## 2001 ASSEMBLY BILL 492

September 17, 2001 – Introduced by Representatives Underheim, McCormick, Wieckert, Jensen, Staskunas, Ainsworth, Duff, Sykora, Starzyk, Lippert, Krawczyk, M. Lehman, Petrowski, Ladwig, Miller, Ott, Vrakas and Jeskewitz, cosponsored by Senators Roessler and Huelsman. Referred to Committee on Education Reform.

AN ACT to renumber 44.73 (6); and to create 44.73 (6) (b), (c) and (d) of the statutes; relating to: use of educational 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 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

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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.

18 (END)