

**2001 Jr2 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-AB1)**

Received: 05/29/2002

Received By: shoveme

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau 6-3773

By/Representing: Rob Reinhardt

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Addl. Drafters:

Subject: Tax - individual income  
Tax - miscellaneous

Extra Copies: Faith Russell, LFB

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

LFB:.....Reinhardt -

---

**Topic:**

Minnesota-Wisconsin income tax reciprocity

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**Instructions:**

See Attached

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**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 06/03/2002	gilfokm 06/03/2002	rschluet 06/04/2002	_____	lrb_docadmin 06/04/2002		
/2	shoveme 06/04/2002	gilfokm 06/04/2002	rschluet 06/04/2002	_____	lrb_docadmin 06/04/2002		
/3	shoveme	gilfokm	jfrantze	_____	lrb_docadmin		

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	06/14/2002	06/14/2002	06/14/2002	_____	06/14/2002		

FE Sent For:

<END>

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/2	shoveme 06/04/2002	gilfokm 06/04/2002	rschluet 06/04/2002	_____	lrb_docadmin 06/04/2002		

13 MES 6/13/02  
6/14/02  
King

**FE Sent For:**

**<END>**

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/1	shoveme 06/03/2002	gilfokm 06/03/2002	rschlue 06/04/2002		lrb_docadmin 06/04/2002		

12 MES 6/4/02 2/2-6/4  
FE Sent For: *kmg*

*RS*  
6-4-2  
<END>

2001 Jr2 DRAFTING REQUEST

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Received: 05/29/2002

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/1	shoveme	6-6/3 KMG					
11 MES 6/3/02							

FE Sent For:

6-4-2  
<END>

## Shovers, Marc

---

**From:** Reinhardt, Rob  
**Sent:** Thursday, May 30, 2002 12:05 PM  
**To:** Shovers, Marc  
**Cc:** Russell, Faith  
**Subject:** Minnesota Reciprocity

Marc,

I think Sen. Jauch wants an amendment drafted to the budget adjustment bill that would somehow accomplish the following:

1. WI would agree to pay approximately \$5.5 million in interest in December 2002 for the tax year 2001 reciprocity payment. The interest would be calculated according to the new Minnesota law.
2. Future interest payments would be negotiated by the states in a way that is "mutually fair" and "reasonable." I'm not sure who would conduct the negotiations. He seems to want to get the MN Revenue Secretary out of this process. I guess their Revenue Secretary is pretty negative about the entire agreement.
3. WI would receive a credit for the difference between the \$5.5 million interest payment next December and the amount of interest that would be payable under the negotiated interest rate.
4. The amendment would have to be drafted in a way that satisfies MN's statutory requirement that says we must agree in writing with their new law regarding the interest payment and its calculation.

I'm not sure if all of these things are possible, but he wanted us to try to come up with something. I think Faith has contacted someone in MN to find out what WI has to do to satisfy the "agrees in writing" requirement in the MN law. Sen. Jauch said he would also ask that question of MN's Senate Majority Leader (Roger Moe) in a letter he intends to send to him about all this.

Thanks much. Let me know if you need anything else.



**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 5/16/02

DELIVER TO: Marc Shovers, LRB

Addressee Fax #: 4-6948

Addressee Phone #:

# of Pages, Including Cover: 5

Sender's Initials: FR

From: Faith Russell

Marc -

The language re the MN tax reciprocity is from HF 2498, the Conference Committee Report.

Let me know if you have questions.

It starts in section 2 of the bill.

*Faith Russell*

05/15/02 12:25 a.m.

[REVISOR.] JMR/JC 2498 INCOME

1 Internal Revenue Code, but only to the extent that the amount  
2 exceeds the amount of the credit allowed under section 290.068;

3 (14) the amount of salary expenses not allowed for federal  
4 income tax purposes due to claiming the Indian employment credit  
5 under section 45A(a) of the Internal Revenue Code;

6 (15) the amount of any refund of environmental taxes paid  
7 under section 59A of the Internal Revenue Code;

8 (16) for taxable years beginning before January 1, 2008,  
9 the amount of the federal small ethanol producer credit allowed  
10 under section 40(a)(3) of the Internal Revenue Code which is  
11 included in gross income under section 87 of the Internal  
12 Revenue Code; and

13 (17) for a corporation whose foreign sales corporation, as  
14 defined in section 922 of the Internal Revenue Code, constituted  
15 a foreign operating corporation during the any taxable years  
16 year ending during-calendar-year-1992 before January 1, 1995,  
17 and a return was filed by August 15, 1996, claiming the  
18 deduction under this subdivision for income received from the  
19 foreign operating corporation, an amount equal to 1.23  
20 multiplied by the amount of income excluded under section 114 of  
21 the Internal Revenue Code, provided the income is not income of  
22 a foreign operating company.

23 [EFFECTIVE DATE.] This section is effective for taxable  
24 years beginning after December 31, 2000.

25 Sec. 2. Minnesota Statutes 2000, section 290.081, is  
26 amended to read:

27 290.081 [INCOME OF NONRESIDENTS, RECIPROCALITY.]

28 (a) The compensation received for the performance of  
29 personal or professional services within this state by an  
30 individual whose residence, place of abode, and place  
31 customarily returned to at least once a month is in another  
32 state, shall be excluded from gross income to the extent such  
33 compensation is subject to an income tax imposed by the state of  
34 residence; provided that such state allows a similar exclusion  
35 of compensation received by residents of Minnesota for services  
36 performed therein.

05/15/02 12:25 a.m.

[REVISOR ] JMR/JC 2498INCOME

1 (b) When it is deemed to be in the best interests of the  
 2 people of this state, the commissioner may determine that the  
 3 provisions of clause paragraph (a) shall not apply. As long as  
 4 the provisions of clause paragraph (a) apply between Minnesota  
 5 and Wisconsin, the provisions of clause paragraph (a) shall  
 6 apply to any individual who is domiciled in Wisconsin.

7 (c) For the purposes of clause paragraph (a), whenever the  
 8 Wisconsin tax on Minnesota residents which would have been paid  
 9 Wisconsin without clause paragraph (a) exceeds the Minnesota tax  
 10 on Wisconsin residents which would have been paid Minnesota  
 11 without clause paragraph (a), or vice versa, then the state with  
 12 the net revenue loss resulting from clause paragraph (a) shall  
 13 receive from the other state the amount of such loss. This  
 14 provision shall be effective for all years beginning after  
 15 December 31, 1972. The data used for computing the loss to  
 16 either state shall be determined on or before September 30 of  
 17 the year following the close of the previous calendar year.

18 (d) Interest ~~shall be~~ is payable on all delinquent-balance  
 19 amounts calculated under paragraph (c) relating to taxable years  
 20 beginning after December 31, 1977 December 31, 2000. Interest  
 21 accrues from July 1 of the taxable year. The commissioner of  
 22 revenue is authorized to enter into agreements with the state of  
 23 Wisconsin specifying the reciprocity payment due date,  
 24 conditions constituting delinquency, interest rates, and a  
 25 method for computing interest due ~~on any delinquent amounts.~~

26 (e) If an agreement cannot be reached as to the amount of  
 27 the loss, the commissioner of revenue and the taxing official of  
 28 the state of Wisconsin shall each appoint a member of a board of  
 29 arbitration and these members shall appoint the third member of  
 30 the board. The board shall select one of its members as chair.  
 31 Such board may administer oaths, take testimony, subpoena  
 32 witnesses, and require their attendance, require the production  
 33 of books, papers and documents, and hold hearings at such places  
 34 as are deemed necessary. The board shall then make a  
 35 determination as to the amount to be paid the other state which  
 36 determination shall be final and conclusive.

05/15/02 12:25 a.m.

[REVISOR ] JMR/JC 2498 INCOME

1           (f) The commissioner may furnish copies of returns,  
2 reports, or other information to the taxing official of the  
3 state of Wisconsin, a member of the board of arbitration, or a  
4 consultant under joint contract with the states of Minnesota and  
5 Wisconsin for the purpose of making a determination as to the  
6 amount to be paid the other state under the provisions of this  
7 section. Prior to the release of any information under the  
8 provisions of this section, the person to whom the information  
9 is to be released shall sign an agreement which provides that  
10 the person will protect the confidentiality of the returns and  
11 information revealed thereby to the extent that it is protected  
12 under the laws of the state of Minnesota.

13           [EFFECTIVE DATE.] This section is effective the day  
14 following final enactment. Income tax reciprocity under  
15 Minnesota Statutes, section 290.081, with the state of Wisconsin  
16 is terminated effective for taxable years beginning after  
17 December 31, 2002, unless the state of Wisconsin agrees, in  
18 writing, by October 1, 2002, that interest will be included in  
19 payments as required by this section, calculated from the date  
20 specified under this section at a rate at least equal to the  
21 rate under Minnesota Statutes, section 270.75, and beginning  
22 with the payment due in December 2002. If income tax  
23 reciprocity is terminated under this provision, the requirement  
24 under Minnesota Statutes, section 136A.08, subdivision 3, that  
25 an income tax reciprocity agreement be in effect as a condition  
26 for a higher education reciprocity is suspended through the  
27 2003-2004 school year.

28           Sec. 3. Minnesota Statutes 2001 Supplement, section  
29 290.0921, subdivision 2, is amended to read:

30           Subd. 2. [DEFINITIONS.] (a) For purposes of this section,  
31 the following terms have the meanings given them.

32           (b) "Alternative minimum taxable net income" is alternative  
33 minimum taxable income,

34           (1) less the exemption amount, and

35           (2) apportioned or allocated to Minnesota under section  
36 290.17, 290.191, or 290.20.

HIST: 1975 c 377 s 7; 1Sp1981 c 1 art 3 s 1; 3Sp1981 c 2 art 3  
s 1; 1982 c 523 art 1 s 67,68; art 2 s 27; art 26 s 1; 1983 c  
207 s 1; 1985 c 210 art 1 s 7; 1Sp1985 c 13 s 306; 1991 c 291  
art 16 s 7

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20.566(2)(hi)

(hi) *Wisconsin property assessment manual*. The amounts in the schedule for the purposes of s. 73.03 (2a). All moneys received under s. 73.03 (2a) shall be credited to this appropriation.

20.566(3)(g)

(g) *Services*. The amounts in the schedule to provide services, except as provided in sub. (2) (h). All moneys received from services rendered by the department, except as provided in sub. (2) (h), shall be credited to the appropriation. Insofar as practicable all such services shall be billed at cost.

20.566(3)(gm)

(gm) *Reciprocity agreement and publications*. The amounts in the schedule to provide services for the Minnesota income tax reciprocity agreement under s. 71.10 (7) and for publications except as provided in par. (g) and sub. (2) (hi). All moneys received by the department of revenue in return for the provision of these services shall be credited to this appropriation.

20.855(4)(c)

(c) *Minnesota income tax reciprocity*. A sum sufficient to pay to the state of Minnesota any losses of income taxes occurring because of income tax reciprocity between this state and Minnesota and any interest payments due under s. 71.10 (7).

20.855(4)(ca)

(ca) *Minnesota income tax reciprocity bench mark*. The amounts in the schedule to fund a bench mark study by the department of revenue of the revenue loss under s. 71.10 (7) (b).

71.05(2)

(2) **Nonresident reciprocity**. All payments received by natural persons domiciled outside Wisconsin who derive income from the performance of personal services in Wisconsin shall be excluded from Wisconsin gross income to the extent that it is subjected to an income tax imposed by the state of domicile; provided that the law of the state of domicile allows a similar exclusion of income from personal services earned in such state by natural persons domiciled in Wisconsin, or a credit against the tax imposed by such state on such income equal to the Wisconsin tax on such income.

71.10(7)(a)

(a) For purposes of income tax reciprocity reached with the state of Minnesota under s. 71.05 (2), whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity, the state with the net revenue loss shall receive from the other state the amount of the loss. Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The secretary of revenue may enter into agreements with the state of Minnesota specifying the reciprocity payment due date, conditions constituting delinquency, interest rates and the method of computing interest due on any delinquent amounts.

71.10(7)(b)

(b) The data used for computing the loss to either state shall be determined by the respective departments of revenue of both states on or before November 1 of the year following the close of the previous calendar year.

If an agreement cannot be reached as to the amount of the loss, the secretary of revenue of this state and the commissioner of taxation of the state of Minnesota shall each appoint a member of a board of arbitration and these members shall appoint a 3rd member of the board. The board shall select one of its members as chairperson. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents and hold hearings at such places as it deems necessary. The board shall then make a determination as to the amount to be paid the other state which shall be conclusive. This state shall pay no more than one-half of the cost of such arbitration.

71.78(4)(h)1.

1. A member of the board of arbitration established under s. 71.10 (7) or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of determining the reciprocity loss to which either state is entitled.



State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb3036/1

MES.....

LFB:..... ~~W~~ Reinhardt - Minnesota-Wisconsin income tax reciprocity

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

WANTED  
TUES 6/4

D-NOTE

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 66, line 15: after that line insert:

3 "SECTION 170q. 71.10 (7) (c) of the statutes is created to read:

4 71.10 (7) (c) 1. For taxable years beginning after December 31, 2000, and  
5 ending before January 1, 2002, this state shall pay Minnesota in December 2002  
6 interest on any reciprocity payment that is due under this subsection. The rate of  
7 interest shall be calculated according to the applicable Minnesota law that is in effect  
8 on June 1, 2002, except that no interest payment under this ~~paragraph~~ may exceed ~~\$10~~

9 million. Not later than October 1, 2002, the secretary of revenue shall notify the

→ \$6,000,000

subdivision

1 Minnesota department of revenue of Wisconsin's intention to make the payment  
2 specified under this subdivision.

3 2. For taxable years beginning after December 31, 2001, this state shall pay  
4 Minnesota interest on any reciprocity payment that is due under this subsection  
5 based on a written agreement between this state and Minnesota. The rate of interest  
6 shall be calculated according to a written agreement that shall be entered into by the  
7 parties, and shall be negotiated in a mutually fair and reasonable manner. If the rate  
8 of interest agreed to by the parties under this subdivision is less than the rate  
9 calculated under subdivision 1., the amount of interest due <sup>and paid to,</sup> Minnesota under  
10 ~~subdivision~~ 1. shall be recalculated based on the interest rate that is negotiated  
11 under this subdivision and the difference in the amount of interest paid by this state  
12 under ~~subdivision~~ 1. and the amount that would have been due based on the interest  
13 rate determined under this subdivision shall, if Minnesota agrees, be credited to this  
14 state and shall be used to pay amounts due under this subdivision for taxable years  
15 beginning after December 31, 2001."

16 (END)

D-note

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

LRBb3036/1dn

MES.....  
*mg*

Rob Reinhardt:

*\$6,000,000*

*→ that I have*

*\$5,500,000*

Is the ~~\$6 million cap~~ <sup>one</sup> created in par. (c) 1. consistent with your intent? Your instructions stated that the payment would be approximately ~~\$5.5 million~~, but I didn't think ~~you'd~~ want the possibility of an open-ended payment to exist.

Is the reference to the <sup>that you would</sup> June 1, 2002, effective date of the Minnesota law OK? The copy of the Minnesota bill that Faith sent me doesn't really state whether that law has taken effect yet. Let me know if this date needs to be changed, or if you have the equivalent of an "Act" number.

Your second instruction stated that future interest payments should be negotiated in a way that is "mutually fair" and "reasonable", and stated that you're not sure who should conduct the negotiations. I'm not sure what the legal effect is of requiring that the agreement "shall be negotiated in a mutually fair and reasonable manner." Also, the instructions did not specify what should happen if there is an impasse in the negotiations. Do you want to incorporate an arbitration provision based on s. 71.10 (7) (b)?

It wasn't clear to me on what basis Wisconsin was supposed to get a "credit" (your instruction 3) for certain amounts that will have been paid in December 2002, based on a ~~yet-to-be-negotiated~~ <sup>^ ^ ^</sup> agreement. Is created par. (c) 2. consistent with your intent?

Please let me know if the secretary of revenue's written notification in created par. (c) 1. is consistent with whatever Faith finds out from our Minnesota counterparts.

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**

LRBb3036/1dn  
MES:kmg:rs

June 4, 2002

Rob Reinhardt:

Is the \$6,000,000 cap that I have created in par. (c) 1. consistent with your intent? Your instructions stated that the payment would be approximately \$5,500,000, but I didn't think that you would want the possibility of an open-ended payment to exist.

Is the reference to the June 1, 2002, effective date of the Minnesota law OK? The copy of the Minnesota bill that Faith sent me doesn't really state whether that law has taken effect yet. Let me know if this date needs to be changed, or if you have the equivalent of an "Act" number.

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

## Shovers, Marc

---

**From:** Russell, Faith  
**Sent:** Tuesday, June 04, 2002 2:29 PM  
**To:** Shovers, Marc  
**Subject:** LRBb3036/1

Hi Marc --

As per my voice mail message, we'd like to get a /2 of the Minnesota-Wisconsin income tax reciprocity draft. The changes we'd like are as follows:

+ Page 1, lines 7 and 8: the specific Minnesota law is: "Laws of Minnesota 2002 Chapter 377". FYI, the law was filed by the MN Secretary of State on May 18, 2002.

-- Page 1, line 8: Strike: ", except that no interest payment under this subdivision may exceed \$6,000,000".  
[FYI, the interest is limited by the methodology prescribed by Minnesota, so it doesn't seem like an upper limit in our statutes is necessary.]

-- Page 1, line 9: Instead of the date "October 1, 2002" put the date "September 30, 2002".

In terms of the material on page 2, par.(c) 2, we were asked to include the language requiring that the agreement "shall be negotiated in a mutually fair and reasonable manner." We don't disagree with your opinion that the legal effect is unclear. At this point, it is also unclear who would conduct the negotiations, so it's difficult to put in an arbitration provision. So we'll leave this for now.

You also asked about the credit under created par.(c) 2. The way you wrote this is consistent with our intent.

At this point, it does appear that the secretary's written notification in created par. (c) 1 is consistent with what MN DOR and WI DOR believe to be the intended process.

Finally, Rob and I were wondering about lines 6 & 7 on page 2, with the reference to a written agreement that shall be entered into "by the parties". In the absence of something more specific (which we're not in a position to provide), are there statutory guidelines as to how "the parties" would be interpreted?

Thanks for your help. Please let me know if you have questions --

**Faith Russell**  
**Legislative Fiscal Bureau**  
**faith.russell@legis.state.wi.us**  
**608-266-3847**

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Thanks for your help. Please let me know if you have questions --

**Faith Russell**  
**Legislative Fiscal Bureau**  
**faith.russell@legis.state.wi.us**  
**608-266-3847**



State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb3036/1

MES:kmg

FMR

LFB:.....Reinhardt – Minnesota–Wisconsin income tax reciprocity

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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TO ASSEMBLY BILL 1

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6/5

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4 71.10 (7) (c) 1. For taxable years beginning after December 31, 2000, and  
5 ending before January 1, 2002, this state shall pay Minnesota in December 2002

6 interest on any reciprocity payment that is due under this subsection. The rate of  
7 interest shall be calculated according to the <sup>Laws of 2002 Chapter 377</sup> applicable Minnesota law that is in effect

8 ~~on June 1, 2002, except that no interest payment under this subdivision may exceed~~

9 ~~\$5,000,000.~~ No later than ~~October~~ <sup>September 30</sup>, 2002, the secretary of revenue shall notify the

↑

1 Minnesota department of revenue of Wisconsin's intention to make the payment  
2 specified under this subdivision.

3 2. For taxable years beginning after December 31, 2001, this state shall pay  
4 Minnesota interest on any reciprocity payment that is due under this subsection. (1)

5 ~~based on a written agreement between this state and Minnesota~~ The rate of interest  
6 shall be calculated according to a written agreement ~~that shall be entered into by the~~  
7 ~~parties, and~~ <sup>which</sup> shall be negotiated in a mutually fair and reasonable manner. If the rate  
8 of interest <sup>(1)</sup> agreed to by the parties under this subdivision is less than the rate  
9 calculated under subd. 1., the amount of interest due, and paid to, Minnesota under  
10 subd. 1. shall be recalculated based on the interest rate that is negotiated under this  
11 subdivision and the difference in the amount of interest paid by this state under  
12 subd. 1. and the amount that would have been due based on the interest rate  
13 determined under this subdivision shall, if Minnesota agrees, be credited to this  
14 state and shall be used to pay amounts due under this subdivision for taxable years  
15 beginning after December 31, 2001."

16 (END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb3036/2

MES:kmgrs



*RMR*

LFB:.....Reinhardt - Minnesota-Wisconsin income tax reciprocity

*wanted:  
today*

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

*under another  
and method of calculation that is*

*→ , or at another rate / agreed to by Minnesota  
and Wisconsin*

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 66, line 15: after that line insert:

3 "SECTION 170q. 71.10 (7) (c) of the statutes is created to read:

4 71.10 (7) (c) 1. For taxable years beginning after December 31, 2000, ~~and~~  
5 ~~ending before January 1, 2002,~~ this state shall pay Minnesota ~~in December 2002~~  
6 interest on any reciprocity payment that is due under this subsection. ~~The rate of~~  
7 ~~interest shall be calculated according to the Laws of Minnesota 2002 Chapter 377.~~ "

8 ~~No later than September 30, 2002, the secretary of revenue shall notify the~~  
9 ~~Minnesota department of revenue of Wisconsin's intention to make the payment~~  
10 ~~specified under this subdivision.~~





State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb3036/3  
MES:kmg:jf

LFB:.....Reinhardt – Minnesota–Wisconsin income tax reciprocity

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO ASSEMBLY BILL 1**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 66, line 15: after that line insert:

3 “SECTION 170q. 71.10 (7) (c) of the statutes is created to read:

4 71.10 (7) (c) 1. For taxable years beginning after December 31, 2000, this state  
5 shall pay Minnesota interest on any reciprocity payment that is due under this  
6 subsection. Interest shall be calculated according to the Laws of Minnesota 2002  
7 Chapter 377, or at another rate and under another method of calculation that is  
8 agreed to by Minnesota and Wisconsin.”

9 (END)