

**2001 DRAFTING REQUEST**

**Bill**

Received: 05/11/2001

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Gregg Underhelm (608) 266-2254

By/Representing: dagny

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: **TEACH program**

Extra Copies: **PG**

Submit via email: NO

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Use of educational telecommunications access program grants

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**Instructions:**

See Attached

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**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>
/?	mlief 05/15/2001	hhagen 05/15/2001		_____			State
/1			pgreensl 05/15/2001	_____	lrb_docadmin 05/15/2001		State
/2		hhagen 05/24/2001	kfollet 05/16/2001	_____	lrb_docadmin 05/16/2001		State
/3			pgreensl 05/24/2001	_____	lrb_docadmin 05/24/2001		State
/4	mlief 06/06/2001	hhagen 06/06/2001	jfrantze 06/06/2001	_____	lrb_docadmin 06/06/2001	lrb_docadmin 08/17/2001 lrb_docadmin 08/17/2001	

FE Sent For:

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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14hnh  
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pgreensl \_\_\_\_\_      lrb\_docadmin  
05/24/2001 \_\_\_\_\_      05/24/2001

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Subject: TEACH program

Extra Copies: PG

Submit via email: NO

Requester's email:

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Instructions:

See Attached

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/2			kfollet 05/16/2001	<u>5/24</u> <u>PG</u>	lrb_docadmin 05/16/2001		

13hmk  
5/24/01

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/1			pgreensl 05/15/2001		lrb_docadmin 05/15/2001		

*Kyl*  
5/16  
*Kyl/RS*  
5/16

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1?	mlief	lhmk 5/15/01	5/15 108	5/15 setb			

FE Sent For:

<END>

## Lief, Madelon

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**From:** Grant, Peter  
**Sent:** Thursday, May 10, 2001 11:46 AM  
**To:** Lief, Madelon  
**Subject:** FW: Legislation for Rep. Underheim  
**Importance:** High

FYI. I called Dagny and informed her that you were on the case.

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

**From:** Coe, Dagny  
**Sent:** Thursday, May 10, 2001 11:37 AM  
**To:** Grant, Peter  
**Cc:** Rep.Underheim; Lonergan, Sandra; Radloff, Gary  
**Subject:** Legislation for Rep. Underheim  
**Importance:** High

Hi Peter,  
I am following up on a phone call I just made to you, having left a voice mail message.

Rep. Underheim would like to have drafted a bill that would state that the TEACH money cannot be used for religious purposes.

On Friday, April 27, 2001 the U.S. Seventh Circuit Court of Appeals decided that the statute governing of the TEACH existing grant program did not effectively guarantee that the aid derived from public funds would be used exclusively for secular, neutral or non-ideological purposes. Therefore, the Court held that TEACH's existing grant program impermissibly and unconstitutionally provided a direct subsidy to participating religious schools without legislative restrictions on the use of the grants funds. (The original argument from the Freedom from Religion v. Bugher case).

Therefore, the representative wants to assure that the money will still be available for religious schools with the assurance that the TEACH money cannot be used for religious purposes.

Please call to confirm you received this email. Rep. Underheim or I will be glad to address any questions that you may have concerning this request.

Thank you in advance for your consideration.

Dagny  
Legislative Aide



2001 BILL

Due 5/17

D-N

Generate

Currently, a statute

1  
2

AN ACT ...; relating to: use of educational telecommunications access program grants.

**Analysis by the Legislative Reference Bureau**

MY

Current law authorizes the technology for educational achievement in Wisconsin (TEACH) board to award educational telecommunications access grants to private schools, including sectarian schools, that had in effect in 1997 contracts for access to a data lines or video links. In a decision issued on April 27, 2001 (*Freedom from Religion Foundation, Inc. v. Mark D. Bugher*, No. 99-2850), the United States Court of Appeals for the Seventh Circuit affirmed a district court decision that held that awarding these grants to sectarian schools violated the Establishment Clause of the United States and Wisconsin constitutions because the provision of direct aid to sectarian schools has the principal effect of advancing religion. More specifically, the Seventh Circuit noted that the grant program was unconstitutional because there were no statutory probations or administrative enforcements to ensure that the grants were not used for religious purposes.

This bill authorizes the TEACH board to award an educational telecommunications access grant to a sectarian school only if the board audits the school to ensure that the school does not use the grant moneys for religious purposes.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

**BILL**

1           SECTION 1. 44.73 (6) of the statutes is amended to read:

2           44.73 (6) From the appropriation under s. 20.275 (1) (s) or (tm), the board may  
3 award an annual grant to a school district or private school that had in effect on  
4 October 14, 1997, a contract for access to a data line or video link, as documented by  
5 the board. The board shall determine the amount of the grant, which shall be equal  
6 to the cost incurred by the state to provide telecommunications access to a school  
7 district or private school under a contract entered into under s. 16.974 (7) (a) or (c)  
8 less the amount that the school district or private school would be paying under sub.  
9 (2) (d) if the school district or private school were participating in the program  
10 established under sub. (1), except that the amount may not be greater than the cost  
11 that a school district or private school incurs under the contract in effect on  
12 October 14, 1997. A school district or private school receiving a grant under this  
13 subsection is not eligible to participate in the program under sub. (1). The board may  
14 award a grant under this subsection to a sectarian school only if the board audits the  
15 school during each year that the school receives the grant to ensure that the school  
16 does not use the grant moneys for religious purposes. No grant may be awarded  
17 under this subsection after June 30, 2002.

18           History: 1999 a. 9 ss. 2318, 2323 to 2329.

(END)

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

LRB-3297/1dn  
MJL:pmh

*Dab*

Note that to address the concern the state enforce the prohibition against using TEACH grants for religious purposes, this bill requires the TEACH board to audit sectarian schools. A potential drawback to this approach is that when a court examines state action to determine if it violates the Establishment Clause, it looks to see if the statute in question creates "excessive entanglement between government and religion." It is possible that a court would find that an annual audit creates such an entanglement, even though both the district court and Seventh Circuit in the *Freedom from Religion* case held that the TEACH direct grant program was unconstitutional because there was no statutory prohibition against religious use of the grants *and* no way to enforce such a prohibition.

Another option would be to require the state to hire an independent auditor to assure compliance. This approach may require an increase in a TEACH appropriation to pay the cost of the annual audits.

Please let me know if you have any questions.

Madelon J. Lief  
Legislative Attorney  
Phone: (608) 267-7380

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

LRB-3292/1dn  
MJL:hmh:pg

May 15, 2001

Note that to address the concern the state enforce the prohibition against using TEACH grants for religious purposes, this bill requires the TEACH board to audit sectarian schools. A potential drawback to this approach is that when a court examines state action to determine if it violates the Establishment Clause, it looks to see if the statute in question creates "excessive entanglement between government and religion." It is possible that a court would find that an annual audit creates such an entanglement, even though both the district court and Seventh Circuit in the *Freedom from Religion* case held that the TEACH direct grant program was unconstitutional because there was no statutory prohibition against religious use of the grants *and* no way to enforce such a prohibition.

Another option would be to require the state to hire an independent auditor to assure compliance. This approach may require an increase in a TEACH appropriation to pay the cost of the annual audits.

Please let me know if you have any questions.

Madelon J. Lief  
Legislative Attorney  
Phone: (608) 267-7380



## 2001 BILL

1     **AN ACT to amend** 44.73 (6) of the statutes; **relating to:** use of educational  
2           telecommunications access program grants.

---

### *Analysis by the Legislative Reference Bureau*

X     Currently, a statute authorizes the technology for educational achievement in Wisconsin (TEACH) board to award educational telecommunications access grants to private schools, including sectarian schools, that had in effect in 1997 contracts for access to a data lines or video links. In a decision issued on April 27, 2001 (*Freedom from Religion Foundation, Inc. v. Mark D. Bugher*, No. 99-2850), the United States court of appeals for the Seventh Circuit affirmed a district court decision that held that awarding these grants to sectarian schools violated the Establishment Clause of the United States and Wisconsin constitutions because the provision of direct aid to sectarian schools has the principal effect of advancing religion. More specifically, the Seventh Circuit noted that the grant program was unconstitutional because there were no statutory probations or administrative enforcements to ensure that the grants were not used for religious purposes.

This bill authorizes the TEACH board to award an educational telecommunications access grant to a sectarian school only if the board audits the school to ensure that the school does not use the grant moneys for religious purposes.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***





Date

D-N

329<sup>2</sup> / 2

MJL:hml

This redraft simply makes a  
technical correction to the analysis.

MJL

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

LRB-3292/2dn  
MJL:hmh:kjf

May 16, 2001

This redraft simply makes a technical correction to the analysis.

Madelon J. Lief  
Legislative Attorney  
Phone: (608) 267-7380

## Lief, Madelon

**From:** Coe, Dagny  
**Sent:** Wednesday, May 16, 2001 2:48 PM  
**To:** Lief, Madelon  
**Subject:** TEACH funding

**Importance:** High

Hi Lonnie,

Thank you for the draft! It is appreciated. Rep. Underheim would like another draft with the wording that was sent over the day before yesterday. It is:

Attached are the suggested wording changes to the Existing Grant Program proposed amendment (Section 44.73(6), Stats.

### **PROPOSED AMENDMENT TO SECTION 44.73(6), STATS.:**

Section 44.73(6) is amended to read as follows:

(6) (a) From the appropriation under s. 20.275(1)(s) or (tm), the board may award an annual grant to a school district or private school that had in effect on October 14, 1997, a contract for access to a data line or video link, as documented by the board. The board shall determine the amount of the grant, which shall be equal to the cost incurred by the state to provide telecommunications access to a school district or private school under a contract entered into under s. 16.974(7)(a) or (c) less the amount that the school district or private school would be paying under sub. (2)(d) if the school district or private school were participating in the program established under sub. (1), except that the amount may not be greater than the cost that a school district or private school incurs under the contract in effect on October 14, 1997. A school district or private school receiving a grant under this subsection is not eligible to participate in the program under sub. (1). No grant may be awarded under this subsection after June 30, 2002.

(b) A school district or private school shall not use grant funds awarded under this subsection for any religious or anti-religious purpose.

(c) No later than 90 days after expenditure of all funds awarded under this subsection, a school district or private school shall submit documentation to the board detailing the specific purpose to which the funds were used.

TC w/Dagny - Told her draft already done  
but would redraft it, after reviewing draft  
& discussing my concerns, Rep Under still  
wanted the lg.

- anti-rel - problematic term

- could get around problem by  
not spending all the \$

- Dagny said she would get back  
to me. I also proposed alt;  
make checks payable to tel acc provider



Stays

2001 BILL

TODAY

D-N

a school district of private school from ~~USIA~~ USIA

Regenerate

prohibits

1 AN ACT to amend 44.73 (6) of the statutes; relating to use of educational  
2 telecommunications access program grants.

**Analysis by the Legislative Reference Bureau**

Currently, a statute authorizes the technology for educational achievement in Wisconsin (TEACH) board to award educational telecommunications access grants to private schools, including sectarian schools, that had in effect in 1997 contracts for access to a data lines or video links. In a decision issued on April 27, 2001 (*Freedom from Religion Foundation, Inc. v. Mark D. Bugher*, No. 99-2850), the United States Court of Appeals for the Seventh Circuit affirmed a district court decision that held that awarding these grants to sectarian schools violated the Establishment Clause of the United States and Wisconsin constitutions because the provision of direct aid to sectarian schools has the principal effect of advancing religion. More specifically, the Seventh Circuit noted that the grant program was unconstitutional because there were no statutory probations or administrative enforcements to ensure that the grants were not used for religious purposes.

This bill ~~authorizes the TEACH board to award~~ an educational telecommunications access grant to a sectarian school only if the board audits the school to ensure that the school does not use the grant moneys for religious purposes.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

for any religious or anti-religious purpose. The bill also requires ~~the~~ a grant recipient to submit documentation to the TEACH board detailing the specific purpose for which the funds were used within 90 days of expending the grant money.

BILL

renumbered 44.73 (6)(a)

SECTION 1. 44.73 (6) of the statutes is ~~amended to read~~

44.73 (6) From the appropriation under s. 20.275 (1) (s) or (tm), the board may award an annual grant to a school district or private school that had in effect on October 14, 1997, a contract for access to a data line or video link, as documented by the board. The board shall determine the amount of the grant, which shall be equal to the cost incurred by the state to provide telecommunications access to a school district or private school under a contract entered into under s. 16.974 (7) (a) or (c) less the amount that the school district or private school would be paying under sub. (2) (d) if the school district or private school were participating in the program established under sub. (1), except that the amount may not be greater than the cost that a school district or private school incurs under the contract in effect on October 14, 1997. A school district or private school receiving a grant under this subsection is not eligible to participate in the program under sub. (1). The board may award a grant under this subsection to a sectarian school only if the board audits the school during each year that the school receives the grant to ensure that the school does not use the grant moneys for religious purposes. No grant may be awarded under this subsection after June 30, 2002.

(END)

18

CR 44.73(6)(b)

44.73(6)(b) A school district or private school may not use funds awarded under this subsection for any religious or anti-religious purpose.

CR 44.73(6)(c)

44.73(6)(c) No later than 90 days after expenditure of all funds awarded under this subsection, a school district or private school shall submit documentation to the board detailing the specific purpose for which the funds were used.

Representative

Date

3293/3

MSL: hmbi

Underheim:

¶ This draft <sup>includes</sup> the proposed language from the ~~the~~ attorney general's office that I did not have available at the time that I was preparing the first draft of the bill. ~~the~~

¶ Please note <sup>the</sup> the following concerns:

¶ 1) The attorney general's language <sup>prohibits</sup> prohibits school districts from using ~~grant~~ grant money for <sup>religious</sup> religious purposes. Because public schools may not ~~not~~ constitutionally <sup>promote</sup> promote <sup>religious</sup> religious activity, I think this prohibition is unnecessary.

¶ 2) The ~~the~~ district <sup>court</sup> court and <sup>court</sup> court of appeals <sup>decisions</sup> decisions on the telecommunications access program ~~not~~ use only the term "religious," not "anti-religious." By prohibiting use of the funds for any

<sup>purpose</sup>  
"anti-religious" ~~ambiguity~~ the bill introduces  
<sup>ambiguous</sup>  
<sup>ambitious</sup> an <sup>term</sup> that <sup>may</sup> <sup>invite</sup> additional litigation.

~~THESE PROVISIONS~~

¶ 3) The documentation requirement is problematic as <sup>worded</sup> worded because it requires a school to <sup>report</sup> report no <sup>later</sup> later than 90 days after it <sup>expends</sup> expends the grant <sup>money</sup> money. If a school wished to avoid reporting to the board, it could simply not spend all the funds. I would recommend <sup>not</sup> ~~not~~ ~~using the reporting~~ using the expenditure of all funds as the "trigger" but instead <sup>picking</sup> picking a specific ~~the~~ date each year by which the report <sup>must</sup> must be <sup>submitted</sup> submitted.

¶ Please let me know if you have any questions.

~~As I discuss~~ ~~with~~ ~~Dagny~~ an alternative <sup>approach</sup> approach, namely to

require the TEACH board to ~~send the~~  
~~grant money~~ ~~to~~ make the grant  
payable <sup>payable</sup> to the telecommunications access  
provider. This approach ~~is~~ is similar  
to the ~~proposal~~ payment method under  
the Milwaukee parental choice program; the  
check <sup>check</sup> is made payable to the ~~parents~~  
parents of children attending <sup>the</sup> private  
schools.

~~PP~~ If you have any <sup>questions</sup> or  
would like <sup>like</sup> the bill redrafted to  
incorporate this <sup>alternative</sup> approach,  
please let me know.

MSC



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

LRB-3292/3dn  
MJL:hmh:pg

May 24, 2001

Representative Underheim:

This draft includes the proposed language from the attorney general's office that I did not have available at the time that I was preparing the first draft of the bill.

Please note the following concerns:

- 1) The attorney general's language prohibits school districts from using grant money for religious purposes. Because public schools may not constitutionally promote religious activity, I think this prohibition is unnecessary.
- 2) The district court and court of appeals decisions on the telecommunications access program use only the term "religious," not "anti-religious." By prohibiting use of the funds for any "anti-religious" purpose, the bill introduces an ambiguous term that may invite additional litigation.
- 3) The documentation requirement is problematic as worded because it requires a school to report no later than 90 days after it expends the grant money. If a school wishes to avoid reporting to the board, it could simply not spend all the funds. I would recommend not using the expenditure of all funds as the "trigger" but instead picking a specific date each year by which the report must be submitted.

I discussed with Dagny an alternative approach, namely to require the TEACH board to make the grant payable to the telecommunications access provider. This approach is similar to the payment method under the Milwaukee Parental Choice Program; the check is made payable to the parents of children attending the private schools.

If you have any questions or would like the bill redrafted to incorporate this alternative approach, please let me know.

Madelon J. Lief  
Legislative Attorney  
Phone: (608) 267-7380

## Lief, Madelon

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**From:** Rep.Underheim  
**Sent:** Thursday, May 31, 2001 3:16 PM  
**To:** Lief, Madelon  
**Cc:** Coe, Dagny  
**Subject:** 4473(6)Amcnd1.doc

**Importance:** High



4473(6)Amend1\_.doc

Hello Attorney Lief,

Above is a proposed amendment to Section 44.73(6) that has been discussed and approved by Doris Hanson, Teach; Mark Saunders, DOA; and Bruce Olson, DOJ office; The remarks made by these individuals echoed your statements and concerns regarding TEACH. Thank you for your assistance.

I still want to offer this as a motion to the budget at the end of JCF deliberations when free standing motions are offered. I believe that will happen sometime next week. Is this doable?

If you have any questions or concerns, please don't hesitate to contact me or Dagny at 266-2254. Again, thank you for your work.

Sincerely,

Gregg Underheim  
State Representative  
54th Assembly District

**PROPOSED AMENDMENT TO SECTION 44.73(6), STATS.:**

Section 44.73(6) is amended to read as follows:

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(b) Funds awarded under this subsection shall be used for educational technology purposes, including making payments on existing telecommunications access contracts, purchasing hardware and software, providing training and education to teachers and staff, upgrading existing networks, and wiring school buildings. No funds awarded under this subsection to a private school shall be used for sectarian worship, instruction or proselytization.

(c) All private schools which receive funds under this subsection shall file an expenditure report by January 15 of the year following the year the funds are received. The expenditure report shall be on forms prepared and furnished by the board. Any funds used for sectarian worship, instruction or proselytization shall be repaid to the board, and the private school shall be denied further grant awards under this subsection.

(d) All private schools receiving funds under this subsection shall segregate those funds into a separate account, which shall be subject to audit.

MJL

PROPOSED AMENDMENT TO SECTION 44.73(6), STATS.:

Section 44.73(6) is amended to read as follows:

(6) (a) From the appropriation under s. 20.275(1)(s) or (tm), the board may award an annual grant to a school district or private school that had in effect on October 14, 1997, a contract for access to a data line or video link, as documented by the board. The board shall determine the amount of the grant, which shall be equal to the cost incurred by the state to provide telecommunications access to a school district or private school under a contract entered into under s. 16.974(7)(a) or (c) less the amount that the school district or private school would be paying under sub. (2)(d) if the school district or private school were participating in the program established under sub. (1), except that the amount may not be greater than the cost that a school district or private school incurs under the contract in effect on October 14, 1997. A school district or private school receiving a grant under this subsection is not eligible to participate in the program under sub. (1). No grant may be awarded under this subsection after June 30, 2002.

(b) A school district or private school shall not use grant funds awarded under this subsection for any religious or anti-religious purpose.

(c) No later than <sup>90</sup> ~~60~~ days after expenditure of all funds awarded under this subsection, a school district or private school shall submit documentation to the board detailing the specific purpose to which the funds were used.

5/23 Call to talk. Aide said he would call back tomorrow

→

~~###~~

Bruce Olsen, AG's office

TC 5/24

Retraction application

Bruce agrees this is problematic.

- TEACH -

Market Saunders / DOA

5/24 TC w/ Bruce Olsen  
→ 49.114(19) - also s46, (7)  
→ audit

- Will get back to me

+ info re retraction grants on 5/30 w/ approval

## Lief, Madelon

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**From:** Lief, Madelon  
**Sent:** Thursday, May 31, 2001 4:49 PM  
**To:** Rep.Underheim  
**Subject:** RE: TEACH

OK. You may wish to have the appropriate LFB analyst (I think that would be Layla Merrifield) talk to me before she drafts the motion for the joint finance committee. I would be happy to talk to her about the proposed language. (As you know, we are pretty much bound by the language in the finance motion.) If you decide that you would like to have an amendment drafted later on for the ARC, please let me know.

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

**From:** Rep.Underheim  
**Sent:** Thursday, May 31, 2001 4:38 PM  
**To:** Lief, Madelon  
**Subject:** TEACH  
**Importance:** High

Hi Lonnie,

I need to cancel the request. Thank you for your assistance. I will have fiscal bureau draft it as it is the right thing to do. Didn't mean to inconvenience you.

## Lief, Madelon

---

**From:** Coe, Dagny  
**Sent:** Thursday, May 31, 2001 4:50 PM  
**To:** Lief, Madelon  
**Subject:** TEACH AGAIN :-]

**Importance:** High

Hi Lonnie,

Gregg wants the TEACH language addressed as both a motion to the budget (which he will take care of) **AND** he wants it drafted as a separate bill in case it doesn't pass the muster in JCF. I am so sorry for the confusion. Gregg asked me to let you know ASAP.



2001 BILL

RM. num

Due  
Thursday,  
6/7

Regenerate

1 AN ACT *to renumber* 44.73 (6); and *to create* 44.73 (6) (b) and 44.73 (6) (c) of the  
2 statutes; **relating to:** use of educational telecommunications access program  
3 grants.

**Analysis by the Legislative Reference Bureau**

Currently, a statute authorizes the technology for educational achievement in Wisconsin (TEACH) board to award educational telecommunications access grants to private schools, including sectarian schools, that had in effect in 1997 contracts for access to @ data lines or video links. In a decision issued on April 27, 2001 (X) (*Freedom from Religion Foundation, Inc. v. Mark D. Bugher*, No. 99-2850), the United States Court of Appeals for the Seventh Circuit affirmed a district court decision that held that awarding these grants to sectarian schools violated the Establishment Clause of the United States and Wisconsin constitutions because the provision of direct aid to sectarian schools has the principal effect of advancing religion. More specifically, the Seventh Circuit noted that the grant program was unconstitutional because there were no statutory probations or administrative enforcements to ensure that the grants were not used for religious purposes.

~~This bill prohibits a school district or private school from using an educational telecommunications access grant for any religious or anti-religious purpose. The bill also requires a grant recipient to submit documentation to the TEACH board detailing the specific purpose for which the funds were used within 90 days of expending the grant moneys.~~

INS A

**BILL**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1        ~~SECTION 1. 44.73 (6) of the statutes is renumbered 44.73 (6) (a).~~
- 2        ~~SECTION 2. 44.73 (6) (b) of the statutes is created to read:~~
- 3            ~~44.73 (6) (b) A school district or private school may not use funds awarded~~
- 4 ~~under this subsection for any religious or anti-religious purpose.~~
- 5        ~~SECTION 3. 44.73 (6) (c) of the statutes is created to read:~~
- 6            ~~44.73 (6) (c) No later than 90 days after expenditure of all funds awarded under~~
- 7 ~~this subsection, a school district or private school shall submit documentation to the~~
- 8 ~~board detailing the specific purpose for which the funds were used.~~

(END)

JNS B



## 2001 BILL

1 AN ACT to renumber 44.73 (6); and to create 44.73 (6) (b), (c) and (d) of the  
2 statutes; relating to: use of educational telecommunications access program  
3 grants and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Currently, a statute authorizes the technology for educational achievement in Wisconsin (TEACH) board to award educational telecommunications access grants to private schools, including sectarian schools, that had in effect in 1997 contracts for access to data lines or video links. In a decision issued on April 27, 2001 (*Freedom from Religion Foundation, Inc. v. Mark D. Bugher*, No. 99-2850), the United States Court of Appeals for the Seventh Circuit affirmed a district court decision that held that awarding these grants to sectarian schools violated the Establishment Clause of the United States and Wisconsin constitutions because the provision of direct aid to sectarian schools has the principal effect of advancing religion. More specifically, the Seventh Circuit noted that the grant program was unconstitutional because there were no statutory probations or administrative enforcements to ensure that the grants were not used for religious purposes.

This bill provides that a recipient of an educational telecommunications access grant may use the grant moneys only for educational technology purposes and may not use grant moneys for sectarian worship, sectarian instruction, or proselytization. In addition, the bill requires each private school that receives a grant to file an annual expenditure report with the TEACH board and to segregate grant moneys in a separate account that is subject to state audit. Finally, the bill requires a private

JNSA

**BILL**

school that uses the grant moneys for a prohibited purpose to reimburse the TEACH board and provides that the private school is ineligible for additional educational telecommunication access grants.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 44.73 (6) of the statutes is renumbered 44.73 (6) (a).

**SECTION 2.** 44.73 (6) (b), (c) and (d) of the statutes are created to read:

**44.73 (6) (b)** A recipient of a grant awarded under this subsection may use grant moneys only for educational technology purposes, as defined by the board by rule. A recipient of a grant awarded under this subsection may not use grant moneys for sectarian worship, sectarian instruction, or proselytization.

(c) A private school that receives a grant under this subsection shall do all of the following:

1. File an expenditure report with the board by January 15 of the calendar year following the year the grant is awarded.

2. Segregate grant moneys received under this subsection in a separate account that the board or the legislative audit bureau may audit.

(d) If a private school uses grant moneys awarded under this subsection for any purpose prohibited under par. (b), the private school shall reimburse the board in an amount equal to the grant moneys expended for the prohibited purpose. A private school that uses grant moneys for a prohibited purpose is ineligible for additional grants under this subsection.

~~**SECTION 3. Nonstatutory provisions.**~~

END  
FWS A

FWS  
B



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

June 6, 2001

### MEMORANDUM

To: Representative Underheim

From: Madelon J. Lief, Legislative Attorney

Re: LRB-3292/4 Use of educational telecommunications access program grants

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~X~~ JACKET FOR ASSEMBLY \_\_\_\_\_ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7380 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

## Barman, Mike

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**From:** Radloff, Gary  
**Sent:** Monday, August 20, 2001 10:33 AM  
**To:** Barman, Mike  
**Subject:** Electronic versions of LRB 3292/4 and LRB 3392/1

Hello Mike:

I would like to request electronic versions of LRB 3292/4 and LRB 3392/1 for Rep. Underheim co-sponsorship memo.  
Thank you, Gary



## Barman, Mike

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**From:** Barman, Mike

**Sent:** Monday, August 20, 2001 10:41 AM

**To:** Rep.Underheim

**Subject:** LRB-3292/4 (attached) (requested by Gary)