PENNSYLVANIA

ORGAN AND BONE MARROW DONATION TAX CREDIT

An Evaluation of Program Performance

January 2020

COMMONWEALTH OF PENNSYLVANIA
INDEPENDENT FISCAL OFFICE

About the Independent Fiscal Office

The Independent Fiscal Office (IFO) provides revenue projections for use in the state budget process along with impartial and timely analysis of fiscal, economic and budgetary issues to assist Commonwealth residents and the General Assembly in their evaluation of policy decisions. In that capacity, the IFO does not support or oppose any policy it analyzes, and will disclose the methodologies, data sources and assumptions used in published reports and estimates.

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INDEPENDENT FISCAL OFFICE

January 16, 2020

The Honorable Members of the Performance-Based Budget Board and Chairs of the House and Senate Finance Committees:

Act 48 of 2017 requires the Independent Fiscal Office (IFO) to review various state tax credits over a five-year period. For the second year, the IFO reviewed four tax credits: The Research and Development, Keystone Innovation Zone, Mobile Telecommunications Broadband Investment and Organ and Bone Marrow Donation Tax Credits. The act requires the IFO to submit tax credit reviews to the Performance-Based Budget Board and the Chairs of the House and Senate Finance Committees and to make the reports available to the public on the IFO website.

This report contains the tax credit review for the Organ and Bone Marrow Donation Tax Credit (OBMD). The IFO reviewed studies related to organ donation incentives, held discussions with various stakeholders and met with agency staff who administer the tax credit. Based on that research, the IFO submits this report to fulfill the requirements contained in Act 48.

The OBMD differs from most tax credits because program goals do not include increased economic development or job creation. Instead, the OBMD seeks to improve outcomes for patients awaiting organ and bone marrow transplants by reducing financial barriers to living donation. Currently, 21 states (including Pennsylvania) offer a tax incentive to mitigate the expenses associated with living organ or bone marrow donation, with most states providing an income tax deduction for non-medical expenses and lost wages incurred by the donor. Unfortunately, these state incentive programs do not appear to be widely utilized. This analysis examines these and other issues in evaluating the effectiveness of the OBMD.

The IFO welcomes all questions and comments on the contents of this report. Questions and comments can be sent to contact@ifo.state.pa.us.

Sincerely,

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General Findings and Recommendations

Initially enacted in 2006 and later re-established in 2014, the Organ and Bone Marrow Donation Tax Credit (OBMD) seeks to improve outcomes for patients awaiting an organ or bone marrow transplant by reducing the financial barriers to living donation. The tax credit is available to firms that provide a paid leave of absence to an employee for the purpose of living organ or bone marrow donation.[1] The credit is equal to the sum of (1) the employee compensation paid during the leave of absence (not to exceed five days), (2) the cost of any temporary replacement help and (3) any qualified miscellaneous expenses incurred in connection with the leave. The credit is subject to apportionment based on Pennsylvania payroll, may be carried forward for three taxable years, is not refundable and has no annual cap.

The **general findings** of this report are as follows:

- No firm has utilized the OBMD since its most recent enactment in 2014. Prior to that date, credits claimed by three firms totaled less than $4,000.
- Twenty other states offer tax incentives to mitigate the financial burden of living organ or bone marrow donation. Some incentives are more generous than the Pennsylvania tax credit, but all appear to be similarly underutilized.
- Although the OBMD provides credit for leaves of absence up to five days, most living donation procedures require a two- to eight-week absence from work.
- The availability of the OBMD is not well known. None of the stakeholders contacted by the IFO were aware of the credit.

The **recommendations** of this report are as follows. A more complete discussion of these points can be found in the final section of this report:

- Extend the length of the OBMD covered absence in an effort to further alleviate the financial barrier to living donation. This result could be achieved by increasing the number of days covered by the credit (e.g., from five to ten) or by allowing credit for the length of the medically required absence up to a maximum dollar amount per donation (e.g., $10,000). The move to a dollar cap would increase the proportional benefit to lower wage-workers.
- Expand the program to provide direct financial support to living donors. This support could be provided via a donor tax credit, a donor grant program or a statutory change that requires employers to provide paid leave for medically required absences related to organ or bone marrow donation.
- Increase outreach and education regarding the OBMD.

[1] Article XVIII of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

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Section 1: Introduction

Act 48 of 2017 requires the Independent Fiscal Office (IFO) to review various state tax credits over a five-year period.[2] For the second year, the IFO reviewed four tax credits: Keystone Innovation Zone, Mobile Telecommunications Broadband Investment, Organ and Bone Marrow Donation and Research and Development Tax Credits. The act requires the IFO to submit tax credit reviews to the Performance-Based Budget Board and the Chairs of the House and Senate Finance Committees and to make reports available to the public on the IFO website.

The act specifies that tax credit reviews shall contain the following content:

- The purpose for which the tax credit was created.
- Whether the tax credit is accomplishing its legislative intent.
- Whether the tax credit could be more efficiently implemented through other methods.
- Any alternative methods which would make the tax credit more efficient.
- The costs to provide the tax credit, including the administrative costs to the Commonwealth and local government entities within this Commonwealth.

The act also specifies that the IFO shall develop a tax credit plan for all tax credits subject to review. The plans should include performance measures, and where applicable, the measures should reflect outcome-based measures (including efficiency measures), measures of status improvements of recipient populations, and economic outcomes or performance benchmarks against similar state programs or similar programs of other states or jurisdictions. The IFO submits this report to fulfill these requirements.

This review contains four additional sections. **Section 2** discusses how the tax credit is administered and presents historical data. **Section 3** presents relevant data for states that offer an organ and bone marrow donation tax incentive program. **Section 4** contains a discussion of the financial impact of living donation on donors and the extent to which the credit mitigates that impact. **Section 5** concludes with the tax credit plan, as required by Act 48. A complete list of reports, studies and data sources used for this report can be found in the Appendix. If submitted, written comments provided by stakeholders and affected agencies are also included in the Appendix.

[2] Act 48 of 2017 is also known as the Performance-Based Budgeting and Tax Credit Efficiency Act. See the Appendix for the Tax Credit Review Schedule.

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Section 2: Credit Overview

Act 65 of 2006 created the Organ and Bone Marrow Donor Tax Credit that expired on December 31, 2010. Act 193 of 2014 re-established the credit as the Organ and Bone Marrow Donation Credit (OBMD) and permitted the application of the credit retroactively to January 1, 2011. The OBMD is available to a firm that provides a paid leave of absence to an employee donating an organ or bone marrow. The tax credit is equal to the sum of (1) the amount paid to the employee during their qualified leave of absence (not to exceed five days), (2) the cost of temporary or replacement help hired to cover the employee's absence and (3) any qualified miscellaneous expenses incurred in connection with the leave of absence. The available credit is subject to apportionment based on Pennsylvania payroll. Currently, there is no annual program cap or maximum credit amount.

Tax credits may be utilized against Pennsylvania personal income tax (excludes withholding), corporate net income tax, bank/trust company shares tax, domestic title insurance companies shares tax, insurance premiums tax or mutual thrift tax for the taxable year when the leave of absence occurred. Credits not used in the taxable year in which the leave of absence was granted may be carried forward for three taxable years. The credit is non-refundable and may not be carried back to preceding taxable years.

This section begins with a description of the purpose and goals of the tax credit. It then discusses the application process and the administration of the tax credit, and concludes with a presentation of program data.

Purpose and Goals

Act 48 of 2017 requires that all tax credit reviews published by the IFO shall discuss (1) the purpose for which the tax credit was created and (2) whether the tax credit is accomplishing its legislative intent. For this credit, the IFO reviewed the sponsorship memorandum for the most recent enactment of the OBMD, the stated intent of the authorizing legislation and documentation provided by the Department of Revenue. For this review, the IFO has established the purpose and goals of the OBMD as follows:

Goals

- Reduce the number of patients awaiting lifesaving donations by increasing the number of living donors.
- Encourage employers to provide employees with a paid leave of absence for the purpose of donating organs or bone marrow.

Purpose

- To increase the number of patients cured through organ and bone marrow donation by easing the financial barriers to living donation.

Administration

The Pennsylvania Department of Revenue (DOR) administers the tax credit and reviews applications. The text that follows is a summary of the OBMD application process.

Applicants for the OBMD must submit the following:

- Completed Pennsylvania Organ and Bone Marrow Donor Tax Credit form (Rev-984).
- Pay statements for each employee donating an organ or bone marrow. The statements must cover the period of absence and the period immediately preceding and following the absence.
- Letter from the employee's physician describing the procedure and dates of absence.
- Documentation of any costs associated with temporary replacement help (i.e., invoice from temporary help agency or pay statement for temporary help employee).[3]

A taxpayer must file for the credit by the 15th of the fourth month following the end of the firm's taxable year. For firms subject to tax in more than one state, the amount of the credit that may be claimed in Pennsylvania is subject to apportionment based on a payroll factor. Once approved, DOR will notify the business of the credit amount authorized.

The department evaluates applications based on compliance with tax payment and filing obligations and the verification of evidence supporting the application. DOR estimates that the OBMD requires six staff hours to administer at a cost of $340 annually.

Historical Data

In conducting a tax credit review, the IFO typically compiles data on credit awards for the five most recently completed fiscal years (FY 2014-15 through FY 2018-19). However, no OBMD credits were awarded during this period. Since program inception, the data show that only three firms have ever received an OBMD credit and the total amount of awards was less than $4,000. (Two businesses received a total of $2,160 for 2006 and one business was awarded $1,320 for 2010.) Nationally, there were 6,831 living organ donors in 2018 (excludes bone marrow donations).[4] Shared to Pennsylvania based on population, it is estimated that employers of as many as 250 living organ donors and an unknown number of bone marrow donors may have been eligible for the tax credit.

[3] Not to exceed five days.
[4] U.S. Department of Health and Human Services, Organ Donation Statistics, https://www.organdonor.gov/statistics-stories/statistics.html#donation.

Section 3: State Tax Credit Comparison

As of 2019, 21 states offer a tax incentive directed at easing the financial burden of living organ or bone marrow donation and **Table 3.1** provides key characteristics of these state incentive programs. Most incentives fall into one of three categories: (1) an income tax deduction for lodging and travel expenses and lost wages associated with donation, (2) an income tax credit for lodging and travel expenses and lost wages associated with donation or (3) an employer tax credit for expenses associated with paid leave provided to a donor employee. Two states (Arkansas and Louisiana) offer tax incentives to both the donor and the employer. The table also denotes the annual per taxpayer cap on the credit where applicable.[5]

Of the three states offering an employer tax credit, Pennsylvania was the only state to offer a credit equal to 100 percent of the expenses related to providing paid leave to a living donor.[6] However, Pennsylvania's allowable leave of absence was the shortest (five days), with Arkansas (90 days) and Louisiana (unlimited days) allowing employers to claim expenses for longer periods of leave.[7]

State living organ and bone marrow donation tax incentives are summarized as follows:

- Seventeen states offer income tax deductions directly to living organ or bone marrow donors.
- Idaho, Utah and Louisiana are the only states that offer income tax credits to individual living donors.
- Nearly all states that offer individual income tax deductions (except Kansas and Virginia) allow lost wages as a deductible expense. A state income tax deduction partially reimburses taxpayers for lost wages (based on the taxpayer's marginal state tax rate).
- Nine states permit taxpayers to claim an income deduction for living donation expenses incurred by a dependent.[8] Four states permit taxpayers to claim the deduction for expenses incurred by a spouse.[9]
- Three border states (Maryland, New York and Ohio) offer an income tax deduction for the donor. No other border state offered any living donor-related tax incentives.
- Of the states with an income tax deduction for living donation expenses, most cap the deduction at $10,000 per donation.
- Tax incentives available to support living donors do not appear to be widely utilized and the state costs are generally reported to be less than $50,000 annually.

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[5] Arkansas, Iowa, New York, Oklahoma, Rhode Island and Wisconsin limit the income tax deduction to once in the donor's lifetime.
[6] The Arkansas tax credit is equal to 25 percent of the wages paid to an employee for the absence period and the Louisiana tax credit is equal to 18 percent of paid leave expenses (including temporary help costs).
[7] Louisiana code (RS 47:287.758) states the absence period is equal to the "time reasonably related to tissue typing and bone marrow donation".
[8] The nine states are Arkansas, Idaho, Kansas, Minnesota, New Mexico, North Dakota, Oklahoma, Utah and Wisconsin.
[9] The four states are Louisiana, Minnesota, New Mexico and Wisconsin.

Table 3.1
Living Donor Tax Incentives

State[1]	Effective	Incentive[2]	Incentive Cap	Notes
Arkansas	2005	ID	$10,000	Includes medical expenses.
	2005	ETC[3]	n.a.	Excludes temporary help expenses.
Connecticut	2017	ID	$10,000	Includes medical expenses.
Georgia	2005	ID	$10,000	
Idaho	2007	DTC	$5,000	Carryforward limited to 5 taxable years.
Iowa	2005	ID	$10,000	
Kansas	2014	ID	$5,000	Includes medical expenses.
				Excludes lost wages.
Louisiana	2015	DTC[4]	$7,200	Carryforward limited to 10 taxable years.
	2015	ETC[5]	n.a.	No limit on paid absence days.
Maryland	2018	ID	$7,500	
Massachusetts	2012	ID	$10,000	
Minnesota	2005	ID	$10,000	
Mississippi	2006	ID	$10,000	
New Mexico	2005	ID	$10,000	
New York	2007	ID	$10,000	
North Dakota	2005	ID	$10,000	Limited to medical expenses and lost wages.
Ohio	2007	ID	$10,000	
Oklahoma	2008	ID	$10,000	
Pennsylvania	2014	ETC	n.a.	Limited to 5 paid absence days.
				Carryforward limited to 3 taxable years.
Rhode Island	2009	ID	$10,000	
Utah	2005	DTC	$10,000	Carryforward limited to 5 taxable years.
Virginia	2007	ID	$5,000	Limited to medical expenses.
Wisconsin	2004	ID	$10,000	

[1]States not listed do not have a tax incentive for living donations.

[2]Key is as follows: ID (income deduction for donor equal to 100 percent of associated lodging and travel expenses and lost wages), DTC (donor tax credit equal to 100 percent of associated lodging and travel expenses and lost wages) and ETC (employer tax credit equal to 100 percent of expenses associated with paid leave provided to donor employee). Unless otherwise noted, incentives must be used within the same taxable year that the donation occurs.

[3]Employer withholding tax credit is limited to 25 percent of wages paid to employee for up to a 90 day leave of absence.

[4]Donor tax credit is limited to 72 percent of lodging and travel expenses and lost wages.

[5]Employer tax credit is available for bone marrow donation only and is limited to 18 percent of expenses associated with paid leave.

Source: Various state statutes and income tax codes.

In addition to an income tax deduction, Iowa operates the Anatomical Gift Transplantation Fund (AGTF) Grant program to reimburse living donors for out-of-pocket expenses directly related to the donation of an organ, bone marrow or other bodily tissue (e.g., skin).[10] Eligible expenses include, but are not limited to, travel, lodging, meals and certain medical expenses (e.g., prescription medications and dental exams). Notably, the program excludes lost wages as reimbursable expenses, but Iowa's income tax deduction allows lost wages as a deductible expense.[11]

States likely elected to ease the financial burden on living organ donors through income tax deductions and nonrefundable credits that are calculated based on incurred expenses or lost wages to avoid controversy related to the National Organ Transplantation Act (NOTA). This Act prohibits organ donors (living or deceased) or their families from receiving payment for anatomical gifts. Although a donor cannot profit from the donation, NOTA permits the reimbursement of expenses related to the donation (e.g., travel and lodging expenses). Stakeholder groups also emphasized that organ donation is a personal decision and incentives should ease the financial burden but should not be strong enough to coerce an individual to donate.

In addition to tax and other financial incentives, 30 states allow state employees to take paid leave (separate from sick or other types of earned leave) for the purpose of living organ or bone marrow donation.[12] Arkansas, California and Delaware extend these requirements to public school employees. Two states (California and Hawaii) require private employers to provide separate paid leave to employees who donate an organ or bone marrow.[13] Federal employees are entitled to seven days of paid leave for a bone marrow donation and thirty days of paid leave for a living organ donation.[14]

Separate from state tax incentive programs, there are also various non-profit organizations that provide expense and lost wage reimbursement for certain donors. One of these organizations, the National Kidney Registry, recently announced that it will reimburse travel and lodging expenses, lost wages and other out-of-pocket costs for those who donate through their paired kidney exchange program.[15] The federally-funded National Living Donor Assistance Center provides income-based financial assistance for living kidney, liver, lung or intestine donors. However, this authority can only assist with transportation, lodging and food and it is intended to be the payer of last resort.[16]

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[10] Iowa Department of Public Health, Anatomical Gift Public Awareness Fund.
[11] Ibid, Guidelines.
[12] Pennsylvania does not provide paid leave (separate from sick or annual leave) to state employees for organ or bone marrow donation.
[13] In California, employers with 15 or more employees are required to provide paid leave for up to 30 days to an employee who donates an organ or bone marrow. Employers are permitted to exhaust up to two weeks of the employee's unused sick leave before providing additional paid leave to the employee. In Hawaii, employers with 50 or more employees are required to provide paid leave for up to 30 days to an employee who donates an organ or bone marrow. Employers may exhaust all types of unused paid leave before providing additional paid leave to the employee.
[14] U.S. Code § 6327. Absence in Connection with Serving as a Bone Marrow or Organ Donor.
[15] "National Kidney Registry Will Reimburse Donors for Lost Wages," Healio: Nephrology News and Issues (August 7, 2019).
[16] National Living Donor Assistance Center, Eligibility Guidelines.

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Section 4: Fiscal Analysis

The OBMD differs from most state tax credits because program goals do not include increased economic development or job creation. Instead, the OBMD seeks to improve outcomes for patients awaiting organ and bone marrow transplants by reducing financial barriers to living donation. This section of the report will discuss the financial aspects of living donation in order to assist policymakers in a better understanding of how to achieve this public policy initiative. To evaluate the impact of living donation on the financial stability of the donor, the IFO reviewed relevant literature, researched other state tax incentive programs and met with stakeholder groups.

Travel and lost wages are widely reported to be the two most significant financial barriers to living organ donation.[17] Medical expenses are typically covered under the transplant recipient's insurance, but living donors are left to finance the indirect costs associated with the procedure, including lodging, meals, transportation and time off work. In cases were the recipient does not have medical insurance, direct medical costs associated with the procedure can add to the financial burden.

The living donor's absence from work generally includes time in the hospital immediately following the procedure, as well an at-home recovery period. While the procedure and recovery for bone marrow donation is relatively brief (about one week), time off for organ donation is significantly longer (three to nine days in the hospital and four to eight weeks of recovery, depending on the donor's occupation).[18] Lost wages associated with time off work can result in significant loss and financial instability for donors.

If a donor does not live near the transplant hospital, travel expenses can also be a substantial burden. Potential donors are subject to an extensive pre-donation evaluation, which is completed on an outpatient basis often over multiple days. In addition, a donor may be required to stay near the transplant hospital for a period immediately after discharge if follow up care is required. These pre- and post-donation visits can increase the financial burden on a donor.

Although some studies attempt to accurately capture the average financial burden imposed on living donors, it is difficult to obtain an exact estimate due to a high variability in expenses among the survey population. A study from 2016 attempted to quantify the direct and indirect costs related to living kidney donation and found that most financial losses were greater than one month of the donor's income.[19] In addition, one-third of the living kidney donors surveyed had lost an average of 252 work hours (approximately six to seven workweeks) and $4,578 in wages, with a median wage loss of $2,712. Many of the surveyed kidney donors did not have access to paid sick leave or short-term disability benefits.[20] Other factors, such as distance from the transplant hospital, insurance coverage, the type of transplant procedure and general health of the donor caused the cost burden to vary considerably from donor to donor.

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[17] "Direct and Indirect Costs Following Living Kidney Donation: Findings From the KDOC Study," Rodrigue et al, American Journal of Transplantation (February 4, 2016).
[18] U.S. Department of Health and Human Services, Bone Marrow and Cord Blood Donation and Transplantation.
[19] Ibid, p. 873.
[20] Ibid, p. 874.

A separate study highlighted other long-term donor costs that are generally not captured by current research. It cited incremental increases in health insurance premiums and expenses related to medical conditions suffered over time as a consequence of donation (e.g., increased medication costs for donors who develop depression after graft or loss of the recipient) as examples of costs not captured by surveys.[21] These expenses may be incurred years after the donation procedure and thereby make it difficult to discern the overall financial burden placed on living donors.

As stated previously, the purpose of the Pennsylvania OBMD is to improve outcomes for patients by reducing financial barriers to living donation. The most significant barriers to donation are lost wages and travel expenses. The OBMD in its current form only supports an employer-provided leave of absence of up to five days, while most living organ donations require a much longer period for pre-screening, hospital stay and recovery. The credit does not provide any assistance to offset donor transportation costs or medical expenses (if applicable), which may also be considerable.

Two other issues related to the OBMD became apparent in the IFO's meetings with stakeholders:

- The availability of the OBMD is not well known. None of the stakeholders contacted by the IFO were aware of the credit, including state offices responsible for creating awareness about living organ and tissue donation. This likely contributes to the credit's underutilization.
- Employers are legally limited in what questions they may ask regarding an employee's medical leave of absence. Unless the employee offers that the leave is related to living organ or bone marrow donation, the employer may not be aware. This likely also contributes to the lack of credit utilization.

[21] "The Direct and Indirect Economic Costs Incurred by Living Kidney Donors—A Systemic Review," Clarke et al, Nephrology Dialysis Transplantation (July 2006), p. 1958.

Section 5: Tax Credit Plan

Act 48 of 2017 directs the IFO to review tax credits and develop a tax credit plan for credits subject to review. The act states that tax credit plans should include performance metrics for each credit. The act does not specify any other elements of the tax credit plan. For this review, the IFO has defined the tax credit plan more broadly to include the following elements: (1) the general findings of the review, (2) specific recommendations, including suggested performance metrics (if applicable) and (3) key decision points for policymakers to consider.

General Findings

For the purpose of this report, the IFO reviewed tax credit studies, spoke with stakeholders related to organ and bone marrow donation and met with the agency that administers the OBMD tax credit (DOR), as well as staff in the Pennsylvania Department of Health that are responsible for creating awareness of living organ donation. The following bullet points summarize the main findings of this research:

- The OBMD has not been utilized by any firm since its most recent enactment in 2014. Prior to that date, credits claimed by three firms totaled less than $4,000. It is estimated that employers of as many as 250 living donors and an unknown number of bone marrow donors may have been eligible for the tax credit on an annual basis.
- Twenty other states offer tax incentives to mitigate the financial burden of living organ or bone marrow donation. Some incentives are more generous than the Pennsylvania tax credit, but all appear to be similarly underutilized.
- The OBMD only provides credit for a leave of absence up to five days, when most living organ donations require a longer hospital stay and recovery period. While bone marrow donors typically return to work in one week, organ donation generally requires a four- to eight-week absence depending on the organ donated and the donor's occupation. In addition to time off for the procedure and recovery, any prospective donor must undergo extensive medical screening in advance of the procedure to determine eligibility.
- The availability of the OBMD is not well known. None of the stakeholders contacted by the IFO were aware of the credit. This likely contributes to the credit's underutilization.
- Although lost wages are the most significant financial obstacle to organ donation, other costs (e.g., transportation and hotel stays) can contribute to the burden as well. These costs vary considerably depending on how far a donor lives from the transplant hospital and how long a donor is required to stay near the hospital for follow-up care.
- Only Pennsylvania has a living donor tax incentive that is limited to employers. Arkansas and Louisiana have an employer credit but also have a tax credit available to donors. Most states allow living donors to claim lost wages and travel expenses related to donation as an income tax deduction. A minority of states permit living donors to claim those same expenses as a tax credit.

Specific Recommendations

Based on these general findings, the IFO submits the following recommendations to enhance the efficiency of the tax credit and improve its ability to achieve the defined purpose and goals.

Increase the maximum absence period covered by the credit.

The current absence period of five days covers only a fraction of the typical recovery time for organ donation and likely does little to alleviate the financial burden borne by living organ donors. Extending the length of the qualified leave of absence may increase awareness of the OBMD and do more to alleviate the financial barrier. This could be achieved by increasing the number of days covered by the credit (e.g., from five to ten) or by allowing the credit for the length of the medically required absence up to a maximum dollar amount per donation (e.g., $10,000). The move to a dollar cap would increase the proportional benefit to lower-wage workers.

Provide direct support to the living donor.

The addition of a donor tax credit to offset a portion of the out-of-pocket expenses related to donor transportation or extended hotel stays near the transplant hospital would further reduce the financial barrier to living organ donation. (In accordance with NOTA, a newly-created donor credit should not be refundable or transferable.)

Alternatively, Pennsylvania could create a grant program similar to Iowa's AGTF and award grants to reimburse living donors for out-of-pocket expenses and lost wages.[22] Initially, the expenses would still be incurred by the donor and reimbursement would be uncertain until approved.

Policymakers could also require all employers exceeding a specified size to provide living donors with medically required periods of paid leave. If mandated to private employers, the paid leave should also be provided for living donors employed in state government.

Increase outreach and education related to the Organ and Bone Marrow Donation Tax Credit.

The Department of Revenue could partner with tax preparers, and the Department of Health could partner with organ and tissue donation groups to create awareness of the OBMD.

Key Decision Points

Policymakers should consider modifications or an expansion of the OBMD program. Primary points for consideration are:

- What is the appropriate length for the OBMD covered absence? Is the absence determined based on what is medically required, or a fixed number of days depending on the procedure? Should the allowable absence for an organ donation be longer than the absence for a bone marrow donation?

[22] Supra, note 8.

- Should the OBMD program be expanded to provide direct support to donors? If so, how would this be achieved? Options include: (1) creation of a donor tax credit to offset a portion of the donor's out-of-pocket expenses, (2) creation of a grant program to reimburse donors for out-of-pocket expenses, (3) require employers of a specified size or greater to provide paid leave for organ or bone marrow donation and/or (4) creation of living donor leave allowance for state government employees. If the expansion includes a tax credit for reimbursement or deduction for expenses, what is the appropriate share of expenses to be reimbursed? If a grant program is created, how can reimbursements be expedited to minimize the impact on the donor?
- How can state agencies best generate awareness of the OBMD?

Conclusion

Act 48 of 2017 requires that the IFO make a determination regarding whether the OBMD has achieved its purpose and goals. For the purpose of this analysis, the following goals are established for the program:

- Reduce the number of patients awaiting lifesaving donations by increasing the number of living donors.
- Encourage employers to provide employees with a paid leave of absence for the purpose of donating organs or bone marrow.

The IFO establishes the program purpose as:

- To increase the number of patients cured through organ and bone marrow donation by easing the financial barriers to living donation.

Due to a lack of credit utilization, this review finds that the current OBMD program has not achieved its intended purpose. However, support of living organ and bone marrow donation is a worthy public policy initiative and the General Assembly should consider the program revision and expansion options detailed in the recommendation section of this report.

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Appendix

Tax Credit Review Mandate

Act 48 of 2017 is the Performance-Based Budgeting and Tax Credit Efficiency Act. The act requires the Independent Fiscal Office (IFO) to review tax credits based on a five-year schedule determined jointly by the Secretary of the Budget and the Director of the IFO. The act specifies that the schedule must ensure that tax credits are subject to a review by the IFO at least once every five years. The IFO will submit reviews to the Performance-Based Budgeting (PBB) Board and the Chairs of the House and Senate Finance Committees and make the report available to the public through its website.

The act specifies that reviews shall contain the following content:

- The purpose for which the tax credit was created.
- Whether that tax credit is accomplishing the tax credit's legislative intent.
- Whether the tax credit could be more efficiently implemented through alternative methods.
- Any alternative methods which will make the tax credit more efficient if necessary.
- The costs of providing the tax credit, including the administrative costs to the Commonwealth and local government entities within this Commonwealth.

The act also specifies that the IFO shall develop a tax credit plan for all tax credits subject to a review. The plans should include performance measures, and where applicable, the measures should reflect outcome-based measures (including efficiency measures), measures of status improvements of recipient populations, and economic outcomes or performance benchmarks against similar State programs or similar programs of other states or jurisdictions.

Performance-Based Budgeting and Tax Credit Review Schedule

Year	Performance-Based Budgets					
1	Corrections	Board of Probation and Parole	PA Commission on Crime & Delinquency	Juvenile Court Judges' Commission	Banking and Securities	General Services
2	Economic & Community Development	Human Services – Part 1	Health	Environmental Protection	PA Emergency Management Agency	State
3	PennDOT	Human Services – Part 2	State Police	Military & Veterans Affairs		
4	Education	Human Services – Part 3	Aging	PA Historical & Museum Commission	Agriculture	Labor and Industry
5	Drug and Alcohol Programs	Insurance	Revenue	Executive Offices	Environmental Hearing Board	Conservation and Natural Resources
Year	**Tax Credits**					
1	Film Production	New Jobs	Historic Preservation Incentive			
2	Research and Development	Keystone Innovation Zones	Mobile Telecom and Broadband	Organ and Bone Marrow		
3	Neighborhood Assistance	Resource Enhancement and Protections (REAP)	Entertainment & Economic Enhancement	Video Game Production	Keystone Special Development Zones	
4	Educational Tax Credits	Coal Refuse and Reclamation	Mixed Use	Community-Based Services		
5	Resource Manufacturing	Brewers'	Computer Data Center	Manufacturing and Investment	Waterfront Development	Rural Jobs and Investment

IFO Independent Fiscal Office

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UPMC LIFE CHANGING MEDICINE

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RE: Organ and Bone Marrow Donor Tax Credit

Every day, 22 people die waiting for a life-saving organ transplant. There are 14,000 people in the U.S. currently on the waiting list for a liver, and only about 59 percent will receive an organ. One in four people will die before they are offered a liver from a deceased donor. More than 95,000 Americans are on the waiting list for a kidney transplant, and only about 22 percent will receive a kidney. UPMC is proposing that the Independent Fiscal Office extends the Organ and Bone Marrow Donor Tax Credit from a maximum of five days to ten days. Living donation can reduce the time patients spend on the waiting list and give patients a better life expectancy and a quicker recovery time. At UPMC, we believe that living donation is a first-line treatment option because it saves lives by not depending on deceased donation.

Financial expenses are the most substantial barrier for people who wish to consider becoming a living donor. Although the recipient's insurance will cover the donor's cost of surgery, there are other financial aspects to consider. The first step in the living donation process is a one or two-day evaluation performed by transplant experts at UPMC Montefiore in Pittsburgh. If the potential donor does not live in the Pittsburgh area, he or she will likely have to take time off work plus cover travel and lodging expenses. One or two out of five paid days-off would already have been used prior to confirmation that the individual can donate. The average length of stay in the hospital for a liver donor post-donation is five days and about two days for a kidney donor, however once the donor leaves the hospital the recovery time extends far beyond that. The recovery time for a kidney donor lasts on average two to six weeks for people with desk jobs and four to six weeks for liver donors. People with physically demanding jobs may not be able to return to work for eight weeks. It is also strongly suggested that the donor stay near or in Pittsburgh post-donation for a short duration until their first follow up visit. If the donor is from out of town, then he or she must incur the expenses for lodging during part of the recovery period. As stated, there are numerous other expenses related to living donation to consider which is why UPMC proposes that the Organ and Bone Marrow Donor Tax Credit extend the tax credit from five days to ten days.

Living donor transplant can help save the lives of many people with end-stage liver disease and end-stage renal disease. Extending the Organ and Bone Marrow Donor Tax Credit from five days to ten days would minimize the greatest barriers that comes with donation which are financial expenses. Ten days of paid time off would cover a potential donor's time spent in Pittsburgh for the evaluation and the time spent in the hospital post-donation. Additionally, lengthening the Organ and Bone Marrow Donor Tax Credit would encourage more people to donate and would also give families more hope for a brighter future.

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