



2013 ASSEMBLY BILL 195

May 13, 2013 - Introduced by Representatives KAUFERT, JACQUE, KERKMAN, PETERSEN, STROEBEL, T. LARSON, LEMAHIEU, SANFELIPPO, KAPENGA, J. OTT, KNUDSON, RIPP, SCHRAA, TITTL, ENDSLEY, CZAJA, SPIROS, PRIDEMORE, THIESFELDT, NASS, HUTTON, KLEEFISCH, MURPHY, HONADEL, BORN and STRACHOTA, cosponsored by Senators GROTHMAN, LEIBHAM, LAZICH and PETROWSKI. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 71.08 (1) (intro.) and 71.10 (4) (i); and *to create* 20.835 (2) (cb)
2 and 71.07 (8m) of the statutes; **relating to:** creating a refundable individual
3 income tax credit for tuition expenses paid for dependents who attend certain
4 public and private elementary and secondary schools.

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 any public or private elementary or secondary school that does not receive more than \$3,000 in state aid or property tax revenue, per pupil, for the school year that ends in the taxable year to which the claim relates. 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 phased in from 2014 to 2019. Under the bill, for taxable year 2014, the maximum credit that may be claimed is \$1,000 for an elementary pupil (a pupil in kindergarten or grades one to eight) and \$1,500 for a secondary pupil (a pupil in grades nine to twelve); in 2015, \$1,100 for an elementary pupil and \$1,700 for a secondary pupil; in 2016, \$1,200 for elementary and \$1,900 for secondary; in 2017, \$1,300 for elementary and \$2,100 for secondary; for 2018, \$1,400 for elementary and \$2,300 for secondary; for 2019 and thereafter, \$1,500 for

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elementary and \$2,500 for secondary. 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 amount of credit that may be claimed by a nonresident or part-year resident of this state is modified based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to his or her federal AGI. If a pupil is an elementary and a secondary pupil in the same year, the claimant may claim the credit for that pupil for only one grade.

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:

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

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

4 **SECTION 2.** 71.07 (8m) of the statutes is created to read:

5 71.07 (8m) EDUCATION EXPENSES CREDIT. (a) *Definitions.* In this subsection:

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

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

11 3. "Eligible institution" means any public or private elementary or secondary
12 school, including a charter school, that does not receive more than \$3,000 in state aid
13 or property tax revenue, per pupil, for the school year that ends in the taxable year
14 to which the claim relates.

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

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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, and before January
16 1, 2015, for an elementary pupil, \$1,000 and for a secondary pupil, \$1,500.

17 2. For taxable years beginning after December 31, 2014, and before January
18 1, 2016, for an elementary pupil, \$1,100 and for a secondary pupil, \$1,700.

19 3. For taxable years beginning after December 31, 2015, and before January
20 1, 2017, for an elementary pupil, \$1,200 and for a secondary pupil, \$1,900.

21 4. For taxable years beginning after December 31, 2016, and before January
22 1, 2018, for an elementary pupil, \$1,300 and for a secondary pupil, \$2,100.

23 5. For taxable years beginning after December 31, 2017, and before January
24 1, 2019, for an elementary pupil \$1,400 and for a secondary pupil, \$2,300.

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1 6. For taxable years beginning after December 31, 2018, for an elementary
2 pupil, \$1,500 and for a secondary pupil, \$2,500.

3 (c) *Limitations.* 1. Subject to subd. 4., the maximum credit that may be claimed
4 under this subsection by a claimant who files as a single individual or head of
5 household is the amount specified in one of the subdivisions under par. (b), for each
6 elementary pupil or secondary pupil, in each year to which the claim relates. If an
7 individual is an elementary pupil and a secondary pupil in the same taxable year, the
8 claimant may claim the credit for only one grade for that pupil for that taxable year.

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

15 3. Subject to subd. 4., the maximum credit that may be claimed by each spouse
16 of a married couple that files separately is 50 percent of the amount described in
17 subd. 2.

18 4. If a part-year resident or a nonresident of this state files a claim under this
19 subsection, the maximum credit amount in subd. 1., 2., or 3. shall be multiplied by
20 a fraction, the numerator of which is the individual's and his or her spouse's
21 Wisconsin adjusted gross income and the denominator of which is the individual's
22 and his or her spouse's federal adjusted gross income. In this subdivision, for
23 married persons filing separately "adjusted gross income" means the separate
24 adjusted gross income of each spouse, and for married persons filing jointly "adjusted
25 gross income" means the total adjusted gross income of both spouses.

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

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

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

8 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
10 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
12 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8m),
13 (8r), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n),
14 (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n),
15 (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other
16 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
17 that natural person, married couple filing jointly, trust or estate, instead of the tax
18 under s. 71.02, an alternative minimum tax computed as follows:

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

20 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
21 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
22 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
23 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
24 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
25 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.

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1 71.07 (3rm), food processing plant and food warehouse investment credit under s.
2 71.07 (3rn), film production services credit under s. 71.07 (5f), film production
3 company investment credit under s. 71.07 (5h), education expenses credit under s.
4 71.07 (8m), veterans and surviving spouses property tax credit under s. 71.07 (6e),
5 enterprise zone jobs credit under s. 71.07 (3w), beginning farmer and farm asset
6 owner tax credit under s. 71.07 (8r), earned income tax credit under s. 71.07 (9e),
7 estimated tax payments under s. 71.09, and taxes withheld under subch. X.

8 (END)