

# State of Wisconsin



1995 Assembly Bill 1048

Date of enactment: **May 22, 1996**

Date of publication\*: **June 5, 1996**

## 1995 WISCONSIN ACT 351

(Vetoed in Part)

AN ACT *to repeal* 16.702, 16.702 (2), 76.001, 76.02 (9r), 76.07 (4g) (e), 76.38 and 76.38 (4) (b); *to renumber* 76.02 (9t); *to renumber and amend* 76.02 (9u) and 76.38 (4) (a); *to amend* 14.28 (6) (a) 2., 16.701, 16.702 (title), 16.702 (1), 16.702 (3) (b), 20.913 (1) (b), 25.61, 71.26 (3) (f), 73.01 (4) (a), 73.01 (5) (a), 76.01, 76.02 (9), 76.04 (1), 76.07 (1), 76.07 (2), 76.13 (1), subchapter II (title) of chapter 76 [precedes 76.38], 76.38 (1) (c), 77.52 (2) (a) 5., 134.72 (1) (a), 227.03 (1) and 968.01 (1); *to repeal and recreate* 20.913 (1) (b), 71.26 (3) (f), 73.01 (4) (a), 73.01 (5) (a), 76.28 (4), 76.28 (5), 76.28 (6) and 227.03 (1); *to create* 16.7015, 20.566 (2) (ht), subchapter IV of chapter 76 [precedes 76.80] and subchapter V of chapter 76 [precedes 76.90] of the statutes; and *to affect* 1991 Wisconsin Act 39, section 9149 (6), 1991 Wisconsin Act 39, section 9149 (7) and 1995 Wisconsin Act .... (Assembly Bill 808), section 3 (1); **relating to:** the taxation of telephone companies, contributions to the fast start fund of the Wisconsin Advanced Telecommunications Foundation, the subscription service for prospective state vendors, a state bidders list and registration fee, imposing the sales tax on coin-operated telephone services, transfer of moneys from the general fund to the property tax relief fund, an expression of legislative intent concerning appropriations for the 1997–99 fiscal biennium and making an appropriation.

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

**SECTION 1b.** 14.28 (6) (a) 2. of the statutes is amended to read:

14.28 (6) (a) 2. Before January 1, ~~1997~~ 1998, in addition to the amount under subd. 1., a total of \$3,000,000, at least 50% of which shall be in direct contributions.

**SECTION 1c.** 16.701 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**16.701 Subscription service.** The department may provide a subscription service containing current information of interest to prospective vendors concerning state procurement opportunities. If the department provides the service, the department shall assist small businesses, as defined in s. 16.75 (4) (c), who are prospective vendors in accessing and using the service by providing

facilities or services to the businesses. The department shall may charge a fee for any such service. The department shall prescribe the amount of ~~the~~ any fee by rule.

**SECTION 1d.** 16.7015 of the statutes is created to read:

**16.7015 Bidders list.** The department or any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list which shall include the names and addresses of all persons who request to be notified of bids or competitive sealed proposals, excluding those to be awarded under s. 16.75 (1) (c) or (2m) (c), that are solicited by the department or other agency for the procurement of materials, supplies, equipment or contractual services under this subchapter. Any list maintained by the department may include the names and addresses of any person who requests to be notified

\* Section 991.11, WISCONSIN STATUTES 1993–94: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

of bids or competitive sealed proposals to be solicited by any agency. The department or other agency shall notify each person on its list of all requests for bids or competitive sealed proposals by the department or other agency. The department or other agency may remove any person from its list for cause.

**SECTION 1df.** 16.702 of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed.

**SECTION 1e.** 16.702 (title) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**16.702** (title) ~~Contract administration fees~~ **Bidders list registration fee.**

**SECTION 1f.** 16.702 (1) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

16.702 (1) The department shall by rule prescribe a contract administration bidders list registration fee to be paid for each state fiscal year by providers of materials, supplies, equipment or contractual services to agencies. ~~Different contract administration fees may be assessed~~

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

		1995-96	1996-97
<b>20.566</b>	<b>Revenue, department of</b>		
	(2) STATE AND LOCAL FINANCE		
	(ht) Telephone tax administration	-0-	-0-

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

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

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

20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful taxation, when claims therefor have been established as provided in ss. 71.30 (4), 71.74 (13), 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, 78.68 (10), 78.75, 78.80 (1m), 139.092, 139.25 (1), 139.36, 139.365 and 139.39 (4).

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

20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful taxation, when claims therefor have been established as provided in ss. 71.30 (4), 71.74 (13), 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 (10), 78.75, 78.80 (1m), 139.092, 139.25 (1), 139.36, 139.365 and 139.39 (4).

**SECTION 4m.** 25.61 of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

**25.61 Information technology investment fund.** There is created a separate nonlapsible trust fund desig-

~~on the basis of different total dollar volumes of sales by providers to agencies within the fiscal year in which the fee is assessed or the preceding fiscal year any person who requests to be placed on a list maintained under s. 16.7015 and who is placed on such a list for any portion of that fiscal year. Payment of the fee to the department entitles the payer, upon the payer's request, to be placed on each list maintained under s. 16.7015 that is specified by the payer during the fiscal year for which the fee is paid, except as provided in s. 16.7015.~~

**SECTION 1g.** 16.702 (2) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 1h.** 16.702 (3) (b) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

16.702 (3) (b) Exemption of any class of providers persons from payment of part or all of the fee prescribed under sub. (1) if exemption of that class of providers persons is in the best interest of the state.

		1995-96	1996-97
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nated as the information technology investment fund consisting of all revenues accruing to the state from fees assessed under ~~ss. s. 16.701, 16.702~~ and from gifts, grants and bequests made for information technology development purposes and moneys transferred to the fund from other funds.

**SECTION 7.** 71.26 (3) (f) of the statutes is amended to read:

71.26 (3) (f) Section 164 (a) is modified so that foreign taxes are not deductible unless the income on which the tax is based is taxable under this chapter and so that gross receipts taxes assessed in lieu of property taxes, the license fees under ss. 76.28 and 76.38 and the ~~tax~~ taxes under ~~ss. ss. 70.375, 76.81 and 76.91~~ are deductible.

**SECTION 8.** 71.26 (3) (f) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

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

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

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s.

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

**SECTION 10.** 73.01 (4) (a) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

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

**SECTION 11.** 73.01 (5) (a) of the statutes is amended to read:

73.01 (5) (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the de-

partment or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which the commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 76.39 (4) (c) ~~or~~ 76.48 ~~or~~ 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

**SECTION 12.** 73.01 (5) (a) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

73.01 (5) (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy

to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which the commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

**SECTION 13.** 76.001 of the statutes is repealed.

**SECTION 14.** 76.01 of the statutes is amended to read:

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

**SECTION 15.** 76.02 (9) of the statutes is amended to read:

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

**SECTION 16.** 76.02 (9r) of the statutes is repealed.

**SECTION 17.** 76.02 (9t) of the statutes is renumbered 76.80 (3).

**SECTION 18.** 76.02 (9u) of the statutes is renumbered 76.80 (4) and amended to read:

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

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

**SECTION 19.** 76.04 (1) of the statutes is amended to read:

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

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

**SECTION 20.** 76.07 (1) of the statutes is amended to read:

76.07 (1) DUTY OF DEPARTMENT. The department on or before August 1 in each year in the case of railroad companies and sleeping car companies, and on or before September 15 in the case of air carrier companies, ~~telephone companies~~, conservation and regulation companies and pipeline companies, shall, according to its best knowledge and judgment, ascertain and determine the full market value of the property of each company within the state.

**SECTION 21.** 76.07 (2) of the statutes is amended to read:

76.07 (2) RELATION TO STATE VALUATION; DESCRIPTION. The value of the property of each of said companies for assessment shall be made on the same basis and for the same period of time, as near as may be, as the value of the general property of the state is ascertained and determined. The department shall prepare an assessment roll and place thereon after the name of each of said companies assessed, the following general description of the property of such company, to wit: "Real estate, right-of-way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real estate and personal property of said company," in the case of railroads, and "Real estate, right-of-way, poles, wires, con-

duits, cables, devices, appliances, instruments, franchises and all other real and personal property of said company," in the case of conservation and regulation companies, and "Real estate, appurtenances, rolling stock, equipment, franchises, and all other real estate and personal property of said company," in the case of sleeping car and air carrier companies, and "Land and land rights, structures, improvements, mains, pumping and regulation equipment, services, appliances, instruments, franchises and all other real and personal property of said company," in the case of pipeline companies, and ~~"All property of the company used in the operation of the company's telephone business" in the case of telephone companies,~~ which description shall be deemed and held to include the entire property and franchises of the company specified and all title and interest therein.

**SECTION 22.** 76.07 (4g) (e) of the statutes is repealed.

**SECTION 23.** 76.13 (1) of the statutes is amended to read:

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

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

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

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

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

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

**SECTION 25.** 76.28 (5) of the statutes is repealed and recreated to read:

76.28 (5) REMEDIES. Delinquent license fees of any light, heat and power company, together with penalties and interest, for a lien upon all property of such company prior to all other liens, claims and demands, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety. The remedies for nonpayment of taxes specified in s. 76.14 apply to nonpayment of license fees, penalties and interest referred to under this section.

**SECTION 26.** 76.28 (6) of the statutes is repealed and recreated to read:

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

(b) If any light, heat and power company that is required under this section to file a report fails to file a report within the time prescribed by law or as extended under sub. (7), unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, there shall be added to the amount required to be shown as license fees on the report 5% of the amount of such fees if the failure is for not more than one month, with an additional 5%

for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate.

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

**SECTION 27.** Subchapter II (title) of chapter 76 [precedes 76.38] of the statutes is amended to read:

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

**SECTION 28.** 76.38 of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed.

**SECTION 29.** 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 30.** 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 31.** 76.38 (4) (b) of the statutes is repealed.

**SECTION 32.** Subchapter IV of chapter 76 [precedes 76.80] of the statutes is created to read:

**CHAPTER 76**  
**SUBCHAPTER IV**  
**TELEPHONE COMPANY TAX**

**76.80 Definitions.** In this subchapter:

(1) "Department" means the department of revenue.

**76.81 Imposition.** There is imposed a tax on the real property of, and the tangible personal property of, every telephone company, except motor vehicles that are exempt under s. 70.112 (5) and treatment plant and pollution abatement equipment that is exempt under s. 70.11 (21) (a). Except as provided in s. 76.815, the rate for the tax imposed on each description of real property and on each item of tangible personal property is the net rate for the prior year for the tax under ch. 70 in the taxing jurisdictions where the description or item is located.

**76.815 Combined reporting.** For taxes payable in 1998 and 1999, telephone companies that have more than 150,000 access lines in this state may submit a combined report of their items of personal property. Any company that does so shall pay the tax on those items at a rate that reflects the company's weighted average property tax rate based on the value and location of its real property in this state.

**76.82 Assessment.** The department, using the methods that it uses to assess property under s. 70.995, shall assess the property that is taxable under s. 76.81, including property that is exempt under s. 70.11 (27) from the tax under ch. 70, at its value as of January 1.

**76.83 Report; payment.** On or before March 1, every telephone company shall send to the department a completed form that the department prescribes. Upon written request, the department may extend the time for filing the report by no more than 30 days. The requirements for payment of taxes under s. 76.13 (2a), as they apply to the tax under subch. I, apply to the tax under this subchapter.

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

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

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

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

**SECTION 33.** Subchapter V of chapter 76 [precedes 76.90] of the statutes is created to read:

**CHAPTER 76**  
**SUBCHAPTER V**  
**TRANSITIONAL ADJUSTMENT FEE**

**76.90 Definitions.** In this subchapter:

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

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

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

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

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

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

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

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

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

**SECTION 34.** 77.52 (2) (a) 5. of the statutes is amended to read:

77.52 (2) (a) 5. The sale of telecommunications services, ~~not including services paid for by the insertion of coins in a coin-operated telephone,~~ that originate in this state and are charged to a service address in this state, regardless of the location where that charge is billed or paid.

**SECTION 35.** 134.72 (1) (a) of the statutes is amended to read:

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

**SECTION 36.** 227.03 (1) of the statutes is amended to read:

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

**SECTION 37.** 227.03 (1) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

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

**SECTION 38.** 968.01 (1) of the statutes is amended to read:

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

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

**SECTION 40.** 1991 Wisconsin Act 39, section 9149 (7) is amended to read:

[1991 Wisconsin Act 39] Section 9149 (7) LEGISLATIVE INTENT; TELEPHONE COMPANIES. The legislature intends that the tax reduction created by the treatment of chapter 76 of the statutes by this act in regard to telephone companies, ~~when fully and completely implemented in 1997,~~ constitutes a portion of the refund of taxes that could be claimed pursuant to GTE Sprint Communications Corporation, n.k.a. U.S. Sprint Communications Company vs. Wisconsin Bell, Inc., and the State of Wisconsin, (No. 89-0272, May 15, 1990).

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

[1995 Wisconsin Act .... (Assembly Bill 808)] Section 3 (1) TRANSFER TO PROPERTY TAX RELIEF FUND. There is transferred on June 30, 1997, from the general fund to the property tax relief fund ~~\$160,000,000~~ \$170,000,000.

**SECTION 41. Nonstatutory provisions.**

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

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

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

the tax under subchapter IV of chapter 76 of the statutes, as created by this act, that is due for 1998.

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

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

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

(6x) PIONEERING PARTNERS APPROPRIATION. Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for the purposes of the 1997–99 biennial budget bill, the department of administration shall submit information concerning the appropriation under section 20.505 (4) (er) of the statutes as though the change in the dollar amount of that appropriation by SECTION 42m (1) of this act had not been made.

**Vetoed In Part** (7) WAIVER OF LOCAL MATCH. Direct the educational technology board to propose, as part of its 1997–99 biennial budget request, statutory changes to provide a waiver of the 25% local match requirement for pioneering partners grants for school districts which due to fiscal constraints are unable to meet the match requirement. Direct the board’s proposal to include specific criteria which would be used to determine a school district’s eligibility for the waiver.

(7p) RECONCILIATION; TRANSFER TO PROPERTY TAX RELIEF FUND. If 1995 Senate Bill 563 is enacted and that enactment includes section 10 of Senate Substitute Amendment 1 to 1995 Senate Bill 563, there is transferred from the general fund to the property tax relief fund on June 30, 1997 in lieu of the amount shown in section 10 of Senate Substitute Amendment 1 to 1995 Senate Bill 563 and the amount shown in SECTION 40m of this act, the amount of \$180,635,900. If 1995 Wisconsin Act

.... (Assembly Bill 808) is not enacted into law, the treatment of 1995 Wisconsin Act .... (Assembly Bill 808), section 3 (1) by this act and SECTION 44 (3p) of this act are void.

(7q) FUTURE APPROPRIATIONS FOR EDUCATIONAL TECHNOLOGY BOARD GRANTS. The legislature expresses its intention to appropriate an additional amount of \$5,000,000 for grants to be distributed to school districts and library boards by the educational technology board in the 1997–99 fiscal biennium and its intention that, if such an appropriation is made, the amount appropriated will not be included in state school aids for purposes of section 121.15 (3m) (a) 2. of the statutes.

**SECTION 42m. Appropriation changes.**

(1) PIONEERING PARTNERS GRANTS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of administration under section 20.505 (4) (er) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$5,000,000 for fiscal year 1996–97 to increase funding for the purpose for which the appropriation is made.

**SECTION 43. Initial applicability.**

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

**SECTION 44. Effective dates.** This act takes effect on the day after publication, except as follows:

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

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

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

(4x) PIONEERING PARTNERS GRANTS. SECTION 42m (1) of this act takes effect on January 1, 1997.

(4y) BIDDERS LIST REGISTRATION FEE CREATION. The treatment of section 16.702 (title), (1), (2) and (3) (b) of the statutes takes effect on July 1, 1996.

(4z) BIDDERS LIST REGISTRATION FEE EXPIRATION. The repeal of section 16.702 of the statutes and the treatment of section 25.61 of the statutes take effect on July 1, 2000.

**Vetoed In Part**