



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0057/1
KRP&EKL:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 84**

October 14, 2019 – Offered by Representative TAUCHEN.

1 **AN ACT** *to amend* 20.566 (1) (hp), 71.10 (5s) (c) and 71.10 (5s) (e); and *to create*
2 71.05 (27), 71.10 (5jm), 71.21 (4m), 71.26 (2) (a) 13., 71.36 (1m) (d), 71.365 (4m)
3 (d) 1m., 71.45 (2) (a) 21. and 115.3415 of the statutes; **relating to:** imposing
4 requirements related to school lunch and breakfast programs in certain
5 schools, creating an income and franchise tax subtraction for donations to repay
6 school meal debt, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill 1) requires certain schools to provide a school lunch or breakfast to a pupil who requests such a meal; 2) prohibits those schools from taking certain actions against a pupil who is unable to pay for those meals; 3) allows taxpayers to deduct donations made to schools to repay pupils' meal debts; and 4) creates a checkoff on the individual income tax return for donations to schools to repay pupils' meal debts.

The bill defines "school" as a public school, including an independent charter school, private school, tribal school, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired, provided the school, program, or center receives state aid for providing school lunches and breakfasts (free or reduced-price meals).

Requirement to provide quality meals

Under the bill, the school board of a school district, operator of an independent charter school, governing body of a private school, governing body of a tribal school, director of the program, or director of the center (governing body) must provide a meal that is of a similar quality to a free or reduced-price meal (quality meal) to a pupil who requests such a meal, regardless of the pupil's ability to pay for the meal, and prohibits the governing body from providing a meal of inferior quality in place of a quality meal. If the pupil is homeless and is enrolled in a public school, including an independent charter school, the governing body of the school must provide the quality meal to the pupil at no cost to the pupil.

Prohibited practices

The bill prohibits the governing body of a school from doing any of the following:

1. Publicly identifying or stigmatizing a pupil who is unable to pay for a quality meal or who has outstanding debt related to a quality meal.
2. Requiring a pupil who has received a quality meal to relinquish or throw away that quality meal because the pupil is unable to pay for the quality meal or has outstanding debt related to a quality meal.
3. Communicating directly with a pupil in grades kindergarten to eight concerning the pupil's inability to pay for a quality meal or to pay outstanding debt related to a quality meal.
4. Requiring a pupil who is unable to pay for a quality meal to do chores or other work as a condition of receiving the quality meal, unless the pupil's parent or guardian consents.
5. Restricting a pupil's participation in graduation activities on the basis that the pupil is unable to pay for a quality meal or has outstanding debt related to a quality meal.
6. Withholding a pupil's high school diploma, refusing to promote a pupil to the next grade, or withholding a pupil's high school transcript on the basis that the pupil is unable to pay for a quality meal or has outstanding debt related to a quality meal.

Deduction for school meal debt donations

The bill allows a taxpayer, when calculating income for income or franchise tax purposes, to deduct a donation made to a school's governing body to repay pupils' debts related to quality meals. The maximum amount that a taxpayer may deduct each year is \$25,000. A taxpayer may not place any conditions on the donation, such as requesting that it be used to pay the debt of a specific pupil, or receive anything of value in exchange. In order to deduct the donation, the taxpayer must provide the Department of Revenue with written certification from the governing body stating that the governing body will use the donation solely for the purpose of repaying pupils' meal debts.

Tax checkoff program

This bill creates an individual income tax checkoff for donations to a school's governing body to be used solely for the repayment of pupils' debts related to quality meals. A governing body that is owed meal debt may apply to DOR to be included on the list of eligible donees under the checkoff program. The individual making the

checkoff donation must specify which listed governing body is to receive the funds. The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax checkoff procedure, be transferred to the designated governing bodies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.566 (1) (hp) of the statutes is amended to read:

2 20.566 (1) (hp) *Administration of income tax checkoff voluntary payments.* The
3 amounts in the schedule for the payment of all administrative costs, including data
4 processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), (5g), (5h),
5 (5i), (5j), (5jm), (5k), (5km), and (5m), and 71.30 (10). All moneys specified for deposit
6 in this appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5g) (i), (5h)
7 (i), (5i) (i), (5j) (i), (5jm) (i), (5k) (i), (5km) (i), and (5m) (i) and 71.30 (10) (i) and (11)
8 (i) shall be credited to this appropriation account.

9 **SECTION 2.** 71.05 (27) of the statutes is created to read:

10 71.05 (27) SCHOOL MEAL DEBT DONATIONS. (a) In this subsection:

11 1. “Claimant” means an individual; an individual partner or member of a
12 partnership, limited liability company, or limited liability partnership; or an
13 individual shareholder of a tax-option corporation.

14 2. “Governing body” has the meaning given in s. 115.3415 (1) (a).

15 3. “School meal debt” means money owed by a pupil to a governing body due
16 to the pupil receiving a quality meal, as defined in s. 115.3415 (1) (b).

17 4. “School meal debt donation” means an amount paid by a claimant to a
18 governing body to be used by the governing body solely for the purpose of repaying
19 school meal debt.

1 (b) Subject to the limitations in this subsection, a claimant may subtract from
2 federal adjusted gross income the amount, not to exceed \$25,000, of the school meal
3 debt donation paid by the claimant in the year to which the claim relates.

4 (c) No subtraction is allowed under this subsection if the claimant places a
5 condition on the school meal debt donation, requests the donation be used to repay
6 the debt of a specific pupil, or receives anything of value in exchange for the donation.

7 (d) No subtraction is allowed under this subsection unless the claimant
8 receives certification from the governing body, on a form provided by the department,
9 that the governing body will use the donation solely for the purpose of repaying
10 school meal debt and the claimant includes the form with the claimant's income tax
11 return for the year to which the claim relates.

12 **SECTION 3.** 71.10 (5jm) of the statutes is created to read:

13 71.10 (5jm) SCHOOL MEAL DEBT DONATIONS. (a) *Definitions.* In this subsection:

14 1. "Department" means the department of revenue.

15 2. "Eligible governing body" means a governing body, as defined in s. 115.3415
16 (1) (a), whose application under par. (e) 1. has been approved by the department.

17 3. "School meal debt" means money owed by a pupil to a governing body due
18 to the pupil receiving a quality meal, as defined in s. 115.3415 (1) (b).

19 (b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every
20 individual filing an income tax return who has a tax liability or is entitled to a tax
21 refund may designate on the return any amount of additional payment or any
22 amount of a refund due that individual as a donation to an eligible governing body
23 for the repayment of school meal debt.

1 2. ‘Designation added to tax owed.’ If the individual owes any tax, the
2 individual shall remit in full the tax due and the amount designated under subd. 1.
3 when the individual files a tax return.

4 3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the
5 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80
6 (3) and (3m), the department shall deduct the amount designated under subd. 1. from
7 the amount of the refund.

8 (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails
9 to remit an amount equal to or in excess of the total of the actual tax due, after error
10 corrections, and the amount designated under par. (b) 1.:

11 1. The department shall reduce the designation under par. (b) 1. to reflect the
12 amount remitted in excess of the actual tax due, after error corrections, if the
13 individual remitted an amount in excess of the actual tax due, after error corrections,
14 but less than the total of the actual tax due, after error corrections, and the amount
15 originally designated on the return under par. (b) 1.

16 2. The designation under par. (b) 1. is void if the individual remitted an amount
17 equal to or less than the actual tax due, after error corrections.

18 (d) *Errors; insufficient refund.* If an individual is owed a refund that does not
19 equal or exceed the amount designated under par. (b) 1., after crediting under ss.
20 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall
21 reduce the designation to reflect the actual amount of the refund that the individual
22 is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after
23 error corrections.

24 (e) *Eligible governing bodies; failure to select governing body.* 1. Annually, no
25 later than July 1, a governing body that is owed school meal debt may apply to the

1 department, on a form provided by the department, to receive donations designated
2 under par. (b) 1. The form shall require that the governing body report the amount
3 of school meal debt owed to it, the number of pupils owing the debt, and any other
4 information requested by the department. Upon a determination by the department
5 that a governing body has complied with this paragraph, the department shall
6 approve the governing body's application.

7 2. A designation under par. (b) 1. shall be void if the individual fails to select,
8 on the individual's income tax return, an eligible governing body to receive the
9 donation.

10 (f) *Conditions.* A designation under par. (b) 1. shall be void if the individual
11 places any conditions on the designation.

12 (g) *Tax return and instructions.* 1. The secretary of revenue shall provide a
13 place for the designations under this subsection, including a place for an individual
14 to select the eligible governing body to receive the donation designated under par. (b)
15 1.

16 2. The secretary shall list all eligible governing bodies in the instructions for
17 the individual income tax return. The instructions shall state that the listed
18 governing bodies are eligible to receive donations to be used solely to repay school
19 meal debt and that an individual who chooses to make a donation must select one of
20 the listed governing bodies to receive the donation and may not request that the
21 donation be used to repay the school meal debt of a specific pupil.

22 (h) *Certification of amounts.* Annually, no later than September 15, the
23 secretary of revenue shall certify to the department of administration and the state
24 treasurer all of the following:

1 1. The total amount of the administrative costs, including data processing
2 costs, incurred by the department in administering this subsection during the
3 previous fiscal year.

4 2. The total amount received from all designations under this subsection
5 during the previous fiscal year.

6 3. The net amount remaining after the administrative costs, including data
7 processing costs, under subd. 1. are subtracted from the total received under subd.
8 2.

9 (i) *Appropriations.* From the moneys received from designations under this
10 subsection, an amount equal to the sum of administrative expenses, including data
11 processing costs, certified under par. (h) 1. shall be deposited in the general fund and
12 credited to the appropriation account under s. 20.566 (1) (hp), and the net amount
13 remaining that is certified under par. (h) 3. shall be transferred to the eligible
14 governing bodies selected to receive donations under par. (b) 1. An amount
15 transferred to a governing body under this paragraph shall be used only for the
16 purpose of repaying the school meal debt owed to the governing body.

17 (j) *Void designations.* If a designation under par. (b) 1. is void for any reason,
18 the department shall disregard the designation and determine amounts due, owed,
19 refunded, and received without regard to the void designation.

20 (k) *Amounts subject to refund.* Amounts designated under this subsection are
21 not subject to refund to the taxpayer unless the taxpayer submits information to the
22 satisfaction of the department, within 18 months after the date on which the taxes
23 are due or the date on which the return is filed, whichever is later, that the amount
24 designated is clearly in error. Any refund granted by the department under this

1 paragraph shall be deducted from the moneys received under this subsection in the
2 fiscal year for which the refund is certified.

3 **SECTION 4.** 71.10 (5s) (c) of the statutes is amended to read:

4 71.10 **(5s)** (c) Beginning in September 2014, based on the amounts certified by
5 the secretary of revenue in August or September 2013, and 2014, as specified in subs.
6 (5) (h), (5e) (h), (5f) (h), (5g) (h), (5h) (h), (5i) (h), (5j) (h), (5jm) (h), (5k) (h), (5km) (h),
7 and (5m) (h), and for every 2-year period thereafter, the secretary of revenue shall
8 rank the checkoffs based on the total amount of designations received for each
9 checkoff for each 2-year period. For each 2-year period, beginning with 2014, the
10 secretary of revenue shall rank every checkoff that is created under this section.

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

12 71.10 **(5s)** (e) For any taxable year that begins after December 31, 2014,
13 individuals may not make a designation for any checkoff which did not generate at
14 least an average of \$50,000 of designations per year over the most recent 3-year
15 period as certified by the secretary of revenue under subs. (5) (h) 3., (5e) (h) 2., (5f)
16 (h) 2., (5fm) (h) 2., (5g) (h) 2., (5i) (h) 2., (5j) (h) 2., (5jm) (h) 2., (5k) (h) 2., (5km) (h)
17 2., and (5m) (h) 2. Once a checkoff is affected by this paragraph, no further checkoffs
18 may be designated to that checkoff in any taxable year.

19 **SECTION 6.** 71.21 (4m) of the statutes is created to read:

20 71.21 **(4m)** (a) In this subsection:

21 1. "Governing body" has the meaning given in s. 115.3415 (1) (a).

22 2. "School meal debt" means money owed by a pupil to a governing body due
23 to the pupil receiving a quality meal, as defined in s. 115.3415 (1) (b).

1 3. “School meal debt donation” means an amount paid by a taxpayer to a
2 governing body to be used by the governing body solely for the purpose of repaying
3 school meal debt.

4 (b) Subject to the limitations in this subsection, an amount, not to exceed
5 \$25,000, that is equal to the school meal debt donation paid by the taxpayer in the
6 taxable year may be subtracted from the taxpayer’s income.

7 (c) No subtraction is allowed under this subsection if the taxpayer places a
8 condition on the school meal debt donation, requests the donation be used to repay
9 the debt of a specific pupil, or receives anything of value in exchange for the donation.

10 (d) No subtraction is allowed under this subsection unless the taxpayer
11 receives certification from the governing body, on a form provided by the department,
12 that the governing body will use the donation solely for the purpose of repaying
13 school meal debt and the taxpayer includes the form with the income tax return for
14 the year to which the claim relates.

15 **SECTION 7.** 71.26 (2) (a) 13. of the statutes is created to read:

16 71.26 (2) (a) 13. Minus the amount, not to exceed \$25,000, equal to the school
17 meal debt donation, as defined in s. 71.21 (4m) (a) 3., paid by the taxpayer in the
18 taxable year. The taxpayer may not place a condition on the school meal debt
19 donation, request the donation be used to repay the debt of a specific pupil, or receive
20 anything of value in exchange for the donation. No subtraction is allowed under this
21 subdivision unless the taxpayer receives certification from the governing body, on a
22 form provided by the department, that the governing body will use the donation
23 solely for the purpose of repaying school meal debt, as defined in s. 71.21 (4m) (a)
24 2., and the taxpayer includes the form with the income tax return for the year to
25 which the claim relates.

1 **SECTION 8.** 71.36 (1m) (d) of the statutes is created to read:

2 71.36 **(1m)** (d) A tax-option corporation may deduct from its net income an
3 amount, not to exceed \$25,000, equal to the school meal debt donation, as defined in
4 s. 71.21 (4m) (a) 3., paid by the taxpayer in the taxable year. The taxpayer may not
5 place a condition on the school meal debt donation, request the donation be used to
6 repay the debt of a specific pupil, or receive anything of value in exchange for the
7 donation. No subtraction is allowed under this paragraph unless the taxpayer
8 receives certification from the governing body, on a form provided by the department,
9 that the governing body will use the donation solely for the purpose of repaying
10 school meal debt, as defined in s. 71.21 (4m) (a) 2., and the taxpayer includes the form
11 with the income tax return for the year to which the claim relates.

12 **SECTION 9.** 71.365 (4m) (d) 1m. of the statutes is created to read:

13 71.365 **(4m)** (d) 1m. A tax-option corporation may deduct from its net income
14 the amount under s. 71.36 (1m) (d).

15 **SECTION 10.** 71.45 (2) (a) 21. of the statutes is created to read:

16 71.45 **(2)** (a) 21. By subtracting an amount, not to exceed \$25,000, equal to the
17 school meal debt donation, as defined in s. 71.21 (4m) (a) 3., paid by the taxpayer in
18 the taxable year. The taxpayer may not place a condition on the school meal debt
19 donation, request the donation be used to repay the debt of a specific pupil, or receive
20 anything of value in exchange for the donation. No subtraction is allowed under this
21 subdivision unless the taxpayer receives certification from the governing body, on a
22 form provided by the department, that the governing body will use the donation
23 solely for the purpose of repaying school meal debt, as defined in s. 71.21 (4m) (a) 2.,
24 and the taxpayer includes the form with the income tax return for the year to which
25 the claim relates.

1 **SECTION 11.** 115.3415 of the statutes is created to read:

2 **115.3415 School lunch and breakfast programs; requirements. (1)** In
3 this section:

4 (a) “Governing body” means the school board of a school district, governing body
5 of a private school, operator of a charter school under s. 118.40 (2r) or (2x), governing
6 body of a tribal school, director of the program under s. 115.52, or director of the
7 center under s. 115.525.

8 (b) “Quality meal” means a school lunch or breakfast that satisfies the
9 requirements for the governing body of a school to receive reimbursement under s.
10 115.34 (2) or 115.341 (1).

11 (c) “School” means any of the following:

12 1. A public school, including a charter school under s. 118.40 (2r) or (2x), private
13 school, or tribal school that receives a payment under s. 115.34 (2) for a school lunch
14 served to a pupil at the school.

15 2. The program under s. 115.52, provided the program receives a payment
16 under s. 115.34 (2) for a school lunch served to a pupil in the program.

17 3. The center under s. 115.525, provided the center receives a payment under
18 s. 115.34 (2) for a school lunch served to a pupil at the center.

19 4. A public school, private school, or tribal school that receives a payment under
20 s. 115.341 (1) for a breakfast served at the school that meets the requirements of 7
21 CFR 220.8.

22 **(2)** (a) Except as provided in par. (b), the governing body of a school shall
23 provide a quality meal to each pupil who requests one, regardless of the pupil’s ability
24 to pay for the quality meal, and may not give the pupil an inferior meal in place of
25 a quality meal. If the pupil who requests a quality meal is homeless and is enrolled

1 in a public school, including a charter school under s. 118.40 (2r) or (2x), the
2 governing body of the school shall provide the pupil with a quality meal at no cost
3 to the pupil.

4 (b) The governing body of a school is not required to provide a quality meal to
5 a pupil if the pupil's parent or guardian has submitted written instruction to the
6 governing body to withhold a quality meal.

7 **(3)** (a) The governing body of a school may not do any of the following:

8 1. Publicly identify or stigmatize a pupil who is unable to pay for a quality meal
9 provided under sub. (2) or who owes money to the governing body related to those
10 quality meals. In this subdivision, requiring a pupil to wear a wristband or badge
11 or receive a hand stamp or marking is considered public identification.

12 2. Require a pupil who has received a quality meal under sub. (2) to relinquish
13 or throw away the quality meal because the pupil owes money to the governing body
14 related to quality meals provided under sub. (2) or is unable to pay for the quality
15 meal.

16 3. Communicate directly with a pupil in grades kindergarten to 8 concerning
17 the pupil's inability to pay for a quality meal provided under sub. (2) or to pay other
18 money owed to the governing body related to quality meals provided under sub. (2).

19 4. Except as provided under par. (b), require a pupil who is unable to pay for
20 a quality meal, as a condition of receiving a quality meal under sub. (2), to do chores
21 or other work not expected of a pupil who has the ability to pay.

22 5. Restrict a pupil's participation in graduation activities on the basis that the
23 pupil is unable to pay for a quality meal provided under sub. (2) or owes money to the
24 governing body related to a quality meal provided under sub. (2).

1 6. Withhold a pupil's high school diploma, refuse to promote a pupil to the next
2 grade, or withhold a pupil's high school transcript on the basis that the pupil is
3 unable to pay for a quality meal provided under sub. (2) or owes money to the
4 governing body related to a quality meal provided under sub. (2).

5 (b) If a pupil is unable to pay for a quality meal and the pupil's parent or
6 guardian consents, the governing body of a school may require the pupil, as a
7 condition of receiving a quality meal under sub. (2), to do chores or other work not
8 expected of a pupil who has the ability to pay.

9 (4) The governing body of a school may accept any donation, gift, or bequest
10 made to the school for purposes of paying for quality meals provided to pupils under
11 sub. (2). The governing body may use any moneys received under this subsection to
12 pay any amounts owed by a pupil to the governing body related to those quality
13 meals.

14 (5) The governing body of a school shall, no later than February 1 and July 1
15 in each school year, report the total amount of money owed to the governing body as
16 of a date not more than 10 days prior to the date the report is submitted related to
17 quality meals provided under sub. (2).

18 **SECTION 12. Initial applicability.**

19 (1) TAX CHECKOFF PROGRAM. The treatment of ss. 20.566 (1) (hp) and 71.10 (5jm)
20 and (5s) (c) and (e) first applies to taxable years beginning on January 1 of the year
21 following the year in which this subsection takes effect.

22 (2) DEDUCTION FOR SCHOOL MEAL DEBT DONATIONS. The treatment of ss. 71.05 (27),
23 71.21 (4m), 71.26 (2) (a) 13., 71.36 (1m) (d), 71.365 (4m) (d) 1m., and 71.45 (2) (a) 21.
24 first applies to taxable years beginning on January 1 of the year in which this
25 subsection takes effect, except that if this subsection takes effect after July 31, the

1 treatment of ss. 71.05 (27), 71.21 (4m), 71.26 (2) (a) 13., 71.36 (1m) (d), 71.365 (4m)
2 (d) 1m., and 71.45 (2) (a) 21. first applies to taxable years beginning on January 1 of
3 the year following the year in which this subsection takes effect.

4 **(END)**