

2005 SENATE BILL 293

August 19, 2005 – Introduced by Senators S. FITZGERALD, GROTHMAN, HARSDORF, A. LASEE, LASSA, LAZICH, REYNOLDS, ROESSLER and STEPP, cosponsored by Representatives JENSEN, GUNDERSON, BIES, BALLWEG, ALBERS, HINES, GUNDRUM, GRONEMUS, KREIBICH, KRAWCZYK, LEMAHIEU, LOTHIAN, MCCORMICK, PETROWSKI, RHOADES, TOWNSEND and WOOD. Referred to Joint Committee on Finance.

1 **AN ACT to amend** 71.05 (6) (b) 31. and 71.05 (6) (b) 32. (intro.) of the statutes;
2 **relating to:** allowing an individual income tax deduction for certain amounts
3 contributed to any section 529 college tuition program.

Analysis by the Legislative Reference Bureau

Under current law, there exists a college savings program, commonly referred to as “EdVest II,” under which anyone may open an account for a prospective student, regardless of the contributor’s relationship to the beneficiary. Individuals may open accounts for themselves, and a prospective student may be the beneficiary of more than one college savings account. Contributions made to an account set up under the program, up to a limit of \$3,000 each year for each beneficiary, may be deducted from a contributor’s income in the calculation of his or her income taxes if the beneficiary of the account is one of the following: the claimant; the claimant’s child and the claimant’s dependent under the Internal Revenue Code; the claimant’s grandchild; the claimant’s great-grandchild; or the claimant’s niece or nephew. EdVest II is Wisconsin’s version of a qualified tuition program that is authorized under federal law and is commonly referred to as a “section 529 plan.”

Under this bill, the current law income tax deduction for contributions to Wisconsin’s section 529 plan is expanded to apply to contributions to the section 529 plan of any state.

Also under current law, there exists another program, the 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.

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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 provision of current law is not changed by the bill.

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) 31. of the statutes is amended to read:

2 71.05 **(6)** (b) 31. Any increase in value of ~~a college savings account, as described~~
3 ~~in s. 14.64~~ any qualified tuition program, as that term is defined in 26 USC 529 (b)
4 (1), except that the subtraction under this subdivision may not be claimed by any
5 individual who has made a nonqualified withdrawal, as described in s. 14.64 (2) (e).

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

7 71.05 **(6)** (b) 32. (intro.) An amount paid into ~~a college savings account, as~~
8 ~~described in s. 14.64~~ any qualified tuition program, as that term is defined in 26 USC
9 529 (b) (1), if the beneficiary of the account is one of the following: the claimant; the
10 claimant's child and the claimant's dependent who is claimed under section 151 (c)
11 of the Internal Revenue Code; the claimant's grandchild; the claimant's
12 great-grandchild; or the claimant's niece or nephew; calculated as follows:

13 **SECTION 3. Initial applicability.**

14 (1) This act first applies to taxable years beginning on January 1 of the year
15 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)