

**2003 DRAFTING REQUEST**

**Bill**

Received: 02/26/2003

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 (indiv) - deduct/subtract

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

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**Topic:**

Individuals eligible to claim a subtract modification for EdVest contributions

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**Instructions:**

See Attached. Allow divorced parents to be able to claim a subtract modification for contributions to EdVest

---

**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>
/?				_____			State Tax
/1	mshovers 03/27/2003	wjackson 04/01/2003	pgreensl 04/02/2003	_____	sbasford 04/02/2003		State Tax

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 06/02/2003	wjackson 06/04/2003	jfrantze 06/04/2003	_____	mbarman 06/04/2003	lemery 06/09/2003	State Tax
/3	mshovers 07/02/2003	wjackson 07/07/2003	rschluet 07/07/2003	_____	lemery 07/07/2003	lemery 07/07/2003	

FE Sent For:

*AA  
intro.*

<END>

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Handwritten signatures and date 7-7-3 P/B

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12	mshovers 06/02/2003	wjackson 06/04/2003	jfrantze 06/04/2003	_____	mbarman 06/04/2003	lemery 06/09/2003	

13 MES 7/2/03

FE Sent For:

13 WJ 7/7

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For: Ted Kanavas (608) 266-9174

By/Representing: Jeremy

This file may be shown to any legislator: NO

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May Contact:

Addl. Drafters:

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Extra Copies: MJL

Submit via email: YES

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

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12 MES 6/2/03 /2 WJG/14 JG 6/4 JG/Rs 6/4

04/02/2003 10:56:55 AM

Page 2

FE Sent For:

**<END>**



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1?	mshovers	1 Wlj 4/1	4/1	4/1			
11	MES	3/27/03	Pg	setj			

1?

mshovers

1 Wlj 4/1

4/1

4/1  
setj

11 MES 3/27/03

Pg

FE Sent For:

<END>

## Shovers, Marc

---

**From:** Shepherd, Jeremy  
**Sent:** Wednesday, February 26, 2003 6:17 PM  
**To:** Shovers, Marc  
**Cc:** Kreye, Joseph  
**Subject:** EdVest Drafting Request from Senator Ted Kanavas

Marc,

Senator Ted Kanavas requests a change in the EdVest language under Chapter 71.05 of the Wisconsin State Statutes. As the law now stands, a divorced parent who is not able to claim his/her children on their federal tax forms is unable to take part in the EdVest program. Senator Kanavas wants all parents to be able to invest in their children's education should they wish to do so.

Therefore, under Chapter 71.05(6)(b)32 and 71.05(6)(b)33, the Senator requests the words "and the claimant's dependent who is claimed under section 151 (c) of the Internal Revenue Code" be eliminated.

If you have any comments, questions or concerns, please feel free to contact me directly.

Thank you for your time and attention to this matter.

JEREMEY SHEPHERD  
Legislative Aide  
Office of Senator Ted Kanavas  
266-9174



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2419/

MES

*PWL*  
*FMA*

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

*D-N DEE*

*SOON!*  
*FN 3/27*

*gen*

1 AN ACT ...; relating to: allowing an individual income tax deduction for certain  
2 amounts contributed by a divorced or legally separated parent to his or her  
3 child's college savings account or college tuition and expenses program.

***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 ~~the~~<sup>a</sup> divorced or legally separated parent of a child 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 ~~the~~<sup>a</sup> total annual deduction under these two programs, per beneficiary, claimed by the divorced or legally separated parents of a child, may not exceed \$3,000.

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.)<sup>✓</sup> 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 either is the claimant; is the  
4 claimant's child ~~and the claimant's dependent who is claimed under section 151 (e)~~  
5 ~~of the Internal Revenue Code~~; or is the claimant's grandchild; calculated as follows:

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, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

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

7           71.05 (6) (b) 32. a. An amount equal to not more than \$3,000 per beneficiary  
8 by each contributor to an account for each year to which the claim relates, except that  
9 the total amount for which a deduction may be claimed under this subdivision and  
10 under subd. 33., per beneficiary by any claimant may not exceed \$3,000 each year.  
11 In the case of a married couple filing a joint return, or in the case of divorced or legally  
12 separated parents who each contribute to an account for a beneficiary who is their

1 child, the total deduction under this subdivision and under subdivision 33., per  
2 beneficiary by the married couple, or by the divorced or legally separated parents,  
3 may not exceed \$3,000 each year.

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, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

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

5 71.05 (6) (b) 33. (intro.) An amount paid into a college tuition and expenses  
6 program, as described in s. 14.63, if the beneficiary of the account either is the  
7 claimant; is the claimant's child ~~and the claimant's dependent who is claimed under~~  
8 ~~section 151 (e) of the Internal Revenue Code~~; or is the claimant's grandchild;  
9 calculated as follows:

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, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

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

11 71.05 (6) (b) 33. a. An amount equal to not more than \$3,000 per beneficiary  
12 by each contributor to an account for each year to which the claim relates, except that  
13 the total amount for which a deduction may be claimed under this subdivision and  
14 under subd. 32., per beneficiary by any claimant may not exceed \$3,000 each year.  
15 In the case of a married couple filing a joint return, or in the case of divorced or legally  
16 separated parents who each contribute to an account for a beneficiary who is their  
17 child, the total deduction under this subdivision and under subdivision 32., per  
18 beneficiary by the married couple, or by the divorced or legally separated parents,  
19 may not exceed \$3,000 each year.

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, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

20 **SECTION 5. Initial applicability.**

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

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)

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

LRB-2419/3dn

MES.....J.....

WLJ

Senator Kanavas:

In addition to deleting the language you requested in s. 71.05 (6) (b) 32. (intro.)<sup>that</sup> and 33. (intro.), I added language in s. 71.05 (6) (b) 32. a. and 33. a. ~~which~~<sup>that</sup> limits the total annual deduction for a beneficiary by divorced or legally separated parents to \$3,000, which is consistent with the treatment for deductions by a married couple. Is this consistent with your intent?

Also, you may want the Department of Revenue to review this draft. If you do ~~have~~<sup>have</sup> ~~DOR review the draft~~, you may want to ask the department if it thinks that language similar to the language I added in s. 71.05 (6) (b) 32. a. and 33. a. should be added for grandparents who may be divorced or legally separated.

In addition, you may wish to consider amending s. 71.05 (6) (b) 32. a. and 33. a. so those statutes read, in part, "In the case of a married couple ~~filing a joint return~~" to prevent a married couple from filing separate returns in which both spouses claim the \$3,000 deduction for contributions to an EdVest account. Such action by a married couple is possible under the bill as drafted because there is no longer a requirement that the claimant's child be the claimant's dependent. Again, DOR may have an opinion on this issue.

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**

LRB-2419/1dn  
MES:wlj:pg

April 2, 2003

Senator Kanavas:

In addition to deleting the language you requested in s. 71.05 (6) (b) 32. (intro.) and 33. (intro.), I added language in s. 71.05 (6) (b) 32. a. and 33. a. that limits the total annual deduction for a beneficiary by divorced or legally separated parents to \$3,000, which is consistent with the treatment for deductions by a married couple. Is this consistent with your intent?

Also, you may want the Department of Revenue to review this draft. If you do, you may want to ask the department if it thinks that language similar to the language I added in s. 71.05 (6) (b) 32. a. and 33. a. should be added for grandparents who may be divorced or legally separated.

In addition, you may wish to consider amending s. 71.05 (6) (b) 32. a. and 33. a. so those statutes read, in part, "In the case of a married couple ~~filing a joint return~~" to prevent a married couple from filing separate returns in which both spouses claim the \$3,000 deduction for contributions to an EdVest account. Such action by a married couple is possible under the bill as drafted because there is no longer a requirement that the claimant's child be the claimant's dependent. Again, DOR may have an opinion on this issue.

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



## Shovers, Marc

---

**From:** Shepherd, Jeremy  
**Sent:** Tuesday, May 20, 2003 4:14 PM  
**To:** Shovers, Marc  
**Subject:** FW: EdVest LRB 2419/1

Marc,

Sorry it has taken me awhile to get back to you...Senator Kanavas feels the \$3,000 total deduction for married couples should be the same for divorced parents.

Here is the Department's thoughts on LRB 2419/1 as you requested.

Senator Kanavas would like the DOR suggestions drafted into the bill.

Thanks!

Jeremy Shepherd  
Legislative Aide  
Office of Senator Ted Kanavas  
6-9174

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

**From:** Gates-Hendrix, Sherrie  
**Sent:** Tuesday, April 29, 2003 5:22 PM  
**To:** Shepherd, Jeremy  
**Subject:** EdVest

Hi Jeremy --

When I got the email from Tom Reid regarding the EdVest draft (2419/1) I asked our policy staff to take a look at it. Sorry it's taken so long to get back to you ... There seems to be a lot going on around here so I guess they were swamped with other analyses. I hope this is helpful. You could call the analyst who prepared it if you have questions -- her name is at the bottom.

Hope all is well with you.

Sherrie



lrb 24191 bpt.doc

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

**From:** Shepherd, Jeremy  
**Sent:** Wednesday, February 26, 2003 6:17 PM  
**To:** Shovers, Marc  
**Cc:** Kreye, Joseph  
**Subject:** EdVest Drafting Request from Senator Ted Kanavas

Marc,

Senator Ted Kanavas requests a change in the EdVest language under Chapter 71.05 of the Wisconsin State Statutes. As the law now stands, a divorced parent who is not able to claim his/her children on their federal tax forms is unable to take part in the EdVest program. Senator Kanavas wants all parents to be able to invest in their children's education should they wish to do so.

Therefore, under Chapter 71.05(6)(b)32 and 71.05(6)(b)33, the Senator requests the words "and the claimant's dependent who is claimed under section 151 (c) of the Internal Revenue Code" be eliminated.

If you have any comments, questions or concerns, please feel free to contact me directly.

Thank you for your time and attention to this matter.

JEREMEY SHEPHERD  
Legislative Aide  
Office of Senator Ted Kanavas  
266-9174

## LRB-2419/1 – Individual Income Tax Deduction for Certain Amounts Contributed by a Divorced or Legally Separated Parent to His or Her Child's Edvest Account

### *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.)

### *Administrative Impact/Fiscal Effect*

- Because the bill specifies that the maximum deduction is \$3,000 per beneficiary for contributions made by divorced or legally separated parents, it should be amended to clarify that this maximum applies to divorced or legally separated grandparents as well.
- Provisions are needed to prorate the deduction between divorced or legally separated parents when their combined contributions exceed \$3,000. One approach would be to prorate the deduction on each parent's share of the total contribution. For example, if one parent contributes \$3,000 and the other contributes \$2,000, the former would be allowed a deduction of \$1,800 and the latter a deduction of \$1,200, for a total deduction of \$3,000.

Proposed sec. ~~71.05(6)(b)32~~ a and 33 a should be amended to read "In the case of a married couple filing a joint return" to prevent a couple from filing separate returns and each spouse claiming the \$3,000 deduction for contributions to an EdVest account.

- The department would incur administrative costs to modify tax forms and instructions and to audit tax returns of divorced and legally separated couples to make sure the filers only deduct a combined \$3,000 for contributions made to an EdVest account.
- The fiscal effect of this bill is indeterminate because the number of legally separated and divorced parents contributing to a child's EdVest account is unknown.

Prepared by: Karyn Kriz, ((608) 261-8984

April 17, 2003

t:\briefing points\kk\lrb 24191 bpt.doc

Karyn meant  
to strike



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2419/1  
MES:wlj:pg

RMR

2003 BILL

reger

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 <sup>for grandparent's</sup> to his or her child's <sup>for grandchild's</sup> college savings account or college  
5 tuition and expenses program.

**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

**BILL**

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.

with regard to parent  
the deduction may be claimed  
for 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 of a child without regard to whether the child is his or her dependent.

for grandparent

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 the divorced or legally separated parents of a child may not exceed \$3,000.

married parents who file jointly or separately or by

for grandchild  
for grandparents

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 either is the claimant; is the  
4 claimant's child and the claimant's dependent who is claimed under section 151 (c)  
5 of the Internal Revenue Code; or is the claimant's grandchild; calculated as follows:

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

7 71.05 (6) (b) 32. a. An amount equal to not more than \$3,000 per beneficiary  
8 by each contributor to an account for each year to which the claim relates, except that  
9 the total amount for which a deduction may be claimed under this subdivision and  
10 under subd. 33., per beneficiary by any claimant may not exceed \$3,000 each year.

11 In the case of a married couple ~~filing a joint return,~~ or in the case of divorced or legally

SA

**BILL**

*of grandchild*

*or grandparents*

1 separated parents <sup>2</sup> who each contribute to an account for a beneficiary who is their  
2 child, the total deduction under this subdivision and under ~~subdivision~~ <sup>subd.</sup> 33., per  
3 beneficiary by the married couple, or by the divorced or legally separated parents  
4 may not exceed \$3,000 each year. *INS 3-4* *NO#* *or grand* *parents*

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

6 71.05 (6) (b) 33. (intro.) An amount paid into a college tuition and expenses  
7 program, as described in s. 14.63, if the beneficiary of the account either is the  
8 claimant; is the claimant's child ~~and the claimant's dependent who is claimed under~~  
9 ~~section 151 (c) of the Internal Revenue Code~~; or is the claimant's grandchild;  
10 calculated as follows:

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

12 71.05 (6) (b) 33. a. An amount equal to not more than \$3,000 per beneficiary  
13 by each contributor to an account for each year to which the claim relates, except that  
14 the total amount for which a deduction may be claimed under this subdivision and  
15 under subd. 32., per beneficiary by any claimant may not exceed \$3,000 each year.

16 In the case of a married couple <sup>1</sup> ~~filing a joint return~~, or in the case of divorced or legally  
17 ~~separated parents~~ <sup>*or grandparents*</sup> who each contribute to an account for a beneficiary who is their  
18 child, the total deduction under this subdivision and under ~~subdivision~~ <sup>subd.</sup> 32., per  
19 beneficiary by the married couple, or by the divorced or legally separated parents,  
20 may not exceed \$3,000 each year. *INS 3-20* *NO#* *or grandparents*

21 **SECTION 5. Initial applicability.**

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

**BILL**

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)

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2419/2ins  
MES:wlj:pg

Ins-ANL

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.

Ins 3-4

*Please score* { The deduction that may be claimed under this subdivision by the divorced or legally separated parents<sup>g</sup> or grandparents<sup>g</sup> of a beneficiary, if their combined contributions exceed \$3,000 in a year, shall be based on each parent's<sup>g</sup> or grandparents<sup>g</sup> share of the total contribution.

Ins 3-20

*Please score* { The deduction that may be claimed under this subdivision by the divorced or legally separated parents<sup>g</sup> or grandparents<sup>g</sup> of a beneficiary, if their combined contributions exceed \$3,000 in a year, shall be based on each parent's<sup>g</sup> or grandparents<sup>g</sup> share of the total contribution.



**Emery, Lynn**

---

**From:** Pfaff, Bruce  
**Sent:** Monday, June 09, 2003 9:02 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-2419/2 Topic: Individuals eligible to claim a subtract modification for EdVest contributions

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

Draft review: LRB 03-2419/2 Topic: Individuals eligible to claim a subtract modification for EdVest contributions

**Shovers, Marc**

---

**From:** Shepherd, Jeremy  
**Sent:** Tuesday, June 17, 2003 10:04 AM  
**To:** Olle, Marty; Shovers, Marc  
**Cc:** Kriz, Karyn I  
**Subject:** RE: LRB-2419/2

Thank you Marty!

Marc,

Here is the summary from Marty. Let us know what you think...

Jeremy Shepherd  
Office of Senator Kanavas  
6-9174

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

**From:** Olle, Marty  
**Sent:** Tuesday, June 17, 2003 9:46 AM  
**To:** Shepherd, Jeremy  
**Cc:** Kriz, Karyn I  
**Subject:** LRB-2419/2

Jeremy -- I've summarized the results of yesterday's conference call between you, Karyn Kriz [DOR], myself [EdVest] and several people from Strong regarding eligibility for the EdVest state tax deduction for divorced parents. I've also added a couple of points that I believe we all agree on, and I incorporated some of Karyn's comments:

1. Existing law is fine as it applies to grandparents. Divorced grandparents are eligible for the deduction and no tracking or reporting is needed. You can delete any reference to grandparents in this draft.
2. Currently, divorced parents have difficulty getting the deduction because a) many divorce settlements allow each parent to claim the child as a dependent only every other year, or b) some settlements stipulate that only one of the parents may claim the child as a dependent, leaving the other parent ineligible for the deduction. Eliminating the requirement that the child be the claimant's dependent would alleviate much of the problem. The bill should simply state that to be eligible for the deduction, the beneficiary must be the claimant, the claimant's child or grandchild.
3. Recordkeeping, reporting and auditing costs are a potential major problem for both DOR and the EdVest program. After discussion of this point, the group agreed to "fine-tune" the language to allow a deduction of up to \$3,000 per filer per beneficiary, but adding a limit of \$1,500 for married separate filers. This will allow both parents, in the case where the couple is filing as married separate filers, to each get some deduction for contributions made to an EdVest account. Divorced parents with a filing status other than married separate would each be able to claim \$3,000 per beneficiary. However, we decided this would not be much of a problem because we determined that not many divorced or legally separated parents would both continue to contribute to accounts for the same beneficiary.
4. This more simplistic approach of allowing only a \$1,500 deduction for married separate filers would produce significant savings to the state and the EdVest program compared with the approach contained in the current draft, which would require auditing the tax returns and tracking the marital status and annual contributions of each contributor.

If you give me your fax number I'll fax a rough mark-up of the draft, which you can forward to Mark Shovers. It may help him as he edits the draft.

06/17/2003

Thanks to everyone for the help with this issue!

Marty Ollie  
EdVest Program Manager  
Office of the State Treasurer  
608-264-7886



Office of the State Treasurer  
Jack Voight  
Madison area: 608-264-7899  
Toll Free: 1-888-338-3789

Mailing Address  
EdVEST WISCONSIN  
P.O. Box 7871  
Madison WI 53707-7871

## FAX Cover Sheet

FOR IMMEDIATE DELIVERY TO: Marc Shovers

AT FAX NUMBER: ( ) 264-6948

This FAX contains 5 Pages, including this Cover Sheet.

ORIGINATOR: FAX Number: 608-266-2647

- Marty Olle 608-264-7886
- Rich Janosik 608-264-7650
- 

COMMENTS: Marc,

Here is a rough mark-up done by the folks at Strong. I believe the way it's written, it expands the EdVest deduction beyond parents & grandparents - so you may want to correct that - but it gives you an idea of our thought process.

Thanks, Mary

## 2003 - 2004 LEGISLATURE

LRB-2419/2

MES:wlj:jf

**2003 BILL**

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 or grandparent to his or her child's or grandchild's  
5 college savings account or college tuition and expenses program.

---

***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

2003 - 2004 Legislature

- 2 -

LRB-2419/2

MES:wlj:jf

**BILL**

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.

*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 the claimant, is the~~

4 ~~claimant's child and the claimant's dependent who is claimed under section 151 (c)~~

5 ~~of the Internal Revenue Code; or is the claimant's grandchild;~~ calculated as follows:

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

7 71.05 (6) (b) 32. a. An amount equal to not more than \$3,000 per beneficiary

8 by each contributor to an account for each year to which the claim relates, except that

2003 - 2004 Legislature

- 3 -

LRB-2419/2  
MFS:wlj:jf  
SECTION 2

**BILL**

1 the total amount for which a deduction may be claimed under this subdivision and  
 2 under subd. 33., per beneficiary by any claimant<sup>(S)</sup> may not exceed \$3,000 ~~each year~~ **per tax filing.**  
 3 In the case of a married couple **filing a separate return**, ~~or in the case of divorced or~~  
 4 ~~legally separated parents or grandparents who contribute to an account for a~~  
 5 ~~beneficiary who is their child or grandchild,~~ the total deduction under this  
 6 subdivision and under subdivision subd. 33., per beneficiary ~~by the married couple~~  
 7 ~~or by the divorced or legally separated parents or grandparents,~~ may not exceed  
 8 ~~\$3,000 each year.~~ **\$1500 per tax filing.**

9 ~~The deduction that may be claimed under this subdivision, by the divorced or~~  
 10 ~~legally separated parents or grandparents of a beneficiary, if their combined~~  
 11 ~~contributions exceed \$3,000 in a year, shall be based on each parent's or~~  
 12 ~~grandparent's share of the total contribution.~~

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

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

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

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 21 by each contributor to an account for each year to which the claim relates, except that  
 22 the total amount for which a deduction may be claimed under this subdivision and  
 23 under subd. 32., per beneficiary by any claimant may not exceed \$3,000 ~~each year~~ **per tax filing.**  
 24 In the case of a married couple **filing a separate return**, ~~or in the case of divorced or~~  
 25 ~~legally separated parents or grandparents who contribute to an account for a~~

06/18/03 MON.16:06 FAX 14143593750

STRONG MARKETING

2003 - 2004 Legislature

- 4 -

LRB-2419/2

MES:wj:jf

SECTION 4

**BILL**

1 ~~beneficiary who is their child or grandchild,~~ the total deduction under this  
 2 subdivision and under subdivision subd. 32., ~~per beneficiary by the married couple,~~  
 3 ~~or by the divorced or legally separated parents or grandparents,~~ may not exceed  
 4 ~~\$9,000 each year.~~ \$1,500 per tax filing.

5 ~~The deduction that may be claimed under this act by the divorced or~~  
 6 ~~legally separated parents or grandparents of a beneficiary if their combined~~  
 7 ~~contributions exceed \$9,000 in a year shall be based on each parent's or~~  
 8 ~~grandparent's share of the total contribution.~~

**SECTION 5. Initial applicability.**

10 (1) This act first applies to taxable years beginning on January 1 of the year  
 11 in which this subsection takes effect, except that if this subsection takes effect after  
 12 July 31, this act first applies to taxable years beginning on January 1 of the year  
 13 following the year in which this subsection takes effect.

14 (END)



**Shovers, Marc**

---

**From:** Shepherd, Jeremy  
**Sent:** Monday, June 16, 2003 4:01 PM  
**To:** Shovers, Marc  
**Subject:** FW: EdVest for Divorced Parents  
FYI

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

**From:** Kriz, Karyn I  
**Sent:** Monday, June 16, 2003 3:33 PM  
**To:** Olle, Marty; Shepherd, Jeremy  
**Subject:** EdVest for Divorced Parents

Marty and Jeremy,

Thanks again for the conversation this afternoon. I think we came up with some good ideas. I have just a few things to add. I believe I understand why Marc Shovers was confused about what we had talked about earlier. We want to allow a deduction of \$3,000 (\$1,500 for married separate filers) per filer per beneficiary. This will allow both parents, in the case where the couple is filing as married separate filers, to each get some deduction for contributions made to an EdVest account. Marc was getting at the point that divorced parents with a filing status other than married separate, would each be able to claim \$3,000 per beneficiary. However, we decided this would not be much of a problem because we determined that not many divorced or legally separated parents would contribute to accounts for the same beneficiary. The more simplistic approach of allowing only a \$1,500 deduction for married separate filers would save the state and Strong more money in the end because this solution would avoid the large costs of auditing the tax returns and tracking the marital status of each contributor. Mentioning these items to Marc Shovers may improve upon his understanding of what we're looking for in this new bill.

Let me know if you have any questions!

Karyn

add  
per tax filing"

p. 3, line 2 after "year"

{ don't worry about divorced  
grandparents -

Take grandparents out  
of the bill

p. 3, l. 8 " → \$1,500/tax filing

get rid of stuff related to

"divorced & sep. parent" &

limit the max contrib to SR

for married joint & \$1500/filer

for anyone who isn't a married  
joint filer



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2419/2<sup>3</sup>

MES:wlj:jf

OTHER

state  
MR

2003 BILL

*(Handwritten signature)*

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 3 individual income tax deduction for certain amounts contributed by a divorced  
 4 or legally separated parent ~~or grandparent~~ to his or her child's ~~or grandchild's~~  
 5 college savings account or college tuition and expenses program <sup>and limiting</sup>  
the deduction that may be claimed 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; 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

**BILL**

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~~ *each* divorced or legally separated parent ~~or grandparent~~ 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.

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5 of the Internal Revenue Code; or is the claimant's grandchild; calculated as follows:

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7 71.05 (6) (b) 32. a. An amount equal to not more than \$3,000 per beneficiary,  
8 *by each contributor* <sup>*by each contributor who*</sup> <sup>*or \$1,500 if the contributor is married and files separately*</sup> to an account for each year to which the claim relates, except that

*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.*

**BILL**

*↑ or \$1,500 each year by any claimant who is married and files separately*

1 the total amount for which a deduction may be claimed under this subdivision and  
2 under subd. 33., per beneficiary by any claimant may not exceed \$3,000 each year

3 In the case of a married couple filing a joint return <sup>plain</sup> ~~or in the case of divorced or~~  
4 ~~legally separated parents or grandparents~~ who contribute to an account for a  
5 ~~beneficiary who is their child or grandchild~~, the total deduction under this  
6 subdivision and under subdivision subd. 33., per beneficiary by the married couple  
7 ~~or by the divorced or legally separated parents or grandparents~~, may not exceed  
8 \$3,000 each year.

9 ~~The deduction that may be claimed under this subdivision by the divorced or~~  
10 ~~legally separated parents or grandparents of a beneficiary, if their combined~~  
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15 program, as described in s. 14.63, if the beneficiary of the account either is the  
16 claimant; is the claimant's child and the claimant's dependent who is claimed under  
17 section 151 (c) of the Internal Revenue Code; or is the claimant's grandchild;  
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19 SECTION 4. 71.05 (6) (b) 33. a. of the statutes is amended to read:

20 71.05 (6) (b) 33. a. An amount equal to not more than \$3,000 per beneficiary <sup>↓</sup>  
21 by each contributor *↑ or \$1,500 by each contributor who is married and files separately*,  
22 to an account for each year to which the claim relates, except that  
23 the total amount for which a deduction may be claimed under this subdivision and  
24 under subd. 32., per beneficiary by any claimant may not exceed \$3,000 each year.

25 In the case of a married couple filing a joint return <sup>plain</sup> ~~or in the case of divorced or~~  
~~legally separated parents or grandparents~~ who contribute to an account for a

**BILL**

1 ~~beneficiary who is their child or grandchild~~ the total deduction under this  
 2 subdivision and under subdivision subd. 32., per beneficiary by the married couple  
 3 ~~or by the divorced or legally separated parents or grandparent~~ may not exceed  
 4 \$3,000 each year.

5 ~~The deduction that may be claimed under this subdivision by the divorced or~~  
 6 ~~legally separated parents or grandparent of a beneficiary, if their combined~~  
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 11 in which this subsection takes effect, except that if this subsection takes effect after  
 12 July 31, this act first applies to taxable years beginning on January 1 of the year  
 13 following the year in which this subsection takes effect.

(END)