



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0789/2
ARG:emw

DOA:.....Stinebrink, BB0101 - College Savings Program

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

EDUCATION

HIGHER EDUCATION

Under this bill, the College Savings Program Board, which administers the state's College Savings Program (commonly known as "EdVest"), is an agency attached to DFI instead of being attached to DOA. The bill also transfers from DOA to DFI any remaining administrative responsibilities under the College Tuition and Expenses Program, a legacy program under which DOA sold college tuition units.

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:

SECTION 1. 15.105 (25m) of the statutes is renumbered 15.185 (5), and 15.185 (5) (intro.) and (a), as renumbered, are amended to read:

15.185 (5) COLLEGE SAVINGS PROGRAM BOARD. (intro.) There is created a college savings program board that is attached to the department of ~~administration~~ financial institutions under s. 15.03 and that consists of all of the following members:

(a) The secretary of ~~administration~~ financial institutions or his or her designee.

SECTION 2. 16.255 (title) of the statutes is renumbered 224.51 (title).

SECTION 3. 16.255 (1) of the statutes is renumbered 224.51 (1m), and 224.51 (1m) (intro.), as renumbered, is amended to read:

224.51 (1m) (intro.) The department shall determine the factors to be considered in selecting a vendor of the program under s. ~~16.641~~ 224.50, which shall include:

SECTION 4. 16.255 (2) of the statutes is renumbered 224.51 (2) and amended to read:

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

SECTION 5. 16.255 (3) of the statutes is renumbered 224.51 (3), and 224.51 (3) (d), as renumbered, is amended to read:

224.51 (3) (d) That the vendor communicate to the beneficiary and account owner the requirements of s. ~~16.641~~ 224.50 (8).

SECTION 6. 16.64 of the statutes is renumbered 224.48.

SECTION 7. 16.641 of the statutes is renumbered 224.50, and 224.50 (2) (a), as renumbered, is amended to read:

224.50 (2) (a) Except as provided in s. ~~16.255~~ 224.51, 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](#).

SECTION 8. 16.642 of the statutes is renumbered 224.52 and amended to read:

224.52 Repayment to the general fund. (1) The secretary of administration shall transfer from the tuition trust fund, the college savings program trust fund, the college savings program bank deposit trust fund, or the college savings program credit union deposit trust fund to the general fund an amount equal to the amount expended from the appropriations under s. 20.505 (9) (a), 1995 stats., s. 20.585 (2) (a), 2001 stats., and s. 20.585 (2) (am), 2001 stats., when the secretary of administration determines, after consultation with the secretary of financial institutions, that funds in those trust funds are sufficient to make the transfer. The secretary of administration may make the transfer in installments.

(2) Annually, by June 1, the secretary of financial institutions, after consultation with the secretary of administration, shall submit a report to the joint committee on finance on the amount available for repayment under sub. (1), the amount repaid under sub. (1), and the outstanding balance under sub. (1).

SECTION 9. 16.705 (1b) (d) of the statutes is created to read:

16.705 (1b) (d) The department of financial institutions under s. 224.51.

SECTION 10. 16.71 (5r) of the statutes is created to read:

16.71 (5r) The department shall delegate authority to the department of financial institutions to enter into vendor contracts under s. 224.51.

SECTION 11. 20.144 (intro.) of the statutes is amended to read:

20.144 Financial institutions, department of. (intro.) There is appropriated to the department of financial institutions for the following program programs:

SECTION 12. 20.144 (1) (g) of the statutes is amended to read:

20.144 (1) (g) *General program operations.* The amounts in the schedule for the general program operations of the department of financial institutions. Except as provided in pars. (a), (h), (i), (j), and (u) and sub. (3), all moneys received by the department, other than by the office of credit unions and the division of banking, and 88 percent of all moneys received by the office of credit unions and the department's division of banking shall be credited to this appropriation, but any balance at the close of a fiscal year under this appropriation shall lapse to the general fund. Annually, \$150,000 of the amounts received under this appropriation account shall be transferred to the appropriation account under s. 20.575 (1) (g).

SECTION 13. 20.144 (3) (title) of the statutes is created to read:

20.144 (3) (title) COLLEGE TUITION AND EXPENSES AND COLLEGE SAVINGS PROGRAMS.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 14. 20.505 (1) (tb) of the statutes is renumbered 20.144 (3) (tb) and amended to read:

20.144 (3) (tb) *Payment of qualified higher education expenses and refunds; college tuition and expenses program.* From the tuition trust fund, a sum sufficient for the payment of qualified higher education expenses and refunds under s. ~~16.64~~ 224.48 (5) and (7).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 15. 20.505 (1) (td) of the statutes is renumbered 20.144 (3) (td) and amended to read:

20.144 (3) (td) *Administrative expenses; college tuition and expenses program.* From the tuition trust fund, the amounts in the schedule for the administrative expenses of the college tuition and expenses program under s. ~~16.64~~ 224.48, including the expense of promoting the program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 16. 20.505 (1) (tf) of the statutes is renumbered 20.144 (3) (tf) and amended to read:

20.144 (3) (tf) *Payment of qualified higher education expenses and refunds; college savings program trust fund.* From the college savings program trust fund, a sum sufficient for the payment of qualified higher education expenses and refunds under s. ~~16.641~~ 224.50 (2) and (3).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 17. 20.505 (1) (th) of the statutes is renumbered 20.144 (3) (th) and amended to read:

20.144 (3) (th) *Administrative expenses; college savings program trust fund.* From the college savings program trust fund, the amounts in the schedule for the administrative expenses of the college savings program under s. ~~16.641~~ 224.50, including the expense of promoting the program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 18. 20.505 (1) (tj) of the statutes is renumbered 20.144 (3) (tj) and amended to read:

20.144 (3) (tj) *Payment of qualified higher education expenses and refunds; college savings program bank deposit trust fund.* From the college savings program bank deposit trust fund, a sum sufficient for the payment of qualified higher education expenses and refunds under s. ~~16.641~~ 224.50 (2) and (3).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 19. 20.505 (1) (tL) of the statutes is renumbered 20.144 (3) (tL) and amended to read:

20.144 (3) (tL) *Administrative expenses; college savings program bank deposit trust fund.* From the college savings program bank deposit trust fund, the amounts in the schedule for the administrative expenses of the college savings program under s. ~~16.641~~ 224.50, including the expense of promoting the program.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 20. 20.505 (1) (tn) of the statutes is renumbered 20.144 (3) (tn) and amended to read:

20.144 (3) (tn) *Payment of qualified higher education expenses and refunds; college savings program credit union deposit trust fund.* From the college savings program credit union deposit trust fund, a sum sufficient for the payment of qualified higher education expenses and refunds under s. ~~16.641~~ 224.50 (2) and (3).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 21. 20.505 (1) (tp) of the statutes is renumbered 20.144 (3) (tp) and amended to read:

20.144 (3) (tp) *Administrative expenses; college savings program credit union deposit trust fund.* From the college savings program credit union deposit trust fund,

the amounts in the schedule for the administrative expenses of the college savings program under s. ~~16.641~~ 224.50, including the expense of promoting the program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 22. 25.17 (2) (f) of the statutes is amended to read:

25.17 (2) (f) Invest the moneys belonging to the college savings program trust fund, the college savings program bank deposit trust fund, and the college savings program credit union deposit trust fund in a manner consistent with the guidelines established under s. ~~16.641~~ 224.50 (2) (c), unless the moneys are under the management and control of a vendor selected under s. ~~16.255~~ 224.51. In making investments under this paragraph, the investment board shall accept any reasonable terms and conditions that the college savings program board specifies and is relieved of any obligations relevant to prudent investment of the fund, including the standard of responsibility under s. 25.15 (2).

SECTION 23. 25.80 of the statutes is amended 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. ~~16.64~~ 224.48.

SECTION 24. 25.85 of the statutes is amended to read:

25.85 College savings program trust fund. There is established a separate nonlapsible trust fund designated as the college savings program trust fund, consisting of all revenue from enrollment fees for and contributions to college savings accounts under s. ~~16.641~~ 224.50 and from distributions and fees paid by the vendor under s. ~~16.255~~ 224.51 (3) other than revenue from those sources that is deposited

in the college savings program bank deposit trust fund or the college savings program credit union deposit trust fund.

SECTION 25. 25.853 of the statutes is amended to read:

25.853 College savings program bank deposit trust fund. There is established a separate nonlapsible trust fund designated as the college savings program bank deposit trust fund, consisting of all revenue from enrollment fees for and contributions to college savings accounts under s. ~~16.641~~ 224.50 in which the investment instrument is an account held by a state or national bank, a state or federal savings bank, a state or federal savings and loan association, or a savings and trust company that has its main office or home office or a branch office in this state and that is insured by the Federal Deposit Insurance Corporation, and all revenue from distributions and fees paid by the vendors of those investment instruments under s. ~~16.255~~ 224.51 (3).

SECTION 26. 25.855 of the statutes is amended to read:

25.855 College savings program credit union deposit trust fund. There is established a separate nonlapsible trust fund designated as the college savings program credit union deposit trust fund, consisting of all revenue from enrollment fees for and contributions to college savings accounts under s. ~~16.641~~ 224.50 in which the investment instrument is an account held by a state or federal credit union, including a corporate central credit union organized under s. 186.32, that has its main office or home office or a branch office located in this state and that is insured by the National Credit Union Administration, and all revenue from distributions and fees paid by the vendors of those investment instruments under s. ~~16.255~~ 224.51 (3).

SECTION 27. 71.05 (6) (a) 26. (intro.) of the statutes is amended to read:

71.05 (6) (a) 26. (intro.) For the taxable year in which a distribution is received, all of the following amounts distributed from a college savings account, as described in s. ~~16.641~~ 224.50:

SECTION 28. 71.05 (6) (a) 26. c. of the statutes is amended to read:

71.05 (6) (a) 26. c. To the extent that an amount is not otherwise added back under this subdivision, any amount withdrawn from a college savings account, as described in s. ~~16.641~~ 224.50, for any purpose if the withdrawn amount was contributed to the account within 365 days of the day on which the amount was withdrawn from such an account and if the withdrawn amount was previously subtracted under par. (b) 32.

SECTION 29. 71.05 (6) (b) 23. of the statutes is amended to read:

71.05 (6) (b) 23. Any increase in value of a tuition unit that is purchased under a tuition contract under s. ~~16.64~~ 224.48, except that the subtraction under this subdivision may not be claimed by any individual who received a refund under s. ~~16.64~~ 224.48 (7) (a) 2., 3. or 4.

SECTION 30. 71.05 (6) (b) 28. h. of the statutes is amended to read:

71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for an amount paid for tuition expenses and mandatory student fees, as described under this subdivision, if the source of the payment is an amount withdrawn from a college savings account, as described in s. ~~16.641~~ 224.50 or from a college tuition and expenses program, as described in s. ~~16.64~~ 224.48, and if the owner of the account or a parent, grandparent, great-grandparent, aunt, or uncle of the beneficiary, who contributed to the account, has claimed a deduction under subd. 32. or 33. that relates to such an amount.

SECTION 31. 71.05 (6) (b) 31. of the statutes is amended to read:

71.05 (6) (b) 31. Any increase in value of a college savings account, as described in s. ~~16.641~~ 224.50, except that the subtraction under this subdivision may not be claimed by any individual who has made a nonqualified withdrawal, as described in s. ~~16.641~~ 224.50 (2) (e).

SECTION 32. 71.05 (6) (b) 32. (intro.) of the statutes is amended to read:

71.05 (6) (b) 32. (intro.) An amount paid into a college savings account, as described in s. ~~16.641~~ 224.50, in the taxable year in which the contribution is made or on or before the 15th day of the 4th month beginning after the close of a taxpayer's taxable year to which this subtraction relates, by the owner of the account or by any other individual, for the benefit of any beneficiary of an account, calculated as follows, except that each amount that is subtracted under this subdivision may be subtracted only once:

SECTION 33. 71.05 (6) (b) 32m. of the statutes is amended to read:

71.05 (6) (b) 32m. Consistent with the limitations specified in subd. 32., for rollovers occurring after April 15, 2015, any principal amount rolled over to a college savings account, as described in s. ~~16.641~~ 224.50, from another state's qualified tuition program, as described in [26 USC 529](#) (c) (3) (C) (i). Amounts eligible for the subtraction under this subdivision that are in excess of the annual limits specified under subd. 32. may be carried forward to future taxable years of the taxpayer without limitation, other than the limits specified in subd. 32. ae. and am.

SECTION 34. 71.05 (6) (b) 33. (intro.) of the statutes is amended to read:

71.05 (6) (b) 33. (intro.) An amount paid into a college tuition and expenses program, as described in s. ~~16.64~~ 224.48, by the owner of the account or by a parent, grandparent, great-grandparent, aunt, or uncle of the beneficiary, if the beneficiary of the account is one of the following: the claimant; the claimant's child; the

claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or nephew; calculated as follows:

SECTION 35. 224.48 (1) (am) of the statutes is created to read:

224.48 (1) (am) "Department" means the department of financial institutions.

SECTION 36. 224.50 (1) (c) of the statutes is created to read:

224.50 (1) (c) "Department" means the department of financial institutions.

SECTION 37. 224.51 (1g) of the statutes is created to read:

224.51 (1g) In this section, "department" means the department of financial institutions.

SECTION 38. 815.18 (3) (o) of the statutes is amended to read:

815.18 (3) (o) *Tuition units.* Tuition units purchased under s. ~~16.64~~ 224.48.

SECTION 39. 815.18 (3) (p) of the statutes is amended to read:

815.18 (3) (p) *College savings accounts.* An interest in a college savings account under s. ~~16.641~~ 224.50.

SECTION 9101. Nonstatutory provisions; Administration.

(1) TRANSFER OF COLLEGE SAVINGS PROGRAMS DUTIES TO THE DEPARTMENT OF FINANCIAL INSTITUTIONS.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of administration that are primarily related to the department's performance of duties under sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, become the assets and liabilities of the department of financial institutions.

(b) *Positions and employees.* On the effective date of this paragraph, 2.0 FTE SEG positions, and the incumbent employees holding those positions, in the department of administration responsible for the performance of duties under

sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, are transferred to the department of financial institutions.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under chapter 230 of the statutes in the department of financial institutions that they enjoyed in the department of administration immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee transferred under paragraph (b) who has attained permanent status in class is required to serve a probationary period.

(d) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of administration that is primarily related to the department's performance of duties under sections 16.64, 16.641, and 16.642 (2), 2015 stats., as determined by the secretary of administration, is transferred to the department of financial institutions.

(e) *Contracts.* All contracts entered into by the department of administration in effect on the effective date of this paragraph that are primarily related to the department's performance of duties under sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, remain in effect and are transferred to the department of financial institutions. The department of financial institutions shall carry out any obligations under those contracts unless modified or rescinded by the department of financial institutions to the extent allowed under the contract.

(f) *Rules and orders.* All rules promulgated by the department of administration in effect on the effective date of this paragraph that are primarily related to the department's performance of duties under sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, remain in effect until their specified expiration dates or until amended or repealed by the department of

financial institutions. All orders issued by the department of administration in effect on the effective date of this paragraph that are primarily related to the department's performance of duties under sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, remain in effect until their specified expiration dates or until modified or rescinded by the department of financial institutions.

(g) *Pending matters.* Any matter pending with the department of administration that is primarily related to the department's performance of duties under sections 16.64 and 16.641, 2015 stats., as determined by the secretary of administration, is transferred to the department of financial institutions. All materials submitted to or actions taken by the department of administration with respect to the pending matter are considered as having been submitted to or taken by the department of financial institutions.

SECTION 9401. Effective dates; Administration.

(1) TRANSFER OF COLLEGE SAVINGS PROGRAMS DUTIES TO THE DEPARTMENT OF FINANCIAL INSTITUTIONS. The renumbering of sections 16.255 (title) and 16.64 of the statutes, the renumbering and amendment of sections 15.105 (25m), 16.255 (1), 16.255 (2), 16.255 (3), 16.641, 16.642, 20.505 (1) (tb), 20.505 (1) (td), 20.505 (1) (tf), 20.505 (1) (th), 20.505 (1) (tj), 20.505 (1) (tL), 20.505 (1) (tn), and 20.505 (1) (tp) of the statutes, the amendment of sections 20.144 (intro.), 20.144 (1) (g), 25.17 (2) (f), 25.80, 25.85, 25.853, 25.855, 71.05 (6) (a) 26. (intro.), 71.05 (6) (a) 26. c., 71.05 (6) (b) 23., 71.05 (6) (b) 28. h., 71.05 (6) (b) 31., 71.05 (6) (b) 32. (intro.), 71.05 (6) (b) 32m., 71.05 (6) (b) 33. (intro.), 815.18 (3) (o), and 815.18 (3) (p) of the statutes, and the creation of sections 16.705 (1b) (d), 16.71 (5r), 20.144 (3) (title), 224.48 (1) (am), 224.50 (1) (c),

SECTION 9401

and 224.51 (1g) of the statutes and SECTION 9101 (1) of this act take effect on October 1, 2017, or on the day after publication, whichever is later.

(END)