

0

AGENCY: DPI- Administrative and Other funding

ISSUE: Distribution of Federal Aid (Paper 772)

ALTERNATIVE: 2 (maintain current law)

SUMMARY:

This would require DPI to pass along additional federal money to local districts -- which means DPI would take yet another hit -- several dozen positions.

In Point 6, we see that the vast majority of federal money already is being passed to local districts. What DPI retains is put to use providing services to all districts.

MPS has suggested they would rather take the cash, but they have not made this a priority.

NOTE ON SUMMARY PAGE, ITEM 13 SHOULD BE PULLED OUT. IT WOULD CREATE A NEW CHARGE FOR SCHOOL DISTRICTS USING BADGERLINK, A SERVICES THAT IS FREE TO THE REST OF THE WORLD.

Sen. Decker may have motion to improve funding for Badgerlink.

By: Bob

... ..

... ..

... ..

... ..

... ..

... ..

... ..

Att. 2 - OK



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 29, 2001

Joint Committee on Finance

Paper #772

### Distribution of Federal Aid (DPI -- Administrative and Other Funding)

[LFB 2001-03 Budget Summary: Page 566, #20]

#### CURRENT LAW

Under current law the State Superintendent is directed to accept federal funds for any function over which the State Superintendent has jurisdiction and act as the agent for the receipt and disbursement of the funds.

#### GOVERNOR

Require the State Superintendent to distribute to school districts the maximum amount of federal aids allowed under federal law except those funds received for administrative purposes, from those federal aids for which the State Superintendent acts as the agent of receipt and disbursement.

#### DISCUSSION POINTS

1. Wisconsin received approximately \$600.2 million in federal education aids in 2000-01. Of the total, DPI acted as agent of receipt for \$445.2 million in 2000-01. Although it is difficult to determine future federal revenues until the federal budget is passed, it is estimated that DPI will receive \$477.7 million in 2001-02 and \$476.3 million in 2002-03. DPI receives and distributes entitlement, discretionary, and contract grant awards from the federal government for a variety of purposes, including special education, bilingual education, school reform, charter schools, class size reduction, child nutrition and several smaller programs.

2. Of the totals for federal education aids received by DPI, approximately 2.8%, or \$12.5 million, was retained by DPI for administrative purposes in 2000-01. Within DPI, 243.06

FTE positions were supported with federal administrative funds in 2000-01. Approximately 1.0%, or \$4.3 million, was retained for program operations costs to implement the grants that are determined and submitted for approval with the state plan when applying for the federal grant. In addition, of the total federal aid received in 2000-01, approximately 4.4%, or \$19.6 million, was awarded to DPI for discretionary activities, including statewide initiatives, technical assistance, and demonstration projects. DPI expects that approximately \$18.1 million of that total would be affected by this proposal for next year.

3. Of those discretionary funds, approximately \$11.5 million in 2000-01 supported activities of the 12 cooperative educational service agencies (CESA) throughout the state, which provide a variety of services to school districts. Programming offered by CESAs included reading instruction enhancement, early intervention for students at risk for special education referral, development and implementation of assistive technology for students with disabilities, behavioral assessment and intervention, and a statewide parent-educator partnership initiative.

4. The Governor's proposal directs the State Superintendent to distribute to school districts the maximum amount of federal funding allowed, to the exclusion of other local educational agencies. The Department would be prohibited from distributing federal monies over which DPI has discretion to CESAs, the Wisconsin Center for the Blind and Visually Impaired (WCBVI), or the Wisconsin School for the Deaf, or for programs developed and implemented by DPI. DPI indicates that federal discretionary funds of approximately \$2.5 million support 25 positions annually at the WCBVI. In addition, the School for the Deaf receives approximately \$1.8 million to support 14 positions. DOA submitted a budget errata report that indicates it was not the Governor's intent to prohibit funds from being distributed to the residential schools. A modification to the language provided in the bill would be necessary to allow DPI to continue to provide funds to the residential schools.

5. Proponents of the proposal argue that DPI should be directed to distribute the full amount of all federal dollars to school districts, so that the districts could then choose programs to implement or expand, based on what is most appropriate for their local needs. One could argue that local school boards are better equipped to assess their programmatic and funding needs than is a state agency. One could also argue that DPI's use of federal funds for region-specific programs unfairly denies to other districts access to those funds and the benefits derived from them. Additionally, it could be argued that school districts would choose to use additional federal dollars to continue to support programs operated by CESAs if those programs were useful and the best use of funds for the districts.

6. Concerns have also been raised over federal funding retained by DPI for administrative purposes. However, most federal education aids collected by the Department are already distributed by DPI to school districts. In addition, administrative costs, which the Governor's proposal would allow DPI to continue to retain, are often built into the amount of the federal award. When the state applies for a federal grant, program operation costs to implement the grant are often determined and submitted for approval with the state plan, because the funding necessary to implement the program is often significant. Therefore, it is the Department's belief that these monies

would continue to be retained by DPI even under the Governor's modification of the statutory language.

7. The State Superintendent has jurisdiction over and acts as the agent of receipt and disbursement for the funds. While the Governor's proposal modifies the State Superintendent's statutory duties to require maximum distribution to school districts of federal funds allowed, some have argued that it is left to the State Superintendent's discretion, even under the proposal, to determine whether maximum distribution is accomplished. Therefore, the State Superintendent would still have authority to determine what percentage of funds the Department should retain for administration and program operation and submit those costs with the federal applications for monies. It is possible that the Governor's proposal would have little effect on current DPI practices regarding the handling of federal funds, except to exclude CESAs from the local educational agencies that could receive discretionary monies from DPI.

8. With 426 school districts in the state, it may be more cost effective for programs to be coordinated centrally, either by a CESA or DPI. Also, an individual district might be unable to implement a program without combining resources with other districts to cover the costs. In order to coordinate and implement inter-district programs, staff would need access to a large amount of data on regional or statewide issues. Concerns have been raised that DPI and CESAs are more adequately equipped to perform research and implement regional programs than are school districts. Many districts might lack the staff resources necessary to research, implement and administer the types of programs that can be offered by CESA and DPI staffs.

9. Many school districts would likely allocate discretionary federal monies to their CESAs for cooperative initiatives and shared services. Allowing school districts to make this choice would enhance local control over the use of these funds. If school districts have differing priorities than CESAs, the school district could utilize the monies to accomplish its needs.

10. Some have argued that DPI should retain the level of discretion currently enjoyed over some federal monies. According to DPI staff, public education research and development, such as many of the projects coordinated by CESAs, is funded almost exclusively with federal discretionary money. Use of discretionary funds for statewide activities of this nature is consistent with Congress's intent in allocating the monies to state educational agencies, rather than to school districts.

## **ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to require the State Superintendent to distribute to school districts the maximum amount of federal aids allowed under federal law except those funds received for administrative purposes, from those federal aids for which the State Superintendent acts as the agent of receipt and disbursement. Modify the bill to accomplish the Governor's intent to include the state operated residential schools, the Wisconsin School for the Deaf and Wisconsin Center for the Blind and Visually Impaired, among the local educational



PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Modify DPI Distribution of Federal Aids (LFB Paper #772)

Motion:

Move to require the State Superintendent to submit a plan to the Committee under a 14-day passive review process for distribution of federal aids for which the State Superintendent acts as the agent of receipt and disbursement, for approval by the Committee before distribution of the federal monies. Require the plan give due consideration to the funding needs of school districts, state residential schools and CESAs, and that the plan distribute to those local educational agencies the maximum amount of federal aids allowed under federal law. Require the plan be submitted by October 31, 2001, for federal aids received for the 2001-02 federal fiscal year, and by October 31, 2002, for federal aids received for the 2002-03 federal fiscal year, or annually within 30 days of the passage of the federal budget, whichever is later.

Note:

This motion would replace LFB paper #772.

MO# \_\_\_\_\_

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
WIRCH	<input checked="" type="radio"/>	N	A
1 DARLING	<input checked="" type="radio"/>	N	A
WELCH	<input checked="" type="radio"/>	N	A
<i>Stupple</i>			
2 GARD	Y.	<input checked="" type="radio"/>	A
KAUFERT	Y	<input checked="" type="radio"/>	A
ALBERS	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUEBSCH	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 14 NO 2 ABS \_\_\_\_\_

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Increase BadgerLink Funding with Universal Service Fund

Motion:

Move to provide \$73,500 SEG in 2001-02 and \$150,200 SEG in 2002-03 for BadgerLink from the segregated universal service fund (USF). This would replace \$73,500 PR in 2001-02 and \$150,200 PR in 2002-03 from charges to school districts that would be provided under the budget bill.

---

Note:

BadgerLink provides full-text database services through a statewide contract to all residents of the state. The Governor provided an increase in funding for BadgerLink of \$73,500 PR in 2001-02 and \$150,200 PR in 2002-03 in a new PR appropriation to continue the current level of services. While the base level funding of \$1,700,000 would continue to be funded by the USF, the increase under the Governor's proposal would be generated by requiring the State Superintendent to charge each school district a fee for use of BadgerLink for 2001-03. This motion would replace the PR funding provisions of the bill summarized under Public Instruction -- Administrative and Other Funding, #13.

[Change to Bill: \$223,700 SEG and -\$223,700 PR]

[Change to Base: \$223,700 SEG]

MO# \_\_\_\_\_

BURKE	Y	N	A
2 DECKER	Y	N	A
1 MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
<i> Fitzgerald</i>			
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS \_\_\_\_\_

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Funding for Minority Precollege Scholarships

Motion:

Move to provide \$900,000 GPR annually above a base level of \$1,525,000 for the minority precollege scholarship program.

Note:

The minority precollege scholarship program provides funds for minority students in grades six through twelve to attend precollege courses at campuses in the UW System, Wisconsin Technical College System and independent colleges and universities. Scholarships may be used to pay the cost of the course, books, supplies, and room and board and are intended to encourage minority students to pursue postsecondary education. The \$900,000 annual increase would provide funding for approximately 3,000 additional scholarships annually and bring the total number of scholarships available to approximately 8,100 each year.

[Change to Bill: \$1,800,000 GPR]  
 [Change to Base: \$1,800,000 GPR]

MO# \_\_\_\_\_

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
<i>Integrat</i>			
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Funding for an Environmental Education Consultant

Motion:

Move to provide \$52,600 GPR in 2001-02 and \$64,600 GPR in 2002-03 and 1.0 GPR position for an environmental education consultant.

Note:

DPI's environmental education consultant position was eliminated by 1995 Act 27, the 1995 budget bill. The consultant provided state level supervision, leadership, coordination and consultation related to environmental education.

[Change to Bill: \$117,200 GPR and 1.0 GPR position]

[Change to Base: \$117,200 GPR and 1.0 GPR position]

MO#				
2	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
1	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	WELCH	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

AYE 8 NO 8 ABS \_\_\_\_\_

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Library Service Contracts Funding

Motion:

Move to provide \$97,300 GPR in 2001-02 and \$286,900 GPR in 2002-03 above base level funding of \$1,047,300 for contracts with four providers of specialized statewide library services and resources.

Note:

Contracts are currently maintained with Milwaukee Public Library for the statewide interlibrary loan of its collection, Wisconsin Library Services, Wisconsin Regional Library for the Blind and Physically Handicapped, and the Cooperative Children's Book Center, a program of the UW-Madison School of Education which obtains and reviews children's literature for libraries statewide.

[Change to Bill: \$384,200 GPR]

[Change to Base: \$384,200 GPR]

MO#				
2	BURKE	Y	N	A
	DECKER	Y	N	A
1	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	<del>WELCH</del>	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

Motion #998

AYE 8 NO 8 ABS \_\_\_\_\_

PUBLIC INSTRUCTION -- SCHOOL DISTRICT OPERATIONS

Modify Distribution of School Performance Reports

Motion:

Move to eliminate the requirement that each school board distribute to the parent or guardian of each pupil enrolled in the school district and charter schools located in the district a school and school district performance report. Require each school board post the school performance reports of each school in the district on the district's website. Require each school board to provide a printed copy of the report upon request.

---

Note:

The State Superintendent is required to develop a school and school district performance report that provides comprehensive data on school performance and student achievement. The contents of the school performance report are organized into two broad categories, student performance indicators, consisting primarily of state and national standardized test results, and opportunity-to-learn indicators, which include advanced coursework offered, revenues and expenditures, pupil/staff ratios, attendance, retention, dropouts, extracurricular activities and graduation requirements. Currently school boards are required to distribute to each parent or guardian or give to each pupil to bring home to his or her parent or guardian a school and school district performance report. The reports for all schools and districts in the state are currently posted on the DPI website.

MO#

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
<i>Myfield</i>			
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
<sup>2</sup> HUBER	Y	N	A
COGGS	Y	N	A

AYE 13 NO 3 ABS

PUBLIC INSTRUCTION -- ADMINISTRATIVE AND OTHER FUNDING

Wisconsin Geographical Education Program

Motion:

Move to delete \$50,000 GPR annually and current law related to grants under the Wisconsin geography alliance program. Provide \$500,000 GPR in 2001-02 for a grant to the National Geographical Society Education Foundation (Foundation). Require DPI to enter into an agreement with the Foundation relating to this grant. Specify that the agreement include all of the following: (a) the Foundation would establish and manage a trust fund for a Wisconsin geographical education program consisting of the \$500,000 of grant funding and \$500,000 in matching funds provided by the Foundation; (b) the Foundation would award grants and support programs for improving geographical education in Wisconsin, with an emphasis on improving student use of geographic information systems technology; (c) the Foundation would be required to annually submit to DPI an independent financial audit of the trust fund and a report listing the names of the grant recipients and the amounts and purposes of awards and other expenditures made from the fund; (d) if the trust fund were dissolved, the Foundation would be required to return the initial grant from the state and any unexpended income from it; and (e) that the agreement would not be effective unless the Secretary of DOA determines that the Foundation has provided \$500,000 in matching funds.

[Change to Bill: \$500,000 GPR, -\$500,000 PR]  
 [Change to Base: \$400,000 GPR]

MO# \_\_\_\_\_

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS \_\_\_\_\_

April 1971

1971-1972

1971-1972

1971

1971-1972

Decker motion - to fund  
budget link

W.A. Decker asks to remove  
item 13 from summary  
items.

# PUBLIC INSTRUCTION

## Administrative and Other Funding

### *Base Agency*

#### LFB Summary Items for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments
5	Fuel and Utility Reestimate
7	Federal Revenue Reestimates
8	Program Revenue Reestimates
13	BadgerLink
14	Alcohol and Other Drug Abuse Administration
15	Newsline for the Blind
16	Position Reallocation
24	State Trust Fund Loans for Pupil Library Systems
26	Delete Obsolete Appropriations and Outdated References

#### LFB Summary Items to be Addressed in a Subsequent Paper

Item #	Title
2	Base Budget Reductions
3	Wisconsin Geographical Education Program
6	Debt Service Reestimate
9	Wisconsin Informational Network for School Success
10	Wisconsin Center for The Blind and Visually Impaired
11	Library Services Contract
12	State School Finance Information System

MO# 1, 5, 7, 8, 14, 15

16, 24, 26

2	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	WELCH	Y	N	A

#### LFB Summary Items for Introduction as Separate Legi

Item #	Title
17	Committee to Review DPI's Rules
19	Vocational Education Consultants
21	Distance Education Rule Making
22	Minority Group Pupil Precollege Scholarships
23	Division for Libraries and Community Learning
25	Delete Charter School Audit

1	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

AYE 16 NO 0 ABS \_\_\_\_\_

AGENCY: DOA -- Attached Programs and DPI

ISSUE: Board on Education Evaluation and Accountability (Paper 145)

ALTERNATIVE: 2 (maintain current law -- need 9 votes)

*Gard - 2*

SUMMARY:

This is a power grab, the administration attempting to take a responsibility away from DPI that clearly belongs in the education department.

Sen. Decker's office has drafter's note and has requested a Leg. Council memo on constitutionality.

Possible GOP support might come from Reps Huebsch or Kaufert.

By: Bob

Faint, illegible text, possibly bleed-through from the reverse side of the page.

Alt. 2 - ok



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 23, 2001

Joint Committee on Finance

Paper #145

### **Board on Education Evaluation and Accountability (DOA -- Attached Programs and DPI -- Assessments and Licensing)**

[LFB 2001-03 Budget Summary: Page 74, #2 and Page 549, #4]

#### **CURRENT LAW**

Current law requires all school districts to annually administer the Wisconsin reading comprehension test (WRCT), a standardized reading test developed by DPI for 3<sup>rd</sup> grade pupils. Districts are also required to annually administer 4<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> grade Wisconsin knowledge and concepts exams (WKCE). A school board may choose to develop its own exam for 4<sup>th</sup> and 8<sup>th</sup> grades, and if it chooses to do so, it is required to notify DPI and provide the State Superintendent with statistical correlations of those exams with the exams adopted or approved by the State Superintendent. A school board must provide a pupil with at least two opportunities to take the 4<sup>th</sup> and 8<sup>th</sup> grade exams.

Each school district that operates a high school is required to adopt a written policy by September 1, 2002, specifying criteria for granting a high school diploma, and beginning in 2002-03, that criteria must include a high school graduation test (HSGT). The test may be administered only in grades 11 and 12, and must be offered twice each year. Beginning September 1, 2003, a high school diploma cannot be granted to any pupil unless the pupil has satisfied the school board's criteria.

A school board may determine not to administer an examination to a pupil enrolled in a special education program or a limited-English speaking pupil, and a school board may modify the format and administration of an examination for these pupils or permit a pupil to be examined in his or her native language. Additionally, school boards are required to excuse a pupil from taking the 4<sup>th</sup>, 8<sup>th</sup> or 10<sup>th</sup> grade exams or the high school graduation exam upon the request of the pupil's parent or guardian. School boards are required to establish alternative

criteria upon which to determine qualification for high school graduation if a pupil has been excused from the exam.

These provisions apply to charter schools as well.

DPI pays for printing, distributing, scoring and reporting the results of the exams. In 2000-01, DPI expected to expend approximately \$6.0 million in GPR and federal monies for printing, scoring, reporting and development costs of the exams, as well as for program operations, supplies and services associated with pupil assessment.

The State Superintendent develops and distributes a school performance report annually and arranges for an annual evaluation of the SAGE program annually.

## **GOVERNOR**

Create a Board on Education Evaluation and Accountability (Board), attached to DOA and consisting of five members appointed for four-year terms. The members of the Board would be appointed by the Governor; Senate confirmation would not be required. Require that at least one member be experienced in education evaluation and assessment. Require that two of the initial members of the Board serve for terms expiring on May 1, 2003, and three of the initial members serve for terms expiring on May 1, 2005. Require the Board to appoint an executive director, assigned to statutory executive salary group 3, to serve at its pleasure. Specify that the executive director be part of the unclassified civil service.

Create an appropriation under DOA to fund the program operations of the Board. Transfer \$11,811,500 and 15.60 positions from DPI to DOA for this purpose in 2002-03. Of this funding, \$826,600 would be transferred from DPI's largest general program operations appropriation, \$10,859,900 from DPI's assessment appropriation and \$125,000 from the primary SAGE appropriation.

Require the Board to administer the pupil assessment program, currently administered by DPI. Require the Board, rather than DPI, to adopt or approve a 3<sup>rd</sup> grade reading test, 4<sup>th</sup>, 8<sup>th</sup>, and 10<sup>th</sup> grade knowledge and concepts exams and a high school graduation exam. Require a school board or charter school operator that chooses to develop and adopt its own 4<sup>th</sup> or 8<sup>th</sup> grade exams to notify the Board, rather than DPI, or for its own high school graduation exam, to notify the Board, rather than DPI, annually by October 1 that it intends to administer the examination in the following school year.

Require the Board to compile a school performance report. Require the Board to publish and distribute a summary of the school performance reports to the Legislature annually.

Authorize the Board to conduct a longitudinal study of the Milwaukee parental choice program if the Board receives sufficient funds from private sources to do so. If the Board conducts such a study, require that it report the results to the Legislature and the Governor.

Require the Board to take over the duties of the State Superintendent related to identifying schools that are low in performance, making recommendations regarding how the programs and operations of the schools can be improved and periodically assessing school district implementation of the plans. Require the Board, rather than the State Superintendent, to publish and distribute a list of the schools identified as low in performance to the Governor and Legislature annually.

Require the Board, rather than the State Superintendent as under current law, to study the utility of administering technology-based performance assessments to pupils.

Modify a current law requirement statistical correlation reporting requirement for the 4<sup>th</sup> and 8<sup>th</sup> grade exams to refer to the Board rather than the State Superintendent.

Transfer the responsibility to arrange for an annual evaluation of the SAGE program to the Board, and require the Board to allocate \$125,000 for that purpose from its appropriation, rather than from the SAGE appropriation.

Establish a nonstatutory provision governing the transfer of functions from DPI to the Board. Specify that this provision would apply to the following items, if they would be primarily related to the school performance report, pupil assessments, SAGE program evaluation and the 3<sup>rd</sup> grade reading test, as determined by the Secretary of DOA: (a) the assets and liabilities of DPI would become the assets and liabilities of the Board; (b) all incumbent employees holding positions in DPI would be transferred to the Board; (c) such employees would have all the statutory rights and the same status in the Board that they enjoyed in DPI immediately before the transfer and no employee transferred who has attained permanent status in class would be required to serve a probationary period; (d) all tangible personal property, including records, of DPI would be transferred to the Board; (e) all contracts entered into by DPI in effect on the effective date of this provision would remain in effect and would be transferred to the Board, which would carry out any obligations under such a contract; (f) all rules promulgated by DPI that are in effect on the effective date of this provision would be transferred to the Board and would remain in effect until amended or repealed by the Board and all orders issued by DPI that are in effect on the effective date of this provision would be transferred to the Board and would remain in effect until their specified expiration date or until modified or rescinded by the Board; and (g) any matter pending with DPI on the effective date of this provision would be transferred to the Board and all materials submitted to or actions taken by DPI with respect to the pending matter would be considered as having been submitted to or taken by the Board.

The Board's powers and duties and the transfer of functions to the Board would take effect on July 1, 2002.

## DISCUSSION POINTS

1. The Wisconsin pupil assessment system is administered and coordinated by the Office of Educational Accountability within DPI. The WRCT was first given in the 1988-89 school

year. The WKCE was first administered in 1992-93 to 8<sup>th</sup> and 10<sup>th</sup> grade pupils, and to 4<sup>th</sup> grade pupils in 1995-96. The HSGT is currently being developed by DPI and will be administered to 11<sup>th</sup> and 12<sup>th</sup> grade pupils beginning in 2002-03.

2. In recent years, pupil assessment has become the focus of broader educational reforms nationwide. Pupil assessments evaluate the quality and level of pupil achievement and indicate areas for improvement, provide accountability for public investment in education, and provide information to be used by teachers and pupils in decisions relating to remediation, program placement, career paths and ranking.

3. The Governor's proposal would remove from DPI responsibility for monitoring and reporting the quality of instruction offered by public, charter and MPCP schools, as well as the results of the SAGE program, and transfer that responsibility to an independent Board, created for that purpose and attached to DOA for administrative support services.

4. Proponents of the proposal argue that pupil assessment should be the responsibility of a neutral, independent body in order to ensure that no bias enters the testing and reporting process. They suggest that DPI may not be a neutral body because the Department also serves as an advocate for schools and local educational agencies, especially within the state budget process. Monitoring these entities as well as doing advocacy work for them may cause an appearance of partiality.

5. Opponents of this proposal argue that if the policy goal of this proposal truly is to establish an independent entity to safeguard the integrity of the state's assessments, the Governor's budget proposal is open to criticism. They indicate that it is unclear to what extent the proposed five-person board could be viewed as independent, since all five members would be appointed by the Governor. These appointments further would be made without Senate confirmation. In addition, the proposed attachment of the Board for limited purposes to the Department of Administration, which is one of the agencies of state government that works most closely with the Governor, could further diminish any appearance of independence of this Board.

6. Opponents of the proposal have also argued that DPI should retain administrative and development authority over the pupil assessment system because assessments are closely tied to the creation of curriculum and academic standards. DPI staff produces curriculum guides for school districts with the goal of helping students achieve statewide academic standards. DPI staff crafted these standards in large part, with input from education professionals and other interested parties. In turn, assessments have been developed by DPI to measure pupil attainment of those standards, and curriculum is adjusted accordingly based on those results. One could argue that DPI should continue to develop curriculum, standards, and assessments in order to ensure substantive consistency of content.

7. The State Superintendent has raised concerns that this provision of the bill may be unconstitutional because it would grant supervisory power over public instruction to state officers that are not subordinate to the State Superintendent of Public Instruction. In *Thompson v. Craney*

(1996), a unanimous state Supreme Court ruled a portion of 1995 Act 27 unconstitutional. The Court determined that the state constitution vests sole authority over public instruction with the office of State Superintendent. Without a constitutional amendment, the opinion found, the Legislature could create officers with supervisory power over public instruction only if those officers were ultimately subordinate to the State Superintendent.

8. On the other hand, proponents of this provision of the bill point to a concurring opinion to *Thompson* filed by Justice Wilcox and joined by Justice Steinmetz. That concurring opinion argued that under the constitution the Legislature is granted "the innovative flexibility to identify and address issues involving reform." The concurring opinion also pointed to a precedent for creation by the Legislature of state officers that were not subordinate to the State Superintendent but that were granted some supervisory authority over public instruction. In *Burton v. State Appeal Board* (1968), the Legislature had created a board, appointed by the State Superintendent, to hear appeals of school district reorganization orders from agency school committees. The Court found that, once appointed, the Board was subordinate to no one, including the State Superintendent. The concurring opinion in *Thompson* argues that this precedent should be read to affirm the constitutionality of the Legislature's granting of supervisory power over public instruction to state officers other than, and not subordinate to, the State Superintendent. Given the history of litigation surrounding the vesting of authority in officers other than the State Superintendent, it is possible that if enacted into law this provision would come under similar judicial review to determine its constitutionality.

**ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to create a Board on Education Evaluation and Accountability, appointed by the Governor and attached to DOA, to administer the state's pupil assessment program, arrange for an annual SAGE evaluation, and compile an annual school performance report. Create an appropriation under DOA to fund the program operations of the Board. Transfer \$11,811,500 and 15.60 positions from DPI to DOA for this purpose in 2002-03. Of this funding, \$826,600 would be transferred from DPI's largest general program operations appropriation, \$10,859,900 from DPI's assessment appropriation and \$125,000 from the primary SAGE appropriation.

2. Maintain current law.

Prepared by: Layla Merrifield

MO#	A A A A A A A A A A A A A A A A														AYE	16	NO	ABS	
	N N N N N N N N N N N N N N N N																		
	Y Y Y Y Y Y Y Y Y Y Y Y Y Y Y Y																		
1	BURKE	DECKER	MOORE	SHIBILSKI	PLACHE	WIRCH	DARLING	WELCH	GARD	KAUFERT	ALBERS	DUFF	WARD	HUEBSCH	HUBER	COGGS			
2																			

**ADMINISTRATION**

**Attached Programs**

*Bill Agency*

**LFB Summary Items for Which No Issue Paper Has Been Prepared**

<u>Item #</u>	<u>Title</u>
5	SASI Initiative -- Attached Programs
6	Division of Hearings and Appeals -- Staffing Increases
7	Limited Purpose Attachment of the Adolescent Pregnancy Prevention and Pregnancy Services Board to the Department

**LFB Summary Items to be Addressed in a Subsequent Paper**

<u>Item #</u>	<u>Title</u>
1	Repeal of the Wisconsin Advanced Telecommunications Foundation and the Distribution of Proceeds

**LFB Summary Items for Introduction as Separate Legislation**

<u>Item #</u>	<u>Title</u>
8	Elimination of the Council on Health Care Fraud and Abuse

## LFB Summary Items Addressed at a Previous Committee Executive Session

Item #	Title
3	Transfer of the Capacity Grant Program to the Wisconsin Technical College System Board (Paper #1011)
4	Transfer of the National and Community Service Board to the Department of Workforce Development (see Paper #1025)