

1999 Oc9 DRAFTING REQUEST

Bill

Received: 10/28/1999

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Jensen (608) 266-3387**

By/Representing: **R.J**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters: **jkreye**

Subject: **Tax - individual income
Tax - sales
Tax - property**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Onetime sales tax rebate, school property tax credit, school levy property tax credit

Instructions:

See Attached. Same as 99-3836, without the tax exemption.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 10/28/1999	gilfokm 10/28/1999		_____			State
/1			mclark 10/28/1999	_____	lrb_docadmin 10/28/1999	lrb_docadmin 10/28/1999	

FE Sent For:

<END>

10-29-99
2
↙

1999 Oc9 DRAFTING REQUEST

Bill

Received: 10/28/1999

Received By: shoveme

Wanted: As time permits

Identical to LRB:

For: Scott Jensen (608) 266-3387

By/Representing: R.J

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Alt. Drafters: jkreya

Subject: Tax - individual income
Tax - sales
Tax - property

Extra Copies: ALL Editors

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No specific pre topic given

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Onetime sales tax rebate, school property tax credit, school levy ~~credit~~ ✓ tax credit

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See Attached. Same as 99-3836, without the tax exemption.

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/?	shoveme	1-10-28 Kmg	10/28 mrc	MRC/KJF 10/28			
11 MES	10/28/99						

JACKET FOR Assembly

<END>

1999 Oc9 DRAFTING REQUEST

Bill

add to
file for
-3847

Received: 10/27/1999

Received By: shoveme

Wanted: Soon

Identical to LRB:

For: Administration 6-8593

By/Representing: Kerry Holden

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Alt. Drafters: jkreye

Subject: Tax - individual income
Tax - property
Tax - sales

Extra Copies: R.J. Pirlot in the speaker's office

Pre Topic:

No specific pre topic given

Topic:

Onetime sales tax rebate, school property tax credit, school levy property tax credit

Instructions:

See Attached. Based on 1999 LRB -3801/1, with changes suggested by DOR, DOA and LFB.

sent to...
Per Kerry Holden
9/18

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 10/27/1999	chanaman 10/28/1999		_____			State Tax
/1	shoveme 10/28/1999		mclark 10/28/1999	_____	lrb_docadmin 10/28/1999	lrb_docadmin 10/28/1999	
				_____	lrb_docadmin 10/28/1999		

FE Sent For:

<END>

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
ACTING SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: October 21, 1999
To: Steve Miller, LRB
From: Kerry Holden (266-8593)
Subject: Sales Tax Rebate

Please draft language in a stand-alone bill that would create a sales tax rebate program for FY00, which may be subject to a special session. The following are specific details we would like to have included in the draft.

Legislative Findings - Draft legislative findings providing that:

- state revenues for FY99 exceed estimated revenues;
- sales tax revenues contributed to the excess revenue received;
- a sales tax rebate is a reasonable method of returning excess tax revenue to taxpayers;
- it is a reasonable and necessary exercise of the legislative prerogative to determine that, due to the impossibility of identifying or returning prior payments, it is not feasible to make proportional refunds of state excess revenues;
- it is also a reasonable and necessary exercise of the legislative prerogative to determine what constitutes a reasonable method of refunding state excess revenues after consideration of the best information available at the time regarding the amount and source of excess revenues to be refunded, the qualifications for and number of eligible recipients, and the related administrative expenses;
- the state excess revenues have been derived from a wide variety of state taxes and state fees and should, therefore, be returned to as large a group of Wisconsin residents as is identifiable and economically feasible;
- it is reasonable and fair to refund state excess revenues to a large group of individuals as a refund of state sales tax revenues since more Wisconsin residents pay state sales tax than any other state tax; and
- refunding state excess revenues through the state income tax system is a reasonable method for refunding such excess revenues.

Appropriations: Create a sum-sufficient GPR appropriation under s. 20.835 (2) (a) and call it "sales tax rebate". Increase the amount included in the Chapter 20 schedule under s. 20.566 (1) (a) by \$1,550,000 for FY00.

Distribution Method: Create a rebate schedule that would provide sales tax rebates to residents based on Wisconsin adjusted gross income and filing status for 1998, as follows:

<u>WAGI</u>	<u>Married/Joint Filers</u>	<u>Single/Separate Filers</u>
\$0 - \$25,000	\$349	\$196
\$25,001 - \$50,000	\$358	\$205
\$50,001 - \$75,000	\$378	\$224
\$75,001 - \$100,000	\$393	\$242
\$100,001 - \$200,000	\$429	\$279
\$200,001 - \$500,000	\$475	\$322
Over \$500,000	\$518	\$368

Filing Deadline A deadline should be prescribed by which persons who did not file a 1998 Wis. income tax return or Homestead credit claim must submit a claim for the sales tax rebate. We would suggest a deadline of Dec. 31, 2000.

Adjusted and Amended Returns A cutoff date should be specified, (for now, October 1, 1999) beyond which adjustments or amended returns relating to 1998 income tax returns and Homestead credit claims will have no effect on the amount of sales tax rebate a person is entitled to receive. 2

Divorced Persons Provide that rebates for persons who were married at the time of filing their 1998 income tax return or Homestead credit claim, but have since become divorced, may be divided equally between the former spouses.

Deceased Persons Provide that if a person who filed a 1998 income tax return or Homestead credit claim is no longer living, the rebate check can be made payable to the person's estate.

Offsets Provide that for purposes of offsetting debts under sec. 71.80(3) and (3m), the sales tax rebate shall be treated in the same manner as an income tax refund. Also, in the case of a rebate payable to a married couple, for administrative ease in offsetting the rebate against debts owed by only one of the spouses, the law should specify that each spouse has a 50% ownership interest in the rebate.

Nonresidents A deadline should be prescribed (90 days) by which persons who were not residents of Wisconsin for any part of 1998 must submit a claim for a sales tax rebate. Nonresidents will be eligible to receive a rebate amount of 32% of the sales taxes they are able to prove were paid in calendar year 1998, with a minimum of \$20 in sales tax liability eligible for a rebate.

In addition, the department would like to minimize the number of individuals who would need to separately apply for a rebate. Although WAGI is not available for persons who file a homestead claim but not an individual income tax return, their household income cannot exceed \$19,154 and, by definition, household income is always greater than WAGI. Thus, claimants who file only a Homestead credit claim would receive a rebate allowed for persons with WAGI not exceeding \$25,000. (The law creating the rebate should clearly indicate that WAGI for persons filing a Homestead credit claim but not an income tax return is less than \$25,000).

Exemption from Wisconsin Income Tax - Insert language into s. 71.05(1) to provide that the proposed sales tax rebate is exempt from the Wisconsin income tax.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3801/P1
MES.

cmr
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

autorefs

D-note

today
4pm

gen

1

AN ACT ...; relating to: creating a one time sales tax rebate for individuals.

Analysis by the Legislative Reference Bureau

To be provided in a future version of the bill.

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

F. J. ...

- 2
- 3
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- 11

SECTION 20.835 (2) (am) of the statutes is created to read:

change to parentheses

20.835 (2) (am) One time sales tax rebate. A sum sufficient to pay the aggregate claims approved under 1999 Wisconsin Act ... (this act), section 4.

4 autoref. "a"

SECTION 71.05 (1) (d) of the statutes is created to read:

71.05 (1) (d) One time sales tax rebate. Any amount received as a sales tax rebate from a claim approved under 1999 Wisconsin Act ... (this act), section 3.

3 autoreferen "a"

SECTION Nonstatutory provisions.

(1) ONE TIME SALES TAX REBATE. (a) Definitions. In this subsection:

1. "Claimant" means an individual who is eligible under paragraph (c) to receive or claim a rebate under this subsection.

auto-ref "a"

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

2 3. "Nonresident" means an individual who was not a resident of this state for
3 any part of 1998.

4 4. "Resident" means an individual who was a full year resident of this state in
5 1998.

6 **(b)** *create auto-ref "b"* Claims. Subject to the limitations and conditions under paragraph (e) a
7 claimant may claim, or is eligible to receive, a rebate that is calculated under paragraph (d). *auto-ref "e"*
8 The department shall certify the amount of the rebate for which the claimant is *paragraph*
9 eligible to the department of administration for payment to the claimant by check, *auto-ref "d"*
10 share draft or other draft paid from the appropriation under section 20.835 (2) (am)
11 of the statutes.

12 **(c)** *create auto-ref "c"* Eligibility. **(1)** An individual who was a resident and who filed a 1998
13 Wisconsin income tax return or 1998 homestead credit claim is eligible to receive a
14 rebate under paragraph (b). *auto-reference "b"*

15 2. An individual who was a resident and who did not file a 1998 Wisconsin
16 income tax return or 1998 homestead credit claim is eligible to receive a rebate under
17 paragraph (b) *auto-reference "b"* if the individual files a claim with the department not later than
18 December 31, 2000. The claim shall be filed on a form prepared by the department
19 not later than 90 days after the effective date of this subdivision ~~reviser inserts~~

20 **(3)** *create auto-ref "f"* An individual who was a nonresident is eligible to receive a rebate under
21 paragraph (b) *auto-reference "b"* if the individual files a claim with the department not later than
22 December 31, 2000. The claim shall be filed on a form prepared by the department
23 not later than 90 days after the effective date of this subdivision ~~reviser inserts~~
24

1 ~~delete~~ The form shall require a nonresident to document his or her sales taxes paid
2 to Wisconsin in 1998, and the documented amount must be at least \$20.

3 ^{create auto-ref "d"}
(d) Calculation. ⁽¹⁾ 1. A claimant who is a resident and married and filed a joint
4 1998 Wisconsin income tax return or 1998 homestead credit claim shall be eligible
5 for a rebate in one of the following amounts:

add
comma
7

a. ^{initial cap} \$349, if the couple's 1998 Wisconsin adjusted gross income is not more than
\$25,000

8 b. \$358, if the couple's 1998 Wisconsin adjusted gross income is more than
9 \$25,000 but not more than \$50,000

10 c. \$378, if the couple's 1998 Wisconsin adjusted gross income is more than
11 \$50,000 but not more than \$75,000

12 d. \$393, if the couple's 1998 Wisconsin adjusted gross income is more than
13 \$75,000 but not more than \$100,000

14 e. \$429, if the couple's 1998 Wisconsin adjusted gross income is more than
15 \$100,000 but not more than \$200,000

16 f. \$475, if the couple's 1998 Wisconsin adjusted gross income is more than
17 \$200,000 but not more than \$500,000

18 g. \$518, if the couple's 1998 Wisconsin adjusted gross income is more than
19 \$500,000

20 2. A claimant who is a resident and single and filed a 1998 Wisconsin income
21 tax return or 1998 homestead credit claim, or who is a resident and married and filed
22 a separate 1998 Wisconsin income tax return, shall be eligible for a rebate in one of
23 the following amounts:

24 a. \$196, if the individual's 1998 Wisconsin adjusted gross income is not more
25 than \$25,000

1 b. ~~\$205~~ if the individual's 1998 Wisconsin adjusted gross income is more than
2 \$25,000 but not more than \$50,000.

3 c. ~~\$224~~ if the individual's 1998 Wisconsin adjusted gross income is more than
4 \$50,000 but not more than \$75,000.

5 d. ~~\$242~~ if the individual's 1998 Wisconsin adjusted gross income is more than
6 \$75,000 but not more than \$100,000.

7 e. ~~\$279~~ if the individual's 1998 Wisconsin adjusted gross income is more than
8 \$100,000 but not more than \$200,000.

9 f. ~~\$322~~ if the individual's 1998 Wisconsin adjusted gross income is more than
10 \$200,000 but not more than \$500,000.

11 g. ~~\$368~~ if the individual's 1998 Wisconsin adjusted gross income is more than
12 \$500,000.

13 3. A claimant under paragraph (g) 3. shall be eligible for a rebate that is equal
14 to 32% of documented sales taxes paid to Wisconsin in 1998, up to a maximum rebate
15 of \$XXX.

16 (e) *Limitations and conditions.* 1. After April 1, 2000, the department may not
17 consider any adjustments or amendments to a 1998 Wisconsin income tax return in
18 its calculation of a rebate under this subsection.

19 2. With regard to a married couple for whom an offset under section 71.80 (3)
20 or (3m) of the statutes must be made against a debt that is owed by only one of the
21 spouses, each spouse shall be considered by the department to have a 50% ownership
22 interest in the rebate.

23 3. If an individual who is eligible for a rebate under paragraph (c) filed only a
24 1998 homestead credit claim, the department shall calculate the individual's rebate
25 as if the individual's Wisconsin adjusted gross income is \$25,000.

auto-reference "c"
- auto-ref "f"

Create auto-ref "e"

auto-ref "c"

1999

Nonstat File Sequence: **DDD**

LRB-3801, P1

MES: : :

\$\$\$ CHANGE

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → \$change

For the budget action phrase, execute: create → action: → *NS: → 92XX

For the text, execute: create → text: → *NS: → \$change

2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in.. Below, for the budget, fill in the 9200 department code; and fill in "___" or "()" only if a "frozen" number is needed.

INS
5-14

SECTION # [92] Appropriation changes;

..... revenue.....

(#1) ()

..... In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of revenue

under section 20.566. (1) (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$ 1, 500, 000. for fiscal

year 1999-00 and the dollar amount is .. creased by \$.. for fiscal year 2000-01 to in.. crease funding

for the purposes for which the appropriation is made, to .. crease funding for the general program operations

* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.

(END OF INSERT)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3801/?dn
MES.....

cmH

DATE

I did not include the legislative findings. I don't think that the constitutionality of this proposal could be challenged, so there is no need to have legislative findings. Also, do you want to specify the treatment of a married couple where one spouse is a resident and one spouse is a nonresident? Do you want to specify a maximum credit for a nonresident? The cutoff date for adjusted and amend returns in your instructions is October 1, 1999, which obviously won't work. I specified April 1, 2000. Is this OK? You may want to have the department of revenue review this draft.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3801/P1dn
MES:cmh:jf

October 22, 1999

I did not include the legislative findings. I don't think that the constitutionality of this proposal could be challenged, so there is no need to have legislative findings. Also, do you want to specify the treatment of a married couple where one spouse is a resident and one spouse is a nonresident? Do you want to specify a maximum credit for a nonresident? The cutoff date for adjusted and amend returns in your instructions is October 1, 1999, which obviously won't work. I specified April 1, 2000. Is this OK? You may want to have the department of revenue review this draft.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

Shovers, Marc

From: Koskinen, John
Sent: Monday, October 25, 1999 10:25 AM
To: Shovers, Marc
Cc: Holden, Kerry
Subject: Comments on LRB 3801/1

I have reviewed the draft. Here are a few things we need to change yet.

Legislative Findings. I asked Kerry to include these. Both Minnesota and Colorado had a legislative finding in the authorizing legislation for their rebates. (The one we sent to you was liberally cribbed from Colorado's.) The legislative findings serves as an explanatory note for the IRS's benefit as much as anything. The object is to make clear that the legislature intends this as only a rebate of sales taxes. A sales tax rebate should not be subject to further federal taxation while other forms could be. This becomes very important given the program's name change below. The findings should be restored to the draft.

Name Change. Instead of "Onetime Sales Tax Rebate" it will be renamed "Taxpayer Rebate."

Maximum rebate for non-residents: This should be limited to \$368.

Repeal of the School Property Tax Rent Credit. To generate funds for the rebate, the school property tax rent credit should be repealed for tax years beginning 1/1/1999. This affects sections 1716m, 1716p and 1717 of enrolled AB 133.

Repeal of the School Levy Tax Credit Increase. In section 9143 (3g) AB 133 as vetoed increases the school levy credit by \$60 million. This should be repealed.

DOR's Administrative Costs. The amount in Section 4 of the draft should be \$1,550,000 instead of \$1,500,000 and the fiscal year should be FY1999-2000 instead of FY2000-01.

see later e-mail

As a stylistic question, should this be adopted as a non-statutory provisions or as part of Chapter 77? Anything that strengthens its character as a sales tax rebate would be helpful.

I have asked DOR for their comments. I will forward those to you as soon as I get them.

John Koskinen
State Budget Office, DOA
266-2081

Gates-Hendrix, Sherril
From: Gates-Hendrix, Sherril
Sent: Monday, October 25, 1999 3:02 PM
To: Koskinen, John; Holden, Kerry
Subject: sales tax rebate language

Post-it® Fax Note	7671	Date	10/25	# of pages	2
To	MARC SHOEVERS	From	KERRY HOLDEN		
Co./Dept.	LRB DRAFT	Co.	SRD		
Phone #		Phone #	6-8593		
Fax #	4-8522	Fax #	7-0372		

John, Kerry -

Here are our suggestions for changes to LRB 3801/P1:

- 1) The rebate amounts change based on the new distribution. I know you've probably given these to LRB, but here they are:
 - P. 3, line 10 should be \$337
 - P. 3, line 12 should be \$345
 - P. 3, line 14 should be \$362
 - P. 3, line 16 should be \$380
 - P. 3, line 18 should be \$414
 - P. 3, line 20 should be \$457
 - P. 3, line 22 should be \$500
 - P. 4, line 4 should be \$190
 - P. 4, line 6 should be \$198
 - P. 4, line 8 should be \$216
 - P. 4, line 10 should be \$233
 - P. 4, line 12 should be \$267
 - P. 4, line 14 should be \$311
 - P. 4, line 16 should be \$354
- 2) The percentage to a nonresident should be 30.4% (p. 4, line 18)
- 3) We think that the sections on definition (p. 2, begins at line 1), eligibility (p. 2, begins at line 15) and calculation of the rebate (p. 3, begins at line 5) should contain some indication of how rebates for part-year residents are to be calculated. Specifically, we suggest that part-year residents have their rebate calculated based on their Wisconsin-only income (rather than their total income, and then pro-rated).
- 4) Due date for non-residents: we suggest December 31, 1999 as the due date for nonresident claims for the rebate. This is similar to the Minnesota time frame.
- 5) DOR development of claim form: We suggest deleting the phrase "not later than 90 days after the effective date of this subdivision" that appears on p. 3, line 2 and p. 2, line 23. We'll probably have the forms developed long before the 90 days. In fact, the forms may be due (in the case of nonresidents) before the 90 days have elapsed.
- 6) Due date for resident applications: We suggest June 30, 2000 (p. 2, line 22). In the interest of not having the program drag on.
- 7) Amended returns: p. 4, lines 21-23. We suggest replacing those lines with: "The department shall not consider any adjustments or amendments made to a 1998 Wisconsin income tax return after October 15, 1999 in its calculation of a rebate under this section." Even though this date has already occurred, we would like that to be the date by which we have to consider amendments/adjustments. This will make programming for the rebate checks a lot easier.
- 8) Max rebate for a non-resident: We suggest \$354 (p. 4, Line 19).

Please see my email

Modified to 60 days - not

9) Eligibility of dependents: We suggest changing the word "Wisconsin" on p. 5, line 7 to "federal" to indicate that a dependent claimed on the federal income tax return would not be eligible. This will clear up confusion regarding non-residents.

10) Divorces: We suggest replacing p. 6, lines 11-14 with the following: "After the sales tax rebate has been issued, but before the check has been cashed, either joint claimant may request a separate check for one-half of the joint sales tax rebate." Requiring them to request the change will help our administration tremendously.

11) Appeals and Assessments: We suggest the following language be inserted somewhere under limitations and conditions: "The dept of revenue may enforce the sales tax rebate and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under chapter 71 in the Wisconsin statutes. The income tax provisions in chapter 71 relating to assessments, refunds, appeals, collections, interest and penalties apply to the sales tax rebate."

12) Locating taxpayers: We suggest the following language be inserted somewhere under limitations and conditions: "If the department of revenue can not locate an individual entitled to a sales tax rebate by December 31, 2000, or if an individual to whom a sales tax rebate was issued has not cashed the check by December 31, 2000, the right to the sales tax rebate lapses and the check must be deposited in the general fund." This is similar to Minn language.

13) Late returns: We suggest inserting "by October 15, 1999" after the word claim on p. 2, line 20 and inserting the word "only" after (b) on p. 2, line 21. This ties to the date on which normal extensions expire. Adding the word "only" will help to clarify that if someone files a return in a later year, they will not be eligible for the rebate unless they filed a claim by June 30, 2000.

20.9/2(1)
notwithstanding
14.58(12)
20.9/2(3)

Shovers, Marc

From: Holden, Kerry
Sent: Monday, October 25, 1999 4:35 PM
To: Shovers, Marc
Cc: Koskinen, John
Subject: DOR comments re: 3801/1

Marc-

I will be faxing over DOR's comments as soon as I send this off to you; however, I have a few additional decisions to pass on to you.

First, a couple changes to John Koskinen's earlier email to you (10/25):

- Maximum rebate for non-residents: This should be limited to \$368. \$354.
- DOR's Administrative Costs. The amount in Section 4 of the draft should be ~~\$1,550,000~~ \$2,357,500 instead of \$1,500,000 and the fiscal year should be FY1999-2000 instead of FY2000-01.

Second, regarding the changes suggested by DOR that I am faxing you, we would like you to make a change to how issue #4 is handled. Instead of setting the due date for non-residents as 12/31/99 (as suggested by DOR), we request that you instead make the due date for non-residents 60 days after completion and public release of the claim form (DOR #5).

Finally, as you are likely aware, this legislation is a drafting priority for us. I believe the hope is to introduce it ASAP -- or as soon as we have a clean draft. Thank you for your patience and assistance. Please call if you have any questions.

Kerry Holden

Tax, Finance & Local Government Team
DOA State Budget Office
Phone: (608)266-8593
Fax: (608)267-0372
Email: Kerry.Holden@doa.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3801/PD
MES:cmh:jk

NOW

GJK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

reducing the amount that is available
under the school levy tax credit
and making an appropriation

D-Note
See INS-DN

open

1 AN ACT to create 20.835 (2) (am) and 71.05 (1) (d) of the statutes; relating to:
2 creating a ~~one-time sales~~ tax rebate for individuals, ^{repealing the school} ~~and~~ ^{property tax rent credit}

Analysis by the Legislative Reference Bureau

To be provided in a future version of the bill.

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

3 SECTION 1. 20.835 (2) (am) of the statutes is created to read:

4 20.835 (2) (am) ~~One-time sales tax~~ ^{Taxpayer} rebate. A sum sufficient to pay the aggregate
5 claims approved under 1999 Wisconsin Act (this act), section 3.

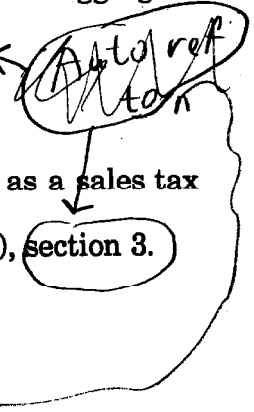
6 SECTION 2. 71.05 (1) (d) of the statutes is created to read:

7 71.05 (1) (d) ~~One-time sales tax~~ ^{Taxpayer} rebate. Any amount received as a sales tax
8 rebate from a claim approved under 1999 Wisconsin Act (this act), section 3.

INS.
1-8

9 SECTION 3. Nonstatutory provisions.

10 (1) ONETIME SALES TAX REBATE.



1 (a) *Definitions.* In this subsection:

2 1. "Claimant" means an individual who is eligible under paragraph (c) to
3 receive or claim a rebate under this subsection.

4 2. "Department" means the department of revenue.

5 3. "Nonresident" means an individual who was not a resident of this state for
6 any part of 1998.

7 4. "Part-year resident" means an individual who was a resident of this
8 state for some part of 1998.
9 5. "Resident" means an individual who was a full-year resident of this state in
10 1998.

11 (b) *Claims.* Subject to the limitations and conditions under paragraph (e) a
12 claimant may claim, or is eligible to receive, a rebate that is calculated under
13 paragraph (d). The department shall certify the amount of the rebate for which the
14 claimant is eligible to the department of administration for payment to the claimant
15 by check, share draft or other draft paid from the appropriation under section 20.835
16 (2) (am) of the statutes.

17 (c) *Eligibility.*

18 1. An individual who was a resident and who filed a 1998 Wisconsin income tax
19 return or 1998 homestead credit claim is eligible to receive a rebate under paragraph
20 (b).

21 2. An individual who was a resident and who did not file a 1998 Wisconsin
22 income tax return or 1998 homestead credit claim ^{by October 15, 1999,} is eligible to receive a rebate under
23 paragraph (b) ^{only} if the individual files a claim with the department not later than
24 ~~December 31,~~ ^{June 30} 2000. The claim shall be filed on a form prepared by the department
25 not later than ~~60~~ ⁶⁰ days after the effective date of this subdivision.

26 5. An individual who was a nonresident is eligible to receive a rebate under
27 paragraph (b) if the individual files a claim with the department not later than

INS.
2-23

create auto-reference "c"

120 days after the effective date of this subdivision ✓

1 ~~December 31, 2000~~ The claim shall be filed on a form prepared by the department
2 not later than ~~30~~ ⁶⁰ days after the effective date of this subdivision. The form shall
3 require a nonresident to document his or her sales taxes paid to Wisconsin in 1998,
4 and the documented amount must be at least \$20.

for a nonresident to be eligible to receive a rebate under paragraph (b)

5 (d) Calculation.

6 1. A claimant who is a resident and married and filed a joint 1998 Wisconsin
7 income tax return or 1998 homestead credit claim shall be eligible for a rebate in one
8 of the following amounts:

9 a. If the couple's 1998 Wisconsin adjusted gross income is not more than
10 \$25,000, ~~\$249~~ ³³⁷

11 b. If the couple's 1998 Wisconsin adjusted gross income is more than \$25,000
12 but not more than \$50,000, ~~\$278~~ ³⁴⁵

13 c. If the couple's 1998 Wisconsin adjusted gross income is more than \$50,000
14 but not more than \$75,000, ~~\$278~~ ³⁶²

15 d. If the couple's 1998 Wisconsin adjusted gross income is more than \$75,000
16 but not more than \$100,000, ~~\$298~~ ³⁸⁰

17 e. If the couple's 1998 Wisconsin adjusted gross income is more than \$100,000
18 but not more than \$200,000, ~~\$429~~ ⁴¹⁴

19 f. If the couple's 1998 Wisconsin adjusted gross income is more than \$200,000
20 but not more than \$500,000, ~~\$477~~ ⁴⁵⁷

21 g. If the couple's 1998 Wisconsin adjusted gross income is more than \$500,000,
22 ~~\$500~~ ⁵⁰⁰

23 2. A claimant who is a resident and single and filed a 1998 Wisconsin income
24 tax return or 1998 homestead credit claim, or who is a resident and married and filed

1 a separate 1998 Wisconsin income tax return, shall be eligible for a rebate in one of
2 the following amounts:

3 a. If the individual's 1998 Wisconsin adjusted gross income is not more than
4 \$25,000, ~~\$197~~ 190

5 b. If the individual's 1998 Wisconsin adjusted gross income is more than
6 \$25,000 but not more than \$50,000, ~~\$205~~ 198

7 c. If the individual's 1998 Wisconsin adjusted gross income is more than
8 \$50,000 but not more than \$75,000, ~~\$224~~ 216

9 d. If the individual's 1998 Wisconsin adjusted gross income is more than
10 \$75,000 but not more than \$100,000, ~~\$242~~ 233

11 e. If the individual's 1998 Wisconsin adjusted gross income is more than
12 \$100,000 but not more than \$200,000, ~~\$272~~ 267

13 f. If the individual's 1998 Wisconsin adjusted gross income is more than
14 \$200,000 but not more than \$500,000, ~~\$302~~ 311

15 g. If the individual's 1998 Wisconsin adjusted gross income is more than
16 \$500,000, ~~\$368~~ 354

17 30.4 3. A claimant under paragraph (c) ^{5 - auto reference "c"} shall be eligible for a rebate that is equal
18 to ~~22%~~ of documented sales taxes paid to Wisconsin in 1998, up to a maximum rebate
19 of ~~\$1200~~ 354

20 (e) *Limitations and conditions.*

21 1. ~~After April 1, 2000,~~ the department may not consider any adjustments or
22 amendments ^{made} to a 1998 Wisconsin income tax return ^{after October 15, 1999,} in its calculation of a rebate
23 under this subsection.

24 2. With regard to a married couple for whom an offset under section 71.80 (3)
25 or (3m) of the statutes must be made against a debt that is owed by only one of the

1 spouses, each spouse shall be considered by the department to have a 50% ownership
2 interest in the rebate.

3 3. If an individual who is eligible for a rebate under paragraph (c) filed only a
4 1998 homestead credit claim, the department shall calculate the individual's rebate
5 as if the individual's Wisconsin adjusted gross income is \$25,000.

6 4. An individual who was claimed as a dependent on another individual's 1998
7 ~~Wisconsin~~ ^{federal} income tax return is not eligible to claim or receive a rebate under this
8 subsection.

9 5. Section 71.80 (3) and (3m) of the statutes, as it applies to income tax refunds,
10 applies to a sales tax rebate under this subsection.

INS
5-10

11 6. If a claimant who was a resident becomes divorced after he or she filed his
12 or her 1998 Wisconsin income tax return or homestead credit, the rebate shall be
13 calculated as if the couple were married and shall be divided equally and paid
14 separately to each former spouse.

15 ⁹ If a claimant who was a resident and who filed a 1998 Wisconsin income tax
16 return or 1998 homestead credit claim becomes deceased after he or she filed his or
17 her income tax return or homestead credit claim, the amount of the rebate for which
18 the claimant is eligible shall be paid to the claimant's estate.

19 **SECTION 4. Appropriation changes; revenue.**

20 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
21 to the department of revenue under section 20.566 (1) (a) of the statutes, as affected
22 by the acts of 1999, the dollar amount is increased by ~~\$1,500,000~~ ^{2,357,500} for fiscal year
23 ~~2000-01~~ ¹⁹⁹⁹⁻⁰⁰ to increase funding for the purposes for which the appropriation is made.

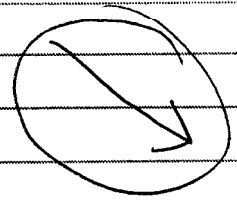
24

(END)

D-note

INS. 1-8, p. 1 of 3

Sec. #; RP; 71.07 (9) (b) 3, as
created by 1999 Wisconsin Act
... (Assembly Bill 133).



INS. 1-8
p. 2 of 3

Sec. # AM 71.07 (9)(g), as created by 1999 Wisconsin Act... (Assembly Bill 133)

1999 Assembly Bill 133

1999 Wisconsin Act

(d) Administration. Subsection (9e)(d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 1716. 71.07 (8) (d) of the statutes is created to read:

71.07 (8) (d) No new claim may be filed under this subsection for a taxable year that begins after December 31, 1999.

[REDACTED SECTION]

SECTION 1716p. 71.07 (9) (b) 3. of the statutes is created to read:

71.07 (9) (b) 3. For taxable years beginning after December 31, 1999, [REDACTED] subject to the limitations under this subsection, a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 6.4% of the first \$2,000 of property taxes or rent constituting property taxes, or 6.4% of the first \$1,000 of property taxes or rent constituting property taxes of a married person filing separately.

SECTION 1717. 71.07 (9) (g) of the statutes is created to read:

71.07 (9) (g) No new claim may be filed under this subsection for a taxable year that begins after December 31, 2000, 1998

SECTION 1719b. 71.07 (9e) (f) of the statutes is amended to read:

71.07 (9e) (f) Except as provided in s. 71.80 (3) and (3m), if the allowable amount of the claim under this subsection exceeds the taxes otherwise due under this chapter or no taxes are due under this chapter, the amount of the claim not used to offset taxes due shall be certified by the department of revenue to the department of administration for payment by check, share draft or other draft drawn from the appropriation under s. 20.835 (2) (f) or (kf).

SECTION 1719g. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), [REDACTED] (2fd), (3m), (3s), (6) [REDACTED] and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), [REDACTED] (1fd), (2m) and (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), [REDACTED] (1fd), (2m) and (3) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on

that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 1719j. 71.10 (4) (cm) of the statutes is created to read:

71.10 (4) (cm) The armed forces member tax credit under s. 71.07 (6m).

[REDACTED SECTION]

SECTION 1720m. 71.10 (5) (am) of the statutes is created to read:

71.10 (5) (am) Gray wolf as endangered or threatened species. For purposes of the part of the endangered resources program that provides for wildlife damage control and the payments of claims for damage associated with endangered or threatened species, the gray wolf shall be considered an endangered or threatened species regardless of whether it is listed as endangered or threatened under s. 29.604 (3).

SECTION 1721. 71.125 of the statutes is amended to read:

71.125 Imposition of tax. (1) Except as provided in sub. (2), the tax imposed by this chapter on individuals and the rates under s. 71.06 (1), (1m), (1n), (1p) and (2) shall apply to the Wisconsin taxable income of estates or trusts, except nuclear decommissioning trust or reserve funds, and that tax shall be paid by the fiduciary.

(2) Each electing small business trust, as defined in section 1361 (e) (1) of the Internal Revenue Code, is subject to tax at the highest rate under s. 71.06 (1) or under s. 71.06, (1m), (1n) or (1p), whichever taxable year is applicable, on its income as computed under section 641 of the Internal Revenue Code, as modified by s. 71.05 (6) to (12), (19) and (20).

SECTION 1721es. 71.14 (3) (intro.) of the statutes is amended to read:

71.14 (3) (intro.) Except as provided in sub. (2) and s. 71.04 (1) (b) 2., trusts created by contract, declaration of trust or implication of law that are made irrevocable before the effective date of this subsection, [revisor inserts date], shall be considered resident at the place where the trust is being administered. The following trusts shall be considered to be administered in the state of domicile of the corporate trustee of the trust at any time that the grantor of the trust is not a resident of this state.

SECTION 1721it. 71.14 (3m) of the statutes is created to read:

71.14 (3m) (a) Subject to par. (b) and except as provided in sub. (2) and s. 71.04 (1) (b) 2., only the following trusts, or portions of trusts, which become irrevocable on or after the effective date of this paragraph ... [revisor inserts date], are resident of this state:

1. Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is

Vetoed In Part

Vetoed In Part

Vetoed In Part

Vetoed Part

Vetoed In Part
Vetoed In Part



Insert 1-8 (1.3 of 3)

Act #. 1999 Wisconsin Act ... Assembly Bill 300
= = = = =
section 9143(3g) is repealed.

end of insert 1-8

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P2ins
MES:cmh:jf

create auto-reference "a"
INS 2-23

91
3. An individual who was a part-year resident and who filed a 1998 Wisconsin income tax return or a married couple, of whom one of the spouses is a part-year resident and the other spouse is either a part-year resident or a resident, and who filed a 1998 Wisconsin income tax return, is eligible to receive a rebate under paragraph (b), calculated by the department based on the individual's or couple's Wisconsin adjusted gross income, multiplied by fraction. For an individual, the numerator of the fraction is the number of months in 1998 during which the individual was a resident of this state and the denominator of the fraction is 12. For a married couple, the numerator of the fraction is the number of months in 1998 during which each spouse was a resident of this state and the denominator of the fraction is 24.

4. An individual who was a part-year resident and who did not file a 1998 Wisconsin income tax return by October 15, 1999, or a married couple, of whom one of the spouses is a part-year resident and the other spouse is either a part-year resident or a resident, and who did not file a 1998 Wisconsin income tax return by October 15, 1999, is eligible to receive a rebate under paragraph (b) only if the individual or couple files a claim with the department not later than June 30, 2000. The claim shall be filed on a form prepared by the department not later than 60 days after the effective date of this subdivision, based on the factors described in subdivision 3.

auto-reference "a"
INS 5-10

91
6. The department may enforce the rebate under this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under chapter 71 of the statutes. The income tax provisions in chapter 71 of the statutes relating to assessments, refunds, appeals, collection, interest and penalties apply to the rebate under this subsection.

7. After a rebate has been issued under paragraph (b) but before the check, share draft or other draft has been cashed, either joint claimant may request a separate check for 50% of the joint rebate.

auto-ref "b"
8. If the department is unable to locate an individual or married couple who is eligible to receive a rebate under paragraph (b) by December 31, 2000, or, notwithstanding sections 14.58 (12) and 20.912 (1) of the statutes and notwithstanding section 20.912 (2) and (3) of the statutes, as affected by 1999 Wisconsin Act ... (Assembly bill 133), if an individual or married couple who is issued a check, share draft or other draft and does not cash the check, share draft or other draft by December 31, 2000, the right to the rebate lapses.

auto-ref "b"
(END OF INSERT)

~~INS-ANI~~

DATE

INS-DN

I have not drafted the legislative intent statement that you have submitted because the LRB policy is not to draft a legislative intent statement except to aid in sustaining a bill that, if enacted, ~~is~~ ^{would be} arguably unconstitutional or to clarify, in recodification bills, that the bill effects no substantive change. This bill is not a recodification bill and I see no potentially unconstitutional provisions in the bill that would be addressed by a legislative intent statement. This policy has evolved for the following reasons:

1. A legislative intent statement that mirrors substantive provisions of a bill is redundant to those provisions and, thus, unnecessary.

2. A legislative intent statement that is initially drafted to be in harmony with substantive provisions of an act may, if the substantive provisions are subsequently amended, be irrelevant to or in direct conflict with those amended provisions; if the intent statement is not at the time of amendment also amended or, if necessary, repealed, the existence of the intent statement may confuse the status of the law.

3. A legislative intent statement that purports to state the goal of the proposed legislation of which it is a part may do so by using undefined terms that may differ from the terms used in substantive provisions of the act. These undefined terms may subsequently be used by a court to interpret the bill's substantive language in a way that is unintended. See, for example, the Wisconsin supreme court's treatment of the legislatures "Declaration of Policy" in *Protective Placement of D.E.R. v. La Crosse County*, 155 Wis. 2d 240, 247-248 (1990).

4. A legislative intent statement may include provisions that expressly or indirectly grant rights, prohibit actions or are otherwise "substantive" in nature and that can have unforeseen effects on other laws.

5. A legislative intent statement may contain language intended to promote the merit of a bill; if this language is construed by a court in the context of rights or privileges accorded in the substantive language of an act, the court's interpretation may yield an unintended result.

It also seems ^{may} to me that some ^{of} the findings and other drafting instructions you have submitted undermine your stated goal of ensuring that the IRS consider the taxpayer rebate to be a sales tax rebate. For example, you've requested that the title of the provision be changed from "Onetime sales tax rebate" to "Taxpayer rebate." One of the findings states that the excess state revenues are derived from "a wide variety of state taxes and states fees" while another finding states that this wide variety of excess taxes will be refunded as a sales tax refund. A finding that explicitly states that the excess revenues are generated from a wide variety of taxes yet refunded only

as a sales tax rebate seems to undermine the position that the bill is only a sales tax rebate. I think that the Internal Revenue Service will review this bill and determine whether it is a sales tax rebate. Including findings stating that it is the "legislature's prerogative to determine what constitutes a reasonable method of refunding state excess revenues", which is certainly true, will not likely be as convincing to the IRS as the actual nonstatutory text.

I did not remove the requirement that DOR produce the forms within 90 days, as DOR requested in item #5 of its comments, but I changed the time frame to 60 days because DOR states that it will likely produce the form well before 90 days. I believe that the bill works better with some kind of explicit time frame within which DOR must act.

AMZA

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P2dn
MES:cmh:hmh

October 26, 1999.

I have not drafted the legislative intent statement that you have submitted because the LRB policy is not to draft a legislative intent statement except to aid in sustaining a bill that, if enacted, would be arguably unconstitutional or to clarify, in recodification bills, that the bill effects no substantive change. This bill is not a recodification bill and I see no potentially unconstitutional provisions in the bill that would be addressed by a legislative intent statement. This policy has evolved for the following reasons:

1. A legislative intent statement that mirrors substantive provisions of a bill is redundant to those provisions and, thus, unnecessary.

2. A legislative intent statement that is initially drafted to be in harmony with substantive provisions of an act may, if the substantive provisions are subsequently amended, be irrelevant to or in direct conflict with those amended provisions; if the intent statement is not at the time of amendment also amended or, if necessary, repealed, the existence of the intent statement may confuse the status of the law.

3. A legislative intent statement that purports to state the goal of the proposed legislation of which it is a part may do so by using undefined terms that may differ from the terms used in substantive provisions of the act. These undefined terms may subsequently be used by a court to interpret the bill's substantive language in a way that is unintended. See, for example, the Wisconsin supreme court's treatment of the legislatures "Declaration of Policy" in *Protective Placement of D.E.R. v. La Crosse County*, 155 Wis. 2d 240, 247-248 (1990).

4. A legislative intent statement may include provisions that expressly or indirectly grant rights, prohibit actions or are otherwise "substantive" in nature and that can have unforeseen effects on other laws.

5. A legislative intent statement may contain language intended to promote the merit of a bill; if this language is construed by a court in the context of rights or privileges accorded in the substantive language of an act, the court's interpretation may yield an unintended result.

It also seems to me that some of the findings and other drafting instructions you have submitted may undermine your stated goal of ensuring that the IRS consider the taxpayer rebate to be a *sales* tax rebate. For example, you've requested that the title of the provision be changed from "*Onetime sales tax rebate*" to "*Taxpayer rebate*." One of the findings states that the excess state revenues are derived from "a wide variety

of state taxes and states fees” while another finding states that this wide variety of excess taxes will be refunded as a sales tax refund. A finding that explicitly states that the excess revenues are generated from a wide variety of taxes yet refunded only as a sales tax rebate seems to undermine the position that the bill is only a sales tax rebate. I think that the Internal Revenue Service will review this bill and determine whether it is a sales tax rebate. Including findings stating that it is the “legislature’s prerogative to determine what constitutes a reasonable method of refunding state excess revenues”, which is certainly true, will not likely be as convincing to the IRS as the actual nonstatutory text.

I did not remove the requirement that DOR produce the forms within 90 days, as DOR requested in item #5 of its comments, but I changed the time frame to 60 days because DOR states that it will likely produce the form well before 90 days. I believe that the bill works better with some kind of explicit time frame within which DOR must act.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

Barman, Mike

From: Barman, Mike
Sent: Tuesday, October 26, 1999 1:05 PM
To: Holden, Kerry
Cc: Shovers, Marc
Subject: 99-3801/P2



99-3801/P2



99-3801/P2dn

Mike Barman

Mike Barman - Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

Shovers, Marc

From: Holden, Kerry
Sent: Tuesday, October 26, 1999 4:09 PM
To: Shovers, Marc
Subject: Addition to LRB 3801/P2

Marc-

We needed added to the draft language that states that heads-of-households will be treated the same under the distribution schedule as joint/married filers. Could you add the required language?

Thanks-
Kerry

Kerry Holden
Tax, Finance & Local Government Team
DOA State Budget Office
Phone: (608)266-8593
Fax: (608)267-0372
Email: Kerry.Holden@doa.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3801/H2
MES&JK:cmh:hjh

P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMA

many
auto-ref

✓
D-note

WANTED
Wed 8AM

regis

1 AN ACT to repeal 71.07(9)(b)3.; to amend 71.07(9)(g); to create 20.835(2)(am)
2 and 71.05(1)(d) of the statutes; and to affect 1999 Wisconsin Act (Assembly
3 Bill 133), section 9143(3g); relating to: creating a tax rebate for individuals,
4 repealing the school property tax rent credit, reducing the amount that is
5 available under the school levy tax credit and making an appropriation.

Analysis by the Legislative Reference Bureau

To be provided in a future version of the bill.

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

6 SECTION 1. 20.835(2)(am) of the statutes is created to read:
7 20.835(2)(am) *Taxpayer rebate*. A sum sufficient to pay the aggregate claims
8 approved under 1999 Wisconsin Act (this act), section 6.
9 SECTION 2. 71.05(1)(d) of the statutes is created to read:
10 71.05(1)(d) *Taxpayer rebate*. Any amount received as a ~~claim~~ ^{taxpayer} rebate from
11 a claim approved under 1999 Wisconsin Act (this act), section 6.

1 **SECTION 3.** 71.07 (9) (b) 3. of the statutes, as created by 1999 Wisconsin Act
2 (Assembly Bill 133), is repealed.

3 **SECTION 4.** 71.07 (9) (g) of the statutes, as created by 1999 Wisconsin Act
4 (Assembly Bill 133), is amended to read:

5 71.07 (9) (g) No new claim may be filed under this subsection for a taxable year
6 that begins after December 31, 2000 1998.

7 **SECTION 5.** 1999 Wisconsin Act (Assembly Bill 133), section 9143 (3g) is
8 repealed.

9 **SECTION 6. Nonstatutory provisions.**

10 (1) ~~ONE-TIME SALES TAX~~ **TAXPAYER** REBATE.

11 (a) *Definitions.* In this subsection:

12 1. "Claimant" means an individual who is eligible under paragraph (c) to
13 receive or claim a rebate under this subsection.

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

15 3. "Nonresident" means an individual who was not a resident of this state for
16 any part of 1998.

17 4. "Part-year resident" means an individual who was a resident of this state
18 for some part of 1998.

19 5. "Resident" means an individual who was a full-year resident of this state in
20 1998.

21 (b) *Claims.* Subject to the limitations and conditions under paragraph (e) a
22 claimant may claim, or is eligible to receive, a rebate that is calculated under
23 paragraph (d). The department shall certify the amount of the rebate for which the
24 claimant is eligible to the department of administration for payment to the claimant

1 by check, share draft or other draft paid from the appropriation under section 20.835
2 (2) (am) of the statutes.

3 *create auto-ref "c"* (c) Eligibility.

4 1. An individual who was a resident and who filed a 1998 Wisconsin income tax
5 return or 1998 homestead credit claim is eligible to receive a rebate under paragraph
6 (b).

7 *create auto-ref "a"* 2. An individual who was a resident and who did not file a 1998 Wisconsin
8 income tax return or 1998 homestead credit claim by October 15, 1999, is eligible to
9 receive a rebate under paragraph (b) only if the individual files a claim with the
10 department not later than June 30, 2000. The claim shall be filed on a form prepared
11 by the department not later than 60 days after the effective date of this subdivision.

12 *create auto-ref "b"* 3. An individual who was a part-year resident and who filed a 1998 Wisconsin
13 income tax return or a married couple, of whom one of the spouses ~~is~~ ^{was} a part-year
14 resident and the other spouse ~~is~~ ^{was} either a part-year resident or a resident, and who
15 filed a 1998 Wisconsin income tax return, is eligible to receive a rebate under
16 paragraph (b), calculated by the department based on the individual's or couple's
17 Wisconsin adjusted gross income, multiplied by fraction. For an individual, the
18 numerator of the fraction is the number of months in 1998 during which the
19 individual was a resident of this state and the denominator of the fraction is 12. For
20 a married couple, the numerator of the fraction is the ^{sum of the} number of months in 1998
21 during which each spouse was a resident of this state and the denominator of the
22 fraction is 24.

23 *create auto-ref "d"* 4. An individual who was a part-year resident and who did not file a 1998
24 Wisconsin income tax return by October 15, 1999, or a married couple, of whom one
25 of the spouses ~~is~~ ^{was} a part-year resident and the other spouse ~~is~~ ^{was} either a part-year

1 resident or a resident, and who did not file a 1998 Wisconsin income tax return by
2 October 15, 1999, is eligible to receive a rebate under paragraph (b) ^{calculated by the department,} only if the
3 individual or couple files a claim with the department not later than June 30, 2000.
4 The claim shall be filed on a form prepared by the department not later than 60 days
5 after the effective date of this subdivision, based on the factors described in
6 subdivision 3.

7 5. An individual who was a nonresident is eligible to receive a rebate under
8 paragraph (b) if the individual files a claim with the department not later than 120
9 days after the effective date of this subdivision. The claim shall be filed on a form
10 prepared by the department not later than 60 days after the effective date of this
11 subdivision. The form shall require a nonresident to document his or her sales taxes
12 paid to Wisconsin in 1998, and the documented amount must be at least \$20 for a
13 nonresident to be eligible to receive a rebate under paragraph (b).

14 (d) Calculation. ^{or a claimant who filed a 1998 Wisconsin}
^{income tax return as a head of household,}

15 ^{create auto ref "e"} → 1. A claimant who is a resident and married and filed a joint 1998 Wisconsin
16 income tax return or 1998 homestead credit claim shall be eligible for a rebate in one
17 of the following amounts:

18 a. If the couple's 1998 Wisconsin adjusted gross income is not more than
19 \$25,000, \$337.

20 b. If the couple's 1998 Wisconsin adjusted gross income is more than \$25,000
21 but not more than \$50,000, \$345.

22 c. If the couple's 1998 Wisconsin adjusted gross income is more than \$50,000
23 but not more than \$75,000, \$362.

24 d. If the couple's 1998 Wisconsin adjusted gross income is more than \$75,000
25 but not more than \$100,000, \$380.

1 e. If the couple's 1998 Wisconsin adjusted gross income is more than \$100,000
2 but not more than \$200,000, \$414.

3 f. If the couple's 1998 Wisconsin adjusted gross income is more than \$200,000
4 but not more than \$500,000, \$457.

5 g. If the couple's 1998 Wisconsin adjusted gross income is more than \$500,000,
6 \$500.

7 2. *← create auto-ref "g"*
A claimant who is a resident and single and filed a 1998 Wisconsin income
8 tax return or 1998 homestead credit claim, or who is a resident and married and filed
9 a separate 1998 Wisconsin income tax return, shall be eligible for a rebate in one of
10 the following amounts:

11 *← create auto-ref "h"*
a. If the individual's 1998 Wisconsin adjusted gross income is not more than
12 \$25,000, \$190.

13 b. If the individual's 1998 Wisconsin adjusted gross income is more than
14 \$25,000 but not more than \$50,000, \$198.

15 c. If the individual's 1998 Wisconsin adjusted gross income is more than
16 \$50,000 but not more than \$75,000, \$216.

17 d. If the individual's 1998 Wisconsin adjusted gross income is more than
18 \$75,000 but not more than \$100,000, \$233.

19 e. If the individual's 1998 Wisconsin adjusted gross income is more than
20 \$100,000 but not more than \$200,000, \$267.

21 f. If the individual's 1998 Wisconsin adjusted gross income is more than
22 \$200,000 but not more than \$500,000, \$311.

23 g. If the individual's 1998 Wisconsin adjusted gross income is more than
24 \$500,000, \$354.

INS,
5-24 →

1 6
2 6. A claimant under paragraph (c) 5. shall be eligible for a rebate that is equal
3 to 30.4% of documented sales taxes paid to Wisconsin in 1998, up to a maximum
4 rebate of \$354.

4 (e) *Limitations and conditions.*

5 1. The department may not consider any adjustments or amendments made to
6 a 1998 Wisconsin income tax return after October 15, 1999, in its calculation of a
7 rebate under this subsection.

8 2. With regard to a married couple for whom an offset under section 71.80 (3)
9 or (3m) of the statutes must be made against a debt that is owed by only one of the
10 spouses, each spouse shall be considered by the department to have a 50% ownership
11 interest in the rebate.

12 3. If an individual who is eligible for a rebate under paragraph (c) filed only a
13 1998 homestead credit claim, the department shall calculate the individual's rebate
14 as if the individual's Wisconsin adjusted gross income is \$25,000.

15 4. An individual who was claimed as a dependent on another individual's 1998
16 federal income tax return is not eligible to claim or receive a rebate under this
17 subsection.

18 5. Section 71.80 (3) and (3m) of the statutes, as it applies to income tax refunds,
19 applies to a sales tax rebate under this subsection.

20 6. The department may enforce the rebate under this subsection and may take
21 any action, conduct any proceeding and proceed as it is authorized in respect to taxes
22 under chapter 71 of the statutes. The income tax provisions in chapter 71 of the
23 statutes relating to assessments, refunds, appeals, collection, interest and penalties
24 apply to the rebate under this subsection.

1 7. After a rebate has been issued under paragraph (b) but before the check,
2 share draft or other draft has been cashed, either joint claimant may request a
3 separate check ^{for a share draft or other draft} for 50% of the joint rebate.

4 8. If the department is unable to locate an individual or married couple who is
5 eligible to receive a rebate under paragraph (b) by December 31, 2000, or,
6 notwithstanding sections 14.58 (12) and 20.912 (1) of the statutes and
7 notwithstanding section 20.912 (2) and (3) of the statutes, as affected by 1999
8 Wisconsin Act (Assembly Bill 133), if an individual or married couple who is issued
9 a check, share draft or other draft and does not cash the check, share draft or other
10 draft by December 31, 2000, the right to the rebate lapses.

11 9. If a claimant who was a resident and who filed a 1998 Wisconsin income tax
12 return or 1998 homestead credit claim becomes deceased after he or she filed his or
13 her income tax return or homestead credit claim, the amount of the rebate for which
14 the claimant is eligible shall be paid to the claimant's estate.

15 **SECTION 7. Appropriation changes; revenue.**

16 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
17 to the department of revenue under section 20.566 (1) (a) of the statutes, as affected
18 by the acts of 1999, the dollar amount is increased by \$2,357,500 for fiscal year
19 1999-00 to increase funding for the purposes for which the appropriation is made.

20 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3801/P3ins
MES&JK:cmh:hmh

INS 5-24

3. A claimant who files a form specified in paragraph (c) 2. shall be eligible for a rebate in an amount specified in subdivision 1. a. or 2. a., depending on the individual's filing status.

4. A claimant to whom paragraph (c) 3. applies shall be eligible for a rebate in amount specified in subdivision 1. or 2., depending on the individual's filing status and Wisconsin adjusted gross income, and modified by the calculations described in paragraph (c) 3.

5. A claimant who files a form specified in paragraph (c) 4. shall be eligible for a rebate in an amount specified in subdivision 1. a. or 2. a., depending on the individual's filing status, and modified by the calculations described in paragraph (c)

auto-reference "c"
-auto-reference "a"

auto-ref "b"

→ 3.

INS DN

CmH

↑ auto-ref "c"

I have created 3 new subdivisions, 3. to 5., in par. (d). I think they are necessary to ensure that the claimant's described in those subdivisions are able to claim the credit. Please let me know if these changes are consistent with your intent and whether you or DOR have any further changes.

I was also wondering how you want to treat heads of households?
MJD

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3801/P3dn
MES&JK:cmh:jf

October 27, 1999

I have created 3 new subdivisions, 3. to 5., in par. (d). I think they are necessary to ensure that the claimant's described in those subdivisions are able to claim the credit. Please let me know if these changes are consistent with your intent and whether you or DOR have any further changes.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

Barman, Mike

From: Barman, Mike
Sent: Wednesday, October 27, 1999 8:08 AM
To: Holden, Kerry
Cc: Shovers, Marc
Subject: 99-3801/P3



99-3801/P3



99-3801/P3dn

Mike Barman

Mike Barman - Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

Shovers, Marc

From: Koskinen, John
Sent: Tuesday, October 26, 1999 3:30 PM
To: Shovers, Marc
Subject: Sales Tax Rebate -- LRB 99-3801/p2

There is a large context here. The presence or absence of the legislative findings could have a material impact on the outcome of the bill.

- (1) LRB policy is to draft legislative intent statements to aid in sustaining a bill against constitutional challenge. This is a similar case. While not a constitutional challenge, it is every bit as important. This state law will be interpreted against federal law by a federal agency. Such a review will be as telling as a court review. If legislative intent is reserved for cases of "sustaining the bill," this is such a case.
- (2) Without a legislative finding, Wisconsin would stand alone. Three states, Connecticut, Colorado and Minnesota included intent statements as an aid to sustaining their bills. All have emphasized its importance. So far this worked. The IRS has not wanted to second guess their legislatures. I would prefer Wisconsin use the precedent of other states rather than try new ground here. I would not want to lose a finding of taxability because Wisconsin followed a drafting convention.
- (3) In this case, the legislative finding does not mirror any section of the bill. It has no further meaning beyond a rationale for the structure and character of the rebate.

DOR believes the intent statement is definitely necessary. Three other states believe it is necessary. I believe it should be added to the bill.

Ultimately, anything we can do to package this as clearly as possible as a sales tax rebate is helpful. In particular, the public relations debate can pitch the draft in any number of ways. What is contained in the draft should be as expressly tied to the sales tax rebate as possible. It is softer now than it should be.

Towards that end, it appears to me that there are two choices: either (1) add the intent statement [or statement of purpose] or (2) create the rebate as part of Chapter 77 with a repeal date.

Marc, you can take your pick but I think one or the other should be done.

John Koskinen
State Budget Office, DOA
266-2081

Shovers, Marc

From: Holden, Kerry
Sent: Wednesday, October 27, 1999 10:07 AM
To: Shovers, Marc
Subject: FW: tax rebate draft -- LRB 3801/P3

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Wednesday, October 27, 1999 9:48 AM
To: Holden, Kerry
Subject: tax rebate draft -- LRB 3801/P3

Kerry -

Thanks for sending us a copy of the tax rebate draft to review. Based on my review of draft LRB3801/P3 and discussions with our chief legal counsel (John Evans) and our senior income tax specialist (Tom Reid), I am even more concerned that the IRS may potentially rule that the rebate is a refund of income tax rather than sales tax. As you mentioned, the title of the program has been changed from "onetime sales tax rebate" to "taxpayer rebate." The other mentions of sales tax in the draft are somewhat minor and we are concerned that the IRS may rule that the rebate is taxable as income at the federal level. If that happens, 15-39.6% of the rebated amounts will go to the IRS. This amounts to \$105 to \$277 million. The way the language is drafted now, both our legal counsel and our tax specialist believe there is a very real possibility that the IRS may rule the rebate as income. We strongly suggest a legislative intent provision stating that the rebate relates to sales tax (similar to the Connecticut one I faxed, or the Colorado one you have).

Two other minor points:

do this

We would also suggest dropping the language on pro-ration of the income for non-resident Wisconsin filers and part-year residents. We already know the Wisconsin income for these people, so it doesn't need to be prorated based on the number of months they lived here. Doing the pro-ration just complicates the form we'll have to devise for these people. Deleting these provisions would mean deleting the language on p. 3, beginning with the word "multiplied" on line 17 and then deleting the rest of that paragraph through line 22. Also, it would mean deleting, on p. 4, on lines 5 and 6, the words "based on the factors described in subdivision 3."

Also, we had originally requested that the due date for non-residents to claim the rebate be December 31, 1999. The draft instead says non-residents must file a claim with the department not later than 120 days after the effective date of this subdivision. (see lines 8-9 on p. 4) We would still like to have the December 31, 1999 date if possible.

Thanks.

Kerry says to not do this

Shovers, Marc

From: Holden, Kerry
Sent: Wednesday, October 27, 1999 12:29 PM
To: Shovers, Marc
Subject: keep the P3 relating clause

Importance: High

Marc - Contrary to what I told you, we need to keep the relating clause as it was for the P3 version. Please call and I'll explain. I hope this gets to you before the draft goes to editing.

Kerry

Kerry Holden
Tax, Finance & Local Government Team
DOA State Budget Office
Phone: (608)266-8593
Fax: (608)267-0372
Email: Kerry.Holden@doa.state.wi.us

Shovers, Marc

From: Holden, Kerry
Sent: Wednesday, October 27, 1999 4:31 PM
To: Shovers, Marc
Subject: FW: Sales Tax Rebate Bill

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Wednesday, October 27, 1999 4:13 PM
To: Koskinen, John; Holden, Kerry; Chandler, Rick
Cc: Ourada, Thomas D
Subject: RE: Sales Tax Rebate Bill

One comment:

p. 4, lines 20-22 - the phrase "...[revisor inserts date] , based on the individual's or couple's Wisconsin adjusted gross income." should be omitted.

On p. 6. Line 23, there is a reference to a claimant who files a form under sub (3)(d) - which is where p.4, lines 22-22 occurs - being eligible for the minimum rebate amounts under par (a)1. or (b) 1. If they are getting the minimum rebate, there is no need for basing the rebate on their WAGI.

-----Original Message-----

From: Koskinen, John
Sent: Wednesday, October 27, 1999 3:18 PM
To: Ourada, Thomas D; Gates-Hendrix, Sherrie
Cc: Holden, Kerry; Chandler, Rick
Subject: FW: Sales Tax Rebate Bill

This is the latest draft I have from LRB. This is /1 instead of /p4.

<< File: 99-38013.pdf >> << File: 99-38011.pdf >>

John Koskinen
State Budget Office, DOA
266-2081

-----Original Message-----

From: Chandler, Rick
Sent: Wednesday, October 27, 1999 2:56 PM
To: Holden, Kerry; Koskinen, John; Gates-Hendrix, Sherrie; Ourada, Thomas D
Cc: Montgomery, John
Subject: Sales Tax Rebate Bill

LRB is going to produce a /4 draft without the legislative findings, but with the change in name to one-time sales tax rebate and the inclusion of the language in Ch.77, and also with the minor technical changes DOR has requested.

LRB will send this to us soon. Please look this over right away, and if it looks o.k. we can ask LRB to get this jacketed. We will send it to Speaker Jensen's office and they will take care of the introduction.