

Senate Committee on Education
January 30, 2014

**Department of Public Instruction
Testimony on 2013 Senate Bill 478**

I want to thank Senator Olsen and members of the committee for the opportunity to testify before you today. My name is Bob Soldner and I am the Director of the School Financial Services Team at the Department of Public Instruction (DPI). I am here today to testify in opposition to Senate Bill 478 (SB 478) due to administrative and constitutional concerns.

Under current law, the State Superintendent and the Department of Public Instruction (DPI) have the authority to administer state aids and revenue limits. While the State Superintendent has proposed changes to the school funding formula and revenue limits, the department has always upheld the law, including enforcing revenue limit penalties.

Thus, it is odd for us to see in the drafting file this direction, “Have DPI promulgate rules. Do not have DPI enforce. Wants DOR [Department of Revenue] to determine if sch. dist. violating DPI rules.”

It is irregular, unnecessary, and unconstitutional to assign the responsibilities to the Department of Revenue (DOR) to review school board expenditures and report the information to the Department of Public Instruction. DOR is not the state education agency and it would be a waste of government resources and staff time for another agency to assume the roles and responsibilities of the DPI.

Beyond that, and as the drafter noted in the drafting note, “...because the bill directs DOR to determine whether a school district has violated an administrative rule promulgated by DPI, it may be subject to a constitutional challenge. Article X, section 1 of the Wisconsin Constitution vests the supervision of public instruction in the state superintendent. Under *Thompson v. Craney*, 199 Wis. 2d 674 (1996), giving any other officer authority over public instruction is unconstitutional.”

Additionally, the last biennial budget enacted community programs and services levy limits, reporting requirements, and a direction the DPI report on the information collected by December 1, 2014. The question DPI has is whether the legislature would like to allow these recently enacted law changes a chance to take effect and then determine if additional state level involvement is necessary.

Finally, I would be remiss if I did not lay out an administrative issue related to the timelines in the bill. SB 478 would first apply to state aid distributed in, and the calculation of a school district’s revenue limit for, the 2014-15 school year. This timeline is problematic. 2014-15 state aid is based on 2013-14 audited school costs. The 2013-14 school year is half-over and DPI

would be required to promulgate administrative rules impacting a district's shared costs immediately with no time for a school board to modify its spending decisions. Given the lengthy timelines around the permanent rulemaking process, and the timelines surrounding the levy and school aid certification processes, a more reasonable timetable under the bill would be to impact a district's shared costs for the 2014-15 school year with state aid and revenue limit impacts in the 2015-16 school year.

At this time I would be happy to answer any questions you may have.