



2005 SENATE BILL 53

February 8, 2005 - Introduced by Senators KANAVAS, MILLER, DARLING, A. LASEE, ROESSLER, GROTHMAN and STEPP, cosponsored by Representatives KREIBICH, PRIDEMORE, SUDER, KESTELL, ZEPNICK, GRONEMUS, F. LASEE, HAHN, PARISI, WOOD, MOULTON, MUSSER, GRIGSBY, AINSWORTH, HUNDERTMARK, GARD, NASS, PETROWSKI, ALBERS, TOWNSEND, VAN ROY, GUNDERSON, POCAN, HINES, VRAKAS, MURSAU, OTT, BALLWEG and BERCEAU. Referred to Joint Survey Committee on Tax Exemptions.

1 **AN ACT to amend** 71.05 (6) (b) 32. (intro.), 71.05 (6) (b) 32. a., 71.05 (6) (b) 33.
2 (intro.) and 71.05 (6) (b) 33. a. of the statutes; **relating to:** allowing an
3 individual income tax deduction for certain amounts contributed by a divorced
4 or legally separated parent to his or her child's college savings account or college
5 tuition and expenses program and limiting the deduction that may be claimed
6 by a married person who files separately.

Analysis by the Legislative Reference Bureau

Under current law, there is a college tuition and expenses program, commonly referred to as "EdVest I," under which a contributor may purchase "tuition units" that can be used to pay qualified educational costs on behalf of a beneficiary. The purchase of such units is limited to parents, grandparents, aunts, uncles, legal guardians, trusts created on behalf of a beneficiary, or individuals purchasing units for their own use. Contributions made to an account set up under the program, up to a limit of \$3,000 each year for each beneficiary, may be deducted from a contributor's income in the calculation of his or her income taxes if the beneficiary of the account is one of the following: the claimant; the claimant's child and the claimant's dependent under the Internal Revenue Code; the claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or nephew.

Also under current law, there exists a college savings program, commonly referred to as "EdVest II," under which anyone may open an account for a prospective

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student, regardless of the contributor's relationship to the beneficiary. Individuals may open accounts for themselves, and a prospective student may be the beneficiary of more than one college savings account. Contributions made to an account set up under the program, up to a limit of \$3,000 each year for each beneficiary, may be deducted from a contributor's income in the calculation of his or her income taxes if the beneficiary of the account is one of the following: the claimant; the claimant's child and the claimant's dependent under the Internal Revenue Code; the claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or nephew.

Under this bill, an income tax deduction for amounts contributed to both EdVest I and EdVest II may be claimed by a divorced or legally separated parent of a child. The deduction may be claimed without regard to whether the child is his or her dependent.

Currently, the total amount for which a deduction may be claimed under the college tuition and expenses program and the college savings program, per beneficiary, by any claimant, may not exceed \$3,000 each year and, in the case of a married couple filing a joint return, the total annual deduction under these two programs, per beneficiary, claimed by the married couple may not exceed \$3,000.

Under the bill, the total annual deduction under these two programs, per beneficiary, claimed by married parents who file jointly or separately, or by each divorced or legally separated parent of a child, may not exceed \$3,000. The total annual deduction under the bill, under these two programs, per beneficiary, claimed by a married person who files separately may not exceed \$1,500 per claimant.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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

2 71.05 **(6)** (b) 32. (intro.) An amount paid into a college savings account, as
3 described in s. 14.64, if the beneficiary of the account is one of the following: the
4 claimant; the claimant's child and the claimant's dependent who is claimed under
5 ~~section 151 (c) of the Internal Revenue Code~~; the claimant's grandchild; the
6 claimant's great-grandchild; or the claimant's niece or nephew; calculated as
7 follows:

8 **SECTION 2.** 71.05 (6) (b) 32. a. of the statutes is amended to read:

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1 71.05 (6) (b) 32. a. An amount equal to not more than \$3,000 per beneficiary,
2 by each contributor, or \$1,500 by each contributor who is married and files
3 separately, to an account for each year to which the claim relates, except that the total
4 amount for which a deduction may be claimed under this subdivision and under
5 subd. 33., per beneficiary by any claimant may not exceed \$3,000 each year, or \$1,500
6 each year by any claimant who is married and files separately. In the case of a
7 married couple ~~filing a joint return~~, the total deduction under this subdivision and
8 under ~~subdivision~~ subd. 33., per beneficiary by the married couple may not exceed
9 \$3,000 each year.

10 **SECTION 3.** 71.05 (6) (b) 33. (intro.) of the statutes is amended to read:

11 71.05 (6) (b) 33. (intro.) An amount paid into a college tuition and expenses
12 program, as described in s. 14.63, if the beneficiary of the account is one of the
13 following: the claimant; the claimant's child ~~and the claimant's dependent who is~~
14 ~~claimed under section 151 (c) of the Internal Revenue Code~~; the claimant's
15 grandchild; the claimant's great-grandchild; or the claimant's niece or nephew;
16 calculated as follows:

17 **SECTION 4.** 71.05 (6) (b) 33. a. of the statutes is amended to read:

18 71.05 (6) (b) 33. a. An amount equal to not more than \$3,000 per beneficiary,
19 by each contributor, or \$1,500 by each contributor who is married and files
20 separately, to an account for each year to which the claim relates, except that the total
21 amount for which a deduction may be claimed under this subdivision and under
22 subd. 32., per beneficiary by any claimant may not exceed \$3,000 each year, or \$1,500
23 each year by any claimant who is married and files separately. In the case of a
24 married couple ~~filing a joint return~~, the total deduction under this subdivision and

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1 under ~~subdivision~~ subd. 32., per beneficiary by the married couple may not exceed
2 \$3,000 each year.

3 **SECTION 5. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1 of the year
5 in which this subsection takes effect, except that if this subsection takes effect after
6 July 31, this act first applies to taxable years beginning on January 1 of the year
7 following the year in which this subsection takes effect.

8 (END)