Dear Senator Johnson:

You ask whether the state may provide funds to a privately owned and operated institution of higher education. Article III, section 51, of the constitution prohibits the expenditure of funds for private purposes. A grant to a private university would be permissible if it served a public purpose and if adequate consideration flowed to the public. Attorney General Opinion MW-373 (1981). Also, there must be sufficient controls to ensure that the public purpose is actually achieved. Id. Whether a particular grant meets those criteria is a question of fact to be determined on a case-by-case basis.

You also mention that there have been discussions about converting the private institution in question into a public institution. A purchase of the institution’s assets would violate article III, section 51, only if the state received inadequate consideration for its purchase price.

Yours very truly,

Sarah Woelk
Letter Opinion Section
Opinion Committee

Ref.: RQ-1925
ID# 8795