

Date: July 8, 2015
To: Governor Scott Walker
From: Tony Evers, State Superintendent
Subject: Veto Recommendations for 2015-17 Budget Bill

Pursuant to Article X, § 1 of the Wisconsin Constitution, the State Superintendent is vested with the authority to supervise public instruction in the state. This authority was affirmed under *Thompson v. Craney* (199 Wis. 2d 674, 546 N.W.2d 123 (1996)), in which the Wisconsin Supreme Court declared that the powers of the State Superintendent of Public Instruction could not be reallocated or diminished as a result of action taken by the Governor in the state budget.

I have an obligation to uphold the constitutional provisions of the office and take very seriously my responsibility to all students, their families and the citizens that elected me to this office. Some of the provisions of the 2015-17 biennial budget are in conflict with the responsibilities of the Office of the State Superintendent. Furthermore, I have significant concerns about the policy implications for many of the changes included in the budget bill – policies that are just bad for children in public schools.

As you review the 2015-17 biennial budget bill, I respectfully request that you consider the following veto recommendations. Please contact me to discuss my concerns or any of these recommendations at any time.

Recommend for Full Veto

1. Opportunity Schools and Partnership Program

The budget bill provides for a take-over of so called “failing schools” in the Milwaukee Public Schools (MPS) district. This is a proposal with significant implications for students and families within MPS that has had absolutely no public debate whatsoever. The plan removes the ability of the families with students in MPS and the larger Milwaukee community to work within a democratic structure, with their elected board members, to address and resolve the issues and concerns they may have for their students in their schools. Every other district in the state enjoys that privilege – this proposal would rob the MPS community of that right. Instead, the authority to make decisions on closing and reorganizing schools in MPS will be placed in the hands of a single individual who will not have to answer to the MPS community.

The speed with which this proposal has moved through the Legislature has prevented a thorough review of the details of this proposal, let alone a healthy public debate about the ideas contained within the proposal. The proposal was made available to the public one day prior to be taken up and passed within the budget bill within two days. This is not the way to create sound public policy.

Initial review of the proposal reveals several concerns about implementation and policy; a more thorough review will undoubtedly uncover more areas of concern. While I could fill pages with the problems that the Department sees with this proposal, my request to you to veto this provision stems from the larger and very serious concerns I've outlined – there has been no opportunity for the public, particularly for the MPS community, to have their voices heard on this proposal, a proposal that takes away local control of a community of one of their most important priorities – their children's education. Further, in vesting authority in a Commissioner to oversee the takeover of public schools in MPS, the proposal transfers responsibility over education from the Office of the State Superintendent, which is a violation of the state constitutional provisions as affirmed by the Wisconsin Supreme Court.

For these reasons, I ask you to veto these provisions entirely.

CATEGORICAL SCHOOL AIDS

2. Cooperative Education Service Agencies (District Participation and State Aid)

The biennial budget eliminates state aid to Cooperative Education Service Agencies (CESAs) and changes the rules surrounding participation by school districts. I am also recommending that you veto all of the proposed changes under Chapter 116 related to our CESAs.

CESAs have the capacity to provide the support school districts in Wisconsin need by serving as the link between the state department and the local schools. CESAs are entrusted with the business of their members and act on behalf of their members. CESAs are democratic, self-help organizations controlled by their members and provide many valuable services to the state's school districts:

- Increase efficiencies and reduce costs (e.g., through cooperative purchasing and shared service contracts) to support educators and serve students through sharing of resources
- Provide direct services (e.g., specialized teachers and specialized support personnel to serve the special and unique needs of children and schools)
- Provide indirect services (e.g., professional development, leadership and supervision, cooperative purchasing, grant application and management)
- Act as the fiscal agent for consortia of districts
- Ensure high-quality, equitable educational opportunities
- Save money and resources by providing consolidated support services
- Train teachers and leaders in the latest research-based methods
- Pilot innovative programs that school districts cannot afford to staff or do on their own
- Coordinate and provide equitable access to special education, vocational and other instructional services (e.g., ESEA-funded programs) to improve quality and student performance

CESAs further enhance efficiency and cost-effectiveness as they:

- Provide cost-effective avenues for districts by working cooperatively
- Investigate cost-saving opportunities for districts through collaboration
- Provide cost-effective cooperative purchasing and vendor discounts
- Help districts utilize scarce dollars to meet educational needs
- Provide access to regional and statewide services at member-discounted rates

- Offer use of CESA meeting facilities to members and public
- Provide cost-effective delivery service
- Provide continuing education credits at member-discounted rates

For these reasons, I ask that you veto these provisions entirely.

3. High Cost Special Education Aid

The Department appreciates that the budget bill contains additional funding for High Cost Special Education Aid in the amount of \$5 million beginning in FY17. To stabilize funding for school districts and to improve access to open enrollment for high-cost special education pupils, the Department had requested the additional special education aid be paid at 100 percent of costs above the \$30,000 threshold reimbursed. However, the budget bill contains a ceiling on the amount for which a district may be reimbursed under this program, at 70 percent of eligible costs.

I am requesting that you partially veto Section 3229h, under s. 115.881(2), to eliminate the following: “~~0.90~~ 0.70 multiplied by”. This will eliminate the ceiling and allow districts to be reimbursed for all eligible costs, to the extent supported by funding in the appropriation.

4. Transfer of Career and Technical Education Incentive Grants from the Department of Public Instruction to the Department of Workforce Development

The budget bill transfers the authority to implement the Career and Technical Education Incentive Grants program, a \$3 million grant program, from this Department to the Department of Workforce Development (DWD). Under this program, school districts can receive \$1,000 per student who successfully completes an industry recognized certification program. Under this program, students have access to opportunities that will provide them with an enriched experience that will allow them to be ready to begin employment, or post-secondary education in their field of interest, after graduation from high school. Schools that receive the grant can turn around and make additional investments in these very programs. Our state benefits from having better prepared, engaged young adults. It is truly a win-win program for all.

We appreciate that the provision was modified along the way to require DWD to make awards of at least \$3 million annually to school districts based on current criteria; I believe that the Department is, by its nature, better positioned to work with school districts to implement this grant program successfully. Moreover, moving this program from the Department transfers responsibility over education from the Office of the State Superintendent, which is a violation of the state constitutional provisions as affirmed by the Wisconsin Supreme Court.

For these reasons, I ask you to veto these provisions entirely.

PUPIL ASSESSMENTS

5. Alternative Assessments

The issue of alternative assessments has been front and center this legislative session and my position has been steadfast – the state should continue to rely on one, uniform assessment for accountability. Multiple tests reduce validity, transparency, and accuracy, posing significant problems for high stakes accountability. This debate played out in discussions around several legislative proposals related to school accountability and assessments early in this legislative session, as well as in the biennial budget deliberations this past spring.

Ultimately, the Legislature settled on an alternative that directs me to seek a waiver from the U.S. Department of Education to allow the state to approve multiple assessments from which school districts could then choose an assessment. Additionally, the budget bill reserves funding within the Joint Finance Committee’s supplemental appropriations, to be released if the Department receives approval of the waiver. The funds would be used paying the Value Added Research Center (VARC) at UW-Madison to identify alternative assessments that could be used by schools.

Federal law, Sec. 1111 (3) (b) (C) (i), requires all states that receive federal education funds use the same academic assessments to measure the achievement of all children. This directive to submit a waiver request to the federal government will accomplish nothing for the students of the state. I remain firm in my position – one test is the best approach for the student and their families.

For these reasons, I request that you veto these provisions entirely.

6. Civics Assessment Requirement for High School Graduation

The budget bill requires the successful completion of the civics portion of a citizenship test as a condition for obtaining a high school diploma or high school equivalency diploma. This requirement would apply to all students at public schools, charter schools, and schools participating in the state's voucher program, with an exception for students with special needs and accommodations for pupils whose primary language is not English.

The Department believes strongly that a deep knowledge of civics is essential to creating a sense of community and engagement among our youth, and is critical in graduating career- and college-ready students. However, this push for an additional required assessment is coming at the same time as we are engaged in an important discussion about the amount of time students spend preparing for and taking tests required by the state and federal government, in addition to those selected by individual school districts.

Wisconsin has no single test that is used as a requirement for graduation, nor does it mandate graduation requirements for private schools. Wisconsin has considered requiring assessments for graduation in the past. This concept has faced bipartisan opposition in the past and was discarded. Simply put, a required test for graduation erodes the power of local school boards and private schools. Moving in this direction should be approached with caution, and anything crafted must have a basis in research and should consider our most vulnerable students. I am concerned about

the consequences of creating a high stakes test as a requirement for a high school diploma or high school equivalency diploma.

There are logistical issues that have not been thought out such as limited English proficient pupils who may take the civics exam in the language of their choice, exceptions for students who are new to the country or who are here on visas, impacts on general education diplomas (GED) and additional supports for students at risk of not graduating from high school. Finally, there is the potential that some pupils who do not pass the civic exam will, for a variety of reasons, choose to walk away, rather than attempt to take the exam again, thereby reducing graduation rates. Do we really want to risk the future of our students, possibly depriving them of a high school diploma – and the future educational and occupational opportunities that accompany that diploma – that they otherwise have earned, but for this civics assessment?

For these reasons, I ask you to veto these provisions entirely.

If you are unwilling to veto this provision entirely, I ask that you execute a partial veto and remove the language specifying a pupil must answer 60 of the 100 questions correctly (as a measure of “successful completion” of the test); and the words “successful” and “successfully” as they appear in sections 3787m, 3266g, 3266h, 3266m, and 3266n; as well as the phrase “until the pupil obtains the passing score required under subd. 1” under section 3266r. These changes would preserve the requirement that all pupils complete a civics exam, but would avoid the potentially grave consequences inherent in making the civics exam a high stakes graduation test.

TEACHER LICENSURE

Wisconsin has the best educators in the country. The Department of Public Instruction (DPI) has and will continue to work diligently to ensure multiple pathways to licensure remain available for highly qualified educators. We are willing and able to provide assistance to school districts as we continue to ensure Wisconsin students have the most qualified teachers in the country. Our state does face critical teaching shortages, but the answer is not to lower the standards; rather, we should raise the education profession so it is once again a highly desirable career path.

7. Experience-Based Licensure for Technical Education

While DPI recognizes the difficulty faced in hiring qualified teachers in shortage areas, this provision is overly broad and allows almost anyone to be a technical education teacher regardless of whether they have any technical experience or not. Given the importance of technical education to our future workforce needs, it is critical that we have teachers who have content area knowledge and know how to teach.

Knowing how to teach is more than just knowing the content, it is being able to relay that content. The bill defines as pedagogy (the art of knowing how to teach) in a way that does not meet this definition. Pedagogy is defined as the method and practice of teaching, especially as an academic subject or theoretical concept. This definition is not reflected in the bill and creates unnecessary confusion and misleads the public in thinking that we are requiring something that we are not in this licensing process.

This bill has the practical effect of allowing almost anyone to be a technical education teacher. It would allow an English teacher to be a technical education teacher. While an English teacher may be great at teaching English, that does not mean they have the content knowledge to teach a technical education subject. This bill would also allow anyone with any bachelor's degree to be a technical education teacher (bachelor's 65 points, credits earned in math and science to get the bachelor's up to 75 points). Many individuals may have the technical experience based in their math and science based education and in their work, but without training in how to teach or how to work with students there is no guarantee they will be able to effectively pass on that knowledge.

Moreover, these changes represent an infringement on the powers of the Office of the State Superintendent's supervision of public education, which is a violation of the state constitutional provisions as affirmed by the Wisconsin Supreme Court.

For these reasons, I request that you veto these provisions entirely.

If you are unwilling to veto this provision entirely, I request that you execute a partial veto to restore some minimal standards that those teaching in this area truly have the minimal background necessary to meet state requirements. My staff will be forwarding to the Administration the specific partial vetoes that could accomplish the restoration of minimal standards.

8. License Based on Reciprocity

This provision hands over our state's oversight of what it takes to be a teacher and an administrator to every other state. Whatever another state decides, no matter how low that standard is, becomes the standard to get a license in Wisconsin. This is an abrogation of our state responsibility. Instead of requiring the licenses of other states to be accepted with no other requirements, latitude should have been provided to the Department to determine equivalent qualifications as a basis for recognition. We should not hand over our ability to establish teacher standards to other states in this manner.

The Department would have no authority to impose additional requirements on applicants from out-of-state prior to issuing the license, moreover this provision effectively exempts all out of state applicants from legislated licensing requirements such as the requirement to pass the foundations of reading exam, which came out of your Read to Lead task force; the requirement to know Braille if teaching the visually impaired; requirements that educators have instruction in the study of minority group relations, including instruction in the history, culture, and tribal sovereignty of the federally recognized American Indian tribes and bands located in this state; and requirements surrounding how to resolve conflicts.

Moreover, these changes represent an infringement on the powers of the Office of the State Superintendent's supervision of public education, which is a violation of the state constitutional provisions as affirmed by the Wisconsin Supreme Court.

For these reasons, I request that you veto these provisions entirely, thereby retaining our state's high standards for teacher and school administrator licensure.

9. License Based on Montessori Teacher Education Program

The budget bill creates a new type of teaching license that the Department would have to issue to individuals that have completed an education program accredited by the Montessori Accreditation Council for Teacher Education, and who have met certain other requirements.

DPI educator licenses are based on subject area and grade. While we are supportive of Montessori philosophy, it is a method of teaching and not a subject area. A Montessori license is out of place in our licensing system. A pedagogical license does not help school districts because it does not inform a school district which classes or ages an educator is highly qualified to teach. If we begin to issue educator licenses based on philosophy, it is only a matter of time before requests come for other pedagogical methods throughout the state. While we are supportive of many of these methods, this would lead to a plethora of licenses that do not help school districts determine who is qualified to teach our students.

This license is unnecessary. Nothing in current law prevents properly trained Montessori educators from applying for the educator license that applies to the subject area and grade for which they are qualified. Moreover, these changes represent an infringement on the powers of the Office of the State Superintendent's supervision of public education, which is a violation of the state constitutional provisions as affirmed by the Wisconsin Supreme Court.

For these reasons, I ask that you veto this provision.

10. Regional or National Accreditation

The budget bill requires the State Superintendent to accept accreditation by a regional or national institutional accrediting agency if it is recognized by the U.S. Department of Education or a programmatic accrediting agency. This provision was inserted into the budget, with no discussion or debate. Further, the State Superintendent has the authority under current law to develop standards, requirements, and procedures for the approval of teacher preparatory programs in Wisconsin. This provision is unnecessary and unconstitutional.

I ask that you veto this provision.

11. Requirement to Renew a Teaching License

The budget bill requires the Department to accept credits earned at any institution of higher education, as defined in federal law, if credits from an institution of higher education are required to renew a license to teach. It does not specify that the institution of higher education must be accredited in order for the Department to accept the credits for the purpose of renewing a teacher's license. Again, this provision was inserted into the budget, with no discussion or debate. The State Superintendent has authority and the responsibility for licensing all teachers for the public schools of the state. This provision is unnecessary and unconstitutional.

I ask that you veto this provision.

PRIVATE VOUCHER SCHOOLS, INDEPENDENT CHARTER SCHOOLS AND OPEN ENROLLMENT

12. Participation Limits on Statewide Private School Choice Program and Funding for New Pupils in the Statewide and Racine Private School Choice Programs

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 such as career and technical education and reading intervention services. 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 lifts the cap on participation in the statewide voucher program, which is academically unproven and financially reckless. Adding to the existing financial strain on public schools, the funding mechanism used to pay for the expansion of the statewide program and the continued growth in the Racine program will directly reduce aid payments to school districts. While some claim that public school districts will get a "bonus", as a result of being able to count the pupils enrolled in a private choice school for general aid and revenue limit purposes, it comes with a cost to the local taxpayer. Further, the additional amount of aid generated for a district resulting from including the voucher pupils will not come close to the amount the district will have to pay out on behalf of those pupils. This is a bad deal for school districts.

In future years, as income and enrollment gaps are eroded, the result will be more funding – \$600 to \$800 million over the next decade, per estimates from the Legislative Fiscal Bureau – pulled out of the public school classrooms that we are constitutionally required to support and put into private and religious schools for which we do not have the same constitutional obligation. 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.

For these reasons, I urge you to reconsider this expansion and veto these provisions entirely, leaving the existing statewide and Racine program as they exist in current law.

13. Creation of Additional Authorizers of Independent "2r" Charter Schools and Funding for Pupils Enrolled in Expanded 2r Charter Schools

The budget bill allows for significant expansion of independent "2r" charter schools, which would be funded via a reduction to the general aid payments from the resident public school district of the pupil attending these newly authorized 2r charter schools. The bill creates five new authorizing entities: a new Office of Educational Opportunity within the UW System, the Executive of Waukesha County, the Gateway Technical College District Board, the College of the Menominee Nation, and the Lac Courte Oreilles Ojibwa Community College. These new authorizers would receive state aid, paid for directly with a reduction to public schools' aid payments, with far less accountability than is required of our state's public schools.

As with the expansion of the statewide voucher program and the Racine voucher program, the funding mechanism would allow the resident school district to count these pupils for revenue limit and general aid purposes, but reduce the districts' general aid payments to fully pay for the state aid to the 2r charter schools for these pupils. Again, while some would argue this funding mechanism provides a "bonus" to public school districts, this is a bad deal for our public schools. The additional amount of aid generated for a district resulting from including the voucher pupils will not come close to the amount the district will have to pay out on behalf of those pupils. Further, the "bonus" of additional resources comes with a cost to the local taxpayer.

For these reasons, I urge you to veto these provisions entirely.

14. Special Needs Voucher Program

This biennial budget includes the creation of a new voucher program, under which a pupil with an individualized education program (IEP) could attend a private school and receive a voucher in the amount of \$12,000, if that pupil had been denied under the open enrollment program. The voucher would be funded via a reduction to the general aid payment of the pupil's resident district.

Those who support the special needs voucher concept argue that it provides families with more choice, particularly for students with special needs, who have in the past been denied open enrollment at a higher rate than non-special needs pupils due to the higher costs of educating pupils with special needs. However, the budget bill includes significant changes to the state's open enrollment program that will open the doors for students with special needs. It eliminates the ability of the resident district to deny open enrollment to a special needs pupil based on undue financial burden and provides a flat open enrollment payment amount of \$12,000 to the district the pupil attends. The argument for choice thus becomes moot – students with special needs and their families will have greater choice with the changes to the open enrollment program.

While some would argue that families should still have the option of choosing to have their student with special needs educated in a private school, what they don't talk about are the significant differences to the rights afforded to public and private students based on where they go to school. When students enroll in a private school, they forfeit their right to a free appropriate public education (FAPE), which includes special education programs and services. Likewise, parents forfeit their procedural safeguard rights when they enroll their students in a private school. Do we really want local taxpayers to bear the cost of educating a child in a private school setting that does not have to provide the same level of services and protection that is required of public schools?

For these reasons, I ask you to veto the provisions related to creating a special needs voucher program entirely.

However, if you are unwilling to veto the provisions entirely, I urge you to partially veto certain sections that are problematic from the standpoint of implementation:

- a. **Partially veto Section 3224m: under s. 115.7915 (4), veto the words "the department and" in the last sentence of par. (b).** The Department does not receive individualized education program records for students today who participate in Wisconsin education choice programs

and does not need this information to implement and run the special education voucher program.

- b. **Partially veto Section 3224m: under s. 115.7915 (4m), veto the word “unanimously” [(e)1.]**. This requirement for unanimous determinations conflicts with federal law. Federal IDEA law does not require unanimity for IEP team determinations. Furthermore, school boards and districts cannot require a parent to submit to a reevaluation for special education if the student is not enrolled in the public school district. Parents, if they disagree with the evaluation, have a right to an independent evaluation paid for by the school district under federal law. (The language should have instead read that the continued receipt of the scholarship depends on the parent agreeing to have their child reevaluated by the school district every three years.)
- c. **Partially veto Section 3224m: under s.115.7915 (5), veto par. (c)**. School districts are required under federal law to complete an evaluation for special education if a parent makes a request. School boards and districts cannot require a parent to submit to a reevaluation for special education if the student is not enrolled in the public school district. This places a legal burden on a school board to do something that they have no legal authority to do (and cannot require of the parent).
- d. **Partially veto Section 3224m: under s. 115.7915 (6), veto the word “Regularly” in par. (i)**. The term “regularly” has no meaning in state law. The Department can set the parameters for the private school to report the parent in the administrative rules process.
- e. **Partially veto Section 3224m: under s. 115.7915 (8) (a), veto the phrase “Intentionally and substantially” [(a)1.] and the word “Routinely” [(a)2.]**. These are subjective standards that make it difficult for the Department to enforce these provisions.

Even if you should choose to retain the special needs voucher program itself, I ask that you veto the items specified above.

15. Course Options

The budget bill maintains the Course Options provision that became law under 2013 Act 20, but adds provisions that would permit an institution of higher education to charge additional tuition and fees to a pupil or their parents, if the pupil will receive postsecondary credit for the successful completion of a course taken through the course options program.

The bill is drafted with two conflicting sections:

Under Section 3310g, s. 118.52 (12) (a) [Tuition]: “The resident school board shall pay to the educational institution, for each resident pupil attending a course at the educational institution under this section, an amount equal to the cost of providing the course to the pupil, *calculated in a manner determined by the department*. Except as provided in par. (b), the educational institution may not charge to or receive from the pupil or the pupil’s resident school board any additional payment for a pupil attending a course at the educational institution under this section.”

However, under Section 3310r, s. 118.52 (12) (b): "...The school board and the educational institution under this paragraph shall determine the amount of tuition and fees the educational institution may charge a pupil for attending such a course."

These two conflicting sections should be resolved in order to avoid confusion and unintended consequences. I ask that you partially veto section 3310r, to remove the sentence identified above in 118.52 (12) (b). This would maintain the Department's role in setting tuition rates under the course options program. Furthermore, the sentence is unnecessary as the department currently requires the tuition to be negotiated between the school board and the educational institution.

16. Private Schools Choice Programs – Independent Financial Audits

This section of the budget bill creates new provisions related to the independent financial audits for private schools participating in a parental choice program. The Department's larger concern with these provisions is that it provides the Department with no authority to take action in situations where the audit reveals concerns.

The provision in Section 3384b, creating s. 119.23 (11) (bm), would require the Department to "certify" the financial audit submitted by the independent auditor within 90 days, then goes on to limit what the Department may communicate with the auditor in the 90 days between receipt and certification of the audit. In the context of the provision as a whole, with the lack of meaningful authority for the Department to do anything about the concerns it may have about an audit, the term "certify" has no meaning.

I ask you to partially veto the section, to remove the reference to the Department certifying these audits (the first two sentences under 119.23 (11) (bm), as created in the bill). Additionally, vetoing the words "single" and "only", the provision will provide the Department with ability to have comprehensive communications with the auditor and allow for flexibility to address all the concerns it may have within an audit.

17. Teacher's Aides in Private Choice Schools

The budget bill permits a private school participating in a parental choice program to employ as a teacher's aide an individual who has been granted a high school diploma by the administrator of a home-based private educational program. Current law requires that for employment as a teacher's aide in a private voucher school to have at least a high school equivalency diploma (HSED, or "GED"), a high school diploma or higher educational credential than a high school diploma.

There are no requirements in state law, thus no guarantee, that a diploma issued by the administrator of a home-based private education program meets the requirements of a high school diploma or HSED. Relaxing the requirements for a teacher's aide to this extent is not in the best interests of the children.

For these reasons, I ask that you veto this modification to current law.

ACCOUNTABILITY

18. School Accountability Report

The budget bill directs the Department to make several changes to how it uses the data to calculate scores for schools and school districts on the school accountability reports. I believe that these changes will have unintended consequences, potentially detrimental impacts, on the accountability reports for schools and school districts. The Department provided suggestions throughout the budget process to improve upon the language included in the budget bill; however, in the absence of those changes, I request a veto of the school accountability report provisions in their entirety.

If the provisions as whole are not vetoed, I would strongly encourage you to consider the following partial vetoes:

- a. **The Department recommends removing the language excluding ninth grade students and other students who were enrolled in the school for less than one year, from enrollment weighting calculations.** First, current calculation and reporting rules used by the Department already account for situations in which ninth grade students, and others who have transitioned from one school to another within a district as part of a natural progression of grades, (e.g., from an elementary school ending with 5th grade to a middle school starting with 6th grade) are considered the responsibility of their current school. Second, student results are included in calculations only if those students have been enrolled in a school from the beginning of the school year through the test window in the spring.
- b. **The Department recommends eliminating the language that requires the Department to incorporate a star-rating system into the existing index that is used to indicate school and school district performance levels.** The Accountability Task Force agreed on an index system that uses descriptive categories, which are transparent, easily understood and accepted by the public – let's keep it that way.

19. Virtual Charter Schools and School District Accountability Reports

Under the budget bill, the Department would have to exclude from a school district's improvement score the data derived from a virtual charter school located in the district, if at least 50 percent of the pupils attending that virtual school were enrolled under open enrollment. This means that the accountability data for all of the pupils attending that virtual school (not just the open enrolled pupils) would not be reflected on any school district's report card – neither the pupils' district of residence nor their district of attendance. This is wholly inconsistent with the idea of bringing all publicly funded school settings – public school districts, independent charter schools and private voucher schools – into the school accountability reports. For this reason I request that you veto this provision.

SCHOOL DISTRICT OPERATIONS AND MANAGEMENT

20. Participation in Athletics and Extra-Curricular Activities

These provisions require a school board to permit a pupil who is a resident of the school district who is enrolled in a home-based private education program to participate in interscholastic athletics or extracurricular activities on the same basis and to the same extent as pupils enrolled in the district. This change calls in question the purpose of interscholastic athletics and extra-curricular activities. These activities are not community recreation activities, but are school-based activities geared towards the student population of the district and augmenting the school district programming.

The bill also impedes local control. First, while the home-school program would be required, upon request, to provide a written statement that the pupil meets eligibility requirements to participate in the activity, a school district would be prohibited from questioning the accuracy or validity of the statement or from requesting any additional information. This is a double standard to the detriment of the enrolled public school students. Public school students must adhere to codes of conduct and meet academic requirements with significant oversight. Additionally, the lack of oversight with respect to home-schooled pupils could subject the school district to potential liability.

Further, the bill prohibits districts from being a member of an athletic association unless the association includes the same requirement of its member, in effect dictating which private organization a school district may belong to. This is a significant encroachment on local control.

For these reasons, I ask that you veto this provision entirely.

21. Geographic Representation for School Board of Unified School District

This provision requires that the school board of a unified school district that meets very specific parameters (population size, municipal composition) implement changes to ensure a geographically representative school board. This measure goes beyond impeding local control, targeting a particular school district and dictating how it runs its business.

I ask you to veto this provision.

22. Virtual Marketplace for Textbooks

The budget bill provides \$10,000 to the Department to contract with a vendor or vendors to develop and add content to a digital textbook marketplace resource center, requiring the Department to “host” the virtual marketplace. The need for this virtual marketplace is unclear and we are unaware of any vendor that could do this type of work for \$10,000. Moreover, the Department currently hosts and provides access to a significant amount of free online content that teachers can access.

I ask that you veto this requirement.

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

cc: Michael Heifetz, DOA
Sara Hynek, DOA