



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2062/2
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2011 ASSEMBLY BILL 185

June 16, 2011 - Introduced by Representatives PASCH, GRIGSBY, SHILLING, JORGENSEN, VRUWINK, TURNER, POPE-ROBERTS, BERCEAU, ENDSLEY, ROYS and DOYLE, cosponsored by Senators C. LARSON, TAYLOR and LASSA. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to amend* 14.63 (4), 14.64 (3) (a) 1., 71.05 (6) (b) 28. h., 71.05 (6) (b) 32.
2 (intro.) and 71.05 (6) (b) 33. (intro.) of the statutes; **relating to:** authorizing
3 certain individuals to contribute to a college savings plan account.

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 the 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; 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 this 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

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the beneficiary of the account is one of the following: the claimant; the claimant's child; the claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or nephew.

Current law authorizes an income tax deduction for amounts contributed to both EdVest I and EdVest II by a divorced or legally separated parent of a child. The deduction may be claimed without regard to whether the child is his or her dependent. 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 of a child, may not exceed \$3,000. The total annual deduction under these two programs, per beneficiary, claimed by a married person who files separately may not exceed \$1,500 per claimant. The total annual deduction under these two programs, per beneficiary, claimed by a formerly married couple may not exceed a total of \$3,000, or \$1,500 per claimant, except that the former couple's divorce judgment may specify a different division of the \$3,000 maximum that may be claimed by each former spouse.

The only individuals who may purchase tuition units for an EdVest I account or contribute to an EdVest II account, and receive income tax deductions for such a purchase or contribution, are the owners of the accounts. Under this bill, an authorized contributor to an EdVest I or EdVest II account who is not the owner of the account may claim a tax deduction for his or her contribution, subject to the current law limitations, if the claimant is the parent, grandparent, great-grandparent, aunt, or uncle of the beneficiary.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the 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.** 14.63 (4) of the statutes is amended to read:
2 14.63 (4) NUMBER OF TUITION UNITS PURCHASED. A person who enters into a
3 contract under sub. (3) may purchase tuition units at any time and in any number,
4 or may authorize a parent, grandparent, great-grandparent, aunt, or uncle of the
5 beneficiary to purchase tuition units, except that the total number of tuition units
6 purchased on behalf of a single beneficiary may not exceed the number necessary to
7 cover tuition, fees and the costs of room and board, books, supplies and equipment

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1 required for enrollment or attendance of the beneficiary at an institution of higher
2 education.

3 **SECTION 2.** 14.64 (3) (a) 1. of the statutes is amended to read:

4 14.64 (3) (a) 1. Contribute to a college savings account or authorize a parent,
5 grandparent, great-grandparent, aunt, or uncle of the beneficiary to contribute to
6 the account.

7 **SECTION 3.** 71.05 (6) (b) 28. h. of the statutes is amended to read:

8 71.05 (6) (b) 28. h. No modification may be claimed under this subdivision for
9 an amount paid for tuition expenses and mandatory student fees, as described under
10 this subdivision, if the source of the payment is an amount withdrawn from a college
11 savings account, as described in s. 14.64 or from a college tuition and expenses
12 program, as described in s. 14.63, and if the owner of the account or a parent,
13 grandparent, great-grandparent, aunt, or uncle of the beneficiary, who contributed
14 to the account, has claimed a deduction under subd. 32. or 33. that relates to such
15 an amount.

16 **SECTION 4.** 71.05 (6) (b) 32. (intro.) of the statutes is amended to read:

17 71.05 (6) (b) 32. (intro.) An amount paid into a college savings account, as
18 described in s. 14.64, by the owner of the account or by a parent, grandparent,
19 great-grandparent, aunt, or uncle of the beneficiary, if the beneficiary of the account
20 is one of the following: the claimant; the claimant's child; the claimant's grandchild;
21 the claimant's great-grandchild; or the claimant's niece or nephew; calculated as
22 follows:

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

24 71.05 (6) (b) 33. (intro.) An amount paid into a college tuition and expenses
25 program, as described in s. 14.63, by the owner of the account or by a parent,

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1 grandparent, great-grandparent, aunt, or uncle of the beneficiary, if the beneficiary
2 of the account is one of the following: the claimant; the claimant's child; the
3 claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or
4 nephew; calculated as follows:

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1 of the year
7 in which this subsection takes effect, except that if this subsection takes effect after
8 July 31 this act first applies to taxable years beginning on January 1 of the year
9 following the year in which this subsection takes effect.

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(END)