

## 2009 ASSEMBLY BILL 69

February 17, 2009 – Introduced by Representatives YOUNG, RICHARDS, HILGENBERG, GRIGSBY, SINICKI, GUNDERSON, A. WILLIAMS, PASCH, ROTH and MONTGOMERY, cosponsored by Senators COGGS, VINEHOUT, RISSER, HANSEN, KREITLOW, ERPENBACH, TAYLOR and DARLING. Referred to Committee on Ways and Means.

1     **AN ACT** *to amend* 20.566 (1) (hp); and *to create* 20.855 (4) (ge) and 71.10 (5i) of  
2     the statutes; **relating to:** creating an individual income tax checkoff for  
3     Wisconsin food banks that are members of Feeding America and making an  
4     appropriation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, an individual income tax check-off procedure exists that allows an individual who files a return to designate any amount of additional payment or any amount of a refund due for the endangered resources program. Similar checkoffs exist to provide payments to several other programs, including a veterans trust fund, prostate cancer research, multiple sclerosis programs, a fire fighters memorial, and a breast cancer research program, and to provide a donation to a professional football stadium district. This bill creates a similar income tax checkoff for designations to food banks in Wisconsin that are members of Feeding America (formerly Second Harvest). Feeding America distributes food to more than 1,500 nonprofit programs throughout Wisconsin.

Under the bill, an individual who has an income tax liability, is due a refund, or is required to file a return may designate any amount of additional payment, or any amount of a refund due, to Feeding America on his or her income tax return. If an individual's designation exceeds the amount of his or her refund, he or she must include a check with his or her tax return for the difference between the amount of the designation and the amount of the refund. If an individual who makes a

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contribution has a tax liability or has no tax liability and is due no refund, he or she must include a check for the amount of the designation with his or her tax return.

The bill requires that an amount equal to the total amount of designations received, less the total cost of administering the income tax check-off procedure, be appropriated to food banks in Wisconsin that are members of Feeding America. Sixty-five percent of the amount goes to Second Harvest food bank in Milwaukee, 20 percent to Madison, and 15 percent to Eau Claire.

For further information see the *state* 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.** 20.566 (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), and (5m), and 71.30 (10). All moneys specified for deposit in this appropriation  
6 under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5g) (i), (5h) (i), (5i) (i), and (5m)  
7 (i), and 71.30 (10) (i) and (11) (i) shall be credited to this appropriation.

8           **SECTION 2.** 20.855 (4) (ge) of the statutes is created to read:

9           20.855 (4) (ge) *Feeding America; Second Harvest food banks.* As a continuing  
10 appropriation, from moneys received as amounts designated under s. 71.10 (5i) (b),  
11 the net amount certified under s. 71.10 (5i) (h) 3. for Second Harvest food banks in  
12 Wisconsin that are members of Feeding America.

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

14           71.10 (5i) FEEDING AMERICA; SECOND HARVEST FOOD BANKS CHECKOFF. (a)  
15 *Definitions.* In this subsection:

16           1. “Department” means the department of revenue.

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1           2. “Second Harvest” means Second Harvest food banks in Wisconsin that are  
2 members of Feeding America.

3           (b) *Voluntary payments.* 1. ‘Designation on return.’ Every individual filing an  
4 income tax return who has a tax liability or is entitled to a tax refund may designate  
5 on the return any amount of additional payment or any amount of a refund due that  
6 individual for Second Harvest.

7           2. ‘Designation added to tax owed.’ If the individual owes any tax, the  
8 individual shall remit in full the tax due and the amount designated on the return  
9 for Second Harvest when the individual files a tax return.

10          3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the  
11 individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80  
12 (3) and (3m), the department shall deduct the amount designated on the return for  
13 Second Harvest from the amount of the refund.

14          (c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails  
15 to remit an amount equal to or in excess of the total of the actual tax due, after error  
16 corrections, and the amount designated on the return for Second Harvest:

17           1. The department shall reduce the designation for Second Harvest to reflect  
18 the amount remitted in excess of the actual tax due, after error corrections, if the  
19 individual remitted an amount in excess of the actual tax due, after error corrections,  
20 but less than the total of the actual tax due, after error corrections, and the amount  
21 originally designated on the return for Second Harvest.

22           2. The designation for Second Harvest is void if the individual remitted an  
23 amount equal to or less than the actual tax due, after error corrections.

24          (d) *Errors; insufficient refund.* If an individual is owed a refund that does not  
25 equal or exceed the amount designated on the return for Second Harvest, after

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1 crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the  
2 department shall reduce the designation for Second Harvest to reflect the actual  
3 amount of the refund that the individual is otherwise owed, after crediting under ss.  
4 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

5 (e) *Conditions.* If an individual places any conditions on a designation for  
6 Second Harvest, the designation is void.

7 (f) *Void designation.* If a designation for Second Harvest is void, the  
8 department shall disregard the designation and determine amounts due, owed,  
9 refunded, and received without regard to the void designation.

10 (g) *Tax return.* The secretary of revenue shall provide a place for the  
11 designations under this subsection on the individual income tax return.

12 (h) *Certification of amounts.* Annually, on or before September 15, the  
13 secretary of revenue shall certify to the department of administration and the state  
14 treasurer all of the following:

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

18 2. The total amount received from all designations for Second Harvest made  
19 by taxpayers during the previous fiscal year.

20 3. The net amount remaining after the administrative costs, including data  
21 processing costs, under subd. 1. are subtracted from the total received under subd.

22 2.

23 (i) *Appropriations.* From the moneys received from designations for Second  
24 Harvest, an amount equal to the sum of administrative expenses, including data  
25 processing costs, certified under par. (h) 1. shall be deposited in the general fund and

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1 credited to the appropriation account under s. 20.566 (1) (hp), and the department  
2 shall annually pay the following percentages of the net amount remaining that is  
3 certified under par. (h) 3. from the appropriation under s. 20.855 (4) (ge):

- 4 1. Sixty-five percent to Second Harvest that is located in the city of Milwaukee.
- 5 2. Twenty percent to Second Harvest that is located in the city of Madison.
- 6 3. Fifteen percent to Second Harvest that is located in the city of Eau Claire.

7 (j) *Amounts subject to refund.* Amounts designated for Second Harvest under  
8 this subsection are not subject to refund to the taxpayer unless the taxpayer submits  
9 information to the satisfaction of the department, within 18 months after the date  
10 on which the taxes are due or the date on which the return is filed, whichever is later,  
11 that the amount designated is clearly in error. Any refund granted by the  
12 department under this paragraph shall be deducted from the moneys received under  
13 this subsection in the fiscal year for which the refund is certified.

**SECTION 4. Initial applicability.**

14  
15 (1) The treatment of section 71.10 (5i) of the statutes first applies to taxable  
16 years beginning on January 1 of the year in which this subsection takes effect, except  
17 that if this subsection takes effect after July 31 the treatment of section 71.10 (5i) of  
18 the statutes first applies to taxable years beginning on January 1 of the year  
19 following the year in which this subsection takes effect.

20 (END)