**TOMMY G. THOMPSON****Governor
State of Wisconsin**

May 18, 2000

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I am vetoing Assembly Bill 663 in its entirety. This bill allows the Wisconsin Department of Public Instruction to disclose pupil records received from school boards to appropriate state agencies and local education agencies as determined by the State Superintendent. The bill permits the Department to charge a fee to cover the direct costs of complying with data requests. It also allows individuals to view, but not obtain a copy of state assessment instruments.

I support the provisions of Assembly Bill 663 that control access to state assessment instruments. Protecting the confidentiality and security of our state examinations is an important step in our drive for greater accountability in Wisconsin's schools. I intend to reintroduce this proposal for the improvement of public policy in my 2001-03 biennial budget.

I support the idea of clarifying the circumstances under which the State Superintendent can release pupil records. Impartial and fair evaluations of the state's educational programs require that researchers be able to examine confidential pupil records. As drafted, however, the bill would create two categories of investigators (State employees and all others) whose access to data would not be uniform. Researchers employed by State agencies could have access to the entire group of pupil records necessary to conduct a complete evaluation, while other researchers from private or non-public institutions and universities would only be allowed to review redacted portions of the total data set.

This bill, in its current form, therefore would have prevented researchers from private institutions of higher learning from assessing some of the claims regarding the Milwaukee Parental Choice Program (MPCP) made by researchers hired by the Department. Without equitable access, agencies could be accused of doing the State's business under the cover of darkness. As Wisconsin continues to be a leader in educational innovations, we must be wary of any inference that these important evaluations are not available for public scrutiny. It is imperative that the public, the legislature, and policy makers receive evaluations and research able to stand the test of intense and valid analysis.

As new alternatives to traditional education programs evolve, the Wisconsin Department of Public Instruction must be vigorous in its oversight of educational programs. This veto will not in any way hinder the ability of the State Superintendent to monitor or

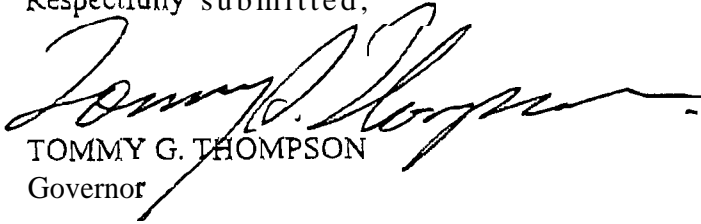


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collect data on individual programs over which the department has statutory responsibility. Because the bill deals with the release of pupil records and not financial audits or other accountability requirements, this veto will also do nothing to impede the Department from approving schools to participate in the MPCP or removing them from the program should the need arise. I believe alternative exemptions to the confidentiality provisions currently in state law, such as those included in federal statute, can be drafted to balance the privacy of students and educational researchers' legitimate needs to review pupil records without privileging particular categories of researchers. I encourage the Department to explore such alternatives.

Respectfully submitted,



TOMMY G. THOMPSON
Governor

State of Wisconsin



1999 Assembly Bill 663

Date of enactment:
Date of publication*:

1999 WISCONSIN ACT

AN ACT to renumber and amend 118.30 (3); to amend 118.125 (2) (g) 2.; and to create 118.125 (7) and 118.30 (3)

(b) of the statutes; relating to: the disclosure of pupil records by the department of public instruction, the confidentiality of pupil assessments and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 118.125 (2) (g) 2. of the statutes is amended to read:

118.125 (2) (g) 2. Upon request by the department, the school board shall provide the department with any information contained in a pupil record that ~~relates to is in connection with~~ an audit or evaluation of a federal or state-supported education program for the enforcement of or compliance with federal law relating to such a program or that is required to determine compliance with requirements under chs. 115 to 121. ~~The department shall keep confidential all pupil records provided to the department by a school board.~~

SECTION 2. 118.125 (7) of the statutes is created to read:

118.125 (7) **CONFIDENTIALITY** OF INFORMATION PROVIDED TO DEPARTMENT. (a) The department shall keep confidential all information relating to individual pupils that is provided to the department except that the department may disclose such information to the U.S. comptroller general or the U.S. secretary of education, or to appropriate state agencies and local educational agencies, as determined by the state superintendent, in connection with an audit or evaluation of a federal or state-supported education program or for the enforcement of

or compliance with federal law relating to such a program.

(b) A person to whom information is disclosed under par. (a) shall not disclose the information to any other person and shall destroy the information when it is no longer needed for the purposes specified in par. (a).

(c) If the department determines that a person to whom information is disclosed under par. (a) has disclosed the information in violation of par. (b), the department may not disclose information relating to individual pupils to that person for 3 years from the date of the determination.

(d) In addition to the fees specified ins. 19.35 (3), the department may impose a fee upon a requester that does not exceed the actual, necessary and direct cost of deleting from the requested record information that is prohibited from being disclosed under this section or 20 USC 1232g.

SECTION 3. 118.30 (3) of the statutes is renumbered 118.30 (3) (a) and amended to read:

118.30 (3) (a) The state superintendent shall make ~~available upon request, allow a person to view an examination required to be administered under this section if the person submits to the state superintendent a written request to do so~~ within 90 days after the date of administration, ~~any of the examination required to be administered under this section.~~ This subsection para-

* Section 991.11, **WISCONSIN STATUTES** 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day **after** its date of publication as designated" **by** the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

graph does not apply while ~~the~~ **an** examination is being developed or validated.

SECTION 4. 118.30 (3) (b) of the statutes is created to read:

118.30 (3) (b) The state superintendent shall **promul-**

gate rules establishing procedures to administer par. (a). To the extent feasible, the rules shall protect the security and confidentiality of the examinations required to be administered under this section.

BILL HISTORY FOR ASSEMBLY BILL 663 (LRB -4 194)

An Act to amend I 18.125 (2) (g) 2.; and to create I 18.125 (7) of the statutes; relating to: the disclosure of pupil records by the department of public instruction. (FE)

2000

- 01-19. A. Introduced by Representative **Olsen**; cosponsored by Senator **Grobschmidt**.
- 01-19. A. Read first time and referred to committee on Education 593
- 02-15. A. Fiscal estimate received.
- 02-22. A. Public hearing held.
- 02-22. A. Executive action taken.
- 02-22. A. Assembly substitute amendment **I** offered by committee on Education (**LRB s0304**) 677
- 02-29. A. Report Assembly substitute amendment **I** adoption recommended by committee on Education, Ayes 15, Noes 0 685
- 02-29. A. Report passage as amended recommended by committee on Education, Ayes 14, Noes 1 685
- 02-29. A. Referred to committee on Rules. 685
- 03-15. A. Placed on calendar 3-2 I-2000 by committee on Rules.
- 03-21. A. Read a second time 786
- 03-2 I. A. Assembly substitute amendment **1 adopted** 786
- 03-2 I. A. Ordered to a third reading 786
- 03-21. A. Rules suspended 786
- 03-21. A. Read a third time and **passed**, Ayes 88, Noes 1 I 786
- 03-21. A. Ordered immediately messaged 787
- 03-23. S. Received from Assembly 519
- 03-23. S. Read first time and referred to committee on Education 52 I
- 03-24. S. Executive action taken.
- 03-28. S. Report concurrence recommended by committee on Education, Ayes 9, Noes 2
- 03-28. S. Available for scheduling.
- 03-28. S. Rules suspended and taken up.
- 03-28. S. Read a second time.
- 03-28. S. Placed after Senate Bill 422 on the calendar of 3-28-2000.
- 03-28. S. Senate amendment **1** offered by Senators Darling **and** Farrow (**LRB f96**).
- 03-28. S. Senate amendment **1** rejected.
- 03-28. S. Ordered to a third reading.
- 03-28. S. Rules suspended.
- 03-28. S. Read a third time and **concurred in**.
- 03-28. S. Ordered immediately messaged.
- 03-28. A. Received from Senate concurred in

**1999
ENROLLED BILL**

99en AB-63

ADOPTED DOCUMENTS:

orig Engr

A SubAmtdt 1

99s 0304/2

Amendments to above (if none, write "NONE"):

None

Corrections - show date (if none, write "NONE"):

None

Topic

Disclosure of pupil records by
the department of public instruction

3/29/00

Date

Rita / [Signature]

Enrolling Drafter

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 663**

February 22, 2000 - Offered by COMMITTEE ON EDUCATION.

1 **AN ACT** *to renumber and amend* 118.30 (3); *to amend* 118.125 (2) (g) 2.; and
2 *to create* 118.125 (7) and 118.30 (3) (b) of the statutes; **relating to:** the
3 disclosure of pupil records by the department of public instruction, the
4 confidentiality of pupil assessments and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 118.125 (2) (g) 2. of the statutes is amended to read:

6 118.125 (2) (g) 2. Upon request by the department, the school board shall
7 provide the department with any information contained in a pupil record that ~~relates~~
8 ~~to~~ is in connection with an audit or evaluation of a federal or state-supported
9 education program, for the enforcement of or compliance with federal law relating
10 to such a program or that is required to determine compliance with requirements
11 under chs. 115 to 121. ~~The department shall keep confidential all pupil records~~
12 ~~provided to the department by a school board.~~

1 **SECTION 2.** 118.125 (7) of the statutes is created to read:

2 118.125 (7) **CONFIDENTIALITY OF INFORMATION PROVIDED TO DEPARTMENT.** (a) The
3 department shall keep confidential all information relating to individual pupils that
4 is provided to the department except that the department may disclose such
5 information to the U.S. comptroller general or the U.S. secretary of education, or to
6 appropriate state agencies and local educational agencies, as determined by the state
7 superintendent, in connection with an audit or evaluation of a federal or
8 state-supported education program or for the enforcement of or compliance with
9 federal law relating to such a program.

10 (b) A person to whom information is disclosed under par. (a) shall not disclose
11 the information to any other person and shall destroy the information when it is no
12 longer needed for the purposes specified in par. (a).

13 (c) If the department determines that a person to whom information is
14 disclosed under par. (a) has disclosed the information in violation of par. (b), the
15 department may not disclose information relating to individual pupils to that person
16 for 3 years from the date of the determination.

17 (d) In addition to the fees specified in s. 19.35 (3), the department may impose
18 a fee upon a requester that does not exceed the actual, necessary and direct cost of
19 deleting from the requested record information that is prohibited from being
20 disclosed under this section or 20 USC 1232g.

21 **SECTION 3.** 118.30 (3) of the statutes is renumbered 118.30 (3) (a) and amended
22 to read:

23 118.30 (3) (a) The state superintendent shall ~~make available upon request~~
24 allow a person to view an examination required to be administered under this section
25 if the person submits to the state superintendent a written request to do so within

1 90 days after the date of administration- of the examination ~~required to be~~
2 ~~administered under this section.~~ This subsection paragraph does not apply while ~~the~~
3 an examination is being developed or validated.

4 **SECTION 4.** 118.30 (3) (b) of the statutes is created to read:

5 118.30 (3) (b) The state superintendent shall promulgate rules establishing
6 procedures to administer par. (a). To the extent feasible, the rules shall protect the
7 security and confidentiality of the examinations required to be administered under
8 this section.

9 (END)