FISCAL IMPLICATIONS OF LANGUAGE
HB 5001, HB 5003, HB 5007, HB 641, AND HB 7067

The Florida House and Senate adjourned the 2020 Regular Session of the Florida Legislature Sine Die on Thursday, March 19, 2020. Amid the atmosphere of crisis and economic uncertainty there was talk among the Speaker of the House, the President of the Senate and the Governor of the possibilities for a special session of the Legislature to revisit the budget. The Governor also stated that this year the prospects for significant veto activity were elevated. Despite these concerns the Legislature has passed a budget that the Governor will sign after exercising his veto authority. It will be law until June 30, 2021 unless the Legislature acts to complete a different budget based on different revenue forecasts.

Below is an analysis of the portions of proviso language of HB 5001, the General Appropriations Act that are new or different in ways that have a particular impact on K-12 public education. HB 5003, the Implementing Bill was also passed. It will be law until June 30, 2021 or until changed by the Legislature. A few sections of HB 5003 impact K-12 public education, and they will be analyzed below.

HB 5007, the bill establishing Florida Retirement System (FRS) employer rates was passed in February. The important sections of that bill will be discussed below. The provisions of HB 5007 will remain in in law until they are changed by the Legislature.

HB 641 and HB 7067 were both passed. They are not appropriations bills, and the provisions of the bills will remain in law until they are changed by Legislature. The fiscal implications of these bills will be analyzed in this report as well. To help organize the information each bill will be given a separate section.

HB 5001
MAJOR PROVISONS OF THE GENERAL APPROPRIATIONS ACT

Changes in the Base Student Allocation

The Base Student Allocation (BSA) is a foundational component used to calculate student funding in the Florida Education Finance Program (FEFP). The BSA is used to calculate base FEFP funding, the largest single portion of the FEFP operating budget received by public schools, charter schools and voucher schools. To calculate the Base FEFP funding the Unweighted Full Time Equivalent (UFTE) enrollment is converted to Weighted Full Time Equivalent (WFTE) student enrollment by using the program cost factor for each student's program. The total WFTE in each district is then multiplied by the BSA and the District Cost Differential (DCD) for the district. When the BSA is increased the resulting Base FEFP funding per student is not earmarked for a particular state categorical purpose. The revenues resulting from an increase in the BSA are often referred to as "flexible funds." When expenses are discussed for which there is no specific appropriation, budget subcommittee and committee chairs often state that districts can pay for the expenses from the "flexible funds" generated by the increase in the BSA. HB 5001 increased the BSA $40 per Weighted FTE student. That provided funds as follows: The increase in the BSA X WFTE shows how much new "unencumbered" revenue is provided. $40.00 X 3,186,166.34 = $127,446,654.

Funding for Student Growth

The Legislature has a Constitutional duty to pay for each student's education. As enrollment grows the added students must be added to the FEFP. When there are funds available the amount of revenue in the FEFP is increased to pay for the enrollment increase. This is not an increase in per student funding, it is an increase in the funding for the new students. The balance of the Base FEFP Increase is caused by the enrollment increase of 49,826.68 WFTE X $4,279.49 X the DCD in the districts with growth. Growth generates about $212,475,242 of the Base FEFP increase. Growth is also funded for most, but not all FEFP categorical funds. Prominent categorical funds, including the ESE Guaranteed Allocation, the Supplemental Academic Instruction Allocation, Instructional Materials, and Student Transportation receive modest funding increases to pay for increased enrollment. This is referred to as "workload" funding. It should be noted that districts that experience declining enrollment also experience a reduction in funding for these categorical funds.

Changes in the Best and Brightest Teacher and Principal Bonus Programs

HB 641 repealed the Best and Brightest Teacher and Principal Bonus Programs. The Legislature provided no funds for this program in the FEFP. There is no proviso language related to the Best and Brightest.

The Teacher Salary Increase Allocation

HB 641 provides for changes in Florida Statutes to address the Teacher Salary Increase Allocation and to repeal the Best and Brightest Program. Those provisions will be addressed in a separate section of the report. The language in HB 641 references language in the General Appropriations Act. The proviso language states as follows:

"From the funds in Specific Appropriation 8 and 92, $500,000,000 in recurring funds from the General Revenue Fund is provided for the Teacher Salary Increase Allocation, pursuant to section 1011.62, Florida Statutes. Eighty percent of the total allocation is provided for school districts to increase the minimum base salary for full-time classroom teachers as defined in section 1012.01(2)(a), plus certified prekindergarten teachers funded in the Florida Education Finance Program, but not including substitute teachers, to at least $47,500, or to the maximum amount achievable based on the school district's allocation. No eligible full-time classroom teacher shall receive a base salary less than the minimum base salary as adjusted by the school district's allocation."

"Twenty percent of the total allocation, plus any remaining funds from the district's share of the eighty percent allocation, shall be used by school districts as specified in section 1011.62, Florida Statutes."

This language is relatively straight forward. The district will receive a share of the $500 million. HB 641 states that the distribution shall be based on the district's proportional share of the Base FEFP funding. It should be noted that indirectly this ensures the DCD is applied to the district's salary allocation, since it is used in determining the district's proportional share of the Base FEFP funding.

The district will use the first 80% of the money it receives to raise the base salary for classroom teachers to be as close to $47,500 as it can. The other 20% is to be used as specified in 1011.62, which is provided in HB 641. That will be discussed in that section of this report.

Funding Compression and Hold Harmless Allocation

HB 5001 made changes in the Total Funds Compression Allocation and introduced a calculation to hold districts harmless from a reduction in their District Cost Differential (DCD). The proviso language for this new allocation is as follows:

"From the funds provided in Specific Appropriations 8 and 92, $68,000,000 is provided for the Funding Compression and Hold Harmless allocation to be allocated based on the formula provided in section 1011.62, Florida Statutes. For the funding compression, 25 percent of the difference between the district's prior year funds per FTE and the state average shall be used to determine the allocation. A district's allocation shall not be greater than $100 per FTE. For the hold harmless, the index factor shall be 11.03."

The Allocation adds about $13,809,692 to the prior year's Total Funds Compression Allocation item. Since there were several districts that received funds due to the DCD hold harmless that received no funds from this allocation in the past year, it is obvious that those districts will receive less revenue. For example, since Miami-Dade County Public Schools received $13,921,358 from this year's item and no funds from last year's item, the districts receiving Compression Allocation funds from last year must be receiving less.

The details for the calculation of this item are provided in HB 5003, and will be addressed in that section of the report. There is no explanation of what the hold harmless index factor of 11.03 is, how is was calculated, what it is intended to address or why it is used. In HB 5003 the only reference to the index factor is the statement that it will be "designated in the General Appropriations Act."

Instructional Materials Allocation

The proviso language for Instructional Materials specifies how the funds for Instructional Materials are to be spent. HB 5003 provides that nothwithstanding other provisions of Florida Statutes the use of the Instructional Materials Allocation shall be as provided in proviso language. There are no changes in any of these requirements from last year.

Statewide total FEFP increased revenue vs total FEFP expenses

Item	HB 5001
Increase in Total Potential FEFP Revenue	+$775,967,678
Major Reductions in FEFP Programs[1,] Revenue Retained in FEFP	+$284,500,000
Total Revenue Available	$1,060,467,678
Cost of Growth in the Base FEFP WFTE X Base BSA	($212,475,242)
Cost of Teacher Salary Allocation	($500,000,000)
Additional Cost of Mental Health Allocation	($25,000,000)
Additional Cost of Class Size Reduction	($34,696,003)
Cost of FRS Employer Rate Increase	($232,700,000)
Total of New Required FEFP Expenses	($1,004,871,245)
Net Difference Between Revenue and Expenses	$55,596,4332

[1] HB 5001 and HB641 eliminated Best and Brightest bonus program and used the revenue to help pay salary increases.
[2] The available uncommitted revenue represented by the net difference between Revenue and Expenses is not uniformly or equally distributed among districts. Some districts will be positive, and others won't.

HB 5003
THE GENERAL APPROPRIATIONS IMPLEMENTING BILL

HB 5003 makes changes in Florida Statutes that enable the provisions of the General Appropriations Act to be implemented. HB 5003 is 144 pages long, but only a few items relate to the K-12 public education sections of HB 5001. As is the case with the GAA the provisions of HB 5003 will expire on June 30, 2021.

Section One: Expresses Legislative Intent that the provisions of HB 5003 apply only to the FY 2020-2021 GAA.

Section Two: Incorporates by reference the contents of the FEFP workpapers into HB 5003.

Section Three: Provides that nothwithstanding other provisions of law, the release and expenditure of funds from the Instructional Materials Allocation shall be governed by the proviso language associated with the appropriation in the GAA.

Section Four: Suspends the Declining Enrollment Allocation for FY 2020-2021. The suspension shall expire on June 30, 2021.

Section Four: Also modifies the Funding Compression Allocation and establishes hold harmless provisions to the District Cost Differential for districts experiencing a decline in their DCD. The allocation provides up to $100 per student for districts with significantly lower average dollars per student when the FEFP formula is run. It also calculates a “hold harmless” factor for districts experiencing a decrease in the value of the DCD. The bill specifies elements of the calculation for those interested.

Section Five: Changes the dates imbedded in the Charter School Capital Outlay statutes but makes no substantive changes in the section.

HB 5007
FLORIDA RETIREMENT SYSTEM (FRS) EMPLOYER RATE CHANGES

HB 5007 set the FRS employer rates for FY 2020-2021. The rate changes in HB 5007 were driven in large part by the recommendation that rate of return assumption for the funds invested to support the Pension Plan be lowered to 6.5 percent. For reference the proposed rate changes for the employee classes that represent most district employees are presented in the chart below. There are no changes in the rates for the Health Insurance Subsidy, or for Education and Administration.

FRS Employee Class	Adopted Base Rate 2019	Senate and House Base Rate 2020	Adopted UAL Rate 2019	Senate and House Adopted UAL 2020
Regular Class	3.19%	4.84%	3.56%	3.44%
Special Risk Class	12.61%	15.13%	11.15%	7.60%
County Elected Officials	8.73%	10.07%	38.37%	37.39%
Sr. Management	4.60%	6.39%	18.09%	19.18%
DROP	4.68%	7.03%	8.66%	8.29%

The fiscal impact statement in the staff analysis that accompanied the bill stated that the total statewide cost of the rate increase to all FRS employers will be $404.6 million. The fiscal impact to district school boards was estimated to be $232.7 million.

There are no specific appropriations in the K-12 FEFP allocations to provide additional revenue to pay for the cost of the FRS employer rate increases. However, when the Legislature constructed the FY 2020-2021 FEFP it repealed the Best and Brightest Bonus Program, retained the General Revenue used to pay for the bonuses in the FEFP and use that revenue to reduce the impact of the new Teacher Salary Enhancement Allocation on the new revenue added to the FEFP. That strategy had the effect of reducing the consumption of new FEFP revenue by the Teacher Salary Enhancement Allocation, which helped cover the cost of the FRS rate increase in many districts.

HB 641
TEACHER SALARY INCREASE ALLOCATION

HB 641 makes substantive changes in parts of Florida Statutes to create and implement the Teacher Salary Increase Allocation. The most important provisions of the bill include the following:

The district receives an allocation based on its proportionate share of the base FEFP allocation. Because the Base FEFP calculation incorporates the DCD, the DCD will indirectly be incorporated into the amount of salary increase funds flowing to the districts. Districts are also required to share the allocation with charter schools based on s. 1002.33(17)(b).

The attention of district staff is directed to the specific requirements of the bill. Key points to remember include the following:

1. The first 80% of the district's allocation must be used to establish a base salary for classroom teachers as defined in s. 1012.01(2)(a), Florida Statutes. The section of law is provided below.

"INSTRUCTIONAL PERSONNEL.—"Instructional personnel" means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also include K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:

(a) *Classroom teachers.*—Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers."

HB 641 stipulates that the definition of classroom teachers above does not include substitutes but does include "certified prekindergarten teachers funded in the Florida Education Finance Program." These pre-K teachers are generally ESE Pre-K teachers delivering required instruction to ESE students who are three and four years old.

There are limited provisions in the bill to use the remaining 20% of the allocation for instructional personnel who are not classroom teachers as provided above, and to help relieve some of the potential problems associated with the compression of the salaries of less experienced teachers to those of more experienced teachers.

There are also planning, and reporting provisions included in the law. It is suggested that district staff members refer directly to the actual law and follow its requirements closely.

It is also suggested that given the economic disruptions currently being experienced, that districts postpone making decisions to expend other revenue for other employee raises until the current crisis resolves.

There is one particularly important stipulation of which staff members should be aware. It is pasted below:

"**(f) Notwithstanding any other provision of law, funds allocated under this subsection shall not be included in the calculated amount for any scholarship awarded under chapter 1002."**

HB 641 also repeals all aspects of the best and Brightest program.

HB 7067
AN ACT RELATING TO SCHOLARSHIP PROGRAMS

HB 7067 is solely focused on state "scholarship" programs. The district staff should be familiar with all aspects of the bill. One particular provision of HB 7067 has specific and potentially problematic impacts on the district's fiscal position. The bill increases the number of new Family Empowerment Scholarships allowed each year to 1 per cent of the Unweighted FTE students in the FEFP each year. In 2019-2020 there were 18,000 new "scholarships." The new standard will allow about 29,000 new "scholarships."

Districts are advised to hold back new revenues to pay for the coming increase in new vouchers. It would seem prudent to assume the district will experience a growth in vouchers at least as large as the initial increase experienced in 2019-2020. Another reasonable way to project the impact is to calculate what percentage of the 2019-2020 statewide total value of the vouchers was experienced in the district, and then apply that percentage to the new number of vouchers available.

For example, one large school district was responsible for 10.6% of the total value of the adjustment for Empowerment Scholarships in the 2019-2020 Third Calculation. It would be reasonable for that district to assume that they will experience 10.6% of the new scholarships. One percent of the current projected UFTE student enrollment is 28,902 students. The district's projected scholarship enrollment would be 3,014 students. The value of the scholarship in that district is about $7,237. The total impact would be about $21,812,619. It would be wise to hold a contingency of about that sum until the district has hard data about how many students might be leaving. It would also be important for the district to have a plan to reduce expenses if the district continues to experience significant numbers of students choosing other providers.

The bill also increases the income eligibility level for Empowerment Scholarships to 300% of the Federal Poverty Level. It further stipulates that any year that more than 5% of the available vouchers are unused, the income level will increase 25%. So, in FY 2020-2021 if more than 5% of the available vouchers are unused, the income level will increase 25%. In the example that would mean that the income level would rise to 375% of the poverty level in FY 2021-2022.