

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: **02/23/2000**

Received By: **dykmapj**

Wanted: **Today**

Identical to LRB:

For: **Shirley Krug (608) 266-5813**

By/Representing: **Helen Forster**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments**

Extra Copies: **PG
MJL**

Pre Topic:

No specific pre topic given

Topic:

Adequate funding of public schools

Instructions:

See Attached 1993 AJR 77 with AA6

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	dykmapj 02/29/2000	wjackson 03/01/2000	jfrantze 03/01/2000	_____	lrb_docadmin 03/01/2000		
/2	grantpr 03/03/2000	wjackson 03/06/2000	martykr 03/06/2000	_____	lrb_docadmin 03/06/2000		
/3	grantpr 03/23/2000	wjackson 03/23/2000	martykr 03/23/2000	_____	lrb_docadmin 03/23/2000	lrb_docadmin 03/28/2000	

FE Sent For:

<END>

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/3	grantpr 03/23/2000	wjackson 03/23/2000	martykr 03/23/2000	_____	lrb_docadmin 03/23/2000		

(Handwritten note: A circle around 'Jacketed' in the table header is connected by a line to another circle containing the text 'per PG')

FE Sent For:

<END>

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13 wly 3/23 *dyk* 3/23 *sent* 3/23

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1/2 WJ 3/6
 km 3
 km 4
 J 3
 km 6

FE Sent For:

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/?	dykmapj	/1 WLj 3/1	Jb 3/1	Sely 3/1			

FE Sent For:

<END>

Dykman, Peter

From: Lief, Madelon
Sent: Wednesday, February 23, 2000 10:09 AM
To: Dykman, Peter
Subject: FW: drafting instructions - please

Peter--Rep. Krug would like the AJR below redrafted, per Helen Forster's instructions. If you have questions, please call Helen.
Lonnie

Madelon J. Lief
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

madelon.lief@legis.state.wi.us
608-267-7380

-----Original Message-----

From: Forster, Helen
Sent: Wednesday, February 23, 2000 9:21 AM
To: Lief, Madelon
Subject: RE: drafting instructions - please

as soon as you can do it. Thanks.

Helen Forster, *Office of Representative Shirley Krug*

-----Original Message-----

From: Lief, Madelon
Sent: Wednesday, February 23, 2000 9:21 AM
To: Forster, Helen
Subject: RE: drafting instructions - please

Helen,

I have been out of the office since Thursday morning, so I just received this request. As soon as I have had a chance to look at your instructions, I'll let you know if I have any questions.

When do you need this by?

Lonnie

Madelon J. Lief
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

madelon.lief@legis.state.wi.us
608-267-7380

-----Original Message-----

From: Forster, Helen
Sent: Thursday, February 17, 2000 4:30 PM
To: Lief, Madelon
Subject: drafting instructions - please

Lonnie,

I would like a redraft of Assembly Joint Resolution 77 from the 1993-94 Legislature -- with Assembly Amendment 6 included. A A 6 just changes the nomenclature from district schools to

school districts - and may have to be applied to line 2, page 2 - as well.

I am assuming the the language in AA 6 is the current language of choice!!

If you are not the drafter for this, would you please pass this request on?

Thanks, as usual, for the help.

hf

Helen Forster, *Office of Representative Shirley Krug*

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From: Lief, Madelon
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I am assuming the the language in AA 6 is the current language of choice!!

If you are not the drafter for this, would you please pass this request on?

Thanks, as usual, for the help.

hf

Helen Forster, *Office of Representative Shirley Krug*

1993 ASSEMBLY JOINT RESOLUTION 77

August 19, 1993 - Introduced by Representatives KRUG, KUNICKI, FOTI, WILDER, NOTESTEIN, MUSSER, POTTER, SPRINGER, CARPENTER, BOYLE, BOCK, BALDUS, PLACHE, RILEY, MORRIS-TATUM, CULLEN, TURNER and ROBSON, co-sponsored by Senators SCHULTZ, CLAUSING, JAUCH, HELBACH, BRESKE, BURKE and WINEKE. Referred to Committee on Ways and Means.

- 1 To amend so as in effect to repeal sections 4 and 5 of article X; and to
2 amend section 3 of article X of the constitution, relating to adequate
3 funding of public schools to provide equal educational opportunities
4 in all district schools (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1993 legislature on "first consideration", requires the legislature to "provide by law for adequate funding for the district schools. Any formula to allocate state funding to the district schools shall seek to assure that the educational opportunities in all district schools are as nearly equal as possible, taking into account the taxable wealth available for support of each district school and the particular educational needs of the pupils in each district school".

The proposal deletes from the constitution, but this does not affect the corresponding statutes, the provisions requiring: 1) the imposition of a local property tax for public school operations; and 2) distribution of the income from the school fund.

In addition to the substantive change, this joint resolution also breaks sec. 3 of art. X into subsections to facilitate future amendment and to avoid conflict with other proposed amendments of that section which may be considered by this legislature.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

5 Resolved by the assembly, the senate concurring, That:

6 SECTION 1. Section 3 of article X of the constitution is amended to
7 read:

1 [Article X] Section 3 (1) The legislature shall provide by law for
2 the establishment of district schools, which shall be as nearly uniform as
3 practicable, and such schools shall be free and without charge for tuition
4 to all children between the ages of persons from 4 and to 20 years; and no
5 of age.

6 (2) The legislature shall provide by law for adequate funding for the
7 district schools. Any formula to allocate state funding to the ~~district~~
8 schools shall seek to assure that the educational opportunities in all
9 district schools are as nearly equal as possible, taking into account the
10 taxable wealth available for support of each district school and the par-
11 ticular educational needs of the pupils in each district school.

12 (3) There may not be any sectarian instruction shall be allowed
13 therein; in the district schools but the legislature by law may, for the
14 purpose of religious instruction outside the district schools, the legis-
15 lature may by law authorize the release of students pupils during regular
16 school hours.

17 SECTION 2. Sections 4 and 5 of article X of the constitution are
18 amended so as in effect to repeal said sections:

19 [Article X] Section 4. Each town and city shall be required to raise
20 by tax, annually, for the support of common schools therein, a sum not
21 less than one-half the amount received by such town or city respectively
22 for school purposes from the income of the school fund.

23 Section 5. Provision shall be made by law for the distribution of the
24 income of the school fund among the several towns and cities of the state
25 for the support of common schools therein, in some just proportion to the
26 number of children and youth resident therein between the ages of four and
27 twenty years, and no appropriation shall be made from the school fund to
28 any city or town for the year in which said city or town shall fail to

1 ~~raise such tax; nor to any school district for the year in which a school~~
2 ~~shall not be maintained at least three months.~~

3 Be it further resolved, That this proposed amendment be referred to
4 the legislature to be chosen at the next general election and that it be
5 published for 3 months previous to the time of holding such election.

6 (End)

02/24/94

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa3262/1dn
HRT:skg:...

Prepared for:

Rep. Shirley Krug

I did not replace the reference to "district school" on page 2, line 11, of AJR-77. In that case, the text deals with the needs of individual pupils and the school building in which the pupils are educated.

Dr. H. Rupert Theobald
Chief, Leg. Reference Bureau
266-3561

1995 ASSEMBLY JOINT RESOLUTION

1 **To amend** section 3 of article X of the constitution; **relating to:** adequate funding
2 of public schools and providing that educational opportunities in all district
3 schools must be as nearly equal as possible (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1995 legislature on first consideration, requires the legislature to provide by law for adequate funding for the district schools. All formulas that allocate state funds to the district schools shall be designed to ensure that the educational opportunities in all district schools are as nearly equal as possible, taking into account the capacity of each district school to raise revenue and the educational needs of the pupils in each district school.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

4 ***Resolved by the assembly, the senate concurring, That:***

5 **SECTION 1.** Section 3 of article X of the constitution is amended to read:

6 [Article X] Section 3. The legislature shall provide by law for the establishment
7 of district schools, which shall be as nearly uniform as practicable; and such schools
8 shall be free and without charge for tuition to all children between the ages of 4 and
9 20 years; and no sectarian instruction shall be allowed therein; but the legislature
10 by law may, for the purpose of religious instruction outside the district schools,
11 authorize the release of students during regular school hours. The legislature shall

1 provide by law for adequate funding for the district schools. All formulas under
2 which state funds are allocated to those schools shall be designed to ensure that the
3 educational opportunities in all of those schools are as nearly equal as possible,
4 taking into account each school's capacity to raise revenue and the educational needs
5 of each school's pupils.

6 *Be it further resolved, That* this proposed amendment be referred to the
7 legislature to be chosen at the next general election and that it be published for 3
8 months previous to the time of holding such election.

9 (END)

SOON

1993 ASSEMBLY JOINT RESOLUTION *LR*

August 19, 1993 - Introduced by Representatives KRUG, KUNICKI, FOTI, WILDER, NOTESTEIN, MUSSER, POTTER, SPRINGER, CARPENTER, BOYLE, BOCK, BALDUS, PLACHE, RILEY, MORRIS TATUM, CULLEN, TURNER and ROBSON, co-sponsored by Senators SCHULTZ, CLAUSING, JAUCH, HELBACH, BRESKE, BURKE and WINEKE. Referred to Committee on Ways and Means.

that as of 1993

and providing

- 1 To amend so as in effect to repeal sections 4 and 5 of article X; and to
- 2 amend section 3 of article X of the constitution, relating to adequate
- 3 funding of public schools, to provide equal educational opportunities
- 4 in all district schools, (first consideration).

be designed to

All formulas that

Analysis by the Legislative Reference Bureau

1995

This constitutional amendment, proposed to the legislature on first consideration, requires the legislature to provide by law for adequately fund for the district schools. Any formula to allocate state funds to the district schools shall seek to assure that the educational opportunities in all district schools are as nearly equal as possible, taking into account the taxable wealth available for support of each district school and the particular educational needs of the pupils in each district school.

funds

tax base

The proposal deletes from the constitution, but this does not affect the corresponding statutes, the provisions requiring the imposition of a local property tax for public school operations and distribution of the income from the school fund.

In addition to the substantive change, this joint resolution also breaks sec. 3 of art. X into subsections to facilitate future amendment and to avoid conflict with other proposed amendments of that section which may be considered by this legislature.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

No changes to this paragraph

- 5 Resolved by the assembly, the senate concurring, That:
- 6 SECTION 1. Section 3 of article X of the constitution is amended to
- 7 read:

persons *plans*

1 [Article X] Section 3 (1) The legislature shall provide by law for
2 the establishment of district schools, which shall be as nearly uniform as
3 practicable; and such schools shall be free and without charge for tuition
4 to all children between the ages of persons from 4 and 20 years; and no
5 of age.

6 (2) The legislature shall provide by law for adequate funding for the
7 district schools. Any formula to allocate state funding to the district
8 schools shall seek to assure that the educational opportunities in all
9 district schools are as nearly equal as possible, taking into account the
10 taxable wealth available for support of each district school and the par-
11 ticular educational needs of the pupils in each district school.

12 (3) There may not be any sectarian instruction shall be allowed
13 therein, in the district schools but the legislature by law may, for the
14 purpose of religious instruction outside the district schools, the legis-
15 lature may by law authorize the release of students pupils during regular
16 school hours.

17 SECTION 2. Sections 4 and 5 of article X of the constitution are
18 amended so as in effect to repeal said sections:

19 [Article X] Section 4. ~~Each town and city shall be required to raise~~
20 ~~by tax, annually, for the support of common schools therein, a sum not~~
21 ~~less than one-half the amount received by such town or city respectively~~
22 ~~for school purposes from the income of the school fund.~~

23 Section 5. ~~Provision shall be made by law for the distribution of the~~
24 ~~income of the school fund among the several towns and cities of the state~~
25 ~~for the support of common schools therein, in some just proportion to the~~
26 ~~number of children and youth resident therein between the ages of four and~~
27 ~~twenty years, and no appropriation shall be made from the school fund to~~
28 ~~any city or town for the year in which said city or town shall fail to~~

IN SECT A

1 ~~raise such tax; nor to any school district for the year in which a school~~
2 ~~shall not be maintained at least three months.~~

3 Be it further resolved, That this proposed amendment be referred to
4 the legislature to be chosen at the next general election and that it be
5 published for 3 months previous to the time of ~~holding such~~ election.

6 (End)

stet
[Signature]

D-NOTE

This joint resolution is not identical to your
joint resolution from last session. We have simplified
it by eliminating changes that are not required
by the policy changes that you wish to effect,
and we have attempted to clarify its phrasing.

JJ & PJD

most of the

Section 3. INSERT A

[Article X]

~~Section 3, as amended April 1972~~ The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours. 1969 AR 97.

The legislature shall adequately fund the district schools. All formulas under which state funds are allocated to these schools shall be designed to ensure that the educational opportunities in all of these schools are as nearly equal as possible, taking into account ~~the~~ each school's tax base and the educational needs of each school's pupils.



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1995 ASSEMBLY JOINT RESOLUTION

1 **To amend** section 3 of article X of the constitution; **relating to:** adequate funding
2 of public schools and providing educational opportunities in all district schools
3 ~~that are~~ ^{must be} as nearly equal as possible (first consideration).
that

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1995 legislature on first consideration, requires the legislature to adequately fund the district schools. All formulas that allocate state funds to the district schools shall be designed to ensure that the educational opportunities in all district schools are as nearly equal as possible, taking into account the ~~tax base~~ ^{capacity} of each district school and the educational needs of the pupils in each district school. *to raise revenue*

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective. *funding for*

Resolved by the assembly, the senate concurring, That:

SECTION 1. Section 3 of article X of the constitution is amended to read:

[Article X] Section 3. The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, au-

SECTION 1

*provide b.
law to.*

funding for

1 authorize the release of students during regular school hours. The legislature shall ad-
 2 equately fund the district schools. All formulas under which state funds are allo-
 3 cated to those schools shall be designed to ensure that the educational opportunities
 4 in all of those schools are as nearly equal as possible, taking into account each school's
 5 tax base and the educational needs of each school's pupils.

Capacity to raise revenue

6 **Be it further resolved, That** this proposed amendment be referred to the leg-
 7 islature to be chosen at the next general election and that it be published for 3 months
 8 previous to the time of holding such election.

(END)

we restore the uniformity ref

D-NOTE

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3363/1dn
JS&PJD:skg;jlb

This joint resolution is not identical to your joint resolution from last session. We have simplified it by eliminating most of the changes that are not required by the policy changes that you wish to effect. For example, we have restored the uniformity requirement, which refers to more than equal opportunity, and the provision that specifies the use of the school fund. We also have attempted to clarify its phrasing.

Jack Stark
Assistant Chief Counsel
266-7291

Atty. Peter J. Dykman
LRB Acting Chief
266-7098

Dykman, Peter

From: Forster, Helen
Sent: Tuesday, February 29, 2000 9:38 AM
To: Dykman, Peter
Subject: RE: Rep. Krug's 1995 version of 1993 AJR 77

Peter, This is the draft we want done for this session (I think - as of now)
Thanks, hf

Helen Forster, *Office of Representative Shirley Krug*

-----Original Message-----

From: Dykman, Peter
Sent: Wednesday, February 23, 2000 3:03 PM
To: Rep. Krug; Forster, Helen; Rliven, Mark
Subject: Rep. Krug's 1995 version of 1993 AJR 77

<< File: 95-33631.pdf >> Here is Rep. Krug's introduced 1995 version of the subject of 1993 AJR 77. They differ. Which one do you want?



1999 ASSEMBLY JOINT RESOLUTION

1 **To amend** section 3 of article X of the constitution; **relating to:** adequate funding
2 of public school districts and allocation of state funds to public school districts
3 (first consideration).[✓]

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1999 legislature on first consideration, removes from the constitution the "uniformity provision" that requires public schools "to be as nearly uniform as practicable". The Wisconsin Supreme Court, in *Kukor v. Grover*, 148 Wis. 2d 469, 436 N.W. 2d 568 (1989), reaffirmed that the quoted provision is not clear, that the provision applies to the character of instruction of the public schools as opposed to the method of forming school districts, and that the provision does not require absolute uniformity of educational opportunities. The uniformity provision is replaced by one that requires the legislature to provide by law for adequate funding for public school districts and requires that all formulas under which state funds are allocated to public school districts shall be designed to ensure that the educational opportunities in all public school districts are as nearly equal as possible, taking into account the capacity of each school district to raise revenue and the educational needs of the pupils in each school district.

As a constitutional amendment, the proposal requires adoption by ^{plain → thru} 2/3 successive legislatures, and ratification by the people, before it can become effective.

4 **Resolved by the assembly, the senate concurring, That:**

1 SECTION 1. Section 3[✓] of article X[✓] of the constitution is amended to read:

2 [Article X][✓] Section 3. The legislature shall provide by law for the establishment
3 of district schools, ~~which shall be as nearly uniform as practicable~~; and such schools
4 shall be free and without charge for tuition to all children between the ages of 4 and
5 20 years; and no sectarian instruction shall be allowed therein; but the legislature
6 by law may, for the purpose of religious instruction outside the district schools,
7 authorize the release of students during regular school hours. The legislature shall
8 provide by law for adequate funding for school districts operating district schools.
9 All formulas under which state funds are allocated to school districts operating
10 district schools shall be designed to ensure that the educational opportunities in all
11 school districts operating district schools are[✓] as nearly equal as possible, taking into
12 account each school district's capacity to raise revenue and the educational needs of
13 each school district's pupils.

14 ***Be it further resolved, That*** this proposed amendment be referred to the
15 legislature to be chosen at the next general election and that it be published for 3
16 months previous to the time of holding such election.

17 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

sum

DN

LRB-4614/1
PJD:wlj:jf

PG 4

1999 ASSEMBLY JOINT RESOLUTION

1 **To amend** ^{Reger} section 3 of article X of the constitution; **relating to:** adequate funding
2 of public school districts and ~~allocation~~ ^{distribution} of state funds to public school districts
3 (first consideration). ^{determined}

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1999 legislature on first consideration, removes from the constitution the "uniformity provision" that requires public schools "to be as nearly uniform as practicable". The Wisconsin supreme court, in *Kukor v. Grover*, 148 Wis. 2d 469 ~~136 N.W.2d 569~~ (1989), ~~reaffirmed that the quoted provision is not clear, that the provision applies to the character of instruction of the public schools as opposed to the method of forming school districts, and that the provision does not require absolute uniformity of educational opportunities.~~ The uniformity provision is replaced by one that requires the legislature to provide by law for adequate funding for public school districts and requires that all ~~formulas under which~~ state funds ~~are allocated~~ to public school districts ~~shall be designed~~ to ensure that the educational opportunities in all public school districts are as nearly equal as possible, taking into account the capacity of each school district to raise revenue and the educational needs of the pupils in each school district.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

4 **Resolved by the assembly, the senate concurring, That:**

distributed
50 25

JA
A

distributed

1 SECTION 1. Section 3 of article X of the constitution is amended to read:

2 [Article X] Section 3. The legislature shall provide by law for the establishment
3 of district schools, ~~which shall be as nearly uniform as practicable~~; and such schools
4 shall be free and without charge for tuition to all children between the ages of 4 and
5 20 years; and no sectarian instruction shall be allowed therein; but the legislature
6 by law may, for the purpose of religious instruction outside the district schools,
7 authorize the release of students during regular school hours. The legislature shall
8 provide by law for adequate funding for school districts operating district schools.

9 All ~~Articles under which~~ state funds ^{distributed} ~~are allocated~~ to school districts operating
10 district schools shall be ~~designed~~ ^{distributed so as to} ensure that the educational opportunities in all
11 school districts operating district schools are as nearly equal as possible, taking into
12 account each school district's capacity to raise revenue and the educational needs of
13 each school district's pupils.

14 *Be it further resolved, That* this proposed amendment be referred to the
15 legislature to be chosen at the next general election and that it be published for 3
16 months previous to the time of holding such election.

17 (END)

(A)

~~The court decided that the provision~~
~~and requires that state ^{funding} be~~
sufficient to ^{ensure} ~~ensure~~ that all
school districts are able to meet
minimum standards specified by statute.

¶ This ~~court~~ amendment eliminates
the uniformity provisions ~~with the~~
~~The~~ amendment instead

DU

Representative Krug:
= For the reasons =

~~As I~~ discussed with Helen Foster, this
redraft leaves the uniformity provision

stricken and ~~also~~ eliminates the

use of the term "formulas" from the

new language. It ~~briefly describe~~ the

Briefly here are the reasons:

1. According to ^①Kutner, the uniformity

provision merely requires that state

funding be sufficient to ensure that all

school districts are able to meet the minimum

s. 121.02 ✓

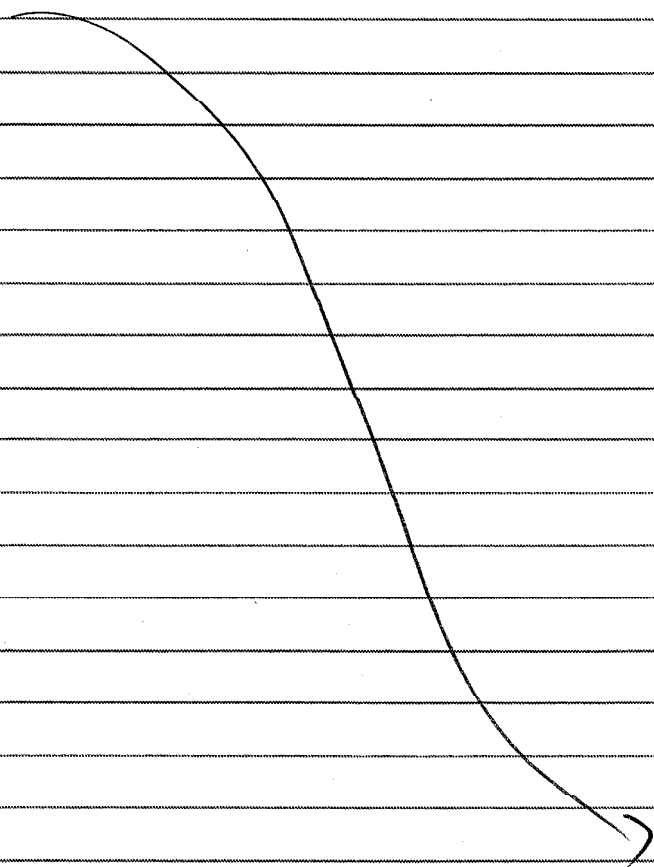
standards specified in s. 121.02, stat. ②

The new language requires that ~~each~~ state

funds be distributed so as to ensure that

educational opportunities in all school

districts ^{are} as ^{nearly} equal as
possible. I think that ^{this} latter language
~~substantially~~ ~~the~~ ~~uniformity~~ ~~provision~~
~~renders~~ ~~the~~ ~~uniformity~~ ~~provision~~ ~~surplusage~~



all school districts can meet the minimum standards in s. 121.02, stat.

The new language ^{however,} requires educational opportunities be as nearly equal as possible. I believe that this

language renders the uniformity provision surplusage. ~~If it is not~~

~~surplusage, however,~~ ^(with) A court faced with the uniformity provision the task of reconciling ~~it~~ with the new language ^{however,} would ~~not~~ draw that conclusion. It ~~must~~ would

^{! have} have to assume that the ^{provision} still has ~~relevant~~

meaning ^{or} the ^{legislature} legislature would have

deleted it. ~~but~~ The court ~~could~~ might be forced to conclude ~~well determined~~ that ~~the~~ its meaning had changed;

otherwise, why would the legislature have

Therefore,
retained it? Unless you are willing
to allow the ^{Court} court to ^{devise} devise a
new meaning for the uniformity
provision, I ~~would~~ recommend
deleting it.

~~I deleted the term formulas~~

¶ 2. Instead of requiring that ^{all} all
formulas under which state funds ^{are} are
allocated ^{to} to school districts ... be ~~so~~
designed to ensure ^{all} equal educational
opportunities, this redraft requires that
"all state funds distributed to school
districts ... be distributed ~~so~~ as to
ensure" equal educational opportunities.

Drafted

1 This way, the court will not have
an opportunity to determine which

state ^{funds} are distributed via
formula. All state ^{funds}, whether they
are distributed as general
~~under the~~ equalization ^{aid} or as
categorical ^{aid}, are included. If
you want the ~~the~~ amendment to apply
only to the general equalization formula,
let me know ^{and} I'll redraft.

Finally, you may wish to consider
eliminating the first sentence of the
new language, relating to "adequate
funding". Given the "equal educational
opportunity" requirement in the ^{second} ~~second~~
sentence, I'm not sure whether the
adequate funding requirement accomplishes
anything. ~~If the state must ensure~~

that state funds are distributed ~~to~~
so as to ensure equal educational
opportunities

Not In other words, if the equal
educational opportunity requirement
means that the state must provide
funds sufficient to ensure that
students in the poorest school district
have the same educational opportunities
as students in the wealthiest school
district, it seems unnecessary to
add that funding be "adequate."

Perhaps it ^{would} be better to
combine the ^{two} ideas ^{into} one sentence,
for example, "The legislature shall provide
by law for funding school districts operating

No. 1 district schools sufficient to ensure
that the educational opportunities in
all school districts operating district
schools are as nearly equal as
possible.

If you have questions or need
more information, please let me know.

PLS.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4614/2dn
PG:wlj:km

March 6, 2000

Representative Krug:

For the reasons I discussed with Helen Forster, this redraft leaves the uniformity provision stricken and eliminates the use of the term "formulas" from the new language. Briefly, here are the reasons:

1. According to *Kukor*, the uniformity provision merely requires that state funding be sufficient to ensure that all school districts are able to meet the minimum standards specified in s. 121.02, stats. The new language requires that state funds be distributed so as to ensure that educational opportunities in all school districts are as nearly equal as possible. I think that this language renders the uniformity provision surplusage. A court faced with the task of reconciling the uniformity provision with the new language, however, would not be able to draw that conclusion. It would have to assume that the provision still has meaning or the legislature would have deleted it. The court might be forced to conclude that its meaning had changed; otherwise, why would the legislature have retained it? Therefore, unless you are willing to allow the court to devise a new meaning for the uniformity provision, I recommend deleting it.

2. Instead of requiring that "all formulas under which state funds are allocated to school districts ... be designed to ensure" equal educational opportunities, this redraft requires that "all state funds distributed to school districts ... be distributed as to ensure" equal educational opportunities. Drafted this way, the court will not have an opportunity to determine which state funds are distributed via formula. All state funds, whether they are distributed as general equalization aid or as categorical aid, are included. If you want the amendment to apply only to the general equalization formula, let me know and I'll redraft.

Finally, you may wish to consider eliminating the first sentence of the new language, relating to "adequate funding." Given the "equal educational opportunity" requirement in the second sentence, I'm not sure whether the adequate funding requirement accomplishes anything. In other words, if the equal educational opportunity requirement means that the state must provide funds sufficient to ensure that students in the poorest school district have the same educational opportunities as students in the wealthiest school district, it seems unnecessary to add that funding be "adequate." Perhaps it would be better to combine the two ideas into one sentence, for example, "The legislature shall provide by law for funding school districts operating district schools sufficient to ensure that the educational opportunities in all school districts operating district schools are as nearly equal as possible"

If you have questions or need more information, please let me know.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: Peter.Grant@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4614/2
PG&PJD:wlj:km

3

1999 ASSEMBLY JOINT RESOLUTION

- 1 **To amend** section 3 of article X of the constitution; **relating to:** ~~adequate funding~~
2 ~~of public school districts and~~ ^{the} distribution of state funds to public school districts
3 (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1999 legislature on first consideration, removes from the constitution the "uniformity provision" that requires public schools "to be as nearly uniform as practicable". The Wisconsin supreme court, in *Kukor v. Grover*, 148 Wis. 2nd 469 (1989), determined that the provision applies to the character of instruction of the public schools and requires that state funding be sufficient to ensure that all school districts are able to meet minimum standards specified by statute.

This amendment eliminates the uniformity provision. The amendment instead ~~requires the legislature to provide by law for adequate funding for public school districts and~~ requires that all state funds distributed to public school districts be distributed so as to ensure that the educational opportunities in all public school districts are as nearly equal as possible, taking into account the capacity of each school district to raise revenue and the educational needs of the pupils in each school district.

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

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- 4 **Resolved by the assembly, the senate concurring, That:**

1 **SECTION 1.** Section 3 of article X of the constitution is amended to read:

2 [Article X] Section 3. The legislature shall provide by law for the establishment
3 of district schools, ~~which shall be as nearly uniform as practicable~~; and such schools
4 shall be free and without charge for tuition to all children between the ages of 4 and
5 20 years; and no sectarian instruction shall be allowed therein; but the legislature
6 by law may, for the purpose of religious instruction outside the district schools,
7 authorize the release of students during regular school hours. ~~The legislature shall~~
8 ~~provide by law for adequate funding for school districts operating district schools.~~
9 All state funds distributed to school districts operating district schools shall be
10 distributed so as to ensure that the educational opportunities in all school districts
11 operating district schools are as nearly equal as possible, taking into account each
12 school district's capacity to raise revenue and the educational needs of each school
13 district's pupils.

14 *Be it further resolved, That* this proposed amendment be referred to the
15 legislature to be chosen at the next general election and that it be published for 3
16 months previous to the time of holding such election.

17

(END)