



**Testimony to Senate Finance Subcommittee on Education
May 7, 2012
David James, Co-Chair, The Ohio 8 Coalition
Superintendent, Akron Public Schools**

Chairman Gardner, Ranking Member Sawyer, and members of the Senate Finance Subcommittee on Education, my name is David James. I am Co-Chair of The Ohio 8 Coalition and the Superintendent of Akron Public Schools. Thank you for allowing me the opportunity to speak with you today on behalf of The Ohio 8 Coalition about some specific provisions of House Bill 59. And thank you for your hard work and listening to many of the concerns we've had up to this point.

The Ohio 8 is a strategic alliance composed of the superintendents and teacher union presidents from Ohio's eight urban school districts – Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown. The Ohio 8 Coalition's mission is to work with policy makers to improve academic performance, increase graduation rates and close the achievement gap for urban children throughout Ohio. The Coalition carries out its mission by working closely with legislators, educators, parents, labor and community officials. The Coalition brings a shared administrator-teacher voice to help shape state education policy.

The purpose of my testimony is three fold:

- 1) To outline some of our continued concerns regarding House Bill 59.
- 2) Provide recommendations to continue to shape this bill so that it can better address the needs of children across the state, and
- 3) Continue to offer our assistance in providing context and perspective on the impact of policy and funding changes.

1. CONTRACT OUT PROVISION (Section 3317.40)

This provision would require school districts that fail to show "consistent progress," in serving certain populations (special education, economically disadvantaged, ELL and gifted), to pay the allotted state funds provided for that subgroup to an organization that has "demonstrated" the ability to improve the educational outcomes for that subgroup of students. While we appreciate the additional flexibility in the language changes made in the substitute bill, this provision is still concerning for the following reasons:

- This provision is based on the assumption that school districts do not already contract with experts in order to provide students with the best services possible. The fact is that all of our districts contract out for one specialized service or another in order to assist student groups in overcoming barriers and challenges.
- This provision has the potential to negatively impact a districts ability to plan -- having a differing amount of funding from one year to the next for each student

group. It would be difficult for a district to develop a comprehensive approach to a child's education.

- There is no accountability in the proposed language for the non-school district organizations that are contracted with to serve these students.
- This policy fails to recognize that services to special student populations do not often occur in a vacuum; special populations have special needs throughout the entire school day, week, month, and year not just for a portion of a day. For example, an allocation for a student with disabilities serves them at all times of the school day and often does not meet the full financial need. In fact, the dollar amounts allocated for students within each subgroup may not even coincide with their actual needs. For example, this proposal allocates some funding for each economically disadvantaged student. What services can be *contracted out* to help that student make consistent progress? For ELL students, there are hundreds of languages and most outside entities do not have the expertise to address their needs. In the case of special education students, if a district spends \$20,000 on their needs (of which we may receive \$15,000 from the state), what are we contracting out for? Do we contract out at the state funding level, or the actual district expenditure? And what services, other than those already being contracted out (aide, physical therapy, etc) would have a significant impact? In short, particularly for special education, if there is an entity that is successful, most of our districts are already partnering with them and if we are not it is usually due to prohibitive costs or the inability to access a specialized program.

These students are classified as special populations for a reason – it takes trained staff, dedicated long term resources and consistency to improve their outcomes.

Recommendation

This provision should be removed because it does not help, but rather hinders a school district's ability to teach and support these student groups over time in a consistent manner.

2. SPECIAL EDUCATION (Section 3317.0214)

Changes within the substitute bill provide \$40 million each fiscal year for exceptional costs each fiscal year and we appreciate these funds. That said special education students demonstrate an annual need that is much greater than the total of \$80 million for the biennium. The Ohio 8 districts spend beyond this amount each year and the costs are significantly higher when you add in other districts across the state that have significant exceptional cost needs.

Our most significant concern around special education, however, language within this section that seems to treat public schools and charter schools unequally and suggests a different formula for catastrophic costs reimbursements as outlined in the provision below. Charter schools receive a 100% reimbursement for their exceptional costs and public school reimbursement is based on a formula as outlined in this testimony. Taking into account the significant needs presented by special education students, reimbursement for exceptional costs should not be dictated by where that student attends school. As a result, our request is that the Senate make consistent the reimbursement rates for public and charters schools with regard to special education reimbursements.

Section 3317.0214 Starting Line: 44475

Sec. 3317.0214. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(1) One-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share index.

(2) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplies by the districts state share index.

(B) For purposes of the division (A) of this section, the threshold catastrophic cost for serving a student equals:

(1) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars;

(2) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars.

(C) The district shall report under division (A) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

Community Schools Section: 3317.0214 Starting Line: 42419

(3)(a) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (B) of section 3317.0214 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

3. STUDENT TRANSPORTATION (Section 263.170)

We appreciate the increase in student transportation reimbursement levels, and we understand the work that was done to make this happen. This change recognizes that for most school districts- urban, suburban and rural - state funds to support student transportation has not kept pace with actual costs of aging bus fleets and increased gasoline costs. From my own district's perspective, APS spends about \$11 million annually transporting all of our students, public, non-public and charter. We are reimbursed less than half - only \$3.7 million - of that total cost. In addition, the cap placed on funding levels by the House also applies to transportation funding. This is not a simple issue to address and our transportation directors believe they have a possible solution that would deal with this issue for the long term for **all** school districts, not just The Ohio 8. That said, there remain two significant concerns that continue to hamstring Ohio in funding a sustainable solution.

1) Address the use of the motor fuel excise tax: The existing motor fuel/excise tax that supports reimbursement for pupil transportation amount has sat at just 6 cents for several years. The excise tax supports mass transit and school bus transportation; and when it was established it addressed the needs of mass transit and schools buses when the use of highways wasn't what it is today. This historical reimbursement rate does not reflect the reality of bus transportation in 2013-- thousands of miles that we cover each day and the complex routing demands required to transport children over thousands of square miles each and every day. Although certainly a more complex issue, fuel tax levels must be addressed to establish an updated and truly equitable school transportation formula for the long term.

2) Continue Special Education supplement: Right now, if a school district decides to put a special education student on a school bus with traditional students, they lose the higher reimbursement rate for that special education student, even if additional assistance is required for that special education student. In other words, existing formulas do not take into account that special needs students, even if they are transported with traditional students, still may require additional assistance (such as an aide that travels with them). As we seek to mainstream more special education students onto traditional student buses, we must still be able to address the unique needs. We want to continue to mainstream special education students onto traditional buses, but we must ensure their continued costs due to special needs remain covered.

Recommendation

While we might not be able to fix all of these items in this existing budget, we are requesting the following:

- 1) Additional funds for student transportation based on the continued and existing gap between state contribution and district expenditure;
- 2) An increase in the excise tax reimbursement at least equal to mass transit levels;
- 3) Recognition via the formula, that the current method of reimbursing districts for transporting special needs students does not reflect the continued growth in combined busing – special education and regular education students. Districts should be reimbursed based on a special education child's needs not based on if they are on a separate bus or the same bus as traditional students; and
- 4) A special study or commission, that The Ohio 8 is willing to lead, regarding the best approach to help ensure students are transported safely and efficiently while district costs and policies that drive those costs are more adequately addressed for all types Ohio public schools.

4. PAYMENT IN LIEU OF (Sec. 3327.01)

Existing law allows districts to provide payments to parents (via the school district) in lieu of yellow bus transportation. This decision is based on conversations between the parent and the districts once the district has determined that they cannot reasonably transport the student based on a variety of factors.

The House version of HB 59 transfers this decision making process to the Ohio Department of Education (ODE) and eliminates the role of the district. Meaning that, ODE in conjunction with parents will determine if bus service is feasible—keeping in mind that ODE would not have ready access to the local transportation routing data to support their decision. Also, parents have the right to appeal any decisions relative to this process.

The potential impact of this change is reflected in data from Akron Public Schools. If every parent eligible for payment would choose yellow bus service over payment, it would require APS to purchase an additional 16 buses and related drivers, mechanics, etc.

Compounding this, as mentioned earlier, most districts statewide experience transportation costs that far outweigh state reimbursement. This payment in lieu of provision only strains an already underfunded cost center.

Recommendation

Eliminate this provision and maintain current law.

5. RESTRICTING USE OF PUBLIC TRANSPORTATION (Sec. 3327.01)

As the bill stands today, it includes a provision prohibiting public schools from partnering with public transit in order to get children grades Kindergarten through fifth grade to school. Let me clarify that these agreements with public transportation are for bus passes for rides on existing bus lines, not for creating new bus lines or contracting with public transportation for entire buses just for student transportation. As mentioned earlier in our testimony, The Ohio 8 districts log thousands of miles each day, over hundreds of square miles. In addition, our districts offer intra-district choice and are responsive to choice for thousands of charter and non-public school students. Partnerships with public transportation entities are critical to our daily transportation demands. Public transportation allows us to provide more flexibility for students who, for various reasons, are extremely mobile or who opt in for choices within or outside of our school district. And although The Ohio 8 has not quantified this across all of our districts, it has been reported that Regional Transit Authority in Cleveland alone will lose upward of \$500,000 if public transportation is not offered as an option for broad cross section of students that we serve. This prohibition will have a dramatic impact for not only a large number of students but increase the already burdened school transportation fleet both in terms of the number of buses needed to be purchased, drivers and mechanics related to those buses and the ongoing complexity of routing demands to meet the needs of all of our students.

Recommendation

Strike the provision from the bill to preserve flexibility for all choice needs of all of our students.

6. HIGH QUALITY PRE-SCHOOL (Sections 263.10 and 263.20)

The substitute bill included an amendment that dedicated \$10 million to support high quality pre school funding. The Ohio 8 supports efforts to prioritize access and funding for high quality pre-school. We suggest that anyone eligible for these dollars meet at least a three-star standard in the new Step up To Quality star rating system.

7. ENGLISH LANGUAGE LEARNERS (3317. 016)

Currently, schools in Ohio are expected to bring English Language Learners (ELL) up to speed within three years of the student entering the Ohio school system. The executive budget alters this by giving school districts three years from the day an ELL student arrives in the United states, not Ohio, and reflect an annual reduction in the allocation for this student group.

We have two primary concerns about this change; first, we worry about the impact to the child who may have spent two years in another state where they didn't make adequate progress having only one year to get up to speed in Ohio. Our second concern is for the reputation of our state. Do we really want that clock start to tick before that student comes to Ohio? Why should Ohio, and our students be held responsible for what another state has done (or not done)?

Many Ohio 8 districts have ELL populations that come from significant circumstances including refugee camps and/or never having attended formal schooling in their lives. While, transitioning these students is certainly related to learning a new language and is often the focus of policies related to these students, it is important to recognize that learning a new culture, including many things we take for granted like understanding the idea of formal education (sitting in a classroom all day, each day and lesser known, but significant issues, such as learning how to use indoor plumbing) is also a significant challenge for these children and their teachers. It is also important to note that this category is subject to the contract out provision, which is especially problematic if districts become responsible for what other states have (or have not) done with those students. For perspective, the Ohio 8 districts have thousands of ELL students from dozens of countries speaking hundreds of languages. A *small* list of these languages would include, Spanish, Russian, Arabic, Somali, Burmese, and Cantonese.

Recommendation

- Follow the federal guideline for ELL students which is based on a '3 years in the State' (as opposed to 180 days) before the first 25% reduction in funding occurs.

8. VOUCHER EXPANSION (Section 3310.03)

It is proposed that voucher be expanded to students in grades K-3rd based on income eligibility and based on the building's failure to achieve a literacy grade higher than a "D" AND did not receive grade of "A" for making progress in improving literacy K-3. We have concerns about this expansion for the following reasons:

- Within the context of the 3rd grade reading guarantee expansion, we are concerned that this would only serve to remove children from a system that requires the third-grade reading guarantee, related diagnostics and intervention and place them in schools where the third-grade reading guarantee and related services are not required.
- Within the context of income eligibility expansion, we are concerned that this will remove children from a successful academic setting and place them into a school that is not subject to the same standards of accountability and may even have a substandard or failing academic record.
- We are also concerned about the financial impact of expanding vouchers for K-3rd grade students, when there are not dedicated funds to support those vouchers beyond the two-year biennium. In other words, Ohio is about to write a check for vouchers, that Ohio has not authorized to be cashed beyond the two-year biennium while maintaining a policy of not retracting vouchers from individual students once they have been given.
- It is important to note that the demand for vouchers is overstated as evidenced by the Department of Education having received nearly 600 fewer applicants to the Educational Choice scholarship this spring compared to last year---most of which were renewals and not new requests. This lands far below the voucher limit of 60,000, which is currently allowed by law.

Recommendation

For all the reasons stated above, we recommend that you maintain the existing voucher program and eliminate the expansion of vouchers based on income eligibility and 3rd grade reading guarantee ranking.

9. PER PUPIL FUNDING

The Ohio 8 would agree with many witnesses that have testified before us that the per pupil funding amount is not a number that we believe to be adequate for our students. That being said we only bring up this issue in our testimony in an attempt to be responsive to the question that this committee has asked several witnesses to answer in the past couple weeks. The question being, "What is the appropriate per pupil funding amount?" The Ohio 8 can offer a few points to help be responsive to this question.

1) The proposed number of \$5,732 is based on 2009 costs. So even if we determine that \$5,732 is enough, that base number does not take into account inflation.

2) Assuming that \$5,732 is an adequate and equitable number, The Ohio 8 would suggest that costs centers that have been underfunded for years be added to that amount and shift with inflation. The two areas that are our immediate priorities would be pupil transportation and special education.

The Ohio 8 receives approximately \$150 million in state funding but provides \$500 million worth of services to its special education students annually. The difference is a large and nearly insurmountable gap, even with local and federal support.

Pupil transportation is very similar. In my own district we spend \$11 million and are reimbursed \$3.7 million---a \$7.2 million difference. This is also a nearly insurmountable funding gap even with local assistance. Ohio 8 districts experience similar deltas ranging from \$1 million to in excess of \$30 million.

Determining a true per pupil reimbursement rate for both special education and pupil transportation that reflect true costs would be something we would suggest could immediately help to determine true costs of addressing the needs of each of our students.

While we have not developed any formal formulas or scenarios based on this, we are confident in saying that addressing needed increases based on inflation and starting with reimbursements rates based on true per pupil expenditures for special education and transportation would be a step in the right direction. And as mentioned earlier in this testimony, The Ohio 8 is willing to lead that conversation related to transportation to get the dialogue moving.

In conclusion, as Members of this Subcommittee, you have a tremendous task before you. The Ohio 8 is here to continue to help in any way we can. Although we have and will continue to meet with many of you and your staff on a regular basis and are available should you need any information. Thank you for giving us the opportunity to speak and I'm happy to answer any questions you may have.