



Senate Education Committee

Senator Jeffrey E. Piccola
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BILL SUMMARY **Senate Bill 1296, Printer's No. 1661** **Prime Sponsor: Piccola**

A. SYNOPSIS:

Senate Bill 1296 provides for greater transparency and accountability in superintendent and assistant superintendent contracts by setting new requirements for the content of those contracts and subjecting them to the Right-to-Know Law.

Amendment A08985 was developed with input from the Office of the Auditor General and the Pennsylvania Association of School Administrators.

B. BILL ANALYSIS:

Senate Bill 1296 does the following:

- Strikes a current provision in law that allows superintendent and assistant superintendent contracts to be for a period of three to five years and replaces it with a provision that all initial contracts and renewed contracts must be for a period of three years.
- Makes superintendent and assistant superintendent contracts subject to the Right-to-Know law.
- Requires all superintendent and assistant superintendent contracts to contain the following criteria:
 - The mutual and complete agreement between the superintendent or assistant superintendent and the board of school directors with respect to the terms and conditions of employment.
 - Consistent with State Board of Education certification requirements, specify the duties, responsibilities, job description and performance expectations, including performance criteria provided for under this bill.
 - Incorporate all provisions relating to compensation and benefits.
 - Specify the term of employment and state that the contract shall terminate immediately upon the expiration of the term unless the contract is allowed to renew automatically as provided for in the bill.
 - Specify the termination, buyout and severance provisions, including all postemployment compensation and the period of time in which the compensation shall be provided.
 - Contain provisions relating to outside work that may be performed, if any.

- State that any modification to the contract must be in writing.
 - State that the contract shall be governed by the laws of this Commonwealth.
 - Limit compensation for unused sick leave to the maximum compensation for unused sick leave under the teachers' collective bargaining agreement for that district at the time of the contract or renewal.
 - Limit transferred sick leave from previous employment to not more than 30 days.
- Limits the amount of severance compensation a superintendent or assistant superintendent is entitled to if a contract is ended prior to the end of the contract. Specifically, if the severance takes effect two years or more prior to the end of the contract term, the agreement cannot exceed the equivalent of one year's compensation and benefits otherwise due under the contract. If the agreement takes effect less than two years prior to the end of the contract, the agreement cannot exceed the equivalent of one-half of the total compensation and benefits due under the contract for the remainder of the term.
 - Allows the school board to include objective performance standards in the contract, and requires the school board to perform periodic performance evaluations. The objective criteria may include the following:
 - achievement of annual measurable objectives established by the school district in compliance with the No Child Left Behind Act of 2001;
 - achievement on Pennsylvania System of School Assessment (PSSA) tests;
 - achievement on Keystone Exams;
 - student growth as measured by the Pennsylvania Value-Added Assessment System;
 - attrition rates or graduation rates;
 - financial management standards;
 - standards of operational excellence; or
 - any additional criteria deemed relevant by the board of school directors.

The State Board of Education may promulgate regulations in order to implement this section.

- Allows for the removal and contract termination of a superintendent or assistant superintendent for failure to meet the terms of their contract. The school board is tasked with publicly disclosing the reason for the superintendent's or assistant superintendent's removal and shall conduct all proceedings openly.
- Applies to all contracts of superintendents or assistant superintendents to be entered into or renewed on or after the effective date of the bill. Please note: this bill also applies to superintendents and assistant superintendents of school districts of the first class, which were originally exempt from this law.

Senate Bill 1296 would take effect in 60 days upon its enactment.

C. SUMMARY OF RELEVANT EXISTING LAW:

Sections 1073, 1073.1, 1076, 1077, 1078 and 1080 of the Public School Code of 1949 apply to the manner, selection and removal of district superintendents and assistant district superintendents.



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Amendment Summary A08985 to SB 1296

Amendment A08985 makes the following changes:

- Adds the term 'district' to all references to superintendents and assistant superintendents in the bill for consistency.
- Adds a provision that if a person does not have previous experience as a superintendent or assistant superintendent, their initial contract shall be for period of not more than 3 years. Any contract after that may be for three to five years in length.
- Specifies that termination, buyout and severance provisions are not to be modified during the course of the contract or in the event a contract is terminated prematurely.
- Limits compensation for unused sick leave in initial employment contracts (i.e., first-time superintendents and assistant superintendents) to the maximum compensation for unused sick leave as provided from under the school district's administrator compensation plan.
- Limits the transfer of sick leave from previous employment to not more than 30 days in initial employment contracts.
- Specifies that the employment contract include post-retirement benefits and the period of time in which the benefits shall be provided.
- Requires the employment contract to include objective performance standards mutually agreed to by the superintendent or assistant superintendent and the school board.
- Directs the school board to conduct a formal written performance assessment of the superintendent or assistant superintendent annually. The school board shall post the performance standards contained in the contract on the school district's website, and after the annual assessment, post whether or not the superintendent or assistant superintendent has met those standards.
- Strikes *for failure to meet the terms of the contract* from the list of reasons why a superintendent or assistant superintendent may be removed from office. It was deemed too broad a standard.
- Repeals any section of law pertaining to the length of term of superintendents and assistant superintendents for school districts of the first class (e.g., Philadelphia School District) and applies the requirements of this bill to that district.

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 1296

Sponsor:

Printer's No. 1661

1 Amend Bill, page 1, line 9, by inserting after "removal;"
2 providing for superintendents of schools or buildings and
3 of supplies;

4 Amend Bill, page 2, line 6, by striking out the bracket
5 before "a"

6 Amend Bill, page 2, line 6, by inserting a bracket before
7 "from"

8 Amend Bill, page 2, line 6, by inserting a bracket after
9 "from"

10 Amend Bill, page 2, lines 6 and 7, by striking out "] an" in
11 line 6 and "initial term of three years" in line 7

12 Amend Bill, page 2, line 10, by inserting after "directors."
13 If the qualified district superintendent has no prior experience
14 as a district superintendent, the initial contract shall be for
15 a period not to exceed three years.

16 Amend Bill, page 2, line 19, by striking out the bracket
17 before "to"

18 Amend Bill, page 2, line 19, by striking out the bracket
19 after "(5)"

20 Amend Bill, page 3, line 24, by inserting after "a"
21 district

22 Amend Bill, page 3, line 24, by inserting after "assistant"
23 district

1 Amend Bill, page 3, line 28, by inserting after "a"
2 district
3 Amend Bill, page 3, line 29, by inserting after "assistant"
4 district
5 Amend Bill, page 3, line 30, by inserting after "the" where
6 it occurs the second time
7 district
8 Amend Bill, page 4, line 1, by inserting after "assistant"
9 district
10 Amend Bill, page 4, line 7, by striking out "criteria" and
11 inserting
12 standards and assessments
13 Amend Bill, page 4, line 9, by inserting after "the"
14 district
15 Amend Bill, page 4, line 10, by inserting after "assistant"
16 district
17 Amend Bill, page 4, line 12, by inserting after "immediately"
18 , except as otherwise provided under this section,
19 Amend Bill, page 4, line 17, by inserting after "provided."
20 Termination, buyout and severance provisions may not be
21 modified during the course of the contract or in the event a
22 contract is terminated prematurely.
23 Amend Bill, page 4, lines 24 through 27, by striking out "to
24 the maximum" in line 24, all of lines 25 and 26 and "the
25 contract or renewal" in line 27 and inserting
26 in new employment contracts entered into after the effective
27 date of this subsection for district superintendents or
28 assistant district superintendents who have no prior experience
29 as a district superintendent or assistant district
30 superintendent to the maximum compensation for unused sick leave
31 under the school district's administrator compensation plan
32 under section 1164 in effect at the time of the contract
33 Amend Bill, page 4, line 29, by inserting after "days"
34 in new employment contracts after the effective date of this

1 subsection for district superintendents or assistant district
2 superintendents who have no prior experience as a district
3 superintendent or assistant district superintendent

4 Amend Bill, page 4, by inserting between lines 29 and 30

5 (xi) Specify postretirement benefits and the period of time
6 in which the benefits shall be provided.

7 Amend Bill, page 4, line 30, by inserting after "a"

8 district

9 Amend Bill, page 5, line 1, by inserting after "assistant"

10 district

11 Amend Bill, page 5, line 3, by inserting after "the"

12 district

13 Amend Bill, page 5, line 4, by inserting after "assistant"

14 district

15 Amend Bill, page 5, lines 18 through 22, by striking out all

16 of lines 18 through 21 and "board of directors and may be based

17 upon the following" in line 22 and inserting

18 other requirements provided for under this act, the employment
19 contract for a district superintendent or assistant district
20 superintendent shall include objective performance standards
21 mutually agreed to in writing by the board of school directors
22 and the district superintendent or assistant district
23 superintendent. The objective performance standards may be based
24 upon the following

25 Amend Bill, page 5, lines 24 and 25, by striking out "in

26 compliance with the No Child Left " in line 24 and "Behind Act

27 of 2001" in line 25

28 Amend Bill, page 6, line 4, by inserting after "relevant"

29 and mutually agreed to

30 Amend Bill, page 6, line 5, by inserting after "directors"

31 and the district superintendent or assistant district
32 superintendent

33 Amend Bill, page 6, lines 6 through 9, by striking out all of

34 said lines and inserting

35 (b) The board of school directors shall conduct a formal

1 written performance assessment of the district superintendent
2 and assistant district superintendent annually. A time frame for
3 the assessment shall be included in the contract.

4 (b.1) The board of school directors shall post the mutually
5 agreed to objective performance standards contained in the
6 contract on the school district's publicly accessible Internet
7 website. Upon completion of the annual performance assessment,
8 the board of school directors shall post the date of the
9 assessment and whether or not the district superintendent and
10 assistant district superintendent have met the agreed to
11 objective performance standards on the school district's
12 publicly accessible Internet website.

13 Amend Bill, page 6, line 16, by inserting a bracket before
14 the comma after "Superintendents"

15 Amend Bill, page 6, line 16, by inserting a bracket after
16 "Class"

17 Amend Bill, page 6, line 16, by inserting a bracket before
18 "Except"

19 Amend Bill, page 6, line 17, by inserting after "assistant"
20] Assistant

21 Amend Bill, page 6, line 20, by striking out the bracket
22 before "to"

23 Amend Bill, page 6, line 20, by striking out the bracket
24 after "five"

25 Amend Bill, page 6, line 21, by inserting after
26 "superintendent."

27 If the assistant district superintendent has no prior
28 experience as a district superintendent or assistant district
29 superintendent, the initial contract shall be for a period not
30 to exceed three years.

31 Amend Bill, page 6, line 25, by striking out the bracket
32 before "to"

33 Amend Bill, page 6, line 25, by striking out the bracket
34 after "five"

1 Amend Bill, page 6, line 27, by inserting after "election."

2 If the assistant district superintendent has no prior experience
3 as a district superintendent or assistant district
4 superintendent, the initial contract shall be for a period not
5 to exceed three years.

6 Amend Bill, page 7, line 7, by striking out the bracket
7 before "to"

8 Amend Bill, page 7, line 7, by striking out the bracket after
9 "(5)"

10 Amend Bill, page 7, line 20, by striking out "Section 1080 of
11 the act is" and inserting

12 Sections 1080 and 2104 of the act are

13 Amend Bill, page 7, lines 25 and 26, by striking out "for
14 failure to meet the terms of the" in line 25 and "contract," in
15 line 26

16 Amend Bill, page 8, by inserting between lines 6 and 7

17 Section 2104. Superintendents of Schools or Buildings and of
18 Supplies.--The board of public education in each school district
19 of the first class shall, whenever a vacancy in said office
20 shall occur, appoint a district superintendent, who shall be
21 designated and known as superintendent of schools[, for a term
22 of not more than six (6) years]. The board may also appoint a
23 superintendent of buildings and a superintendent of supplies.
24 The board shall prescribe the terms and duties and fix the
25 salaries of each of such employes. They shall be responsible to
26 the board for the conduct of their respective departments, shall
27 make annual reports to the board, and shall from time to time
28 submit such plans and suggestions for the improvement of the
29 schools and the school system as they shall deem expedient or as
30 the board of public education may require.

31 The superintendent of buildings shall be an engineer or
32 architect of good standing in his profession. The superintendent
33 of buildings and the superintendent of supplies shall each give
34 such security for the faithful performance of the duties of
35 their respective offices as the board of public education shall
36 prescribe.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1296 Session of
2011

INTRODUCED BY PICCOLA, SCARNATI, FOLMER, ERICKSON, BAKER,
BOSCOLA, ORIE, YUDICHAK, GREENLEAF, RAFFERTY, ALLOWAY,
MENSCH, VOGEL, BROWNE AND EARLL, OCTOBER 17, 2011

REFERRED TO EDUCATION, OCTOBER 17, 2011

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for manner of
6 election or approval; providing for performance review;
7 further providing for election of assistant district
8 superintendents, for term and salary of assistants and for
9 removal; and making an editorial change.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1073 of the act of March 10, 1949
13 (P.L.30, No.14), known as the Public School Code of 1949,
14 amended January 14, 1970 (1969 P.L.468, No.192) and January 16,
15 1974 (P.L.1, No.1), is amended to read:

16 Section 1073. Manner of Election or Approval.--(a) The
17 board of school directors of each school district[, except in
18 school districts of the first class,] shall meet at its regular
19 place of meeting, during the last year of the term of the
20 district superintendent or at any other time when a vacancy
21 shall occur in the office of district superintendent, at an hour

1 previously fixed by the board. The secretary of each board of
2 school directors shall mail to each member thereof at least five
3 days beforehand, a notice of the time, place and purpose of such
4 meeting. At such meeting the board shall elect or approve a
5 properly qualified district superintendent to enter into a
6 contract to serve [a term of from three to five years] an
7 initial term of three years from the first day of July next
8 following his election or from a time mutually agreed upon by
9 the duly elected district superintendent and the board of school
10 directors. The contract shall be subject to the act of February
11 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

12 (b) At a regular meeting of the board of school directors
13 occurring at least one hundred fifty (150) days prior to the
14 expiration date of the term of office of the district
15 superintendent, the agenda shall include an item requiring
16 affirmative action by five or more members of the board of
17 school directors to notify the district superintendent that the
18 board intends to retain him for a further term of [from] three
19 (3) [to five (5)] years or that another or other candidates will
20 be considered for the office. In the event that the board fails
21 to take such action at a regular meeting of the board of school
22 directors occurring at least one hundred fifty (150) days prior
23 to the expiration date of the term of office of the district
24 superintendent, he shall continue in office for a further term
25 of similar length to that which he is serving.

26 (d) The term of office or commission of a district
27 superintendent or assistant district superintendent shall not be
28 shortened by reason of the fact that the district in which he
29 serves shall be come part of a joint school, or by reason of the
30 fact that the district in which he serves shall become a part of

1 a new school district established as the result of
2 reorganization of school districts pursuant to Article II.,
3 subdivision (i) or section 224 of this act. Any district
4 superintendent, assistant districts superintendent or
5 supervising principal not selected as the district
6 superintendent of the joint school or newly established school
7 district in which the district he serves becomes a part shall be
8 assigned to a position or office for which he is eligible:
9 Provided, however, That in a new school district reorganized
10 under Article II., subdivision (i) or section 224 of this act,
11 he shall be assigned to a position or office which is
12 administrative or supervisory in nature only, but there shall be
13 no reduction in salary until the expiration of his commission.
14 Thereafter, unless elected to an office requiring a commission
15 he shall have the status of a professional employe: Provided,
16 That the board of school directors may adjust the salary
17 according to the classification of the position to which he may
18 be assigned, and that the period of service as a commissioned
19 district superintendent, assistant district superintendent or
20 associate superintendent shall be counted as time served as a
21 professional employe in determining his seniority rights.

22 (e) The following shall apply:

23 (1) Notwithstanding any other provision of law, no
24 individual shall be employed as a superintendent or assistant
25 superintendent by a school district except pursuant to a written
26 contract of employment expressly stating the terms and
27 conditions of employment.

28 (2) A contract for the employment of a superintendent or
29 assistant superintendent shall do all of the following:

30 (i) Contain the mutual and complete agreement between the

1 superintendent or assistant superintendent and the board of
2 school directors with respect to the terms and conditions of
3 employment.

4 (ii) Consistent with State Board of Education certification
5 requirements, specify the duties, responsibilities, job
6 description and performance expectations, including performance
7 criteria provided for under section 1073.1.

8 (iii) Incorporate all provisions relating to compensation
9 and benefits to be paid to or on behalf of the superintendent or
10 assistant superintendent.

11 (iv) Specify the term of employment and state that the
12 contract shall terminate immediately upon the expiration of the
13 term unless the contract is allowed to renew automatically under
14 subsection (b).

15 (v) Specify the termination, buyout and severance
16 provisions, including all postemployment compensation and the
17 period of time in which the compensation shall be provided.

18 (vi) Contain provisions relating to outside work that may be
19 performed, if any.

20 (vii) State that any modification to the contract must be in
21 writing.

22 (viii) State that the contract shall be governed by the laws
23 of this Commonwealth.

24 (ix) Limit compensation for unused sick leave to the maximum
25 compensation for unused sick leave under the teachers'
26 collective bargaining agreement for that district at the time of
27 the contract or renewal.

28 (x) Limit transferred sick leave from previous employment to
29 not more than 30 days.

30 (3) No agreement between the board of school directors and a

1 superintendent or assistant superintendent for a negotiated
2 severance of employment prior to the end of the specified
3 contract term shall provide for severance compensation to the
4 superintendent or assistant superintendent, including the
5 reasonable value of any noncash severance benefits or
6 postemployment benefits not otherwise accruing under the
7 contract or pursuant to law, that:

8 (i) If the agreement takes effect two years or more prior to
9 the end of the specified contract term, exceeds the equivalent
10 of one year's compensation and benefits otherwise due under the
11 contract.

12 (ii) If the agreement takes effect less than two years prior
13 to the end of the specified contract term, exceeds the
14 equivalent of one-half of the total compensation and benefits
15 due under the contract for the remainder of the term.

16 Section 2. The act is amended by adding a section to read:

17 Section 1073.1. Performance Review.--(a) In addition to any
18 other requirements provided for under this act, the board of
19 school directors may include objective performance standards in
20 a contract for the district superintendent and assistant
21 superintendent. The objective criteria may be established by the
22 board of directors and may be based upon the following:

23 (1) achievement of annual measurable objectives established
24 by the school district in compliance with the No Child Left
25 Behind Act of 2001;

26 (2) achievement on Pennsylvania System of School Assessment
27 (PSSA) tests;

28 (3) achievement on Keystone Exams;

29 (4) student growth as measured by the Pennsylvania Value-
30 Added Assessment System;

1 (5) attrition rates or graduation rates;
2 (6) financial management standards;
3 (7) standards of operational excellence; or
4 (8) any additional criteria deemed relevant by the board of
5 school directors.

6 (b) The board of school directors shall establish a time
7 frame for periodic performance evaluations of the district
8 superintendent and assistant district superintendent and shall
9 include the time frame within the contract.

10 (c) The State Board of Education may promulgate regulations
11 pursuant to the act of June 25, 1982 (P.L.633, No.181), known as
12 the Regulatory Review Act, in order to implement this section.

13 Section 3. Sections 1076 and 1077 of the act, amended
14 January 16, 1974 (P.L.1, No.1), are amended to read:

15 Section 1076. Election of Assistant District
16 Superintendents, Except in Districts First Class.--Except in
17 districts of the first class, assistant district superintendents
18 shall be chosen by a majority vote of all the members of the
19 board of school directors of the district, for a term of [from]
20 three [to five] years upon the nomination by the district
21 superintendent.

22 Section 1077. Term and Salary of Assistants.--Assistant
23 district superintendents may serve through the term of the
24 district superintendent, or enter a contract for a term of
25 [from] three [to five] years at salaries paid by the district,
26 and fixed by a majority vote of the whole board of school
27 directors prior to their election. The contract shall be subject
28 to the act of February 14, 2008 (P.L.6, No.3), known as the
29 Right-to-Know Law.

30 At a regular meeting of the board of school directors

1 occurring at least one hundred fifty (150) days prior to the
2 expiration date of the term of office of the assistant district
3 superintendent, the agenda shall include an item requiring
4 affirmative action by five (5) or more members of the board of
5 school directors to notify the assistant district superintendent
6 that the board intends to retain him for a further term of
7 [from] three (3) [to five (5)] years or that another or other
8 candidates will be considered for the office. In the event that
9 the board fails to take such action at a regular meeting of the
10 board of school directors occurring at least one hundred fifty
11 (150) days prior to the expiration date of the term of office of
12 the assistant district superintendent, he shall continue in
13 office for a further term of similar length to that which he is
14 serving.

15 Section 4. Section 1078 of the act, amended January 14, 1970
16 (1969 P.L.468, No.192), is amended to read:

17 Section 1078. Commissions.--District superintendents and
18 assistant district superintendents shall be commissioned by the
19 [Superintendent of Public Instruction] Secretary of Education.

20 Section 5. Section 1080 of the act is amended to read:

21 Section 1080. Removal.--(a) District superintendents and
22 assistant district superintendents may be removed from office
23 and have their contracts terminated, after hearing, by a
24 majority vote of the board of school directors of the district,
25 for neglect of duty, for failure to meet the terms of the
26 contract, incompetency, intemperance, or immorality, of which
27 hearing notice of at least one week has been sent by mail to the
28 accused, as well as to each member of the board of school
29 directors.

30 (b) The board of school directors shall publicly disclose at

1 the next regularly scheduled monthly meeting the cause or reason
2 for the removal from office of a district superintendent or
3 assistant district superintendent under subsection (a).

4 (c) Proceedings under this section shall be held under 2
5 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of
6 local agencies).

7 Section 6. The amendment or addition of sections 1073,
8 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply to
9 contracts of district superintendents or assistant district
10 superintendents entered into or renewed on or after the
11 effective date of this section.

12 Section 7. This act shall take effect in 60 days.



Pennsylvania Association of School Administrators

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March 2, 2012

The Honorable Jeffrey E. Piccola
Chairman
Senate Education Committee
Main Capitol Building Room 173
Harrisburg, PA 17110

Dear Senator Piccola:

I write on behalf of the Pennsylvania Association of School Administrators (PASA) to express our support of Senate Bill 1296 (SB 1296), as amended. PASA believes that SB 1296 will provide increased transparency and accountability in the employment relationship between school boards and school district superintendents and assistant superintendents. While PASA members do not like everything contained in SB 1296, they understand the need to increase transparency and accountability regarding compensation, performance objectives, contract buyouts, severance agreements and post-employment compensation. We believe SB 1296, as amended, appropriately balances the interests of taxpayers, school administrators and school boards.

PASA applauds the approach taken in SB 1296 that provides school boards flexibility to negotiate competitive compensation packages with administrators that should help them to attract or retain high quality school system leaders to fill these critical positions. School boards compete in a national marketplace for high quality school system leaders, a marketplace in which increasing numbers of experienced school system leaders are reaching retirement and fewer young educators are willing to accept the potential risk and employment instability that comes with service as a school district superintendent.

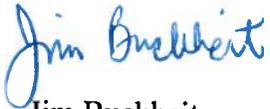
Given the fact that the position of school district superintendent is increasingly one where the average tenure of service continues to decline and the reasons for this are often unrelated to individual performance, PASA believes the increased transparency provided in SB 1296 may help to mitigate the increasing revolving door nature of the position.

When SB 1296 becomes law, PASA urges the Senate Education Committee and other state policymakers to monitor its impact to determine whether it has helped to reduce administrative turnover, severance agreements and payouts. State policymakers also need to closely monitor enrollment levels in state approved administrator preparation programs and application patterns for vacant superintendent positions to determine whether the changes have resulted in exacerbating the shortage of available high quality candidates for the position of school district superintendent.

March 2, 2012
Page 2

We greatly appreciate your leadership on this issue and willingness to consider and incorporate several of our suggestions and recommendations into the bill.

Sincerely,

A handwritten signature in blue ink that reads "Jim Buckheit". The signature is written in a cursive style with a large initial "J".

Jim Buckheit
Executive Director