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NEWS FOR IMMEDIATE RELEASE

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**AG Kaul Joins Multistate Lawsuit Against Secretary DeVos' Attempt to
Siphon Pandemic Relief Funds Away from Public Schools**

MADISON, Wis. –Attorney General Kaul today joined a coalition of six attorneys general in a lawsuit against U.S. Department of Education (Department) Secretary Betsy DeVos' unlawful attempt to siphon pandemic relief funds away from K-12 public schools. The lawsuit follows the latest effort by Secretary DeVos to undermine congressional intent through the promulgation of regulations that unlawfully reinterpret the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and run counter to efforts to ensure that students and schools with demonstrated financial need get the resources they have been promised.

As a result of the interim final rule, an estimated \$4,184,515.64 in Wisconsin alone could be diverted away from taxpayer-funded public schools in our poorest school districts to private institutions — in violation of the requirements established by Congress, the Administrative Procedure Act, and the U.S. Constitution.

“The funds allocated to schools in the CARES Act provide vital support at a time when schools have had to make significant changes to the way they teach students,” said AG Kaul. “Instead of ignoring congressional intent and diverting funds away from public schools, Secretary DeVos should follow the law.”

On March 27, 2020, Congress enacted the CARES Act in response to the ongoing pandemic and its impacts across the country. Under the act, Secretary DeVos is required to allocate funding to help schools prevent, prepare for, and respond to COVID-19. As part of the CARES Act, Congress set forth a formula, through the Elementary and Secondary School Emergency Relief Fund, for the distribution of

\$13.2 billion in aid to K-12 schools nationwide — with an estimated \$174.8 million for Wisconsin schools. As part of the act, aid to K-12 schools is required to be distributed in line with Title I of the Elementary and Secondary Education Act of 1965 (Title I). Title I funds are generally aimed at aiding children from low-income families across the country.

Under the CARES Act, private schools are only eligible for funds in certain circumstances in line with Title I criteria. However, in direct contravention of Congressional intent, the Department's interim final rule ignores the legislated mechanism by requiring the inclusion of private schools based on the total population they serve, instead of income as dictated by the CARES Act.

Moreover, the Department admits that this rule allows private schools — with tuitions more akin to private colleges — to demand these emergency funds, leaving the poorest school districts with less. In the lawsuit, the coalition asserts that the Department's interim final rule unlawfully exceeds its authority, undermines Congressional intent, fails to adequately justify its decision in breach of the Administrative Procedure Act, and violates the U.S. Constitution.

In filing the lawsuit, Attorney General Kaul joins the attorneys general of California, Michigan, Maine, New Mexico, and the District of Columbia.

A copy of the lawsuit is [available here](#).