

*Date:* June 25, 2013  
*To:* Governor Scott Walker  
*From:* Tony Evers, State Superintendent  
*Subject:* Veto Recommendations for 2013-15 Budget Bill

As you review AB40, the 2013-15 biennial budget bill, I respectfully request that you consider the following veto recommendations. I am available to discuss these recommendations at any time.

### Recommend for Full Veto

1. **Statewide Expansion of Parental Choice Program for Eligible Districts** [Sections 1829 – 1855]  
- Every two years, lawmakers battle over the level of resources to allocate in support of our public schools. As a result of diminishing state resources and revenue caps that constrain local spending, Wisconsin public schools have significantly curtailed critical resources like career and technical education and reading intervention services, for example. To meet our constitutional obligations to Wisconsin's children, we must provide adequate funding to ensure their fundamental right to a sound, basic education, and this budget falls far too short of that goal.

Yet, while we struggle to meet our constitutional obligations in support of our public school children, this budget includes a statewide expansion of the voucher program that is academically unproven and financially reckless. Introduced in the middle of the night with no public hearings, no public testimony, and no public fiscal analysis, this provision sets up a second publicly-funded school system guaranteed by law. In future years, as income and enrollment gaps are eroded, the result will be more funding – upwards of \$1 billion or more – pulled out of the public school classrooms that we are constitutionally required to support and put into private and religious schools that we are not. Statewide expansion of the voucher program is nothing short of a massive new entitlement program, putting Wisconsin taxpayers on the hook for not one, but two publicly-funded school systems.

Perhaps most frustrating is that the statewide voucher expansion is occurring without any additional accountability measures to ensure quality programs. As Alan Borsuk noted [in his column](#) in the *Milwaukee Journal Sentinel* this weekend, “it’s been an excellent state budget season for lousy voucher schools.”

For these reasons, I urge you to reconsider this expansion and veto this provision, leaving the existing program in Milwaukee and Racine.

- 2. Parental Choice Program Expansion – Satellite Schools** [Section 1844e] - While I am asking you to veto the entire statewide expansion of the voucher program in the budget, there is one specific item related to the expansion that I also recommend for veto, as it violates the tenants of the agreement that had been reached on the scope of voucher expansion in the 2013-15 biennium.

The statewide voucher expansion approved by the Joint Committee on Finance had been limited in each year of the biennium to 500 and 1,000 pupils, respectively, with a one percent cap on any individual district's participation in the new voucher program. However, the Assembly added this new provision at the very end of their deliberations on AB40. This provision would permit schools currently participating in the Milwaukee and Racine parental choice programs in 2012-13 to accept students under the proposed expanded program without having these pupils count against the limit of 500 pupils in 2013-14 and 1,000 pupils in 2014-15 and thereafter that would apply to the expanded program. The [Legislative Fiscal Bureau estimates](#) that this change will increase the agreed-upon cap by forty percent in each year of the next biennium, at an additional cost of \$4.2 million.

In addition to this possible expansion beyond the proposed programs caps, I also am concerned that the language might permit existing voucher schools in Milwaukee and Racine to open "satellite" schools anywhere in the state that would be outside the enrollment cap. While some have suggested that this is not the intent of the provision, and that I would have control over whether any such "satellite" schools would be permitted to operate, this is a further unacceptable violation of the proposed caps on voucher enrollment, and thus this provision should be vetoed even should you choose to retain the statewide voucher expansion.

- 3. Limitations and Requirements on Release of Parental Choice Program Information –** [Section 1857m] - I take seriously the responsibility to provide information on taxpayer-funded schooling to the public, including parents, citizens, lawmakers and the media. This puzzling provision would require voucher schools to provide preapproval before the DPI could release selected portions of their data to individuals, including parents, lawmakers, and the media. This intrusion on Wisconsin's open records law is wrong, and would never be legislated or tolerated for public schools.

Again, thrown into the budget at the last minute with no opportunity for public discussion or debate, this non-fiscal policy provision is an unnecessary retreat in transparency for a program that is costing state taxpayers almost \$400 million over the next two years. As the *Milwaukee Journal Sentinel* [opined this week](#), "potentially limiting the public's ability to scrutinize how private schools spend taxpayer money is a disservice to the public that should not be allowed to stand."

I ask you to veto this provision.

- 4. Private School Tax Deduction** [Section 1304g] - In addition to expanding vouchers statewide, the Joint Committee on Finance's middle-of-the-night education motion also established a new private school tuition tax deduction for families of any income level, a move that's been called "welfare for the rich" in other states. The most generous private school tuition tax deduction in the country [according to Governing Magazine](#), this provision would allow parents *of any income level* an

income tax deduction of up to \$4,000 a year for grades K-8, and up to \$10,000 a year for students in high school.

During a budget when no additional funds were provided for special education, school breakfast, or sparsity, this tax deduction will cost an estimated \$30 million in 2014-15 to subsidize the private school for families that can already afford the cost of tuition. This new program will cost at least \$60 million GPR in the 2015-17 budget, meaning even more money will be pulled out of taxpayers' pockets to help pay for private and religious education for some of Wisconsin's wealthiest families.

This provision also stands in stark contrast to the state's college tuition tax deduction, which was capped at \$6,543 in 2012, and not available to single filers making more than \$60,000 a year, or married filers making more than \$100,000. I find it questionable that, in this economic environment, the Legislature is proposing to commit additional limited tax dollars to further subsidize private elementary and secondary education for those who can already afford it, while leaving caps on the deduction that supports higher education and worker training.

I ask that you veto this provision.

5. **Common Core Standards Evaluation** [Section 9134(2q) – nonstatutory language] - One of my first actions as State Superintendent was to adopt higher, more rigorous standards for Wisconsin students that are in line with those in the highest performing states and countries in the world. These standards, the Common Core State Standards in English Language Arts and Mathematics, arose from a state-led initiative developed by our two respective professional organizations - the National Governor's Association and the Council of Chief State School Officers. They provide a clear description of what students should know and be able to do kindergarten through 12<sup>th</sup> grade to be ready to graduate ready for college and careers, and are supported by education and business organizations around the country, including the Business Roundtable and Chamber of Commerce. They are the foundation of our new state assessments, upon which our jointly developed report card, public school accountability system, and educator effectiveness system are all substantially based.

The Legislature's actions to question the Common Core State Standards now, three years after their initial adoption, is puzzling, given that the Legislature explicitly directed the DPI to develop new assessments that measure mastery of the Common Core as part of 2011 WI Act 32, the last state budget bill. As part of this budget, the Legislature allocated funding for these new state assessments that will, by definition, be based on the Common Core.

Finally, the budget bill language requires the State Superintendent to adopt new standards and mandates the process for doing so. This is a challenge to the State Superintendent's constitutional authority to adopt standards under the general power to supervise public instruction provided in Section 1, Article X, of the Wisconsin Constitution.

Chester Finn and Michael Petretlli of the conservative Fordham Foundation [opined this week](#), “At the end of the day, the facts matter. We hope that Wisconsin will be guided by them and stay the course with the Common Core. It's really a victory for everyone.” I agree, and ask that you veto the provision in full.

6. **Requirements for Master Educators** [Sections 1750 and 1751e] - As you know, the state’s educator effectiveness system is slated to begin statewide in 2014-15. This new requirement would apply to National Board Certified and master educator grants starting in that same year. The state should not be basing high stakes decisions, such as teacher salaries and grants, on a system that will be only in its first year of operation. Any new, major state effort requires time to get it right, and the educator effectiveness system is no exception. I request that you veto the provision in full on that basis.
7. **Charter School Teaching License** [Section 1731] - At the same time that the state is working to improve teacher preparation in critical areas like reading, this provision would exempt charter school teachers from these important state efforts. Specifically, 2011 Wisconsin Act 166, which stemmed from the Read to Lead Task Force, required all educators seeking to teach in kindergarten to grade 5, in special education, or to be a reading teacher or reading specialist, to pass a rigorous new foundations of reading exam prior to licensure. This provision would exempt charter school teachers from that state law. Given our strong collective support for this exam just last year, I see no good reason why a requirement that the state determined was essential in 2011 should not apply to charter school teachers in 2013.

All teachers should be held to the same high standards, including demonstrating that they know how to teach and communicate with students. Although I support and encourage the innovation that charter schools bring, there is no need to dilute this innovation by bringing less qualified teachers in the classrooms. I ask you to veto this provision.

8. **Virtual School Teacher Requirements** [Section 1757] - I request that you veto this provision, which eliminates the current law 30-hour training requirement for teachers wishing to teach courses in a virtual environment. Additional professional development specifically related to online teaching is needed to account for the unique needs of online instruction. Unlike regular classes, online courses are courses where the student and teacher are geographically remote; most communication between the teacher and the students is done through asynchronous or text-based interactions including email and discussion boards; and students are usually communicating with the teacher via a computer. This provision has the potential to dilute the quality of online instruction and should be reconsidered.
9. **County Library Levy Exemption for Joint Libraries** [Section 761m] - There are unintended possible consequences of this change which have not had the opportunity to be fully reviewed and vetted. As a result, this item should be vetoed and addressed via separate legislation. Concerns include:
  - Over time increasing property values in affected communities and the county could create a considerable disparity in library tax rates, with the county funding more of the library’s operations (for non-resident use under s. 43.12) while property owners in the joint library

municipalities enjoy a continually lower library tax rate. There would be a disincentive for the participants in the joint library agreement to increase funding for new services, since those increases would raise the three-year average for the municipalities, which could have a detrimental effect on library services in the county.

- There are a number of municipalities in joint libraries that do not currently exempt themselves from their county library taxes. Those libraries may be funded well below the exemption level, and may take advantage of this new exemption method, possibly disrupting long-standing county and library system funding structures (that likely is the case in the counties of Waushara and Green Lake).
- Other municipalities that exceed the level to exempt from the county library tax by only a small margin may be inclined to enter into a joint library agreement in order to freeze their funding level and avoid a higher county tax rate in the future.

10. **Juvenile Placements in Juvenile Detention Facilities** [Section 2325q] - This provision increases the time a juvenile can be placed in a detention facility from 180 to 365 days. The education of these students legally falls to the school district where the detention center is located. There are 13 districts impacted: Green Bay, Fond du Lac, Janesville, Wauwatosa, Waukesha, West Bend, LaCrosse, Eau Claire, Racine, Wausau, Madison, Sheboygan, and Appleton. The current Tuition Payments appropriation, which pays for the districts' educational costs of these students, was not increased to account for these additional costs. In addition, no public review of the appropriateness of doubling the detention time was conducted. I request that you veto this provision.

11. **Elimination of Mandatory Fees for Inter-institutional Student Government Organizations** [Section 600r] - This provision will effectively eliminate the primary fund source for the United Council of Students of the UW System. This is a punitive measure, imposed by the Joint Committee on Finance, against a statewide student organization that gives UW students one united voice to tackle issues students face on a statewide level. In fact, this organization was lobbying the Legislature for the tuition freeze that is now part of AB40. I ask you to veto this provision.

12. **Rehired Annuitants** [Sections 747 through 749] - I, along with the Wisconsin Association of School Boards and the School Administrators Alliance, am very concerned about the provisions in AB 40 relating to the post-retirement employment of Wisconsin Retirement System (WRS) annuitants. These new requirements would 1) lengthen the elapsed time period required before a WRS annuitant can be rehired from 30 to 75 days, and 2) suspend the participant's annuity if he/she is employed in a WRS-covered position in which he/ she is expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds. I ask for a veto of both sections.

- The state's school boards and administrators currently hire experienced, retired educators to fill critical instructional positions. These two changes would likely have the most impact on filling substitute teachers, administrators, coaches and other assignments, particularly those requiring special certifications or licensure as well as hard-to-fill shortage areas, including special education, bilingual education, and STEM fields.
- In some rural parts of our state, a recently retired superintendent may be the only reasonable option to filling the position when vacated.

- Lastly, these hired annuitants are often saving money for our districts in hard-to-fill positions where the students receive expert services from a proven educator and the school district gets the services of an effective educator at a lower cost for the taxpayers.

### Recommend for Partial Veto

1. **Community Service Levy (Fund 80)** [Section 9134(4L)] - I request that you veto the cap on Fund 80 levies in the 2013-15 biennium, but retain district and DPI reporting requirements.

Local school boards and district citizens rely on the programs funded by the Fund 80 levy to benefit their communities. Placing limits on these levies usurps local school board control and authority, and it would be improper to place any limits on these levies in 2013-15 without having seen the data to be reported to DPI and the legislature. In addition, the language as drafted is more punitive to certain districts: a school district that had a Fund 80 levy of \$1 million in FY12 and \$5,000 in FY13 would be limited to a Fund 80 levy of \$5,000 in FY14, while a district with a levy of \$1 million in FY12 and \$0 in FY13 could levy up to \$1 million in FY14.

2. **Part-Time Open Enrollment and Course Options Program** [Sections 1811 to 1827] - I request that you veto the inclusion of “nonprofit organization” from the new definition of “educational institution.” The bill provides no basis for approval of such entities; we are not aware what kinds of organization might wish to become an educational institution.
3. **Study of Public Library Systems** [Section 9101(3L) – nonstatutory language] - I request that you veto the words “in consultation”, so that DOA and DPI jointly conduct the study. Since DPI oversees public libraries, it is not appropriate for the DPI to be relegated to only a consulting role for the study.

Thank you for your consideration of these veto recommendations. My staff and I are ready to answer any questions you may have.

c: Brian Hayes, DOA  
Sara Hynek, DOA