



2005 SENATE BILL 336

September 16, 2005 – Introduced by Senators S. FITZGERALD, GROTHMAN, HARSDORF, A. LASEE, REYNOLDS, STEPP, LASSA and LAZICH, cosponsored by Representatives JENSEN, GUNDERSON, BIES, BALLWEG, ALBERS, HINES, GUNDRUM, GRONEMUS, KRAWCZYK, LOTHIAN, LEMAHIEU, MCCORMICK, PETROWSKI, RHOADES, TOWNSEND, WOOD and KREIBICH. Referred to Joint Committee on Finance.

1 **AN ACT to create** 71.07 (6f) and 71.10 (4) (cf) of the statutes; **relating to:** creating
2 a nonrefundable individual income tax credit for amounts contributed to any
3 section 529 college tuition program account.

Analysis by the Legislative Reference Bureau

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; the claimant’s grandchild; the claimant’s great-grandchild; or the claimant’s niece or nephew. EdVest II is Wisconsin’s version of a qualified tuition program that is authorized under federal law and commonly referred to as a “section 529 plan.”

This bill creates a nonrefundable individual income tax credit based on amounts paid by an individual into the section 529 plan of any state, multiplied by the individual’s marginal tax rate. Many of the provisions of the credit created in this bill are similar to the provisions of the current law EdVest II deduction. Under the bill, however, a claimant who claims the current law deduction for amounts that are paid into an EdVest II account could not also claim the credit created in the bill for the same contribution to EdVest II.

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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.** 71.07 (6f) of the statutes is created to read:

2 71.07 (6f) COLLEGE SAVINGS TAX CREDIT. (a) *Definitions.* In this subsection:

3 1. “Account” means any qualified tuition program, as that term is defined in
4 26 USC 529 (b) (1).

5 2. “Beneficiary” means an individual who benefits from amounts paid into an
6 account by a contributor.

7 3. “Claimant” means a contributor who claims a credit under this subsection.

8 4. “Contributor” means an individual who pays an amount into an account, if
9 the beneficiary of the account is one of the following: the claimant; the claimant’s
10 child; the claimant’s grandchild; the claimant’s great-grandchild; or the claimant’s
11 niece or nephew.

12 5. “Eligible amount” means an amount equal to not more than \$3,000 per
13 beneficiary that is paid by a claimant, or \$1,500 per beneficiary that is paid by each
14 claimant who is married and files separately, to an account for each year to which the
15 claim relates.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
18 amount of those taxes, the claimant’s eligible amount, multiplied by the claimant’s
19 marginal tax rate.

20 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
21 is claimed within the time period under s. 71.75 (2).

