



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 02/21/2003 (Per: MES)



☞ The drafting file for 2001 LRB -3302

has been transferred to the drafting file for

## **2003 LRB -2108**

☞ This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

☞ The attached 2001 draft was incorporated into the new 2003 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2001 DRAFTING REQUEST

Bill

Received: 05/14/2001

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing:

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Addl. Drafters:

Subject: Tax - individual income

Extra Copies: DAK

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Individual income tax credit for organ donation

Instructions:

See Attached

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>
/1	shoveme 06/08/2001	wjackson 06/08/2001	pgreensl 06/10/2001	_____	lrb_docadmin 06/10/2001		State Tax

FE Sent For:

<END>

06-12-01  
("1")

2001 DRAFTING REQUEST

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1?	shoveme	1 WLJ 6/8					
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11 MES 6/8/01

4/10 PG 4/11 P81 KJR

FE Sent For:

<END>

AS-11-01

Rep. Liebert

individual income tax "deduction"

to a person who becomes an organ donor  
as part of getting a license through DOT

(343.175(1) & 343.50(4m))

\$10,000 deduction to person who donates

for "live" donor = doesn't apply to

organs harvested from the deceased

→ no expenses necessary to get the  
deduction

→ one-time deal

NEW INSTRUCTIONS

~~read DR to work w/TKS~~  
CONVERSATION w/  
Rep. Wischer 6/7/01

~~Apply~~ any living person who donates  
an organ is eligible

\$10,000 deduction  
WI residents only

If person dies during operation,  
estate can claim deduction

Am; D. 146,345 --

use def. in 146,345 (1)(a)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3302/1

MES.../1:...

Wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

fmr

D-note

gem

- 1 AN ACT ...; relating to: creating an individual income tax subtract modification
- 2 for certain individuals who donate a human organ.

**Analysis by the Legislative Reference Bureau**

Under current law, it is illegal for any person to knowingly and for valuable consideration acquire, receive, or otherwise transfer any human organ for use in human organ transplantation.

This bill changes current law <sup>or more</sup> by creating an individual income tax <sup>subtract modification</sup> deduction for an individual who donates one of his or her human organs. Under the bill, an individual may subtract from federal adjusted gross income \$10,000 if he or she, while living, donates one of his or her organs to another human being for human organ transplantation. The subtract modification may only be claimed once and may not be claimed by a nonresident or part-year resident of this state. If an individual who is otherwise eligible to claim the subtract modification under the bill dies during the human organ transplantation, the individual's estate may claim the subtract modification.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 71.05 (10) (i) 1. Subject to ~~all~~ of the conditions in this paragraph, an individual  
3 may subtract \$10,000 from federal adjusted gross income if he or she, while living,  
4 donates one <sup>or more</sup> of his or her human organs, as defined in s. 146.345 (1), to another  
5 human being for human organ transplantation, as defined in s. 146.345 (1). A  
6 subtract modification that is claimed under this paragraph may be claimed in the  
7 taxable year in which the human organ transplantation occurs.

8 2. An individual may claim the subtract modification under subd. 1. only once.

9 3. If an individual who is otherwise eligible to claim the subtract modification  
10 under subd. 1. dies during a human organ transplantation, the individual's estate  
11 may claim the subtract modification on the individual's behalf.

12 4. The subtract modification under <sup>subd. 10</sup> ~~this paragraph~~ may not be claimed by a  
13 part-year resident or a nonresident of this state.

14 SECTION 2. 146.345 (2) of the statutes is amended to read:

15 146.345 (2) ~~No~~ Except as provided in s. 71.05 (10) (i), no person may knowingly  
16 and for valuable consideration acquire, receive <sup>or</sup> otherwise transfer any human  
17 organ for use in human organ transplantation.

18 History: 1987 a. 97; 1997 a. 283.

19 SECTION 3. Initial applicability.

20 (1) The treatment of section 71.05 (10) (i) of the statutes first applies to taxable  
21 years beginning on January 1 of the year in which this subsection takes effect, except  
22 that if this subsection takes effect after July 31, the treatment of section 71.05 (10)  
23 (i) of the statutes first applies to taxable years beginning on January 1 of the year  
24 following the year in which this subsection takes effect.

(END)

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3302/1dn

MES.....:.....

Wly

*a situation in which an individual is hospitalized following*

Representative Wieckert:

It is my understanding that in some cases, such as <sup>his or her</sup> an automobile accident, ~~an individual's~~ <sup>an</sup> organs are harvested immediately *after* the individual's death. As drafted, such an individual's estate would not be eligible to claim the subtract modification. I believe this reflects your intent, but I just want to make sure that the draft *does* reflect your intent on this point.

Under the definition of "human organ" in s. 146.345 (1), it is unclear to me whether a human ova would fit the definition. It appears that it may depend on whether the department of health and family services has specified an ova as an organ under s. 146.345 (1). You may want to discuss this issue with individuals in the medical profession or with DHFS. Please let me know if you would like the draft changed to be more precise on this issue or if you would like any other changes made to the 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-3302/1dn  
MES:wlj:pg

June 10, 2001

Representative Wieckert:

It is my understanding that in some cases, such as a situation in which an individual is hospitalized for following an automobile accident, his or her organs are harvested immediately *after* the individual's death. As drafted, such an individual's estate would not be eligible to claim the subtract modification. I believe this reflects your intent, but I just want to make sure that the draft *does* reflect your intent on this point.

Under the definition of "human organ" in s. 146.345 (1), it is unclear to me whether a human ova would fit the definition. It appears that it may depend on whether the department of health and family services has specified an ova as an organ under s. 146.345 (1). You may want to discuss this issue with individuals in the medical profession or with DHFS. Please let me know if you would like the draft changed to be more precise on this issue or if you would like any other changes made to the draft.

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



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 266-5648

STEPHEN R. MILLER  
CHIEF

July 9, 2001

## MEMORANDUM

**To:** Representative Wieckert

**From:** Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

**Subject:** Technical Memorandum to **unintroduced** (LRB 01-3302/1)

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

July 9, 2001

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Dennis Collier  
Department of Revenue

**SUBJECT:** Technical Memorandum on LRB 3302/1: Individual Income Tax Exemption for Organ Donation

The Department wishes to make several comments regarding LRB 3302/1:

1. The sponsor may wish to clarify the procedure by which an individual would "donate" his or her organs in order to qualify for this exemption. Currently, an individual may affix a sticker to his or her driver's license indicating his or her intent to be an organ donor. This is not the same as an individual signing consent forms to actually undergo a procedure to donate an organ.
2. According to sec. 71.05 (10)(i)3., the exemption may be claimed by an individual's estate if the individual "dies during a human organ transplantation". This allows virtually every organ donor—not just living donors—in the state to claim the exemption depending on how "death" is defined.

For example, an individual who has indicated his or her intent to be an organ donor may become "brain dead"—that is, become dead in a clinical sense, although the individual's heart and lungs may still be functioning—and the individual's family may then agree to donate one or more of the individual's organs. In this case, the procedure to harvest the organ would result in death in terms of total stoppage of the heart and breathing. Based on the current language, it appears that the individual's estate would still be eligible to claim the proposed exemption because the individual died during a human organ transplantation procedure. However, this situation differs from that of a living donor, in which an individual intends to donate an organ such as a kidney to a sick relative, but inadvertently dies during the transplantation. Depending on intent, the sponsor may wish to specify that the medical definition of death (which includes brain death) applies for the purposes of this bill.

3. The sponsor may wish to define "organ" for purposes of the proposal. Currently, living organ donors typically donate either a kidney or a portion of his or her liver. However, an individual may also donate bone marrow, which is generally not considered an "organ" for the purposes of most organ procurement organizations. Thus, if the sponsor wishes to

allow the proposed exemption to individuals donating bone marrow for human transplantation, the statutory language should be amended to reflect this broader definition of the term "organ."

4. If the intent of the draft is not simply to encourage more living organ donors, but to encourage more cadaveric organ donation as well, the fiscal effect of the proposal would increase.

If you have questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984.

DC:MK

# Memo

To: Wieckert

(The Bill's Requestor)

**Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.**

LRB Number: LRB -3302

Version: "/ 1 "

Entered In Computer And Copy Sent To Requestor Via E-Mail: 07 / 10 / 2001

Fiscal Estimate Prepared By: (agency abbr.) DOR

If you have questions about the attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

\* \* \* \* \*

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

**THIS DRAFT WAS INTRODUCED AS:** 2001 \_\_\_\_\_

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Tuesday, July 10, 2001 12:01 PM  
**To:** Rep.Wieckert  
**Subject:** LRB-3302/1 (FE by DOR - attached - for your review)



FE\_Wieckert.pdf

FE\_Wieckert

### Fiscal Estimate - 2001 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> 01-3302/1		<b>Introduction Number</b>
<b>Subject</b> Individual income tax exemption for organ donation		
<b>Fiscal Effect</b> <b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriations  <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<b>5.Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<b>Fund Sources Affected</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		<b>Affected Ch. 20 Appropriations</b>
<b>Agency/Prepared By</b> DOR/ Meredith Krejny (608) 261-8984	<b>Authorized Signature</b> Dennis Collier (608) 266-5773	<b>Date</b> 7/9/01

**Fiscal Estimate Narratives**

**DOR 7/9/01**

LRB Number 01-3302/1	Introduction Number	Estimate Type	Original
<b>Subject</b> Individual income tax exemption for organ donation			

**Assumptions Used in Arriving at Fiscal Estimate**

Under current law, it is illegal for individuals to sell or otherwise receive payment for donating any of their organs for use in a human organ transplant. This draft would allow an individual to claim a \$10,000 individual income tax exemption if the individual, while living, donates one or more of his or her organs to be used in a human organ transplant for another person. The proposed exemption may be claimed only once and is limited to full-year residents. If the individual dies during the procedure to harvest the organ, the individual's estate may claim the exemption.

According to the United Network for Organ Sharing, there were 150 living donor transplants in Wisconsin in 2000. Assuming this number remains constant and assuming an effective marginal tax rate of 6.14%, the proposal would reduce revenues by \$92,000 annually (150 x \$10,000 x 6.14%).

**Long-Range Fiscal Implications**



## Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 01-3302/1		<b>Introduction Number</b>	
<b>Subject</b>			
Individual income tax exemption for organ donation			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>		<b>\$</b>	<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)</b>			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$-92,000
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>		<b>\$</b>	<b>\$-92,000</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$	\$
NET CHANGE IN REVENUE		\$-92,000	\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DOR/ Meredith Krejny (608) 261-8984		Dennis Collier (608) 266-5773	7/9/01



## 2001 BILL

1 AN ACT *to amend* 146.345 (2); and *to create* 71.05 (10) (i) of the statutes;  
2 **relating to:** creating an individual income tax subtract modification for certain  
3 individuals who donate a human organ.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, it is illegal for any person to knowingly and for valuable consideration acquire, receive, or otherwise transfer any human organ for use in human organ transplantation.

This bill changes current law by creating an individual income tax subtract modification for an individual who donates one or more of his or her human organs. Under the bill, an individual may subtract from federal adjusted gross income \$10,000 if he or she, while living, donates one of his or her organs to another human being for human organ transplantation. The subtract modification may only be claimed once and may not be claimed by a nonresident or part-year resident of this state. If an individual who is otherwise eligible to claim the subtract modification under the bill dies during the human organ transplantation, the individual's estate may claim the subtract modification.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

**BILL**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 71.05 (10) (i) of the statutes is created to read:

2           71.05 (10) (i) 1. Subject to the conditions in this paragraph, an individual may  
3 subtract \$10,000 from federal adjusted gross income if he or she, while living,  
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5 another human being for human organ transplantation, as defined in s. 146.345 (1).  
6 A subtract modification that is claimed under this paragraph may be claimed in the  
7 taxable year in which the human organ transplantation occurs.

8           2. An individual may claim the subtract modification under subd. 1. only once.

9           3. If an individual who is otherwise eligible to claim the subtract modification  
10 under subd. 1. dies during a human organ transplantation, the individual's estate  
11 may claim the subtract modification on the individual's behalf.

12           4. The subtract modification under subd. 1. may not be claimed by a part-year  
13 resident or a nonresident of this state.

14           **SECTION 2.** 146.345 (2) of the statutes is amended to read:

15           146.345 (2) ~~No~~ Except as provided in s. 71.05 (10) (i), no person may knowingly  
16 and for valuable consideration acquire, receive, or otherwise transfer any human  
17 organ for use in human organ transplantation.

18           **SECTION 3. Initial applicability.**

19           (1) The treatment of section 71.05 (10) (i) of the statutes first applies to taxable  
20 years beginning on January 1 of the year in which this subsection takes effect, except  
21 that if this subsection takes effect after July 31, the treatment of section 71.05 (10)

**BILL**

1 (i) of the statutes first applies to taxable years beginning on January 1 of the year  
2 following the year in which this subsection takes effect.

3 (END)