



1999 BILL

See pp 5, 8, 11

R-M run

Due Monday (11/3/2000)

To editing  
12:45 pm, 12/30/99

D-N

refer out

1 AN ACT *to repeal* 14.63 (3) (a) 1. and 3.; *to amend* 14.63 (4), 14.63 (5) (a), 14.63  
 2 (5) (b) 2., 14.63 (8), 14.63 (11) (b) and 16.75 (2m) (a); and *to create* 14.57, 14.63  
 3 (3) (c), 14.64, 15.07 (1) (b) 2., 16.71 (5), 20.585 (1) (gm) and 815.18 (3) (p) of the  
 4 statutes; **relating to:** the college tuition prepayment program, creating a  
 5 college savings program board and college savings program, granting  
 6 rule-making authority and making an appropriation.

***Analysis by the Legislative Reference Bureau***

Under current law, the state treasurer administers a college tuition prepayment program that allows a Wisconsin resident, trust or legal guardian to purchase tuition units from the state treasurer that may be redeemed in the future to pay tuition and mandatory student fees at any accredited institution of higher education in the United States on behalf of a beneficiary who is a Wisconsin resident. The college tuition prepayment program is a qualified state tuition plan under federal law; federal tax is deferred until funds are withdrawn, after which the distributions are taxable as ordinary income at the beneficiary's federal tax rate. State tax is also deferred until funds are withdrawn. A person who wishes to purchase tuition units must pay a \$50 nonrefundable enrollment fee.

This bill repeals the residency requirements for purchasers and beneficiaries of tuition units; permits, but does not require, the state treasurer to charge an enrollment fee; and permits tuition units to be redeemed to cover tuition, fees and

**BILL**

the costs of room and board, books, supplies and equipment required for college enrollment.

The bill also creates a college savings program, administered by an eleven-member college savings program board (board) that is attached to the office of the state treasurer. The college savings program allows an individual, trust or legal guardian to establish and contribute money to a college savings account to cover tuition, fees and the costs of room and board, books, supplies and equipment required for enrollment or attendance of a beneficiary at any accredited institution of higher education in the United States. (A tax-exempt nonprofit corporation and a state or local governmental unit may also open a college savings account as part of a scholarship program.) The board must ensure that the college savings program meets federal requirements for a qualified state tuition plan and must ~~contract with a private entity to serve as a manager~~ invest the contributions to college savings accounts and pay distributions to beneficiaries and institutions of higher education. The contract between the ~~board~~ and the manager must, among other things, require the manager to reimburse the state for all administrative costs that the state incurs for the college savings program. The bill also prohibits a state agency, a University of Wisconsin System institution or a technical college from including the balance of a college savings account in the calculation of a beneficiary's eligibility for state financial aid for higher education.

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

no. 9  
The Department of Administration (DOA) selects a private entity to serve as program manager, based upon factors determined by the board.

DOA

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

- 1           **SECTION 1.** 14.57 of the statutes is created to read:
- 2           **14.57 Same; attached boards.** There is created a college savings program
- 3           board that is attached to the office of the state treasurer under s. 15.03 and that
- 4           consists of all of the following members:
- 5           (1) The state treasurer or his or her designee.
- 6           (2) The president of the board of regents of the University of Wisconsin System
- 7           or his or her designee.
- 8           (3) A representative of private colleges in this state, appointed for a 4-year
- 9           term.
- 10          (4) The chairperson of the investment board or his or her designee.

**BILL**

1 (5) The president of the technical college system board or his or her designee.

2 (6) Six other members, appointed for 4-year terms.

3 SECTION 2. 14.63 (3) (a) 1. and 3. of the statutes, as affected by 1999 Wisconsin  
4 Act 9, are repealed.

5 SECTION 3. 14.63 (3) (c) of the statutes is created to read:

6 14.63 (3) (c) The state treasurer may charge a purchaser an enrollment fee.

7 SECTION 4. 14.63 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is  
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13 attendance, including mandatory student tuition, fees and the costs described in sub.  
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16 determined by the state treasurer, in the anticipated academic years of their use.

17 SECTION 5. 14.63 (5) (a) of the statutes, as affected by 1999 Wisconsin Act 9, is  
18 amended to read:

19 14.63 (5) (a) Except as provided in sub. (7m), if an individual named as  
20 beneficiary in a contract under sub. (3) attends an institution of higher education in  
21 the United States, each tuition unit purchased on his or her behalf entitles that  
22 beneficiary to apply toward the payment of tuition and mandatory student, fees and  
23 the costs of room and board, books, supplies and equipment required for enrollment  
24 or attendance at the institution an amount equal to 1% of the anticipated weighted  
25 average tuition of bachelor's degree-granting institutions within the University of

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1 Wisconsin System for the year of attendance, as estimated under sub. (2) in the year  
2 in which the tuition unit was purchased.

3 **SECTION 6.** 14.63 (5) (b) 2. of the statutes, as affected by 1999 Wisconsin Act 9,  
4 is amended to read:

5 14.63 (5) (b) 2. An amount equal to the sum of the institution's tuition and  
6 ~~mandatory student, fees and the costs described in par. (a)~~ for that semester.

7 **SECTION 7.** 14.63 (8) of the statutes, as affected by 1999 Wisconsin Act 9, is  
8 amended to read:

9 14.63 (8) EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION. Moneys  
10 deposited in the tuition trust fund and a beneficiary's right to the payment of tuition  
11 ~~and mandatory student, fees and the costs described in sub. (5) (a)~~ under this section  
12 are not subject to garnishment, attachment, execution or any other process of law.

13 **SECTION 8.** 14.63 (11) (b) of the statutes, as affected by 1999 Wisconsin Act 9,  
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16 the costs of room and board, books, supplies and equipment under sub. (5) and to  
17 make refunds under sub. (7) are subject to the availability of sufficient assets in the  
18 tuition trust fund.

19 **SECTION 9.** 14.64 of the statutes is created to read:

20 **14.64 College savings program. (1) DEFINITIONS.** In this section:

21 (a) "Account owner" means an individual who establishes a college savings  
22 account under this section.

23 (b) "Board" means the college savings program board.

24 **(2) DUTIES OF THE BOARD.** The board shall do all of the following:

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1 (a) Establish and administer a college savings program that allows an  
2 individual, trust, legal guardian or entity described under 26 USC 529 (e) (1) (C) to  
3 establish a college savings account to cover tuition, fees and the costs of room and  
4 board, books, supplies and equipment required for the enrollment or attendance of  
5 a beneficiary at an eligible educational institution, as defined under 26 USC 529.

6 (b) Ensure that the college savings program meets the requirements of a  
7 qualified state tuition plan under 26 USC 529.

8 (c) ~~Contract with a private entity to serve as manager,~~ Invest the contributions  
9 to college savings accounts and pay distributions to beneficiaries and eligible  
10 educational institutions.

11 (d) Provide to each account owner, and to persons who are interested in  
12 establishing a college savings account, information about current and estimated  
13 future higher education costs, levels of participation in the college savings program  
14 that will help achieve educational funding objectives and availability of and access  
15 to financial aid.

16 (e) Promulgate rules to implement and administer this section, including rules  
17 that determine whether a withdrawal from a college savings account is a qualified  
18 or nonqualified withdrawal, as defined under 26 USC 529, and that impose more  
19 than a de minimis penalty, as defined under 26 USC 529, for nonqualified  
20 withdrawals.

21 (f) Seek rulings and guidance from the U.S. department of the treasury, the  
22 internal revenue service and the securities and exchange commission to ensure the  
23 proper implementation and administration of the college savings program.

6 number "6"

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1 (g) Ensure that if the board changes managers, the balances of college savings  
2 accounts are promptly transferred into investment instruments as similar to the  
3 original investment instruments as possible.

4 (h) Keep personal and financial information pertaining to an account owner or  
5 a beneficiary closed to the public.

6 **(3) ACCOUNT OWNERS; BENEFICIARIES; CONTRIBUTIONS; TERMINATION OF SAVINGS**  
7 **ACCOUNTS.** (a) An account owner may do all of the following:

- 8 1. Contribute to a college savings account
- 9 2. Select a beneficiary of a college savings account.
- 10 3. Change the beneficiary of a college savings account to a family member, as  
11 defined under 26 USC 529, of the previous beneficiary.
- 12 4. Transfer all or a portion of a college savings account to another college  
13 savings account whose beneficiary is a member of the family.
- 14 5. Designate an individual other than the beneficiary as an individual to whom  
15 funds may be paid from a college savings account.
- 16 6. Receive distributions from a college savings account if no other individual  
17 is designated.

18 (b) An individual may be the beneficiary of more than one college savings  
19 account, and an account owner may be the beneficiary of a college savings account  
20 that the account owner has established.

21 (c) The board shall establish a minimum initial contribution to a college savings  
22 account that may be waived if the account owner agrees to contribute to a college  
23 savings account through a payroll deduction or automatic deposit plan. The board  
24 shall ensure that any such plan permits the adjustment of scheduled deposits

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1 because of a change in the account owner's economic circumstances or a beneficiary's  
2 educational plans.

3 (d) An account owner under this section may terminate his or her college  
4 savings account if any of the following occurs:

- 5 1. The beneficiary dies or is permanently disabled.
- 6 2. The beneficiary graduates from high school but is unable to gain admission  
7 to an institution of higher education after a good faith effort.
- 8 3. The beneficiary attended an institution of higher education but involuntarily  
9 failed to complete the program in which he or she was enrolled.
- 10 4. The beneficiary is at least 18 years old and one of the following applies:  
11 a. The beneficiary has not graduated from high school.  
12 b. The beneficiary has decided not to attend an institution of higher education.  
13 c. The beneficiary attended an institution of higher education but voluntarily  
14 withdrew without completing the program in which he or she was enrolled.
- 15 5. Other circumstances determined by the board to be grounds for termination.

16 (e) The board shall terminate a college savings account if any portion of the  
17 college savings account balance remains unused 10 years after the anticipated  
18 academic year of the beneficiary's initial enrollment in an eligible educational  
19 institution.

20 (4) <sup>(CS)</sup> ~~SELECTION OF AND CONTRACT WITH MANAGER.~~ *FACTORS TO BE CONSIDERED IN SELECTING MANAGER,*  
 21 *determine the factors to be considered by the department of administration in*  
~~person~~ *as manager of the program based upon factors determined by the board.*  
*(under s. 16.25(1))*  
 22 which shall include:

- 23 (a) ~~The~~ The person's ability to satisfy record-keeping and reporting requirements.
- 24 (b) ~~The~~ The fees, if any, that the person proposes to charge account owners.

*selecting a person to serve*

## BILL

1 (c) The person's plan for promoting the college savings program and the  
2 investment that the person is willing to make to promote the program.

3 (d) The minimum initial contribution or minimum contributions that the person  
4 will require and the ability and willingness of the person to accept electronic  
5 contributions.

6 (e) The ability of the person to augment the college savings program with  
7 additional, beneficial services related to the program.

8 (b) The contract between the board and the manager shall ensure all of the  
9 following:

10 1. That the manager reimburse the state for all administrative costs that the  
11 state incurs for the college savings program.

12 2. That a firm of certified public accountants selected by the manager annually  
13 audit the college savings program and provide a copy of the audit to the board.

14 3. That each account owner receive a quarterly statement that identifies the  
15 contributions to the college savings account during the preceding quarter, the total  
16 contributions to and the value of the college savings account through the end of the  
17 preceding quarter and any distributions made during the preceding quarter.

18 (5) CONTRACTS WITH PROFESSIONALS. The board may enter into a contract for the  
19 services of accountants, attorneys, consultants and other professionals to assist in  
20 the administration and evaluation of the college savings program.

21 (6) REPORT. Annually, the board shall submit a report to the governor, and to  
22 the appropriate standing committees of the legislature under s. 13.172 (3), on the  
23 performance of the college savings program and the college tuition prepayment  
24 program under s. 14.07, including any recommended changes to other program.

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1 (7) CONSTRUCTION. Nothing in this section guarantees an individual's  
2 admission to, retention by or graduation from any institution of higher education; a  
3 rate of interest or return on a college savings account; or the payment of principal,  
4 interest or return on a college savings account.

5 (8) EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION; SECURITY FOR  
6 LOAN. (a) A beneficiary's right to qualified withdrawals under this section is not  
7 subject to garnishment, attachment, execution or other process of law.

8 (b) No interest in a college savings account may be pledged as security for a  
9 loan.

10 (9) FINANCIAL AID CALCULATIONS. No state agency, University of Wisconsin  
11 System institution or college campus or technical college may include the balance of  
12 a college savings account in the calculation of a beneficiary's eligibility for state  
13 financial aid for higher education.

14 SECTION 10. 15.07 (1) (b) 2. of the statutes is created to read:

15 15.07 (1) (b) 2. College savings program board.

16 SECTION 11. ~~10.71(15)~~ of the statutes is created to read:

16 (B) 16.25 COLLEGE SAVINGS PROGRAM MANAGER. (1)  
17 ~~10.71(15)~~ The department shall solicit competitive sealed proposals under s.

18 16.75 (2m) from nongovernmental persons to serve as manager of the college savings  
19 program under s. 14.64. The department shall ~~delegate to the college savings~~  
20 ~~program board the responsibility to select the manager under s. 14.64(2m), based upon~~  
21 ~~the proposals submitted.~~

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22 SECTION 12. 16.75 (2m) (a) of the statutes is amended to read:

23 16.75 (2m) (a) If Except as otherwise required by law, if the secretary or his or  
24 her designee determines that the use of competitive sealed bidding is not practicable  
25 or not advantageous to this state, the department may solicit competitive sealed

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1 proposals. Each request for competitive sealed proposals shall state the relative  
2 importance of price and other evaluation factors.

3 **SECTION 13.** 20.585 (1) (gm) of the statutes is created to read:

4 20.585 (1) (gm) *General program operations; reimbursement.* All moneys  
5 received from the manager of the college savings program under s. 14.64 (4) (b) 1. for  
6 general programs operations. No moneys may be encumbered under this paragraph  
7 on or after the first day of the 25th month beginning after the effective date of this  
8 paragraph .... [revisor inserts date].

9 **SECTION 14.** 815.18 (3) (p) of the statutes is created to read:

10 815.18 (3) (p) *College savings accounts.* An interest in a college savings account  
11 under s. 14.64.

12 **SECTION 15. Nonstatutory provisions.**

13 (1) (a) Notwithstanding section 15.07 (1) (b) 2. of the statutes, as created by this  
14 act, the governor may provisionally appoint initial members of the college savings  
15 program board under section 14.57 of the statutes, as created by this act. Those  
16 provisional appointments are in force until the governor withdraws them or the  
17 senate acts upon them, and if the senate confirms them, they continue for the  
18 remainder of the unexpired terms, if any, of the members and until successors are  
19 chosen and qualify. A provisional appointee may exercise all the powers and duties  
20 of board membership to which the person is appointed during the time in which the  
21 appointee qualifies.

22 (b) A provisional appointment under paragraph (a) that the governor  
23 withdraws lapses upon withdrawal and creates a vacancy for the provisional  
24 appointment of another initial member of the college savings program board. A  
25 provisional appointment that the governor makes under paragraph (a) and that the

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1 senate rejects lapses upon rejection and creates a vacancy for nomination and  
2 appointment under section 15.07 (1) (b) 2. of the statutes, as created by this act, of  
3 another initial board member.

4 (2) Notwithstanding the length of the terms specified in section 14.57 (3) and  
5 (6) of the statutes, as created by this act, the initial terms of the member appointed  
6 under section 14.57 (3) of the statutes, as created by this act, and of 2 of the members  
7 appointed under section 14.57 (6) of the statutes, as created by this act, expire on May  
8 1, 2003, and the initial terms of 4 of the members appointed under section 14.57 (6)  
9 of the statutes, as created by this act, expire on May 1, 2005.

10 **SECTION 16. Effective dates.** This act takes effect on the <sup>first</sup> ~~1st~~ day of the 10th  
11 month following publication, except as follows: (7)

12 (1) The treatment of sections 14.57 and 15.07 (1) (b) 2. of the statutes and  
13 SECTION 15 of this act take effect the day after publication.

14

(END)

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1 3. The person's plan for promoting the college savings program and the  
2 investment that the person is willing to make to promote the program.

3 4. The minimum initial contribution or minimum contributions that the person  
4 will require and the ability and willingness of the person to accept electronic  
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8 (B) E (2) (a) The contract between the ~~board~~ department and the manager shall ensure all of the  
9 following:

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23 performance of the college savings program and the college tuition prepayment  
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(END OF INSERT)

msy/cmtl

Kreibich:  
Rep. Kreibich:

At the request of Brian Elliott, this redraft deletes the requirement that the college savings program board report on the EdVest program. As I discussed with both Brian and Andy, I do not think it is necessary to delete the language that permits a trust to be an account owner.

Under the ~~current~~ EdVest program, a trust may purchase tuition units. Since prepared tuition plans, like EdVest, are governed by 26 USC 529, and since the IRS has not challenged the EdVest provision, it is unlikely that the "trust" provision will prove problematic.

Moreover, the board is charged with ensuring that the college savings program comply



with the requirements of 26 USC 529, so if  
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board <sup>could</sup> simply <sup>prohibit</sup> trusts <sup>from</sup> opening  
accounts:

MSL

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

LRB-4017/2dn  
MJL:cmh:jf

January 3, 2000

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



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-4017/23  
MJL&JTK:cmh:jf

1999 BILL

Wanted This 1/4

TODAY

refm cut

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- 9           term.
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**BILL**

(Intro.)  
and

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23 (b) "Board" means the college savings program board.

24 (2) DUTIES OF THE BOARD. The board shall do all of the following:

**BILL**

1

*Except as provided in s. 16.25, establish*  
(a) ~~Establish~~ and administer a college savings program that allows an individual, trust, legal guardian or entity described under 26 USC 529 (e) (1) (C) to establish a college savings account to cover tuition, fees and the costs of room and board, books, supplies and equipment required for the enrollment or attendance of a beneficiary at an eligible educational institution, as defined under 26 USC 529.

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(b) Ensure that the college savings program meets the requirements of a qualified state tuition plan under 26 USC 529.

(c) Invest the contributions to college savings accounts and pay distributions to beneficiaries and eligible educational institutions.

(d) Provide to each account owner, and to persons who are interested in establishing a college savings account, information about current and estimated future higher education costs, levels of participation in the college savings program that will help achieve educational funding objectives and availability of and access to financial aid.

(e) Promulgate rules to implement and administer this section, including rules that determine whether a withdrawal from a college savings account is a qualified or nonqualified withdrawal, as defined under 26 USC 529, and that impose more than a de minimis penalty, as defined under 26 USC 529, for nonqualified withdrawals.

(f) Seek rulings and guidance from the U.S. department of the treasury, the internal revenue service and the securities and exchange commission to ensure the proper implementation and administration of the college savings program.

*department of administration*  
(g) Ensure that if the ~~board~~ changes managers, the balances of college savings accounts are promptly transferred into investment instruments as similar to the original investment instruments as possible.

**BILL**

1           (h) Keep personal and financial information pertaining to an account owner or  
2 a beneficiary closed to the public.

3           **(3) ACCOUNT OWNERS; BENEFICIARIES; CONTRIBUTIONS; TERMINATION OF SAVINGS**  
4 **ACCOUNTS.** (a) An account owner may do all of the following:

5           1. Contribute to a college savings account

6           2. Select a beneficiary of a college savings account.

7           3. Change the beneficiary of a college savings account to a family member, as  
8 defined under 26 USC 529, of the previous beneficiary.

9           4. Transfer all or a portion of a college savings account to another college  
10 savings account whose beneficiary is a member of the family.

11           5. Designate an individual other than the beneficiary as an individual to whom  
12 funds may be paid from a college savings account.

13           6. Receive distributions from a college savings account if no other individual  
14 is designated.

15           (b) An individual may be the beneficiary of more than one college savings  
16 account, and an account owner may be the beneficiary of a college savings account  
17 that the account owner has established.

18           (c) The board shall establish a minimum initial contribution to a college savings  
19 account that may be waived if the account owner agrees to contribute to a college  
20 savings account through a payroll deduction or automatic deposit plan. The board  
21 shall ensure that any such plan permits the adjustment of scheduled deposits  
22 because of a change in the account owner's economic circumstances or a beneficiary's  
23 educational plans.

24           (d) An account owner under this section may terminate his or her college  
25 savings account if any of the following occurs:

**BILL**

- 1           1. The beneficiary dies or is permanently disabled.
- 2           2. The beneficiary graduates from high school but is unable to gain admission
- 3           to an institution of higher education after a good faith effort.
- 4           3. The beneficiary attended an institution of higher education but involuntarily
- 5           failed to complete the program in which he or she was enrolled.
- 6           4. The beneficiary is at least 18 years old and one of the following applies:
- 7           a. The beneficiary has not graduated from high school.
- 8           b. The beneficiary has decided not to attend an institution of higher education.
- 9           c. The beneficiary attended an institution of higher education but voluntarily
- 10          withdrew without completing the program in which he or she was enrolled.
- 11          5. Other circumstances determined by the board to be grounds for termination.

12           (e) The board shall terminate a college savings account if any portion of the  
13          college savings account balance remains unused 10 years after the anticipated  
14          academic year of the beneficiary's initial enrollment in an eligible educational  
15          institution.

16          ~~(4) FACTORS TO BE CONSIDERED IN SELECTING MANAGER. The board shall determine~~  
17          ~~the factors to be considered by the department of administration in selecting a person~~  
18          ~~to serve as manager of the program under s. 16.25 (1), which shall include:~~  
19               (a) ~~The person's ability to satisfy record-keeping and reporting requirements.~~  
20               (b) ~~The fees, if any, that the person proposes to charge account owners.~~  
21               (c) ~~The person's plan for promoting the college savings program and the~~  
22               ~~investment that the person is willing to make to promote the program.~~  
23               (d) ~~The minimum initial contribution or minimum contributions that the~~  
24               ~~person will require and the ability and willingness of the person to accept electronic~~  
25               ~~contributions.~~

**BILL**

1 (e) The ability of the person to augment the college savings program with  
2 additional beneficial services related to the program.

3 ~~(4)~~ (5) **CONTRACTS WITH PROFESSIONALS.** The board may enter into a contract for the  
4 services of accountants, attorneys, consultants and other professionals to assist in  
5 the administration and evaluation of the college savings program.

6 ~~(5)~~ (6) **REPORT.** Annually, the board shall submit a report to the governor, and to  
7 the appropriate standing committees of the legislature under s. 13.172 (3), on the  
8 performance of the college savings program, including any recommended changes to  
9 the program.

10 ~~(6)~~ (6) **CONSTRUCTION.** Nothing in this section guarantees an individual's  
11 admission to, retention by or graduation from any institution of higher education; a  
12 rate of interest or return on a college savings account; or the payment of principal,  
13 interest or return on a college savings account.

14 ~~(7)~~ (7) **EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION; SECURITY FOR**  
15 **LOAN.** (a) A beneficiary's right to qualified withdrawals under this section is not  
16 subject to garnishment, attachment, execution or other process of law.

17 (b) No interest in a college savings account may be pledged as security for a  
18 loan.

19 ~~(8)~~ (8) **FINANCIAL AID CALCULATIONS.** No state agency, University of Wisconsin  
20 System institution or college campus or technical college may include the balance of  
21 a college savings account in the calculation of a beneficiary's eligibility for state  
22 financial aid for higher education.

23 **SECTION 10.** 15.07 (1) (b) 2. of the statutes is created to read:

24 15.07 (1) (b) 2. College savings program board.

25 **SECTION 11.** 16.25 of the statutes is created to read:

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**16.25 College savings program manager.** (1) The department shall solicit competitive sealed proposals under s. 16.75 (2m) from nongovernmental persons to serve as manager of the college savings program ~~under s. 14.64~~. The department shall select the manager based upon factors determined by the board ~~under s. 14.64~~

department under sub. (1)

(2) The contract between the department and the manager shall ensure all of the following:

(a) That the manager reimburses the state for all administrative costs that the state incurs for the college savings program.

(b) That a firm of certified public accountants selected by the manager annually audits the college savings program and provides a copy of the audit to the board.

college savings program

(c) That each account owner receives a quarterly statement that identifies the contributions to the college savings account during the preceding quarter, the total contributions to and the value of the college savings account through the end of the preceding quarter and any distributions made during the preceding quarter.

**SECTION 12.** 16.75 (2m) (a) of the statutes is amended to read:

16.75 (2m) (a) If Except as otherwise required by law, if the secretary or his or her designee determines that the use of competitive sealed bidding is not practicable or not advantageous to this state, the department may solicit competitive sealed proposals. Each request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

**SECTION 13.** 20.585 (1) (gm) of the statutes is created to read:

20.585 (1) (gm) *General program operations; reimbursement.* All moneys received from the manager of the college savings program under s. ~~14.64 (4) (b)~~ 16.25 (3) (a) 1. for general programs operations. No moneys may be encumbered under this paragraph

**BILL**

1 on or after the first day of the 25th month beginning after the effective date of this  
2 paragraph .... [revisor inserts date].

3 **SECTION 14.** 815.18 (3) (p) of the statutes is created to read:

4 815.18 (3) (p) *College savings accounts.* An interest in a college savings account  
5 under s. 14.64.

6 **SECTION 15. Nonstatutory provisions.**

7 (1)(a) Notwithstanding section 15.07 (1)(b) 2. of the statutes, as created by this  
8 act, the governor may provisionally appoint initial members of the college savings  
9 program board under section 14.57 of the statutes, as created by this act. Those  
10 provisional appointments are in force until the governor withdraws them or the  
11 senate acts upon them, and if the senate confirms them, they continue for the  
12 remainder of the unexpired terms, if any, of the members and until successors are  
13 chosen and qualify. A provisional appointee may exercise all the powers and duties  
14 of board membership to which the person is appointed during the time in which the  
15 appointee qualifies.

16 (b) A provisional appointment under paragraph (a) that the governor  
17 withdraws lapses upon withdrawal and creates a vacancy for the provisional  
18 appointment of another initial member of the college savings program board. A  
19 provisional appointment that the governor makes under paragraph (a) and that the  
20 senate rejects lapses upon rejection and creates a vacancy for nomination and  
21 appointment under section 15.07 (1)(b) 2. of the statutes, as created by this act, of  
22 another initial board member.

23 (2) Notwithstanding the length of the terms specified in section 14.57 (3) and  
24 (6) of the statutes, as created by this act, the initial terms of the member appointed  
25 under section 14.57 (3) of the statutes, as created by this act, and of 2 of the members

**BILL**

1 appointed under section 14.57 (6) of the statutes, as created by this act, expire on May  
2 1, 2003, and the initial terms of 4 of the members appointed under section 14.57 (6)  
3 of the statutes, as created by this act, expire on May 1, 2005.

4 **SECTION 16. Effective dates.** This act takes effect on the first day of the 10th  
5 month following publication, except as follows:

6 (1) The treatment of sections 14.57 and 15.07 (1) (b) 2. of the statutes and  
7 SECTION 15 of this act take effect the day after publication.

8 (END)

**BILL**

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- 1. The beneficiary dies or is permanently disabled.
- 2. The beneficiary graduates from high school but is unable to gain admission to an institution of higher education after a good faith effort.
- 3. The beneficiary attended an institution of higher education but involuntarily failed to complete the program in which he or she was enrolled.
- 4. The beneficiary is at least 18 years old and one of the following applies:
  - a. The beneficiary has not graduated from high school.
  - b. The beneficiary has decided not to attend an institution of higher education.
  - c. The beneficiary attended an institution of higher education but voluntarily withdrew without completing the program in which he or she was enrolled.
- 5. Other circumstances determined by the board to be grounds for termination.
- (e) The board shall terminate a college savings account if any portion of the college savings account balance remains unused 10 years after the anticipated academic year of the beneficiary's initial enrollment in an eligible educational institution.

- (17) ~~FACTORS TO BE CONSIDERED IN SELECTING MANAGER.~~ The ~~board~~ shall determine the factors to be considered by the department of administration in selecting a person to serve as manager of the program under s. ~~14.25(1)~~<sup>14.64</sup>, which shall include:
- (a) The person's ability to satisfy record-keeping and reporting requirements.
  - (b) The fees, if any, that the person proposes to charge account owners.
  - (c) The person's plan for promoting the college savings program and the investment that the person is willing to make to promote the program.
  - (d) The minimum initial contribution or minimum contributions that the person will require and the ability and willingness of the person to accept electronic contributions.

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**BILL**

1 (4) (a) The ability of the person to augment the college savings program with  
2 additional, beneficial services related to the program.

3 (4) (5) ~~CONTRACTS WITH PROFESSIONALS.~~ *(END OF SECTION)* The board may enter into a contract for the  
4 services of accountants, attorneys, consultants and other professionals to assist in  
5 the administration and evaluation of the college savings program.

6 (5) (6) REPORT. Annually, the board shall submit a report to the governor, and to  
7 the appropriate standing committees of the legislature under s. 13.172 (3), on the  
8 performance of the college savings program, including any recommended changes to  
9 the program.

10 (6) (7) CONSTRUCTION. Nothing in this section guarantees an individual's  
11 admission to, retention by or graduation from any institution of higher education; a  
12 rate of interest or return on a college savings account; or the payment of principal,  
13 interest or return on a college savings account.

14 (7) (8) EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION; SECURITY FOR  
15 LOAN. (a) A beneficiary's right to qualified withdrawals under this section is not  
16 subject to garnishment, attachment, execution or other process of law.

17 (b) No interest in a college savings account may be pledged as security for a  
18 loan.

19 (8) (9) FINANCIAL AID CALCULATIONS. No state agency, University of Wisconsin  
20 System institution or college campus or technical college may include the balance of  
21 a college savings account in the calculation of a beneficiary's eligibility for state  
22 financial aid for higher education.

23 **SECTION 10.** 15.07 (1) (b) 2. of the statutes is created to read:

24 15.07 (1) (b) 2. College savings program board.

25 **SECTION 11.** 16.25 of the statutes is created to read:

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
.....

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3

14.63 (5) (b) (intro.) Upon request by the beneficiary, the state treasurer shall pay to the institution or beneficiary, whichever is appropriate, in each semester of attendance the lesser of the following:

History: 1999 a. 9.

(END OF INSERT)

**Williams, Landon**

---

**To:** Cook, Andrew  
**Cc:** Kuesel, Jeffery; Lief, Madelon  
**Subject:** LRB 99-4017/3 per your request



99-4017/3

**Landon T. Williams**  
Legislative Program Assistant  
Legislative Reference Bureau  
100 N. Hamilton  
(608) 266-3561  
landon.williams@legis.state.wi.us



1999 BILL

Now

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1 AN ACT to repeal 14.63 (3) (a) 1. and 3.; to amend 14.63 (4), 14.63 (5) (a), 14.63  
 2 (5) (b) (intro.) and 2., 14.63 (8), 14.63 (11) (b) and 16.75 (2m) (a); and to create  
 3 14.57, 14.63 (3) (c), 14.64, 15.07 (1) (b) 2., 16.25, 20.585 (1) (gm) and 815.18 (3)  
 4 (p) of the statutes; relating to: the college tuition prepayment program,  
 5 creating a college savings program board and college savings program,  
 6 granting rule-making authority and making an appropriation.

**Analysis by the Legislative Reference Bureau**

Under current law, the state treasurer administers a college tuition prepayment program that allows a Wisconsin resident, trust or legal guardian to purchase tuition units from the state treasurer that may be redeemed in the future to pay tuition and mandatory student fees at any accredited institution of higher education in the United States on behalf of a beneficiary who is a Wisconsin resident. The college tuition prepayment program is a qualified state tuition plan under federal law; federal tax is deferred until funds are withdrawn, after which the distributions are taxable as ordinary income at the beneficiary's federal tax rate. State tax is also deferred until funds are withdrawn. A person who wishes to purchase tuition units must pay a \$50 nonrefundable enrollment fee.

This bill repeals the residency requirements for purchasers and beneficiaries of tuition units; permits, but does not require, the state treasurer to charge an enrollment fee; and permits tuition units to be redeemed to cover tuition, fees and

Distributions are exempt from

**BILL**

the costs of room and board, books, supplies and equipment required for college enrollment.

The bill also creates a college savings program, which is administered primarily by an eleven-member college savings program board (board) that is attached to the office of the state treasurer. The college savings program allows an individual, trust or legal guardian to establish and contribute money to a college savings account to cover tuition, fees and the costs of room and board, books, supplies and equipment required for enrollment or attendance of a beneficiary at any accredited institution of higher education in the United States. (A tax-exempt nonprofit corporation and a state or local governmental unit may also open a college savings account as part of a scholarship program.) The board must ensure that the college savings program meets federal requirements for a qualified state tuition plan and must invest the contributions to college savings accounts and pay distributions to beneficiaries and institutions of higher education. Under the bill, the department of administration (DOA) selects a private entity to serve as program manager, based upon factors specified in the bill and other factors determined by DOA. The contract between DOA and the manager must, among other things, require the manager to reimburse the state for all administrative costs that the state incurs for the college savings program. The bill also prohibits a state agency, a University of Wisconsin System institution or a technical college from including the balance of a college savings account in the calculation of a beneficiary's eligibility for state financial aid for higher education.

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.** 14.57 of the statutes is created to read:

2           **14.57 Same; attached boards.** There is created a college savings program  
3 board that is attached to the office of the state treasurer under s. 15.03 and that  
4 consists of all of the following members:

5           (1) The state treasurer or his or her designee.

6           (2) The president of the board of regents of the University of Wisconsin System  
7 or his or her designee.

8           (3) A representative of private colleges in this state, appointed for a 4-year  
9 term.

**BILL**

1           (4) The chairperson of the investment board or his or her designee.

2           (5) The president of the technical college system board or his or her designee.

3           (6) Six other members, appointed for 4-year terms.

4           **SECTION 2.** 14.63 (3) (a) 1. and 3. of the statutes, as affected by 1999 Wisconsin  
5 Act 9, are repealed.

6           **SECTION 3.** 14.63 (3) (c) of the statutes is created to read:

7           14.63 (3) (c) The state treasurer may charge a purchaser an enrollment fee.

8           **SECTION 4.** 14.63 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is  
9 amended to read:

10           14.63 (4) NUMBER OF TUITION UNITS PURCHASED. A person who enters into a  
11 contract under sub. (3) may purchase tuition units at any time and in any number,  
12 except that the total number of tuition units purchased on behalf of a single  
13 beneficiary may not exceed the number necessary to pay for 4 years of full-time  
14 attendance, including ~~mandatory student tuition, fees and the costs described in sub.~~  
15 (5) (a), as a resident undergraduate at the institution within the University of  
16 Wisconsin System that has the highest resident undergraduate tuition, as  
17 determined by the state treasurer, in the anticipated academic years of their use.

18           **SECTION 5.** 14.63 (5) (a) of the statutes, as affected by 1999 Wisconsin Act 9, is  
19 amended to read:

20           14.63 (5) (a) Except as provided in sub. (7m), if an individual named as  
21 beneficiary in a contract under sub. (3) attends an institution of higher education in  
22 the United States, each tuition unit purchased on his or her behalf entitles that  
23 beneficiary to apply toward the payment of tuition ~~and mandatory student, fees and~~  
24 the costs of room and board, books, supplies and equipment required for enrollment  
25 or attendance at the institution an amount equal to 1% of the anticipated weighted

**BILL**

1 average tuition of bachelor's degree-granting institutions within the University of  
2 Wisconsin System for the year of attendance, as estimated under sub. (2) in the year  
3 in which the tuition unit was purchased.

4 **SECTION 6.** 14.63 (5) (b) (intro.) and 2. of the statutes, as affected by 1999  
5 Wisconsin Act 9, are amended to read:

6 14.63 (5) (b) (intro.) Upon request by the beneficiary, the state treasurer shall  
7 pay to the institution or beneficiary, whichever is appropriate, in each semester of  
8 attendance the lesser of the following:

9 2. An amount equal to the sum of the institution's tuition ~~and mandatory~~  
10 ~~student, fees~~ and the costs described in par. (a) for that semester.

11 **SECTION 7.** 14.63 (8) of the statutes, as affected by 1999 Wisconsin Act 9, is  
12 amended to read:

13 14.63 (8) **EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION.** Moneys  
14 deposited in the tuition trust fund and a beneficiary's right to the payment of tuition  
15 ~~and mandatory student, fees~~ and the costs described in sub. (5) (a) under this section  
16 are not subject to garnishment, attachment, execution or any other process of law.

17 **SECTION 8.** 14.63 (11) (b) of the statutes, as affected by 1999 Wisconsin Act 9,  
18 is amended to read:

19 14.63 (11) (b) The requirements to pay tuition ~~and mandatory student, fees and~~  
20 the costs of room and board, books, supplies and equipment under sub. (5) and to  
21 make refunds under sub. (7) are subject to the availability of sufficient assets in the  
22 tuition trust fund.

23 **SECTION 9.** 14.64 of the statutes is created to read:

24 **14.64 College savings program. (1) DEFINITIONS.** In this section:

**BILL**

1 (a) "Account owner" means an individual who establishes a college savings  
2 account under this section.

3 (b) "Board" means the college savings program board.

4 (2) DUTIES OF THE BOARD. The board shall do all of the following:

5 (a) Except as provided in s. 16.25, establish and administer a college savings  
6 program that allows an individual, trust, legal guardian or entity described under  
7 26 USC 529 (e) (1) (C) to establish a college savings account to cover tuition, fees and  
8 the costs of room and board, books, supplies and equipment required for the  
9 enrollment or attendance of a beneficiary at an eligible educational institution, as  
10 defined under 26 USC 529.

11 (b) Ensure that the college savings program meets the requirements of a  
12 qualified state tuition plan under 26 USC 529.

13 (c) Invest the contributions to college savings accounts and pay distributions  
14 to beneficiaries and eligible educational institutions.

15 (d) Provide to each account owner, and to persons who are interested in  
16 establishing a college savings account, information about current and estimated  
17 future higher education costs, levels of participation in the college savings program  
18 that will help achieve educational funding objectives and availability of and access  
19 to financial aid.

20 (e) Promulgate rules to implement and administer this section, including rules  
21 that determine whether a withdrawal from a college savings account is a qualified  
22 or nonqualified withdrawal, as defined under 26 USC 529, and that impose more  
23 than a de minimis penalty, as defined under 26 USC 529, for nonqualified  
24 withdrawals.

**BILL**

1 (f) Seek rulings and guidance from the U.S. department of the treasury, the  
2 internal revenue service and the securities and exchange commission to ensure the  
3 proper implementation and administration of the college savings program.

4 (g) Ensure that if the department of administration changes managers, the  
5 balances of college savings accounts are promptly transferred into investment  
6 instruments as similar to the original investment instruments as possible.

7 (h) Keep personal and financial information pertaining to an account owner or  
8 a beneficiary closed to the public.

9 (3) ACCOUNT OWNERS; BENEFICIARIES; CONTRIBUTIONS; TERMINATION OF SAVINGS  
10 ACCOUNTS. (a) An account owner may do all of the following:

- 11 1. Contribute to a college savings account
- 12 2. Select a beneficiary of a college savings account.
- 13 3. Change the beneficiary of a college savings account to a family member, as  
14 defined under 26 USC 529, of the previous beneficiary.
- 15 4. Transfer all or a portion of a college savings account to another college  
16 savings account whose beneficiary is a member of the family.
- 17 5. Designate an individual other than the beneficiary as an individual to whom  
18 funds may be paid from a college savings account.
- 19 6. Receive distributions from a college savings account if no other individual  
20 is designated.

21 (b) An individual may be the beneficiary of more than one college savings  
22 account, and an account owner may be the beneficiary of a college savings account  
23 that the account owner has established.

24 (c) The board shall establish a minimum initial contribution to a college savings  
25 account that may be waived if the account owner agrees to contribute to a college

**BILL**

1 savings account through a payroll deduction or automatic deposit plan. The board  
2 shall ensure that any such plan permits the adjustment of scheduled deposits  
3 because of a change in the account owner's economic circumstances or a beneficiary's  
4 educational plans.

5 (d) An account owner under this section may terminate his or her college  
6 savings account if any of the following occurs:

7 1. The beneficiary dies or is permanently disabled.

8 2. The beneficiary graduates from high school but is unable to gain admission  
9 to an institution of higher education after a good faith effort.

10 3. The beneficiary attended an institution of higher education but involuntarily  
11 failed to complete the program in which he or she was enrolled.

12 4. The beneficiary is at least 18 years old and one of the following applies:

13 a. The beneficiary has not graduated from high school.

14 b. The beneficiary has decided not to attend an institution of higher education.

15 c. The beneficiary attended an institution of higher education but voluntarily  
16 withdrew without completing the program in which he or she was enrolled.

17 5. Other circumstances determined by the board to be grounds for termination.

18 (e) The board shall terminate a college savings account if any portion of the  
19 college savings account balance remains unused 10 years after the anticipated  
20 academic year of the beneficiary's initial enrollment in an eligible educational  
21 institution.

22 (4) **CONTRACTS WITH PROFESSIONALS.** The board may enter into a contract for the  
23 services of accountants, attorneys, consultants and other professionals to assist in  
24 the administration and evaluation of the college savings program.

**BILL**

1           (5) **REPORT.** Annually, the board shall submit a report to the governor, and to  
2 the appropriate standing committees of the legislature under s. 13.172 (3), on the  
3 performance of the college savings program, including any recommended changes to  
4 the program.

5           (6) **CONSTRUCTION.** Nothing in this section guarantees an individual's  
6 admission to, retention by or graduation from any institution of higher education; a  
7 rate of interest or return on a college savings account; or the payment of principal,  
8 interest or return on a college savings account.

9           (7) **EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION; SECURITY FOR**  
10 **LOAN.** (a) A beneficiary's right to qualified withdrawals under this section is not  
11 subject to garnishment, attachment, execution or other process of law.

12           (b) No interest in a college savings account may be pledged as security for a  
13 loan.

14           (8) **FINANCIAL AID CALCULATIONS.** No state agency, University of Wisconsin  
15 System institution or college campus or technical college may include the balance of  
16 a college savings account in the calculation of a beneficiary's eligibility for state  
17 financial aid for higher education.

18           **SECTION 10.** 15.07 (1) (b) 2. of the statutes is created to read:

19           15.07 (1) (b) 2. College savings program board.

20           **SECTION 11.** 16.25 of the statutes is created to read:

21           **16.25 College savings program manager.** (1) The department shall  
22 determine the factors to be considered in selecting a person to serve as manager of  
23 the program under s. 14.64, which shall include:

24           (a) The person's ability to satisfy record-keeping and reporting requirements.

25           (b) The fees, if any, that the person proposes to charge account owners.

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1 (c) The person's plan for promoting the college savings program and the  
2 investment that the person is willing to make to promote the program.

3 (d) The minimum initial contribution or minimum contributions that the  
4 person will require.

5 (e) The ability and willingness of the person to accept electronic contributions.

6 (f) The ability of the person to augment the college savings program with  
7 additional, beneficial services related to the program.

8 (2) The department shall solicit competitive sealed proposals under s. 16.75  
9 (2m) from nongovernmental persons to serve as manager of the college savings  
10 program. The department shall select the manager based upon factors determined  
11 by the department under sub. (1).

12 (3) The contract between the department and the manager shall ensure all of  
13 the following:

14 (a) That the manager reimburses the state for all administrative costs that the  
15 state incurs for the college savings program.

16 (b) That a firm of certified public accountants selected by the manager annually  
17 audits the college savings program and provides a copy of the audit to the college  
18 savings program board.

19 (c) That each account owner receives a quarterly statement that identifies the  
20 contributions to the college savings account during the preceding quarter, the total  
21 contributions to and the value of the college savings account through the end of the  
22 preceding quarter and any distributions made during the preceding quarter.

23 **SECTION 12.** 16.75 (2m) (a) of the statutes is amended to read:

24 16.75 (2m) (a) If Except as otherwise required by law, if the secretary or his or  
25 her designee determines that the use of competitive sealed bidding is not practicable

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1 or not advantageous to this state, the department may solicit competitive sealed  
2 proposals. Each request for competitive sealed proposals shall state the relative  
3 importance of price and other evaluation factors.

4 **SECTION 13.** 20.585 (1) (gm) of the statutes is created to read:

5 20.585 (1) (gm) *General program operations; reimbursement.* All moneys  
6 received from the manager of the college savings program under s. 16.25 (3) (a) for  
7 general programs operations. No moneys may be encumbered under this paragraph  
8 on or after the first day of the 25th month beginning after the effective date of this  
9 paragraph .... [revisor inserts date].

10 **SECTION 14.** 815.18 (3) (p) of the statutes is created to read:

11 815.18 (3) (p) *College savings accounts.* An interest in a college savings account  
12 under s. 14.64.

13 **SECTION 15. Nonstatutory provisions.**

14 (1)(a) Notwithstanding section 15.07 (1)(b) 2. of the statutes, as created by this  
15 act, the governor may provisionally appoint initial members of the college savings  
16 program board under section 14.57 of the statutes, as created by this act. Those  
17 provisional appointments are in force until the governor withdraws them or the  
18 senate acts upon them, and if the senate confirms them, they continue for the  
19 remainder of the unexpired terms, if any, of the members and until successors are  
20 chosen and qualify. A provisional appointee may exercise all the powers and duties  
21 of board membership to which the person is appointed during the time in which the  
22 appointee qualifies.

23 (b) A provisional appointment under paragraph (a) that the governor  
24 withdraws lapses upon withdrawal and creates a vacancy for the provisional  
25 appointment of another initial member of the college savings program board. A

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1 provisional appointment that the governor makes under paragraph (a) and that the  
2 senate rejects lapses upon rejection and creates a vacancy for nomination and  
3 appointment under section 15.07 (1) (b) 2. of the statutes, as created by this act, of  
4 another initial board member.

5 (2) Notwithstanding the length of the terms specified in section 14.57 (3) and  
6 (6) of the statutes, as created by this act, the initial terms of the member appointed  
7 under section 14.57 (3) of the statutes, as created by this act, and of 2 of the members  
8 appointed under section 14.57 (6) of the statutes, as created by this act, expire on May  
9 1, 2003, and the initial terms of 4 of the members appointed under section 14.57 (6)  
10 of the statutes, as created by this act, expire on May 1, 2005.

11 **SECTION 16. Effective dates.** This act takes effect on the first day of the 10th  
12 month following publication, except as follows:

13 (1) The treatment of sections 14.57 and 15.07 (1) (b) 2. of the statutes and  
14 SECTION 15 of this act take effect the day after publication.

15

**(END)**

# Transmission Report

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## Barman, Mike

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99-4017/4

*Mike Barman*

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**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/05/2000

To: Representative Kreibich

Relating to LRB drafting number: LRB-4017

**Topic**

Creation of a college savings plan

**Subject(s)**

Higher Education - miscellaneous

1. **JACKET** the draft for introduction

*Rep. Bob Kreibich*

in the Senate \_\_\_ or the Assembly  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction

*Bob Kreibich*

*Rush Hearing Next Wed*

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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