



State of Wisconsin • DEPARTMENT OF REVENUE

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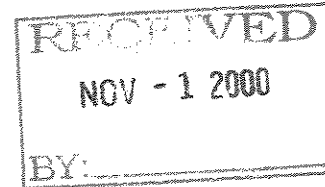
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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

November 1, 2000

The Honorable Brian Burke, Co-Chair
Joint Committee on Finance
State Capitol, Room 316 South
Madison, WI 53702



The Honorable John Gard, Co-Chair
Joint Committee on Finance
State Capitol, Room 315 North
Madison, WI 53702

Dear Senator Burke and Representative Gard:

State law requires the Department of Revenue annually, on November 1, to certify to the Joint Committee on Finance the percentage change in the Consumer Price Index (CPI) used to determine a municipality's eligibility for a payment under the expenditure restraint program. The Department certifies that the percentage change for 2002 payments is 3.2%.

Sec. 79.05(1)(am), Wis. Stats., provides that the inflation factor for the expenditure restraint program be the average annual percentage change in the CPI for all urban consumers (CPI-U), U.S. city average, for the twelve months ending on September 30. The Department's certification of this percentage is required in sec. 79.05(2m).

Calculation of the inflation factor is shown in the attached table. If you have any questions about our calculation, please contact me.

Sincerely,

Cate Zeuske
Secretary of Revenue

CZ:DP:skr
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CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U)
 U.S. CITY AVERAGE, ALL ITEMS, NOT SEASONALLY ADJUSTED
 1982-84=100

	1998-99	1999-00
October	164.0	168.2
November	164.0	168.3
December	163.9	168.3
January	164.3	168.8
February	164.5	169.8
March	165.0	171.2
April	166.2	171.3
May	166.2	171.5
June	166.2	172.4
July	166.7	172.8
August	167.1	172.8
September	167.9	173.7
Average	165.5	170.8
% Change		3.2

Source: Bureau of Labor Statistics, U.S. Department of Labor



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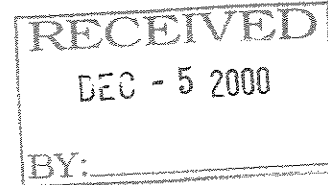
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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

MEMORANDUM

November 30, 2000



TO: Senator Brian Burke
Co-Chair, Joint Committee on Finance
316 South Capitol

Representative John Gard
Co-Chair, Joint Committee on Finance
315 North Capitol

Senator Gary George
Co-Chair, Joint Legislative Audit Committee
118 South Capitol

Representative Carol Kelso
Co-Chair, Joint Legislative Audit Committee
16 West Capitol

FROM: Cate S. Zeuske *Cate Zeuske*
Secretary of Revenue

This is in response to the letter dated October 19, 2000 requesting additional information on the Wisconsin Lottery's planned use of the cash settlement of \$500,000 from the GTECH Corporation.

The \$500,000 cash settlement was received and deposited as miscellaneous revenue in the Lottery Fund on August 25, 2000 per Department of Administration's state accounting procedures. This revenue will be included in the amount certified for the property tax credit distributed in fiscal year 2001-02.

As stated in the LAB Audit #00-6, the \$235,200 collected previously for GTECH liquidated damages were received in the form of sales credits on monthly invoices for GTECH services.

CZ:DS:pl

cc: Janice Mueller, State Auditor
Julie Gordon, Legislative Audit Bureau
Art Zimmerman, Legislative Fiscal Bureau
Jeff Geisler, State Budget Office

DEPARTMENT OF REVENUE

Proposed Statutory Flexibility Changes --- State Operations Appropriations Reductions (LFB Item #1 on Page 194 of Senate and Assembly Differences Summary)

The Department of Revenue requests the following statutory language changes to give the department the flexibility to implement its 5% base budget reduction. These changes would give DOR the flexibility to become more efficient without affecting current service levels.

1. **Real Estate Transfer Fee Audits** – DOR proposes to shift the department's real estate transfer fee (RETF) audit activity from GPR to PR. Currently all revenue generated from DOR's audits of real estate transfers is deposited to the general fund as GPR-earned. Audits of real estate transfer returns typically generate significant assessments due to filers' underreporting of real estate values or improperly claiming exemptions.

The department employs 2.5 GPR-funded RETF audit staff (2 auditors and 0.5 program assistant) to audit transactions currently. However, auditors are significantly behind (3 years) in audits due to the high volume of transactions. Adding an additional auditor funded from program revenue would bring in an estimated \$300,000 in additional collections in FY02 and another \$340,000 in FY03.

Shifting the existing 2.5 positions from GPR to program revenue would transfer \$163,200 annually from GPR to PR. An additional auditor would cost approximately \$61,100 in FY02 and \$55,700 in FY03. Structuring a program revenue appropriation in the following manner would generate an additional \$280,000+ in GPR-earned annually: all RETR audit revenues would be deposited into the appropriation, DOR costs would be paid, and any unencumbered balance at FY end in excess of annual expenditures would be lapsed to the general fund as GPR-earned. The additional revenue would add to the net GPR collections that are currently received from audit activities.

In summary, making this shift would decrease GPR expenditures, increase GPR-earned to the general fund, and cut down on tax evasion due to mis-representations on RETRs.

	FY 02	FY 03
New PR rev from new auditor	\$300,000	\$340,000
Cost of new auditor	<u>-\$ 61,100</u>	<u>-\$ 56,700</u>
GPR-Earned Increase	\$238,900	\$283,000

2. **Fee Flexibility** – Provide the department with the authority in Chapter 73 to set fee structures to cover reasonable costs associated with the administration of programs. In addition, remove specific references in the statutes to fee amounts. Most state agencies have this type of authority and flexibility currently. Fees to be covered under this provision include:

Statutory Reference	Topic
71.78(2)	\$4 fee for info on net tax paid by an individual income taxpayer
71.78(10)	\$4 fee for info on local govt withholding taxes paid
73.09(4)(c)	\$20 property tax assessor 5-year certification
73.09(5)	\$20 property tax assessor examination fee
77.61(5)(fm)	\$4 fee for info on local govt retail sales taxes paid
78.80(4)	\$4 fee for info on local govt motor fuel, alternate fuels and aviation fuels tax paid

3. **Services to State Agencies** – Create a new PR appropriation [3(ke)] to enable the department to receive funds that are transferred from other state agencies to cover the costs of program operations. All moneys received from other state agencies to carry out the purposes for which received would be allocated to this appropriation. This appropriation would enable the department to recover the costs of providing these services.

TIF Administrative Funding --- DOR Proposal

The Department of Revenue's work to administer the Tax Incremental Financial (TIF) program is currently performed by a variety of staff funded with GPR. Most of these staff have numerous other duties and administrative review of TIF documents is only a portion of their workload. One Madison staff person spends 100% of her time working on TIF.

The proposals under consideration as part of SB 55 (the biennial budget) would considerably expand the department's current role in TIF, bringing a heavier workload to department staff. The attached summary provides a review of this additional workload. Department TIF staff have estimated that these increased responsibilities will require an additional position within the TIF program.

DOR proposes funding both the existing full-time TIF position as well as one new TIF FTE through a fee assessed to municipalities who create new TIFs or change existing TIFs. Approximately 750 tax incremental districts (TIDs) exist currently and approximately 100 changes to those TIDs and/or creations of new TIDs are expected on an annual basis. A fee of between \$1,500 and \$1,700 per transaction would be required to support the costs associated with two TIF positions. The fee would be reviewed periodically and adjusted up or down as needed to cover costs.

The following changes would be required to implement such a fee to fund TIF administrative costs:

- Create the authority in ch. 66 for DOR to assess a fee to municipalities for TIF administration. The fee would be set by DOR and the amount of the fee would be determined by DOR based on the necessary and reasonable costs of administering TIF. Fees would be assessed at the time of a TID's creation or amendment.
- Create a new program revenue appropriation in s. 20.566(1) funded by the fee assessed to municipalities. The appropriation would be used to fund staff and general administrative expenses of TIF oversight within DOR.
- Fund 2.0 FTE (one existing position and one new auditor) from the new PR appropriation. Funding needed: \$71,700 FY02 (half year) and \$121,800 FY03. Eliminate GPR funding of \$31,200 GPR FY02 and \$60,600 GPR FY03 from DOR's appropriation 20.566 (2)(a).

7/9/01

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Additional DOR Workload Under Proposed TIF Program Changes in SB 55

1. Final accounting of TIF Costs. Every terminating TID would be required to send on a form prescribed by DOR a final accounting of all expenditures by the municipality, the total amount of project costs incurred in the TID, and the total amount of tax increments received by the municipality. This work would require designing forms and developing the data base and reporting system for tracking TIF information. To the extent that the bill distinguishes between industrial and non-industrial TIDs, sorting final TIF information by district type would be required.
2. DOR Review. DOR would be required, at the request of the majority of joint review board (JRB) members, to review of the procedural steps taken by a municipality and JRB. Items subject to review would include district value limits, due notice provided, identification of affected properties and proper procedures by the plan commission, municipality and the JRB. It is not clear if the DOR review would be limited to these issues or would extend to other issues as well. Establishing procedural compliance requires a review of project plans, and other TIF documents, parcel maps, publication notices, schedule of meetings, etc. It entails communication with municipal officials, DOR district offices and assessors. It is likely that JRBs will routinely request such a DOR review to ensure compliance with TIF procedural requirements. While DOR currently reviews these items prior to certification, the bill would dramatically compress the time in which DOR must do them upon the request of a JRB.
3. Redetermination and detachment of parcels. The bill would allow TIDs to be amended to remove territory from the district. While this is the reverse of current law that allows amendments to add territory, there is more complexity in removal to the extent that eligible costs associated with the removed territory may become ineligible costs. Training, redesign of forms, programming and base value redeterminations would be additional areas of responsibility associated with this change.
4. Substantial compliance. The bill provides DOR with authority to determine if a municipality was in substantial compliance with TIF procedural requirements. This would require establishing criteria and thresholds of compliance. To the extent that new issues arise, updating and review of these criteria would be required. Communications with municipalities would increase as a result of this authority.
5. Annexing land included in TIDs. The bill restricts the inclusion of annexed land in industrial TIDs unless 1) the city creating the TID has entered into a boundary agreement with the town, 2) the municipality pays the town for lost property tax revenue for 5 years or 3) 3 years have elapsed from the time of annexation. This provision will require a review of the time of annexation and/or the agreement between the municipality and town. This may also require changes to prescribed forms.
6. DOR Manual. DOR would be required to create and update a TIF manual containing the rules related to the program, common problems faced by municipalities, possible side effects on the use of TIF and any other information DOR determines appropriate.

DOR Technical and Drafting Comments on SB 55 for Conference Committee
7/6/01

Page references to Legislative Fiscal Bureau's 2001-03 budget document: *Comparative Summary: Budget Provisions of the Senate and Assembly, July 2, 2001*

GENERAL FUND TAXES AND WORKFORCE DEVELOPMENT	
GENERAL FUND TAXES	
<p>Oppose</p> <p><i>technical change needed</i></p>	<p>Page 5, #8 COMBINED REPORTING (Senate)</p> <p>The department has numerous suggestions for technical changes, which are noted in a separate document (attached). In addition, implementing combined reporting will pose a significant workload for the department. Initial applicability on January 1st two years following the year the budget takes effect would be required.</p> <p><u>Note:</u> Implementing combined reporting will result in significant one-time administrative costs to the Department of Revenue.</p>
<p>Oppose</p>	<p>Page 5, #9 DEDUCTION FOR SALARIES PAID TO CORPORATE OFFICERS AND EMPLOYERS (Senate)</p> <p>Wages are a legitimate business expense. Federal law already limits the deduction for certain executives to \$1 million each. State provisions that differ from federal law cause confusion for taxpayers and increase errors on returns and audit time to review returns.</p> <p><u>Note:</u> Implementing this change would result in moderate one-time administrative costs to the Department of Revenue.</p>
<p>Neutral</p> <p><i>technical change needed</i></p>	<p>Page 6, #10 TECHNOLOGY ZONES (Assembly)</p> <p>There is a possibility that the component of the proposal that bases the corporate income tax credit in part on the amount of real and personal property taxes that the business pays may be unconstitutional. Note also that the language as drafted does not provide treatment for partnerships, LLCs and s-corporations. Also, the initial applicability language should include a reference to s. 71.49(1)(eon).</p> <p><u>Note:</u> Implementing this change would result in moderate one-time administrative costs to the Department of Revenue.</p>

<p>Neutral</p> <p><i>technical change needed</i></p>	<p>Page 7, #11 BELOIT DEVELOPMENT OPPORTUNITY ZONE (Senate/Assembly)</p> <p>If the desire is to allow entities other than corporations to claim the credit, a technical amendment to s.560.795(3) is needed. Also, the capital investment credit should be renumbered sec. 71.30 (eop). <u>Note:</u> Implementing this change would result in moderate one-time administrative costs to the Department of Revenue.</p>
<p>Support</p> <p><i>technical change needed</i></p>	<p>Page 8, #12 MILWAUKEE DEVELOPMENT OPPORTUNITY ZONE (Senate)</p> <p>If the desire is to allow entities other than corporations to claim the credit, a technical amendment to s.560.795(3) is needed. Also, the capital investment credit should be renumbered sec. 71.30 (eop). <u>Note:</u> Implementing this change would result in moderate one-time administrative costs to the Department of Revenue.</p>
<p>Support</p> <p><i>technical change needed</i></p>	<p>Page 11, #15 INTERNAL REVENUE CODE UPDATE TO FEDERAL LAW IN EFFECT ON DECEMBER 31, 2000 (Assembly)</p> <p>The Assembly adopted additional IRC update provisions that JFC declined to include in the budget due to cost. Assembly provisions relate to deductions for environmental remediation and donations of computer equipment and to foreign sales corporations deleted by Joint Committee on Finance and Senate. DOR strongly supports this additional language. <u>Technical:</u> DOR recommends several technical modifications to achieve the intent of these provisions – see separate document attached.</p>
<p>Support</p> <p><i>technical change needed</i></p>	<p>Page 11, #16 INTERNAL REVENUE CODE UPDATE TO PROVISIONS UNDER NEW FEDERAL LAW THAT AFFECT TAX YEAR 2001 (Assembly)</p> <p>DOR strongly supports this additional language. <u>Technical:</u> DOR recommends several technical modifications to achieve the intent of these provisions – see separate document attached.</p>
<p>Support with amendment</p>	<p>Page 12, # 18 EXPAND SALES TAX EXEMPTION FOR FARM INPUTS (Assembly)</p> <p>The provision would expand the sales and use tax exemption for inputs used in farming to include lubricants, nonpowered equipment and other tangible personal property used exclusively and directly in farming operations. The proposal specifies that farming includes husbandry activities and aquaculture. <u>Technical:</u> DOR recommends deleting the term "husbandry" since it is adequately covered in the reference to "farming." The term husbandry as used in the proposal may be construed more broadly than the intent of the proposal. If the intent of the bill is to exempt tangible personal property used in the business of breeding and raising animals, perhaps the term "animal husbandry" would be more appropriate.</p>

Support with amendment	<p>Page 13, #19 SALES TAX EXEMPTION FOR SCHOOL CONSTRUCTION MATERIALS (Assembly)</p> <p>This provision creates a sales tax exemption for building materials purchased by private entities that are used in school construction, renovation or development projects in Wisconsin pursuant to a contract with a school district.</p> <p><u>Technical:</u> DOR has several suggestions for technical changes needed to implement the intent of the provision – see separate document attached.</p>
Support	<p>Page 13, #20 SALES TAX ON MOBILE TELECOMMUNICATIONS SERVICES (Senate)</p> <p>DOR strongly supports this provision.</p>
Neutral <i>technical change needed</i>	<p>Page 14, #21 SALES TAX EXEMPTION FOR CERTAIN COMMON OR CONTRACT MOTOR CARRIERS (Assembly)</p> <p>This provision is intended to provide a sales tax exemption for trucking companies which haul worthless property (e.g. garbage/snow), but could result in <u>major erosion of sales tax base</u> as companies restructure their operations to avoid sales tax.</p> <p><u>Technical:</u> As drafted, the proposal would not allow persons who are not common or contract carriers to purchase without tax, trucks used exclusively in hauling property that has no value. If that is the intent, the language could be modified as follows:</p> <p><i>Motor trucks, truck tractors, road tractors, buses, trailers and semitrailers, and accessories, attachments, parts, supplies and materials therefor, sold to common or contract carriers, or persons who are not common or contract carriers only because the items they haul have no value, who use such motor trucks, truck tractors, road tractors, buses, trailers and semitrailers exclusively as common or contract carriers, including the urban mass transportation of passengers as defined in s. 71.38, or exclusively in the transportation of property that has no value, such as waste and snow.</i></p>
Support with amendment	<p>Page 15, #23 SALES TAX EXEMPTION FOR WATER-PARK WATERSLIDES (Senate)</p> <p>This provision would create a sales/use tax exemption for waterslides, including supporting structures, attachments and parts.</p> <p>The provision as drafted includes an exemption for residential waterslides and parts, etc. DOR recommends amending the language to accomplish the intent of providing an exemption only for water-park waterslides. DOR suggests excluding waterslides and supporting structures, attachments and parts at residential facilities including personal residences, apartments, long-term care facilities, state institutions, or similar facilities.</p>

Oppose	<p>Page 15, #24 USE TAX EXEMPTION FOR CERTAIN ADVERTISING MATERIALS PRINTED OUT OF STATE (Assembly)</p> <p>Entails substantial revenue loss (\$3 million) because of retroactive effective date. Continues to provide for inconsistent treatment of printing taxation.</p> <p>DOR alternative: Impose use tax on purchasers of advertising materials printed out of state by printers without nexus in Wisconsin.</p>
Support with amendment	<p>Page 16, #25 MODIFY USE TAX PROVISIONS REGARDING BOATS BERTHED IN WISCONSIN BOUNDARY WATERS (Senate)</p> <p>This provision would modify the use tax exemption for boats purchased as exempt occasional sales in other states and berthed in boundary waters of this state to allow the exemption for boats purchased anywhere outside Wisconsin rather than just for boats purchased in states that are contiguous to Wisconsin.</p> <p><u>Technical:</u> To accomplish the intent of ensuring that the exemption would not apply if the boat is purchased in Wisconsin, a drafting change is needed: insert "outside this state" after "purchased" and before "by a person."</p>
Support reduced rebate with amendment	<p>Page 16, #25 SALES TAX REBATE AND EXEMPTION FOR PURCHASES OF DIGITAL BROADCASTING EQUIPMENT (Senate)</p> <p>The proposal provides a rebate of the sales tax paid on purchases of digital broadcasting equipment by radio and television stations during the period July 1, 2001 through June 30, 2003. The proposal also creates a sales tax exemption for television and radio stations' purchases of digital broadcasting equipment effective July 1, 2003.</p> <p>DOR suggests limiting the revenue loss related to the rebate (\$3.5 million GPR) by providing a rebate of 25% of the sales tax paid on digital broadcasting equipment. Specifying that no interest be paid on the rebate would keep the fiscal impact from increasing beyond \$3.5 million.</p> <p><u>Technical:</u> DOR also would like to see language that provides the department with 90 days after a claim is filed to process and certify a claim for payment. Clarifying that the exemption applies to equipment used in digital broadcasts, and not more broadly to any digital equipment used in the broadcasting industry would also keep the fiscal impact from increasing beyond \$3.5 million.</p> <p><u>Note:</u> Implementing this change would result in moderate one-time administrative costs to the Department of Revenue.</p>
Support	<p>Page 17, #27 STREAMLINED SALES TAX AGREEMENT (Senate)</p> <p>DOR strongly supports this provision.</p>

Neutral	<p>Page 19, #28 CIGARETTE TAX</p> <p><u>JCF</u>: 9-cent per pack increase (to 68 cents). <u>Senate</u>: 22-cent per pack increase (to 81 cents). <u>Assembly</u>: No increase (remains 59 cents per pack).</p> <p><u>Note</u>: Implementing this change would result in moderate one-time administrative costs to the Department of Revenue. If the cigarette tax increases beyond 75 cents per pack, increased fraud and hijacking would also likely require additional DOR enforcement resources.</p>
Neutral	<p>Page 20, #31 WINE OR LIQUOR BROUGHT INTO STATE FROM A FOREIGN COUNTRY BY A MEMBER OF THE ARMED FORCES (Assembly)</p> <p>This provision increases from 6 liters to 16 liters the amount of wine or liquor that may be brought into the state without paying the state excise tax by members of the armed forces.</p> <p>DOR suggests limiting the ability to bring such wine into the state to those of legal drinking age. In Section 1488 of Assembly Amendment 1 to Assembly Substitute Amendment 1, insert the phrase "<u>of legal drinking age,</u>" after "who is" and before "a state resident" (page 975, line 17 of AA1).</p>
REGULATION OF ALCOHOL AND TOBACCO	
Support with amendment	<p>Page 23, #1 REGULATION OF ALCOHOLIC BEVERAGES (Assembly)</p> <p>If this provision remains in the budget, DOR would like to see an amendment indicating that DOR is not responsible for administering these changes to the fair dealership laws. It is the department's understanding that that is the intent of the provision.</p> <p>Suggested changes: Page 939, line 16 of ASA1 to SB 55, insert after that line "This section shall not be administered and enforced by the department of revenue." In addition, on page 938, line 17 of ASA1 to AB 55, after that line insert "This subsection does not apply to any business relationship to which ch. 135 applies."</p>
Neutral	<p>Page 24, #4 OWNERSHIP OF RESTAURANTS BY BREWERS (Assembly)</p> <p><u>Technical</u>! To meet the intent of the provision, the following amendment is needed: in Section 1480 of Assembly Amendment 1 to Assembly Substitute Amendment 1, insert the phrase "<u>directly or indirectly</u>" after "a brewer may possess" (page 819, line 24 of AA1).</p>

FINANCIAL INSTITUTIONS	
Neutral	<p>Page 44, #4 CONVERSION OF BUSINESS ENTITIES (Assembly)</p> <p>The provision is intended to allow corporations and other businesses entities such as LLCs to convert to another business form more easily. As drafted, the provision could result in a significant loss of corporate income tax revenues to the state. An amendment is needed to the bill to prevent this revenue loss.</p> <p>Based on agreement with DFI and private interests involved in this issue, the department recommends the following:</p> <p>Create a new subsection in sections 71.80 (income taxes), 77.26 (real estate transfer fee), and 77.61 (sales and use taxes) to read as follows: Notwithstanding any other provisions in sections 180.1161 and 183.1207, a converting entity shall be subject to the tax provisions applicable to liquidations, reorganizations, and formations of business entities.</p> <p>In section 73.03 (duties of the DOR), a new subsection should be created to read as follows: Notwithstanding any other provisions in sections 180.1161 and 183.1207, to subject a converting entity to the tax provisions applicable to liquidations, reorganizations, and formations of business entities.</p>
WORKFORCE DEVELOPMENT	
Neutral <i>technical change needed</i>	<p>Page 73, #2(i) JOINT LEGISLATIVE COUNCIL SPECIAL COMMITTEE ON LABOR SHORTAGE DRAFT LEGISLATION- APPRENTICESHIP TAX CREDIT (Assembly)</p> <p>This provision creates an income tax credit for employers who pay wages to an apprentice. The credit is equal to either 5% or 8% of the apprentice's wages.</p> <p><u>Technical:</u> The July 1, 2003, effective date would require two sets of tax instructions for tax year 2003, confusing taxpayers and requiring extra administrative work on the department's part. DOR would prefer to have the credit begin on January 1 of any given year. Other drafting changes DOR suggests include:</p> <ul style="list-style-type: none"> • require partnerships, LLCs and S corporations to add the amount of credit back to income [amend s. 71.21(4) and s. 71.34(1)(g)] • disallow credit for wages that qualify the employer for the development zone jobs credit

GENERAL GOVERNMENT	
GENERAL PROVISIONS	
Oppose	<p>LFB Page 194, #1 STATE OPERATIONS APPROPRIATIONS REDUCTIONS (Assembly)</p> <p>This provision would require the Secretary of DOA, within 30 days of the effective date of the budget, to determine for each state agency (except the UW System) the number of positions that have been vacant for six months or more, as of July 1, 2001. Under the provision the Secretary determines the annualized salary and fringe benefit costs associated with each of the identified positions. The number of authorized positions for each agency would be reduced accordingly and the funds equal to the salary and fringe benefit amounts would lapse.</p> <p><u>Comments:</u> As of July 1, 2001 the department had 66 vacant positions (all fund sources). The total salary and fringe benefits associated with these positions total \$2,743,130. If this provision were included in the budget bill (in addition to the 5% budget cuts) the department would be faced with significant layoffs which would adversely effect its ability to continue to administer the core functions of the department (i.e. processing tax returns). The department has frozen positions over this past year, with the exception of filling key positions related to the restructuring of the department and critical tax processing positions, in an effort to generate sufficient salary savings to meet the 5% budget cut requirement.</p> <p>Additionally, this provision would have the effect of reducing overall revenues collected (approximately \$11 billion annually) by the department to support state and local government operations. Reductions in staffing levels would result in corresponding reductions in revenues collected (e.g. delinquent taxes).</p> <p>A \$2.7 million reduction would be the equivalent of taking another 2.5% cut in the department's base budget.</p>
TRANSPORTATION AND PROPERTY TAX RELIEF	
SHARED REVENUE AND TAX RELIEF	
Support with possible amendment	<p>Page 530, Item #11 DEPRECIATION SCHEDULE FOR EXEMPT COMPUTERS (Assembly)</p> <p>This provision established a 2-year depreciation schedule for valuing exempt computer property. Value would equal 67% of original cost in the year following acquisition and 33% in the year two years following acquisition. DOR recommends using a 3- or 4-year depreciation schedule to more accurately reflect the value of these computers.</p>

Neutral on Assembly; Opposed to Senate	<p>Page 533, #20 DEFINITION OF AGRICULTURAL LAND AND OTHER PROPERTY (Senate and Assembly – various provisions)</p> <p>The Assembly provisions of the bill would classify as Agricultural nine-tenths of an acre of land otherwise classified as Productive Forest or Swamp and Waste for each contiguous Agricultural acre owned by the same person.</p> <p>DOR has several technical concerns about this provision (relating to a person who might own more than nine-tenths of an acre of non-agricultural land for every agricultural acres owned). In addition, the provision will be difficult for both local assessors and department staff to administer.</p> <p>An attachment to this summary details these concerns along with questions regarding the provision's constitutionality. The department recommends retaining current law.</p>
Support with amendment	<p>Page 536, Item #24 SPECIAL CHARGES FOR MUNICIPAL SERVICES (Senate and Assembly)</p> <p>This provision would modify current law provisions regarding special charges by deleting provisions that limit charges to "current" services and by permitting municipalities to impose charges for services that are available, regardless of whether the services are actually rendered.</p> <p><u>Technical:</u> DOR recommends clarifying that charges must be reasonable and uniform on all real estate in subject area.</p>
Support	<p>Page 537, #26 PAYMENT OF REFUNDS ON MANUFACTURING PROPERTY (Assembly)</p> <p>DOR strongly supports this provision.</p>
Support with modifications	<p>Page 538, #27 TAX INCREMENTAL FINANCING MODIFICATIONS (Senate)</p> <p>These provisions adopt the recommendations of the TIF working group. DOR is seeking changes to the package to make it more workable and has worked with Reps. Lehman and Wood to suggest modifications regarding those changes.</p>
Neutral	<p>Page 545, #33 PREMIER RESORT AREA – CITY OF EAGLE RIVER (Senate)</p> <p>This provision would exempt Eagle River from the requirement that at least 40% of the equalized assessed value of taxable property within the political subdivision must be used by specified tourism-related retailers in order for the city to declare itself a premier resort area.</p> <p>Addition of a third premier resort district (Wisconsin Dells and Lake Delton are existing) will require some upgrades to DOR's existing systems for tracking premier resort revenues. The department requests \$6,500 PR in appropriation 20.566(1)(gf) in FY02 on a one-time basis. Additional resources may be required in the future as workload and revenue stream become more clear.</p>

Support Assembly version	<p>Page 546, #34 INDUSTRIAL CLASSIFICATION REFERENCES (Assembly)</p> <p>The Assembly language complies with DOR's request to change the references in the premier resort area law from the Standard Industrial Code Manual to the North American Industry Classification System. The NAICS is being adopted by the federal government.</p>
Neutral	<p>Page 546, Item #35 PERFORMANCE REVIEW PILOT PROGRAM (Assembly)</p> <p>Implementing this pilot program will require significant administrative funding and resources within DOR. The bill as drafted provides no resources.</p>
Neutral	<p>Page 548, Item #36 AREA COOPERATION COMPACTS (Assembly)</p> <p>Implementing area cooperation compacts will require significant administrative funding and resources within DOR. The bill as drafted provides no resources.</p>

ADDITIONAL AREAS OF CONCERN	
CORPORATE INCOME & FRANCHISE TAX--ITEM NOT SPECIFIED IN LFB SUMMARY	
Support	<p>CLARIFY INSURANCE COMPANY INCOME CALCULATION (JFC and Assembly)</p> <p>This provision updates terminology with respect to what is meant by insurance company "premiums" for the purposes of calculating Wisconsin income. DOR strongly supports this provision. To retain this provision, the following language from the JFC and Assembly versions of the budget should be retained:</p> <p style="padding-left: 40px;">In SSA1 to SB55, Sections 2185, 2186, 2187, and 2189 (with modifications to each section to eliminate references to subsection (3d). In addition, Section 9344 (29x) would need a modification to the title to indicate that this initial applicability provision applies only to insurance companies.</p>
ITEMS IN JFC BUDGET NOT MODIFIED BY EITHER HOUSE	
Neutral	<p>Page 59, Item #18 of JFC vs. Gov Summary DEVELOPMENT ZONES TAX CREDIT – DEFINITION OF TARGET GROUP MEMBER</p> <p><u>Technical:</u> Sections 2147, 2178 and 2192 of the bill eliminate references to the Internal Revenue Code in the definitions of "member of a targeted group" for purposes of the development zones job credit. Separate federal and state definitions complicates compliance and administration of tax law and would require the department to develop its own rules regarding eligible targeted group members, rather than relying on federal rules. DOR recommends continuing references to the IRC to facilitate taxpayer filing and avoid confusion.</p>
Support <i>technical change needed</i>	<p>Page 62, Item #24 of JFC vs. Gov Summary RECYCLING SURCHARGE – NONCORPORATE FARMS</p> <p>This provision would require noncorporate farms to pay the same recycling surcharge as other noncorporate businesses.</p> <p><u>Technical:</u> To achieve the intent of the provision, sec. 77.92 (4), Wis. Stats., should be amended to remove the phrase, "but excluding income, gain, loss and deductions from farming", at the end of the first sentence in that subsection, and sec. 77.94 (5)(a) should be repealed.</p>
Support with amendment	<p>Page 660, Item #3 of JFC vs. Gov Summary OBJECTIONS TO MANUFACTURING ASSESSMENTS</p> <p>This provision, among other things, would allow manufacturers 60 days to file supplemental information to an objection of a manufacturing assessment (Section 2125 of JFC bill). The department would like to see this timelimit set at 30 days. The 60 day timelimit would prevent the department from delivering equated manufacturing values to municipalities by October 15, as required by law. Also, manufacturers would not need this additional period for filing supplemental information since assessment information is available at all times.</p>

ATTACHMENTS

Department of Revenue Detailed Suggestions for Changes to the Budget Bill

July 6, 2001

COMBINED REPORTING

GENERAL FUND TAXES SECTION

Page 5, #8 LFB Summary of Senate vs. Assembly

DOR has the following concerns with the language relating to combined reporting in the Senate version of the budget:

- I. **Bill Section 2173d.** Section 71.255(1). Definitions relating to combined reporting.
 - A. Is a definition of "combined reporting method", such as the following, needed?

"Combined reporting method" means the method under which the total apportionable income or loss of all members of the combined reporting group engaged in a unitary business is apportioned to this state, to determine each taxpayer member's income from sources within this state.
 - B. Amend the definition of "commonly controlled group" as follows:
 1. In subd. 3, change "owns shares representing more than 50% of the shares of" to "owns more than a 50% interest in the capital and profits of".
 2. Add the following language to the definition:
 6. A corporation, partnership or limited liability company if a parent corporation or any corporation connected to the parent corporation by common ownership does not hold more than a 50% ownership interest in the corporation, partnership or limited liability company but does effectively control the corporation, partnership or limited liability company.
 - C. Amend the definition of "designated agent" as follows:

"Designated agent" means the taxpayer member of a commonly controlled group who files a group return on behalf of the electing taxpayer members of a ~~commonly controlled~~ combined reporting group.
 - D. Amend the definition of "group return" as follows:

"Group return" means a tax return filed on behalf of the electing taxpayer members of a ~~commonly controlled~~ combined reporting group.

COMBINED REPORTING continued

- E. Amend the definition of "intercompany transaction" as follows:
- "Intercompany transaction" means a transaction between corporations, partnerships, or limited liability companies that are members of the same ~~commonly controlled group that is engaged in a unitary business~~ combined reporting group immediately after the transaction.
- F. Amend the definition of "separate return" as follows:
- "Separate return" means a return filed by a corporation, regardless of whether the corporation is a member of a combined reporting group or is required to file a tax return under s. 71.24 or s. 71.44.
- G. In the definition of "unitary business" change "means" to "includes" since the courts have not limited the definition to the items listed.
- II. **Bill Section 2173d.** Section 71.255(2)(a). Should references to sec. 71.45(3) and (3m) be changed to sec. 71.45? There are inconsistencies in referencing the apportionment factors for insurance companies in various subsections of the bill.
- III. **Bill Section 2173d.** Section 71.255(2)(a)1. Should the word "political" be inserted before "subdivision of the United States"?
- IV. **Bill Section 2173d.** Section 71.255(3). We had previously recommended that the election to use the worldwide method of combined reporting remain in effect for 7 years rather than 5 years. However, if an election is terminated or is not renewed, another election to use the worldwide combined reporting method may not be made under this paragraph for any taxable year beginning 60 months after the last day of the election period that was terminated or not renewed. The department may waive the application of this subdivision for good cause.
- V. **Bill Section 2173d.** Section 71.255(5)(a). Should the reference be to sub. (2) rather than just sub. (2)(a)?
- VI. **Bill Section 2173d.** Section 71.255(5)(d)2.b. Should "On a separate report" be changed to "As a separate entity"?
- VII. **Bill Section 2173d.** Section 71.255(6)(a). Revise the language relating to the computation of income under combined reporting as follows:
- (a) Determine the net income of each member of a combined reporting group under s. 71.26 or s. 71.45, as appropriate, before deducting net business losses. A member of a combined reporting group may determine its ~~loss or~~ net income or loss under a method of accounting or an election authorized under s. 71.26(3)(y), 71.30(1), 71.45(2)(a)13. or 71.49(2), as appropriate, regardless of the accounting method used to determine the ~~loss or~~ net income or loss of other members of the combined reporting group. Once an accounting method or other election is made for each member, that member's net income or loss must be consistently determined in the combined report of all members of the combined reporting group and in the group return filed by the taxpayer members or in the separate return filed by that taxpayer member. If a corporation is engaged in 2 or

COMBINED REPORTING continued

more trades or businesses that are required to use different apportionment formulas under s. 71.25 or 71.45, the net income for each trade or business shall be computed separately. A unitary business with operations in a foreign country shall compute its less or net income or loss as provided by rule by the department.

- VIII. **Bill Section 2173d.** Section 71.255(6)(c)6. Revise the language relating to the treatment of intercompany dividends as follows:

6. Dividends Except as provided by rule by the department, dividends paid out of earnings or profits and paid by a member of the combined reporting group to another member of the combined reporting group.

- IX. **Bill Section 2173d.** Section 71.255(6). After paragraph (e), add the following provision, and then renumber the rest of the paragraphs, as needed:

For each corporation, combine the amounts determined under par. (e) for each trade or business.

- X. **Bill Section 2173d.** Section 71.255(7)(c) and (d). Since we want to exclude intercompany transactions from the apportionment factors, should the references to par. (a) be changed to par. (b)?

(d) Compute each corporation's apportionment factors by dividing the corporation's numerator as determined under par. (b) by the combined denominator as determined under par. (c).

- XI. **Bill Section 2173d.** Section 71.255(8)(c). DOR has a concern about the references to the corporation's income under sub. (6)(i) for purposes of determining the net business loss carryover. The loss determined under par. (8) is subtracted under sub. (6)(i), so this seems like a circular computation. Should the references be to sub. (6)(g) or (h) instead?

- XII. **Bill Section 2173d.** Section 71.255(9). The intent of this subsection is to specify how to compute a member's taxable income when that member files returns using a different accounting period than the rest of the combined reporting group. It is unclear how the second sentence fits in. Therefore, DOR suggests amending the second sentence as follows:

The total amount of income or loss assigned to a taxpayer member under this subsection for the portions of the common accounting period that are included in the member's taxable period shall be used to attribute aggregated or netted to determine the taxable member's apportionable income ~~to the combined reporting group for the common accounting period.~~

- XIII. **Bill Section 2173d.** Section 71.255(12)(b)2. It appears that this provision should be amended as follows:
2. If a corporation is not a member of a combined reporting group for an entire common accounting period, the combined reporting group shall include with the corresponding items on the group return for the current taxable year the corporation's

COMBINED REPORTING continued

separate items for that portion of the common accounting period that the corporation was not a member of the combined reporting group.

XIV. **Bill Section 2173d.** Section 71.255(12)(c)1. Amend this provision as follows:

1. If a corporation leaves a combined reporting group before the first day of a common accounting period, the ~~commonly controlled~~ combined reporting group shall exclude the separate items that the designated agent of the combined reporting group attributed to the corporation for the preceding common accounting period from the corresponding items of the combined reporting group for the preceding common accounting period.

XV. Create a new provision in sec. 71.255 to address the treatment of nonfilers as follows:

NONFILERS. If a corporation that is liable to report under this section directly or indirectly owns or controls one or more other corporations or a corporation that is liable to report under this section is directly or indirectly owned or controlled by another corporation, the department may require a combined report showing the combined net income or loss and other facts as the department deems necessary. The department may assess the tax against any of the corporations whose net income is involved in the combined report upon the basis of the combined net income and other information that the department may possess.

XVI. **Bill Section 2176dm.** Section 71.26(3)(x). This provision should be amended as follows:

71.26(3)(x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to consolidated returns) are excluded, except to the extent that they pertain to intercompany transactions and the carry forward of net business loss under s. 71.255 and except that more than 50% ownership is substituted for at least 80% ownership.

XVII. **Bill Section 1595.** Initial applicability for combined reporting. Note that the sections listed below do **not** relate to combined reporting. They had been included in the 1999-2001 budget bill to address other issues, and for unknown reasons were grouped with the combined reporting provisions.

- 71.25(5)(a)9. and 10.
- 71.25(b)1. and 2.
- 71.26(3)(L)

INTERNAL REVENUE CODE UPDATE TO FEDERAL LAW IN EFFECT ON DECEMBER 31, 2000 and TO PROVISIONS UNDER NEW FEDERAL LAW THAT AFFECT TAX YEAR 2001

GENERAL FUND TAXES SECTION

Page 11, #15 and #16 of LFB Summary of Assembly vs. Senate Action

DOR suggests the following changes to the Assembly version of the budget:

P.L. 106-519, relating to the repeal of foreign sales corporations and the exclusion by all taxpayers of extraterritorial income should apply only for taxable years beginning after December 31, 1998. Therefore, "P.L. 106-519" should not be inserted in the following sections of the Assembly Amendment 1 to Assembly Substitute Amendment 1 to Senate Bill 55 (AA1 to ASA1): 916-924, 926, 928, 930, 932, 934, 938-941, 943-946, 948, 993-994, 996, 999-1004, 1006, 1008-1011, 1013-1028, 1048-1051, 1053-1059, 1061-1062, 1064, 1066-1075, 1092, 1094-1140, 1175-1196, 1198-1199, and 1210-1233.

Sections 171 and 172 refer to the wrong page of ASA1: They should refer to page 777 instead of page 776.

The amendment should include a section that deletes language relating to sections 162 and 165 of P.L. 106-554 on page 801, line 7 of ASA 1.

Section 966 of AA1 to ASA1 creates sec. 71.01 (6)(pm) to adopt for tax year 2001 only some of the provisions of recently enacted P.L. 107-16. We suggest that, instead of creating this new paragraph, sec. 7101 (6)(p) be amended by adding to the final sentence in that section the following: "except that sections 411, 412 (a), 611 (a), 635, 636 (b), 641 to 644, 646 to 649, 655, 658 and 701 of P.L. 107-16 apply at the same time as for federal purposes for taxable years beginning before January 1, 2002." Please note that this list of sections of P.L. 107-16 is different from that appearing in the amendment--we want to reference sections 646 to 649, but do not want to reference section 645 of that law. Sections 1047, 1088, 1160, 1209 and 1243 of AA1 to ASA1 should have changes similar to that we are proposing for Section 966.

SALES TAX EXEMPTION FOR SCHOOL CONSTRUCTION MATERIALS.

GENERAL FUND TAXES SECTION

Page 13, #19 of LFB Summary of Assembly vs. Senate Action

This bill creates an exemption from sales and use tax for building materials, supplies, and equipment sold to contractors, owners, subcontractors, and builders for sole use in the construction, renovation, or development of property pursuant to a contract with a Wisconsin school district.

As with Miller Park and Lambeau Field, this exemption extends to more than just building materials. It also applies to purchases and rentals of tools and equipment used at the job site and any other tangible personal property (including copy paper and other office supplies, office trailers, utilities) and service to that property used at the job site. Exempt entities do not typically direct purchase those items. The Legislative Fiscal Bureau's fiscal estimate would not include revenues related to these other types of purchases. In addition, the effective date language is not clear about application of this provision to contracts entered into before the provision's effective date and to materials in a contractor's inventory that were purchased before the law change.

DOR suggests that:

1. The exemption be created in its own subsection and be limited to tangible personal property that becomes a component part of real property under contract with a school district (similar to waste treatment exemption in sec. 77.54(26), Wis. Stats.).
2. The exemption exclude components used in the repair, alteration, fitting, cleaning, painting, coating, maintenance, and inspection of the real property.
3. The change be effective for tangible personal property purchased on or after first day of second month beginning after publication for contracts entered into on or after first day of second month beginning after publication.

DEFINITION OF AGRICULTURAL LAND

TRANSPORTION AND PROPERTY TAX RELIEF SECTION

Page 533, Item #20 of LFB Summary of Assembly vs. Senate Action

The Assembly bill would classify as Agricultural nine-tenths of an acre of land otherwise classified as Productive Forest or Swamp and Waste for each contiguous Agricultural acre owned by the same person.

DOR Technical Concerns:

If a person owns more than .9 acre of non-agricultural land for every Agricultural acre that he owns, how does an assessor decide which .9 to classify as Agricultural, or should none be classified Agricultural?

For example, a parcel has 10 Agricultural acres and 30 non-agricultural acres. Assuming the 30 non-agricultural acres have a range of values, which 9 (10 x .9) acres would be classified Agricultural and which 21 acres would be Forest or Swamp and Waste? Should the 9 highest- or lowest valued acres be classified as Agricultural or, perhaps, the 9 acres nearest the Agricultural acreage? Alternatively, the non-agricultural acres might be treated as an all or nothing proposition such that the entire non-agricultural portion of the parcel can have no more than .9 acre for every contiguous Agricultural acre to be classified as Agricultural, or none of the 30 non-agricultural acres would be classified as Agricultural.

The technical concern could be addressed most easily by amending the Assembly language to provide that, if a parcel has more than .9 non-agricultural acres for every agricultural acre, none of the non-agricultural acres would be classified as Agricultural.

Administration:

The provision will be extremely difficult and potentially costly for local assessors to administer. Assessors are likely to oppose the provision. In addition, DOR would have trouble determining how the provision would best be administered.

Constitutionality:

It appears that the provision is likely unconstitutional. Under the Constitution, only agricultural land is eligible for special treatment. Swamp and Waste and Forest classes of land are not agricultural, regardless of ownership.

It is possible that a court may accept that border land is part of the farm unit and that such land has a role in the overall farm operation. However, simply designating 36 non-agricultural acres next to a 40-acre agricultural parcel does not appear to satisfy the farm unit argument.

While there may be other arguments in favor of the proposal (preserving farms by reducing property taxes) the constitutionality of the provision is certainly in question.

DOR recommends retaining current law in this area.