



## 2005 SENATE BILL 351

September 28, 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 Committee on Job Creation, Economic Development and Consumer Affairs.

1     **AN ACT to create** 71.07 (6f), 71.07 (6g), 71.10 (4) (cf) and 71.10 (4) (cg) of the  
2             statutes; **relating to:** creating nonrefundable individual income tax credits for  
3             amounts contributed to a college savings account or a college tuition and  
4             expenses program.

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### *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 tuition 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 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

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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.

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.

This bill creates two nonrefundable individual income tax credits based on amounts paid by an individual into an EdVest I and EdVest II account and the individual's marginal tax rate. Many of the provisions of the credits created in this bill are similar to the provisions of the current law deduction.

Under the bill, the total maximum amount for which a credit may be claimed under the college tuition and expenses credit and the college savings credit, per beneficiary, by any claimant, may not exceed \$3,000 each year, multiplied by the claimant's marginal tax rate and, in the case of a married couple filing a joint return, the total maximum amount for which a credit may be claimed under these two credits, per beneficiary, by the married couple may not exceed \$3,000 each year, multiplied by the claimant's marginal tax rate.

Also under the bill, the credits for amounts contributed to both EdVest I and EdVest II may be claimed by a divorced or legally separated parent of a child. The credit may be claimed without regard to whether the child is his or her dependent.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***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. "Beneficiary" means an individual who benefits from amounts paid into an
- 4           account, as described in s. 14.64, by a contributor.
- 5           2. "Claimant" means an individual who claims a credit under this subsection.
- 6           3. "Contributor" means an individual who pays an amount into a college
- 7           savings account, as described in s. 14.64, if the beneficiary of the account is one of the

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1 following: the claimant; the claimant's child; the claimant's grandchild; the  
2 claimant's great-grandchild; or the claimant's niece or nephew.

3 4. "Eligible amount" means an amount equal to not more than \$3,000 per  
4 beneficiary, by each contributor, or \$1,500 by each contributor who is married and  
5 files separately, to an account for each year to which the claim relates.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
7 claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
8 amount of those taxes, the claimant's eligible amount, multiplied by the claimant's  
9 marginal tax rate.

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

12 2. A claimant who is a nonresident or part-year resident of this state and who  
13 is a single person or a married person filing a separate return shall multiply the  
14 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
15 which is the claimant's Wisconsin adjusted gross income and the denominator of  
16 which is the claimant's federal adjusted gross income. If a claimant is married and  
17 files a joint return, and if the claimant or the claimant's spouse, or both, are  
18 nonresidents or part-year residents of this state, the claimant shall multiply the  
19 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
20 which is the couple's joint Wisconsin adjusted gross income and the denominator of  
21 which is the couple's joint federal adjusted gross income.

22 3. The total amount for which a credit may be claimed under this subsection  
23 and sub. (6g) per beneficiary by any claimant may not exceed \$3,000 each year,  
24 multiplied by the claimant's marginal tax rate.

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1           4. In the case of a married couple filing a joint return, the total credit under this  
2 subsection and sub. (6g) per beneficiary by the married couple may not exceed \$3,000  
3 each year, multiplied by the claimant’s marginal tax rate.

4           (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit  
5 under that subsection, applies to the credit under this subsection.

6           **SECTION 2.** 71.07 (6g) of the statutes is created to read:

7           71.07 **(6g)** COLLEGE TUITION AND EXPENSES TAX CREDIT. (a) *Definitions.* In this  
8 subsection:

9           1. “Beneficiary” means an individual who benefits from amounts paid into a  
10 college tuition and expenses program, as described in s. 14.63, by a contributor.

11           2. “Claimant” means an individual who claims a credit under this subsection.

12           3. “Contributor” means an individual who pays an amount into a college tuition  
13 and expenses program, as described in s. 14.63, if the beneficiary of the account is  
14 one of the following: the claimant; the claimant’s child; the claimant’s grandchild; the  
15 claimant’s great-grandchild; or the claimant’s niece or nephew.

16           4. “Eligible amount” means an amount equal to not more than \$3,000 per  
17 beneficiary, by each contributor, or \$1,500 by each contributor who is married and  
18 files separately, to an account for each year to which the claim relates.

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

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

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1           2. A claimant who is a nonresident or part-year resident of this state and who  
2 is a single person or a married person filing a separate return shall multiply the  
3 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
4 which is the claimant's Wisconsin adjusted gross income and the denominator of  
5 which is the claimant's federal adjusted gross income. If a claimant is married and  
6 files a joint return, and if the claimant or the claimant's spouse, or both, are  
7 nonresidents or part-year residents of this state, the claimant shall multiply the  
8 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
9 which is the couple's joint Wisconsin adjusted gross income and the denominator of  
10 which is the couple's joint federal adjusted gross income.

11           3. The total amount for which a credit may be claimed under this subsection  
12 and sub. (6f) per beneficiary by any claimant may not exceed \$3,000 each year,  
13 multiplied by the claimant's marginal tax rate.

14           4. In the case of a married couple filing a joint return, the total credit under this  
15 subsection and sub. (6f) per beneficiary by the married couple may not exceed \$3,000  
16 each year, multiplied by the claimant's marginal tax rate.

17           (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit  
18 under that subsection, applies to the credit under this subsection.

19           **SECTION 3.** 71.10 (4) (cf) of the statutes is created to read:

20           71.10 (4) (cf) The college savings tax credit under s. 71.07 (6f).

21           **SECTION 4.** 71.10 (4) (cg) of the statutes is created to read:

22           71.10 (4) (cg) The college tuition and expenses tax credit under s. 71.07 (6g).

23           **SECTION 5. Initial applicability.**

24           (1) This act first applies to taxable years beginning on January 1 of the year  
25 in which this subsection takes effect, except that if this subsection takes effect after

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1 July 31 this act first applies to taxable years beginning on January 1 of the year  
2 following the year in which this subsection takes effect.

3 (END)