Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

November 10, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 209: Individual Income Tax Deduction For Certain Contributions to State of Wisconsin College Savings Plans

Assembly Bill 209 would create a state individual income tax deduction for amounts contributed to a college savings program or college tuition and expenses program account established under the state EdVest program by a great-grandparent, aunt, or uncle of the account beneficiary. AB 209 was introduced on March 25, 2003, and referred to the Assembly Committee on Colleges and Universities and to the Joint Survey Committee on Tax Exemptions. The Assembly Committee on Colleges and Universities recommended the bill for passage on April 18, 2003, on a vote of 12 to 0. The Joint Survey Committee on Tax Exemptions report on the bill, which found the bill to be good public policy, was received on June 3, 2003. The bill was referred to the Joint Committee on Finance on October 21, 2003.

CURRENT LAW

Under the statutes, the EdVest Wisconsin Program consists of two separate programs: (1) the college tuition and expenses program; and (2) the college savings program. These programs are housed in the State Treasurer's Office and are operated under the direction of the Wisconsin College Savings Program Board. However, as permitted under current law, the State Treasurer took action in December of 2002 to terminate any future enrollments in the college tuition and expenses program and also to curtail the sale of any new tuition units to current account holders.

Under the state college savings program, any person aged 18 or over may open an account and the beneficiary of an account may be anyone, even the account owner. Contributions to an account under the program may be invested in a variety of investment vehicles. Under the now suspended college tuition and expenses program, an account may be opened by the parents, grandparents, aunts, uncles, or legal guardians of an account beneficiary or by trusts created on behalf of an account beneficiary or by the account beneficiary. Contributions to the college tuition and expenses program were made based on the purchase of what were termed "tuition units" and the contributions were invested and managed by the State Investment Board.

Both of the EdVest programs meet the federal standards for a qualified state tuition program, usually referred to as a Section 529 Plan (Section 529 of the federal Internal Revenue Code is the section of the code dealing with qualified state tuition programs). Under a Section 529 plan, interest earnings on contributions to a college savings plan are not subject to taxation and qualified withdrawals from the account are not subject to taxation.

Under current state income tax statutes, donors may deduct from income up to $3,000 in contributions to either of the EdVest college savings plans if the beneficiary is the purchaser or the purchaser's spouse, dependent child, or grandchild.

SUMMARY OF BILL

Assembly Bill 209 would extend the state individual income tax deduction for a contribution of up to $3,000 per year to a college savings account to a contributor to an account where the account beneficiary is the great grandchild or the niece or nephew of the contributor. These provisions would first apply to taxable years beginning on January 1 of the year in which the bill takes effect, except that if the bill takes effect after July 31, the provisions would first apply to taxable years beginning on January 1 of the year following the year in which the bill takes effect.

FISCAL EFFECT

Based on information provided by EdVest staff regarding current EdVest accounts owned by an aunt, uncle, or great-grandparent of a designated beneficiary, as well as anticipated annual growth in such accounts, it is estimated that the proposed income tax deduction would reduce state income tax collections by $59,000 in 2004-05. This estimate assumes that the provisions would first apply to tax year 2004.

In addition, it is estimated that the cost of the provisions would increase by $8,500 annually through 2010-11. The expected loss in state tax revenues in that year is estimated at $110,000. It is anticipated that the annual cost would remain level in subsequent years, with the rate of formation of new accounts balanced by the rate of account closeouts for students who graduate or otherwise leave college.

It should be noted that the data used for estimating the fiscal effect of these provisions does not include accounts in the Tomorrow's Scholar portion of the EdVest program. However, state residents own only about 5% of such accounts, and the impact of the proposed tax deduction with respect to such accounts is expected to be minimal.

Prepared by: Terry Rhodes and Faith Russell