



## 2013 ASSEMBLY BILL 928

April 3, 2014 - Introduced by Representative KAUFERT, cosponsored by Senator GROTHMAN. Referred to Committee on Ways and Means.

1     **AN ACT** *to repeal* 71.05 (6) (b) 49.; *to amend* 71.08 (1) (intro.) and 71.10 (4) (i);  
2             and *to create* 20.835 (2) (cb) and 71.07 (8m) of the statutes; **relating to:**  
3             creating a refundable individual income tax credit for tuition expenses paid for  
4             dependents who attend certain private elementary and secondary schools, and  
5             charter schools.

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### *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

**ASSEMBLY BILL 928**

resident of this state. The bill also requires an eligible institution to provide the parent or guardian of a pupil a statement specifying the amount of tuition that the parent or guardian paid in that year for his or her pupil.

Under current law, as enacted in 2013 Wisconsin Act 20, the state budget bill, there is a subtract modification, or deduction, for tuition for educational expenses paid by a claimant 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, but not including a charter school. The maximum deduction for each elementary pupil is \$4,000 each year, and the maximum deduction for each secondary pupil is \$10,000 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.

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

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5 20, is repealed.

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, as defined in s. 115.001 (3r),  
14 that meets all of the criteria under s. 118.165 (1), that is located in this state, and any  
15 charter school that is located in this state.

**ASSEMBLY BILL 928**

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

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

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

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

16           1. For taxable years beginning after December 31, 2013, an amount of up to  
17 \$250 for an elementary pupil.

18           2. For taxable years beginning after December 31, 2013, an amount of up to  
19 \$500 for a secondary pupil.

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

**ASSEMBLY BILL 928****SECTION 3**

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

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

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

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

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

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

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

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

24           **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2013 Wisconsin Act  
25 145, is amended to read:

**ASSEMBLY BILL 928**

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), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6),  
5 (6e), (8m), (8r), (9e), (9m), and (9r), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),  
6 (1dy), (2m), (3), (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),  
7 (1dy), (2m), (3), (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and  
8 payments to other states under s. 71.07 (7), is less than the tax under this section,  
9 there is imposed on that natural person, married couple filing jointly, trust or estate,  
10 instead of the tax 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)**