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Report of the Task Force on Transitional Issues

Minnesota House K-12 Education Finance Division
Minnesota Senate Education Budget Division

December 15, 1998

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The 1998 Supplemental Education Funding Bill established a task force on transitional issues to recommend statutory changes to “accomplish an orderly elimination of the state board [of education]”. The six task force members are Representative Len Biernat, Representative Mindy Greiling, Susan Heegard and Kate Foate Trewick of the Department of Children, Families and Learning, Senator Jane Krentz and Senator Kenric Scheevel.

Task force members held three public meetings and recommended the elimination or transfer of board authority relating to 127 statutory references and 84 board rules. Those recommendations are detailed below.

Transfer of Authority

The task force recommends that the vast majority of state board of education authority be transferred to the Commissioner of the Department of Children, Families and Learning. It recommends that a few responsibilities be transferred to other entities: administrator licensure; approval of teacher preparation programs for bilingual and ESL teachers; and appeals of certain commissioner’s decisions.

Appeals of Decisions of the Commissioner

Minnesota Statutes sections 127A.41 subd. 5 and 127A.42 subdivisions 5 and 6 relate to the appeal of a commissioner’s decision to withhold state aid to a school district. The task force recommends that a school board be allowed to appeal such a decision to an administrative law judge.

Charter School Assessment and Sponsorship

The task force recommends that the commissioner have the authority to appoint a charter school advisory committee to make recommendations regarding the sponsorship of charter schools, the evaluation of groups interested in sponsoring charter schools and the assessment of charter schools’ progress against state standards. The committee would be made up of department staff and stakeholders.

Administrator Licensure

The task force recommends that the 1999 Legislature consider one of two options for overseeing the licensure of administrators. One option would be to create a separate board of administrative licensure to assume the licensure responsibilities of the state board. The second option would be to reorganize the current board of teaching to take on the licensure responsibilities. The composition of the board would have to change to reflect all groups covered by the board.

Minnesota Statutes section 122A.21 and 122A.20 would be transferred to whichever group is charged with the licensing responsibility. Minnesota Statutes section 122A.21 allows the state board of education to set fee amounts for administrator licenses. The board, however, simply adopts the fee structure recommended by the Department of Finance under Minnesota Statutes 16A.1285. The task force recommends that the responsibility be transferred to the appropriate licensing entity and that they continue to adopt the Department of Finance's fee structure.

Approval of Teacher Preparation Programs

Minnesota Statutes section 122A.19 requires the state board of education to approve teacher preparation programs for licensing bilingual and English as a second language teachers. The task force recommends that the authority under 122A.19 be transferred to the board of teaching.

Reference Changes

Minnesota Statutes section 123B.83 permits the commissioner to require evidence that a district meet all the state board curriculum requirements. The task force recommends that curriculum requirements be changed to reflect Minnesota's new graduation rule.

Rulemaking Authority

The task force is recommending the transfer of rulemaking authority from the state board of education to the commissioner. To ensure the rulemaking process remains open to the public, the task force recommends that advisory committees made up of stakeholders, communities of color and interested individuals be convened as needed to assist the commissioner in developing or altering rules. Rule changes or rule development that is purely technical in nature, or time lines that do not afford enough time to use an advisory committee, would not necessitate the convening of advisory committees. A decision not to use an advisory committee would have to be approved by the commissioner or an assistant commissioner. Advisory committee meetings would be subject to the open meeting law.

The task force is not recommending expanded rulemaking authority. Just as the state board had to receive authority from the Legislature and Governor to begin rulemaking, so too would the commissioner.

The Coalition for Education Reform and Accountability (CERA) is also studying the role of an advisory committee to the commissioner to assist in the rulemaking process. Their recommendations are also scheduled to be released prior to the 1999 Legislative Session.

The task force further recommends that in addition to using ad hoc advisory committees to advise on rulemaking, the five current state board advisory committees should remain in place and advise the commissioner. The Special Education Advisory Committee, State Multi-cultural Education Advisory Committee, American Indian Education Advisory Committee, Indian Scholarship Board and the Library Advisory Council provide important perspectives within their areas of interest and should be continued. The advisory committees' recommendations should also be shared with the chairs of the House and Senate Education Committees.

Duties transferred to the Commissioner of the Department of Children, Families and Learning

120A.05 Restriction on closing elementary schools or denying state aid based on enrollment limitations. References to standards established by the State Board.

120A.22 Reference to schools recognized by the State Board in the requirements for instructors.

120A.24 Exempts institutions recognized by the State Board from particular reports to the superintendent of the district.

120B.02 Adoption of results-oriented graduation rule. Paragraph (c) requires consultation with the Department.

120B.31 Requires the State Board and the Department to establish a system of educational accountability and public reporting.

120B.38 Uniform forms for state examinations.

121A.04 Requires State Board consultation with the Commissioner of Human Rights to promulgate rules to prevent discrimination in school athletic programs.

121A.22 Regarding administration of drugs and medicine in an arrangement approved by the State Board.

121A.67 Rulemaking authority for use of aversive and deprivation procedures.

122A.164 Authority to grant teacher rule variances.

122A.23 Reference to whichever board had jurisdiction over issuing a particular type of educator's license.

122A.25 Allows board of teaching to issue variances, notwithstanding state board rules to the contrary.

122A.27 Refers to education districts that have been approved by the State Board to offer alternative preparation licensure program.

122A.31 Certification for skilled school interpreters.

122A.58 Termination of coaches required to hold a license from the State Board.

122A.63 Grants to prepare Indian teachers.

122A.65 Minority teacher incentives. Allows for reimbursement to a district that has a

desegregation/integration plan approved by the Commissioner.

122A.72 Requirements for teacher center boards to perform activities consistent with the rules of the State Board.

123A.06 Requirement for number of hours of instruction in area learning centers.

123A.09 Process for state designation and approval of area learning centers, in consultation with the Commissioner.

123A.15 Determination by state board to allow a noncontiguous district to be a member of an education district.

123A.17 Submission of annual report to state board by an education district.

123A.18 Requirement for number of hours of instruction in education districts.

123A.21 Reference to employing personnel pursuant to licensing standards developed by the State Board.

123A.22 Reference to cooperative centers for vocational education approved by the board prior to August 1, 1974.

123A.27 Reserved revenue for district cooperation. Refers to an articulation agreement developed between the state board and the board of trustees of MnSCU.

123A.36 Requires cooperation and combination plans to be submitted to the State Board and the Secretary of State for review and comment.

123A.442 Requires recipients of cooperative secondary facilities grants to submit a cooperation and combination plan for approval by the State Board.

123A.443 Requires applications for cooperative secondary facilities grants to be in the form prescribed by the Commissioner and the rules of the State Board.

123A.46 Prevents an order for dissolution for districts that have a plat for consolidation approved by the State Board.

123A.48 Reference to plat submitted to the State Board for consolidation proceedings.

Section 123A.49 Permits appellate review of the state board approval of a plat for consolidation.

123B.02 Permits districts to have library facilities according to standards of the State Board.

123B.03 Reference to teaching licenses issued by the State Board in the background check

requirements.

Section 123B.05 Reference to teaching licenses issued by the State Board in the definition of teacher for the contract deadline and penalty.

123B.147 Requirements for principal licenses issued by the State Board.

Section 123B.42 Rulemaking authority for aids to nonpublic school students.

123B.43 Rulemaking authority to terminate eligibility for aids to nonpublic school students.

123B.44 Rulemaking authority for providing student support services to nonpublic school students.

123B.445 Requires the nonpublic education council to advise the Commissioner and the State Board on issues affecting nonpublic schools and nonpublic education.

123B.49 Permits the State Board to purchase medical insurance for the benefit of students at the state academies.

123B.66 State Board review of capital facilities grants for cooperation and combination.

123B.71 Rulemaking authority for public school buildings.

123B.73 Permits the State Board to request that a particular facility be inspected by the state fire marshal.

123B.81 Rulemaking authority for a uniform auditing and verification procedure.

123B.86 Authority to amend rules relating to equal transportation of students.

123B.88 Requires district compliance with rules adopted by the State Board for district owned buses and the bus operators.

123B.92 Reference to desegregation plans mandated by the State Board.

124D.03, subdivision 4, (f) and (k), Enrollment Options Program. (f) A school district with a desegregation plan that rejects a student's transfer request must indicate how the transfer would result in noncompliance with state board rules. (k) A school district with a desegregation plan approved by the state board of education must accept or reject students' transfer requests in a way that ensures compliance with the district desegregation plan.

124D.112, School Lunch Program. Directs the finance commissioner to establish for the state board of education a revolving fund in which to deposit payments for storage and related charges incurred for USDA foods.

124D.121, Definition of Flexible Learning Year Program. Defines learning year plan to mean any district plan that the state board of education approves that uses buildings and facilities throughout the year.

124D.122, Establishment of Flexible Learning Year Program. Allows a school board, with state board of education approval, to establish and operate a flexible learning year program in day or residential facilities for disabled students.

124D. 126, subdivisions 1, 2, Powers and Duties of the State Board; Flexible Learning Year Programs. Subdivision 1 lists the obligations of the state board of education governing implementing a flexible learning year program. Subdivision 2 prohibits the state board of education from establishing a flexible learning year program in school districts that have not elected to have such a program.

124D.127, Termination of the Flexible Learning Year Program. Allows a school district, with state board of education approval, to terminate a flexible learning year program in day or residential facilities for resident disabled students.

124D.128, subdivisions 2, 7, Learning Year Program to Provide Instruction Throughout the Year. Subdivision 2 declares that an area learning center designated by the state board of education must be a site. Subdivision 7 allows the state board of education to exempt a school district operating a learning year pilot program from specific rules.

124D.26, Improved Learning Program. Allows the state board of education to waive a school district's compliance with rules that would prevent implementing an improved learning program.

124D.34, subdivisions 2, 10, Minnesota School-to-Work Student Organization. Subdivision 2 places the Minnesota school-to-work student organization foundation under the direction of the state board of education. Subdivision 10 requires the foundation board of directors to report annually to the state board of education.

124D.355, Vocational Education Student Organizations. Allows students enrolled in a vocational technical education approved by the state board of education to belong to a vocational student organization.

124D.453, Current Funding for Secondary Vocational Education. Permits aid to be paid to secondary vocational education programs operated according to state board of education rules. Prohibits the state board of education from requiring a school district to offer more than 4 credits or 560 hours of secondary vocational education courses in any school year. Allows the commissioner to modify or withdraw approval or withhold aid if a secondary vocational education program does not comply with state board of education rules.

124D.454, Access to Minnesota's School-to-Work System for Children with a Disability. Allows aid to be paid for services provided through programs under this section that are operated according to state board of education rules.

124D.548, General Education Development (GED) Tests Rules. Allows the state board of education to amend rules to reflect changes in the national minimum standard score for passing GED tests. (The subsequent section, 124D.549, transfers this responsibility to the commissioner as of 12/31/99.)

124D.57, Hearing Impaired Educational Support Services. Allows the state board of education to pay school districts or public or private community agencies for specific support services for hearing impaired individuals that provide them with access to educational opportunities.

124D.79, Community and Commissioner Participation in American Indian Education. Directs the state board of education to involve to the greatest extent possible those communities interested in formulating policies and procedures related to American Indian education.

124D.80, subdivisions 1, 2, 3, Committees on American Indian Education Programs. Subdivision 1 directs the state board of education to create one or more American Indian education committees. Subdivision 2 directs these committees to advise the state board of education on administering American Indian education programs. Subdivision 3 directs the state board of education to determine the membership terms and duration of these committees, which expire by 6/30/01.

124D.81, Continuation of Indian Education Grants. Requires the state board of education annually to make at least 6 grants to American Indian language and culture education programs.

124D.83, State Revenue for American Indian Tribal Contract or Grant Schools. Allows a tribal contract or grant school to request that the state board of education recommend to the legislature that the school not be subject to specific statutes governing independent school districts.

124D.84, subdivisions 1, 2, Indian Scholarships. Subdivision 1 allows the state board of education to award scholarships to any Minnesota resident student who is one-quarter or more Indian ancestry and who would benefit from further education. Subdivision 2 requires the state board of education to appoint members to the Minnesota Indian scholarship committee.

124D.85, Indian Post-Secondary Preparation Grants. Allows the state board of education to make grants to school districts or tribal grant or contract schools to support post-secondary preparation for high school students who are one-quarter or more Indian ancestry and who would benefit from higher education.

124D.894, State Multi-cultural Education Advisory Committee. Directs the commissioner to appoint a state multi-cultural education advisory committee to advise the state board of education on multi-cultural education.

124D.93, subdivisions 1, 4, 5, Minnesota Local Partnership Program. Subdivision 1

establishes a local partnership program under the direction of the state board of education. Subdivision 4 requires a school district to submit an application to the state board of education as a condition of obtaining revenue. Subdivision 5 allows the state board of education to award revenue to 4 applicants and to determine the size of the award based upon the application.

124D.94, subdivisions 2, 3, 6, 7, 9, Minnesota Academic Excellence Foundation (MAEF). Subdivision 2 places the MAEF board of directors and MAEF activities under the direction of the state board of education. Subdivision 3 includes on the MAEF board of directors a member of the state board of education who is selected by the board to serve as chair. Subdivision 6 requires MAEF contracts to be subject to the same review and approval procedures as a state board of education contract. Subdivision 7 directs the state board of education to appoint the MAEF executive director and other staff. Subdivision 9 requires the MAEF board of directors to annually report to the state board of education on MAEF activities.

124D.95, Summer Scholarships for Academic Enrichment. Directs an advisory committee to assist the state board of education in approving eligible programs.

124D.96, Welfare and Correctional Institutions' Policies for Educational Programs. Requires welfare and correctional institutions to submit their program policies to the commissioner for review to decide whether the programs and the personnel adequately meet the institutions' obligations to provide instruction and services consistent with state board of education rules and standards.

124D.97, Veterans Training Program. Allows the state board of education to adopt rules to fulfill its obligation as the state approving agency for veterans training programs.

125A.03, Special Instruction for Children with a Disability. Requires school districts with fewer than the minimum number of disabled children as determined by the state board of education to cooperate with other school districts in providing a full range of education services for disabled children.

125A.07, Rules of the State Board. Directs the state board of education to adopt rules governing instruction for disabled children.

125A.09, subdivisions 6, 7, 9, Procedures for Decisions. Subdivision 6 makes the school district responsible for assuring that an appropriate special education program is provided according to state board of education rules. Subdivision 7 requires the decision of a hearing officer in a special education hearing to be based on state board of education rules, among other things. Subdivision 9 requires the decision of a hearing review officer in a special education hearing appeal to be based on state board of education rules, among other things.

125A.25, Legislative Commitment to Conciliation. Prohibits the state board of education from adopting a provision in a state plan that reduces opportunities to resolve through conciliation disagreements affecting disabled children.

125A.50, Alternative Delivery of Specialized Instructional Services. Prohibits the state board of education of waiving a disabled student's rights.

125A.52, Residential Treatment Facilities. Allows the state board of education to make or amend rules relating to education programs in residential treatment facilities.

125A.66, Obligations of the Academies. Requires the Faribault academies to provide their students with the levels of service defined in state board of education rules.

125A.69, Admission Standards. Requires the state board of education to enter into agreements with the appropriate authority to obtain reimbursement for the costs of out-of-state admissions to the Faribault academies, which the board must deposit in the general fund and credit to the general operating account of the academies.

125A.71, Deposit and Appropriation of Rents and Fees of Academies. Allows the state board of education to enter into agreements for the academies to provide respite care and supplemental educational instruction and services.

125A.75, Special Education Program Approval. Allows the commissioner to withhold aid from a school district if the commissioner determines that the district's special education program does not comply with state board of education rules.

125A.76, Special Education Revenue. Requires the commissioner to increase the amount of special education revenue a school district receives when the state board of education modifies its special education rules so as to increase a district's special education obligations or services requirements.

125A.78, Alternative Delivery Base Revenue Adjustment. Requires special education base revenue to be computed based on activities the state board of education defines as reimbursable.

126C.22, subd. 4 Secondary vocational programs offered by school districts that are members of intermediate school districts must meet requirements of the agreement on vocational programs reached by the state board of education and the higher ed institutions.

126C.32, subd. 1 References state board of education's graduation rule.

126C.40, subd. 6 References state board of education's rules addressing desegregation and educational opportunity.

124C.67, subd. 2 Rulemaking for the Maximum effort capital loan program is assigned to the state board of education.

126C.69, subd. 7 Maximum effort capital loans are approved or disapproved by the state board of education.

126C.69, subd. 8 Maximum effort capital loans are first approved by the state board of education and then forwarded to the commissioner for approval.

127A.09, subd. 2 The state board is charged with adopting the state's plan necessary to receive federal funds.

179A.16 Requires the state board to adopt a uniform system of records.

127A.42, subd. 2 References rules promulgated by the state board of education.

127A.42, subd. 3 References rulemaking authority of the state board of education requiring districts to comply with state and federal laws prohibiting discrimination.

127A.62 subd. 1 Membership in council of chief state school officers' organization.

127A.63, subd. 1 State board is required to adopt rules in order to receive federal funds and enter into agreements with federal agencies.

127A.63, subd. 2 State board is required adopt rules to govern local districts' contracts with federal agencies.

127A.67, subd. 1 Allows state board to negotiate and purchase annuities for employees.

127A.67, subd. 2 Defines state board's authority in regard to the annuities created under subdivision

State Board of Education Rules transferred to the Commissioner of the Department of Children, Families and Learning

3500.1000: Exemptions for experimental and flexible school year programs

3500.3100: Criteria for issuance of G.E.D. certificates

3500.3900: Requirements for approval of construction of school buildings and sites

3500.4000: Guide for Educational Planning of Public School Buildings and Sites

3500.4200: Reference to rules of SBE regarding instructional areas in schools

3500.4300: Reference to Guide for Educational Planning of Public School Buildings

3501.0430: Authorizes SBE to request audit of districts' graduation standards records

3505.1000: Approval of vocational education programs

3505.1000: Reference to rules relating to approval of vocational educational licensure

3505.1500: Approval of cooperative centers' secondary vocational programs

3505.1700: Agreements between SBE and Technical Colleges on distribution of federal funds

3505.1900: Submission of written vocational education plans for approval

3505.2000: Apportioning of vocational funds among local education agencies

3505.2100: Reference to SBE providing state and federal vocational funds

3505.2200: Standards and procedures governing ownership of vocational related property

3505.2400: Resubmission of approved vocational programs for evaluation

- 3505.4800:** Reference to SBE approval of vocational programs
- 3505.5700:** Appeal of commissioner's disapproval of vocational program budget
- 3517.0010:** Definition section of secondary vocational license chapter
- 3517.0020:** Application of this chapter to personnel licensed by the SBE
- 3517.0080:** Reference to SBE approved vocational center
- 3525.1356:** Reference to graduation requirements of SBE
- 3525.2380:** Granting variances from special education case load ratios
- 3525.4700:** Reference to SBE imposing sanctions for noncompliance with sp.ed. decision
- 3530.0200:** Subp. 1--Designation of multicounty multitype library systems
- 3530.0200:** Subp. 3--Establishing dates for library grant applications
- 3530.0200:** Subp. 4--Ownership of discontinued library reverts to SBE for reassignment
- 3530.0500:** Awarding of library grants by SBE for projects and programs
- 3530.1000:** Designation of regional library systems by SBE
- 3530.1500:** Awarding grants for library services to the blind and physically handicapped
- 3530.2300:** Report/recommendations from OPLIC on interlibrary cooperation grants
- 3530.2500:** Annual awards of operating grants by SBE for multicounty multitype libraries
- 3530.2610:** Grants for public library construction by SBE
- 3530.2616:** Establishing dates for library construction grant applications
- 3530.2636:** Submission of library construction projects to SBE for funding
- 3530.2638:** Approval and awarding of grants for library construction projects by SBE
- 3530.2640:** Applicant may request hearing if SBE denies construction grant application
- 3530.2642:** Grant contract offered if SBE approves construction project
- 3530.2644:** SBE may transfer funds if project is completed for less than awarded amount
- 3535.0300:** Policy statement for desegregation rule
- 3535.0700:** SBE determines educational justification for variance from desegregation req.
- 3535.2300:** SBE policy on prohibiting discriminatory practices in education
- 3545.0800:** Approval of amendments to school district accounting and GAAP principles
- 3545.2400:** Approval of capital loan applications
- 3545.2500:** Reference to capital loan applications to SBE
- 3545.2600:** SBE shall recommend denial of capital loan based on certain criteria
- 7411.0100:** Approving authority for driver education programs
- 7411.0200:** Cooperation between SBE and DPS on driver education programs
- 7411.3200:** Approval of driver training programs in public schools
- 8130.0800:** Reference to SBE standards for public schools for meal taxes
- 8130.6700:** Definition of public school meeting SBE standards for textbook tax exemption
- 8750.0010:** Definition of secondary vocational cooperative center; refers to SBE rules
- 8750.6500:** Reference to teacher licenses granted by SBE for sec. vocational approval letters
- 9500.2060:** Definition of G.E.D. for human services assistance programs
- 9500.4020:** Definition of G.E.D. for human services assistance programs
- 9500.4270:** Definition of child care provider who meets standards established by SBE
- 9525.0800:** Reference to SBE rules as it relates to day activity centers for special ed. children

Elimination of State Statutes

The following statutory references and rules are obsolete or unnecessary given the elimination of the state board of education. The task force recommends the elimination of the following statutory citations and rules.

120B.30 Statewide testing and reporting system. Requires the Commissioner to consult with the State Board regarding components of the statewide educational accountability and public reporting system.

124D.19 Community Education Programs. Prohibits the state board of education from adopting rules for extended day programs.

125A.09 Subd. 11 prohibits the commissioner from selecting as a hearing review officer an individual who is an employee or board member of the state board of education.

127A.05, subd. 1 Multiple references:

- ▶ Assigns the commissioner the task of being the secretary for the state board of education.
- ▶ Requires the commissioner to perform according to the statute and the rules adopted by the state board.
- ▶ The commissioner is charged with making recommendations to and accepting assignments from the state board.

127A.42, subd. 8 Allows the state board's decision under subd. 5 to be appealed in accordance with chapter 14.

127A.60 Section establishes department of children, families and learning and places department under the state board of education. Section also establishes the state board.

127A.61 Requires state board members to take an oath of office.

127A.62 subd. 2 State board membership in Associated state boards of education.

127A.64 All contracts entered into by the state board must be in writing and signed by the executive officer. By eliminating 127A.64, the commissioner of the department of children, families and learning will be subject to the same contracting conditions as other state agency heads.

127A.66, subd. 1 Requires state board to adopt goals for and exercise general supervision over public schools.

127A.66, subd. 2 Grants state board rulemaking authority.

127A.66, subd. 3 Requires state board to oversee evening school programs.

Elimination of State Rules

- 3505.1200:** Appeal of commissioner's decisions regarding approval of vocational programs
- 3520.1400:** States policy of SBE regarding free and equal transportation
- 3520.3300:** Refers to obsolete rules governing school buses
- 7470.0500:** Reference to SBE rules on school buses

Issues for the 1999 Legislature

School Desegregation/Integration

Given that the commissioner is currently in the process of adopting a proposed desegregation/integration rule, the task force believes it is premature to make recommendations regarding the related statutes and rules. The 1999 Legislature, after receiving the final rule, should address these references.

124D.86, Integration Revenue. Requires integration revenue to be used for programs established under a desegregation plan mandated by the state board of education or under court order.

124D.89, Summer Cultural Exchange Grant Program. Allows student and staff exchanges under this section only to take place between a school district with a desegregation plan approved by the state board of education and a school district without such a desegregation plan.

3535.1500: Commissioner notifies SBE of approval of desegregation plan or amendments

3535.2000: Appeal of adverse commissioner's desegregation decision to SBE by local boards