

1999 DRAFTING REQUEST

Assembly Amendment (AA-AA2-ASA1-AB133)

Received: **06/29/99**

Received By: **shoveme**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Democratic Caucus 6-5813**

By/Representing: **Helen Forester**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters: **grantpr**

Subject: **Tax - individual income
Tax Credits (inc) - homestead**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Create property tax refund credit; yank Gov, JCF changes to individual income tax rates and brackets; eliminate SPTRC and homestead credit

Instructions:

See Attached. Based on LFB 6/26 memo to Rep. Krug. Same as b1454

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>
/?	shoveme 06/29/99			_____			
/1			kfollet 06/29/99	_____	lrb_docadmin 06/29/99		
/2	shoveme 06/29/99		haugeca 06/29/99	_____	lrb_docadmin 06/29/99	lrb_docadmin 06/29/99	

FE Scent For:

<END>

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1?	shoveme		Kif 6/29	KFF/cmh 6/29			
			CH 6-29	CH 6-29			
				SH 6-29			
				<END>			

FE Sent For:

.....
facsimile transmittal

To: Joe Kruege Fax: 4-8522
From: Helen FORSTER Date: 6-28
Re: Assemb. Dem Pages: 6.
Tax package

.....

Scott said you should
get this.

Call w/ questions -
& feel free to talk to LFB.

Helen Forster
Rep. Shirley Kruege office
6-5302

Stump _____

.....

**Legislative Fiscal Bureau**

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

June 26, 1999

TO: Representative Shirley Krug
Room 201 West, State Capitol

FROM: Kelsie Doty, Fiscal Analyst

SUBJECT: Individual Income Tax Proposal: Create Property Tax Refund Credit

At your request, this memorandum provides information on your proposal to modify the 1999-01 biennial budget bill to create a refundable property tax refund credit.

Individual Income Tax Modifications**1999-01 Biennial Budget Provisions**

The individual income tax proposal contained in the 1999-01 biennial budget bill as adopted by the Joint Committee on Finance would modify the income tax structure beginning in tax year 2000 by increasing the sliding scale standard deduction, creating personal exemptions, creating a fourth income tax bracket, reducing the income tax rates, eliminating miscellaneous deductions from the itemized deduction credit (with the exception of union and professional dues), creating a deduction for the repayment of income previously taxed, increasing the married couple credit, eliminating certain income tax credits and making withholding table adjustments. Current law provisions related to the taxation of social security benefits and the indexing of the standard deduction and income tax brackets would be retained. Compared to current law, these modifications would reduce individual income tax revenue by an estimated \$195.1 million in tax year 2000 and \$305.1 million in tax year 2001 (in 2000 dollars). On a fiscal year basis, the proposal is estimated to cost \$317.9 million in 2000-01, which includes \$122.8 million as the cost of adjusting the withholding tables on July 1, 2000, to reflect the 2001 tax rates.

Under your proposal, the income tax modifications adopted by the Finance Committee would be retained with the exception of the creation of the fourth income tax bracket and the reduction in

the income tax rates. This modification is estimated to increase income tax revenues by \$187.3 million in 2000-01 from the Committee's provision.

Property Tax/Rent Credit

The PTRC is currently equal to 10% of property taxes, or rent constituting property taxes, paid on a principal residence up to a maximum of \$2,000 in property taxes. The maximum credit is \$200. On a one-time basis in 1998, the credit was increased to 14% of property taxes or rent up to a maximum of \$2,500 in taxes (\$350 maximum credit). For homeowners, the credit is based on the amount of property taxes paid on a principal residence during the year. The credit is available to renters based on the amount of rent constituting property taxes. Rent constituting property taxes is defined as 25% of actual rent if payment for heat is not included or 20% of actual rent if payment for heat is included. The PTRC is applied directly against income tax liability, but the credit is not refundable. The PTRC would be eliminated beginning in tax year 2000 under the budget bill as adopted by the Finance Committee.

Your proposal would eliminate the PTRC in tax year 1999, which is estimated to increase income tax revenues by \$252.9 million in 1999-00. The budget bill provision to eliminate the PTRC in 2000 and thereafter would also be retained.

Homestead Tax Credit

The homestead tax credit program directs property tax relief to low-income homeowners and renters. The amount of the credit received by claimants depends on the interaction of household income (Wisconsin adjusted gross income plus specified amounts that are not subject to tax) and allowable property taxes or rent. Rent constituting property taxes is calculated using the same provisions as used for the PTRC. The homestead credit is refundable; that is, a check from the state is issued if the amount of the credit exceeds income tax liability.

The budget bill recommended by the Governor and adopted by the Finance Committee would increase maximum income for claiming the credit from \$19,154 to \$20,290, beginning with claims filed in 2000 and thereafter based on property taxes accrued during the previous year (tax year 1999). In addition, the bill would reduce the percentage used in phasing out the credit for higher-income claimants from 13% to 11.8%. The following chart shows the parameters of the homestead credit under current law and the budget bill recommendation.

	<u>Current Law</u>	<u>Budget Bill Provision</u>
Maximum Income	\$19,154	\$20,290
Maximum Property Taxes	1,450	1,450
Property Tax Reimbursement Rate	80%	80%
Income Threshold	8,000	8,000
Phase-Out Rate	13.0%	11.8%
Maximum Credit	1,160	1,160

Based on reestimates of the bill provision, the proposed expansion is expected to increase the cost of the credit by \$5.5 million in 1999-00 and \$5.3 million in 2000-01. In total, the proposed credit would cost \$81.2 million in 1999-00 and \$78.6 million in 2000-01.

Your proposal would eliminate the homestead tax credit beginning with claims filed in 2000 for property taxes accrued during the previous year (tax year 1999).

Lottery Tax Credit

Your proposal would not include a provision adopted by the Assembly Republican Caucus that would fund the following purposes with general fund appropriations that are currently funded with lottery proceeds: retailer compensation, vendor fees, general program operations, gaming law enforcement and lottery credit administration. Instead, these funds, which total \$76.5 million in 1999-00 and \$79.3 million in 2000-01, would be used for the new property tax refund credit described below.

Property Tax Refund Credit

A refundable "property tax refund credit" would be created under your proposal beginning with tax year 1999. The credit would be calculated as a percentage of property taxes or rent constituting property taxes to a maximum of \$2,000 in property taxes. Rent constituting property taxes would be the same as currently used for the PTRC and the homestead credit. The property tax refund credit percentage would vary based on Wisconsin adjusted gross income (AGI) as shown in the following chart. The credit percentage and maximum credit would be reduced based on the claimant's level of income within the phase-down range for claimants with AGI between tier 1 and tier 2 and between tier 2 and tier 3.

<u>Income Limits*</u>	<u>Credit Percentage</u>	<u>Maximum Credit</u>
1st Tier \$0 to \$8,000 if Married-Joint \$0 to \$8,000 if Single	80.0%	\$1,600
2nd Tier \$21,000 to \$140,000 if Married-Joint \$21,000 to \$105,000 if Single	12.2%	244
3rd Tier \$150,000 and Over if Married-Joint \$115,000 and Over if Single	10.0%	200

*The income limits for married taxpayers filing separately would equal one-half of the married-joint amounts. The credit percentage and maximum credit would be reduced based on the claimant's level of income within the phase-down range for claimants with AGI between tier 1 and tier 2 and between tier 2 and tier 3.

For married taxpayers filing a joint return with AGI below \$8,000, the property tax refund credit would be equal to 80% of property taxes or rent up to a maximum credit of \$1,600. The credit percentage would be reduced from 80% to 12.2% for taxpayers with income between \$8,000 and \$21,000 (for example, a married-joint taxpayer with \$14,500 in income, which is the mid-point of the phase-down range, would be eligible for a credit equal to 46.1% of property taxes or rent to a maximum credit of \$922). For married-joint taxpayers with income between \$21,000 and \$140,000, the credit percentage would equal 12.2% of property taxes or rent to a maximum credit of \$244. The credit percentage would be reduced from 12.2% to 10% for married taxpayers with income between \$140,000 and \$150,000 (a taxpayer with \$145,000 in income would be eligible for a PTRC equal to 11.1% of property taxes or rent up to a maximum credit of \$222). Finally, the credit would equal the current law 10% up to a maximum credit of \$200 for all married-joint taxpayers with income above \$150,000. The credit would be calculated similarly for single and married-separate taxpayers using different income limits.

The attachment to this memorandum provides information on the proposed property tax refund credit by showing the credit that would be received by claimants at various income and property tax levels. The credit is estimated to cost \$370.9 million in 1999-00 and \$382.1 million in 2000-01 for a total of \$753.0 over the biennium. Funding for the credit would be provided by eliminating: (a) the proposed fourth income tax bracket and tax rate reductions; (b) the current PTRC in 1999; and (c) the homestead tax credit. As noted, the proposal would also be funded with the monies that the Assembly Republican Caucus would use for lottery administrative costs.

Refundability

Under your proposal, the portion of the credit paid to claimants with AGI below \$50,000 would be refundable and the portion of the credit paid to claimants with AGI above \$50,000 could only be used to reduce income tax liability to zero. However, it is estimated that there would be few if any taxpayers with income above \$50,000 who would have an income tax liability that is less than the amount of the credit.

Creating a refundable credit based on property taxes could raise issues related to the uniformity requirements of the State Constitution. In 1996, the Wisconsin Supreme Court ruled that the homestead program was a relief program since it considered the individual's income and needs, was available to renters as well as homeowners and was not linked to the property tax administration system (Harvey v. Morgan, 1996). It is not known whether the same reasoning would be applied by a court under the refundable portion of the proposed property tax refund credit.

I hope this information is helpful. If I can be of further assistance, please contact me.

KD/dls

Attachment

ATTACHMENT 1

**Proposed Property Tax Refund Credit
Married-Joint Taxpayers**

Income	Property Taxes									
	\$250	\$500	\$750	\$1,000	\$1,250	\$1,500	\$1,750	\$2,000	\$2,250	
\$0		\$400	\$600	\$800	\$1,000	\$1,200	\$1,400	\$1,600	\$1,600	\$1,600
8,000	200	400	600	800	1,000	1,200	1,400	1,600	1,600	1,600
9,000	187	374	561	748	935	1,122	1,309	1,496	1,496	1,496
10,000	174	348	522	696	870	1,044	1,217	1,391	1,391	1,391
12,000	148	296	444	591	739	887	1,035	1,183	1,183	1,183
14,000	122	244	365	487	609	731	852	974	974	974
16,000	96	191	287	383	478	574	670	766	766	766
18,000	70	139	209	278	348	418	487	557	557	557
20,000	44	87	131	174	218	261	305	348	348	348
25,000	31	61	92	122	153	183	214	244	244	244
30,000	31	61	92	122	153	183	214	244	244	244
40,000	31	61	92	122	153	183	214	244	244	244
50,000	31	61	92	122	153	183	214	244	244	244
75,000	31	61	92	122	153	183	214	244	244	244
100,000	31	61	92	122	153	183	214	244	244	244
125,000	31	61	92	122	153	183	214	244	244	244
150,000	25	50	75	100	125	150	175	200	200	200
200,000	25	50	75	100	125	150	175	200	200	200

$$\text{slope} = \frac{\text{Max Prop Taxes}}{(\text{max income} - \text{threshold})}$$

a) calculate the value of a fraction, the denominator of which is the difference between ~~the~~ ~~the~~ ~~the~~ ~~the~~ ~~the~~ 21,000 and 8,000 and the numerator is the difference between the claimant's household income and 21,000

if income is 14,500

$$\frac{6,500}{13,000} = .5$$

b) subtract from 1.0 the amount calculated .5

if income is 12,000

$$\frac{9,000}{13,000} = .692$$

c. subtract the credit percentage in subd. 4. from the credit percentage in subd. 1.

$$\text{i.e. } 80\% - 12.2\% = 67.8\%$$

d. multiply the amount in c. by the fraction calculated under subd. 3. b. i. i.e. 33.9% . . . 20.55

e. subtract from the credit percentage in subd. 1. the amount calculated in d. 59.11%

e. multiply the ~~new~~ prop taxes by the %
calculated under e.

5. @ 12.2%

CALCULATIONS

income = 10,000

income = 80,000

$$a. \frac{11,000}{13,000} = .846$$

$$\frac{11,000}{30,000} = .0769...$$

b. $1.0 - .846 = .154$

$1.0 - .0769 = .923$

c. 67.8%

67.8%

d. $67.8\% \times .154 = 10.44$

$67.8\% \times .923 = 62.58$

e. $60\% - 10.44 = 69.56$

$80\% - 62.58 = 17.42\%$

$2000 \times 69.56 = 1,391.20$

$2000 \times 17.42\% = 348.40$

credit amount #s
agree w/ Kelsie's spreadsheet

1999

Date (time) needed

NSW
DN

LRB b 1494/1

MES : _____

BUDGET AMENDMENT

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**A AMENDMENT
TO A AMENDMENT 2 (LRBb1309/1)
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133**

At the locations indicated, amend the _____ as follows:
(fill ONLY if "engrossed" or "as shown by")

#. Page 40, line 4: after that line insert:

~~"to be ..."~~

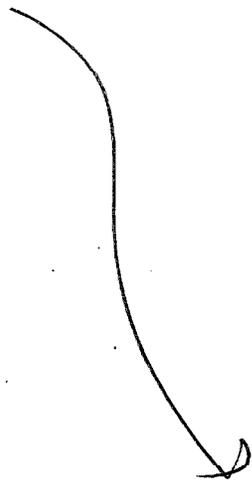
#. Page, line:

#. Page, line:

#. Page, line:

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#. Page, line:



**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 "265 m. ~~1~~. Page 265, line 3: after that line insert:

3 "(e) Property tax refund credit GPR S -0- -0-". "

4 # Page 62, line 4: after that line insert:
4 "291 m. ~~2~~. Page 395, line 4: after that line insert:

5 "SECTION 609s. 20.835 (2) (e) of the statutes is created to read:

6 20.835 (2) (e) *Property tax refund credit*. A sum sufficient to pay the claims
7 approved under s. 71.07 (7m)". "

8 # Page 243 line 8: after that line insert:
8 "594 m. ~~3~~. Page 841, line 25: delete the material beginning with that line and ending
9 with page 847, line 6, and substitute:

10 "SECTION 1703e. 71.06 (2e) of the statutes is amended to read:

11 71.06 (2e) BRACKET INDEXING. For taxable years beginning after December 31,
12 1998, the maximum dollar amount in each tax bracket, and the corresponding

1 minimum dollar amount in the next bracket, under subs. (1m) and (2)(c) and (d) shall
 2 be increased each year by a percentage equal to the percentage change between the
 3 U.S. consumer price index for all urban consumers, U.S. city average, for the month
 4 of August of the previous year and the U.S. consumer price index for all urban
 5 consumers, U.S. city average, for the month of August of the year before the previous
 6 year 1997, as determined by the federal department of labor. Each amount that is
 7 revised under this subsection shall be rounded to the nearest multiple of \$10 if the
 8 revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5,
 9 such an amount shall be increased to the next higher multiple of \$10. The
 10 department of revenue shall annually adjust the changes in dollar amounts required
 11 under this subsection and incorporate the changes into the income tax forms and
 12 instructions.")

Page 244, line 22: after that line insert:
 4597m

13 ~~4597m~~ Page 849, line 18: delete the material beginning with that line and ending
 14 with page 850, line 6.

Page 247, line 2: after that line insert:
 4599m

15 ~~4599m~~ Page 850, line 9: delete "1999" and substitute "1998".

Page 250, line 4: after that line insert:
 605g

16 ~~605g~~ Page 851, line 17: delete the material beginning with that line and ending
 17 with page 852, line 2.

605r

18 ~~605r~~ Page 853, line 9: delete lines 9 to 13.)

Page 247, line 2: after that line insert:
 4599g

19 ~~4599g~~ Page 850, line 3: after that line insert:

20 "SECTION 1715m. 71.07 (7m) of the statutes is created to read:

21 71.07 (7m) PROPERTY TAX REFUND CREDIT. (a) *Definitions*. In this subsection:

22 1. "Claimant" means an individual, or a married couple that files a joint return
 23 or that files separate returns, who files a claim under this subsection.

24 2. "Department" means the department of revenue.

1 3. “Household” means a claimant and an individual related to the claimant as
2 husband or wife.

3 4. “Household income” means all Wisconsin adjusted gross income received by
4 all persons of a household in a calendar year while members of the household.

5 5. “Income” means Wisconsin adjusted gross income.

6 6. “Principal dwelling” means any dwelling, whether owned or rented, and the
7 land surrounding it that is reasonably necessary for use of the dwelling as a primary
8 dwelling of the claimant and may include a part of a multidwelling or multipurpose
9 building and a part of the land upon which it is built that is used as the claimant’s
10 primary dwelling.

11 7. “Property taxes” means real and personal property taxes, exclusive of special
12 assessments, delinquent interest and charges for service, paid by a claimant on the
13 claimant’s principal dwelling during the taxable year for which credit under this
14 subsection is claimed, less any property taxes paid which are properly includable as
15 a trade or business expense under section 162 of the Internal Revenue Code. If the
16 principal dwelling on which the taxes were paid is owned by 2 or more persons or
17 entities as joint tenants or tenants in common or is owned by spouses as marital
18 property, “property taxes” is that part of property taxes paid that reflects the
19 ownership percentage of the claimant. If the principal dwelling is sold during the
20 taxable year the “property taxes” for the seller and buyer shall be the amount of the
21 tax prorated to each in the closing agreement pertaining to the sale or, if not so
22 provided for in the closing agreement, the tax shall be prorated between the seller
23 and buyer in proportion to the months of their respective ownership. “Property
24 taxes” includes monthly parking permit fees in respect to a principal dwelling
25 collected under s. 66.058 (3) (c).

1 8. “Rent constituting property taxes” means 25% of rent if heat is not included,
2 or 20% of rent if heat is included, paid during the taxable year for which credit is
3 claimed under this subsection, at arm’s length, for the use of a principal dwelling and
4 contiguous land, excluding any payment for domestic, food, medical or other services
5 which are unrelated to use of the dwelling as housing, less any rent paid that is
6 properly includable as a trade or business expense under the Internal Revenue Code.
7 “Rent” includes space rental paid to a landlord for parking a mobile home. Rent shall
8 be apportioned among the occupants of a principal dwelling according to their
9 respective contribution to the total amount of rent paid. “Rent” does not include rent
10 paid for the use of housing which was exempt from property taxation, except housing
11 for which payments in lieu of taxes were made under s. 66.40 (22).

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
13 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
14 amount of those taxes, one of the amounts calculated under this paragraph; except
15 that if the allowable amount of the claim exceeds the income taxes otherwise due on
16 the claimant’s income, and if the claimant’s household income is less than \$50,000,
17 the amount of the claim not used as an offset against those taxes shall be certified
18 by the department to the department of administration for payment to the claimant
19 by check, share draft or other draft from the appropriation under s. 20.835 (2) (e):

20 1. If the claimant is single or is married and files a joint income tax return
21 and if the claimant’s income is less than \$8,000 in the year to which the claim relates,
22 80% of the property taxes accrued or rent constituting property taxes accrued or both
23 in that year on the claimant’s principal dwelling.

24 2. If the claimant is married and files a separate income tax return and if the
25 claimant’s income is less than \$4,000 in the year to which the claim relates, 80% of

1 the property taxes accrued or rent constituting property taxes accrued or both in that
2 year on the claimant's principal dwelling.

3 3. If the claimant is single or is married and files a joint income tax return and
4 if the claimant's income is at least \$8,000 but less than \$21,000 in the year to which
5 the claim relates, a percentage of the property taxes accrued or rent constituting
6 property taxes accrued or both in that year on the claimant's principal dwelling that
7 is calculated as follows:

8 a. Calculate the value of a fraction, the denominator of which is \$13,000 and
9 the numerator of which is the difference between \$21,000 and the claimant's
10 household income.

11 b. Subtract from 1.0 the amount that is calculated under subd. 3. a.

12 c. Subtract the percentage of property taxes accrued in subd. 5. from the
13 percentage of property taxes accrued in subd. 1.

14 d. Multiply the percentage determined under subd. 3. c. by the number
15 calculated under subd. 3. b.

16 e. Subtract from the percentage of property taxes accrued in subd. 1. the
17 amount calculated in subd. 3. d.

18 4. If the claimant is married and files a separate income tax return and if the
19 claimant's income is at least \$4,000 but less than \$10,500 in the year to which the
20 claim relates, a percentage of the property taxes accrued or rent constituting
21 property taxes accrued or both in that year on the claimant's principal dwelling that
22 is calculated as follows:

23 a. Calculate the value of a fraction, the denominator of which is \$6,500 and the
24 numerator of which is the difference between \$10,500 and the claimant's household
25 income.

1 b. Subtract from 1.0 the amount that is calculated under subd. 4. a.

2 c. Subtract the percentage of property taxes accrued in subd. 5. from the
3 percentage of property taxes accrued in subd. 1.

4 d. Multiply the percentage determined under subd. 4. c. by the number
5 calculated under subd. 4. b.

6 e. Subtract from the percentage of property taxes accrued in subd. 1. the
7 amount calculated in subd. 4. d.

8 5. If the claimant is single and if the claimant's income is at least \$21,000 but
9 less than \$105,000 in the year to which the claim relates, 12.2% of the property taxes
10 accrued or rent constituting property taxes accrued or both in that year on the
11 claimant's principal dwelling.

12 6. If the claimant is married and files a joint income tax return and if the
13 claimant's income is at least \$21,000 but less than \$140,000 in the year to which the
14 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
15 accrued or both in that year on the claimant's principal dwelling.

16 7. If the claimant is married and files a separate income tax return and if the
17 claimant's income is at least \$10,500 but less than \$70,000 in the year to which the
18 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
19 accrued or both in that year on the claimant's principal dwelling.

20 8. If the claimant is single and if the claimant's income is at least \$105,000 but
21 less than \$115,000 in the year to which the claim relates, a percentage of the property
22 taxes accrued or rent constituting property taxes accrued or both in that year on the
23 claimant's principal dwelling that is calculated as follows:

1 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
2 the numerator of which is the difference between \$115,000 and the claimant's
3 household income.

4 b. Subtract from 1.0 the amount that is calculated under subd. 8. a.

5 c. Subtract the percentage of property taxes accrued in subd. 11. from the
6 percentage of property taxes accrued in subd. 5.

7 d. Multiply the percentage determined under subd. 8. c. by the number
8 calculated under subd. 8. b.

9 e. Subtract from the percentage of property taxes accrued in subd. 5. the
10 amount calculated in subd. 8. d.

11 9. If the claimant is married and files a joint income tax return and if the
12 claimant's income is at least \$140,000 but less than \$150,000 in the year to which the
13 claim relates, a percentage of the property taxes accrued or rent constituting
14 property taxes accrued or both in that year on the claimant's principal dwelling that
15 is calculated as follows:

16 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
17 the numerator of which is the difference between \$150,000 and the claimant's
18 household income.

19 b. Subtract from 1.0 the amount that is calculated under subd. 9. a.

20 c. Subtract the percentage of property taxes accrued in subd. 11. from the
21 percentage of property taxes accrued in subd. 5.

22 d. Multiply the percentage determined under subd. 9. c. by the number
23 calculated under subd. 9. b.

24 e. Subtract from the percentage of property taxes accrued in subd. 5. the
25 amount calculated in subd. 9. d.

1 10. If the claimant is married and files a separate income tax return and if the
2 claimant's income is at least \$70,000 but less than \$75,000 in the year to which the
3 claim relates, a percentage of the property taxes accrued or rent constituting
4 property taxes accrued or both in that year on the claimant's principal dwelling that
5 is calculated as follows:

6 a. Calculate the value of a fraction, the denominator of which is \$5,000 and the
7 numerator of which is the difference between \$75,000 and the claimant's household
8 income.

9 b. Subtract from 1.0 the amount that is calculated under subd. 10. a.

10 c. Subtract the percentage of property taxes accrued in subd. 11. from the
11 percentage of property taxes accrued in subd. 5.

12 d. Multiply the percentage determined under subd. 10. c. by the number
13 calculated under subd. 10. b.

14 e. Subtract from the percentage of property taxes accrued in subd. 5. the
15 amount calculated in subd. 10. d.

16 11. If the claimant is single and if the claimant's income is \$115,000 or more
17 in the year to which the claim relates, 10% of the property taxes accrued or rent
18 constituting property taxes accrued or both in that year on the claimant's principal
19 dwelling.

20 12. If the claimant is married and files a joint income tax return and if the
21 claimant's income is \$150,000 or more in the year to which the claim relates, 10% of
22 the property taxes accrued or rent constituting property taxes accrued or both in that
23 year on the claimant's principal dwelling.

24 13. If the claimant is married and files a separate income tax return and if the
25 claimant's income is \$75,000 or more in the year to which the claim relates, 10% of

1 the property taxes accrued or rent constituting property taxes accrued or both in that
2 year on the claimant's principal dwelling.

3 (c) *Limitations, general.* 1. No credit may be allowed under this subsection
4 unless it is claimed within the time period under s. 71.75 (2).

5 2. Part-year residents and nonresidents of this state are not eligible to claim
6 the credit under this subsection.

7 (d) *Property taxes accrued limitations.* The maximum property taxes accrued,
8 or rent constituting property taxes accrued, or both, that may be used in calculating
9 the credit under par. (b), with respect to any one household, may not exceed \$2,000
10 in 1999 or any subsequent calendar year, except that if the claimant is married and
11 files a separate return the maximum property taxes accrued, or rent constituting
12 property taxes accrued, or both, that may be used in calculating the credit under par.
13 (b), with respect to any one household, may not exceed \$1,000.

14 (e) *Administration.* The department may enforce the credit under this
15 subsection and may take any action, conduct any proceeding and proceed as it is
16 authorized in respect to taxes under this chapter. The income tax provisions in this
17 chapter relating to assessments, refunds, appeals, collection, interest and penalties
18 apply to the credit under this subsection.")

19 9. Page ²⁴⁷ ~~851~~, line ⁴ ~~2~~: after "~~(6)~~" insert "(6m)".

20 # Page 247, line 10: after that line insert:
"643m" 10. Page 851, line 7: after that line insert:

21 "SECTION 1719k. 71.10 (4) ^{cn} ~~(em)~~ of the statutes is created to read:

22 71.10 (4) ^{cn} ~~(em)~~ Property tax refund credit under s. 71.07 (7m), to the extent that
23 the credit is nonrefundable.")

24 # Page 250, line 9: after that line insert:
~~655m. 11. Page 851, line 9: after that line insert:~~

INSERT

1 ~~SECTION 1719p. 71.10 (4) (i) of the statutes is amended to read:~~

2 ~~71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland~~
 3 ~~preservation credit under subch. IX, homestead credit under subch. VIII, farmland~~
 4 ~~tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.~~
 5 ~~71.07 (2fd), property tax refund credit under s. 71.07 (7m), to the extent that the~~
 6 ~~credit is refundable, earned income tax credit under s. 71.07 (9e), estimated tax~~
 7 ~~payments under s. 71.09, and taxes withheld under subch. X.")~~

8 # Page 265, line 10: after that line insert:

9 "632e. ~~12.~~ Page 944, line 22: delete the material beginning with that line and ending
 with page 945, line 13.

10 632m ~~13.~~ Page 945, line 19: after that line insert:

11 "SECTION 1764e. 71.55 (11) of the statutes is created to read:

12 71.55 (11) SUNSET. No new claim may be filed under this subchapter for a
 13 taxable year that begins after December 31, 1999, based on property taxes accrued
 14 in the previous year."

15 632s. ~~14.~~ Page 946, line 4: delete the material beginning with that line and ending
 16 with page 947, line 20. "

17 # Page 594, line 19: after that line insert:

18 "1163m. ~~15.~~ Page 1598, line 13: after that line insert:

19 "(14z) PROPERTY TAX REFUND CREDIT. The treatment of sections 20.835 (2) (e),
 20 (4) ^{cn} ~~(en)~~ and (i) of the statutes first applies to taxable years beginning on January 1,
 21 1999.")

22 (END)

INSERT

Page 250, line 2: after "(2FD),"
insert "property tax refund credit under
s. 71.07 (7m), to the extent that
the credit is refundable,"

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

b1494/ldn
LRBb14547dn
MES:kmg:jf

June 29, 1999

Please review this amendment very carefully. The calculations, particularly the phase-down provisions, were very complicated. The amendment is also very unusual in that it creates a tax credit that is both refundable and nonrefundable, depending on the claimant's level of Wisconsin adjusted gross income. Consequently, you may wish to have the amendment reviewed by the fiscal bureau and the department of revenue.

Your instructions stated that "property taxes" and "rent constituting property taxes" should be based on the definitions in the school property tax rent credit (SPTC) and the homestead credit. However, the SPTC is based on property taxes accrued in the year to which the claim relates and the homestead credit is based on property taxes accrued in the year before the year to which the claim relates. This amendment is based on the SPTC; if you would like the amendment to be based on the homestead credit, please let me know.

This drafter's note is also meant to alert you to the possibility that the property tax refund credit created in this bill could be challenged as a violation of the uniformity clause of the Wisconsin Constitution, article VIII, section 1. Basically, the uniformity clause requires that the taxation of real property be uniform. The uniformity clause does not apply to income taxes. See *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 427-428 (1967). A 1974 amendment to the uniformity clause exempted agricultural land from the uniformity requirement.

The tax credit for residential property taxes that is created in this amendment, however, essentially provides a refund to some taxpayers based on their income and property taxes. Arguably, such a refund provides a partial exemption for the property taxes of some taxpayers. The Wisconsin Supreme Court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *Knowlton v. Supervisors of Rock County*, 9 Wis. 410 (1859), *Gottlieb and Ehrlich v. Racine*, 26 Wis. 2d 352 (1964). It could be argued that the economic effect of this credit is a reduction of property tax liability, which is a partial exemption, and that the credit therefore violates the uniformity clause.

A court could, however, decide that the credit created in this bill is a relief measure and not a tax provision. The uniformity clause does not apply to relief measures. It was on this basis that the Wisconsin Supreme Court held that the homestead tax credit was not a violation of the uniformity clause. See *Harvey v. Morgan*, 30 Wis. 2d 1 (1966). When the homestead credit was challenged in *Harvey*, however, the credit was

available only to individuals aged 65 and older whose household income was \$3,000 or less per year. In addition, the Wisconsin court of appeals, following *Harvey*, has held that the farmland preservation credit is a relief measure and not a tax statute. See *McManus v. Department of Revenue*, 155 Wis. 2d 450 (1990). When *McManus* was decided, the maximum household income allowed under that credit was \$38,429 for persons who first enter into a farmland preservation agreement in 1991, unless the person chose to take the minimum credit of 10% of property taxes accrued, regardless of income, up to a maximum credit of \$600.

The credit created in this bill, however, is available to individuals who, with their spouses, have household income of over \$150,000. Consequently, it may be more difficult to argue that this credit is a relief measure and for the credit to withstand a constitutional challenge; the reasoning that the Wisconsin Supreme Court employed in *Harvey* may no longer apply because of the expanded scope of the credit in this bill.

While I am not at all certain how a court would rule on a constitutional challenge to this amendment, should it become law, I believe that you should be aware of possible challenges to the amendment. If you have any further questions about this issue, please don't hesitate to contact me.

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

LRBb1494/1dn
MES:....kjf

June 29, 1999

Please review this amendment very carefully. The calculations, particularly the phase-down provisions, were very complicated. The amendment is also very unusual in that it creates a tax credit that is both refundable and nonrefundable, depending on the claimant's level of Wisconsin adjusted gross income. Consequently, you may wish to have the amendment reviewed by the fiscal bureau and the department of revenue.

Your instructions stated that "property taxes" and "rent constituting property taxes" should be based on the definitions in the school property tax rent credit (SPTC) and the homestead credit. However, the SPTC is based on property taxes accrued in the year to which the claim relates and the homestead credit is based on property taxes accrued in the year before the year to which the claim relates. This amendment is based on the SPTC; if you would like the amendment to be based on the homestead credit, please let me know.

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The tax credit for residential property taxes that is created in this amendment, however, essentially provides a refund to some taxpayers based on their income and property taxes. Arguably, such a refund provides a partial exemption for the property taxes of some taxpayers. The Wisconsin Supreme Court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *Knowlton v. Supervisors of Rock County*, 9 Wis. 410 (1859), *Gottlieb and Ehrlich v. Racine*, 26 Wis. 2d 352 (1964). It could be argued that the economic effect of this credit is a reduction of property tax liability, which is a partial exemption, and that the credit therefore violates the uniformity clause.

A court could, however, decide that the credit created in this bill is a relief measure and not a tax provision. The uniformity clause does not apply to relief measures. It was on this basis that the Wisconsin Supreme Court held that the homestead tax credit was not a violation of the uniformity clause. See *Harvey v. Morgan*, 30 Wis. 2d 1 (1966). When the homestead credit was challenged in *Harvey*, however, the credit was

available only to individuals aged 65 and older whose household income was \$3,000 or less per year. In addition, the Wisconsin court of appeals, following *Harvey*, has held that the farmland preservation credit is a relief measure and not a tax statute. See *McManus v. Department of Revenue*, 155 Wis. 2d 450 (1990). When *McManus* was decided, the maximum *household* income allowed under that credit was \$38,429 for persons who first enter into a farmland preservation agreement in 1991, unless the person chose to take the minimum credit of 10% of property taxes accrued, regardless of income, up to a maximum credit of \$600.

The credit created in this bill, however, is available to individuals who, with their spouses, have household income of over \$150,000. Consequently, it may be more difficult to argue that this credit is a relief measure and for the credit to withstand a constitutional challenge; the reasoning that the Wisconsin Supreme Court employed in *Harvey* may no longer apply because of the expanded scope of the credit in this bill.

While I am not at all certain how a court would rule on a constitutional challenge to this amendment, should it become law, I believe that you should be aware of possible challenges to the amendment. If you have any further questions about this issue, please don't hesitate to contact me.

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1494/1
MES:...:kjf

ASSEMBLY AMENDMENT ,
TO ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133

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

2 **1.** Page 40, line 4: after that line insert:

3 "265m. Page 265, line 3: after that line insert:

4 "(e) Property tax refund credit GPR S -0- -0-".

5 **2.** Page 62, line 4: after that line insert:

6 "291m. Page 395, line 4: after that line insert:

7 "SECTION 609s. 20.835 (2) (e) of the statutes is created to read:

8 20.835 (2) (e) *Property tax refund credit*. A sum sufficient to pay the claims
9 approved under s. 71.07 (7m).".

10 **3.** Page 243, line 8: after that line insert:

1 “594m. Page 841, line 25: delete the material beginning with that line and
2 ending with page 847, line 6, and substitute:

3 “**SECTION 1703e.** 71.06 (2e) of the statutes is amended to read:

4 **71.06 (2e) BRACKET INDEXING.** For taxable years beginning after December 31,
5 1998, the maximum dollar amount in each tax bracket, and the corresponding
6 minimum dollar amount in the next bracket, under subs. (1m) and (2)(c) and (d) shall
7 be increased each year by a percentage equal to the percentage change between the
8 U.S. consumer price index for all urban consumers, U.S. city average, for the month
9 of August of the previous year and the U.S. consumer price index for all urban
10 consumers, U.S. city average, for the month of August of the year before the previous
11 year 1997, as determined by the federal department of labor. Each amount that is
12 revised under this subsection shall be rounded to the nearest multiple of \$10 if the
13 revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5,
14 such an amount shall be increased to the next higher multiple of \$10. The
15 department of revenue shall annually adjust the changes in dollar amounts required
16 under this subsection and incorporate the changes into the income tax forms and
17 instructions.”.”

18 **4.** Page 244, line 22: after that line insert:

19 “597m. Page 849, line 18: delete the material beginning with that line and
20 ending with page 850, line 6.”.

21 **5.** Page 247, line 2: after that line insert:

22 “599g. Page 850, line 3: after that line insert:

23 “**SECTION 1715m.** 71.07 (7m) of the statutes is created to read:

24 **71.07 (7m) PROPERTY TAX REFUND CREDIT.** (a) *Definitions.* In this subsection:

1 1. “Claimant” means an individual, or a married couple that files a joint return
2 or that files separate returns, who files a claim under this subsection.

3 2. “Department” means the department of revenue.

4 3. “Household” means a claimant and an individual related to the claimant as
5 husband or wife.

6 4. “Household income” means all Wisconsin adjusted gross income received by
7 all persons of a household in a calendar year while members of the household.

8 5. “Income” means Wisconsin adjusted gross income.

9 6. “Principal dwelling” means any dwelling, whether owned or rented, and the
10 land surrounding it that is reasonably necessary for use of the dwelling as a primary
11 dwelling of the claimant and may include a part of a multidwelling or multipurpose
12 building and a part of the land upon which it is built that is used as the claimant’s
13 primary dwelling.

14 7. “Property taxes” means real and personal property taxes, exclusive of special
15 assessments, delinquent interest and charges for service, paid by a claimant on the
16 claimant’s principal dwelling during the taxable year for which credit under this
17 subsection is claimed, less any property taxes paid which are properly includable as
18 a trade or business expense under section 162 of the Internal Revenue Code. If the
19 principal dwelling on which the taxes were paid is owned by 2 or more persons or
20 entities as joint tenants or tenants in common or is owned by spouses as marital
21 property, “property taxes” is that part of property taxes paid that reflects the
22 ownership percentage of the claimant. If the principal dwelling is sold during the
23 taxable year the “property taxes” for the seller and buyer shall be the amount of the
24 tax prorated to each in the closing agreement pertaining to the sale or, if not so
25 provided for in the closing agreement, the tax shall be prorated between the seller

1 and buyer in proportion to the months of their respective ownership. "Property
2 taxes" includes monthly parking permit fees in respect to a principal dwelling
3 collected under s. 66.058 (3) (c).

4 8. "Rent constituting property taxes" means 25% of rent if heat is not included,
5 or 20% of rent if heat is included, paid during the taxable year for which credit is
6 claimed under this subsection, at arm's length, for the use of a principal dwelling and
7 contiguous land, excluding any payment for domestic, food, medical or other services
8 which are unrelated to use of the dwelling as housing, less any rent paid that is
9 properly includable as a trade or business expense under the Internal Revenue Code.
10 "Rent" includes space rental paid to a landlord for parking a mobile home. Rent shall
11 be apportioned among the occupants of a principal dwelling according to their
12 respective contribution to the total amount of rent paid. "Rent" does not include rent
13 paid for the use of housing which was exempt from property taxation, except housing
14 for which payments in lieu of taxes were made under s. 66.40 (22).

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
16 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
17 amount of those taxes, one of the amounts calculated under this paragraph; except
18 that if the allowable amount of the claim exceeds the income taxes otherwise due on
19 the claimant's income, and if the claimant's household income is less than \$50,000,
20 the amount of the claim not used as an offset against those taxes shall be certified
21 by the department to the department of administration for payment to the claimant
22 by check, share draft or other draft from the appropriation under s. 20.835 (2) (e):

23 1. If the claimant is single or is married and files a joint income taxES return
24 and if the claimant's income is less than \$8,000 in the year to which the claim relates,

1 80% of the property taxes accrued or rent constituting property taxes accrued or both
2 in that year on the claimant's principal dwelling.

3 2. If the claimant is married and files a separate income tax return and if the
4 claimant's income is less than \$4,000 in the year to which the claim relates, 80% of
5 the property taxes accrued or rent constituting property taxes accrued or both in that
6 year on the claimant's principal dwelling.

7 3. If the claimant is single or is married and files a joint income tax return and
8 if the claimant's income is at least \$8,000 but less than \$21,000 in the year to which
9 the claim relates, a percentage of the property taxes accrued or rent constituting
10 property taxes accrued or both in that year on the claimant's principal dwelling that
11 is calculated as follows:

12 a. Calculate the value of a fraction, the denominator of which is \$13,000 and
13 the numerator of which is the difference between \$21,000 and the claimant's
14 household income.

15 b. Subtract from 1.0 the amount that is calculated under subd. 3. a.

16 c. Subtract the percentage of property taxes accrued in subd. 5. from the
17 percentage of property taxes accrued in subd. 1.

18 d. Multiply the percentage determined under subd. 3. c. by the number
19 calculated under subd. 3. b.

20 e. Subtract from the percentage of property taxes accrued in subd. 1. the
21 amount calculated in subd. 3. d.

22 4. If the claimant is married and files a separate income tax return and if the
23 claimant's income is at least \$4,000 but less than \$10,500 in the year to which the
24 claim relates, a percentage of the property taxes accrued or rent constituting

1 property taxes accrued or both in that year on the claimant's principal dwelling that
2 is calculated as follows:

3 a. Calculate the value of a fraction, the denominator of which is \$6,500 and the
4 numerator of which is the difference between \$10,500 and the claimant's household
5 income.

6 b. Subtract from 1.0 the amount that is calculated under subd. 4. a.

7 c. Subtract the percentage of property taxes accrued in subd. 5. from the
8 percentage of property taxes accrued in subd. 1.

9 d. Multiply the percentage determined under subd. 4. c. by the number
10 calculated under subd. 4. b.

11 e. Subtract from the percentage of property taxes accrued in subd. 1. the
12 amount calculated in subd. 4. d.

13 5. If the claimant is single and if the claimant's income is at least \$21,000 but
14 less than \$105,000 in the year to which the claim relates, 12.2% of the property taxes
15 accrued or rent constituting property taxes accrued or both in that year on the
16 claimant's principal dwelling.

17 6. If the claimant is married and files a joint income tax return and if the
18 claimant's income is at least \$21,000 but less than \$140,000 in the year to which the
19 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
20 accrued or both in that year on the claimant's principal dwelling.

21 7. If the claimant is married and files a separate income tax return and if the
22 claimant's income is at least \$10,500 but less than \$70,000 in the year to which the
23 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
24 accrued or both in that year on the claimant's principal dwelling.

1 8. If the claimant is single and if the claimant's income is at least \$105,000 but
2 less than \$115,000 in the year to which the claim relates, a percentage of the property
3 taxes accrued or rent constituting property taxes accrued or both in that year on the
4 claimant's principal dwelling that is calculated as follows:

5 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
6 the numerator of which is the difference between \$115,000 and the claimant's
7 household income.

8 b. Subtract from 1.0 the amount that is calculated under subd. 8. a.

9 c. Subtract the percentage of property taxes accrued in subd. 11. from the
10 percentage of property taxes accrued in subd. 5.

11 d. Multiply the percentage determined under subd. 8. c. by the number
12 calculated under subd. 8. b.

13 e. Subtract from the percentage of property taxes accrued in subd. 5. the
14 amount calculated in subd. 8. d.

15 9. If the claimant is married and files a joint income tax return and if the
16 claimant's income is at least \$140,000 but less than \$150,000 in the year to which the
17 claim relates, a percentage of the property taxes accrued or rent constituting
18 property taxes accrued or both in that year on the claimant's principal dwelling that
19 is calculated as follows:

20 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
21 the numerator of which is the difference between \$150,000 and the claimant's
22 household income.

23 b. Subtract from 1.0 the amount that is calculated under subd. 9. a.

24 c. Subtract the percentage of property taxes accrued in subd. 11. from the
25 percentage of property taxes accrued in subd. 5.

1 d. Multiply the percentage determined under subd. 9. c. by the number
2 calculated under subd. 9. b.

3 e. Subtract from the percentage of property taxes accrued in subd. 5. the
4 amount calculated in subd. 9. d.

5 10. If the claimant is married and files a separate income tax return and if the
6 claimant's income is at least \$70,000 but less than \$75,000 in the year to which the
7 claim relates, a percentage of the property taxes accrued or rent constituting
8 property taxes accrued or both in that year on the claimant's principal dwelling that
9 is calculated as follows:

10 a. Calculate the value of a fraction, the denominator of which is \$5,000 and the
11 numerator of which is the difference between \$75,000 and the claimant's household
12 income.

13 b. Subtract from 1.0 the amount that is calculated under subd. 10. a.

14 c. Subtract the percentage of property taxes accrued in subd. 11. from the
15 percentage of property taxes accrued in subd. 5.

16 d. Multiply the percentage determined under subd. 10. c. by the number
17 calculated under subd. 10. b.

18 e. Subtract from the percentage of property taxes accrued in subd. 5. the
19 amount calculated in subd. 10. d.

20 11. If the claimant is single and if the claimant's income is \$115,000 or more
21 in the year to which the claim relates, 10% of the property taxes accrued or rent
22 constituting property taxes accrued or both in that year on the claimant's principal
23 dwelling.

24 12. If the claimant is married and files a joint income tax return and if the
25 claimant's income is \$150,000 or more in the year to which the claim relates, 10% of

1 the property taxes accrued or rent constituting property taxes accrued or both in that
2 year on the claimant's principal dwelling.

3 13. If the claimant is married and files a separate income tax return and if the
4 claimant's income is \$75,000 or more in the year to which the claim relates, 10% of
5 the property taxes accrued or rent constituting property taxes accrued or both in that
6 year on the claimant's principal dwelling.

7 (c) *Limitations, general.* 1. No credit may be allowed under this subsection
8 unless it is claimed within the time period under s. 71.75 (2).

9 2. Part-year residents and nonresidents of this state are not eligible to claim
10 the credit under this subsection.

11 (d) *Property taxes accrued limitations.* The maximum property taxes accrued,
12 or rent constituting property taxes accrued, or both, that may be used in calculating
13 the credit under par. (b), with respect to any one household, may not exceed \$2,000
14 in 1999 or any subsequent calendar year, except that if the claimant is married and
15 files a separate return the maximum property taxes accrued, or rent constituting
16 property taxes accrued, or both, that may be used in calculating the credit under par.
17 (b), with respect to any one household, may not exceed \$1,000.

18 (e) *Administration.* The department may enforce the credit under this
19 subsection and may take any action, conduct any proceeding and proceed as it is
20 authorized in respect to taxes under this chapter. The income tax provisions in this
21 chapter relating to assessments, refunds, appeals, collection, interest and penalties
22 apply to the credit under this subsection.”.”.

23 **6.** Page 247, line 2: after that line insert:

24 “599m. Page 850, line 9: delete “1999” and substitute “1998”.

- 1 **7.** Page 247, line 4: after “(6m)” insert “, (7m)”.
- 2 **8.** Page 247, line 10: after that line insert:
- 3 “603m. Page 851, line 7: after that line insert:
- 4 “**SECTION 1719k.** 71.10 (4) (cn) of the statutes is created to read:
- 5 71.10 (4) (cn) Property tax refund credit under s. 71.07 (7m), to the extent that
- 6 the credit is nonrefundable.”.
- 7 **9.** Page 250, line 2: after “(2fd),” insert “property tax refund credit under s.
- 8 71.07 (7m), to the extent that the credit is refundable.”.
- 9 **10.** Page 250, line 4: after that line insert:
- 10 “605g. Page 851, line 17: delete the material beginning with that line and
- 11 ending with page 852, line 2.
- 12 605r. Page 853, line 9: delete lines 9 to 13.”.
- 13 **11.** Page 265, line 10: after that line insert:
- 14 “632e. Page 944, line 22: delete the material beginning with that line and
- 15 ending with page 945, line 13.
- 16 632m. Page 945, line 19: after that line insert:
- 17 “**SECTION 1764e.** 71.55 (11) of the statutes is created to read:
- 18 71.55 (11) SUNSET. No new claim may be filed under this subchapter for a
- 19 taxable year that begins after December 31, 1999, based on property taxes accrued
- 20 in the previous year.”.
- 21 632s. Page 946, line 4: delete the material beginning with that line and ending
- 22 with page 947, line 20.”.
- 23 **12.** Page 594, line 19: after that line insert:
- 24 “1163m. Page 1598, line 13: after that line insert:

1 “(14z) PROPERTY TAX REFUND CREDIT. The treatment of sections 20.835 (2) (e),
2 71.07 (7m), 71.08 (1) (intro.) (as it applies to the property tax refund credit) and 71.10
3 (4) (cn) and (i) of the statutes first applies to taxable years beginning on January 1,
4 1999.”.”.

5

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1491/1
MES:jljg:ch

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 243, line 8: after that line insert:

3 "594m. Page 841, line 25: delete the material beginning with that line and
4 ending with page 847, line 6, and substitute:

5 "**SECTION 1703e.** 71.06 (2e) of the statutes is amended to read:

6 71.06 (2e) BRACKET INDEXING. For taxable years beginning after December 31,
7 1998, the maximum dollar amount in each tax bracket, and the corresponding
8 minimum dollar amount in the next bracket, under subs. (1m) and (2) (c) and (d) shall
9 be increased each year by a percentage equal to the percentage change between the
10 U.S. consumer price index for all urban consumers, U.S. city average, for the month
11 of August of the previous year and the U.S. consumer price index for all urban
12 consumers, U.S. city average, for the month of August of the year before the previous



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb14941
MES...:kif

HTK
RMR stays

ASSEMBLY AMENDMENT,
TO ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133

D-note

NOW

INS
1-1

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

2 1. Page 40, line 4: after that line insert:

3 "265m. Page 265, line 3: after that line insert:

4 "(e) Property tax refund credit GPR S -0- -0-".

insert 1-4

5 2. Page 62, line 4: after that line insert:

6 "291m. Page 395, line 4: after that line insert:

7 "SECTION 609s. 20.835 (2) (e) of the statutes is created to read:

8 20.835 (2) (e) *Property tax refund credit*. A sum sufficient to pay the claims

9 approved under s. 71.07 (7m)."."

INS
1-9

10 3. Page 243, line 8: after that line insert:

1 “594m. Page 841, line 25: delete the material beginning with that line and
2 ending with page 847, line 6, and substitute:

3 “SECTION 1703e. 71.06 (2e) of the statutes is amended to read:

4 71.06 (2e) BRACKET INDEXING. For taxable years beginning after December 31,
5 1998, the maximum dollar amount in each tax bracket, and the corresponding
6 minimum dollar amount in the next bracket, under subs. (1m) and (2) (c) and (d) shall
7 be increased each year by a percentage equal to the percentage change between the
8 U.S. consumer price index for all urban consumers, U.S. city average, for the month
9 of August of the previous year and the U.S. consumer price index for all urban
10 consumers, U.S. city average, for the month of August of the year before the previous
11 year 1997, as determined by the federal department of labor. Each amount that is
12 revised under this subsection shall be rounded to the nearest multiple of \$10 if the
13 revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5,
14 such an amount shall be increased to the next higher multiple of \$10. The
15 department of revenue shall annually adjust the changes in dollar amounts required
16 under this subsection and incorporate the changes into the income tax forms and
17 instructions.”.”

18 **4.** Page 244, line 22: after that line insert:

19 “597m. Page 849, line 18: delete the material beginning with that line and
20 ending with page 850, line 6.”.

21 **5.** Page 247, line 2: after that line insert:

22 “599g. Page 850, line 3: after that line insert:

23 “SECTION 1715m. 71.07 (7m) of the statutes is created to read:

24 71.07 (7m) PROPERTY TAX REFUND CREDIT. (a) *Definitions*. In this subsection:

INS
2-17

1 1. “Claimant” means an individual, or a married couple that files a joint return
2 or that files separate returns, who files a claim under this subsection.

3 2. “Department” means the department of revenue.

4 3. “Household” means a claimant and an individual related to the claimant as
5 husband or wife.

6 4. “Household income” means all Wisconsin adjusted gross income received by
7 all persons of a household in a calendar year while members of the household.

8 5. “Income” means Wisconsin adjusted gross income.

9 6. “Principal dwelling” means any dwelling, whether owned or rented, and the
10 land surrounding it that is reasonably necessary for use of the dwelling as a primary
11 dwelling of the claimant and may include a part of a multidwelling or multipurpose
12 building and a part of the land upon which it is built that is used as the claimant’s
13 primary dwelling.

14 7. “Property taxes” means real and personal property taxes, exclusive of special
15 assessments, delinquent interest and charges for service, paid by a claimant on the
16 claimant’s principal dwelling during the taxable year for which credit under this
17 subsection is claimed, less any property taxes paid which are properly includable as
18 a trade or business expense under section 162 of the Internal Revenue Code. If the
19 principal dwelling on which the taxes were paid is owned by 2 or more persons or
20 entities as joint tenants or tenants in common or is owned by spouses as marital
21 property, “property taxes” is that part of property taxes paid that reflects the
22 ownership percentage of the claimant. If the principal dwelling is sold during the
23 taxable year the “property taxes” for the seller and buyer shall be the amount of the
24 tax prorated to each in the closing agreement pertaining to the sale or, if not so
25 provided for in the closing agreement, the tax shall be prorated between the seller

1 and buyer in proportion to the months of their respective ownership. "Property
2 taxes" includes monthly parking permit fees in respect to a principal dwelling
3 collected under s. 66.058 (3) (c).

4 8. "Rent constituting property taxes" means 25% of rent if heat is not included,
5 or 20% of rent if heat is included, paid during the taxable year for which credit is
6 claimed under this subsection, at arm's length, for the use of a principal dwelling and
7 contiguous land, excluding any payment for domestic, food, medical or other services
8 which are unrelated to use of the dwelling as housing, less any rent paid that is
9 properly includable as a trade or business expense under the Internal Revenue Code.
10 "Rent" includes space rental paid to a landlord for parking a mobile home. Rent shall
11 be apportioned among the occupants of a principal dwelling according to their
12 respective contribution to the total amount of rent paid. "Rent" does not include rent
13 paid for the use of housing which was exempt from property taxation, except housing
14 for which payments in lieu of taxes were made under s. 66.40 (22).

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
16 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
17 amount of those taxes, one of the amounts calculated under this paragraph; except
18 that if the allowable amount of the claim exceeds the income taxes otherwise due on
19 the claimant's income, and if the claimant's household income is less than \$50,000,
20 the amount of the claim not used as an offset against those taxes shall be certified
21 by the department to the department of administration for payment to the claimant
22 by check, share draft or other draft from the appropriation under s. 20.835 (2) (e):

23 1. If the claimant is single or is married and files a joint income taxES return
24 and if the claimant's income is less than \$8,000 in the year to which the claim relates,

1 80% of the property taxes accrued or rent constituting property taxes accrued or both
2 in that year on the claimant's principal dwelling.

3 2. If the claimant is married and files a separate income tax return and if the
4 claimant's income is less than \$4,000 in the year to which the claim relates, 80% of
5 the property taxes accrued or rent constituting property taxes accrued or both in that
6 year on the claimant's principal dwelling.

7 3. If the claimant is single or is married and files a joint income tax return and
8 if the claimant's income is at least \$8,000 but less than \$21,000 in the year to which
9 the claim relates, a percentage of the property taxes accrued or rent constituting
10 property taxes accrued or both in that year on the claimant's principal dwelling that
11 is calculated as follows:

12 a. Calculate the value of a fraction, the denominator of which is \$13,000 and
13 the numerator of which is the difference between \$21,000 and the claimant's
14 household income.

15 b. Subtract from 1.0 the amount that is calculated under subd. 3. a.

16 c. Subtract the percentage of property taxes accrued in subd. 5. from the
17 percentage of property taxes accrued in subd. 1.

18 d. Multiply the percentage determined under subd. 3. c. by the number
19 calculated under subd. 3. b.

20 e. Subtract from the percentage of property taxes accrued in subd. 1. the
21 amount calculated in subd. 3. d.

22 4. If the claimant is married and files a separate income tax return and if the
23 claimant's income is at least \$4,000 but less than \$10,500 in the year to which the
24 claim relates, a percentage of the property taxes accrued or rent constituting

1 property taxes accrued or both in that year on the claimant's principal dwelling that
2 is calculated as follows:

3 a. Calculate the value of a fraction, the denominator of which is \$6,500 and the
4 numerator of which is the difference between \$10,500 and the claimant's household
5 income.

6 b. Subtract from 1.0 the amount that is calculated under subd. 4. a.

7 c. Subtract the percentage of property taxes accrued in subd. 5. from the
8 percentage of property taxes accrued in subd. 1.

9 d. Multiply the percentage determined under subd. 4. c. by the number
10 calculated under subd. 4. b.

11 e. Subtract from the percentage of property taxes accrued in subd. 1. the
12 amount calculated in subd. 4. d.

13 5. If the claimant is single and if the claimant's income is at least \$21,000 but
14 less than \$105,000 in the year to which the claim relates, 12.2% of the property taxes
15 accrued or rent constituting property taxes accrued or both in that year on the
16 claimant's principal dwelling.

17 6. If the claimant is married and files a joint income tax return and if the
18 claimant's income is at least \$21,000 but less than \$140,000 in the year to which the
19 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
20 accrued or both in that year on the claimant's principal dwelling.

21 7. If the claimant is married and files a separate income tax return and if the
22 claimant's income is at least \$10,500 but less than \$70,000 in the year to which the
23 claim relates, 12.2% of the property taxes accrued or rent constituting property taxes
24 accrued or both in that year on the claimant's principal dwelling.

1 8. If the claimant is single and if the claimant's income is at least \$105,000 but
2 less than \$115,000 in the year to which the claim relates, a percentage of the property
3 taxes accrued or rent constituting property taxes accrued or both in that year on the
4 claimant's principal dwelling that is calculated as follows:

5 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
6 the numerator of which is the difference between \$115,000 and the claimant's
7 household income.

8 b. Subtract from 1.0 the amount that is calculated under subd. 8. a.

9 c. Subtract the percentage of property taxes accrued in subd. 11. from the
10 percentage of property taxes accrued in subd. 5.

11 d. Multiply the percentage determined under subd. 8. c. by the number
12 calculated under subd. 8. b.

13 e. Subtract from the percentage of property taxes accrued in subd. 5. the
14 amount calculated in subd. 8. d.

15 9. If the claimant is married and files a joint income tax return and if the
16 claimant's income is at least \$140,000 but less than \$150,000 in the year to which the
17 claim relates, a percentage of the property taxes accrued or rent constituting
18 property taxes accrued or both in that year on the claimant's principal dwelling that
19 is calculated as follows:

20 a. Calculate the value of a fraction, the denominator of which is \$10,000 and
21 the numerator of which is the difference between \$150,000 and the claimant's
22 household income.

23 b. Subtract from 1.0 the amount that is calculated under subd. 9. a.

24 c. Subtract the percentage of property taxes accrued in subd. 11. from the
25 percentage of property taxes accrued in subd. 5.

1 d. Multiply the percentage determined under subd. 9. c. by the number
2 calculated under subd. 9. b.

3 e. Subtract from the percentage of property taxes accrued in subd. 5. the
4 amount calculated in subd. 9. d.

5 10. If the claimant is married and files a separate income tax return and if the
6 claimant's income is at least \$70,000 but less than \$75,000 in the year to which the
7 claim relates, a percentage of the property taxes accrued or rent constituting
8 property taxes accrued or both in that year on the claimant's principal dwelling that
9 is calculated as follows:

10 a. Calculate the value of a fraction, the denominator of which is \$5,000 and the
11 numerator of which is the difference between \$75,000 and the claimant's household
12 income.

13 b. Subtract from 1.0 the amount that is calculated under subd. 10. a.

14 c. Subtract the percentage of property taxes accrued in subd. 11. from the
15 percentage of property taxes accrued in subd. 5.

16 d. Multiply the percentage determined under subd. 10. c. by the number
17 calculated under subd. 10. b.

18 e. Subtract from the percentage of property taxes accrued in subd. 5. the
19 amount calculated in subd. 10. d.

20 11. If the claimant is single and if the claimant's income is \$115,000 or more
21 in the year to which the claim relates, 10% of the property taxes accrued or rent
22 constituting property taxes accrued or both in that year on the claimant's principal
23 dwelling.

24 12. If the claimant is married and files a joint income tax return and if the
25 claimant's income is \$150,000 or more in the year to which the claim relates, 10% of

1 the property taxes accrued or rent constituting property taxes accrued or both in that
2 year on the claimant's principal dwelling.

3 13. If the claimant is married and files a separate income tax return and if the
4 claimant's income is \$75,000 or more in the year to which the claim relates, 10% of
5 the property taxes accrued or rent constituting property taxes accrued or both in that
6 year on the claimant's principal dwelling.

7 (c) *Limitations, general.* 1. No credit may be allowed under this subsection
8 unless it is claimed within the time period under s. 71.75 (2).

9 2. Part-year residents and nonresidents of this state are not eligible to claim
10 the credit under this subsection.

11 (d) *Property taxes accrued limitations.* The maximum property taxes accrued,
12 or rent constituting property taxes accrued, or both, that may be used in calculating
13 the credit under par. (b), with respect to any one household, may not exceed \$2,000
14 in 1999 or any subsequent calendar year, except that if the claimant is married and
15 files a separate return the maximum property taxes accrued, or rent constituting
16 property taxes accrued, or both, that may be used in calculating the credit under par.
17 (b), with respect to any one household, may not exceed \$1,000.

18 (e) *Administration.* The department may enforce the credit under this
19 subsection and may take any action, conduct any proceeding and proceed as it is
20 authorized in respect to taxes under this chapter. The income tax provisions in this
21 chapter relating to assessments, refunds, appeals, collection, interest and penalties
22 apply to the credit under this subsection.”.”.

23 **6.** Page 247, line 2: after that line insert:

24 “599m. Page 850, line 9: delete “1999” and substitute “1998”.

1 **7.** Page 247, line 4: after “(6m)” insert “,(7m)”.

2 **8.** Page 247, line 10: after that line insert:

3 “603m. Page 851, line 7: after that line insert:

4 “**SECTION 1719k.** 71.10 (4) (cn) of the statutes is created to read:

5 71.10 (4) (cn) Property tax refund credit under s. 71.07 (7m), to the extent that
6 the credit is nonrefundable.”.

7 **9.** Page 250, line 2: after “(2fd),” insert “property tax refund credit under s.
8 71.07 (7m), to the extent that the credit is refundable.”.

9 **10.** Page 250, line 4: after that line insert:

10 “605g. Page 851, line 17: delete the material beginning with that line and
11 ending with page 852, line 2.

12 605r. Page 853, line 9: delete lines 9 to 13.”

INS
10-12
13

11 **11.** Page 265, line 10: after that line insert:

14 “632e. Page 944, line 22: delete the material beginning with that line and
15 ending with page 945, line 13.

16 632m. Page 945, line 19: after that line insert:

17 “**SECTION 1764e.** 71.55 (11) of the statutes is created to read:

18 71.55 (11) SUNSET. No new claim may be filed under this subchapter for a
19 taxable year that begins after December 31, 1999, based on property taxes accrued
20 in the previous year.”.

21 632s. Page 946, line 4: delete the material beginning with that line and ending
22 with page 947, line 20.”.

INS
10-22

23 **12.** Page 594, line 19: after that line insert:

24 “1163m. Page 1598, line 13: after that line insert:

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 131**

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

- 2 **1.** Page 36, line 20: delete lines 20 and 21.
- 3 **2.** Page 37, line 3: delete lines 3 to 6.
- 4 **3.** Page 39, line 5: delete lines 5 to 17.
- 5 **4.** Page 40, line 3: delete lines 3 and 4.

INS-1-1

- 6 **5.** Page 56, line 10: delete lines 10 to 23.
- 7 **6.** Page 60, line 5: delete lines 5 to 24.
- 8 **7.** Page 61, line 1: delete lines 1 to 23.
- 9 **8.** Page 62, line 1: delete lines 1 to 10.

INS, 1-4

and substitutes → go back to b1449/2

- 10 **9.** Page 93, line 22: delete lines 22 and 23.

INS
1-9, p. 1 of 2

ins 1-9, cont.

1 **10.** Page 94, line 1: delete lines 1 to 25.

2 **11.** Page 95, line 1: delete lines 1 to 13.

ins 2-17

3 **12.** Page 243, line 9: delete the material beginning with that line and ending
4 with page 244, line 4.

ins 10-12

5 **13.** Page 255, line 16: delete the material beginning with that line and ending
6 with page 256, line 12.

7 **14.** Page 262, line 10: delete the material beginning with that line and ending
8 with page 263, line 6.

9 **15.** Page 271, line 19: delete the material beginning with that line and ending
10 with page 272, line 22.

ins 10-11

11 **16.** Page 500, line 3: delete lines 3 to 9.

12 **17.** Page 563, line 12: delete lines 12 to 16.

13 **18.** Page 570, line 15: delete lines 15 to 20.

14 **19.** Page 596, line 18: delete lines 18 to 22.

15 *INS 11-5*

(END)

1 “(14z) PROPERTY TAX REFUND CREDIT. The treatment of sections 20.835 (2) (e),
2 71.07 (7m), 71.08 (1) (intro.) (as it applies to the property tax refund credit) and 71.10
3 (4) (cn) and (i) of the statutes first applies to taxable years beginning on January 1,
4 1999.”.”.

5

(END)

INS
11-5

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

LRBb1494/1dn
MES:....kjf

↑
stays

June 29, 1999

This version of the amendment adds in ^{LRB} b 1449, which deletes the ARC funding of certain items, such as retailer compensation and vendor fees, from GPR instead of from lottery proceeds.

Please review this amendment very carefully. The calculations, particularly the phase-down provisions, were very complicated. The amendment is also very unusual in that it creates a tax credit that is both refundable and nonrefundable, depending on the claimant's level of Wisconsin adjusted gross income. Consequently, you may wish to have the amendment reviewed by the fiscal bureau and the department of revenue.

Your instructions stated that "property taxes" and "rent constituting property taxes" should be based on the definitions in the school property tax rent credit (SPTC) and the homestead credit. However, the SPTC is based on property taxes accrued in the year to which the claim relates and the homestead credit is based on property taxes accrued in the year before the year to which the claim relates. This amendment is based on the SPTC; if you would like the amendment to be based on the homestead credit, please let me know.

This drafter's note is also meant to alert you to the possibility that the property tax refund credit created in this bill could be challenged as a violation of the uniformity clause of the Wisconsin Constitution, article VIII, section 1. Basically, the uniformity clause requires that the taxation of real property be uniform. The uniformity clause does not apply to income taxes. See *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 427-428 (1967). A 1974 amendment to the uniformity clause exempted agricultural land from the uniformity requirement.

The tax credit for residential property taxes that is created in this amendment, however, essentially provides a refund to some taxpayers based on their income and property taxes. Arguably, such a refund provides a partial exemption for the property taxes of some taxpayers. The Wisconsin Supreme Court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *Knowlton v. Supervisors of Rock County*, 9 Wis. 410 (1859), *Gottlieb and Ehrlich v. Racine*, 26 Wis. 2d 352 (1964). It could be argued that the economic effect of this credit is a reduction of property tax liability, which is a partial exemption, and that the credit therefore violates the uniformity clause.

A court could, however, decide that the credit created in this bill is a relief measure and not a tax provision. The uniformity clause does not apply to relief measures. It was on this basis that the Wisconsin Supreme Court held that the homestead tax credit was not a violation of the uniformity clause. See *Harvey v. Morgan*, 30 Wis. 2d 1 (1966). When the homestead credit was challenged in *Harvey*, however, the credit was

available only to individuals aged 65 and older whose household income was \$3,000 or less per year. In addition, the Wisconsin court of appeals, following *Harvey*, has held that the farmland preservation credit is a relief measure and not a tax statute. See *McManus v. Department of Revenue*, 155 Wis. 2d 450 (1990). When *McManus* was decided, the maximum *household* income allowed under that credit was \$38,429 for persons who first enter into a farmland preservation agreement in 1991, unless the person chose to take the minimum credit of 10% of property taxes accrued, regardless of income, up to a maximum credit of \$600.

The credit created in this bill, however, is available to individuals who, with their spouses, have household income of over \$150,000. Consequently, it may be more difficult to argue that this credit is a relief measure and for the credit to withstand a constitutional challenge; the reasoning that the Wisconsin Supreme Court employed in *Harvey* may no longer apply because of the expanded scope of the credit in this bill.

While I am not at all certain how a court would rule on a constitutional challenge to this amendment, should it become law, I believe that you should be aware of possible challenges to the amendment. If you have any further questions about this issue, please don't hesitate to contact me.

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

LRBb1494/2dn

MES:....ch

June 29, 1999

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