

2001 ASSEMBLY BILL 321

April 16, 2001 – Introduced by Representatives KREIBICH and JENSEN, cosponsored by Senators GROBSCHMIDT and DARLING. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to repeal* 20.585 (2) (r); *to renumber and amend* 20.585 (2) (gm); *to*
2 *amend* 14.63 (6) (b), 14.64 (1) (a), 14.64 (2) (c), 14.64 (3) (e), 20.585 (2) (q) and
3 25.15 (2) (intro.); *to repeal and recreate* 14.63 (3) (a); and *to create* 20.585
4 (2) (t), 25.14 (1) (a) 15., 25.17 (1) (ax), 25.17 (2) (f) and 25.85 of the statutes;
5 **relating to:** the college tuition and expenses program and the college savings
6 program, providing an exemption from emergency rule procedures, and making
7 appropriations.

Analysis by the Legislative Reference Bureau

Under current law, the state treasurer administers the college tuition and expenses program (popularly known as “EdVest”), which allows a person to purchase “tuition units” that can later be used to pay college tuition, room, board, and related expenses on behalf of the purchaser himself or herself, the purchaser’s child or legal guardian, or, if the purchaser is a trust, the beneficiary of the trust. The college savings program, administered by the college savings program board (board), allows a person, including a charitable organization, to make contributions to a college savings account to pay the college expenses of a named beneficiary or an unnamed, future recipient of a scholarship account established by the charitable organization. These contributions are invested by a private vendor selected by the department of administration. Both a college tuition and expenses or college savings account must

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be closed if the funds in the account are not used within ten years of the original projected date of the beneficiary's or recipient's enrollment.

This bill allows a person to purchase tuition units on behalf of any named beneficiary, allows a charitable organization to open an EdVest scholarship account for an unnamed, future recipient, and permits, but does not require, the state treasurer or the board to close a college tuition and expenses or college savings account if the account's funds are not used within ten years of the original projected date of the beneficiary's or recipient's enrollment.

The bill also creates a trust fund for college savings program contributions and requires the investment board (SWIB) to invest the moneys belonging to the college savings program trust fund until such time that the moneys are under the management and control of a vendor for the college savings program. Under the bill, SWIB must accept any reasonable terms and conditions that the college savings program board specifies for the investments and is relieved of any obligations relevant to prudent investment of the college savings program trust fund. Finally, the bill makes some technical changes to improve accounting of EdVest and college savings program moneys.

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:

1 **SECTION 1.** 14.63 (3) (a) of the statutes is repealed and recreated to read:

2 14.63 **(3)** (a) An individual, trust, legal guardian, or entity described under 26
3 USC 529 (e) (1) (C) may enter into a contract with the state treasurer for the sale of
4 tuition units on behalf of a beneficiary.

5 **SECTION 2.** 14.63 (6) (b) of the statutes is amended to read:

6 14.63 **(6)** (b) The state treasurer shall may terminate a contract under sub. (3)
7 if any of the tuition units purchased under the contract remain unused 10 years after
8 the anticipated academic year of the beneficiary's initial enrollment in an institution
9 of higher education, as specified in the contract.

10 **SECTION 3.** 14.64 (1) (a) of the statutes, as created by 1999 Wisconsin Act 44,
11 is amended to read:

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1 14.64 (1) (a) “Account owner” means ~~an individual~~ a person who establishes a
2 college savings account under this section.

3 **SECTION 4.** 14.64 (2) (c) of the statutes, as created by 1999 Wisconsin Act 44,
4 is amended to read:

5 14.64 (2) (c) ~~Invest the~~ Establish investment guidelines for contributions to
6 college savings accounts and pay distributions to beneficiaries and eligible
7 educational institutions.

8 **SECTION 5.** 14.64 (3) (e) of the statutes, as created by 1999 Wisconsin Act 44,
9 is amended to read:

10 14.64 (3) (e) The board ~~shall~~ may terminate a college savings account if any
11 portion of the college savings account balance remains unused 10 years after the
12 anticipated academic year of the beneficiary’s initial enrollment in an eligible
13 educational institution.

14 **SECTION 6.** 20.585 (2) (gm) of the statutes, as created by 1999 Wisconsin Act
15 44, is renumbered 20.585 (2) (tm) and amended to read:

16 20.585 (2) (tm) *General program operations; reimbursement.* ~~All~~ From the
17 college savings program trust fund, all moneys received from the vendor of the
18 college savings program under s. ~~16.25~~ 16.255 (3) (a) for general programs
19 operations.

20 **SECTION 7.** 20.585 (2) (q) of the statutes is amended to read:

21 20.585 (2) (q) *Payment of tuition* qualified higher education expenses and
22 refunds. From the tuition trust fund, a sum sufficient for the payment of ~~tuition~~
23 qualified higher education expenses and refunds under s. 14.63 (5) and (7).

24 **SECTION 8.** 20.585 (2) (r) of the statutes is repealed.

25 **SECTION 9.** 20.585 (2) (t) of the statutes is created to read:

ASSEMBLY BILL 321**SECTION 9**

1 20.585 (2) (t) *College savings program; payment of qualified higher education*
2 *expenses and refunds.* From the college savings program trust fund, a sum sufficient
3 for the payment of qualified higher education expenses and refunds under s. 14.64
4 (2) and (3).

5 **SECTION 10.** 25.14 (1) (a) 15. of the statutes is created to read:

6 25.14 (1) (a) 15. The college savings program trust fund.

7 **SECTION 11.** 25.15 (2) (intro.) of the statutes is amended to read:

8 25.15 (2) STANDARD OF RESPONSIBILITY. (intro.) The Except as provided in s.
9 25.17 (2) (f), the standard of responsibility applied to the board when it invests money
10 or property shall be all of the following:

11 **SECTION 12.** 25.17 (1) (ax) of the statutes is created to read:

12 25.17 (1) (ax) College savings program trust fund (s. 25.85), but subject to s.
13 25.17 (2) (f);

14 **SECTION 13.** 25.17 (2) (f) of the statutes is created to read:

15 25.17 (2) (f) Invest the moneys belonging to the college savings program trust
16 fund, as directed by the college savings program board, unless the moneys are under
17 the management and control of a vendor selected under s. 16.255. In making
18 investments under this paragraph, the investment board shall accept any
19 reasonable terms and conditions that the college savings program board specifies
20 and is relieved of any obligations relevant to prudent investment of the fund,
21 including the standard of responsibility under s. 25.15 (2).

22 **SECTION 14.** 25.85 of the statutes is created to read:

23 **25.85 College savings program trust fund.** There is established a separate
24 nonlapsible trust fund designated as the college savings program trust fund,
25 consisting of all revenue from enrollment fees for and contributions to college savings

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1 accounts under s. 14.64 and from distributions and fees paid by the vendor under s.
2 16.255 (3).

3 **SECTION 15. Nonstatutory provisions.**

4 (1) The college savings program board may promulgate emergency rules under
5 section 227.24 of the statutes initially implementing section 14.64 of the statutes.
6 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules
7 may remain in effect until the date on which permanent rules take effect.
8 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the college savings
9 program board is not required to provide evidence that promulgating an emergency
10 rule under this subsection is necessary to preserve the public peace, health, safety,
11 or welfare and is not required to provide a finding of emergency for a rule
12 promulgated under this subsection.

13 (END)