

Legislative Analysis



CHECK YOUR HEART PACKAGE

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House Bill 4362 (H-1) as reported from committee
Sponsor: Rep. Felicia Brabec

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4363 (H-1) as reported from committee
Sponsor: Rep. Cynthia Neeley

House Bill 4364 as reported from committee
Sponsor: Rep. Natalie Price

Committee: Health Policy
Complete to 5-11-23

SUMMARY:

House Bill 4362 would amend the Income Tax Act to enable an individual to designate a willingness to be an organ donor on their annual state income tax return and require a completed separate donor registry schedule to be included with the return. House Bills 4363 and 4364 are companion bills that would amend separate acts to conform to the provisions of HB 4362.

House Bill 4362 would require, beginning with the 2023 tax year, the state individual income tax return to contain a space for a taxpayer to indicate if they are willing to participate in the Anatomical Gift Donor Registry under Part 101 of the Public Health Code. The tax return would have to include the following statement under that space:

An individual taxpayer willing to participate in the anatomical gift donor registry must complete the donor registry schedule and submit it with the taxpayer's state income tax return.

In addition, beginning with the 2023 tax year, the instruction booklet that accompanies the annual return would have to include information describing the donor registry program maintained by the state's federally designated organ procurement organization or its successor organization. The information would have to explain the taxpayer's right under the Public Health Code to make an anatomical gift in the event of death and provide the taxpayer with the opportunity to specify on the taxpayer's annual return that the taxpayer is willing to participate and have their name placed on the donor registry.

Beginning with the 2023 tax year, the Department of Treasury would have to develop and use a donor registry schedule that can be filed with a taxpayer's annual return and that provides an individual taxpayer with the opportunity to specify that they agree to participate in the anatomical gift donor registry and are willing to make an anatomical gift in the event of death. At a minimum, the donor registry schedule would have to include all of the following information:

- The taxpayer's name, date of birth, and address.
- The taxpayer's Social Security, driver's license, or state ID card number.

- Information describing the donor registry program, including the address and phone number of the federally designated organ procurement organization.
- A statement that the department will forward the completed schedule to the secretary of state for the taxpayer's inclusion as a donor on the donor registry.

To be included as a donor on the registry if filing a joint return, each individual taxpayer who agrees to participate in the anatomical gift donor registry would have to separately affirm their willingness to be placed on the donor registry by completing the donor registry schedule.

Each schedule filed with an annual return would be forwarded by the department to the secretary of state, in a manner and frequency determined by the department and the secretary of state. Confidentiality restrictions provided in section 28(1)(f) of 1941 PA 122, which pertains to the Revenue Division of the Department of Treasury, would not apply to this disclosure. Information about an individual taxpayer's indication of a willingness to have their name placed on the donor registry would be exempt from disclosure under the Freedom of Information Act (FOIA).

The Department of Treasury would not have to maintain a record of taxpayers who do not indicate a willingness to have their names placed on the donor registry.

MCL 206.471 and proposed MCL 206.474

House Bill 4363 would amend the Public Health Code to allow a donor to make an anatomical gift by completing and filing a donor registry schedule with their state individual income tax return. As proposed by House Bill 4362, the Department of Treasury would have to transmit to the secretary of state, in the manner and frequency determined by the department and the secretary of state, the donor registry schedule filed by each individual who indicates a willingness to have their name placed on the donor registry. The secretary of state would have to maintain a record of each donor registry schedule received from the Department of Treasury and add that individual to the donor registry.

MCL 333.10105 and 333.10120

House Bill 4364 would amend 1941 PA 122, known as the revenue act. Generally speaking, a current or former employee or authorized representative of the Department of Treasury, or anyone connected with the department, is prohibited from divulging information obtained in the administration of a tax administered by the department except as provided in the revenue act. The bill would amend the act to allow a person authorized to disclose information from a donor registry schedule received under the Income Tax Act, as proposed by HB 4362, only to those organizations described in HB 4362 for administration of the donor registry program.

MCL 205.28

None of the bills can take effect unless all of them are enacted.

BRIEF DISCUSSION:

“Check Your Heart” is the phrase the secretary of state (SOS) uses to refer to the box on driver license applications to become a registered organ donor.¹ More than half of Michigan drivers have registered as organ donors, with 95% of those registering when obtaining or renewing a Michigan driver license at an SOS office. However, pandemic-related changes such as a reduction in in-person appointments at SOS offices and a shift to more on-line renewals, coupled with allowing a license to be renewed online three times rather than twice (spanning 12 years instead of 8), have reportedly resulted in fewer people checking the box to be added to the Michigan donor registry. For the 2,400 Michigan adults on organ waiting lists, and the 16,000 on kidney dialysis waiting for a new kidney, of whom 30% are people of color, the decrease in registered donors decreases the likelihood they will receive a donated organ in time.

The bill package would address the issue by providing an additional opportunity for people to register as organ donors by adding a check-off box on the Michigan individual income tax form and a separate schedule where they can fill in their personal information. The information would then be transferred to SOS by the Department of Treasury. Both departments are experienced in keeping personal information safe and secure. According to the SOS, a heart sticker will be sent to those registering on a tax form that can be added to their current license until a new card with a new picture is obtained.

Once a person attests to being an organ donor, either on a tax form under the bills or at an SOS office, they are placed in the organ donor registry database maintained by the SOS, and it is this database that is used to verify a person’s wishes to be a donor. Registering is legally binding, as it constitutes first-person authorization, meaning that family members cannot override a person’s wishes to be an organ donor, with an exception that allows parents of minors (under the age of 18) to revoke a minor child’s designation.

According to the Department of Treasury, to make the necessary changes to the 2023 state income tax forms, and for tax preparers such as H&R Block and Turbo Tax and others to revise their tax software, the bills would need to be enacted by early summer of this year.

If the bills were enacted, Michigan would become the first state in the nation to offer this additional opportunity to volunteer to donate an organ that could improve or save another person’s life. Reportedly, there is no age limit to being a donor; for instance, according to committee testimony, skin from a donor over a hundred years old and an organ from an 80-year-old donor recently helped recipients. Supporters argue that if the bills result in greater awareness of the donor program and an increase in the number of people who register as donors, they could have an enormous impact on the health of Michigan residents.

FISCAL IMPACT:

House Bill 4362 would increase costs to the Department of Treasury by an unknown amount and would have no fiscal impact on local units of government. The amount of increased costs to the Department of Treasury is expected to be minimal and would depend upon the additional administrative costs and staff resources that may be required under the bill’s provisions, such as the costs for the requirement to make changes to the state income tax return and instruction

¹ <https://www.michigan.gov/sos/resources/initiatives/organ-donation>

booklet, to create a new donor registry schedule for the income tax form, and to process and forward completed schedules to the secretary of state.

House Bill 4363 would have no fiscal impact on the Department of Health and Human Services.

House Bill 4364 would have no significant fiscal impact on the Department of Treasury and would have no fiscal impact on local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bills (4-20-23):

- Department of Treasury
- Department of State
- Gift of Life Michigan

The following entities indicated support for the bills (4-20-23):

- Ascension St. John Hospital Transplant Specialty Center
- National Kidney Foundation
- American Kidney Fund
- Trinity Health Michigan
- Michigan Donor Family Council
- Blue Cross Blue Shield of Michigan
- Michigan Nurses Association
- Michigan Health and Hospital Association

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.