companies to receive a credit of 100% of an eligible contribution to an eligible scholarship-funding organization (SFO) against tax due for a taxable year under the provisions of

the insurance premium tax. However, the credit may not exceed 75% of the tax due after the deduction of allowable credits for other taxes and assessments paid by the insurer. The bill clarifies that the \$118 million cap is the total amount of corporate income tax credits and insurance premium tax credits that may be granted each state fiscal year. The bill defines “direct certification list” to mean a certified list of children who qualify for the Food Stamp Program, the Temporary Assistance for Needy Families Program, or the Food Distribution Program on Indian Reservations and provides that children on the direct certification list are eligible to receive an FTCS scholarship. DOE must provide a process to match the direct certification list with the scholarship application data provided by the eligible SFO. The bill authorizes certain SFOs to request school districts to inform all households participating in the National School Lunch Program that they are eligible to apply for a tax credit scholarship. An SFO making the request will determine the notice’s form and the school district must include the form in any normal correspondence with eligible households. Once a year an SFO may request a special communication to be issued to such households, but the SFO must reimburse the school district for the cost of postage.

Status: Passed House Finance & Tax Council with a CS
(*SB 1310 is scheduled for Senate Education PreK-12 Appropriations*)

HB 479 – Retirement by Schenck (*Compare to **SB 1182** by Fasano*)

The bill revises the definition of “termination” by extending the prohibition on retiree reemployment with an FRS employer from one calendar month to 12 calendar months. The bill also extends the period under which a retiree reemployed by any FRS employer may not collect both a salary and retirement benefits from months two through 12 after retirement to months 13 through 24. The bill removes the reemployment limitation exceptions for elected officers and firefighters and paramedics. FRS retirees may continue to receive their pension and salary if reemployed as instructional and specified support personnel by an FRS employer but they must first meet the definition of termination, which means they must separate from employment for a 12 month period before being reemployed as such personnel. The bill eliminates renewed membership in the FRS, thus precluding retirees reemployed with an FRS employer from accruing a second retirement benefit. However, the bill grandfathers in those who are renewed members at the time of the bill’s effective date. The bill grants the Division of Retirement specific authority to deduct payments from a member’s benefit and make alimony and child support payments directly to an alternate payee pursuant to a qualified domestic relations order. The bill also co-locates provisions relating to the reemployment of instructional personnel employed by developmental research schools, charter schools, and the Florida School for the Deaf and the Blind, repeals obsolete provisions relating to the study of interstate portability of retirement benefits, and makes clarifying changes to DROP provisions. (NOTE: According to the Department of Management Services, an actuarial study is required in order to comply with Chapter 112, Part VII, F.S.)

Status: Placed on House Calendar on 2nd Reading
(*SB 1182 passed Senate Ethics & Elections with a CS*)

HB 543 – High School Science Assessment by Mayfield (*No Senate Companion Bill*)

The bill provides that, beginning in the 2010-2011 school year, students entering grade 9 are required to earn one credit in Biology I, or the equivalent, as one of the three science credits required to graduate from high school. The bill replaces the existing Grade 11 Science FCAT with an end-of-course assessment in Biology I. In order to give DOE time to produce a statewide, standardized end-of-course assessment in biology, the bill provides a phased implementation schedule so that, in 2011-2012, the end-of-course assessment replaces the Science FCAT and each student’s performance on the end-of-course assessment constitutes 30 percent of the student’s final course grade. In 2012-2013 and thereafter, students must earn a passing score on the end-of-course assessment in biology in order to pass the course and receive course credit. The bill also requires that high school grades include student performance on the biology end-of-course assessment beginning in the 2011-2012 school year.

Status: Placed on House Calendar on 2nd Reading

HB 659 – Sexual Misconduct with Students by Stargel (Compare to **SB 1892** by Crist)

The bill requires the reclassification of the felony degree of an offense listed in the sexual predator or sexual offender statutes if the offense is committed by an authority figure of any educational institution against a student of any educational institution. As a result, a felony of the third degree would be reclassified to a felony of the second degree, a felony of the second degree would be reclassified to a felony of the first degree, and a felony of the first degree would be reclassified to a life felony. The bill defines “authority figure” to mean a school officer, teacher or other instructional person, an administrator or other school administrative person, school volunteer, an educational support employee, or an education service provider, who is employed by, under contract with, working at, or providing volunteer services to an educational institution. The bill defines “educational institution” to mean an entity providing instructional programs of study by means of regular classes, activities, or courses, including virtual courses, to students in early learning programs or in PreK through grade 12. The bill defines “student” to mean any early learning or PreK through grade 12 child who is enrolled in an educational institution.

Status: Passed House Education Policy Council with a CS
(SB 1892 has not been heard by any committee of reference)

HB 751 – Statewide Articulation Agreements by Patterson (Compare to **SB 920** by Baker)

The bill revises statutory provisions governing the statewide articulation agreement, school district interinstitutional articulation agreements, the Statewide Course Numbering System (SCNS), and the articulation accountability process. The bill adds a requirement that the statewide articulation agreement govern the establishment of guidelines for the inclusion of institutions licensed by the Commission for Independent Education (CIE) in statewide articulation agreements and authorizes school districts to enter into articulation agreements with CIE-licensed nonpublic postsecondary institutions. The bill clarifies the requirement that the SCNS faculty review committee for each curricular discipline be comprised of representatives from school districts, public postsecondary institutions, and participating nonpublic institutions if the district or institution offers courses in the discipline. Course credit meeting SCNS academic equivalency standards must be guaranteed transfer regardless of the original institution’s regional or national accrediting agency. The bill adds a requirement that DOE report data on secondary student progression into public and nonpublic postsecondary education and the workforce.

Status: Placed on House Calendar on 2nd Reading
(SB 920 has not been heard in any committees of reference)

HB 813 – Instructional Materials by Hays (Identical to **SB 1248** by Wise)

The bill deletes statutory language restricting the amount a school principal can collect for lost, destroyed, or damaged instructional material. In effect, this authorizes the collection from a student or the student’s parent the full purchase price of any instructional material lost, destroyed, or damaged by a student regardless of the age or condition of the instructional material.

Status: Placed on House Calendar on 2nd Reading
(SB 1248 on Senate Calendar; available for 3rd Reading)

HB 835 – Gifted and Academically Talented Students by Legg (Similar to **SB 1870** by Wise)

The bill revises the law relating to gifted education for students in grades K-12 to provide that parents must receive annual written notice of the eligibility criteria required for gifted student classification and of the procedures for requesting gifted evaluations. School districts must annually report to DOE, by grade and school level, the number of students classified as gifted, the types of gifted services provided, the hours of gifted services provided to each student and whether those services are provided by a gifted endorsed teacher, and performance data for students receiving gifted services. School districts must also report how much they spend from the ESE Guaranteed Allocation for gifted services. The bill requires DOE to develop statewide policies for whole-grade and subject matter acceleration and school districts must report the number of students who were accelerated one or more whole grades and who participated in subject matter

acceleration programs. The bill also establishes the Gifted and Academically Talented Task Force to provide the executive and legislative branches with recommendations for improvements to existing gifted eligibility criteria, model screening procedures, model programs for gifted and academically talented education, and procedures for evaluating the effectiveness of programs.

Status: Placed on House Calendar on 2nd Reading
(*SB 1870 has not been heard in any committees of reference*)

HB 919 – **Class Size Requirements by Weatherford** (*Similar to SB 1828 by Wise*)

The joint resolution proposes an amendment to Section 1 of Article IX of the Florida Constitution to amend the way that class size compliance is calculated. Beginning with the 2010-2011 school year and every year thereafter, within each school, the average number of students assigned per class to each teacher who is teaching prekindergarten through grade 3 does not exceed 18 students and the maximum number of students assigned to each teacher in an individual classroom does not exceed 21 students. For grades 4 through 8, the average number of students assigned to each teacher does not exceed 22 students and the maximum number of students assigned to each teacher in an individual classroom does not exceed 27 students. For grades 9 through 12, the average number of students assigned to each teacher does not exceed 25 students and the maximum number of students assigned to each teacher in an individual classroom does not exceed 30 students. The proposal also excludes virtual classrooms for class size requirements.

Status: Placed on House Calendar on 2nd Reading
(*SB 1828 passed Senate Education PreK-12*)

HB 991 – **School Improvement & Accountability by Grady** (*Compare to SB 2482 by Wise*)

The bill serves to incorporate into state statute Florida's Differentiated Accountability Model for compliance with the accountability measures contained in the federal Elementary and Secondary Education Act (ESEA) [also known as NCLB]. The powers and duties of school boards relating to school improvement and accountability are amended by deleting the authorization for a district-wide school improvement plan. The bill substantially amends provisions relating to the authority to enforce school improvement to provide that, for the purpose of determining whether a public school requires action to achieve a sufficient level of school improvement, DOE must annually categorize all public schools in one of six categories based on the school's grade and the level and rate of change in student performance in reading and mathematics, disaggregated into student subgroups according to the requirements for meeting adequate yearly progress – student subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. Schools in need of improvement must be targeted with appropriate intervention and support strategies that address student performance, including, but not limited to, improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, and use continuous improvement and monitoring plans and processes. DOE must create a matrix that reflects which intervention and support strategies may be applied to address the particular needs of schools in each category. For a school identified in the category of lowest performing schools, the school district must select from among four options and submit a plan to the SBE for implementing the option by the beginning of the second year after such identification. These four options are: convert the school to a district-managed turnaround school by means of a school improvement plan approved by the Commissioner; reassign students to another school and monitor the progress of each reassigned student; close the school and authorize a sponsor to reopen the school as a charter school; or contract with an outside entity to operate the school. Implementation of any of these options requires SBE approval. Once implemented, continuation of the option will be contingent upon the school moving from the lowest performing category or on approval by the SBE upon finding that it is likely that the school will move from the lowest performing category if provided additional time. None of these options need to be implemented if the school advances to a higher category before the option is implemented. In order to advance to a higher category, a school must make significant progress by improving its school grade and by increasing student

performance in mathematics and reading. Student performance must be evaluated for each student subgroup. The SBE may impose a public reprimand upon a school district if a school within the district deviates from or fails to implement any of the provisions of its school improvement plan or from these provisions. If the deviation or failure is repeated, continuous, or serious, the SBE may withhold the transfer of state funds generated by the students assigned to the school and allowable federal funds. By July 1, 2010, the SBE must adopt rules to implement these provisions. (NOTE: The bill had contained a requirement that school grades be based on achievement of subgroups of the student population in a manner consistent with requirements for calculating AYP. This provision was removed by an amendment by Representative Flores)

Status: Passed the Appropriations Council on Education & Economic Development with a CS
(SB 2482 passed Senate Education PreK-12 with a CS)

HB 1087 – Property Assessment/Declining Value by Llorente (Similar to **SB 1164** by Fasano)

The bill proposes an amendment to Section 4, Article VII, of the State Constitution to provide that the assessed value of the homestead property may not be increased in any year where the just value of the property is lower than the previous year. The “Save Our Homes” requirement for a 3 percent cap on any increase in the assessed value of homestead property in any year where the just value of such property increases over the previous year remains unchanged.

Status: Scheduled for House Economic Development & Community Affairs Policy Council
(Passed Senate Community Affairs Committee)

SB 1128 – Education/Children in Shelter or Foster Care by Rich (Compare to **HB 783** by Kelly)

The bill defines “surrogate parent” to mean an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child’s rights under the Individuals with Disabilities Education Act. A surrogate parent must be appointed for a child known to DCF who has or is suspected of having a disability by the dependency court or by the district school superintendent where the child is located if a parent cannot be located, the court determines that no person has the authority or is willing or able to serve as the child’s educational decisionmaker, or a surrogate parent has not been previously appointed for the child. The bill provides that the minimum qualifications, responsibilities, rights, and liabilities of a surrogate parent must be in accordance with rules adopted by DOE. The bill provides that employees of DOE, the child’s school district, a community-based care provider, DCF, or any other public or private agency involved in the education or care of the child, group home staff, and therapeutic foster home parents may not serve as surrogate parents. If the court appoints a surrogate parent, the court must provide notice to the district school superintendent and the district school superintendent must accept the appointment of a surrogate parent made by the dependency court if he or she has not previously appointed a surrogate parent. Similarly, the dependency court must accept a surrogate parent previously appointed by a district school superintendent. In addition, the appointment of a surrogate parent by a dependency court must be accepted by any subsequent school without regard to where the child resides. The termination of a surrogate parent is governed by the same rules governing the termination of a surrogate parent appointed by a district school superintendent. The bill amends provisions relating to access to confidential reports and records in cases of child abuse or neglect to include an employee of the local school district who is designated as a liaison between the school district and DCF pursuant to an interagency agreement among those that may have access to such reports and records.

The bill also amends provisions relating to exceptional student education to provide that, within 10 business days after an exceptional student is placed in a private residential care facility, DCF must provide written notification of the placement to the school district where the student is currently counted for funding purposes and the receiving school district. Within 10 business days after receiving the notification, the receiving school district must review the student’s individual educational plan (IEP) to determine if it can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district

must provide educational instruction to the student, contract with another provider or facility to provide the educational instruction, contract with the private residential care facility in which the student resides to provide the educational instruction, or decline to provide or contract for educational instruction. If the receiving school district declines to provide or contract for the educational instruction, the school district in which the legal residence of the student is located must provide or contract for the educational instruction to the student. The school district that provides educational instruction or contracts to provide educational instruction must report the student for funding purposes. The bill directs DOE to develop procedures for written notification to school districts regarding the placement of an exceptional student in a residential care facility and the State Board of Education must adopt the procedures. These provisions do not apply to written agreements among school districts which specify each school district's responsibility for providing and paying for educational services to an exceptional student in a residential care facility. However, each agreement must require a school district to review the student's IEP within 10 business days after receiving the notification. DOE and agencies must enter into an agreement for interagency coordination regarding the placement of exceptional students in residential facilities on or before January 1, 2010. The agreement must identify the responsibilities of each party must also establish procedures for resolving interagency disputes, ensuring the provision of services during the pendency of a dispute, and ensuring continued Medicaid eligibility.

Status: Passed Senate Judiciary Committee with a CS

(HB 783 passed House Health & Family Services Policy Council)

HB 1293 – High School Graduation by Fresen *(Compare to [SB 2654](#) by Altman)*

The bill modifies the high school graduation requirements for a standard diploma to provide that, beginning with students entering the 9th grade in 2010-2011, of the four credits required in math, one must be Algebra I or the equivalent and one credit must be geometry or the equivalent. Of the three credits required in science, one must be Biology I or the equivalent, one must be in a physical science or the equivalent, and one must be a higher-level science. Agriscience Foundations I, the core course in secondary Agriscience and Natural Resources programs, may count as the third required science credit. At least two of the science courses must have a laboratory component. Beginning with students entering the 9th grade in 2012-2013, of the four credits required in math, one must be Algebra I or the equivalent, one must be geometry or the equivalent, and one must be Algebra II or the equivalent. Of the three credits required in science, one must be Biology I or the equivalent, one must be chemistry or the equivalent, and one must be a higher-level science. Agriscience Foundations I, the core course in secondary Agriscience and Natural Resources programs, may count as the third required science credit. At least two of the science courses must have a laboratory component. The bill provides that students choosing the 24-credit or the accelerated 18-credit college or career preparatory graduation options must be advised of the Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses available, as well as the availability of course offerings through the Florida Virtual School. In addition, the bill raises the FCAT score required for a student to pass the Grade 10 FCAT by providing that passing scores on the Grade 10 FCAT must, at a minimum, meet grade-level proficiency. The bill also creates the Graduation Exit Option Program which authorizes the award of an alternative diploma to students who are at least 16 years old, enrolled in high school courses that meet high school graduation requirements, and at risk of failing to graduate. The DOE is directed to develop criteria and adopt rules to implement the program.

Status: Placed on House Calendar on 2nd Reading

(SB 2693 was temporarily postponed in Senate Education PreK-12)

HB 1377 – Supplemental Educational Services by Dorworth *(Similar to [SB 2538](#) by Detert)*

The bill provides that, by May 1 of each year, each supplemental educational services (SES) provider must report to DOE information regarding services provided to public school students in the district. The report must include student learning gains, student attendance and completion data, and the results of satisfaction surveys of parents, the school district, and school principals.

The bill requires DOE to evaluate each state-approved SES provider and assign a service designation of excellent, satisfactory, or unsatisfactory for the prior school year. The bill provides that a service designation cannot be assigned if the student population served by the SES provider does not meet the minimum sample size necessary for statistical reliability and prevention of the unlawful release of personally identifiable student information. By September 1, 2009, DOE must approve acceptable pre-test and post-test methods for measuring student learning gains and, as a condition for state approval, an SES provider must use a method for measuring student learning gains that results in reliable and valid results as approved by DOE. An SES provider must report data on individual student learning gains to DOE, unless a prior agreement has been made with the local school district to report such student achievement data. The report must include individual student learning gains as demonstrated by mastery of applicable benchmarks or access 89 points set forth in the Sunshine State Standards. The bill authorizes school districts to use Title I, Part A funds to meet these requirements. The rules adopted by the SBE to implement the provisions relating to SES service designations must include an internal complaint procedure to resolve disputes regarding the state approval process, termination of state approval, and assignment of a service designation.

Status: Placed on House Calendar on 2nd Reading
(*SB 2538 is scheduled to be considered in Education PreK-12 Appropriations*)

HB 1411 – Education Personnel by Stargel (Similar to **SB 2458** by Altman)

The bill substantially revises provisions relating to contracts with classroom teachers hired on or after July 1, 2009. The bill defines "probationary contract" as a contract for a period of no longer than 1 school year in which a classroom teacher may be dismissed without cause or may resign from the contractual position without breach of contract. "Annual contract" is defined as a contract for a period of no longer than 1 school year which the district school board can choose to renew or not renew without cause. "Professional performance contract" is defined as a contract for a period of no longer than 5 school years which the district school board can choose to renew or not renew without cause. The bill provides that, beginning July 1, 2009, each person newly hired as a classroom teacher must receive a probationary contract. Classroom teachers are eligible for an annual contract after successful completion of the term of a probationary contract. The bill specifies that no classroom teacher can receive more than 7 consecutive annual contracts. Classroom teachers are eligible for a professional performance contract after completion of no fewer than 5 annual contracts in the same school district during no more than 7 successive years, except for leave duly authorized and granted. A professional performance contract may only be offered to a classroom teacher who holds a professional certificate, who has been recommended by the superintendent and approved by the school board based on the successful performance of duties and demonstration of professional competence, and whose performance is satisfactory after a cumulative review of the teacher's effectiveness in the classroom based on objective student learning gains. The bill authorizes a school board to issue a professional performance contract to any classroom teacher who has previously held a professional performance contract, a professional service contract, or a continuing contract in the same or another district in Florida. However, a classroom teacher who holds a professional service contract or a continuing contract is not required to exchange such contract for a professional performance contract in the same district.

The bill provides that any classroom teacher who is employed on the basis of a written offer of a position, who accepted such offer, and who violates the terms of such contract by leaving his or her position without first being released will be subject to the jurisdiction of the Education Practices Commission. The school board must take official action on such violation and must furnish a copy of its official minutes to the Commissioner. The bill also provides that a classroom teacher on an annual or professional performance contract may be suspended or dismissed at any time during the term of the contract for just cause. The district school board must notify the classroom teacher in writing whenever charges are made against the classroom teacher and may suspend such person without pay. However, if the charges are not sustained, the classroom teacher shall be

immediately reinstated and his or her back salary shall be paid. The bill provides a process and timeline for a teacher on a professional performance contract to contest any charges and request for a hearing before the school board or an administrative law judge. The bill directs the SBE to adopt rules to define "just cause" but specifies that "just cause" includes, but is not limited to, immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude, and educational insufficiency. The SBE rules must include a definition of "educational insufficiency" that is based upon three years of data showing at least a majority of the students taught by the teacher showing a lack of progress.

The bill amends provisions relating to Mastery of Professional Preparation and Education Competence by including successful completion of a professional education training program provided by Teach for America and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education. The bill also authorizes the SBE to adopt rules that, for purposes of demonstrating this mastery, would allow a person to use his or her teaching experience as a military instructor to verify occupational teaching experience for the same number of years of instruction provided in one of the branches of the United States Armed Forces. In addition, for purposes of demonstrating the completion of certification requirements specified in state board rule, allow for the acceptance of college course credits recommended by the American Council on Education (ACE), which are posted on an official ACE transcript. These provisions would apply to credit for instruction performed, or course credits awarded, prior to, on, and after July 1, 2009. The bill also repeals s.1012.33(3)(g), F.S. relating to the requirement that, for the purposes of pay, a school board must recognize and accept each year of full-time public school teaching service earned in Florida or outside the state and for which the employee received a satisfactory performance evaluation.

The bill replaces the current personnel assessment system with an appraisal system and specifies that the purpose of an appraisal is to increase student achievement by providing quality instructional personnel. The bill provides that appraisals must occur annually except that each first year teacher must have an appraisal twice a year. Appraisal criteria must include, but are not limited to, performance of students, instructional practice, instructional leadership, and professional responsibilities. The bill requires that, by March 1, 2010, and biennially thereafter, the DOE must report to the State Board of Education on the effectiveness of the graduates of state-approved teacher preparation programs. The report must include an analysis of the public school student learning gains on statewide assessments by students who were taught by graduates of each state-approved teacher preparation program.

The bill directs the SBE to adopt the Florida Educator Accomplished Practices, which forms the basis for the state's expectations for effective instructional practice. The Commissioner must periodically review the Florida Educator Accomplished Practices and is required to include input from associations representing teachers, principals, superintendents, and school boards when conducting the review. The bill also provides that the leadership standards adopted under the William Cecil Golden Professional Development Program for School Leaders must focus on instructional leadership and include the ability to identify and promote effective instruction, recruit and retain high-performing instructional personnel, and manage resources to maximize their use for improving student achievement. DOE must annually post on its website the percentage of classroom teachers by school who are first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers. In addition, DOE must annually report, by school district, the number of classroom teachers whose students' declining academic performance indicates educational insufficiency, and the number of teacher dismissals initiated based on educational insufficiency and the number of the initiated dismissals that resulted in termination.

Status: Passed Full Appropriations Council on Education & Economic Development with a CS
(SB 2458 passed Senate Education PreK-12 Committee with a CS)

SB 1540 – Student Discipline/Zero Tolerance by Wise (Similar to **HB 997** by Carroll)

The bill requires district school boards to revise their zero tolerance policies so that they define criteria for reporting acts to law enforcement, acts that pose a serious threat to school safety, and petty acts of misconduct. District school boards must also establish a procedure that ensures each student has the opportunity to appeal disciplinary action. The bill requires district school boards and local law enforcement to establish agreements to specify guidelines for offenses that pose a serious threat to school safety and to report such offenses to law enforcement. The bill provides that zero tolerance does not require reports to law enforcement of petty misconduct and misdemeanors. School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety. The bill also requires a district school board that has a policy of allowing the use of corporal punishment as a form of discipline to review its policy on corporal punishment once every 3 years during a district school board meeting.

Status: Passed Senate Education PreK-12 Committee
(HB 997 passed House PreK-12 Policy Committee with a CS)

SB 1678 – School District Accountability Millage Adjustment by Wise (No House Companion)

The bill establishes the School District Accountability Millage Adjustment as a sanction on school districts that have failed to comply with requirements relating to class size reduction, classification of students for the FEFP, use of the district fixed capital outlay millage revenue, and/or differentiated pay. School districts that fail to comply with these laws must levy an additional millage in order to generate revenue in an amount equal to the effect of the violation. The Commissioner must calculate the additional millage rate and must certify the additional millage rate to be levied as part of the required local effort for that school district. For each school district that is subject to these provisions, the Commissioner must withhold an amount equivalent to the revenue generated by the additional millage levy from the school district's state FEFP funds. The bill provides that the public notice of proposed property taxes must include a statement that the school district failed to comply with the requirements of law and that the penalty for noncompliance is to require the district school board to levy an additional property tax millage to generate revenues equal to the noncompliance amount. The notice must also state that the school district's share of state funds from the FEFP will be reduced in an amount equivalent to the additional levy. The district school board must also include this information in the notice of public hearing to adopt its annual budget. The bill also provides the form for the advertisement for the proposed levy of nonvoted millage. (NOTE: It is unlikely that this bill will move forward, However Senator Wise has included similar provisions in SB 2482 – School Improvement & Accountability)

Status: Temporarily Postponed in Senate Education PreK-12 Appropriations

SB 1906 – State & Local Revenue Limitations by Haridopolos (Similar to **HB 1263** by Flores)

This joint resolution proposes an amendment to Section 1 and the creation of a new section in Article VII of the State Constitution to be placed on the November 2010 ballot. The proposed amendment would repeal the existing state revenue limit based on Florida personal income growth and establish new revenue state and local revenue limits. The proposal provides that state and local government revenues for any fiscal year would be limited to the revenues collected in the 2010-2011 fiscal year plus an annual adjustment for growth. "Growth" is defined as an amount equal to government revenues collected in the 2010-2011 fiscal year multiplied for each fiscal year by the combined rate of inflation and rate of population change. School districts may use enrollment changes in lieu of population changes. Expenditures of revenues collected in excess of the limit must be approved by a majority of vote of the electors. Any excess revenues must be transferred to a budget stabilization fund until the fund. Further, the proposal requires state and local governments to receive advance approval by a two-thirds vote of the electors to impose a new tax, fee, assessment, or charge for services or to incur multiple-year direct or indirect debt.

Status: Temporarily Postponed in Government Oversight & Accountability
(HB 1263 passed Military & Local Affairs Policy)

SB 1978 – Classroom Expenditures by Diaz de la Portilla (*Identical to **HB 883** by Schenck*)

The bill provides that, beginning July 1, 2009, school districts must spend a minimum of 70 percent of district operating funds on classroom instruction and school administrators must spend a minimum of 70 percent of each school's budget on classroom instruction. Each school district must annually calculate the percentage of state-funded operating expenditures that support classroom instruction. However, the bill does not provide for calculating the amount of federal and local funds that also support classroom instruction. The calculation is based on the school district operating expenditures – including salaries and benefits for instructional personnel, instructional specialists, and educational support personnel, instructional materials and instructional supplies, inservice teacher education, and curriculum development – and state-funded school district operating expenditures, excluding student transportation and school food services. The bill directs DOE to develop a uniform calculation for determining classroom expenditure percentages and a common format for district reporting. Districts must include classroom expenditure information annually in its financial report, the school report card, and the district website. The DOE must analyze the expenditures of any school district that receive a district grade of "C" or lower and that meet or fail to meet required classroom expenditure levels, as well as the expenditures for districts that fail to meet the requirements but receive a grade higher than "C." DOE must also provide technical assistance in budget preparation and analysis to districts that fail to meet the required classroom expenditure level. If a district fails to meet the minimum classroom expenditure level, the district superintendent must appear before the SBE to explain the financial and performance status of the district after the release of the expenditure report. Principals of schools that fail to meet the minimum classroom expenditure levels must explain to the school board the financial and performance status of the school. The Commissioner must recommend to the superintendent and school board expenditure revisions that may result in higher student achievement. At the school level, the bill requires a school board to assist principals of schools that fail to meet classroom expenditure requirements. The SBE is authorized to adopt rules and enforce these provisions.

Status: Passed Senate Education PreK-12 Committee (narrowly)
(*HB 883 has not been heard in any committee of reference*)

SB 2462 – Veterans/Observance by Deutch (*Similar to **HB 1443** by Fetterman*)

The bill requires each school district to observe November 11 of each year as Veterans' Day and observe that week as Veterans' Appreciation Week. In any year in which November 11 falls on a Saturday or Sunday, Veterans' Appreciation Week must be observed the week immediately preceding or following November 11, to coincide with the date that Veterans' Day is observed as a federal holiday. The bill provides that, during Veterans' Appreciation Week, the district must provide programs that instruct students on the role of veterans in the history of our state and country and must recognize the contributions made by veterans to our state and country.

Status: Passed Education PreK-12 with a CS
(*HB 883 has not been heard in any committee of reference*)

SB 2466 – School Districts/Recall by Villalobos (*Compare to **HB 1323** by Garcia*)

The bill provides that, beginning with the 2009-2010 academic year, each district school board must adopt the superintendent's recommendations relating to compensation and salary schedules unless 66 percent of the district school board members vote to reject such recommendations. The district school superintendent may recommend increases to the salary schedules of administrative personnel or managers only if the salary schedules of instructional personnel and educational support employees have also been increased by a percentage greater than that proposed for any of the administrative personnel or managers. In addition, the superintendent must review the salary schedules of all administrative personnel and manager positions and ensure that no person is paid in excess of twice the district's average salary of classroom teachers for the prior academic year. If the school superintendent finds that a person is receiving more than twice the district's average salary of classroom teachers for the prior academic year, the school superintendent must recommend corrective action to address the pay disparity by reducing the administrative personnel

or manager salary or commensurately increasing the salary schedule and salaries of classroom teachers. (NOTE: Originally, this bill also contained provisions outlining a process for the recall of school board members. Those provisions were removed by an amendment by Senator Detert.)

Status: Passed Senate Education PreK-12 with a CS

(HB 1323 has not been heard by any committee of reference)

HB 7117 – Student Records by Education Policy Council *(Similar to **SB 2426** by Detert)*

The bill substantially revises provisions relating to student records to align with the federal Family Educational Rights and Privacy Act (FERPA). The bill provides for student and parent rights of access, waiver, privacy, notification, and challenge of the content of student records. The State Board of Education (SBE) is required to adopt rules to address FERPA principles concerning federal student education records requirements, monitor FERPA and notify the Legislature of significant change to the requirements of FERPA or other major changes in federal law, and advise the Legislature of any change in FERPA which may create a need for an exemption to constitutional requirements relating to public records. In order to align with FERPA, the bill repeals the provisions in law which specify the manner in which student and parental rights are implemented. The bill also repeals current law with respect to the parties who may access otherwise confidential and exempt personally identifiable records about a student, without the consent of the parent or student, as the list is more limited than the parties specified in FERPA. The bill retains the substance of current law for the penalty for failure to comply with the law and for the applicability of the law to defunct private schools. The bill also provides for fees and enforcement of rights in the circuit court. In addition, a public postsecondary institution may charge a fee for the actual cost of producing a copy of the record but a fee may not be charged for searching or retrieving records. (NOTE: **HB 7119** is linked to HB 7117 and **SB 2374** is linked to SB 2426 to provide related public records exemptions.)

Status: Placed on House Calendar on 2nd Reading

(SB 2426 passed Senate Governmental Oversight & Accountability)