



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 21, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 167: Individual Income Tax Check-Off for Multiple Sclerosis Programs

Senate Bill 167 would create an individual income tax check-off for programs for people with multiple sclerosis. The bill was introduced on April 12, 2005, and referred to the Senate Committee on Health, Children, Families, Aging and Long-Term Care. On May 3, 2005, that Committee voted to recommend the bill for passage on a vote of 5 to 0. The bill was referred to the Committee on Joint Finance on May 5, 2005.

CURRENT LAW

Current law provides individual income tax check-off procedures for making donations for use for endangered resources, the operation and maintenance of Lambeau Field in Green Bay, breast cancer research, and the Veteran's Trust Fund. In each case, the check-offs are for the purpose of making a donation that either reduces a taxpayer's refund or increases the amount owed. In addition, Wisconsin taxpayers may designate on the individual income tax form that \$1 is to go to the State Election Campaign Fund (for a married couple filing a joint return, each spouse may designate \$1 to the fund). However, in the case of the election campaign fund, a designation does not affect the amount of tax liability or tax refund.

The Veteran's Trust Fund check-off, which was adopted as part of the 2005-07 biennial budget, will first be available on the tax year 2005 tax returns. The breast cancer research check-off appeared for the first time on tax year 2004 tax returns, for which information on total designations is not yet available. For the other two check-offs through which donations can be made, 39,000 taxpayers designated \$626,000 for endangered resources and 14,400 taxpayers designated \$133,200 for Lambeau Field on tax forms for tax year 2003.

SUMMARY OF BILL

SB 167 would permit every individual filing an income tax return who has a tax liability or is entitled to a tax refund to designate on the return any amount of additional payment or any amount of a refund due that individual for programs for people with multiple sclerosis. The administration of the tax check-off would operate in the same manner as the administration of the current tax check-offs.

If an individual owed any tax, the individual would remit in full the tax due and the amount designated on the return for programs for people with multiple sclerosis when the individual files a tax return. If an individual were owed a refund, after crediting for any attachments or overpayments, the Department of Revenue (DOR) would deduct the amount designated on the return for programs for people with multiple sclerosis from the amount of the refund.

The bill would address the failure to remit the correct amount of taxes owed. If, after error corrections, an individual who owed taxes failed to remit an amount equal to or in excess of the total of the actual tax due and the amount designated on the return for people with multiple sclerosis, then DOR would reduce the designation to reflect the amount remitted in excess of the actual tax due (as long as the individual remitted an amount in excess of the actual tax due but less than the total amount due plus the amount originally designated). However, the designation for programs for people with multiple sclerosis would be void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

In addition, if an individual were owed a refund that did not equal or exceed the amount designated on the return for programs for people with multiple sclerosis, after crediting for any attachments or overpayments and after error corrections, DOR would reduce the designation to reflect the actual amount of the refund that the individual would otherwise be owed, after crediting for any attachments or overpayments and after error corrections.

The bill would specify that if an individual places any conditions on a designation for programs for people with multiple sclerosis, the designation would be void. In addition, if a designation for programs for people with multiple sclerosis were void, DOR would disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

SB 167 would direct the Secretary of DOR to provide a place for the designations on the individual income tax return. The bill would also require the Secretary to certify annually, on or before September 15, to the National Multiple Sclerosis Society, the Department of Administration, and the State Treasurer: (a) the total amount of the administrative costs, including data processing costs, incurred by DOR in administering the individual income tax check-off for programs for people with multiple sclerosis during the previous fiscal year; (b) the total amount received from all designations for programs for people with multiple sclerosis made by taxpayers during the previous

fiscal year; and (c) the net amount remaining after the administrative costs, including data processing costs, under (a) are subtracted from the total received under (b).

SB 167 would modify a current DOR program revenue appropriation for the administration of voluntary payments for endangered resources, Lambeau Field, breast cancer research, and the Veterans Trust Fund to include the administration of voluntary payments for multiple sclerosis programs. The bill would specify that, from the moneys received through designations for programs for people with multiple sclerosis, an amount equal to the sum of administrative expenses, including data processing costs, as certified by DOR, would be credited to this appropriation. The net amount remaining, as certified by DOR, would be forwarded to the National Multiple Sclerosis Society.

Under the bill, amounts designated for programs for people with multiple sclerosis would not be subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of DOR, 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 such refund granted by DOR would be deducted from the moneys received from designations for multiple sclerosis in the fiscal year for which the refund is certified.

The National Multiple Sclerosis Society would be required to disburse all of the funds received under these provisions to entities located in Wisconsin that operate health-related programs for people with multiple sclerosis. All entities receiving such funds would be required to pledge to the Society that they would use the funds solely for health-related programs for people with multiple sclerosis in Wisconsin.

No later than the first day of the 12th month beginning after the effective date of the bill, and annually thereafter, the National Multiple Sclerosis Society would be required to prepare a report for the Legislature and the Governor detailing the entities that received funds from the proposed check-off, the amount of money each entity received, and the health-related programs on which the money was spent.

These provisions would first apply to taxable years beginning on January 1 of the year in which the bill takes effect, unless the bill takes effect after July 31, in which case the provisions would first apply to taxable years beginning on January 1 of the following year. The bill's effective date would be the day after publication.

FISCAL EFFECT

As the proposed check-off for programs for people with multiple sclerosis would result in a taxpayer making such a designation to either receive a reduced tax refund or make a larger tax payment to the state, the bill would have no effect on state tax revenues.

Based on tax data for tax returns processed in 2003 for the endangered species check-off, DOR has estimated that approximately 39,500 tax filers would voluntarily designate a total of \$640,000 for multiple sclerosis programs. As noted, the amount designated for Lambeau Field in 2003 was considerably less than the amount designated for endangered resources. For both check-offs, the amounts designated have decreased in each of the last two years. In addition, the total number of check-offs has increased from two in 2003 to four in 2004 and to five in 2005, and it is not clear whether the increased number of check-off options will affect the amounts designated per check-off. The likely amount to be designated for programs for people with multiple sclerosis through the proposed income tax check-off is, therefore, uncertain.

SB 167 would authorize DOR to retain, from total designations for multiple sclerosis programs, the annual amount necessary to administer the check-off program. These amounts would be placed in the appropriation that is used to fund administration of income tax check-offs. Under current law, annual expenditure authority of \$30,000 PR is provided for 2005-06 and 2006-07. DOR estimates that it would incur one-time system development costs of \$21,600, which would be placed in the Department's appropriation and deducted from the amount transferred to the Multiple Sclerosis Society. However, while the Department could request the associated expenditure authority under s. 16.515 of the statutes, no additional expenditure authority is provided under the bill.

Prepared by: Faith Russell