June 28, 2011 – Introduced by Representatives BERNIER, BROOKS, JACQUE, LITJENS, THIESFELDT and WYNN, cosponsored by Senators WANGGAARD, MOULTON and LASEE. Referred to Committee on Ways and Means.

AN ACT to amend 20.566 (1) (hp), 49.45 (5m) (am), 49.45 (6m) (ag) (intro.), 49.45 (6y) (a), 49.45 (6z) (a) (intro.), 49.45 (8) (b), 49.45 (24m) (intro.), 49.45 (51) (a), 49.473 (5) and 79.01 (2d); and to create 20.255 (2) (g), 20.435 (4) (ht), 71.10 (5k), 71.10 (5L), 71.10 (5n), 121.115 and 121.90 (2) (am) 5. of the statutes; relating to: creating an individual income tax checkoff for contributions to elementary and secondary education, shared revenue, and Medical Assistance, and making an appropriation.

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, Second Harvest food banks, and a breast cancer research program, and to provide a donation to a professional football stadium district. This bill creates three similar income tax checkoffs for designations to state financed programs towards elementary and secondary education materials, shared revenue, and Medical Assistance (programs).

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 any or all of the three programs, 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 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 each of the income tax check-off procedures, be appropriated to the programs.

For further information see the state 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:

SECTION 1. 20.255 (2) (g) of the statutes is created to read:

20.255 (2) (g) Elementary and secondary education funding. All moneys received, from amounts designated under s. 71.10 (5k) (b) and certified under s. 71.10 (5k) (h) 3., for elementary and secondary education funding under s. 121.115.

SECTION 2. 20.435 (4) (ht) of the statutes is created to read:

20.435 (4) (ht) Tax checkoff; Medical Assistance program benefits. All moneys received from amounts designated under s. 71.10 (5n) (b) and certified under s. 71.10 (5n) (h) 3. to provide a portion of the state share of Medical Assistance program benefits administered under subch. IV of ch. 49 and to provide a portion of the Medical Assistance program benefits administered under subch. IV of ch. 49 that are not also provided under par. (o).

SECTION 3. 20.566 (1) (hp) of the statutes is amended to read:

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

**SECTION 4.** 49.45 (5m) (am) of the statutes is amended to read:

49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
under s. 20.435 (4) (b), (ht), (o), (w) and (xc), the department shall distribute not more
than $5,000,000 in each fiscal year, to provide supplemental funds to rural hospitals
that, as determined by the department, have high utilization of inpatient services by
patients whose care is provided from governmental sources, except that the
department may not distribute funds to a rural hospital to the extent that the
distribution would exceed any limitation under 42 USC 1396b (i) (3).

**SECTION 5.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
subsection made under s. 20.435 (4) (b), (ht), (o), (pa), or (w) shall, except as provided
in pars. (bg), (bm), and (br), be determined according to a prospective payment
system updated annually by the department. The payment system shall implement
standards that are necessary and proper for providing patient care and that meet
quality and safety standards established under subch. II of ch. 50 and ch. 150. The
payment system shall reflect all of the following:

**SECTION 6.** 49.45 (6y) (a) of the statutes is amended to read:

49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
under s. 20.435 (4) (b), (ht), (o), and (w), the department may distribute funding in
each fiscal year to provide supplemental payment to hospitals that enter into a
contract under s. 49.02 (2) to provide health care services funded by a relief block
grant, as determined by the department, for hospital services that are not in excess
of the hospitals’ customary charges for the services, as limited under 42 USC 1396b
(i) (3). If no relief block grant is awarded under this chapter or if the allocation of
funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
department may distribute funds to hospitals that have not entered into a contract
under s. 49.02 (2).

SECTION 7. 49.45 (6z) (a) (intro.) of the statutes is amended to read:

49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
accounts under s. 20.435 (4) (b), (ht), (o), and (w), the department may distribute
funding in each fiscal year to supplement payment for services to hospitals that enter
into indigent care agreements, in accordance with the approved state plan for
services under 42 USC 1396a, with relief agencies that administer the medical relief
block grant under this chapter, if the department determines that the hospitals serve
a disproportionate number of low-income patients with special needs. If no medical
relief block grant under this chapter is awarded or if the allocation of funds to such
hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
may distribute funds to hospitals that have not entered into indigent care
agreements. The department may not distribute funds under this subsection to the
extent that the distribution would do any of the following:

SECTION 8. 49.45 (8) (b) of the statutes is amended to read:

49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (ht), (o), and (w) for home
health services provided by a certified home health agency or independent nurse
shall be made at the home health agency’s or nurse’s usual and customary fee per
patient care visit, subject to a maximum allowable fee per patient care visit that is
established under par. (c).
SECTION 9. 49.45 (24m) (intro.) of the statutes is amended to read:

49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b), (ht), (o), and (w), in order to test the feasibility of instituting a system of reimbursement for providers of home health care and personal care services for medical assistance recipients that is based on competitive bidding, the department shall:

SECTION 10. 49.45 (51) (a) of the statutes is amended to read:

49.45 (51) (a) By November 1 annually, the department shall provide to the department of revenue information concerning the estimated amounts of supplements payable from the appropriation accounts under s. 20.435 (4) (b) and (ht) to specific local governmental units for the provision of transportation for medical care, as specified under s. 49.46 (2) (b) 3., during the fiscal year. Beginning November 1, 2004, the information that the department provides under this paragraph shall include any adjustments necessary to reflect actual claims submitted by service providers in the previous fiscal year.

SECTION 11. 49.473 (5) of the statutes is amended to read:

49.473 (5) The department shall audit and pay, from the appropriation accounts under s. 20.435 (4) (b), (ht), and (o), allowable charges to a provider who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who meets the requirements under sub. (2) for all benefits and services specified under s. 49.46 (2).

SECTION 12. 71.10 (5k) of the statutes is created to read:

71.10 (5k) ELEMENTARY AND SECONDARY EDUCATION MATERIALS FUNDING CHECKOFF.

(a) Definitions. In this subsection:

1. “Department” means the department of revenue.
2. “Elementary and secondary education materials funding” means moneys distributed to school districts for the purchase of books, materials, and equipment, as provided under s. 121.115, and for the payment of administrative expenses related to the administration of this subsection.

(b) *Voluntary payments.* 1. ‘Designation on return.’ Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for elementary and secondary education materials funding.

2. ‘Designation added to tax owed.’ If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for elementary and secondary education materials funding when the individual files a tax return.

3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for elementary and secondary education materials funding from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for elementary and secondary education materials funding:

1. The department shall reduce the designation for elementary and secondary education materials funding to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due,
after error corrections, and the amount originally designated on the return for elementary and secondary education materials funding.

2. The designation for elementary and secondary education materials funding is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for elementary and secondary education materials funding, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for elementary and secondary education materials funding to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for elementary and secondary education materials funding, the designation is void.

(f) *Void designation.* If a designation for elementary and secondary education materials funding is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

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

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of administration and the state treasurer all of the following:
1. The total amount of the administrative costs, including data processing
costs, incurred by the department in administering this subsection during the
previous fiscal year.

2. The total amount received from all designations for elementary and
secondary education materials funding made by taxpayers during the previous fiscal
year.

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

(i) Appropriations. From the moneys received from designations for
elementary and secondary education materials funding, an amount equal to the sum
of administrative expenses, including data processing costs, certified under par. (h)
1. shall be deposited in the general fund and credited to the appropriation account
under s. 20.566 (1) (hp), and the net amount remaining that is certified under par.
(h) 3. shall be credited to the appropriation under s. 20.255 (2) (g).

(j) Amounts subject to refund. Amounts designated for elementary and
secondary education materials funding under this subsection are not subject to
refund to the taxpayer unless the taxpayer submits information to the satisfaction
of the department, within 18 months after the date on which the taxes are due or the
date on which the return is filed, whichever is later, that the amount designated is
clearly in error. Any refund granted by the department under this paragraph shall
be deducted from the moneys received under this subsection in the fiscal year for
which the refund is certified.

SECTION 13. 71.10 (5L) of the statutes is created to read:

71.10 (5L) Shared revenue checkoff. (a) Definitions. In this subsection:
1. “Department” means the department of revenue.

2. “Shared revenue” means the amounts paid from the county and municipal aid account under ss. 79.035 and 79.043.

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

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

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

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

1. The department shall reduce the designation for shared revenue to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for shared revenue.

2. The designation for shared revenue is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.
(d) **Errors; insufficient refund.** If an individual is owed a refund that does not equal or exceed the amount designated on the return for shared revenue, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for shared revenue to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) **Conditions.** If an individual places any conditions on a designation for shared revenue, the designation is void.

(f) **Void designation.** If a designation for shared revenue is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

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

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

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

2. The total amount received from all designations for shared revenue made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.
(i) Appropriations. From the moneys received from designations for shared revenue, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be deposited into the general fund.

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

SECTION 14. 71.10 (5n) of the statutes is created to read:

71.10 (5n) MEDICAL ASSISTANCE PROGRAM CHECKOFF. (a) Definitions. In this subsection:

1. “Department” means the department of revenue.

2. “Medical Assistance program” means a program under subch. IV of ch. 49.

(b) Voluntary payments. 1. ‘Designation on return.’ Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the Medical Assistance program.

2. ‘Designation added to tax owed.’ If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the Medical Assistance program when the individual files a tax return.
3. ‘Designation deducted from refund.’ Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the Medical Assistance program from the amount of the refund.

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

1. The department shall reduce the designation for the Medical Assistance program to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the Medical Assistance program.

2. The designation for the Medical Assistance program is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) Errors; insufficient refund. If an individual is owed a refund that does not equal or exceed the amount designated on the return for the Medical Assistance program, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the Medical Assistance program to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) Conditions. If an individual places any conditions on a designation for the Medical Assistance program, the designation is void.
(f) Void designation. If a designation for the Medical Assistance program is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

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

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

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

2. The total amount received from all designations for the Medical Assistance program made by taxpayers during the previous fiscal year.

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

(i) Appropriations. From the moneys received from designations for the Medical Assistance program, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be credited to the appropriation under s. 20.435 (4) (ht).

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

**SECTION 15.** 79.01 (2d) of the statutes is amended to read:

79.01 (2d) There is established an account in the general fund entitled the
“County and Municipal Aid Account.” Beginning with the distributions in 2011, the
total amount to be distributed each year to counties and municipalities from the
county and municipal aid account is $824,825,715, plus the amount designated
under s. 71.10 (5L).

**SECTION 16.** 121.115 of the statutes is created to read:

121.115 **Elementary and secondary education materials funding.** The
department shall distribute the moneys appropriated under s. 20.255 (2) (g) to each
school district in proportion to the amount of general equalization aid the school
district is eligible to be paid in the current school year from the appropriation under
s. 20.255 (2) (ac). Payments under this section shall be made annually on the first
Monday of December. Moneys received by a school district under this section shall
be used for the purposes specified under s. 120.13 (5).

**SECTION 17.** 121.90 (2) (am) 5. of the statutes is created to read:

121.90 (2) (am) 5. Amounts received under s. 121.115 in the current school year.

**SECTION 18. Initial applicability.**

(1) The treatment of section 71.10 (5k), (5L), and (5n) of the statutes first
applies to taxable years beginning on January 1 of the year in which this subsection
takes effect, except that if this subsection takes effect after July 31 the treatment of
section 71.10 (5k) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)