

2013 DRAFTING REQUEST

Bill

Received: **10/2/2013** Received By: **mshovers**
Wanted: **As time permits** Same as LRB:
For: **Glenn Grothman (608) 266-7513** By/Representing: **Rachel**
May Contact: Drafter: **mshovers**
Subject: **Tax, Individual - income credit** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Grothman@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Create a refundable individual income tax credit for private school tuition

Instructions:

See attached. Repeal the priv. school tuition tax deduction created in the budget and replace it with a refundable credit.

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>
/?	mshovers 11/20/2013			_____			
/1		scalvin 12/3/2013	rschluet 12/3/2013	_____	lparisi 12/3/2013	mbarman 3/20/2014	State S&L

FE Sent For:

*at
intro*

<END>

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1? mshovers

1 sac
12/3/2013

[Handwritten signature]
12/3/13 sm

11 MES 11/20/13

FE Sent For:

<END>

Shovers, Marc

From: VerVelde, Rachel
Sent: Tuesday, September 24, 2013 5:12 PM
To: Shovers, Marc
Subject: Draft Needed

Marc,

Senator Grothman would like the following language drafted:

1. Replace the current private school tuition tax deduction (from the budget) with a refundable private school tuition tax credit in the following amounts:

K-8 grade: \$250/student
9-12 grade: \$500/student

2. Specify the credit only applies to WI residents with dependents attending a private school located in WI.
3. Specify that voucher students are not eligible for the credit.
4. Specify the credit only applies to the actual tuition paid, not other expenses.
5. Require the private schools provide each parent with a tuition statement at the end of the calendar year.

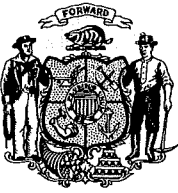
Let me know if you have any questions.

Thanks,

Rachel A. VerVelde

Chief of Staff - Office of Senator Glenn Grothman
20th Senate District
Rachel.VerVelde@legis.wi.gov
608-266-7513

exception for pupils "participating in
the program under S. 118.60 or
119.230"



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3475/0

MES: 2/1/14

Sec

This per requester

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

[Handwritten mark]

1 **AN ACT ...; relating to:** creating a refundable individual income tax credit for
2 tuition expenses paid for dependents who attend certain private elementary
3 and secondary school *5*

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit for amounts spent by a claimant on tuition for educational expenses, in the year to which the claim relates, for the claimant's dependent children to attend an eligible institution, which is defined as any private elementary or secondary school in this state, including a charter school. Under the bill, the credit may not be claimed with regard to a pupil who participates in the school choice program. Because the credit is refundable, if the amount of the credit for which the claimant is eligible exceeds his or her tax liability, the difference will be refunded to the claimant by check.

The maximum credit that may be claimed under the bill per year, per child, if the claimant files as a single individual or head of household, or if the claimant is a married person filing a joint return, is \$250 for an elementary pupil (a pupil in kindergarten or grades one to eight) and \$500 for a secondary pupil (a pupil in grades nine to twelve). The maximum credit that may be claimed by a married person filing a separate return per year, per child, is 50 percent of the amount that may be claimed by a married joint filer. The credit may not be claimed by a nonresident or part-year resident of this state. The bill also requires an eligible institution to provide the parent or guardian of a pupil the amount of tuition that the parent or guardian paid in that year for his or her pupil. *a statement specifying*

*

*

Under current law, as enacted in 2013 Wisconsin Act 20, the state budget bill, there is a subtract modification, or deduction, for tuition expenses paid by a claimant

for educational

* for tuition for educational expenses, in the year ^{but not} to which the claim relates, for the claimant's dependent children to attend an eligible institution, which is defined as any private elementary or secondary school, including a charter school. The maximum deduction for each elementary pupil is \$4,000^v each year, and the maximum deduction for each secondary pupil is \$10,000^v each year. The bill repeals this deduction that was created in the budget bill.

For further information see the **state and local** 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:

x
1 **SECTION 1.** 20.835 (2) (cb) of the statutes is created to read:

2 20.835 (2) (cb) *Tuition expenses credit.* A sum sufficient to pay the claims
3 approved under s. 71.07 (8m).^v

x
4 **SECTION 2.** 71.05 (6) (b) 49. of the statutes, as created by 2013 Wisconsin Act
5 20, is repealed.

x
6 **SECTION 3.** 71.07 (8m) of the statutes is created to read:

7 71.07 (8m) TUITION EXPENSES CREDIT. (a) *Definitions.* In this subsection:

8 1. "Claimant" means an individual who claims a pupil as a dependent under
9 section 151 (c) of the Internal Revenue Code, on his or her tax return.

10 2. "Elementary pupil" means an individual who is enrolled in grades
11 kindergarten to 8 at an eligible institution and who is a dependent of the claimant
12 under section 151 (c) of the Internal Revenue Code.

13 3. "Eligible institution" means any private school, ~~including a charter school~~
14 as defined in s. 115.001 (3r), that meets all of the criteria under s. 118.165 (1), that
15 is located in this state. ^{and any}

16 4. "Pupil" means an elementary pupil or secondary pupil.

that is located in this state
← move to end of sentence

1 5. “Secondary pupil” means an individual who is enrolled in grades 9 to 12 at
2 an eligible institution and who is a dependent of the claimant under section 151 (c)
3 of the Internal Revenue Code.

4 6. “Tuition” means any amount paid by a claimant, in the year to which the
5 claim relates, for a pupil’s tuition for educational expenses, to attend an eligible
6 institution.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 one
9 of the following amounts paid for tuition in the year to which the claim relates, and
10 if the allowable amount of the claim exceeds the income taxes otherwise due on the
11 claimant’s income, the amount of the claim not used as an offset against those taxes
12 shall be certified by the department of revenue to the department of administration
13 for payment to the claimant by check, share draft, or other draft drawn from the
14 appropriation account under s. 20.835 (2) (cb):

15 1. For taxable years beginning after December 31, 2013, an amount of up to
16 \$250 for an elementary pupil.

17 2. For taxable years beginning after December 31, 2013, an amount of up to
18 \$500 for a secondary pupil.

19 (c) *Limitations.* 1. ~~Subject to subd. 14,~~ the maximum credit that may be claimed
20 under this subsection by a claimant who files as a single individual or head of
21 household is the amount specified in one of the subdivisions under par. (b), for each
22 elementary pupil or secondary pupil, in each year to which the claim relates. If an
23 individual is an elementary pupil and a secondary pupil in the same taxable year, the
24 claimant may claim the credit for only one grade for that pupil for that taxable year.

1 2. ~~Subject to subd. 4~~ the maximum credit that may be claimed under this
2 subsection by claimants who are a married couple and file a joint return is the
3 amount specified one of the subdivisions under in par. (b), for each elementary pupil
4 or secondary pupil, in each year to which the claim relates. If an individual is an
5 elementary pupil and a secondary pupil in the same taxable year, the claimant may
6 claim the credit for only one grade for that pupil for that taxable year.

7 3. ~~Subject to subd. 4~~ the maximum credit that may be claimed by each spouse
8 of a married couple that files separately is 50 percent of the amount described in
9 subd. 2.

10 4. No credit may be claimed under this subsection by a part-year resident or
11 a nonresident of this state.

12 5. No credit may be allowed under this subsection unless it is claimed within
13 the time period under s. 71.75 (2).

14 6. No credit may be allowed under this subsection for a taxable year covering
15 a period of less than 12 months, except for a taxable year closed by reason of the death
16 of the taxpayer.

17 7. No credit may be allowed under this subsection with regard to a pupil who
18 is participating in the program under s. 118.60 or 119.23.

19 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
20 under that subsection, applies to the credit under this subsection.

21 (e) *Requirements for schools.* Annually, at the end of each year, an eligible
22 institution shall provide the parent or guardian of each pupil who was enrolled in the
23 eligible institution during that year a statement specifying the amount of tuition the
24 parent or guardian paid to the school during that year on behalf of his or her pupil.

25 SECTION 4. 71.08 (1) (intro.) of the statutes is amended to read:

1 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
2 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
3 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
4 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8m),
5 (8r), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n),
6 (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n),
7 (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other
8 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
9 that natural person, married couple filing jointly, trust or estate, instead of the tax
10 under s. 71.02, an alternative minimum tax computed as follows:

11 **SECTION 5.** 71.10 (4) (i) of the statutes is amended to read:

12 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
13 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
14 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
15 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
16 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
17 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
18 71.07 (3rm), food processing plant and food warehouse investment credit under s.
19 71.07 (3rn), film production services credit under s. 71.07 (5f), film production
20 company investment credit under s. 71.07 (5h), tuition expenses credit under s. 71.07
21 (8m), veterans and surviving spouses property tax credit under s. 71.07 (6e),
22 enterprise zone jobs credit under s. 71.07 (3w), beginning farmer and farm asset
23 owner tax credit under s. 71.07 (8r), earned income tax credit under s. 71.07 (9e),
24 estimated tax payments under s. 71.09, and taxes withheld under subch. X.

25 (END)

D-Noted

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

LRB-3475/dn ¹

MESC: /:....

2 SAC

-date-

Senator Grothman:

This drafter's note is meant to alert you that, should this bill become law, it could be challenged as possibly violating the Equal Protection and Establishment Clauses of the U.S. Constitution and the related provisions of the Wisconsin Constitution. A potential equal protection problem is that the deduction in this amendment is available only to parents of children who attend private schools, but not to parents of children who attend public schools.

The other legal issues on the question of whether the bill may or may not be constitutional are contained in a recent drafter's note I sent you on a similar bill of yours, 2013 SB 170. Please let me know if you have any questions about the bill or the issues raised in the drafter's notes.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

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

LRB-3475/1dn
MES:sac:rs

December 3, 2013

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Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Barman, Mike

From: Sen.Grothman
Sent: Thursday, March 20, 2014 9:40 AM
To: LRB.Legal
Subject: Draft Review: LRB -3475/1 Topic: Create a refundable individual income tax credit for private school tuition

Please Jacket LRB -3475/1 for the SENATE.