



## 1995 SENATE BILL 673

March 28, 1996 - Introduced by Senators PANZER, RUDE and JAUCH, cosponsored by Representatives F. LASEE, HUEBSCH and JENSEN. Referred to Joint committee on Finance.

1     **AN ACT** *to repeal* 76.001, 76.02 (9r), 76.07 (4g) (e), 76.38 and 76.38 (4) (b); **to**  
2     *renumber* 76.02 (9t); **to renumber and amend** 76.02 (9u) and 76.38 (4) (a);  
3     **to amend** 20.913 (1) (b), 71.26 (3) (f), 73.01 (4) (a), 73.01 (5) (a), 76.01, 76.02 (9),  
4     76.04 (1), 76.07 (1), 76.07 (2), 76.13 (1), subchapter II (title) of chapter 76  
5     [precedes 76.38], 76.38 (1) (c), 77.52 (2) (a) 5., 134.72 (1) (a), 227.03 (1) and  
6     968.01 (1); **to repeal and recreate** 20.913 (1) (b), 71.26 (3) (f), 73.01 (4) (a),  
7     73.01 (5) (a), 76.28 (4), 76.28 (5), 76.28 (6) and 227.03 (1); **to create** 20.566 (2)  
8     (ht), subchapter IV of chapter 76 [precedes 76.80] and subchapter V of chapter  
9     76 [precedes 76.90] of the statutes; and **to affect** 1991 Wisconsin Act 39, section  
10    9149 (6), 1991 Wisconsin Act 39, section 9149 (7) and 1995 Wisconsin Act ....  
11    (Assembly Bill 808), section 3 (1); **relating to:** the taxation of telephone  
12    companies, imposing the sales tax on coin-operated telephone services,  
13    transfer of moneys from the general fund to the property tax relief fund and an

1 expression of legislative intent concerning appropriations for the 1997-99  
2 fiscal biennium.

---

***Analysis by the Legislative Reference Bureau***

Under current law, telephone companies pay a license fee based on their gross receipts at a rate of 5.70% and, beginning in 1997, interexchange carriers and resellers will pay a tax based on the value of their property in this state.

Under this bill, the license fee based on gross receipts is in effect for 1996 and 1997, and the correction of the estimated payments made in 1997 will be made with payments of the new taxes in 1998. The rate is 5.77%. Beginning in 1998, all telephone companies will pay a tax that is based on the value of their property. The department of revenue will administer the tax; the tax will not be collected as part of the property tax process. The tax base is all real property and all tangible personal property, rather than a base that is calculated by apportioning the value of the company's property to this state under a formula. The rate for each description of real property and each item of tangible personal property is the rate that would apply if the property were subject to general property taxes, rather than the statewide average net rate for manufacturing and commercial property, except that for 2 years certain telephone companies may file a combined report on their tangible personal property and pay the tax on it at a weighted rate.

For 1999 and 2000 cellular companies and local exchange carriers will pay a transitional adjustment fee equal to the gross receipts tax that they would have paid under current law minus their payments of the new tax based on the value of their property.

The bill transfers \$35,000,000 to the property tax relief fund and expresses an intent to appropriate \$10,000,000 for grants made by the educational technology board.

The bill also discontinues the sales tax exemption for services provided by coin-operated telephones.

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 and local*** 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:***

3 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
4 the following amounts for the purposes indicated:

1		<b>1995-96</b>	<b>1996-97</b>
---	--	----------------	----------------

2 **20.566 Revenue, department of**

3 (2) STATE AND LOCAL FINANCE

4	(ht) Telephone tax administration	PR	A	-0-	-0-
---	-----------------------------------	----	---	-----	-----

5 **SECTION 2.** 20.566 (2) (ht) of the statutes is created to read:

6 20.566 (2) (ht) *Telephone tax administration.* The amounts in the schedule for  
7 the administration of the tax under subch. IV of ch. 76. Beginning in 1997-98 the  
8 amounts determined under s. 76.84 (3) shall be credited to this appropriation  
9 account.

10 **SECTION 3.** 20.913 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27,  
11 is amended to read:

12 20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful taxation,  
13 when claims therefor have been established as provided in ss. 71.30 (4), 71.74 (13),  
14 71.75, 71.89 (1), 72.24, 74.35, 74.37, 76.13 (3), 76.38, 76.39, ~~76.84, 76.91~~, 78.19, 78.20,  
15 78.68 (10), 78.75, 78.80 (1m), 139.092, 139.25 (1), 139.36, 139.365 and 139.39 (4).

16 **SECTION 4.** 20.913 (1) (b) of the statutes, as affected by 1995 Wisconsin Acts 27  
17 and ... (this act), is repealed and recreated to read:

18 20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful taxation,  
19 when claims therefor have been established as provided in ss. 71.30 (4), 71.74 (13),  
20 71.75, 71.89 (1), 72.24, 74.35, 74.37, 76.13 (3), 76.39, 76.84, 76.91, 78.19, 78.20, 78.68  
21 (10), 78.75, 78.80 (1m), 139.092, 139.25 (1), 139.36, 139.365 and 139.39 (4).

22 **SECTION 5.** 71.26 (3) (f) of the statutes is amended to read:

23 71.26 (3) (f) Section 164 (a) is modified so that foreign taxes are not deductible  
24 unless the income on which the tax is based is taxable under this chapter and so that

1 gross receipts taxes assessed in lieu of property taxes, the license fees under ss. 76.28  
2 and 76.38 and the ~~tax~~ taxes under s. ss. 70.375, 76.81 and 76.91 are deductible.

3 **SECTION 6.** 71.26 (3) (f) of the statutes, as affected by 1995 Wisconsin Act ...  
4 (this act), is repealed and recreated to read:

5 71.26 (3) (f) Section 164 (a) is modified so that foreign taxes are not deductible  
6 unless the income on which the tax is based is taxable under this chapter and so that  
7 gross receipts taxes assessed in lieu of property taxes, the license fee under s. 76.28  
8 and the taxes under ss. 70.375, 76.81 and 76.91 are deductible.

9 **SECTION 7.** 73.01 (4) (a) of the statutes is amended to read:

10 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,  
11 the commission shall be the final authority for the hearing and determination of all  
12 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.  
13 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.995 (8), 76.38 (12) (a), 76.39 (4) (c), 76.48  
14 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06,  
15 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of  
16 ch. 77. Whenever with respect to a pending appeal there is filed with the commission  
17 a stipulation signed by the department of revenue and the adverse party, under s.  
18 73.03 (25), agreeing to an affirmance, modification or reversal of the department's  
19 position with respect to some or all of the issues raised in the appeal, the commission  
20 shall enter an order affirming or modifying in whole or in part, or canceling the  
21 assessment appealed from, or allowing in whole or in part or denying the petitioner's  
22 refund claim, as the case may be, pursuant to and in accordance with the stipulation  
23 filed. No responsibility shall devolve upon the commission, respecting the signing  
24 of an order of dismissal as to any pending appeal settled by the department without  
25 the approval of the commission.

1           **SECTION 8.** 73.01 (4) (a) of the statutes, as affected by 1995 Wisconsin Act ...  
2 (this act), is repealed and recreated to read:

3           73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,  
4 the commission shall be the final authority for the hearing and determination of all  
5 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.  
6 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.  
7 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,  
8 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch.  
9 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed  
10 with the commission a stipulation signed by the department of revenue and the  
11 adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal  
12 of the department's position with respect to some or all of the issues raised in the  
13 appeal, the commission shall enter an order affirming or modifying in whole or in  
14 part, or canceling the assessment appealed from, or allowing in whole or in part or  
15 denying the petitioner's refund claim, as the case may be, pursuant to and in  
16 accordance with the stipulation filed. No responsibility shall devolve upon the  
17 commission, respecting the signing of an order of dismissal as to any pending appeal  
18 settled by the department without the approval of the commission.

19           **SECTION 9.** 73.01 (5) (a) of the statutes is amended to read:

20           73.01 (5) (a) Any person who is aggrieved by a determination of the state board  
21 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)  
22 or who has filed a petition for redetermination with the department of revenue and  
23 who is aggrieved by the redetermination of the department may, within 60 days of  
24 the determination of the state board of assessors or of the department or, in all other  
25 cases, within 60 days after the redetermination but not thereafter, file with the clerk

1 of the commission a petition for review of the action of the department and the  
2 number of copies of the petition required by rule adopted by the commission. If a  
3 municipality appeals, its appeal shall set forth that the appeal has been authorized  
4 by an order or resolution of its governing body and the appeal shall be verified by a  
5 member of that governing body as pleadings in courts of record are verified. The clerk  
6 of the commission shall transmit one copy to the department of revenue and to each  
7 party. In the case of appeals from manufacturing property assessments, the person  
8 assessed shall be a party to a proceeding initiated by a municipality. At the time of  
9 filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which  
10 the commission shall deposit in the general fund. Within 30 days after such  
11 transmission the department, except for petitions objecting to manufacturing  
12 property assessments, shall file with the clerk of the commission an original and the  
13 number of copies of an answer to the petition required by rule adopted by the  
14 commission and shall serve one copy on the petitioner or the petitioner's attorney or  
15 agent. Within 30 days after service of the answer, the petitioner may file and serve  
16 a reply in the same manner as the petition is filed. Any person entitled to be heard  
17 by the commission under s. 76.38 (12) (a), 76.39 (4) (c) ~~or~~, 76.48 or 76.91 may file a  
18 petition with the commission within the time and in the manner provided for the  
19 filing of petitions in income or franchise tax cases. Such papers may be served as a  
20 circuit court summons is served or by certified mail. For the purposes of this  
21 subsection, a petition for review is considered timely filed if mailed by certified mail  
22 in a properly addressed envelope, with postage duly prepaid, which envelope is  
23 postmarked before midnight of the last day for filing.

24 **SECTION 10.** 73.01 (5) (a) of the statutes, as affected by 1995 Wisconsin Act ....  
25 (this act), is repealed and recreated to read:

1           73.01 (5) (a) Any person who is aggrieved by a determination of the state board  
2 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)  
3 or who has filed a petition for redetermination with the department of revenue and  
4 who is aggrieved by the redetermination of the department may, within 60 days of  
5 the determination of the state board of assessors or of the department or, in all other  
6 cases, within 60 days after the redetermination but not thereafter, file with the clerk  
7 of the commission a petition for review of the action of the department and the  
8 number of copies of the petition required by rule adopted by the commission. If a  
9 municipality appeals, its appeal shall set forth that the appeal has been authorized  
10 by an order or resolution of its governing body and the appeal shall be verified by a  
11 member of that governing body as pleadings in courts of record are verified. The clerk  
12 of the commission shall transmit one copy to the department of revenue and to each  
13 party. In the case of appeals from manufacturing property assessments, the person  
14 assessed shall be a party to a proceeding initiated by a municipality. At the time of  
15 filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which  
16 the commission shall deposit in the general fund. Within 30 days after such  
17 transmission the department, except for petitions objecting to manufacturing  
18 property assessments, shall file with the clerk of the commission an original and the  
19 number of copies of an answer to the petition required by rule adopted by the  
20 commission and shall serve one copy on the petitioner or the petitioner's attorney or  
21 agent. Within 30 days after service of the answer, the petitioner may file and serve  
22 a reply in the same manner as the petition is filed. Any person entitled to be heard  
23 by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91  
24 may file a petition with the commission within the time and in the manner provided  
25 for the filing of petitions in income or franchise tax cases. Such papers may be served

1 as a circuit court summons is served or by certified mail. For the purposes of this  
2 subsection, a petition for review is considered timely filed if mailed by certified mail  
3 in a properly addressed envelope, with postage duly prepaid, which envelope is  
4 postmarked before midnight of the last day for filing.

5 **SECTION 11.** 76.001 of the statutes is repealed.

6 **SECTION 12.** 76.01 of the statutes is amended to read:

7 **76.01 Railroads and utilities, assessment.** The department of revenue  
8 shall make an annual assessment of the property of all railroad companies, of all  
9 conservation and regulation companies, of all sleeping car companies, of all air  
10 carriers, ~~of all telephone companies~~ and of all pipeline companies, within this state,  
11 for the purpose of levying and collecting taxes thereon, as provided in this  
12 subchapter.

13 **SECTION 13.** 76.02 (9) of the statutes is amended to read:

14 76.02 (9) "Company", without other designation or qualification, includes any  
15 railroad company, any conservation and regulation company, any express company,  
16 any air carrier company, any pipeline company, ~~any telephone company~~ and any  
17 sleeping car company, as defined in this section, to which "company" is applied.

18 **SECTION 14.** 76.02 (9r) of the statutes is repealed.

19 **SECTION 15.** 76.02 (9t) of the statutes is renumbered 76.80 (3).

20 **SECTION 16.** 76.02 (9u) of the statutes is renumbered 76.80 (4) and amended  
21 to read:

22 76.80 (4) "Telephone company" means any person that provides to another  
23 person telecommunications services, including the resale of services provided by  
24 another telephone company, ~~that originate in one local access and transport area, as~~  
25 ~~defined in s. 76.38 (1) (bd), and terminate in a different local access and transport~~



1 area, as defined in s. 76.38 (1) (bd). "Telephone company" does not include a person  
2 who operates a private shared telecommunications system, as defined in s. 196.201  
3 (1), and who is not otherwise a telephone company. ~~"Telephone company" does not~~  
4 ~~include a person who is a cellular mobile radio telecommunications utility, as defined~~  
5 ~~in s. 196.202 (1).~~

6 **SECTION 17.** 76.04 (1) of the statutes is amended to read:

7 76.04 (1) Every company defined in s. 76.02 shall, annually, file a true and  
8 accurate statement in such manner and form and setting forth such facts as the  
9 department shall deem necessary to enforce ss. 76.01 to 76.26. The annual reports  
10 for railroad companies, sleeping car companies and express companies shall be filed  
11 on or before April 15 and for conservation and regulation companies, air carriers,  
12 ~~telephone companies~~ and pipeline companies on or before May 1.

13 **(1m)** For sufficient reason shown the department may upon written request  
14 allow such further time for making and filing the report under sub. (1) as it may deem  
15 necessary, but not to exceed 30 days. If any company fails to file such report within  
16 the time prescribed or as extended under this subsection, the department shall add  
17 to the taxes due from such company \$250 if the report is not filed within 15 days after  
18 the due date or extended due date and an additional \$250 for each month or part of  
19 a month thereafter during which the report is not filed, except that the total penalty  
20 may not exceed \$2,500. No company may in any action or proceeding contest the  
21 imposition of such penalty.

22 **SECTION 18.** 76.07 (1) of the statutes is amended to read:

23 76.07 (1) DUTY OF DEPARTMENT. The department on or before August 1 in each  
24 year in the case of railroad companies and sleeping car companies, and on or before  
25 September 15 in the case of air carrier companies, ~~telephone companies,~~

1 conservation and regulation companies and pipeline companies, shall, according to  
2 its best knowledge and judgment, ascertain and determine the full market value of  
3 the property of each company within the state.

4 **SECTION 19.** 76.07 (2) of the statutes is amended to read:

5 76.07 (2) RELATION TO STATE VALUATION; DESCRIPTION. The value of the property  
6 of each of said companies for assessment shall be made on the same basis and for the  
7 same period of time, as near as may be, as the value of the general property of the  
8 state is ascertained and determined. The department shall prepare an assessment  
9 roll and place thereon after the name of each of said companies assessed, the  
10 following general description of the property of such company, to wit: "Real estate,  
11 right-of-way, tracks, stations, terminals, appurtenances, rolling stock, equipment,  
12 franchises and all other real estate and personal property of said company," in the  
13 case of railroads, and "Real estate, right-of-way, poles, wires, conduits, cables,  
14 devices, appliances, instruments, franchises and all other real and personal property  
15 of said company," in the case of conservation and regulation companies, and "Real  
16 estate, appurtenances, rolling stock, equipment, franchises, and all other real estate  
17 and personal property of said company," in the case of sleeping car and air carrier  
18 companies, and "Land and land rights, structures, improvements, mains, pumping  
19 and regulation equipment, services, appliances, instruments, franchises and all  
20 other real and personal property of said company," in the case of pipeline companies,  
21 and "All property of the company used in the operation of the company's telephone  
22 business" in the case of telephone companies, which description shall be deemed and  
23 held to include the entire property and franchises of the company specified and all  
24 title and interest therein.

25 **SECTION 20.** 76.07 (4g) (e) of the statutes is repealed.

1           **SECTION 21.** 76.13 (1) of the statutes is amended to read:

2           76.13 (1) The department shall compute and levy a tax upon the property of  
3 each company defined in s. 76.02, as assessed in the manner specified in ss. 76.07 and  
4 76.08, at the average net rate of taxation determined under s. 76.126. The amount  
5 of tax to be paid by each such company shall be extended upon a tax roll opposite the  
6 description of the property of the respective companies. The tax rolls for all  
7 companies required to be assessed on or before August 1 in each year under s. 76.07  
8 (1) shall be completed on or before August 10, and for all companies required to be  
9 assessed on or before September 15 in each year under s. 76.07 (1) shall be completed  
10 on or before October 1; and the department shall thereupon attach to each such roll  
11 a certificate signed by the secretary of revenue, which shall be as follows:

12           “I hereby certify that the foregoing tax roll includes the property of all railroad  
13 companies, sleeping car companies, air carrier companies, conservation and  
14 regulation companies, ~~telephone companies~~ or pipeline companies, as the case may  
15 be, defined in 76.0276, liable to taxation in this state; that the valuation of the  
16 property of each company as set down in said tax roll is the full market value thereof  
17 as assessed by the department of revenue, except as changed by court judgment, and  
18 that the taxes thereon charged in said tax roll have been assessed and levied at the  
19 average net rate of taxation in this state, as required by law”.

20           **SECTION 22.** 76.28 (4) of the statutes is repealed and recreated to read:

21           76.28 (4) REDETERMINATION. If after filing the reports specified in sub. (7) and  
22 after the department’s computation and assessment of license fees under sub. (2) it  
23 is determined that the amount of gross revenues reported is in error, the department  
24 shall compute the additional license fee to be paid or the amount of the overpayment  
25 of license fee to be refunded, as the case may be. If an additional license fee is due,

1 the department shall give notice to the light, heat and power company against whom  
2 the license fee is to be levied. All such additional assessments and claims for refunds  
3 for excess license fees paid are subject to the same procedure for review and final  
4 determination as additional income or franchise tax assessments and claims for  
5 refunds under ch. 71 as far as the same may be applicable, except that appeals of  
6 denials of claims for refunds shall be made directly to the tax appeals commission  
7 and except that the additional license fees shall become delinquent 60 days after  
8 notice provided in this subsection or, if review proceedings are held, 60 days following  
9 final determination of the review proceedings. All additional license fees shall bear  
10 interest at the rate of 12% per year from the time they should have been paid to the  
11 date on which the additional fees shall become delinquent if unpaid.

12 (b) In the case of overpayments of license fees by any light, heat and power  
13 company under par. (a), the department shall certify the overpayments to the  
14 department of administration, which shall audit the amount of the overpayments  
15 and the state treasurer shall pay the amounts determined by means of the audit. All  
16 refunds of license fees under this subsection shall bear interest at the annual rate  
17 of 9% from the date of the original payment to the date when the refund is made. The  
18 time for making additional levies of license fees or claims for refunds of excess license  
19 fees paid, in respect to any year, shall be limited to 4 years after the time the report  
20 for such year was filed.

21 **SECTION 23.** 76.28 (5) of the statutes is repealed and recreated to read:

22 76.28 (5) REMEDIES. Delinquent license fees of any light, heat and power  
23 company, together with penalties and interest, for a lien upon all property of such  
24 company prior to all other liens, claims and demands, which lien may be enforced in  
25 an action in the name of the state in any court of competent jurisdiction against the

1 property of such company within the state as an entirety. The remedies for  
2 nonpayment of taxes specified in s. 76.14 apply to nonpayment of license fees,  
3 penalties and interest referred to under this section.

4 **SECTION 24.** 76.28 (6) of the statutes is repealed and recreated to read:

5 76.28 (6) ADMINISTRATION. (a) The records, books, accounts and papers of any  
6 light, heat and power company are subject to inspection and examination by the  
7 secretary of revenue or by the person that the secretary designates for that purpose.

8 (b) If any light, heat and power company that is required under this section to  
9 file a report fails to file a report within the time prescribed by law or as extended  
10 under sub. (7), unless it is shown that the failure is due to reasonable cause and not  
11 due to wilful neglect, there shall be added to the amount required to be shown as  
12 license fees on the report 5% of the amount of such fees if the failure is for not more  
13 than one month, with an additional 5% for each additional month or fraction thereof  
14 during which the failure continues, not exceeding 25% in the aggregate.

15 (c) If any light, heat and power company fails to make a report as required by  
16 sub. (7) within the time required, the department may enter an assessment against  
17 such company in a sum representing the approximate amount of the license fees,  
18 together with penalties and interest, for which such company may be liable as  
19 estimated by the department. Notice of such assessment shall be given by certified  
20 mail, and unless a report conforming to the requirements of this section is filed  
21 within 15 days of such notice, such estimated assessment shall become final.  
22 Thereafter the light, heat and power company assessed shall be forever barred from  
23 questioning the correctness of the same in any action or proceeding.

24 **SECTION 25.** Subchapter II (title) of chapter 76 [precedes 76.38] of the statutes  
25 is amended to read:

**CHAPTER 76****SUBCHAPTER II**~~TELEPHONE COMPANIES LICENSE~~~~FEES; CAR LINE COMPANIES;~~**ELECTRIC COOPERATIVE ASSOCIATIONS**

**SECTION 26.** 76.38 of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed.

**SECTION 27.** 76.38 (1) (c) of the statutes is amended to read:

76.38 (1) (c) "Telephone company" means any person operating a telecommunications facility or providing telecommunications services to another person, including the resale of those services provided by another telephone company. "Telephone company" does not include any person who operates a private shared telecommunications system as defined in s. 196.201 (1) and who is not otherwise a telephone company. ~~Beginning with the assessment on May 1, 1998, "telephone company" does not include a person described in s. 76.02 (9u).~~

**SECTION 28.** 76.38 (4) (a) of the statutes, is renumbered 76.38 (4), and 76.38 (4) (intro.), (c) and (d) of the statutes, as renumbered, are amended to read:

76.38 (4) (intro.) ~~Except as provided in sub. (6), every~~ Every telephone company ~~operating one or more telephone exchanges~~ shall pay an annual license fee equal to the following percentages of its total gross revenues in this state ~~for local and rural exchange service:~~

(c) For fees assessed on May 1, 1996, ~~5.70%~~ 5.77%.

(d) For fees assessed on May 1, 1997, and on each May 1 thereafter, ~~5.40%, 1998,~~ 5.77%.

**SECTION 29.** 76.38 (4) (b) of the statutes is repealed.



1 written request, the department may extend the time for filing the report by no more  
2 than 30 days. The requirements for payment of taxes under s. 76.13 (2a), as they  
3 apply to the tax under subch. I, apply to the tax under this subchapter.

4 **76.84 Administration.** (1) On or before October 1, the department shall  
5 notify each telephone company that is subject to the tax under s. 76.81 of the assessed  
6 value of its property.

7 (2) On or before November 1, the department shall notify each telephone  
8 company that is subject to the tax under s. 76.81 of the amount of that tax.

9 (3) From the revenues collected under this subchapter, the department shall  
10 transfer to the appropriation account under s. 20.566 (2) (ht) in 1997-98 \$307,300,  
11 in 1998-99 \$283,300 and in 1999-2000 and thereafter the amounts necessary to  
12 administer the tax under this subchapter.

13 (4) Sections 76.03 (4), 76.05, 76.06, 76.075, 76.08, 76.09, 76.13 (1), (2) and (3),  
14 76.14, 76.18, 76.22, 76.23, 76.25 and 76.28 (4) to (6), as they apply to the tax under  
15 subch. I, apply to the tax under this subchapter.

16 **SECTION 31.** Subchapter V of chapter 76 [precedes 76.90] of the statutes is  
17 created to read:

## 18 **CHAPTER 76**

### 19 **SUBCHAPTER V**

#### 20 **TRANSITIONAL ADJUSTMENT FEE**

21 **76.90 Definitions.** In this subchapter:

22 (1) "Basic local exchange service" has the meaning given in s. 196.01 (1g)

23 (2) "Cellular mobile radio telecommunications utility" has the meaning given  
24 in s. 196.202 (1).

25 (3) "Department" means the department of revenue.



1           **76.91 Imposition.** For 1999 and 2000, there is imposed on each cellular mobile  
2 radio telecommunications utility and on each person that, on the effective date of this  
3 section .... [revisor inserts date], provides basic local exchange service a transitional  
4 adjustment fee. Taxpayers shall pay the tax during May 1998, November 1998, May  
5 1999, November 1999 and May 2000. For each month that a fee is due under this  
6 subchapter, the taxpayer shall pay to the department an amount calculated as  
7 follows:

8           (1) Determine the amount that the taxpayer would pay during that month,  
9 taking into account the reconciliation of the previous year's estimated payments, if  
10 the taxpayer were assessed the tax under s. 76.38, 1993 stats., at a rate of 5.77%.

11           (2) Subtract from the amount under sub. (1) the taxpayer's payment during  
12 that month of the tax under subch. IV.

13           **76.92 Report; payment.** On or before March 1, every taxpayer that is subject  
14 to the fee under this subchapter shall send to the department a completed form that  
15 the department prescribes. Upon written request, the department may extend the  
16 time for filing the report by no more than 30 days.

17           **76.93 Administration.** (1) On or before May 1, the department shall notify  
18 each taxpayer that is subject to the fee under s. 76.91 of the amount of that fee.

19           (2) Sections 76.03 (4), 76.04 (1), 76.05, 76.06, 76.14, 76.18, 76.22, 76.24 (1),  
20 76.25 and 76.28 (4) to (6), as they apply to the tax under subch. I, apply to the fee  
21 under this subchapter.

22           **SECTION 32.** 77.52 (2) (a) 5. of the statutes is amended to read:

23           77.52 (2) (a) 5. The sale of telecommunications services, ~~not including services~~  
24 ~~paid for by the insertion of coins in a coin-operated telephone,~~ that originate in this

1 state and are charged to a service address in this state, regardless of the location  
2 where that charge is billed or paid.

3 **SECTION 33.** 134.72 (1) (a) of the statutes is amended to read:

4 134.72 (1) (a) "Facsimile machine" means a machine that transmits copies of  
5 documents by means of a telecommunications facility, as defined in s. 76.38 (1) (bm)  
6 telephone line, telegraph line, microwave, satellite, cellular radio, fiber optics,  
7 coaxial cable or any other transmission facility or any switching device.

8 **SECTION 34.** 227.03 (1) of the statutes is amended to read:

9 227.03 (1) This chapter applies to cases arising under ss. 76.38, 76.39 and,  
10 76.48 and 76.91.

11 **SECTION 35.** 227.03 (1) of the statutes, as affected by 1995 Wisconsin Act ....  
12 (this act), is repealed and recreated to read:

13 227.03 (1) This chapter applies to cases arising under s. 76.38, 1993 stats., and  
14 ss. 76.39, 76.48 and 76.91.

15 **SECTION 36.** 968.01 (1) of the statutes is amended to read:

16 968.01 (1) "Facsimile machine" ~~means a machine that transmits copies of~~  
17 ~~documents by means of a telecommunications facility, as defined in s. 76.38 (1) (bm)~~  
18 has the meaning given in s. 134.72 (1) (a).

19 **SECTION 37.** 1991 Wisconsin Act 39, section 9149 (6) is repealed.

20 **SECTION 38.** 1991 Wisconsin Act 39, section 9149 (7) is amended to read:

21 [1991 Wisconsin Act 39] Section 9149 (7) LEGISLATIVE INTENT; TELEPHONE  
22 COMPANIES. The legislature intends that the tax reduction created by the treatment  
23 of chapter 76 of the statutes by this act in regard to telephone companies, ~~when fully~~  
24 ~~and completely implemented in 1997,~~ constitutes a portion of the refund of taxes that  
25 could be claimed pursuant to GTE Sprint Communications Corporation, n.k.a. U.S.

1 Sprint Communications Company vs. Wisconsin Bell, Inc., and the State of  
2 Wisconsin, (No. 89-0272, May 15, 1990).

3 **SECTION 40m.** 1995 Wisconsin Act .... (Assembly Bill 808), section 3 (1) is  
4 amended to read:

5 [1995 Wisconsin Act .... (Assembly Bill 808)] Section 3 (1) TRANSFER TO PROPERTY  
6 TAX RELIEF FUND. There is transferred on June 30, 1997, from the general fund to the  
7 property tax relief fund ~~\$160,000,000~~ \$195,000,000.

8 **SECTION 39. Nonstatutory provisions.**

9 (1) RECONCILIATION. Cellular mobile radio telecommunications utilities and  
10 telephone companies that provide basic local exchange service shall reconcile their  
11 first payments under subchapter V of chapter 76 of the statutes, as created by this  
12 act, to reflect their overpayment or underpayment of their final instalment of gross  
13 receipts taxes. All other telephone companies shall reconcile their first payments  
14 under subchapter IV of chapter 76 of the statutes, as created by this act, to reflect  
15 their overpayment or underpayment of their final instalment of gross receipts taxes.

16 (2) TRANSITION. This act does not affect any amounts due, remedies available  
17 to or appeals available to any telephone company or the department of revenue that  
18 accrued before a change in the method of taxation of any telephone company.

19 (3) INSTALMENT AMOUNT. Notwithstanding section 76.83 of the statutes, as  
20 created by this act, the May 10, 1998, instalment of the tax under subchapter IV of  
21 chapter 76 of the statutes, as created by this act, shall be at least 50% of the tax under  
22 section 76.38 of the statutes that was assessed on May 1, 1998, or at least 40% of the  
23 tax under subchapter IV of chapter 76 of the statutes, as created by this act, that is  
24 due for 1998.

1           (4) PROXY FOR REFUND. The legislature intends that the tax reduction created  
2 by the treatment of chapter 76 of the statutes by this act in regard to telephone  
3 companies, when it is implemented in 1998, constitutes the remainder of taxes that  
4 could be claimed pursuant to GTE Sprint Communications n.k.a. U.S. Sprint  
5 Communications Company v. Wisconsin Bell, Inc., and the State of Wisconsin, (No.  
6 89-0272, May 15, 1990).

7           (5) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if  
8 it is finally adjudicated that any provision of this act is unconstitutional, the entire  
9 act is void.

10          (6) TELEPHONE TAX. The authorized FTE positions for the department of  
11 revenue are increased by 6.0 PR positions on July 1, 1997, to be funded from the  
12 appropriation under section 20.566 (2) (ht) of the statutes, as created by this act, for  
13 the purpose of administering the tax under subchapter IV of chapter 76 of the  
14 statutes, as created by this act.

15          (7) RECONCILIATION; TRANSFER TO PROPERTY TAX RELIEF FUND. If 1995 Senate Bill  
16 563 is enacted and that enactment includes section 10 of Senate Substitute  
17 Amendment 1 to 1995 Senate Bill 563, there is transferred from the general fund to  
18 the property tax relief fund on June 30, 1997, in lieu of the amount shown in section  
19 10 of Senate Substitute Amendment 1 to 1995 Senate Bill 563 and the amount shown  
20 in SECTION 40m of this act, the amount of \$205,635,900. If 1995 Wisconsin Act ...  
21 (Assembly Bill 808) is not enacted into law, the treatment of 1995 Wisconsin Act ...  
22 (Assembly Bill 808), section 3 (1) by this act and SECTION 44 (3p) of this act are void.

23          (8) FUTURE APPROPRIATIONS FOR EDUCATIONAL TECHNOLOGY BOARD GRANTS. The  
24 legislature expresses its intention to appropriate an additional amount of  
25 \$10,000,000 for grants to be distributed to school districts and library boards by the

1 educational technology board in the 1997-99 fiscal biennium and its intention that,  
2 if such an appropriation is made, the amount appropriated will not be included in  
3 state school aids for purposes of section 121.15 (3m) (a) 2. of the statutes.

4 **SECTION 40. Initial applicability.**

5 (1) The treatment of subchapter IV of chapter 76 of the statutes first applies  
6 to taxes due for 1998.

7 **SECTION 41. Effective dates.** This act takes effect on the day after  
8 publication, except as follows:

9 (1) SALES TAX. The treatment of section 77.52 (2) (a) 5. of the statutes takes effect  
10 on the first day of the 2nd month beginning after publication.

11 (2) DISCONTINUATION OF LICENSE FEE. The repeal of section 76.38 of the statutes,  
12 the treatment of section 76.28 (4), (5) and (6) and subchapter II (title) of chapter 76  
13 of the statutes and the repeal and recreation of sections 20.913 (1) (b), 71.26 (3) (f),  
14 73.01 (4) (a) and (5) (a) and 227.03 (1) of the statutes take effect on May 15, 1998.

15 (3) TRANSFER TO PROPERTY TAX RELIEF FUND. The treatment of 1995 Wisconsin  
16 Act .... (Assembly Bill 808), section 3 (1) takes effect on August 1, 1996.

17 **(END)**