

**League of Women Voters Ohio
Statehouse Day - March 7, 2017
Primary and Secondary Education
Joan Platz, Education Specialist**

1) A Constitutional System for Funding Schools

Message: LWVO supports continued efforts to secure a constitutional system for funding Ohio's public schools in accordance with the steps outlined in the DeRolph decisions of the Ohio Supreme Court (1997, 2000, 2001, and 2002) These decisions require that Ohio's system for funding schools provide sufficient resources to support a general education of high quality; provide sufficient resources to meet the learning needs of students, including students with special needs, gifted, disadvantaged, and those learning English; and rely less on property taxes.

Lawmakers in the Ohio House and Senate should amend Governor Kasich's Executive Budget, HB49 (R. Smith) Operating Budget, to increase the state per pupil amount to adjust for inflation and the cost of state mandates; maintain funding levels for transportation and other categorical programs; and make adjustments to the foundation formula to ensure that it truly directs state aid to school districts with less capacity to provide a high quality education program, and reduce reliance on property taxes to fund schools.

Background: Governor Kasich's proposed FY18-19 Executive Budget HB49 (R. Smith) would increase state aid for primary and secondary by \$280 million. The General Revenue Fund for the Ohio Department of Education would include \$8.05 billion in FY18 (1.82 % increase), compared to \$7.90 billion in FY17, and \$8.19 billion in FY19 (1.70 % increase from FY18).

The All Funds Group for K-12 education would total \$11.2 billion in FY18 (or a 1.2% increase from FY17), and \$11.4 billion in FY19 (or a 1.4% increase from FY18).

The per pupil amount would stay at \$6000 in both years, and increases in state funding for school districts, referred to as the gain cap, would be capped at 5 percent each year, rather than the current level of 7.5 percent.

In an effort to eliminate the funding guarantee (transitional aid), the governor is proposing a new policy to reduce funding for school districts that have lost student enrollment between 2011-2016.

School districts that have experienced an over five percent decline in enrollment since FY2011 would lose one percent in funding for every percentage point drop in enrollment, capped at five percent. Statewide K-12 enrollment has dropped 2.9 percent between FY11-16.

The executive budget also reduces the minimum state share for transportation funding to 37 percent in FY18 and 25 percent in FY19. Currently the state minimum is 50 percent and directs state aid to school districts regardless of their transportation needs or capacity. According to the Office of Budget and Management by reducing the minimum state share, the state can direct additional transportation funds to school districts that need more assistance. State school transportation funding will drop, however, to \$529 million over the biennium.

The executive budget also continues the phase-out of reimbursements for the loss of the personal tangible property tax (TPP), which started in 2005. This tax was assessed on business equipment, inventory, and furniture and fixtures. It raised \$1.65 billion for schools and local governments, and so lawmakers agreed to phase-out the tax by providing reimbursements to cushion the revenue loss.

The phase-out will end in FY19.¹

According to an analysis of the governor's school funding plan by Howard Fleeter, an economist at the Ohio Educational Policy Institute, 390 out of 612 school districts would receive less state aid over the biennium when the phase-out of the TPP reimbursements are factored into the state aid calculation. This represents a reduction of \$105.8 million in funds for school districts.²

In addition, an analysis of the proposed budget by Stephen Dyer at Innovation Ohio found that the \$280 million increase for primary and secondary education is offset by \$227 million in cuts from other areas of the education budget and increases in state funding for private schools and charter schools.

The Executive Budget would reduce state funding for transportation by \$73 million; tangible personal property tax reimbursements by \$81 million; special education enhancements by \$5 million; career technical enhancements by \$2 million; commodity foods by \$3 million; and the tangible personal property tax supplement by \$44 million.³

In another analysis of the Executive Budget, Stephen Dyer reports that, "Governor Kasich's proposed budget continues to exacerbate the unconstitutional nature of our state's funding system and we don't know the full potential cost to kids in our local school districts."⁴

The percentage of education spending attributed to local revenue has increased during the Kasich administration. In 2010 state aid as a percent of Ohio's education spending was over 50%, but by 2015-16 the state share had dropped to 48 % and the local share of school spending had increased to 52 %. Twenty years after the first DeRolph Supreme Court decision was issued, the State is no closer to reducing reliance on property taxes to fund schools as directed by the court.

And, an editorial by *The Akron Beacon Journal* calls the governor's proposed budget for education just more "residual budgeting" rather than based on "calculating the amount necessary to ensure that students receive an adequate education."⁵

¹ Office of Budget and Management, Building for Ohio's Next Generation: Budget Recommendations, Budget Highlights, Budget Fact Sheets at <http://budget.ohio.gov>

Legislative Service Commission, HB49 (R. Smith) Operating Budget, Budget in Detail, Budget Analysis for the Department of Education, at <http://www.lsc.ohio.gov/budget/default.htm>

Tim Keen, Director, Office of Budget and Management Testimony, House Finance Committee, February 1, 2017 at <http://www.ohiohouse.gov/committee/finance>

² Fleeter, Howard, "Analysis of the Governor's FY18-19 School Funding Formula," Educational Policy Center, February 10, 2017, at <http://www.oasbo-ohio.org/advocacy/state-budget-school-funding>

³ Dyer, Stephen, "IO: On the Budget: About that \$200 Million for Schools...," *Innovation Ohio*, February 2, 2017 at <http://innovationohio.org/2017/02/02/io-on-the-budget-about-that-200-million-for-schools/>

⁴ Dyer, Stephen, "Innovation Ohio: On the Budget: "Five Questions About Kasich's School Funding Proposal," *Innovation Ohio*, February 6, 2017 at <http://innovationohio.org/2017/02/06/five-questions-about-kasichs-school-funding-proposal/>

⁵ "OUR OPINION: Same school funding or the triumph of residual budgeting again," *Akron Beacon Journal*, February 12, 2017 <http://www.ohio.com/editorial/editorials/same-school-funding-or-the-triumph-of-residual-budgeting-again-1.746832>

2) Public Money for Public Schools

Message: The LWVO opposes taxpayer support for students attending private schools and increases in state aid for nonpublic school programs included in HB49 (R. Smith) Operating Budget,

The LWVO would support disaggregating student transportation costs based on the types of schools that students are attending, including public, private, and charter schools.

The League believes that public money should be spent only on public schools, which are accountable and responsive to the public through elected boards of education, and comply with standards that ensure a high quality education.

The LWVO specifically opposes the funding included in HB49 for auxiliary services and nonpublic administrative cost reimbursements; Ohio's voucher programs; and the expansion of the EdChoice Scholarship program. This program would cost the taxpayers \$38.4 million in FY18 and \$47.7 million in FY19, increasing the program by \$6.9 million in FY18 and \$9.3 million in FY19.⁶

The increased state funding for private schools and the expansion of the voucher programs not only divert limited public funds from strengthening and improving "a system of common schools," but also affect the role that local communities play in the education of children.

According to the *National Report Card on School Funding*, prepared by the Education Law Center and Rutgers University, Ohio has a public school participation rate of 85 percent, which is lower than other states, and a nonpublic/public income ratio of 132 percent, which shows a high degree of economic disparity between households with children in the public and nonpublic school systems.

This measure is important because the "...proportion of students enrolled in public schools affects the level of financial support necessary for public education." Poverty becomes concentrated and more resources are needed when fewer students from wealthy households attend public schools, and public schools lose political power when a large percent of families opt out of public education.⁷

The purpose of public education is to prepare youth for higher education, careers, and citizenship in our democracy. Preparing students to participate as active citizens in a democracy is a community endeavor, and the interests of the community are represented through an elected board of education, which governs public schools and is responsive to the community and its taxpayers. In return for receiving a public education, an educated citizenry contributes to the well being of the entire community.

This important relationship between the community and its public schools is compromised when public funds are diverted to support private education interests. Private schools have different missions and purposes than public schools. Some private schools are created to support a particular religion, culture, or philosophy. Private schools are not accountable to the taxpayers through elected boards of education; can select the students they want to educate, thus increasing segregation and

⁶ DeMaria, Paolo, Testimony, Ohio House Finance Committee, February 7, 2017 at www.ohiohouse.gov/committee

⁷ Baker, Bruce; Danielle Farrie, Monete Johnson, Theresa Luhm, and David G. Sciarra, "Is School Funding Fair? A National Report Card, Education Law Center and Rutgers Graduate School of Education, January 25, 2017 at <http://www.schoolfundingfairness.org>

the stratification of the society; and are not required to comply with the same standards as public schools.

Using tax dollars to support private education diminishes the resources for public education and undermines the very purpose of public education in a democracy.

Proponents of state funding for private schools say that students and parents need more educational choices to meet student needs. But, there is nothing in the Ohio Constitution that guarantees parents “school choice,” and while state funds have increased for private schools and charter schools, lawmakers have ignored the Constitutional directive that the state provide for “...a thorough and efficient system of common schools throughout the state.” (*The Ohio Constitution 6.02.*)

Background: There are approximately 725 chartered nonpublic schools in Ohio and 474 of them participated in Ohio’s school voucher programs in 2016.⁸

Ohio transfers public dollars to support privately operated schools through auxiliary services, nonpublic administrative cost reimbursements, and through six voucher programs. And, in most cases, Ohio school districts also transport students who attend private schools and charter schools without any reimbursement from these privately operated schools.

Auxiliary Services and Nonpublic Administrative Cost Reimbursements: Governor Kasich’s FY18-19 Executive Budget maintains GRF support for nonpublic schools through Auxiliary Services (\$149.9 million in both FYs) and Nonpublic Administrative Cost Reimbursements (\$67.7 million in both fiscal years).

The Auxiliary Services program provides public funds for chartered nonpublic schools to pay for health, counseling, and special education services; standardized testing; and funds to purchase secular textbooks. This fund also includes up to \$1.5 million in each fiscal year for private school students to participate in the College Credit Plus Program.

The Nonpublic Administrative Cost Reimbursements program provides state funds to reimburse private schools for administrative requirements up to \$360 per student.

In FY2015 the average per-pupil amount for Auxiliary Services was \$787 and the average state payment per student for Administrative Cost Reimbursement was \$359. Together, these two programs provide higher state support per private school student than state per pupil support for students attending some traditional public schools. This situation led Representative Andrew Brenner and Senator Jim Hughes to introduce legislation in the 130th General Assembly to ensure that public schools received at least a base amount of state aid per student.⁹

Voucher Programs: Starting in 1996 Ohio policy makers have approved several programs that provide public funds to parents to pay for tuition at private schools. In all but one of these programs

⁸ Gilchrist, Sharon, “How good are private schools that take Ohio voucher students? Hard to Know,” The Columbus Dispatch, July 16, 2016 at <http://www.dispatch.com/content/stories/local/2016/07/17/performance-data-on-voucher-students-in-ohio-private-schools-hard-to-find.html>

⁹ Siegel, Jim and Candisky, Catherine (May 19, 2014) “State funding not fair, districts in better-off suburbs say,” *The Norwalk Reflector*, at <http://www.norwalkreflector.com/News/2014/05/20/State-funding-not-fair-districts-in-better-off-suburbs-say>

the tuition is deducted from the state aid account of voucher student's resident school district.

In FY14 \$167.5 million was transferred from public schools to private schools, and approximately 29,142 students participated in the various voucher programs. Nonpublic schools participating in the voucher program are required to administer state assessments, but do receive a state Report Card rating.¹⁰

School Voucher Programs in Ohio

-Cleveland Scholarship and Tutoring Program (1996): This voucher program serves students in the Cleveland Municipal School Districts. In 2016-17 8,594 students participated in the program with an estimated average scholarship of \$3,101. The number of participating private schools is 34.¹¹

The Executive Budget allocates from Foundation Funding (200-550) \$15.4 million in FY18 and \$17.6 million in FY19 for the Cleveland Municipal School District to operate the program. The district would also receive up to \$1 million in each fiscal year to provide tutorial assistance.

-Autism Scholarship Program (2004): This scholarship program provides the parents of children with autism the opportunity to use a voucher to attend an approved program or school to receive services based on the child's Individualized Education Plan (IEP). In 2016-17 about 3,325 students participated in the program, and 272 service providers participated. The average voucher in 2014-15 was \$20,279.¹²

-The Jon Peterson Special Needs Scholarship Program (2012): This scholarship program provides support for students who have an Individualized Education Plan (IEP) to attend eligible private schools in grades kindergarten through 12th grade. The amount of each scholarship is based on the disability identified on the student's IEP, but does not exceed \$27,000. In 2016-17 4,635 students participated in the program, and 263 service providers participated.¹³

-Educational Choice Scholarship Program (2006)(EdChoice): This program allows students from low performing schools to receive a voucher to attend an eligible private school. About 10 percent of students are eligible statewide. In 2016-17 22,892 students participated in 472 schools. The average voucher was \$4,257.¹⁴

Education Choice for Low Income Students (2013 - HB59 Biennial Budget): The EdChoice Program was expanded in 2013 to include students from low-income families. To be eligible, families must have incomes at or below 200 percent of the federal poverty level.

The Executive Budget would expand the program to include grades four and five. The program is funded from the General Revenue Fund 200573 rather than as a deduction from the resident school district's state aid accounts. The program will cost \$38.4 million in FY18 and \$47.7 million in FY19.

In June 2015 (HB 64) the maximum voucher amount increased to \$4,650 for K–8 pupils and \$5,900 for high school students. The high school amount increased to \$6,000 in July 2016.

¹⁰ Ohio Legislative Service Commission, "Red Book for Primary and Secondary Education", March 2015, pp. 29 and 39.

¹¹ Ed Choice <https://www.edchoice.org/school-choice/state/ohio/>

¹² Ibid.

¹³ Ibid.

¹⁴ Ed Choice <https://www.edchoice.org/school-choice/state/ohio/>

The number of scholarships awarded in 2016-17 was 7,840, and 472 private schools participated in the program.

-EdChoice Literacy Expansion (Approved in HB59 in 2013 and Effective 2016-17): This program provides a scholarship for students who are enrolled in kindergarten through third grade in a district-operated school that has received a grade of “D” or “F” in “making progress in improving K-3 literacy” on two of the three most recent state report cards, and has not received an “A” in “making progress in improving K-3 literacy” on the most recent report card issued.

3) An Accountable and Responsive System of Charter Schools

Message: State officials have the constitutional responsibility to secure a thorough and efficient system of common schools in Ohio. Instead, after the Ohio Supreme Court declared Ohio’s school funding system unconstitutional four times, state officials adopted “school choice” as a policy objective, even though there is no constitutional basis for it. As a result, a privately operated parallel education system was created, costing Ohio taxpayers about \$7 billion over the past 18 years.¹⁵

The LWVO urges lawmakers to hold charter schools accountable and responsive to taxpayers through elected boards of education. To strengthen accountability, the LWVO recommends eliminating for-profit charter management companies and requiring charter schools to comply with the same standards as traditional public schools, such as operating standards, teacher licensure standards, teacher evaluations, a required curriculum, etc.

We also urge lawmakers to implement a transparent funding system for charter schools and eliminate funding them through a deduction from public school districts’ state aid.

The LWVO opposes a provision included in the Executive Budget, HB49 (R. Smith) Operating Budget that increases funding for charter school facilities without a comprehensive statewide plan that would ensure that state funds are used appropriately. The plan should be developed to reflect the best practices learned from the Ohio School Facilities Commission programs, and include an assessment of charter school facilities needs; establish priorities for state funding based on need and capacity; establish guidelines for contracts, property purchases, and lease agreements that are fair to taxpayers; and provide oversight.

The LWVO also urges lawmakers to approve HB87 (Roegner) and SB39 (Schiavoni), which would strengthen charter school accountability laws and would direct charter school funds recovered as a result of State audit findings to be distributed to school districts.

Background: The LWVO does not have a specific position regarding privately operated, but publicly funded charter schools, which are called community schools in Ohio. The LWVO relies on two positions to inform our decisions when reviewing legislation or policies regarding charter schools: 1) the requirement that all chartered schools comply with the same state standards as traditional schools, and 2) the requirement that the state funding system for schools be accountable and responsive to taxpayers, and that public funds only be used for public schools.

Charter schools were first established in Ohio in FY99. They have grown from 15 schools educating 2,245 students in FY99 (0.1 percent of public school enrollment) to 362 schools educating about

¹⁵ Phillis, Bill. (November 10, 2015) “Survival of the common public school” Ohio School Boards Association Capital Conference at http://ohiocoalition.org/listings_layout/pdfs/research_and_articles/Tuesdaypresentation2015.pdf

117,000 students in FY16 (7 percent of public school enrollment)¹⁶. There has been a slight decrease in charter school enrollment since July 2015, when charter school enrollment was 120,674 students, and the total net state funding for charter schools in FY16 was \$954.2 million.

Governor Kasich's Executive Budget, HB49 (R. Smith) increases funding for charter school facilities from \$17.2 million in FY17 to \$18 million in both FY18 and FY19 for a total increase of \$800,000 using lottery funds. The facilities funding levels are based on a \$25 per pupil amount in each fiscal year for students attending internet or computer-based charter schools, even though these students are served in their homes, rather than in a school building, and \$200 per pupil in each fiscal year for students attending brick and mortar charter schools.

Ohio law does not have a similar school facilities program for traditional public schools.

Investigative reports in the newspapers, studies conducted by CREDO of Stanford University¹⁷ and Bellwether Education Partners,¹⁸ audits conducted by State Auditor David Yost,¹⁹ and recent lawsuits²⁰ have intensified scrutiny about charter school operations. These investigations and reports have identified a number of problems plaguing Ohio's charter school industry, including conflicts of interest, misappropriation of funds, poor accounting practices, unrecoverable funds, student attendance irregularities, closed schools reopening, and an unprecedented number of charter school closures.

In response to these reports and investigations, State Auditor David Yost presented on March 4, 2015 to the House Education Committee, a list of recommendations to improve charter school law in the areas of accountability, finance, and governance. Lawmakers also introduced several bills in the 131st General Assembly to reform charter school law, including provisions in the biennial budget bill - HB64 (Smith) and HB2 (Dovilla, Roegner), which was signed into law in November 2015.

Two bills have been introduced this session that would further strengthen charter school accountability, and provide a way to distribute to school districts charter school funds that have been recovered as a result of an audit or other activity.

- HB87 (Roegner) Community School Public Moneys: Requires the Ohio Department of Education (ODE) to distribute public moneys recovered from charter schools as a result of an audit by the state in certain ways.

- SB39 (Schiavoni) Community School Operation, also includes provisions for directing recovered funds from charter schools back to school districts, but it includes other provisions that would increase regulations of internet and computer-based charter schools, referred to as e-schools, that are not sponsored by a school districts. The bill would also reduce the length of a contract between a charter school and an operator to three years; create a commission to study the actual costs required to

¹⁶ The Ohio Department of Education, 2015-16 Annual Report Ohio Community Schools, January 4, 2017 at <http://education.ohio.gov/getattachment/Topics/Community-Schools/Annual-Reports-on-Ohio-Community-Schools/2015-2016-Community-School-Annual-Report.pdf.aspx>

¹⁷Center for Research on Education Outcomes (December 9, 2014) "Charter School Performance in Ohio", Stanford University.

¹⁸ Squire, Juliet., Kelly Robson, and Andy Smarick, (December 2014) "The Road to Redemption: Ten Policy Recommendations for Ohio's Charter School Sector", Bellwether Education Partners.

¹⁹ Yost, David (March 4, 2015) "Testimony before the House Education Committee".

²⁰ ECOT could lose millions after judge rules against eschool in attendance records," *The Columbus Dispatch*, October 1, 2016 at <http://www.dispatch.com/content/stories/local/2016/09/30/ecot-decision.html>

operate an e-school; and require community schools to “provide” learning opportunities, rather than “offer” learning opportunities.

The LWVO also urges lawmakers to end the practice of funding charter schools as a deduction from school district state aid accounts.

This methodology hides the true cost of charter schools and the fact that charter schools are funded in part from local taxes as a result of the way the school funding formula works.

According to testimony by Tom Ash from the Buckeye Association of School Administrators (BASA) before the House Finance Subcommittee on Primary and Secondary Education in 2015, the statewide average funding for charter schools on a per pupil basis in FY15 was \$7607, while the statewide average per-pupil state aid for traditional public schools was \$4184. “The difference between what a school district receives from the state for a community school student and what is deducted from the district’s state funds must be made up by the district using local tax dollars. Further, a district does not receive the full basic aid amount from the state for any of its students, as is the case for community schools.”²¹

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²¹ Ohio School Boards Association, Buckeye Association of School Administrators, Ohio Association of School Business Officials. “Joint Testimony on House Bill 64”, March 5, 2015.