

2003 DRAFTING REQUEST

Senate Amendment (SA-SB44)

Received: **05/01/2003**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-8114**

By/Representing: **Rhodes**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

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Subject: **State Govt - miscellaneous
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Pre Topic:

LFB:.....Rhodes -

Topic:

College Savings Program administrative expenses appropriation

Instructions:

See Attached--Alternative 1 from Paper #701--make s. 20.585 (2) (tm) an annual appropriation.

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>
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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/?	gmalaise	11-5/1 kmg	5/1 PS	5/1 PS/R			
FE Sent For:							
<END>							



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

AM (km) The amounts in the schedule
AM (km) Schedule "C" → "A"

April 30, 2003

Joint Committee on Finance

Paper #701

College Savings Program SEG Administrative Appropriation (State Treasurer)

[LFB 2003-05 Budget Summary: Page 394, #5(part) and #8]

20.585	(2)	(a)	College tuition	A	RP	EdVest I
		(am)	College savings	A	RP	EdVest II
	(5)		College tuition	A		
		(km)	College savings	<u>C</u>	AM	

CURRENT LAW

Under current law, there is both a GPR and a SEG appropriation for the administrative expenses of each of the two EdVest programs: the college tuition and expenses program and the college savings program. The GPR appropriations were used to provide startup funding for each of the two programs. They are both sum certain appropriations. The SEG appropriations are funded from the separate trust funds established for each of the programs and from administrative fee assessments charged the program participants. The SEG administrative appropriation for the college tuition and expenses program is a sum certain appropriation but the SEG administrative appropriation for the newer college savings program is a continuing appropriation.

GOVERNOR

The Governor's budget would repeal the GPR startup appropriations for each of the programs since they are no longer needed. The two SEG administrative appropriations would be retained as under current law except that the administrative appropriation for the college savings program would be amended to specifically allow the use of this fund for purpose of promoting the college savings program.

DISCUSSION POINTS

1. The college tuition and expenses program, sometimes referred to as EdVest I, was originally created by 1995 Act 403. It was enacted to provide an alternative means for parents and others to save for a child's future college costs by "prepaying" all or a portion of their tuition and

other expenses. The investment allows an individual to contract with the program to purchase "tuition units" on behalf of a beneficiary named in the contract. Due to the creation of the college savings program and its popularity, further participation in the college tuition and expenses program was discontinued with respect to the opening of any new accounts under the program on November 15, 2002, and discontinued with respect to the selling of any additional tuition units to current account holders as of December 20, 2002. Current account holders under that program may continue to hold their investments to maturity or they may transfer their account(s) to any investment option offered under the college savings program.

2. The newer college savings program was created by 1999 Wisconsin Act 44. It was enacted in response to an expressed desire from parents to be able to place monies to be used for future college costs of their children in a program with investment options that could potentially earn greater returns on the invested money than under the college tuition and expenses program and that would not be restricted to calculation of tuition unit amounts. Participants under the program establish a college savings program account and may select from one of seven variable investment options. Act 44 provided for the creation of a College Savings Board to administer the new program to be located in the State Treasurer's Office. It also required that, in cooperation with DOA, the Treasurer's Office contract with an outside vendor to handle the actual investment of monies placed by participants in college savings accounts and provide quarterly reports on the status of individual accounts to the account owners. Act 44 provided that the administrative appropriation for the new program would operate as a continuing appropriation whereby the program's administrative expenses would be reimbursed by means of funds received from the outside vendor selected for administration of the fund. These monies consist of revenue from: (a) a one-time enrollment fee of \$10; and (b) a monthly management fee equal to 0.25% of the total assets in each account.

3. It had been expected that the new college savings program would begin operations in calendar year 2000, but that did not happen. The process of selecting a vendor took longer than anticipated and then, in March of 2001, it was determined that to successfully implement the program, a trust fund -- separate and distinct from the existing college tuition and expenses trust fund -- needed to be created. Legislation to provide for the creation of this new fund was enacted as 2001 Wisconsin Act 7.

4. The 2001-03 biennial budget bill then under consideration by the Joint Committee on Finance did not reflect this new appropriation structure and the new trust fund. Act 7 had changed the previous law PR appropriation to be an appropriation from the new segregated college savings program trust fund. The Act 7 language retained the type of appropriation to be a continuing appropriation as it was under 1999 Act 44. In acting to incorporate the modifications of Act 7 into the biennial budget bill, the Committee provided that the appropriation status for this administrative expenses appropriation be changed to be the more typical sum certain, annual appropriation status.

5. As passed by the Legislature, the biennial budget act retained this sum certain status for the college savings administrative appropriation. However, the Governor partially vetoed this

provision and the continuing nature of the appropriation was retained. The Governor's veto message indicated that the conversion of the appropriation status was premature and that it might be programmatically unwise. He further stated that "... until we have more experience with the program, I believe that a continuing appropriation is most suitable for these program expenses."

6. In general, administrative appropriations are established as sum certain, annual appropriations. Under such an appropriation structure, the spending level set in the approved budget may not be exceeded by the agency unless increased by action of the Legislature or the Joint Committee on Finance. In contrast, under a continuing appropriation, the amounts indicated in the appropriation schedule for the appropriation are not controlling. Rather, the agency can expend any amount for which it has sufficient revenues to support the expenditures, subject to the approval only of the Department of Administration.

7. Under the 2001-03 biennial budget the expenditure level budgeted in this continuing appropriation, based on the agency's estimate of expenditures, was \$234,900 SEG in 2001-02 and \$257,900 SEG in 2002-03. The agency actually expended \$241,600 SEG in 2001-02 and has expended or encumbered a total of \$222,265 SEG in 2002-03 through March 31, 2003.

8. The agency has requested an increase of \$65,000 SEG per year in this appropriation in 2003-05 for the costs of an annual audit of the program vendor (Strong Capital Management, Inc.). The statutes require an annual audit. When the question was raised regarding how the funding for this requirement was being met this biennium, it was indicated that because the appropriation is a continuing appropriation, all that was required was for the agency to request that DOA increase its allotment authority above the budgeted level for the appropriation. The audit cost for fiscal year 2001-02 was only \$6,000 SEG, so the cost was absorbed within the existing budgeted level. However, for this fiscal year, the estimated cost is \$65,000 SEG and the Office requested and received an expenditure allotment increase or that amount above the budgeted level from DOA.

9. While the requirement for the audit is statutorily required, if this appropriation had been a sum certain appropriation, the agency would have had to involve the Joint Committee on Finance in its decision to increase its 2002-03 expenditures by \$65,000 SEG. This could have been accomplished by a request for supplemental funding under s. 13.101.

10. The Committee may wish to consider again what type of appropriation status is most suitable for this administrative appropriation. The Committee could choose to retain the appropriation as a continuing appropriation.

11. Alternatively, the Committee could modify the bill to change this appropriation to a sum certain, annual appropriation.

ALTERNATIVES

1. Amend the bill to change the administrative appropriation for the operation of the college savings program from a continuing appropriation to a sum certain, annual appropriation.

2. **Maintain current law.**

Prepared by: Terry Rhodes



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0122/3
GMM.....
mg

DN-SE

LFB:.....Rhodes - College Savings Program administrative expenses appropriation

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 310, line 13: delete "C" and substitute "A"~~

3 ✓ 2. Page 408, line 9: delete lines 9 to 14 and substitute:

4 "SECTION 652^bd. 20.585 (2) (tm) of the statutes is amended to read:

5 20.585 (2) (tm) *Administrative expenses; college savings program.* From the
6 college savings program trust fund, ~~all moneys received from the vendor of the~~
7 ~~college savings program under s. 16.255 (3) (a)~~ the amounts in the schedule for the
8 administrative expenses of the college savings program under s. 14.64, including the
9 expense of promoting the program. (C) (D)

History: 1971 c. 125; 1973 c. 334; 1975 c. 270; 1977 c. 29; 1977 c. 418 ss. 160, 192; 1979 c. 221, 328; 1981 c. 20; 1983 a. 408; 1985 a. 29; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 1074m, 1079m, 1080m, 1126g to 1139r; 1995 a. 201; 1997 a. 27; 1999 a. 9 ss. 587, 597m; 1999 a. 44; 2001 a. 7, 16.

DMJE

: King:

Ferry?

Because this amendment changes s. 20.585 (2) (tm)

from a continuing to an annual appropriation, you will

have to reflect that change in the appropriation schedule.

GMM

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

LRBb0122/1dn
GMM:kmg:pg

May 1, 2003

Terry:

Because this amendment changes s. 20.585 (2) (tm) from a continuing to an annual appropriation, you will have to reflect that change in the appropriation schedule.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0122/1
GMM:kmg:pg

LFB:.....Rhodes – College Savings Program administrative expenses
appropriation

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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7 administrative expenses of the college savings program under s. 14.64, including the
8 expense of promoting the program.”

9 (END)