

**2005 DRAFTING REQUEST**

**Bill**

Received: 01/13/2005

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Ted Kanavas (608) 266-9174

By/Representing: Jeremy

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Tax, Individual - dedct/sbtrct

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kanavas@legis.state.wi.us

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Allow coustodial and non-custodial parent to claim subtract modification for EdVest contributions

---

**Instructions:**

Redraft of 2003 SB 217 (LRB -2419)

---

**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>
/?	mshovers 01/13/2005	wjackson 01/13/2005		_____			State Tax
/1			rschluet 01/14/2005	_____	mbarman 01/14/2005	mbarman 01/25/2005	

FE Sent For:

*AX  
intro*

<END>

2005 DRAFTING REQUEST

Bill

Received: 01/13/2005

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Ted Kanavas (608) 266-9174

By/Representing: Jeremey

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Tax, Individual - dedct/sbtrct

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kanavas@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Allow coustodial and non-custodial parent to claim subtract modification for EdVest contributions

Instructions:

Redraft of 2003 SB 217 (LRB -2419)

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>
/?	mshovers 01/13/2005	wjackson 01/13/2005		_____			State Tax
/1			rschluet 01/14/2005	_____	mbarman 01/14/2005		

FE Sent For:

<END>

**2005 DRAFTING REQUEST**

**Bill**

Received: **01/13/2005**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Jeremey**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Individual - dedct/sbtrct**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Allow coustodial and non-custodial parent to claim subtract modification for EdVest contributions

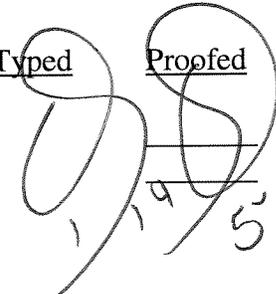
---

**Instructions:**

Redraft of 2003 SB 217 (LRB -2419)

---

**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>
/?	mshovers	1/13/05					

FE Sent For:

<END>

**Shovers, Marc**

---

**From:** Shepherd, Jeremey  
**Sent:** Wednesday, January 12, 2005 4:35 PM  
**To:** Shovers, Marc  
**Subject:** Kanavas request for the reintroduction of 2003 SB 217 which allows divorced or legally separated parents or grandparents to claim Edvest deduction

Marc,

Senator Kanavas would like to request a re-draft of 2003 LRB 2419/2 (2003 SB 217)....I enclosed a copy of last year's cosponsorship memo for your review.

Thanks!

Jeremey Shepherd  
Office of Senator Ted Kanavas  
608.266.9174

-----Original Message-----

**From:** Sen.Kanavas  
**Sent:** Monday, June 09, 2003 11:12 AM  
**To:** \*Legislative Senate Republicans; \*Legislative Assembly Republicans; \*Legislative Senate Democrats; \*Legislative Assembly Democrats  
**Subject:** Kanavas/Co-Sponsorship of LRB-2419/2 - allows divorced or legally separated parents or grandparents to claim Edvest deduction

**Date: June 9, 2003**  
**To: Legislative Colleagues**  
**From: Senator Ted Kanavas, Representative Mickey Lehman and Representative Rob Kreibich**  
**Re: Co-Sponsorship of LRB-2419/2 - Relating to: allowing an individual income tax deduction for certain amounts contributed by a divorced or legally separated parent or grandparent to his or her child's or grandchild's college savings account or college tuition and expenses program.**

At the request of a divorced parent from the 99<sup>th</sup> Assembly District and 33<sup>rd</sup> Senate District, Rep. M. Lehman, Rep. Kreibich and I will be introducing, LRB 2419, which will allow an individual income tax deduction for certain amounts contributed by a divorced or legally separated parent to his or her child's Edvest account. Currently, a parent who is not able to claim his or her child as a dependent for tax purposes cannot receive the Edvest deduction.

*Description of Current Law and Proposed Change*

The bill would expand the individual income tax deduction for contributions made by parents to an EdVest account when the beneficiary is the claimant's child and dependent to include contributions made by a divorced or legally separated parent to an account when the beneficiary is the claimant's child, and not necessarily the claimant's dependent.

*Fairness/Tax Equity*

It is arguably unfair to deny a deduction for a EdVest contribution made by a parent of a beneficiary who is not that parent's dependent for tax purposes, when grandparents of the beneficiary are permitted the deduction, even though the beneficiary is not the grandparents' dependent.

The deduction for EdVest contributions was intended to mirror the deduction under sec. 71.05 (6)(b) 28, Wis. Stats., for tuition expenses for the taxpayer or the taxpayer's dependent child. This

deduction is not permitted to a parent who cannot claim the child as a dependent, so the proposed law would treat EdVest contributions more favorably. (Current law already treats EdVest contributions more favorably in allowing the deduction to grandparents, who cannot claim the tuition deduction.)

### ***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; or the claimant's grandchild.

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 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; or the claimant's grandchild.

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 or grandparent of a child or grandchild. With regard to a parent, 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 the divorced or legally separated parents or grandparents of a child or grandchild, may not exceed \$3,000. If the combined contribution of divorced or legally separated parents or grandparents exceeds \$3,000 in a year, the deduction that may be claimed by each individual is based on each individual's share of the total contribution.

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.

If you would like to be listed as a co-sponsor of LRB 2419, please contact my office at **6-9174** no later than **5 p.m. on Friday, June 20, 2003**.



Edvest - divorced  
parents.pdf

-1705/1  
LRB+137171  
MES:wlj:rs  
*RmNA*

**2005 BILL**

*Regen*

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

**BILL**

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:

**BILL**

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 (e) 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

**BILL**

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)

**Northrop, Lori**

---

**From:** Shepherd, Jeremy  
**Sent:** Monday, January 24, 2005 3:55 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-1705/1 Topic: Allow coustodial and non-custodial parent to claim subtract modification for EdVest contributions

It has been requested by <Shepherd, Jeremy> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-1705/1 Topic: Allow coustodial and non-custodial parent to claim subtract modification for EdVest contributions