The Wisconsin Coalition for Education Freedom (WCEF) writes to express its concerns with the August 7, 2023 request from the Department of Public Instruction (DPI) to the Joint Committee on Finance (JFC) for a 14-day passive review.

The request relates to plans for a dashboard to provide transparency in public school districts spending as required in 2021 Act 89. The legislature intended the resulting dashboard to provide transparency. Instead, the process surrounding its creation has been shrouded in secrecy, delayed, and expanded into areas not included in the legislation.

As an initial matter, WCEF raises concerns about procedural violations. The legislation – 2021 Act 89 – requires the creation of a transparency advisory committee to advise DPI on the creation and design of the financial information portal. It includes requirements for the members of the advisory committee, including members of: the state legislature; urban and rural school districts; school associations; and public charter schools. The report that DPI submitted for JFC review contains no information about who is on the advisory committee. It states only that “DPI convened a committee as articulated under 2021 Act 89” and that the report was “developed by Thomas McCarthy, on behalf of the 2021 Act 89 Committee.”

The Act 89 Committee Report, dated February 2023, was required to include designated categories of financial information considered by the committee, a definition of which financial data will be made accessible for each category, whether DPI resources are appropriate for the portal as recommended, and additional resources necessary to implement the portal. The committee was supposed to provide a report to DPI regarding how to create these expenditure categories and how best to collect the data. It does not appear that ever occurred.

By no later than 45 days after receiving the advisory report, DPI was required to respond in writing and deliver a copy of the report and its response to the JFC. DPI submitted its passive review request to JFC on August 7, 2023, far beyond the 45-day deadline, and no response by DPI is included within the request.
Beyond procedural violations, WCEF has the following substantive concerns:

1. The DPI recommendations extend far beyond the scope and legislative intent of 2021 Wisconsin Act 89. Specifically, the bill directs the elements of the online portal to include data collected through the uniform accounting system under Wisconsin Statute § 115.28(13) and the financial information collected under Wisconsin Statute § 120.18. DPI’s recommendation to “. . . make explicit the non-district expenses incurred by districts (areas where funding is diverted – regardless of funding source – to pay for non-public school costs)” is one example.

2. DPI additions noted above actually ignored actions taken by the legislature to reject Senate Amendment 4 to 2021 Senate Bill 373 which sought to include private school revenue and expense information on the dashboard. This amendment was voted on and rejected by the Senate on September 28, 2021. DPI’s inclusion of “pass through revenues” to private schools on the dashboard is a blatant attempt of the agency to create policy, a responsibility exclusively reserved for the legislature.

3. Finally, the DPI request contains no information regarding advisory committee proceedings such as a membership roster, meeting agendas, and meeting minutes. In the interest of transparency, all materials and communications should be made available to the JFC and the public prior to scheduling a meeting to review the recommendations.

State agencies may not make law. DPI’s attempt to do so violates the democratic principle of Separation of Powers. The backstop provided in the bill for legislative (JFC) review wisely provides a mechanism to correct this failure.

The WCEF respectfully requests the JFC decline to approve the passive review request and advise DPI not to implement any of the recommendations.

CC: Assembly Speaker Vos, Senate Majority Leader LeMahieu, Assembly Majority Leader August, Senate President Kapenga, Representative Kitchens, Senator Jagler