

State of Wisconsin



1995 Assembly Bill 1011

Date of enactment: **June 6, 1996**
Date of publication*: **June 20, 1996**

1995 WISCONSIN ACT 403

(Vetoed in Part)

AN ACT to amend 25.14 (1); and to create 16.24, 20.505 (9), 25.17 (1) (vm), 25.80, 71.05 (6) (b) 22. and 815.18 (3) (o) of the statutes; **relating to:** establishing a college tuition prepayment program, creating income tax benefits, granting rule-making authority and making an appropriation.

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

SECTION 1. 16.24 of the statutes is created to read:

16.24 College tuition prepayment program. (1)

DEFINITIONS. In this section:

(a) "Board" means the board of regents of the University of Wisconsin System.

(b) "Institution" of higher education" means a public or private institution of higher education that is accredited by an accrediting association recognized by the department, and a proprietary school approved by the department of education under s. 38.51.

(2) **WEIGHTED AVERAGE TUITION; TUITION UNIT COST.** Annually, the department and the board jointly shall determine all of the following:

(a) The weighted average tuition of bachelor's degree-granting institutions within the University of Wisconsin System for the academic year that begins on or after the first day of August of the current year. The amount shall be calculated as follows:

1. For each such institution, multiply the tuition charged a full-time undergraduate who is a resident of this state by the number of full-time equivalent resident undergraduates attending the institution.

2. Add the products under subd. 1.

3. Divide the sum under subd. 2. by the total number of full-time equivalent resident undergraduates attending such institutions.

(b) The price of a tuition unit, which shall be valid for a period determined jointly by the department and the board. The price shall be sufficient to ensure the ability of the department to meet its obligations under this section. To the extent possible, the price shall be set so that the value of the tuition unit in the anticipated academic year of its use will be equal to 1% of the weighted average tuition for that academic year plus the costs of administering the program under this section attributable to the unit.

(3) **TUITION PREPAYMENT CONTRACTS.** (a) Except as provided under par. (c), the department shall contract with an individual for the sale of tuition units to that individual if all of the following apply:

1. The individual pays a \$50 nonrefundable enrollment fee.
2. The individual is purchasing the tuition units on behalf of a beneficiary named in the contract.
3. The individual or the beneficiary is a resident of this state when the contract is executed.
4. The beneficiary is the child or grandchild of the individual.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) The contract shall specify the anticipated academic year of the beneficiary's initial enrollment in an institution of higher education.

(c) The department may not enter into more than one contract on behalf of the same beneficiary.

(d) The department shall promulgate rules authorizing an individual who has entered into a contract under this subsection to change the beneficiary named in the contract.

(4) NUMBER OF TUITION UNITS PURCHASED. An individual who enters into a contract under sub. (3) may purchase tuition units at any time and in any number, except that the total number of tuition units purchased on behalf of a single beneficiary may not exceed the number necessary to pay for 4 years of full-time attendance as a resident undergraduate at the institution within the University of Wisconsin System that has the highest resident undergraduate tuition, as determined by the department, in the anticipated academic years of their use.

(5) PAYMENT OF TUITION. (a) If an individual named as beneficiary in a contract under sub. (3) attends an institution of higher education in the United States, each tuition unit purchased on his or her behalf entitles that beneficiary to apply toward the payment of tuition at the institution an amount equal to 1% of the anticipated weighted average tuition of bachelor's degree-granting institutions within the University of Wisconsin System for the year of attendance, as estimated by the department under sub. (2) (a) in the year in which the tuition unit was purchased.

**Vetoed
In Part**

(b) Upon request by the beneficiary, the department shall pay to the institution in each semester of attendance the lesser of the following:

1. An amount equal to the value of each tuition unit, as determined under par. (a), multiplied by the number of tuition units purchased on behalf of the beneficiary and not used.

2. An amount equal to the institution's tuition for that semester.

(6) TERMINATION OF CONTRACT. (a) A contract under sub. (3) may be terminated by the individual entering into the contract if any of the following occurs:

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 department to be grounds for termination.

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

(7) REFUNDS. (a) When a beneficiary completes the program in which he or she is enrolled, if the beneficiary has not used all of the tuition units purchased on his or her behalf, the department shall refund to the individual who entered into the contract an amount equal to 1% of the anticipated weighted average tuition in the academic year in which the beneficiary completed the program, as estimated by the department under sub. (2) (a) in the year in which the tuition units were purchased, multiplied by the number of tuition units purchased by the individual and not used by the beneficiary.

**Vetoed
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(b) If a contract is terminated under sub. (6) (a) 1., 2. or 3., the department shall refund to the individual who entered into the contract an amount equal to 1% of the anticipated weighted average tuition in the academic year in which the contract is terminated, as estimated by the department under sub. (2) (a) in the year in which the tuition units were purchased, multiplied by the number of tuition units purchased by the individual and not used by the beneficiary.

**Vetoed
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(c) If a contract is terminated under sub. (6) (a) 4. or (b), the department shall refund to the individual who entered into the contract an amount equal to 99% of the amount determined under par. (b). If a contract is terminated under sub. (6) (a) 4., the department may not issue a refund for one year following receipt of the notice of termination and may not issue a refund of more than 100 tuition units in any year.

(d) If a contract is terminated under sub. (6) (a) 5., the department shall refund to the individual who entered into the contract the amount under par. (b) or under par. (c), as determined by the department.

(e) If the beneficiary is awarded a scholarship, tuition waiver or similar subsidy that cannot be converted into cash by the beneficiary, the department shall refund to the individual who entered into the contract, upon his or her request, an amount equal to the value of the tuition units that are not needed because of the scholarship, waiver or similar subsidy and that would otherwise have been paid by the department on behalf of the beneficiary during the semester in which the beneficiary is enrolled.

(f) Except as provided under par. (c), the department shall determine the method and schedule for the payment of refunds under this subsection.

(8) EXEMPTION FROM GARNISHMENT, ATTACHMENT AND EXECUTION. Moneys deposited in the tuition trust fund and a beneficiary's right to the payment of tuition under this section are not subject to garnishment, attachment, execution or any other process of law.

(9) CONTRACT WITH ACTUARY. The department shall contract with an actuary or actuarial firm to evaluate annually whether the assets in the tuition trust fund are sufficient to meet the obligations of the department under this section and to advise the department on setting the price of a tuition unit under sub. (2) (b).

(10) REPORTS. (a) Annually, the department shall submit a report to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3), on the program under this section. The report shall include any recommendations for changes to the program that the department determines are necessary to ensure the sufficiency of the tuition trust fund to meet the department's obligations under this section.

(b) The department shall submit a quarterly report to the state investment board projecting the future cash flow needs of the tuition trust fund. The state investment board shall invest moneys held in the tuition trust fund in investments with maturities and liquidity that are appropriate for the needs of the fund as reported by the department in its quarterly reports. All income derived from such investments shall be credited to the fund.

(10m) REPAYMENT TO GENERAL FUND. The secretary shall transfer from the tuition trust fund to the general

fund an amount equal to the amount encumbered from the appropriation under s. 20.505 (9) (a) in the 1996-97 fiscal year when the secretary determines that funds in the tuition trust fund are sufficient to make the transfer. The secretary may make the transfer in instalments.

(11) CONSTRUCTION. (a) Nothing in this section guarantees an individual's admission to, retention by or graduation from any institution of higher education.

(b) The requirements to pay tuition under sub. (5) and to make refunds under sub. (7) are subject to the availability of sufficient assets in the tuition trust fund.

(12) ADDITIONAL DEPARTMENT DUTIES AND POWERS. (a) The department shall do all of the following:

1. Annually publish a list of the institutions of higher education located in this state and the number of tuition units necessary to pay for one year of full-time attendance as a resident undergraduate at each institution.

2. Actively promote the program under this section.

3. Promulgate rules to implement and administer this section.

(b) The department may contract with any person for the management and operation of the program or any part of the program under this section.

(13) PROGRAM TERMINATION. If the department determines that the program under this section is financially infeasible, the department shall discontinue entering into tuition prepayment contracts under sub. (3) and discontinue selling tuition units under sub. (4).

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1995-96	1996-97
20.505	Administration, department of		
(9)	COLLEGE TUITION PREPAYMENT PROGRAM		
(a)	Administrative expenses; initial funds	GPR A -0-	721,900
(s)	Administrative expenses	SEG A -0-	-0-

SECTION 3. 20.505 (9) of the statutes is created to read:

20.505 (9) COLLEGE TUITION PREPAYMENT PROGRAM. (a) *Administrative expenses; initial funds.* The amounts in the schedule for the administrative expenses of the college tuition prepayment program under s. 16.24, including the expense of promoting the program. No funds may be encumbered from this appropriation after June 30, 1997.

(q) *Payment of tuition.* From the tuition trust fund, a sum sufficient for the payment of tuition under s. 16.24 (5).

(r) *Payment of refunds.* From the tuition trust fund, a sum sufficient for the payment of refunds under s. 16.24 (7).

(s) *Administrative expenses.* From the tuition trust fund, the amounts in the schedule for the administrative expenses of the college tuition prepayment program un-

der s. 16.24, including the expense of promoting the program.

SECTION 4. 25.14 (1) of the statutes is amended to read:

25.14 (1) There is created a state investment fund under the jurisdiction and management of the investment board (hereinafter referred to as "board") to be operated as an investment trust for the purpose of managing the securities of all the state's funds consisting of the funds specified in s. 25.17 (1) except the state life fund, fixed retirement investment trust, variable retirement investment trust, capital improvement fund, bond security and redemption fund, state building trust fund, the state housing authority reserve fund, the children's trust fund, the patients compensation fund, the tuition trust fund, funds which under article X of the constitution are controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of

law to be controlled and invested by any other authority, the university trust funds and the trust funds of the state universities except that the respective authorities controlling the investment of any such excluded fund may authorize the transfer of any temporary cash assets of any such excluded fund to the state investment fund in accordance with subs. (2) and (3).

SECTION 5. 25.17 (1) (vm) of the statutes is created to read:

25.17 (1) (vm) Tuition trust fund (s. 25.80).

SECTION 6. 25.80 of the statutes is created to read:

25.80 Tuition trust fund. There is established a separate nonlapsible trust fund designated as the tuition trust fund, consisting of all revenue from enrollment fees and the sale of tuition units under s. 16.24.

SECTION 6g. 71.05 (6) (b) 22. of the statutes is created to read:

71.05 (6) (b) 22. Any increase in value of a tuition unit that is purchased under a tuition contract under s. 16.24.

SECTION 7. 815.18 (3) (o) of the statutes is created to read:

815.18 (3) (o) *Tuition units.* Tuition units purchased under s. 16.24.

SECTION 7m. Nonstatutory provisions.

(1) The authorized FTE positions for the department of administration are increased by 4.0 GPR positions on July 1, 1996, to be funded from the appropriation under section 20.505 (9) (a) of the statutes, as created by this act, for the purpose for which the appropriation is made.

SECTION 8. Effective date.

(1) This act takes effect on July 1, 1996.
