

State of Wisconsin

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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: April 29, 2020

Re: 14-Day Passive Review Approval – DPI

Pursuant to s. 115.295, Stats., attached is a 14-day passive review request from the Department of Public Instruction, received on April 29, 2020.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Tuesday, May 12, 2020**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN:jm

April 24, 2020

APR 29 2020

St. Finance

The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance
Wisconsin State Legislature
Room 317 East, State Capitol
Madison, WI 53707

The Honorable John Nygren, Co-Chair
Joint Committee on Finance
Wisconsin State Legislature
Room 309 East, State Capitol
Madison, WI 53707

Subject: Plan for Federal Appropriations Adjustments under Wis. Stat. sec. 115.295.

Dear Co-Chair Darling and Co-Chair Nygren:

The Department of Public Instruction (DPI) submits this plan in accordance with Wis. Stat. sec. 115.295, which requires this plan to be submitted in the event that federal legislation results in receipt of federal funds by the department in an amount that varies by five percent or more from the federal appropriations in the department's Chapter 20 schedule. Specifically, the statute under Wis. Stat. secs. 115.295 (2) (a) and (b) reads:

- (a) Subject to par. (b), annually by December 1 or within 30 days after the applicable federal appropriation bill for that federal fiscal year has been enacted, whichever is later, the state superintendent shall submit to the joint committee on finance a plan identifying how the state superintendent proposes to adjust the department's federal appropriations for that state fiscal year to reflect the most recent estimate of the amount of federal funds that the department will be appropriated in that state fiscal year.*
- (b) The state superintendent is required to submit a plan under par. (a) only if the department's most recent estimate of the amount of federal funds that the department will be appropriated under s. 20.255 in the current state fiscal year is less than 95 percent or more than 105 percent of the amount of federal revenue shown in the schedule for the appropriations under s. 20.255 in that fiscal year.*

Federal CARES Act – Response to the COVID-19 Pandemic

On March 13, 2020, the President of the United States issued a proclamation declaring a national emergency concerning the novel coronavirus disease (COVID-19) outbreak (emergency effective as of March 1, 2020). Following that declaration, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act [P.L. 116–136]) was enacted in response to the COVID-19 pandemic.

The CARES Act appropriates federal funding to address the impacts of the COVID-19 pandemic across many functions of the economy, including education. Specifically, the Act creates the Education Stabilization fund, which provides, in total, \$30.75 billion for institutions of higher education (IHEs) and for K-12 local educational agencies (LEAs). This includes the Governor’s Emergency Education Relief Fund (GEERF) and the Elementary and Secondary School Emergency Relief Fund (ESSERF). As DPI does not apply for or receive monies allocated to the Governor, this plan addresses only the ESSERF.

For reference, however, the Act allocates \$3.0 billion for the GEERF; the share for the State of Wisconsin is \$46,550,411. Governors of each state have discretion to distribute this funding to LEAs or IHEs that have been most significantly impacted by coronavirus, for the purpose of supporting LEAs or IHEs in continuing to provide educational services and supporting the ongoing functioning of the institutions. IHEs in Wisconsin include public and private colleges and the technical colleges.

Per guidance from the United States Department of Education (USDE), the Governor’s office will prepare and submit a plan for use of the state’s GEERF allocation through a separate application process. It is DPI’s understanding that the GEERF allocation will be received in a federal appropriation within the Office of the Governor. If the Governor’s plan includes direct funding to LEAs, those funds may be transferred to DPI’s Program Revenue – Service appropriation for local assistance to be distributed to LEAs. This request submitted by DPI does not include any funding from the GEERF allocation.

Elementary and Secondary School Emergency Relief Fund

The Education Stabilization fund provides \$13.2 billion as the ESSERF, to be distributed to states and territories in the same proportion that each state/territory received in the most recent fiscal year (state FY20), under Title I, Part A (Title I-A), of the Elementary and Secondary Education Act of 1965 (reauthorized in December 2015 as the Every Student Succeeds Act, or ESSA).

The total ESSERF allocation for the State of Wisconsin is \$174,777,800. The CARES Act requires that the state education agency (SEA) distribute at least 90 percent (\$157,300,000) of its allocation directly to LEAs, based on the Title I-A allocations to LEAs in FY20. Title I-A allocates funding to districts and other local educational agencies (LEAs) according to a formula based on number/percentage of children from low-income families.

LEAs distribute much of the Title I-A funding they receive directly to individual public schools and use the rest to support other efforts within the LEA that benefit students needing additional academic support. Though the amounts distributed to LEAs is based on Title I-A allocations, the ESSERF monies are to be used by LEAs for responding to the COVID-19 pandemic and supporting educational programming and general functioning of the LEAs.

Examples of allowable uses include: preparedness and response efforts; sanitation; professional development; and online instruction (distance learning). A complete list of the specific purposes enumerated in the CARES Act are included in **Appendix A**. Additionally, the allowable use of funding by LEAs are included in the SEA application to USDE, which can be found online, at:
<https://oese.ed.gov/files/2020/04/ESSERF-Certification-and-Agreement.pdf>.

The CARES Act authorizes SEAs to use the remaining 10 percent of the state's ESSERF allocation (\$17,477,800) for emergency needs, as determined by the SEA (DPI), to address issues responding to the COVID-19 pandemic. This is referred to in this letter as the "SEA set-aside funds". DPI's plans for use of the SEA set-aside funds are described in a subsequent section of this letter.

The federal government recognizes that there are costs associated with implementing and maintaining federally-funded programs, and that states should not have to absorb those costs with state funds. Like other federal grant programs, the CARES Act permits states to reserve a share of the SEA allocation for administrative costs. Under the Act, SEAs may use up to a half-percent of the SEA allocation for administrative purposes (\$873,900). Under section 18003 (e) of the Act:

"(e) STATE FUNDING.—With funds not otherwise allocated under subsection (c), a State may reserve not more than 1/2 of 1 percent for administrative costs and the remainder for emergency needs as determined by the state educational agency to address issues responding to coronavirus, which may be addressed through the use of grants or contracts."

With respect to the ESSERF, this would include costs related to programming changes to DPI's online federal grants portal used by LEAs (WISEgrants) to reflect the parameters of the ESSERF, distribute funds, determine equitable participation shares, and to produce required reports. Additionally, staff time will be used to perform work related to the ESSERF, including providing technical assistance to LEAs, reviewing and processing LEA claims, and coordinating work with DPI's partners (see "SEA Set-Aside Funds", below).

Federal law (2 CFR 200.403 – 200.405) requires recipients of federal monies to use the federal award only for the purpose of the federal grant program. Therefore, DPI employees working directly on ESSERF activities would charge their time back to the ESSERF grant award, and should not charge their time back to other federal grants, (e.g., Title I-A administrative funds), even if the employee normally works with the Title I-A

program. This regulation applies to all federal grant awards, including the other Title grants under ESSA, as well as the federal Individuals with Disabilities Education Act (IDEA). Further, federal grant recipients are required by federal law to maintain time and effort documentation demonstrating compliance with these regulations.

DPI anticipates that the full amount permitted under the CARES Act for administrative purposes may not be required for ESSERF-related administrative activities. But, recognizing that there will be some costs that will have to be charged back to the ESSERF grant, as the appropriation federal source, DPI plans to reserve approximately 3 percent of the SEA set-aside amount (0.3 percent of the total allocation), for administrative purposes. Any amounts under the set-aside portion that are not used to support administrative costs will be used for the SEA set-aside activities described below. Table 1 shows the ESSERF amounts for Wisconsin.

Table 1. Elementary and Secondary Relief Fund under CARES Act – Wisconsin Allocation (Rounded)

90% Allocation for LEAs	\$157,300,000
10% Set-Aside for SEA*	\$17,477,800
Total Allocation	\$174,777,800

**Includes amounts for administrative costs.*

Approval and Release of Federal Funding

The CARES Act requires SEAs to submit an application to USDE with a plan for how the SEA intends to use the 10 percent set-aside funds. This application was made available to SEAs on April 23. While USDE is required to notify the SEAs of the status of its application within 30 days, they have indicated they plan to approve applications within three days. Considering the time required for the approval of DPI’s plan (in this letter), for completion of the SEA application, and for review by USDE, the federal funds could be available for distribution to LEAs in June 2020. The Act authorizes SEAs and LEAs to obligate ESSERF monies through September 30, 2021.

SEA Set-Aside Funds

As the SEA for the State of Wisconsin, DPI is responsible for developing a plan for use of the 10 percent set-aside monies. The application for the set-aside funds requires the SEA to address the extent to which the SEA intends to use any portion of its SEA reserve (up to 10 percent of its ESSER Fund award) to support:

- Technological capacity and access – including hardware and software, connectivity, and instructional expertise – to support remote learning.

- Remote learning by developing new informational and academic resources and expanding awareness of, and access to, best practices and innovations in remote learning and support for students, families, and educators.

DPI plans to use the monies to address four purposes, to assist schools statewide in response to the COVID-19 pandemic, described below.

1. *Minimum Levels of Support*

DPI will use a portion of the set-aside monies to ensure that every LEA receives a minimum level of support from the ESSERF. The CARES Act requires DPI to distribute the funding to LEAs based on their relative share of FY20 Title I-A funding. A total of eight LEAs did not receive any Title-IA funds in FY20, and some LEAs received such a small proportion in FY20 that the amount they are eligible for from the ESSERF is less than \$10,000 (six LEAs). This plan proposes to provide additional funding from the 10 percent set-aside to provide every LEA with at least \$40,000 from the ESSERF. This is estimated to require approximately \$1.5 million, thereby reducing the amount available for the work of the three other focus areas by the same amount.

The remainder of the funds in the DPI plan will address the statewide impacts of school closures due to the COVID-19 pandemic for public and private schools. School closures will impact student academic progress. The work of DPI and its partners within the remaining focus areas will be to assist LEAs in identifying and implementing best practices for helping students who have fallen behind academically to get caught up and continue progress (over the summer and/or in the upcoming school year). While this work will be conducted in response to the current COVID-19 pandemic, it will be beneficial for preparing schools to provide consistent instruction to students if/when other circumstances dictate that school must be closed unexpectedly (i.e., extreme weather, regional flooding, smoke/fire damage to school buildings).

2. *Building capacity for, and expanding access to, high quality online instructional resources.*

DPI will collaborate with three strategic state partners to support online, blended, and remote instructional delivery systems. Examples of existing partnerships the department could build upon include:

- The Wisconsin Digital Learning Collaborative (WDLC). This is a partnership between DPI, the Wisconsin Virtual School out of Cooperative Education Service Agency (CESA) 9, and the eSchools Network, and is Wisconsin's state-designated web academy. The WDLC partners currently support over 300 schools with online and blended courses. They are well-positioned to increase both leadership capacity for planning around online instruction, and access to online and blended learning courses for students in grades 6-12.
- The CESA Instructional Technology Network. The Network will help implement local training and leadership planning assistance.

- The Institute for Personalized Learning (IPL). A division of CESA 1, the Institute assists districts in creating and delivering learner-centered, instructional design principles, and technology-rich learning experiences. The Institute has a wealth of resources to assist schools in creating blended and digitally rich learning experiences.

The department plans to focus on providing additional capacity to facilitate access to online and blended courses and support for schools to build out their own high-quality online or blended instruction. An additional focus will be placed on areas of need as expressed by stakeholders. For example, addressing literacy and math needs for any loss of learning or credit recovery due to the COVID-19 pandemic.

3. *Providing training for educators in the provision of online and remote instruction.*

DPI will work with educator preparation programs to prepare educators for delivering instruction in online and remote settings. Educator preparation programs almost exclusively make use of face-to-face, pre-clinical and clinical placements for prospective teachers. K-12 education in Wisconsin has been primarily delivered in physical classrooms with teachers present. Thus, teachers are generally not prepared for teaching in an online or a blended environment as part of their formal training.

Providing extensive training to educators in online and remote teaching techniques this summer and next fall would help schools prepare to address statewide or localized school closures during the 2020-21 school year, as well as how to work with students who are not able to attend school for health reasons.

Additionally, educator preparation programs for School Counselors, School Social Workers, and School Psychologists typically do not include training on how to provide teleservices to students. LEAs need recommendations for best practices in implementing teleservices for K-12 students, as well as training in how to use available technology.

4. *Expanding and building capacity of school staff to provide mental health services, to better support students.*

The COVID-19 pandemic disrupted services for some students and increased isolation and corresponding mental health effects. DPI will provide resources and online training supports for school staff to:

- Maintain and enhance connections with and among students. Such opportunities may include a venue for school staff to connect with students via webinars and virtual meetings.
- Maintain and enhance connections with and among colleagues. Such opportunities may include a venue for school staff to connect and network, including the sharing of current best practices via webinars and virtual meetings.

- Help students maintain connections with their peers in order to address the impact of social isolation.

DPI will provide support in the focus areas under contract with DPI's partner organizations, such as CESAs, to implement provisions of the plan. For example, the expansion of mental health services and resources could be provided by the Wisconsin Safe and Healthy Schools (WISH) Center, a collaborative project between DPI and the CESA Statewide Network (CSN). CESAs are well-positioned as regional service providers to host and provide training for educators related to developing and delivering online instruction.

DPI is committed to working with its partners to ensure that the opportunities for professional training around online instruction, and services and supports for mental health will be available to both public and private schools throughout the state.

Support of Non-Public Schools

Federal law, under ESSA, requires LEAs to provide equitable participation to eligible private school children, teachers, and other educational personnel in programs under the Act. The CARES Act specifies that at least 90 percent of the ESSERF monies must be distributed to LEAs (school districts and charter schools, including independent charter schools under Wis. Stat. secs. 118.40 (2r) and (2x)) based on Title I-A allocations to LEAs in FY20. The Title I-A equitable participation requirements will apply to the CARES Act funding distributed to LEAs:

"SEC. 18005. (a) IN GENERAL.—A local educational agency receiving funds under sections 18002 or 18003 of this title shall provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools."

Under ESSA, equitable participation services provided by the LEA must be designed to meet the educational needs and supplement services provided by the private school. In order to fully participate in services, private school officials work with public school officials to determine student eligibility; how the needs of the students will be identified; how the services (including family engagement activities) provided under each Title will meet those needs; and how services will be evaluated. The services must be agreed upon by both the LEA and the private school, per federal law. The federal statute requires identification of individual students to receive services. Because the CARES Act allows LEAs to spend ESSERF monies for a broad array of purposes, DPI is awaiting further guidance from USDE on allowable spending under the equitable participation requirement.

ESSA prohibits private schools from obligating or receiving ESSA funds. Similarly, the CARES Act specifies that control of funds used to provide equitable services is maintained by the LEA:

“SEC. 18005.

(b) PUBLIC CONTROL OF FUNDS.—The control of funds for the services and assistance provided to a non-public school under subsection (a), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).”

Materials purchased with the funds are administered by the LEA and remain the property of the LEA. Services must be provided by an employee of the LEA or through a contract by the LEA with an individual or entity independent of the private school and any religious organization (20 U.S.C. § 7881(d)). According to the CARES Act, the equitable share calculations for the ESSERF monies will follow calculations for equitable shares for Title I-A under ESSA. DPI is currently awaiting further guidance from USDE as to the equitable shares calculation under the CARES Act before finalizing the calculations for those shares.

Distribution of Funds to LEAs

DPI will use its federal grants portal, WISEgrants, as the platform to distribute these funds to LEAs. The use of WISEgrants has several advantages:

- First, this is an environment that LEAs are familiar with because all of DPI’s federal formula grants are in WISEgrants, so LEAs will be able to access the funds quickly and efficiently, without having to learn a new technology.
- Second, WISEgrants is already programmed to do the Title I-A equitable share calculation, which is also required for CARES Act funding. This will ensure that the Assistance to Non-Public Schools, as described in the CARES Act, Section 18005, is met.
- Third, WISEgrants is programmed to meet all of the federal fiscal requirements for pass-through agencies defined in the Federal Uniform Grant Guidance (2 CFR 200) and in Education Department General Administrative Regulations 34 CFR Part 76 (EDGAR).
- Finally, WISEgrants will allow LEAs and DPI to meet the reporting requirements listed in the CARES Act, Section 15011. These reporting requirements are significant (see below), and WISEgrants can be programmed so that most of the reporting will be completed without additional work from LEAs.

Note that DPI is still awaiting further guidance from the USDE on reporting, but the statutory language in the CARES Act is clear that reporting will be required and WISEgrants will ensure this reporting can be done efficiently for DPI and for LEAs.

Reporting Requirements

Under the CARES Act, DPI will be required to report back to USDE on use of the ESSERF made available to the state. Quarterly, an entity that receives more than \$150,000 in CARES Act funds must report:

- The total amount of funds received;
- The amount spent or obligated for each project or activity;
- A detailed list of all projects or activities supported with CARES Act funds (including name, description and estimated number of jobs created or retained, where applicable); and
- Detailed information on subcontracts and sub-grantees, including as prescribed by the Office of Management and Budget (OMB).

The federal government:

- Must make the reported information public;
- Must provide user-friendly means to meet reporting requirements; and
- May use existing reporting mechanisms.

USDE has indicated that it may require additional reporting from states, but as of the writing of this letter, that guidance has not been provided.

Additional Funding for Library Services

The Act also appropriates additional amounts for the Institute for Museum and Library Services (IMLS), Office of Museum and Library Services, to prevent, prepare for, and respond to the COVID-19 pandemic. These funds may be distributed as grants to states, territories, and tribes, and can be used to expand digital network access, purchase internet accessible devices, and provide technical support services, in response to the disruption of schooling and other community services during the COVID-19 emergency. The following types of data are to be used to prioritize funding: poverty / eligibility under the Supplemental Nutrition Assistance Program, unemployment, and broadband availability.

The allocation for the State of Wisconsin is \$526,106. DPI intends to pass through the additional funds to public libraries. While DPI is currently working with regional library systems to identify specific purposes for which funds may be used, the funds will be dedicated to facilitating digital inclusion and related technical support. This will likely include infrastructure and connectivity upgrades and, when libraries are permitted to open again, providing assistance to library patrons in accessing public services (e.g., unemployment services).

DPI is not required under the CARES Act to develop a plan for this funding; rather, DPI will use the additional IMLS funding in accordance with its five-year plan under the Library Services and Technology Act (LSTA) grant, as well as the specific guidelines issued

by the IMLS. DPI received notice of the IMLS/LSTA federal award on April 20, 2020.

Modification to DPI's Federal Appropriations

In order to expend the additional federal funds from its federal appropriations, DPI will need to increase the budget authority levels in those appropriations. Currently, DPI has five appropriations designated to receive federal funds.

Table 2. Federal Appropriations (DPI)

Alpha	Appropriation Title	FY20 Appropriation
(1) (me)	Federal aids; program operations	\$51,627,300
(1) (pz)	Indirect cost reimbursements	\$4,850,500
(2) (m)	Federal aids; local aid*	\$760,633,500
(3) (mm)	Federal funds; local assistance**	\$1,300,000
(3) (ms)	Federal funds; individuals and organizations***	\$62,868,500

*Federal aid distributed to public schools (includes independent charter schools, and public entities, e.g., DHS institutions).

**Federal aid distributed to public libraries.

***Federal aid distributed to private schools.

Based on the allocation of federal funds under the Act, DPI would need to modify three of its federal appropriations to increase budget authority, as shown below.

Table 3. Modifications to Federal Appropriations Resulting from the CARES Act

Alpha	Appropriation Title	FY20 - Current Appropriation	CARES Act	FY20 - Adjusted Appropriation	Percent Change
(1) (me)	Federal aids; program operations	\$51,627,300	\$17,477,800	\$69,105,100	34%
(2) (m)	Federal aids; local aid	\$760,633,500	\$157,300,000	\$917,933,500	21%
(3) (mm)	Federal funds; local assistance	\$1,300,000	\$526,100	\$1,826,100	40%

All of DPI's federal appropriations are "continuing" appropriations: uncommitted budget authority remaining at the end of the state fiscal year automatically carries forward into the following state fiscal year. In this way, federal funds that cannot be fully expended or encumbered by June 30 of a given state fiscal year are still available for use by DPI in the subsequent fiscal year.

Request

In consideration of the information provided in this letter, DPI respectfully requests approval of its plan for modifying the three federal appropriations under s. 20.255 (1)

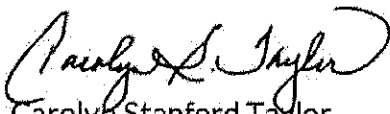
(me), (2) (m), and (3) (mm). Under the plan, DPI's federal appropriations would be increased by the full amount of federal funding available under the CARES Act for K-12 schools and for public libraries for state FY20.

Pending approval of this plan by the Committee, and DPI's application by the USDE, DPI will begin distributing ESSERF funding to LEAs and the CARES Act allocation for public libraries, prior to the end of state FY20. The CARES Act funds that are not distributed by June 30, 2020 would be distributed in state FY21 (2020-21 school year), with uncommitted budget authority that is authorized for FY20 carried over into state FY21.

DPI awaits the Committee's action and looks forward to working with our stakeholders and partners to ensure that children and public and private schools continue to learn and thrive educationally during this extremely challenging and unprecedented time.

If you have questions about the request, please contact Erin Fath (Director, Policy and Budget Team), at erin.fath@dpi.wi.gov, or at (608) 266-2804.

Sincerely,



Carolyn Stanford Taylor
State Superintendent of Public Instruction

cc: Brian Pahnke, Director, State Budget Office, DOA
Mike Thompson, Deputy State Superintendent, DPI
Robert A. Soldner, Assistant State Superintendent for Finance and Management, DPI
Jennifer Kammerud, Director, Legislative Policy and Outreach Team, DPI

Appendix A – Use of ESSERF monies by LEAs.

Under Section 18003 (c) of the CARES Act, LEAs that receive funds under the ESSERF may use the funds for any of the following:

- (1) Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C.6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).
- (2) Coordination of preparedness and response efforts of local educational agencies with state, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to the COVID-19 pandemic.
- (3) Providing principals and other school leaders with the resources necessary to address the needs of their individual schools.
- (4) Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children in foster care, including how outreach and service delivery will meet the needs of each population.
- (5) Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
- (6) Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
- (7) Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.
- (8) Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all federal, state, and local requirements.
- (9) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
- (10) Providing mental health services and supports.
- (11) Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
- (12) Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.