



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3388/1  
MES:jld&kjf:rs

## 2011 SENATE BILL 321

December 6, 2011 – Introduced by Senators GROTHMAN and HOLPERIN, cosponsored by Representatives STRACHOTA, THIESFELDT, MARKLEIN and CRAIG. Referred to Committee on Public Health, Human Services, and Revenue.

1     **AN ACT** *to amend* 20.250 (2) (g), 71.10 (5) (b) 1., 71.10 (5) (g), 71.10 (5e) (b) 1.,  
2           71.10 (5e) (g), 71.10 (5f) (title), 71.10 (5f) (a) 1., 71.10 (5f) (b) 1., 71.10 (5f) (b) 2.,  
3           71.10 (5f) (b) 3., 71.10 (5f) (c) to (f), 71.10 (5f) (h) 2., 71.10 (5f) (i), 71.10 (5f) (j),  
4           71.10 (5g) (b) 1., 71.10 (5h) (b) 1., 71.10 (5i) (b) 1., 71.10 (5j) (b) 1., 71.10 (5k) (b)  
5           1., 71.10 (5m) (b) 1., 71.30 (10) (g), 71.30 (11) (g), 255.055 (title), 255.055 (1) and  
6           255.055 (2); and *to create* 71.10 (5h) (k) and 71.10 (5s) of the statutes; **relating**  
7           **to:** limiting the number of individual income tax checkoffs and combining the  
8           breast cancer and prostate cancer checkoffs into a checkoff for cancer research.

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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, which is temporary and expires after \$400,000 is designated, and a breast cancer research program, and to provide a donation to a professional football stadium district.

For taxable years beginning after December 31, 2011, taxpayers may not have the opportunity to make such a designation to more than ten checkoffs, not including

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temporary checkoffs, and no temporary checkoffs may be created after December 31, 2011. The bill also prohibits the Department of Revenue (DOR) from placing more than ten checkoffs on the income tax form, and repeals the current law provision that requires DOR to highlight certain checkoffs with a symbol. Other than a checkoff created in a bill that is introduced in both houses of the legislature before June 1, 2011, if any checkoff is created after December 31, 2011, and before January 1, 2015, it may not appear on the tax form, and no designations may be made to the checkoff, before January 1, 2015.

Beginning in September 2014, and every two years thereafter, the bill requires the secretary of revenue to rank the checkoffs in order of the amount of designations received during the previous two-year period.

If more than 11 checkoffs exist, not including temporary checkoffs, only the top eight checkoffs, in terms of designations received, may appear on the tax form for the next two years, and the ninth and tenth places on the tax form will be taken by checkoffs that haven't received any designations during the previous two-year period. The new checkoffs that appear on the form will be the oldest checkoffs, based on the date on which such a checkoff was added to a list of eligible checkoffs by DOR and by the date on which a checkoff took effect.

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.** 20.250 (2) (g) of the statutes is amended to read:

2           20.250 (2) (g) ~~Breast-cancer~~ Cancer research. As a continuing appropriation,  
3 from moneys received as amounts designated under s. 71.10 (5f) (b), 50 percent of the  
4 net amounts certified under s. 71.10 (5f) (h) 3., for breast cancer research under s.  
5 255.055.

6           **SECTION 2.** 71.10 (5) (b) 1. of the statutes is amended to read:

7           71.10 (5) (b) 1. 'Designation on return.' ~~Any~~ Subject to sub. (5s), any individual  
8 filing an income tax return may designate on the return any amount of additional  
9 payment or any amount of a refund due that individual for the endangered resources  
10 program.

11           **SECTION 3.** 71.10 (5) (g) of the statutes is amended to read:

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1           71.10 (5) (g) *Tax return.* The secretary of revenue shall provide a place for the  
2           designations under this subsection on the individual income tax return and, on forms  
3           ~~printed by the department of revenue, the secretary shall highlight that place on the~~  
4           ~~return by a symbol chosen by the department of revenue that relates to endangered~~  
5           ~~resources.~~

6           **SECTION 4.** 71.10 (5e) (b) 1. of the statutes is amended to read:

7           71.10 (5e) (b) 1. ‘Designation on return.’ ~~Every~~ Subject to sub. (5s), every  
8           individual filing an income tax return who has a tax liability or is entitled to a tax  
9           refund may designate on the return any amount of additional payment or any  
10          amount of a refund due that individual as a football donation.

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

12          71.10 (5e) (g) *Tax return.* The secretary of revenue shall provide a place for the  
13          designations under this subsection on the individual income tax return, ~~and, on~~  
14          ~~forms printed by the department of revenue, the secretary shall highlight that place~~  
15          ~~on the return by a symbol chosen by the department that relates to a football~~  
16          ~~stadium, as defined in s. 229.821 (6).~~

17          **SECTION 6.** 71.10 (5f) (title) of the statutes is amended to read:

18          71.10 (5f) (title) ~~BREAST-CANCER~~ CANCER RESEARCH PROGRAM.

19          **SECTION 7.** 71.10 (5f) (a) 1. of the statutes is amended to read:

20          71.10 (5f) (a) 1. “~~Breast cancer~~ Cancer research program” means the program  
21          under s. 255.055 that provides moneys for breast cancer research and the payment  
22          of administrative expenses related to the administration of this subsection.

23          **SECTION 8.** 71.10 (5f) (b) 1. of the statutes is amended to read:

24          71.10 (5f) (b) 1. ‘Designation on return.’ ~~Every~~ Subject to sub. (5s), every  
25          individual filing an income tax return who has a tax liability or is entitled to a tax

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1 refund may designate on the return any amount of additional payment or any  
2 amount of a refund due that individual for the breast cancer research program.

3 **SECTION 9.** 71.10 (5f) (b) 2. of the statutes is amended to read:

4 71.10 (5f) (b) 2. 'Designation added to tax owed.' If the individual owes any tax,  
5 the individual shall remit in full the tax due and the amount designated on the return  
6 for the breast cancer research program when the individual files a tax return.

7 **SECTION 10.** 71.10 (5f) (b) 3. of the statutes is amended to read:

8 71.10 (5f) (b) 3. 'Designation deducted from refund.' Except as provided in par.  
9 (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9)  
10 and 71.80 (3), the department of revenue shall deduct the amount designated on the  
11 return for the breast cancer research program from the amount of the refund.

12 **SECTION 11.** 71.10 (5f) (c) to (f) of the statutes are amended to read:

13 71.10 (5f) (c) *Errors; failure to remit correct amount.* If an individual who owes  
14 taxes fails to remit an amount equal to or in excess of the total of the actual tax due,  
15 after error corrections, and the amount designated on the return for the breast cancer  
16 research program:

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

23 2. The designation for the breast cancer research program is void if the  
24 individual remitted an amount equal to or less than the actual tax due, after error  
25 corrections.

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1           (d) *Errors; insufficient refund.* If an individual is owed a refund which does not  
2 equal or exceed the amount designated on the return for the breast cancer research  
3 program, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections,  
4 the department shall reduce the designation for the breast cancer research program  
5 to reflect the actual amount of the refund that the individual is otherwise owed, after  
6 crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections.

7           (e) *Conditions.* If an individual places any conditions on a designation for the  
8 breast cancer research program, the designation is void.

9           (f) *Void designation.* If a designation for the breast cancer research program  
10 is void, the department shall disregard the designation and determine amounts due,  
11 owed, refunded, and received without regard to the void designation.

12           **SECTION 12.** 71.10 (5f) (h) 2. of the statutes is amended to read:

13           71.10 (5f) (h) 2. The total amount received from all designations for the breast  
14 cancer research program made by taxpayers during the previous fiscal year.

15           **SECTION 13.** 71.10 (5f) (i) of the statutes, as affected by 2011 Wisconsin Act 32,  
16 is amended to read:

17           71.10 (5f) (i) *Appropriations.* From the moneys received from designations for  
18 the breast cancer research program, an amount equal to the sum of administrative  
19 expenses, including data processing costs, certified under par. (h) 1. shall be  
20 deposited in the general fund and credited to the appropriation account under s.  
21 20.566 (1) (hp), and, of the net amount remaining that is certified under par. (h) 3.,  
22 an amount equal to 50 percent shall be credited to the appropriation account under  
23 s. 20.250 (2) (g) and an amount equal to 50 percent shall be credited to the  
24 appropriation account under s. 20.285 (1) (k) for breast cancer research conducted  
25 by the University of Wisconsin Carbone Cancer Center.

**SENATE BILL 321****SECTION 14**

1           **SECTION 14.** 71.10 (5f) (j) of the statutes is amended to read:

2           71.10 **(5f)** (j) *Amounts subject to refund.* Amounts designated for the breast  
3 cancer research program under this subsection are not subject to refund to the  
4 taxpayer unless the taxpayer submits information to the satisfaction of the  
5 department, within 18 months after the date on which the taxes are due or the date  
6 on which the return is filed, whichever is later, that the amount designated is clearly  
7 in error. Any refund granted by the department under this paragraph shall be  
8 deducted from the moneys received under this subsection in the fiscal year for which  
9 the refund is certified.

10           **SECTION 15.** 71.10 (5g) (b) 1. of the statutes is amended to read:

11           71.10 **(5g)** (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
12 individual filing an income tax return who has a tax liability or is entitled to a tax  
13 refund may designate on the return any amount of additional payment or any  
14 amount of a refund due that individual as a veterans trust fund donation.

15           **SECTION 16.** 71.10 (5h) (b) 1. of the statutes is amended to read:

16           71.10 **(5h)** (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
17 individual filing an income tax return who has a tax liability or is entitled to a tax  
18 refund may designate on the return any amount of additional payment or any  
19 amount of a refund due that individual for the prostate cancer research program.

20           **SECTION 17.** 71.10 (5h) (k) of the statutes is created to read:

21           71.10 **(5h)** (k) *Sunset.* This subsection does not apply to any taxable year that  
22 begins after December 31, 2011.

23           **SECTION 18.** 71.10 (5i) (b) 1. of the statutes is amended to read:

24           71.10 **(5i)** (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
25 individual filing an income tax return who has a tax liability or is entitled to a tax

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1 refund may designate on the return any amount of additional payment or any  
2 amount of a refund due that individual for the military family relief fund.

3 **SECTION 19.** 71.10 (5j) (b) 1. of the statutes is amended to read:

4 71.10 (5j) (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
5 individual filing an income tax return who has a tax liability or is entitled to a tax  
6 refund may designate on the return any amount of additional payment or any  
7 amount of a refund due that individual for Second Harvest.

8 **SECTION 20.** 71.10 (5k) (b) 1. of the statutes, as created by 2011 Wisconsin Act  
9 32, is amended to read:

10 71.10 (5k) (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
11 individual filing an income tax return who has a tax liability or is entitled to a tax  
12 refund may designate on the return any amount of additional payment or any  
13 amount of a refund due that individual for the Badger Chapter.

14 **SECTION 21.** 71.10 (5m) (b) 1. of the statutes is amended to read:

15 71.10 (5m) (b) 1. 'Designation on return.' ~~Every~~ Subject to sub. (5s), every  
16 individual filing an income tax return who has a tax liability or is entitled to a tax  
17 refund may designate on the return any amount of additional payment or any  
18 amount of a refund due that individual for programs for people with multiple  
19 sclerosis.

20 **SECTION 22.** 71.10 (5s) of the statutes is created to read:

21 71.10 (5s) LIMITATIONS ON CHECKOFFS. (a) For taxable years beginning after  
22 December 31, 2011, individuals may not have the option of making a designation to  
23 more than 10 individual income checkoffs and the department may not place more  
24 than 10 checkoffs on the income tax form. If a checkoff is created for taxable years  
25 beginning after December 31, 2011, and before January 1, 2015, the department may

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1 not place it on the form, and no designations may be made to the checkoff, for a  
2 taxable year that begins before January 1, 2015, except that this limitation does not  
3 apply to a checkoff created in a bill that is introduced in both houses of the legislature  
4 before June 1, 2011. The limitations in this paragraph do not apply to the checkoff  
5 under sub. (5fm).

6 (b) For taxable years beginning after December 31, 2011, there may be no  
7 individual income tax checkoffs of a temporary nature other than the checkoff under  
8 sub. (5fm).

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

16 (d) 1. If more than 11 checkoffs exist under this section after August 14, 2014,  
17 and every 2 years thereafter, not including the checkoff under sub. (5fm), only the  
18 8 highest ranking checkoffs for which designations were made in the previous 2-year  
19 period may appear on the income tax form for the next 2 taxable years.

20 2. The remaining 2 checkoffs for which designations may be made and which  
21 shall be placed on the income tax form for the next 2 taxable years, in place of the 2  
22 lowest ranking checkoffs, shall be checkoffs that have not received any designations  
23 during the previous 2-year period.

24 3. The 2 remaining checkoffs, described under subd. 2., shall be the 2 oldest  
25 checkoffs, based on the date each checkoff was placed on a list of checkoffs,



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1 maintained by the department, that are eligible to be placed on the form. If 2 or more  
2 checkoffs have been placed on the list at the same time, the oldest checkoff shall then  
3 be calculated according to their effective dates.

4 4. If 10 checkoffs exist under this section after August 14, 2014, not including  
5 the checkoff under sub. (5fm), those 10 checkoffs may appear on the income tax form  
6 for the next 2 taxable years.

7 5. If 11 checkoffs exist under this section after August 14, 2014, not including  
8 the checkoff under sub. (5fm), only the 9 highest ranking checkoffs for which  
9 designations were made in the previous 2-year period may appear on the income tax  
10 form for the next 2 taxable years. The remaining checkoff for which designations  
11 may be made and which shall be placed on the income tax form for the next 2 taxable  
12 years, in place of the lowest ranking checkoff, shall be a checkoff that has not received  
13 any designations during the previous 2-year period. This last checkoff shall be  
14 selected using the method described under subd. 3.

15 **SECTION 23.** 71.30 (10) (g) of the statutes is amended to read:

16 71.30 (10) (g) *Tax return.* The secretary of revenue shall provide a place for the  
17 designations under this subsection on the corporate income and franchise tax  
18 returns and the secretary shall highlight that place on the returns by a symbol  
19 chosen by the department that relates to endangered resources.

20 **SECTION 24.** 71.30 (11) (g) of the statutes is amended to read:

21 71.30 (11) (g) *Tax return.* The secretary of revenue shall provide a place for the  
22 designations under this subsection on the corporate income and franchise tax  
23 returns and the secretary shall highlight that place on the returns by a symbol  
24 chosen by the department of veterans affairs that relates to veterans.

25 **SECTION 25.** 255.055 (title) of the statutes is amended to read:

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**SECTION 25**

1 **255.055** (title) ~~Breast cancer~~ Cancer **research program.**

2 **SECTION 26.** 255.055 (1) of the statutes, as affected by 2011 Wisconsin Act 32,  
3 is amended to read:

4 255.055 (1) The Medical College of Wisconsin, Inc. shall use the moneys  
5 appropriated under s. 20.250 (2) (g) and the University of Wisconsin Carbone Cancer  
6 Center shall use the moneys paid under s. 71.10 (5f) (i) for ~~breast~~ cancer research  
7 projects. These moneys may not be used to supplant funds available for ~~breast~~ cancer  
8 research from other sources.

9 **SECTION 27.** 255.055 (2) of the statutes is amended to read:

10 255.055 (2) Annually by January 1, the Medical College of Wisconsin, Inc., and  
11 the Board of Regents of the University of Wisconsin System shall each report to the  
12 appropriate standing committees of the legislature under s. 13.172 (3) and to the  
13 governor on the ~~breast~~ cancer research projects each has conducted under sub. (1)  
14 in the previous fiscal year.

15 **SECTION 28. Initial applicability.**

16 (1) This act first applies to taxable years beginning after December 31, 2011.

17 (END)