

1999 DRAFTING REQUEST**Assembly Amendment (AA-AB654)**Received: **01/06/2000**Received By: **shoveme**Wanted: **Today**

Identical to LRB:

For: **Rob Kreibich (608) 266-0660**By/Representing: **Andy**This file may be shown to any legislator: **NO**Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**Extra Copies: **MJL****Pre Topic:**

No specific pre topic given

Topic:

Tax deductions, exemptions for certain contributions to and disbursements from college tuition program

Instructions:

.See Attached. Allow deduction for up to \$3,000/yr/account for contributions to college tuition prepayment program if beneficiary is the contributor or his or her child; exempt gain from taxation, as in s. 71.05 (6) (b) 23.; prohibit beneficiaries from being able to deduct distributions.

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>
/1	shoveme 01/07/2000	chanaman 01/07/2000	haugeca 01/07/2000	_____	lrb_docadmin 01/07/2000	lrb_docadmin 01/07/2000	
/2	shoveme 01/10/2000	chanaman 01/11/2000	martykr 01/11/2000	_____	lrb_docadmin 01/11/2000	lrb_docadmin 01/11/2000	
/3	shoveme 01/28/2000	chanaman 01/31/2000	hhagen 01/31/2000	_____	lrb_docadmin 01/31/2000	lrb_docadmin 01/31/2000	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/4	shoveme 02/01/2000	chanaman 02/01/2000	kfollet 02/01/2000	_____	lrb_docadmin 02/01/2000	lrb_docadmin 02/01/2000	

FE Sent For:

<END>

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/2	shoveme 01/10/2000	chanaman 01/11/2000	martykr 01/11/2000	_____	lrb_docadmin 01/11/2000	lrb_docadmin 01/11/2000	
/3	shoveme 01/28/2000	chanaman 01/31/2000	hhagen 01/31/2000	_____	lrb_docadmin 01/31/2000	lrb_docadmin 01/31/2000	

Handwritten notes: 14 MES 2/1/00, cmr 2/1/00, kjf 2/1/00, kjf/jf 2/1/00

01/31/2000 10:34:41 AM
Page 2

FE Sent For:

<END>

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB(LRBx4017/4))

Received: 01/06/2000

Received By: **shoveme**

Wanted: **Today**

Identical to LRB:

For: **Rob Kreibich (608) 266-0660**

By/Representing: **Andy**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**

Extra Copies: **MJL**

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/2	shoveme 01/10/2000	chanaman 01/11/2000	martykr 01/11/2000	_____	lrb_docadmin 01/11/2000	lrb_docadmin 01/11/2000	

13 MES 1/28/00

* FE Sent For:

cm 1/30
1/31

<END>

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB(LRBx4017/4))

Received: 01/06/2000

Received By: shoveme

Wanted: Today

Identical to LRB:

For: Rob Kreibich (608) 266-0660

By/Representing: Andy

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/1	shoveme 01/07/2000	chanaman 01/07/2000	haugca 01/07/2000	_____	lrb_docadmin 01/07/2000	lrb_docadmin 01/07/2000	

12 MES 1/10/00
 FE Sent For:
 cmh
 1/11
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 <END>

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB(LRBx4017/4))

Received: 01/06/2000

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1/1	shoveme	cmk 1/7	ck 1-7	ck 1-7			

11 NES 1/7/00

FE Sent For:

<END>

Andy - Freidahn

Amend the bill to allow
a person who ~~sets up a trust~~ ^{contributes to an account}
a college savings plan to subtract
from income up to \$3,000, each year,
from the amount that is contributed
~~to the account~~

Need before 1/12/00

1/16/00
MOST recent instructions leaving

a) \$3K reduction/yr for amounts
contributed to an account, but only by person
if the beneficiaries of the account is yourself or
your child

b) exempt gain from taxation like 71.05(6)(b)23.

2 prohibit beneficiaries from deducting distributions

do a memo on the tax implications for Andy



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1138/1
MES.....
cm 17

today

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL (LRB-4017/4)

D-note

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain
3 amounts contributed to the college tuition prepayment program and exempting from
4 taxation certain gains derived from such contributions,".

5 2. Page 10, line 9: after that line insert:

6 "SECTION 13h. 71.05 (6) (b) 28. h. of the statutes is created to read:
7 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
8 an amount paid for tuition expenses, as described under this subdivision, if the
9 source of the payment is an amount withdrawn from a college savings account, as
10 described in s. 14.64.

11 SECTION 13j. 71.05 (6) (b) 31. of the statutes is created to read:
12 71.05 (6) (b) 31. Any increase in value of a college savings account, as described
13 in s. 14.64.

1 SECTION 13m. 71.05 (6) (b) 32. of the statutes is created to read:

2 71.05 (6) (b) 32. An amount paid into a college savings account, as described
3 in s. 14.64, if the beneficiary of the account is ^{either} the claimant or ^{is} the claimant's child and
4 the claimant's dependent who is claimed under section 151 (c) of the Internal
5 Revenue Code, calculated as follows:

6 a. An amount equal to not more than \$3,000 per beneficiary for each year to
7 which the claim relates.

8 ~~SECTION ?? 71.05 (6) (b) 28. e. of the statutes is amended to read:~~

9 ~~b. 71.05 (6) (b) 28. a.~~ For an individual who is a nonresident or part-year resident
10 of this state, multiply the amount calculated under subd. ^{32. a.} ~~28. a.~~ by a fraction
11 the numerator of which is the individual's wages, salary, tips, unearned income and
12 net earnings from a trade or business that are taxable by this state and the
13 denominator of which is the individual's total wages, salary, tips, unearned income
14 and net earnings from a trade or business. In this subd. ^{32. b.} ~~28. a.~~ for married persons
15 filing separately "wages, salary, tips, unearned income and net earnings from a trade
16 or business" means the separate wages, salary, tips, unearned income and net
17 earnings from a trade or business of each spouse, and for married persons filing
18 jointly "wages, salary, tips, unearned income and net earnings from a trade or
19 business" means the total wages, salary, tips, unearned income and net earnings
20 from a trade or business of both spouses. ✓

~~History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 271, 407, 453; 1997 a. 27, 38, 39, 237.~~

21 c. Reduce the amount calculated under subd. 32. a. or b. to the individual's
22 aggregate wages, salary, tips, unearned income and net earnings from a trade or
23 business that are taxable by this state. ✓

24 3. Page 11, line 10: after that line insert: ✓

✓

1

SECTION 15m. Initial applicability.

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(1) The treatment of section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

// ,

✓

(END)

D-note →

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1138/1dn

MES.....

cm

[Handwritten mark]

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Created s. 71.05 (6) (b) 28. h. prohibits an individual from using a withdrawal from a college savings account that is used to pay for tuition to also be the basis of a subtract modification under that s. 71.05 (6) (b) 28. Could an individual attempt a similar "double dip" when a tuition unit under Edvest is redeemed? If so, s. 71.05 (6) (b) 28. h. should also cross-reference tuition units.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1138/1dn
MES:cmh:ch

January 7, 2000

Created s. 71.05 (6) (b) 28. h. prohibits an individual from using a withdrawal from a college savings account that is used to pay for tuition to also be the basis of a subtract modification under that s. 71.05 (6) (b) 28. Could an individual attempt a similar "double dip" when a tuition unit under Edvest is redeemed? If so, s. 71.05 (6) (b) 28. h. should also cross-reference tuition units.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1138/1dn
MES:cmh:ch

January 7, 2000

*Instructions from
Andy & Mary Mathias
1/10/00*

Created s. 71.05 (6) (b) 28. h. prohibits an individual from using a withdrawal from a college savings account that is used to pay for tuition to also be the basis of a subtract modification under that s. 71.05 (6) (b) 28. Could an individual attempt a similar "double dip" when a tuition unit under Edvest is redeemed? If so, s. 71.05 (6) (b) 28. h. should also cross-reference tuition units.

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E-mail: Marc.Shovers@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1138/1
MES:cmh:ch

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL (LRB-4017/4)

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain
3 amounts contributed to the college tuition prepayment program and exempting from
4 taxation certain gains derived from such contributions,"

5 2. Page 10, line 9: after that line insert:

6 "SECTION 13h. 71.05 (6) (b) 28. h. of the statutes is created to read:

7 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
8 an amount paid for tuition expenses, as described under this subdivision, if the
9 source of the payment is an amount withdrawn from a college savings account, as
10 described in s. 14.64. *or 14.63*

11 SECTION 13j. 71.05 (6) (b) 31. of the statutes is created to read:

12 71.05 (6) (b) 31. Any increase in value of a college savings account, as described
13 in s. 14.64.

*for tuition
units
under s. 14.63
or
paid*

1 **SECTION 13m.** 71.05 (6) (b) 32. of the statutes is created to read:

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

6 a. An amount equal to not more than \$3,000 per beneficiary for each year to
7 which the claim relates.

8 b. For an individual who is a nonresident or part-year resident of this state,
9 multiply the amount calculated under subd. 32. a. by a fraction the numerator of
10 which is the individual's wages, salary, tips, unearned income and net earnings from
11 a trade or business that are taxable by this state and the denominator of which is the
12 individual's total wages, salary, tips, unearned income and net earnings from a trade
13 or business. In this subd. 32. b., for married persons filing separately "wages, salary,
14 tips, unearned income and net earnings from a trade or business" means the separate
15 wages, salary, tips, unearned income and net earnings from a trade or business of
16 each spouse, and for married persons filing jointly "wages, salary, tips, unearned
17 income and net earnings from a trade or business" means the total wages, salary,
18 tips, unearned income and net earnings from a trade or business of both spouses.

19 c. Reduce the amount calculated under subd. 32. a. or b. to the individual's
20 aggregate wages, salary, tips, unearned income and net earnings from a trade or
21 business that are taxable by this state."

22 **3.** Page 11, line 10: after that line insert:

23 **"SECTION 15m. Initial applicability.**

1 (1) The treatment of section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first
2 applies to taxable years beginning on January 1 of the year in which this subsection
3 takes effect, except that if this subsection takes effect after July 31 the treatment of
4 section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first applies to taxable years
5 beginning on January 1 of the year following the year in which this subsection takes
6 effect.”.

7

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa11382
MES:cmh:JA

RMP

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL (LRB-4017/4)

D-note

1/11/00
10:00AM

creating a tax deduction for certain amounts contributed to the college savings program,

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain
3 amounts contributed to the college tuition prepayment program ~~and~~ exempting from
4 taxation certain gains derived from ~~such~~ contributions,"

to the college savings program

5 2. Page 10, line 9: after that line insert:

6 "SECTION 13h. 71.05 (6) (b) 28. h. of the statutes is created to read:

7 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
8 an amount paid for tuition expenses, as described under this subdivision, if the
9 source of the payment is an amount withdrawn from a college savings account, as
10 described in s. 14.64. ^{tuition} or from a college prepayment ~~tuition~~ program,
as described in s. 14.63

11 SECTION 13j. 71.05 (6) (b) 31. of the statutes is created to read:

12 71.05 (6) (b) 31. Any increase in value of a college savings account, as described
13 in s. 14.64.

1 **SECTION 13m.** 71.05 (6) (b) 32. of the statutes is created to read:

2 71.05 (6) (b) 32. An amount paid into a college savings account, as described
3 in s. 14.64, if the beneficiary of the account either is the claimant or is the claimant's
4 child and the claimant's dependent who is claimed under section 151 (c) of the
5 Internal Revenue Code, calculated as follows:

6 a. An amount equal to not more than \$3,000 per beneficiary for each year to
7 which the claim relates.

8 b. For an individual who is a nonresident or part-year resident of this state,
9 multiply the amount calculated under subd. 32. a. by a fraction the numerator of
10 which is the individual's wages, salary, tips, unearned income and net earnings from
11 a trade or business that are taxable by this state and the denominator of which is the
12 individual's total wages, salary, tips, unearned income and net earnings from a trade
13 or business. In this subd. 32. b., for married persons filing separately "wages, salary,
14 tips, unearned income and net earnings from a trade or business" means the separate
15 wages, salary, tips, unearned income and net earnings from a trade or business of
16 each spouse, and for married persons filing jointly "wages, salary, tips, unearned
17 income and net earnings from a trade or business" means the total wages, salary,
18 tips, unearned income and net earnings from a trade or business of both spouses.

19 c. Reduce the amount calculated under subd. 32. a. or b. to the individual's
20 aggregate wages, salary, tips, unearned income and net earnings from a trade or
21 business that are taxable by this state.

22 **3.** Page 11, line 10: after that line insert:

23 **"SECTION 15m. Initial applicability.**

1 (1) The treatment of section 71.05 (6) (b) 28. h., 31. ^{and 32} ~~and~~ 32 of the statutes first
 2 applies to taxable years beginning on January 1 of the year in which this subsection
 3 takes effect, except that if this subsection takes effect after July 31 the treatment of
 4 section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first applies to taxable years
 5 beginning on January 1 of the year following the year in which this subsection takes
 6 effect.”

7

(END)

P-NOTE

The subtract modification in created P. 71.05 (6) (b) 33. is based on created P. 71.05 (6) (b) 32. and is only available to a claimant if the beneficiary of the claimant's contribution is the claimant or the claimant's dependent child even though, under Ed Vest, the range of possible beneficiaries is much broader than just the claimant and the claimant's dependent child. Is this OK?
 Also, as I've discussed with Andy of your staff, it is possible that someone could raise a germaneness challenge to this amendment. It could be argued that the subtract modifications contained in this amendment violate Assembly Rule 54 (3)(A) because they "substantially expand the scope of the proposal."

M E A

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INS. 2-21

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SECTION 13~~m~~^p 71.05 (6) (b) ~~22~~³³ of the statutes is created to read: ✓
tuition prepayment program

14.63 71.05 (6) (b) ~~22~~³³ An amount paid into a college ~~savings account~~^{tuition prepayment program}, as described in s. ~~14.01~~³³, if the beneficiary of the account either is the claimant or is the claimant's child and the claimant's dependent who is claimed under section 151 (c) of the Internal Revenue Code, calculated as follows:

a. An amount equal to not more than \$3,000 per beneficiary for each year to which the claim relates.

b. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. ~~22~~³³ a. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. In this subd. ~~22~~³³ b., for married persons filing separately "wages, salary, tips, unearned income and net earnings from a trade or business" means the separate wages, salary, tips, unearned income and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income and net earnings from a trade or business" means the total wages, salary, tips, unearned income and net earnings from a trade or business of both spouses.

c. Reduce the amount calculated under subd. ~~22~~³³ a. or b. to the individual's aggregate wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state. ✓

(END OF INSERT)

3. Page 11, line 10: after that line insert:

SECTION 15m. Initial applicability.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1138/2dn
MES:cmh:km

January 11, 2000

The subtract modification in created s. 71.05 (6) (b) 33. is based on created s. 71.05 (6) (b) 32. and is available to a claimant only if the beneficiary of the claimant's contribution is the claimant or the claimant's dependent child even though, under Ed Vest, the range of possible beneficiaries is much broader than just the claimant and the claimant's dependent child. Is this OK?

Also, I've discussed with Andy of your staff, it is possible that someone could raise a germaneness challenge to this amendment. It could be argued that the subtract modifications contained in this amendment violate Assembly Rule 54 (3) (f) because they "substantially expand the scope of the proposal".

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

~~DDP~~
Andy - Freibach 6-0660

If someone opens an account
~~the~~ ~~make~~ makes an improper withdrawal
they pay a 10% penalty.

but corpus remains in the
account tax free

TOM Durada

allow the amount
previously claimed as
a deduction



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1138/2
MES:cmh: [initials]
3
fmr

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL (LRB-40174)

MONDAY
AM

654
D-note

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain
3 amounts contributed to the college tuition prepayment program, creating a tax
4 deduction for certain amounts contributed to the college savings program,
5 exempting from taxation certain gains derived from contributions to the college
6 savings program,".

INS.
1-6

7 ~~1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain~~
8 2. Page 10, line 9: after that line insert:

9 SECTION 13h. 71.05 (6) (b) 28. h. of the statutes is created to read:
10 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
11 an amount paid for tuition expenses, as described under this subdivision, if the
12 source of the payment is an amount withdrawn from a college savings account, as
13 described in s. 14.64 or from a college tuition prepayment program, as described in
s. 14.63.

1 71.05 (6) (b) 33. An amount paid into a college tuition prepayment program,
2 as described in s. 14.63, if the beneficiary of the account either is the claimant or is
3 the claimant's child and the claimant's dependent who is claimed under section 151
4 (c) of the Internal Revenue Code, calculated as follows:

5 a. An amount equal to not more than \$3,000 per beneficiary for each year to
6 which the claim relates.

7 b. For an individual who is a nonresident or part-year resident of this state,
8 multiply the amount calculated under subd. 33. a. by a fraction the numerator of
9 which is the individual's wages, salary, tips, unearned income and net earnings from
10 a trade or business that are taxable by this state and the denominator of which is the
11 individual's total wages, salary, tips, unearned income and net earnings from a trade
12 or business. In this subd. 33. b., for married persons filing separately "wages, salary,
13 tips, unearned income and net earnings from a trade or business" means the separate
14 wages, salary, tips, unearned income and net earnings from a trade or business of
15 each spouse, and for married persons filing jointly "wages, salary, tips, unearned
16 income and net earnings from a trade or business" means the total wages, salary,
17 tips, unearned income and net earnings from a trade or business of both spouses.

18 c. Reduce the amount calculated under subd. 33. a. or b. to the individual's
19 aggregate wages, salary, tips, unearned income and net earnings from a trade or
20 business that are taxable by this state."

21 **3.** Page 11, line 10: after that line insert:

22 "SECTION 15m. Initial applicability.

23 (1) The treatment of section 71.05 (6) ^(b) 23) 28. h., 31., 32. and 33. of the statutes
24 first applies to taxable years beginning on January 1 of the year in which this

(a) 21, and 22. and

1 subsection takes effect, except that if this subsection takes effect after July 31 the
2 treatment of section 71.05 (6) (b) 28. h., 31. and 32. of the statutes first applies to
3 taxable years beginning on January 1 of the year following the year in which this
4 subsection takes effect.”

5

(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1138/3ins
MES:cmh:km

INS 1-6

✓
"SECTION 13d. 71.05 (6) (a) 21. of the statutes is created to read:

71.05 (6) (a) 21. Any amount for which a subtraction was claimed under ~~s. 71.05~~ ←

par. (b) 32. if a withdrawal from the account to which the subtraction relates is a nonqualified withdrawal, as described in s. 14.64 (2) (e). The addition under this subdivision shall apply to the individual who made the nonqualified withdrawal.

SECTION 13e. 71.05 (6) (a) 22. of the statutes is created to read:

71.05 (6) (a) 22. Any amount for which a subtraction was claimed under ~~s. 71.05~~ ←

par. (b) 33. if a purchaser or beneficiary of a college tuition prepayment program, as described in s. 14.63, receives a refund under s. 14.63 (7) (a) 2., 3. or 4. The addition under this subdivision shall apply to the individual who receives the refund.

SECTION 13g. 71.05 (6) (b) 23. of the statutes ^{as affected by 1999 Wisconsin Act 9,} 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. 14.63, except that the subtraction under this subdivision may not be claimed by any individual who received a refund under s. 14.63 (7) (a) 2., 3. or 4.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9.

(END OF INSERT)

D-NOTE ↓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1138/3dn
MES:cmh:km

*it entails some significant
policy decisions*

Please review this amendment carefully. I believe that the amendment addresses the department of revenue's concerns, but I'm not sure what events you believe should trigger the add modifications in created s. 71.05 (6) (a) 22. and 23., and whether the amendment to s. 71.05 (6) (b) 23. and the addition to s. 71.05 (6) (b) 31 reflects your intent. Let me know if any of these subdivisions do not reflect your intent.

Also, it seems to me that enforcement of the add modifications may be a problem. If, for example, a parent sets up a college savings account for his or her child when the child is born and contributes for 5 years, and then 15 years later the now 20-year-old beneficiary makes an improper withdrawal, who should be liable for the subtract modifications that had been claimed by the account owner? Who, or which agency, will keep track of all of these accounts, monitor the withdraws and then notify DOR if an improper withdrawal is made?

For example, the add modifications may be triggered 10 or 20 years after the subtract modification was claimed.

Marc E. Shovers
Senior Legislative Attorney
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E-mail: Marc.Shovers@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1138/3dn
MES:cmh:hmh

January 31, 2000

Please review this amendment carefully; it entails some significant policy decisions. I believe that the amendment addresses the department of revenue's concerns, but I'm not sure what events you believe should trigger the add modifications in created s. 71.05 (6) (a) 22. and 23., and whether the amendment to s. 71.05 (6) (b) 23. and the addition to s. 71.05 (6) (b) 31. reflect your intent. Let me know if any of these subdivisions do not reflect your intent.

Also, it seems to me that enforcement of the add modifications may be a problem. If, for example, a parent sets up a college savings account for his or her child when the child is born and contributes for 5 years, and then 15 years later the now 20-year-old beneficiary makes an improper withdrawal, who should be liable for the subtract modifications that had been claimed by the account owner? Who, or which agency, will keep track of all of these accounts, monitor the withdraws and then notify DOR if an improper withdrawal is made? For example, the add modification may be triggered 10 or 20 years after the subtract modification was claimed.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

Shovers, Marc

From: Matthias, Mary
Sent: Monday, January 31, 2000 5:20 PM
To: Shovers, Marc
Cc: Cook, Andrew
Subject: amendment

Marc—in light of the concerns you mentioned in your drafter's note and similar concerns expressed in the email from DOR that i sent you earlier regarding the recapture language, Andy from Kreibich's office asked me to ask you to prepare another version of the amendment which does NOT include the material beginning with page 1, line 7, and ending with "refund" on p. 2, line 4.

Also, on p. 2, line 8–10 and 19–21, consider the hypothetical in which a person uses tuition units (or savings acct proceeds) in a calendar year to pay for one semester of college and then drops out, getting a refund of the amounts left in the account. Would the language allow them to deduct the increase in value on the amounts in the account that were used for tuition that year? The language suggests to me that if they get a refund they can't claim any deduction at all.

If both events happen in the same taxable year

thanks!

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
ph.: (608)266-0932; fax: (608)266-3830
mary.matthias@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1138/3
MES:cmh:hmh

fmr

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 654

today
1pm

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 6: before "granting" insert "creating a tax deduction for certain
3 amounts contributed to the college tuition prepayment program, creating a tax
4 deduction for certain amounts contributed to the college savings program,
5 exempting from taxation certain gains derived from contributions to the college
6 savings program,".

7 2. Page 10, line 9: after that line insert:

stays

8 "SECTION 13d. 71.05 (6) (a) 21. of the statutes is created to read:

9 71.05 (6) (a) 21. Any amount for which a subtraction was claimed under par.
10 (b) 32. if a withdrawal from the account to which the subtraction relates is a
11 nonqualified withdrawal, as described in s. 14.64 (2) (e). The addition under this
12 subdivision shall apply to the individual who made the nonqualified withdrawal.

13 SECTION 13e. 71.05 (6) (a) 22. of the statutes is created to read:

1 71.05 (6) (a) 22. Any amount for which a subtraction was claimed under par.
2 (b) 33. if a purchaser or beneficiary of a college tuition prepayment program, as
3 described in s. 14.63, receives a refund under s. 14.63 (7) (a) 2., 3. or 4. The addition
4 under this subdivision shall apply to the individual who receives the refund.

5 → " **SECTION 13g.** 71.05 (6) (b) 23. of the statutes, as affected by 1999 Wisconsin Act
6 9, is amended to read:

7 71.05 (6) (b) 23. Any increase in value of a tuition unit that is purchased under
8 a tuition contract under s. 14.63, except that the subtraction under this subdivision
9 may not be claimed by any individual who received a refund under s. 14.63 (7) (a) 2.,
10 3. or 4.

11 **SECTION 13h.** 71.05 (6) (b) 28. h. of the statutes is created to read:

12 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
13 an amount paid for tuition expenses, as described under this subdivision, if the
14 source of the payment is an amount withdrawn from a college savings account, as
15 described in s. 14.64 or from a college tuition prepayment program, as described in
16 s. 14.63.

17 **SECTION 13j.** 71.05 (6) (b) 31. of the statutes is created to read:

18 71.05 (6) (b) 31. Any increase in value of a college savings account, as described
19 in s. 14.64, except that the subtraction under this subdivision may not be claimed by
20 any individual who has made an unqualified withdrawal, as described in s. 14.64 (2)
21 (e).

22 **SECTION 13m.** 71.05 (6) (b) 32. of the statutes is created to read:

23 71.05 (6) (b) 32. An amount paid into a college savings account, as described
24 in s. 14.64, if the beneficiary of the account either is the claimant or is the claimant's

1 child and the claimant's dependent who is claimed under section 151 (c) of the
2 Internal Revenue Code, calculated as follows:

3 a. An amount equal to not more than \$3,000 per beneficiary for each year to
4 which the claim relates.

5 b. For an individual who is a nonresident or part-year resident of this state,
6 multiply the amount calculated under subd. 32. a. by a fraction the numerator of
7 which is the individual's wages, salary, tips, unearned income and net earnings from
8 a trade or business that are taxable by this state and the denominator of which is the
9 individual's total wages, salary, tips, unearned income and net earnings from a trade
10 or business. In this subd. 32. b., for married persons filing separately "wages, salary,
11 tips, unearned income and net earnings from a trade or business" means the separate
12 wages, salary, tips, unearned income and net earnings from a trade or business of
13 each spouse, and for married persons filing jointly "wages, salary, tips, unearned
14 income and net earnings from a trade or business" means the total wages, salary,
15 tips, unearned income and net earnings from a trade or business of both spouses.

16 c. Reduce the amount calculated under subd. 32. a. or b. to the individual's
17 aggregate wages, salary, tips, unearned income and net earnings from a trade or
18 business that are taxable by this state.

19 **SECTION 13p.** 71.05 (6) (b) 33. of the statutes is created to read:

20 71.05 (6) (b) 33. An amount paid into a college tuition prepayment program,
21 as described in s. 14.63, if the beneficiary of the account either is the claimant or is
22 the claimant's child and the claimant's dependent who is claimed under section 151
23 (c) of the Internal Revenue Code, calculated as follows:

24 a. An amount equal to not more than \$3,000 per beneficiary for each year to
25 which the claim relates.

1 b. For an individual who is a nonresident or part-year resident of this state,
2 multiply the amount calculated under subd. 33. a. by a fraction the numerator of
3 which is the individual's wages, salary, tips, unearned income and net earnings from
4 a trade or business that are taxable by this state and the denominator of which is the
5 individual's total wages, salary, tips, unearned income and net earnings from a trade
6 or business. In this subd. 33. b., for married persons filing separately "wages, salary,
7 tips, unearned income and net earnings from a trade or business" means the separate
8 wages, salary, tips, unearned income and net earnings from a trade or business of
9 each spouse, and for married persons filing jointly "wages, salary, tips, unearned
10 income and net earnings from a trade or business" means the total wages, salary,
11 tips, unearned income and net earnings from a trade or business of both spouses.

12 c. Reduce the amount calculated under subd. 33. a. or b. to the individual's
13 aggregate wages, salary, tips, unearned income and net earnings from a trade or
14 business that are taxable by this state."

15 **3.** Page 11, line 10: after that line insert:

16 **"SECTION 15m. Initial applicability.**

17 (1) The treatment of section 71.05 (6) (~~21, and 22~~) and (b) 23., 28. h., 31., 32.
18 and 33. of the statutes first applies to taxable years beginning on January 1 of the
19 year in which this subsection takes effect, except that if this subsection takes effect
20 after July 31 the treatment of section 71.05 (6) (b) 28. h., 31. and 32. of the statutes
21 first applies to taxable years beginning on January 1 of the year following the year
22 in which this subsection takes effect."

23

(END)