State of Wisconsin
2005 – 2006 LEGISLATURE

LRB–0303/2 3
JK:jld:rs

DOA:.....Koskinen, BB0070 – Streamlined sales and use tax provisions

FOR 2005–07 BUDGET -- NOT READY FOR INTRODUCTION

in 1-25-05

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1 AN ACT ...; **relating to:** the Uniform Sales and Use Tax Administration Act,
2 granting rule–making authority, making an appropriation, and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement) for purposes of administering and collecting state, county, and stadium district sales and use taxes. The agreement is intended to simplify and modernize sales and use tax administration for the states that enter into the agreement and to encourage out–of–state retailers to collect the state, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out–of–state retailer who sells goods or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota,* 504 U.S. 298; 112 S.Ct. 1904 (1992).

States that wish to enter into the agreement must adopt uniform definitions related to the administration of sales and use taxes and uniform policies related to sourcing sales of goods and services, bad debt allowances, refunds, and, to some extent, exemptions. Under the agreement, DOR may act jointly with other states

that are signatories to the agreement to establish standards for certifying service providers and automated systems to aid out–of–state retailers with the collection of state sales and use taxes.

Under current law, "gross receipts" refers to the measure of the sales tax, and "sales price" refers to the measure of the use tax. Under the bill, "sales price" refers to the measure of the sales tax, and "purchase price" refers to the measure of the use tax.

The bill creates definitions for "alcohol beverages," "candy," "delivery charges," "dietary supplement," "food and food ingredients," "prepared food," and "soft drink."

The agreement provides that a state that is a signatory to the agreement may choose to tax or not tax all articles that are covered by one definition, but a state may not exempt from sales tax or use tax a particular item that is included in a definition. The members of the project working on the agreement approved a definition for "clothing." Therefore, in order to comply with the agreement, a state may either tax all clothing or exempt all clothing, but a state may not exempt certain items of clothing and tax others. This bill, therefore, eliminates the sales tax and use tax exemptions for cloth diapers and antiembolism hose.

This bill creates definitions for "durable medical equipment," "mobility–enhancing equipment," and "prosthetic device." Under the bill, the sale of such equipment and devices is exempt from the sales tax and the use tax.

Under the bill, generally, for purposes of determining which jurisdiction may impose a sales tax or use tax on a sale, if a purchaser receives a product at the seller's business location, the sale of that product occurs at the seller's business location. If a purchaser does not receive the product at a seller's business location, the sale occurs at the location where the purchaser receives the product. If the location of the sale cannot be so determined, the sale occurs at the purchaser's address, as indicated by the seller's business records. If the address cannot be determined from the business records, the sale occurs at the purchaser's address, as obtained during the consummation of the sale, including the address indicated on the purchaser's check. Finally, if the location of a sale cannot be determined in any other way, the sale of tangible personal property occurs at the location from which the tangible personal property is shipped. Under the bill, if the item sold is a digital good or computer software, and the digital good or computer software is delivered electronically, the sale occurs at the location from which the digital good or computer software was first available for transmission by the seller.

Under the bill, generally, the sale of a telecommunications service occurs at a location that is determined to be consistent with the provisions of the federal Mobile Telecommunications Sourcing Act.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.435 (3) (bm) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2 **SECTION 2.** 46.513 of the statutes is repealed.

3 **SECTION 3.** 66.0615 (1m) (f) 2. of the statutes is amended to read:

4 66.0615 **(1m)** (f) 2. Sections 77.51 (12m), (14) ~~(c), (f) and (j) and~~, (14g), (15a),
5 and (15b), 77.52 (3), (3m), (4), ~~(6) and~~ (13), (14), (18), and (19), 77.522, 77.58 (1) to (5),
6 (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9) ~~and~~, (12) to (14), and
7 (15), and 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax
8 described under subd. 1.

9 **SECTION 4.** 70.111 (23) of the statutes is amended to read:

10 70.111 **(23)** VENDING MACHINES. All machines that automatically dispense ~~soda~~
11 ~~water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage~~
12 ~~under s. 77.54 (20) (a) and (b)~~ food and food ingredient, as defined in s. 77.51 (3t),
13 upon the deposit in the machines of specified coins or currency, or insertion of a credit
14 card, in payment for the ~~soda water beverages, food or beverages~~ food and food
15 ingredient, as defined in s. 77.51 (3t).

16 **SECTION 5.** 73.03 (50) (d) of the statutes is amended to read:

17 73.03 **(50)** (d) In the case of a sole proprietor, signs the form or, in the case of
18 other persons, has an individual who is authorized to act on behalf of the person sign
19 the form, or, in the case of a single–owner entity that is disregarded as a separate
20 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any

1 person who may register under this subsection may designate an agent, as defined
2 in s. 77.524 (1) (ag), to register with the department under this subsection in the
3 manner prescribed by the department. In this paragraph, "sign" has the meaning
4 given in s. 77.51 (17r).

5 **SECTION 6.** 73.03 (50b) of the statutes is created to read:

6 73.03 **(50b)** To waive the fee established under sub. (50) for applying for and
7 renewing the business tax registration certificate, if the person who is applying for
8 or renewing the certificate is not required for purposes of ch. 77 to hold such a
9 certificate.

10 **SECTION 7.** 73.03 (61) of the statutes is created to read:

11 73.03 **(61)** To do all of the following related to the Uniform Sales and Use Tax
12 Administration Act:

13 (a) Certify compliance with the agreement, as defined in s. 77.65 (2) (a).

14 (b) Pursuant to the agreement, as defined in s. 77.65 (2) (a), certify certified
15 service providers, as defined in s. 77.51 (1g), and certified automated systems, as
16 defined in s. 77.524 (1) (am).

17 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
18 performance standards and eligibility criteria for a seller that sells tangible personal
19 property or taxable services in at least 5 states that are signatories to the agreement,
20 as defined in s. 77.65 (2) (a); that has total annual sales revenue of at least
21 $500,000,000; that has a proprietary system that calculates the amount of tax owed
22 to each taxing jurisdiction in which the seller sells tangible personal property or
23 taxable services; and that has entered into a performance agreement with the states
24 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of
25 this paragraph, "seller" includes an affiliated group of sellers using the same

1 proprietary system to calculate the amount of tax owed in each taxing jurisdiction
2 in which the sellers sell tangible personal property or taxable services.
3 (d) Issue a tax identification number to a person who claims an exemption
4 under subch. III or V of ch. 77 and who is not required to register with the department
5 for the purposes of subch. III or V of ch. 77 and establish procedures for the
6 registration of such a person.
7 (e) Maintain a database that is accessible to sellers and certified service
8 providers, as defined in s. 77.51 (1g), that indicates whether items defined in
9 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
10 nontaxable.
11 (f) Maintain a database that is accessible to sellers and certified service
12 providers, as defined in s. 77.51 (1g), that indicates tax rates, taxing jurisdiction
13 boundaries, and zip code or address assignments related to the administration of
14 taxes imposed under subchs. III and V of ch. 77.
15 (g) Set forth the information that the seller shall provide to the department for
16 tax exemptions claimed by purchasers and establish the manner in which a seller
17 shall provide such information to the department.
18 (h) Provide monetary allowances, in addition to the retailer's discount provided
19 under s. 77.61 (4) (c), to certified service providers, as defined in s. 77.51 (1g), and
20 sellers that use certified automated systems, as defined in s. 77.524 (1) (am), or
21 proprietary systems, pursuant to the agreement as defined in s. 77.65 (2) (a).
22 **SECTION 8.** 76.07 (4g) (b) 8. of the statutes is amended to read:
23 76.07 **(4g)** (b) 8. Determine transport–related revenue by adding public service
24 revenue allocated to this state on the basis of routes for which the company is
25 authorized to receive subsidy payments, mutual aid allocated to this state on the

basis of the ratio of transport revenues allocated to this state to transport revenues everywhere in the previous year, in–flight sales allocated to this state as they are allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport–related revenues from sales made in this state.

~~**SECTION 9.** 77.51 (1) of the statutes is renumbered 77.51 (1d).~~

SECTION 10. 77.51 (1b) of the statutes is created to read:

77.51 **(1b)** "Alcohol beverage" means a beverage that is suitable for human consumption and that contains 0.5 percent or more of alcohol by volume.

SECTION 11. 77.51 (1e) of the statutes is created to read:

77.51 **(1e)** "Candy" means a preparation of sugar, honey, or other natural or artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include a preparation that contains flour or that requires refrigeration.

SECTION 12. 77.51 (1n) of the statutes is created to read:

77.51 **(1n)** "Computer" means an electronic device that accepts information in digital or similar form and that manipulates such information to achieve a result based on a sequence of instructions.

SECTION 13. 77.51 (1p) of the statutes is created to read:

77.51 **(1p)** "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

SECTION 14. 77.51 (2k) of the statutes is created to read:

77.51 **(2k)** "Delivered electronically" means delivered to a purchaser by means other than by tangible storage media.

SECTION 15. 77.51 (2m) of the statutes is created to read:

1 77.51 **(2m)** "Delivery charges" means charges by a seller to prepare and deliver
2 tangible personal property or services to a location designated by the purchaser of
3 the tangible personal property or services, including charges for transportation,
4 shipping, postage, handling, crating, and packing.

5 **SECTION 16.** 77.51 (3p) of the statutes is created to read:

6 77.51 **(3p)** "Dietary supplement" means a product, other than tobacco, that is
7 intended to supplement a person's diet, if all of the following apply:

8 (a) The product contains any of the following ingredients or any combination
9 of any of the following ingredients:

10 1. A vitamin.

11 2. A mineral.

12 3. An herb or other botanical.

13 4. An amino acid.

14 5. A dietary substance that is intended for human consumption to supplement
15 the diet by increasing total dietary intake.

16 6. A concentrate, metabolite, constituent, or extract.

17 (b) The product is intended for ingestion in tablet, capsule, powder, soft–gel,
18 gel–cap, or liquid form, or, if not intended for ingestion in such forms, is not
19 represented as conventional food and is not represented for use as the sole item of
20 a meal or diet.

21 (c) The product is required to be labeled as a dietary supplement as required
22 under 21 CFR 101.36.

23 **SECTION 17.** 77.51 (3pd) of the statutes is created to read:

24 77.51 **(3pd)** "Direct mail" means printed material that is delivered by the U.S.
25 postal service or other delivery service to a mass audience or to addressees on a

1 mailing list provided by or at the direction of the purchaser of the printed material,
2 if the cost of the printed material or any tangible personal property included with the
3 printed material is not billed directly to the recipients of the printed material.
4 "Direct mail" includes any tangible personal property provided directly or indirectly
5 by the purchaser of the printed material to the seller of the printed material for
6 inclusion in any package containing printed material. "Direct mail" does not include
7 multiple items of printed material delivered to a single address.

8 **SECTION 18.** 77.51 (3pj) of the statutes is created to read:

9 77.51 **(3pj)** "Drug" means a compound, substance, or preparation, or any
10 component of them, other than food and food ingredients, dietary supplements, or
11 alcoholic beverages, to which any of the following applies:

12 (a) It is listed in the United States Pharmacopoeia, Homeopathic
13 Pharmacopoeia of the United States, or National Formulary, or any supplement to
14 any of them.

15 (b) It is intended for use in diagnosing, curing, mitigating, treating, or
16 preventing a disease.

17 (c) It is intended to affect a function or structure of the body.

18 **SECTION 19.** 77.51 (3pm) of the statutes is created to read:

19 77.51 **(3pm)** "Durable medical equipment" means equipment, including the
20 repair parts and replacement parts for the equipment that is primarily and
21 customarily used for a medical purpose related to a person; that can withstand
22 repeated use; that is not generally useful to a person who is not ill or injured; and that
23 is not placed in or worn on the body. "Durable medical equipment" does not include
24 mobility–enhancing equipment.

25 **SECTION 20.** 77.51 (3pp) of the statutes is created to read:

77.51 **(3pp)** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

SECTION 21. 77.51 (3t) of the statutes is created to read:

77.51 **(3t)** "Food and food ingredient" means a substance in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or for chewing, by humans and that is ingested or chewed for its taste or nutritional value. "Food and food ingredient" does not include alcohol beverages or tobacco.

SECTION 22. 77.51 (4) of the statutes is repealed.

SECTION 23. 77.51 (5) of the statutes is amended to read:

77.51 **(5)** For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52 (2m), "incidental" means depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service. Tangible personal property transferred by a service provider is incidental to the service if the purchaser's main purpose or objective is to obtain the service rather than the property, even though the property may be necessary or essential to providing the service.

SECTION 24. 77.51 (7) of the statutes is repealed and recreated to read:

77.51 **(7)** (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term and for consideration and includes:

1. A transfer that includes future options to purchase or extend.

2. Agreements related to the transfer of possession or control of motor vehicles or trailers, if the amount of any consideration may be increased or decreased by

1 reference to the amount realized on the sale or other disposition of such motor
2 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.
3 (b) "Lease or rental" does not include any of the following:
4 1. A transfer of possession or control of tangible personal property under a
5 security agreement or deferred payment plan, if such agreement or plan requires
6 transferring title to the tangible personal property after making all required
7 payments.
8 2. A transfer of possession or control of tangible personal property under any
9 agreement that requires transferring title to the tangible personal property after
10 making all required payments and after paying an option price that does not exceed
11 the greater of $100 or 1 percent of the total amount of the required payments.
12 3. Providing tangible personal property along with an operator, if the operator
13 is necessary for the tangible personal property to perform in the manner for which
14 it is designed and if the operator does more than maintain, inspect, or set up the
15 tangible personal property.
16 (c) 1. Transfers described under par. (a) are considered a lease or rental,
17 regardless of whether such transfer is considered a lease or rental under generally
18 accepted accounting principles, or any provision of federal or local law, or any other
19 provision of state law.
20 2. Transfers described under par. (b) are not considered a lease or rental,
21 regardless of whether such transfer is considered a lease or rental under generally
22 accepted accounting principles, or any provision of federal or local law, or any other
23 provision of state law.
24 **SECTION 25.** 77.51 (7m) of the statutes is created to read:

77.51 **(7m)** "Mobility–enhancing equipment" means equipment, including the repair parts and replacement parts for the equipment, that is primarily and customarily used to provide or increase the ability of a person to move from one place to another; that may be used in a home or motor vehicle; and that is generally not used by a person who has normal mobility. "Mobility–enhancing equipment" does not include a motor vehicle or any equipment on a motor vehicle that is generally provided by a motor vehicle manufacturer.

SECTION 26. 77.51 (10m) of the statutes is created to read:

77.51 **(10m)** (a) "Prepared food" means:

1. Food and food ingredients sold in a heated state.

2. Food and food ingredients heated by the retailer, except as provided in par. (b).

3. Food and food ingredients sold with eating utensils that are provided by the retailer of the food and food ingredients, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. In this subdivision, "plate" does not include a container or packaging used to transport food and food ingredients.

4. Except as provided in par. (b), 2 or more food ingredients mixed or combined by a retailer for sale as a single item.

(b) "Prepared food" under par. (a) 2. and 4. does not include:

1. Two or more food ingredients mixed or combined by a retailer for sale as a single item, if the retailer's primary classification in the 1997 North American Industry Classification System, published by the federal office of management and budget, is manufacturing under sectors 31 to 33, not including bakeries and tortilla manufacturing under industry group number 3118.

2. Two or more food ingredients mixed or combined by a retailer for sale as a single item, sold unheated, and sold by volume or weight.

3. Bakery items made by a retailer, including breads, rolls, pastries, buns, biscuits, bagels, croissants, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

4. Food and food ingredients that are only sliced, repackaged, or pasteurized by a retailer.

5. Eggs, fish, meat, and poultry, and foods containing any of them in raw form, that require cooking by the consumer, as recommended by the food and drug administration in chapter 3, part 401.11 of its food code to prevent food–borne illnesses.

SECTION 27. 77.51 (10n) of the statutes is created to read:

77.51 **(10n)** "Prescription" means an order, formula, or recipe that is issued by any oral, written, electronic, or other means of transmission and by a person who is authorized by the laws of this state to issue such an order, formula, or recipe.

SECTION 28. 77.51 (10r) of the statutes is created to read:

77.51 **(10r)** "Prewritten computer software" means any of the following:

(a) Computer software that is not designed and developed by the author or creator of the software according to a specific purchaser's specifications.

(b) Computer software upgrades that are not designed and developed by the author or creator of the software according to a specific purchaser's specifications.

(c) Computer software that is designed and developed by the author or creator of the software according to a specific purchaser's specifications and that is sold to another purchaser.

1 (d) Any combination of computer software under pars. (a) to (c), including any
2 combination with any portion of such software.
3 (e) Computer software as described under pars. (a) to (d), and any portion of
4 such software, that is modified or enhanced by any degree to a specific purchaser's
5 specifications, except such modification or enhancement that is reasonably and
6 separately indicated on an invoice, or other statement of the price, provided to the
7 purchaser.
8 **SECTION 29.** 77.51 (11m) of the statutes is created to read:
9 77.51 **(11m)** "Prosthetic device" means a device, including the repair parts and
10 replacement parts for the device, that is placed in or worn on the body to artificially
11 replace a missing portion of the body; to prevent or correct a physical deformity or
12 malfunction; or to support a weak or deformed portion of the body.
13 **SECTION 30.** 77.51 (12m) of the statutes is created to read:
14 77.51 **(12m)** (a) "Purchase price" means the total amount of consideration,
15 including cash, credit, property, and services, for which tangible personal property
16 or services are sold, leased, or rented, valued in money, whether paid in money or
17 otherwise, without any deduction for the following:
18 1. The seller's cost of the property sold.
19 2. The cost of materials used, labor or service cost, interest, losses, all costs of
20 transportation to the seller, all taxes imposed on the seller, and any other expense
21 of the seller.
22 3. Charges by the seller for any services necessary to complete a sale, not
23 including delivery and installation charges.
24 4. a. Delivery charges, except as provided in par. (b) 4.

1 b. If a shipment includes property that is subject to tax under this subchapter
2 and property that is not subject to tax under this subchapter, the amount of the
3 delivery charge allocated to the property that is subject to tax under this subchapter
4 based on the total purchase price of the property that is subject to tax under this
5 subchapter as compared to the total purchase price of all the property or on the total
6 weight of the property that is subject to tax under this subchapter as compared to the
7 total weight of all the property.

8 5. Installation charges.

9 6. The value of exempt tangible personal property, if the exempt tangible
10 personal property is bundled with taxable tangible personal property and sold by the
11 seller as a single product or piece of merchandise.

12 (b) "Purchase price" does not include:

13 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
14 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.

15 2. Interest, financing, and carrying charges from credit that is extended on a
16 sale of personal property or services, if the amount of the interest, financing, or
17 carrying charges is separately stated on the invoice, bill of sale, or similar document
18 that the seller gives to the purchaser.

19 3. Any taxes legally imposed directly on the purchaser that are separately
20 stated on the invoice, bill of sale, or similar document that the seller gives to the
21 purchaser.

22 4. Delivery charges for direct mail.

23 5. In all transactions in which an article of tangible personal property is traded
24 toward the purchase of an article of greater value, the amount of the purchase price

that represents the amount allowed for the article traded, except that this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

6. If a person who purchases a motor vehicle presents a statement issued under s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the statement to the seller within 60 days from the date of receiving a refund under s. 218.0171 (2) (b) 2. b., the trade–in amount specified in the statement issued under s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor vehicle. This subdivision applies only to the first motor vehicle purchased by a person after receiving a refund under s. 218.0171 (2) (b) 2. b.

7. Thirty–five percent of the purchase price, excluding trade–ins, of a new mobile home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the total size of the combined sections, not including additions and attachments, is at least 984 square feet measured when the sections are ready for transport. This subdivision does not apply to a lease or rental.

8. At the retailer's option; except that after the retailer chooses an option the retailer may not use the other option for other sales without the department's written approval; either 35 percent of the purchase price of a manufactured building, as defined in s. 101.71 (6), or an amount equal to the purchase price of the manufactured building minus the cost of materials that become an ingredient or component part of the building.

SECTION 31. 77.51 (12p) of the statutes is created to read:

77.51 **(12p)** "Purchaser" means a person to whom a sale of tangible personal property is made or to whom a service is furnished.

SECTION 32. 77.51 (13) (o) of the statutes is amended to read:

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77.51 **(13)** (o) A person selling ~~medicine~~ drugs for animals to a veterinarian. As used in this paragraph, "animal" includes livestock, pets and poultry.

SECTION 33. 77.51 (13s) of the statutes is created to read:

77.51 **(13s)** "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

SECTION 34. 77.51 (14) (intro.) of the statutes is amended to read:

77.51 **(14)** (intro.) "Sale"~~, "sale, lease or rental", "retail sale", "sale at retail", or equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the ownership of, title to, possession of, or enjoyment of tangible personal property or services for use or consumption but not for resale as tangible personal property or services and includes:

SECTION 35. 77.51 (14) (a) of the statutes is amended to read:

77.51 **(14)** (a) Any sale at an auction in respect to tangible personal property which is sold to a successful bidder~~. The proceeds from~~, except the sale of property sold at auction which is bid in by the seller and on which title does not pass to a new purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only on the net proceeds~~.

SECTION 36. 77.51 (14) (d) of the statutes is repealed.

SECTION 37. 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

SECTION 38. 77.51 (14) (i) of the statutes is repealed.

SECTION 39. 77.51 (14) (j) of the statutes is amended to read:

77.51 **(14)** (j) The granting of possession of tangible personal property by a lessor to a lessee, or to another person at the direction of the lessee. Such a transaction is deemed a continuing sale in this state ~~by the lessor for the duration of the lease as respects any period of time the leased property is situated in this state,~~

~~irrespective of the time or place of delivery of the property to the lessee or such other person~~.

SECTION 40. 77.51 (14) (k) of the statutes is repealed.

SECTION 41. 77.51 (14) (L) of the statutes, as affected by 2005 Wisconsin Act ..... (this act), is repealed.

SECTION 42. 77.51 (14r) of the statutes is repealed.

SECTION 43. 77.51 (15) of the statutes is repealed.

SECTION 44. 77.51 (15a) of the statutes is created to read:

77.51 **(15a)** (a) "Sales, lease, or rental for resale, sublease, or subrent" includes transfers of tangible personal property to a service provider that the service provider transfers in conjunction with but not incidental to the selling, performing, or furnishing of any service, and transfers of tangible personal property to a service provider that the service provider physically transfers in conjunction with the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20. This paragraph does not apply to sub. (2).

(b) "Sales, lease, or rental for resale, sublease, or subrent" does not include any of the following:

1. The sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for use in real property construction activities or the alteration, repair, or improvement of real property, regardless of the quantity of such materials, supplies, and equipment sold.

2. Any sale of tangible personal property to a purchaser even though such property may be used or consumed by some other person to whom such purchaser transfers the tangible personal property without valuable consideration, such as gifts, and advertising specialties distributed gratis apart from the sale of other tangible personal property or service.

1 3. Transfers of tangible personal property to a service provider that the service
2 provider transfers in conjunction with the selling, performing, or furnishing of any
3 service, if the tangible personal property is incidental to the service, unless the
4 service provider is selling, performing, or furnishing services under s. 77.52 (2) (a)
5 7., 10., 11., or 20.

6 **SECTION 45.** 77.51 (15b) of the statutes is created to read:

7 77.51 **(15b)** (a) "Sales price" means the total amount of consideration, including
8 cash, credit, property, and services, for which tangible personal property or services
9 are sold, leased, or rented, valued in money, whether received in money or otherwise,
10 without any deduction for the following:

11 1. The seller's cost of the property sold.

12 2. The cost of materials used, labor or service cost, interest, losses, all costs of
13 transportation to the seller, all taxes imposed on the seller, and any other expense
14 of the seller.

15 3. Charges by the seller for any services necessary to complete a sale, not
16 including delivery and installation charges.

17 4. a. Delivery charges, except as provided in par. (b) 4.

18 b. If a shipment includes property that is subject to tax under this subchapter
19 and property that is not subject to tax under this subchapter, the amount of the
20 delivery charge allocated to the property that is subject to tax under this subchapter
21 based on the total sales price of the property that is subject to tax under this
22 subchapter as compared to the total sales price of all the property or on the total
23 weight of the property that is subject to tax under this subchapter as compared to the
24 total weight of all the property.

25 5. Installation charges.

1 6. The value of exempt tangible personal property, if the exempt tangible
2 personal property is bundled with taxable tangible personal property and sold by the
3 seller as a single product or piece of merchandise.
4 (b) "Sales price" does not include:
5 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
6 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.
7 2. Interest, financing, and carrying charges from credit that is extended on a
8 sale of tangible personal property or services, if the amount of the interest, financing,
9 or carrying charges is separately stated on the invoice, bill of sale, or similar
10 document that the seller gives to the purchaser.
11 3. Any taxes legally imposed directly on the purchaser that are separately
12 stated on the invoice, bill of sale, or similar document that the seller gives to the
13 purchaser.
14 4. Delivery charges for direct mail.
15 5. In all transactions in which an article of tangible personal property is traded
16 toward the purchase of an article of greater value, the amount of the sales price that
17 represents the amount allowed for the article traded, except that this subdivision
18 does not apply to any transaction to which subd. 7. or 8. applies.
19 6. If a person who purchases a motor vehicle presents a statement issued under
20 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
21 statement to the seller within 60 days from the date of receiving a refund under s.
22 218.0171 (2) (b) 2. b., the trade–in amount specified in the statement issued under
23 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.
24 This subdivision applies only to the first motor vehicle purchased by a person after
25 receiving a refund under s. 218.0171 (2) (b) 2. b.

1 7. Thirty–five percent of the sales price, excluding trade–ins, of a new mobile
2 home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile
3 home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the
4 total size of the combined sections, not including additions and attachments, is at
5 least 984 square feet measured when the sections are ready for transport. This
6 subdivision does not apply to a lease or rental.

7 8. At the retailer's option; except that after the retailer chooses an option the
8 retailer may not use the other option for other sales without the department's written
9 approval; either 35 percent of the sales price of a manufactured building, as defined
10 in s. 101.71 (6), or an amount equal to the sales price of the manufactured building
11 minus the cost of materials that become an ingredient or component part of the
12 building.

13 **SECTION 46.** 77.51 (17) of the statutes is amended to read:

14 77.51 **(17)** "Seller" includes every person selling, leasing or renting tangible
15 personal property or selling, performing or furnishing services of a kind the ~~gross~~
16 ~~receipts~~ sales price from the sale, lease, rental, performance or furnishing of which
17 ~~are~~ is required to be included in the measure of the sales tax.

18 **SECTION 47.** 77.51 (17m) of the statutes is repealed and recreated to read:

19 77.51 **(17m)** "Service address" means any of the following:

20 (a) The location of the telecommunications equipment to which a customer's
21 telecommunications service is charged and from which the telecommunications
22 service originates or terminates, regardless of where the telecommunications service
23 is billed or paid.

24 (b) If the location described under par. (a) is not known by the seller who sells
25 the telecommunications service, the location where the signal of the

telecommunications service originates, as identified by the seller's telecommunications system or, if the signal is not transmitted by the seller's telecommunications system, by information that the seller received from the seller's service provider.

(c) If the locations described under pars. (a) and (b) are not known by the seller who sells the telecommunications service, the customer's place of primary use.

SECTION 48. 77.51 (17w) of the statutes is created to read:

77.51 **(17w)** "Soft drink" means a beverage that contains less than 0.5 percent of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not include a beverage that contains milk or milk products; soy, rice, or similar milk substitutes; or more than 50 percent vegetable or fruit juice by volume.

SECTION 49. 77.51 (20) of the statutes is amended to read:

77.51 **(20)** "Tangible personal property" means ~~all tangible~~ personal property ~~of every kind and description~~ that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses, and includes electricity, ~~natural~~ gas, steam ~~and~~, water, and ~~also leased property affixed to realty if the lessor has the right to remove the property upon breach or termination of the lease agreement, unless the lessor of the property is also the lessor of the realty to which the property is affixed. "Tangible personal property" also includes coins and stamps of the United States sold or traded as collectors' items above their face value and computer programs except custom~~ prewritten computer ~~programs~~ software.

SECTION 50. 77.51 (21) of the statutes is amended to read:

77.51 **(21)** "Taxpayer" means the person who is required to pay, collect, or account for or who is otherwise directly interested in the taxes imposed by this subchapter, including a certified service provider.

SECTION 51. 77.51 (21p) of the statutes is created to read:

77.51 **(21p)** "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco, and any other item that contains tobacco.

SECTION 52. 77.51 (22) (bm) of the statutes is created to read:

77.51 **(22)** (bm) In this subsection, "exercise of any right or power over tangible personal property or taxable services" includes distributing, selecting recipients, determining mailing schedules, or otherwise directing the distribution, dissemination, or disposal of tangible personal property or taxable services, regardless of whether the purchaser of such property or services owns or physically possesses, in this state, the property or services.

Fix component

SECTION 53. 77.52 (1) of the statutes is ~~renumbered 77.52 (1) (a) and~~ amended to read:

77.52 **(1)** (a) For the privilege of selling, licensing, leasing or renting tangible personal property, including accessories, components, attachments, parts, supplies and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal property, including accessories, components, attachments, parts, supplies and materials, sold, leased or rented at retail in this state.

SECTION 54. 77.52 (1) (b) of the statutes is created to read:

77.52 **(1)** (b) For the privilege of selling at retail coins and stamps of the United States that are sold or traded as collectors' items above their face value, a tax is imposed on all retailers at the rate of 5 percent of the sales price from the sale of such coins and stamps.

SECTION 55. 77.52 (1) (c) of the statutes is created to read:

77.52 **(1)** (~~c~~ d) For the privilege of leasing property that is affixed to real property, a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease of such property, if the lessor has the right to remove the leased property upon breach or termination of the lease agreement, unless the lessor of the leased property is also the lessor of the real property to which the leased property is affixed.

SECTION 56. 77.52 (2) (intro.) of the statutes is amended to read:

77.52 **(2)** (intro.) For the privilege of selling, licensing, performing or furnishing the services described under par. (a) at retail in this state to consumers or users, a tax is imposed upon all persons selling, licensing, performing or furnishing the services at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license, performance or furnishing of the services.

SECTION 57. 77.52 (2) (a) 5. a. of the statutes is amended to read:

77.52 **(2)** (a) 5. a. The sale of telecommunications services, except services subject to 4 USC 116 to 126, as amended by P.L. 106–252, that either originate or terminate in this state; except services that are obtained by means of a toll–free number, that originate outside this state and that terminate in this state; and are charged to a service address in this state, regardless of the location where that charge is billed or paid; and the sale of ~~the rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and by using an access number and authorization code~~ a prepaid calling service as defined in s. 77.522 (3) (a) 11., except sales that are subject to subd. 5. b.

SECTION 58. 77.52 (2) (a) 10. of the statutes is amended to read:

77.52 **(2)** (a) 10. Except for installing or applying tangible personal property which, when installed or applied, will constitute an addition or capital improvement of real property, the repair, service, alteration, fitting, cleaning, painting, coating,

towing, inspection, and maintenance of all items of tangible personal property unless, at the time of such repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance, a sale in this state of the type of property repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or maintained would have been exempt to the customer from sales taxation under this subchapter, other than the exempt sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other than nontaxable sales outside this state under s. ~~77.51 (14r)~~ 77.522. For purposes of this paragraph, the following items shall be considered to have retained their character as tangible personal property, regardless of the extent to which any such item is fastened to, connected with, or built into real property: furnaces, boilers, stoves, ovens, including associated hoods and exhaust systems, heaters, air conditioners, humidifiers, dehumidifiers, refrigerators, coolers, freezers, water pumps, water heaters, water conditioners and softeners, clothes washers, clothes dryers, dishwashers, garbage disposal units, radios and radio antennas, incinerators, television receivers and antennas, record players, tape players, jukeboxes, vacuum cleaners, furniture and furnishings, carpeting and rugs, bathroom fixtures, sinks, awnings, blinds, gas and electric logs, heat lamps, electronic dust collectors, grills and rotisseries, bar equipment, intercoms, recreational, sporting, gymnasium and athletic goods and equipment including by way of illustration but not of limitation bowling alleys, golf practice equipment, pool tables, punching bags, ski tows, and swimming pools; equipment in offices, business facilities, schools, and hospitals but not in residential facilities including personal residences, apartments, long–term care facilities, as defined under s. 16.009 (1) (em), state institutions, as defined under s. 101.123 (1) (i), Type 1 secured correctional facilities, as defined in s. 938.02 (19), or similar facilities

1 including, by way of illustration but not of limitation, lamps, chandeliers, and fans,
2 venetian blinds, canvas awnings, office and business machines, ice and milk
3 dispensers, beverage–making equipment, vending machines, soda fountains, steam
4 warmers and tables, compressors, condensing units and evaporative condensers,
5 pneumatic conveying systems; laundry, dry cleaning, and pressing machines, power
6 tools, burglar alarm and fire alarm fixtures, electric clocks and electric signs.
7 "Service" does not include services performed by veterinarians. The tax imposed
8 under this subsection applies to the repair, service, alteration, fitting, cleaning,
9 painting, coating, towing, inspection, or maintenance of items listed in this
10 subdivision, regardless of whether the installation or application of tangible
11 personal property related to the items is an addition to or a capital improvement of
12 real property, except that the tax imposed under this subsection does not apply to the
13 original installation or the complete replacement of an item listed in this subdivision,
14 if such installation or replacement is a real property construction activity under s.
15 77.51 (2).

16 **SECTION 59.** 77.52 (3m) of the statutes is repealed.

17 **SECTION 60.** 77.52 (6) of the statutes is repealed.

18 **SECTION 61.** 77.52 (7) of the statutes is amended to read:

19 77.52 **(7)** Every person desiring to operate as a seller within this state who
20 holds a valid certificate under s. 73.03 (50) shall file with the department an
21 application for a permit for each place of operations. Every application for a permit
22 shall be made upon a form prescribed by the department and shall set forth the name
23 under which the applicant intends to operate, the location of the applicant's place of
24 operations, and the other information that the department requires. ~~The~~ Except as
25 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;

in the case of sellers other than sole proprietors, the application shall be signed by the person authorized to act on behalf of such sellers. A nonprofit organization that has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices received after it is required to obtain that permit. If that organization becomes eligible later for the exemption under s. 77.54 (7m) except for its possession of a seller's permit, it may surrender that permit.

SECTION 62. 77.52 (7b) of the statutes is created to read:

77.52 **(7b)** Any person who may register under sub. (7) may designate an agent, as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the manner prescribed by the department.

SECTION 63. 77.52 (13) of the statutes is amended to read:

77.52 **(13)** For the purpose of the proper administration of this section and to prevent evasion of the sales tax it shall be presumed that all receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property or services is not a taxable sale at retail is upon the person who makes the sale unless that person takes from the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by the department, to the effect that the property or service is purchased for resale or is otherwise exempt~~;~~, except that no certificate is required for ~~sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse~~ the

sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (14b), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

SECTION 64. 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are consolidated, renumbered 77.52 (14) and amended to read:

77.52 **(14)** The certificate referred to in sub. (13) relieves the seller from the burden of proof only if ~~any of the following is true: 1. The~~ the certificate is taken ~~in good faith~~ from a person ~~who is engaged as a seller of tangible personal property or taxable services and who holds the permit provided for in sub. (9) and who,~~ at the time ~~of purchasing~~ that the person purchases the tangible personal property or services~~, intends to sell it in the regular course of operations or is unable to ascertain at the time of purchase whether the property or service will be sold or will be used for some other purpose. (b)~~. The certificate under sub. (13) shall not relieve the seller of the burden of proof if the sale is sourced to this state under s. 77.522 (1) (b) 1. and the claimed exemption is not provided for under this subchapter or if the seller fraudulently fails to collect sales tax or solicits the purchaser to claim an unlawful exemption. The certificate referred to in sub. (13) shall ~~be signed by and bear the name and address of~~ provide information that identifies the purchaser~~,~~ and shall indicate ~~the general character of the tangible personal property or service sold by the purchaser and~~ the basis for the claimed exemption and a paper certificate shall be signed by the purchaser. The certificate shall be in such form as the department prescribes by rule.

SECTION 65. 77.52 (14) (a) 2. of the statutes is repealed.

SECTION 66. 77.52 (15) of the statutes is amended to read:

77.52 **(15)** If a purchaser who ~~gives a resale certificate~~ purchases tangible personal property or taxable services without paying a sales tax or use tax on such purchase because such property or services were for resale makes any use of the property or services other than retention, demonstration or display while holding ~~it~~ the property or services for sale, lease or rental in the regular course of the purchaser's operations, the use shall be taxable to the purchaser under s. 77.53 as of the time that the property ~~is~~ or services are first used by the purchaser, and the ~~sales~~ purchase price of the property or services to the purchaser shall be the measure of the tax. ~~Only when there is an unsatisfied use tax liability on this basis because the seller has provided incorrect information about that transaction to the department shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.~~

SECTION 67. 77.522 of the statutes is created to read:

77.522 Sourcing. (1) GENERAL. (a) In this section:

1. "Direct mail form" means a form for direct mail prescribed by the department.

2. "Multiple–points–of–use exemption form" means the multiple–points–of–use exemption form, as prescribed by the department.

3. "Product" includes tangible personal property, digital goods, and services.

4. "Receive" means taking possession of tangible personal property; making first use of services; or taking possession or making first use of digital goods, whichever comes first. "Receive" does not include a shipping company taking possession of tangible personal property on a purchaser's behalf.

5. "Transportation equipment" means all of the following:

1 a. Locomotives and railcars that are used to carry persons or property in
2 interstate commerce.
3 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
4 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
5 registered under the International Registration Plan and operated under the
6 authority of a carrier that is authorized by the federal government to carry persons
7 or property in interstate commerce.
8 c. Aircraft that is operated by air carriers that are authorized by the federal
9 government or a foreign authority to carry persons or property in interstate or
10 foreign commerce.
11 d. Containers that are designed for use on the vehicles described in subd. 5. a.
12 to c. and component parts attached to or secured on such vehicles.
13 (b) Except as provided in pars. (c) to (d) and subs. (2), (3), and (4), the location
14 of a sale is determined as follows:
15 1. If a purchaser receives the product at a seller's business location, the sale
16 occurs at that business location.
17 2. If a purchaser does not receive the product at a seller's business location, the
18 sale occurs at the location where the purchaser, or the purchaser's designated donee,
19 receives the product, including the location indicated by the instructions known to
20 the seller for delivery to the purchaser or the purchaser's designated donee.
21 3. If the location of a sale of a product cannot be determined under subds. 1. and
22 2., the sale occurs at the purchaser's address as indicated by the seller's business
23 records, if the records are maintained in the ordinary course of the seller's business
24 and if using that address to establish the location of a sale is not in bad faith.

1 4. If the location of a sale of a product cannot be determined under subds. 1. to
2 3., the sale occurs at the purchaser's address as obtained during the consummation
3 of the sale, including the address indicated on the purchaser's payment instrument,
4 if no other address is available and if using that address is not in bad faith.

5 5. If the location of a sale of a product cannot be determined under subds. 1. to
6 4., the location of the sale is determined as follows:

7 a. If the item sold is tangible personal property, the sale occurs at the location
8 from which the tangible personal property is shipped.

9 b. If the item sold is a digital good, or computer software delivered
10 electronically, the sale occurs at the location from which the digital good or computer
11 software was first available for transmission by the seller.

12 c. If a service is sold, the sale occurs at the location from which the service was
13 provided.

14 (c) The sale of direct mail occurs at the location from which the direct mail is
15 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
16 mail form, or other information that indicates the appropriate taxing jurisdiction to
17 which the direct mail is delivered to the ultimate recipients. If the purchaser
18 provides a direct mail form or direct payment to the seller, the purchaser shall pay
19 or remit, as appropriate, to the department the tax imposed under s. 77.53 (1) on all
20 purchases for which the tax is due and the seller is relieved from liability for
21 collecting such tax. A direct mail form provided to a seller under this paragraph shall
22 remain effective for all sales by the seller who received the form to the purchaser who
23 provided the form, unless the purchaser revokes the form in writing and provides
24 such revocation to the seller.

1 (d) 1. A business purchaser who purchases a service, digital good, or computer
2 software that is delivered electronically, who does not hold a direct pay permit under
3 s. 77.52 (17m), and who knows at the time of purchase that the service, good, or
4 software will be concurrently available for use in more than one taxing jurisdiction
5 shall provide a multiple–points–of–use exemption form to the seller, in conjunction
6 with the purchase, and shall pay or remit, as appropriate, to the department the tax
7 imposed under s. 77.53 (1) on all purchases for which the tax is due.

8 2. To apportion the amount of the tax due multiple taxing jurisdictions, a
9 purchaser who provides an exemption form under subd. 1. shall use any reasonable,
10 consistent, and uniform apportionment method supported by the purchaser's
11 business records that exist at the time of the sale.

12 3. An exemption form provided under subd. 1. shall remain effective for all sales
13 by the seller who received the form to the purchaser who provided the form, unless
14 the purchaser revokes the form in writing and provides such a revocation to the
15 seller.

16 4. A business purchaser who purchases a service, digital good, or computer
17 software that is delivered electronically, who holds a direct pay permit under s. 77.52
18 (17m), and who knows at the time of purchase that the service, good, or software will
19 be concurrently available for use in more than one taxing jurisdiction is not required
20 to provide a multiple–points–of–use exemption form to the seller, but shall collect,
21 pay, or remit, as appropriate, to the department the tax imposed under s. 77.53 (1)
22 and shall use the apportionment method described under par. (b) to apportion the tax
23 due multiple taxing jurisdictions.

1 5. A seller who receives a multiple–points–of–use exemption form under this
2 paragraph is relieved from liability for collecting the tax imposed under s. 77.53 (1)
3 on purchases related to the multiple–points–of–use exemption form.

4 **(2)** LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regards
5 to the first or only payment on the lease or rental, the lease or rental of tangible
6 personal property occurs at the location determined under sub. (1) (b). If the property
7 is moved from the place where the property was initially delivered, the subsequent
8 periodic payments on the lease or rental occur at the property's primary location as
9 indicated by an address for the property that is provided by the lessee and that is
10 available to the lessor in records that the lessor maintains in the ordinary course of
11 the lessor's business, if the use of such an address does not constitute bad faith. The
12 location of a lease or rental as determined under this paragraph shall not be altered
13 by any intermittent use of the property at different locations.

14 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
15 that are not transportation equipment, occurs at the primary location of such motor
16 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
17 that is provided by the lessee and that is available to the lessor in records that the
18 lessor maintains in the ordinary course of the lessor's business, if the use of such an
19 address does not constitute bad faith, except that a lease or rental under this
20 paragraph that requires only one payment occurs at the location determined under
21 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
22 not be altered by any intermittent use of the property at different locations.

23 (c) The lease or rental of transportation equipment occurs at the location
24 determined under sub. (1) (b).

1 (d) A license of tangible personal property shall be treated as a lease or rental
2 of tangible personal property under this subsection.

3 **(3)** TELECOMMUNICATIONS. (a) In this subsection:

4 1. "Air–to–ground radiotelephone service" means a radio service in which
5 common carriers are authorized to offer and provide radio telecommunications
6 service for hire to subscribers in aircraft.

7 2. "Call–by–call basis" means any method of charging for telecommunications
8 services by which the price of such services is measured by individual calls.

9 3. "Communications channel" means a physical or virtual path of
10 communications over which signals are transmitted between or among customer
11 channel termination points.

12 4. "Customer" means a person who enters into a contract with a seller of
13 telecommunications services or, in any transaction for which the end user is not the
14 person who entered into a contract with the seller of telecommunications services,
15 the end user of the telecommunications services. "Customer" does not include a
16 person who resells telecommunications services or, for mobile telecommunications
17 services, a serving carrier under an agreement to serve a customer outside the home
18 service provider's licensed service area.

19 5. "Customer channel termination point" means the location where a customer
20 inputs or receives communications.

21 6. "End user" means an individual who uses a telecommunications service.

22 7. "Home service provider" means a home service provider under section 124
23 (5) of P.L. 106–252.

24 8. "Mobile telecommunications service" means a mobile telecommunications
25 service under 4 USC 116 to 126, as amended by P.L. 106–252.

1 9. "Place of primary use" means place of primary use, as determined under 4
2 USC 116 to 126, as amended by P.L. 106–252.
3 10. "Postpaid calling service" means a telecommunications service that is
4 obtained by paying for it on a call–by–call basis using a bankcard, travel card, credit
5 card, debit card, or similar method, or by charging it to a telephone number that is
6 not associated with the location where the telecommunications service originates or
7 terminates. "Postpaid calling service" includes a service that would otherwise be a
8 prepaid calling service except that the service provided to the customer is not
9 exclusively a telecommunications service.
10 11. "Prepaid calling service" means the right to access services that are
11 exclusively telecommunications services, if that right is paid for in advance of
12 providing such services, requires using an access number or authorization code to
13 originate calls, and is sold in predetermined units or dollars that decrease with use
14 in a known amount.
15 12. "Private communication service" means a telecommunications service that
16 entitles the customer to exclusive or priority use of a communications channel or
17 group of communications channels, regardless of the manner in which the
18 communications channel or group of communications channels is connected, and
19 includes switching capacity, extension lines, stations, and other associated services
20 that are provided in connection with the use of such channel or channels.
21 13. "Radio service" means a communication service provided by the use of radio,
22 including radiotelephone, radiotelegraph, paging, and facsimile service.
23 14. "Radiotelegraph service" means transmitting messages from one place to
24 another by means of radio.

1 15. "Radiotelephone service" means transmitting sound from one place to
2 another by means of radio.

3 (b) Except as provided in pars. (d) to (g), the sale of a telecommunications
4 service that is sold on a call–by–call basis occurs in the taxing jurisdiction for sales
5 and use tax purposes where the call originates and terminates, in the case of a call
6 that originates and terminates in the same such jurisdiction, or the taxing
7 jurisdiction for sales and use tax purposes where the call originates or terminates
8 and where the service address is located.

9 (c) Except as provided in pars. (d) to (g), the sale of a telecommunications
10 service that is sold on a basis other than a call–by–call basis occurs at the customer's
11 place of primary use.

12 (d) The sale of a mobile telecommunications service, except an air–to–ground
13 radiotelephone service and a prepaid calling service, occurs at the customer's place
14 of primary use.

15 (e) The sale of a postpaid calling service occurs at the location where the signal
16 of the telecommunications service originates, as first identified by the seller's
17 telecommunications system or, if the signal is not transmitted by the seller's
18 telecommunications system, by information that the seller received from the seller's
19 service provider.

20 (f) The sale of a prepaid calling service occurs at the location determined under
21 sub. (1) (b), except that, if the service is a mobile telecommunications service and the
22 location cannot be determined under sub. (1) (b) 1. to 4., the prepaid calling service
23 occurs at the location determined under sub. (1) (b) 5. c. or at the location associated
24 with the mobile telephone number, as determined by the seller.

1 (g) 1. The sale of a private communication service for a separate charge related
2 to a customer channel termination point occurs at the location of the customer
3 channel termination point.

4 2. The sale of a private communication service in which all customer channel
5 termination points are located entirely in one taxing jurisdiction for sales and use
6 tax purposes occurs in the taxing jurisdiction in which the customer channel
7 termination points are located.

8 3. If the segments are charged separately, the sale of a private communication
9 service that represents segments of a communications channel between 2 customer
10 channel termination points that are located in different taxing jurisdictions for sales
11 and use tax purposes occurs in an equal percentage in both such jurisdictions.

12 4. If the segments are not charged separately, the sale of a private
13 communication service for segments of a communications channel that is located in
14 more than one taxing jurisdiction for sales and use tax purposes occurs in each such
15 jurisdiction in a percentage determined by dividing the number of customer channel
16 termination points in that jurisdiction by the number of customer channel
17 termination points in all jurisdictions where segments of the communications
18 channel are located.

19 **(4)** FLORISTS. (a) For purposes of this subsection, "retail florist" means a person
20 engaged in the business of selling cut flowers, floral arrangements, and potted plants
21 and who prepares such flowers, floral arrangements, and potted plants. "Retail
22 florist" does not include a person who sells cut flowers, floral arrangements, and
23 potted plants primarily by mail or via the Internet.

24 (b) The sale of tangible personal property by a retail florist who takes an order
25 from a purchaser occurs at the location where the retail florist takes the order, if the

retail florist forwards the order to another retail florist who is at a location other than the location of the florist who takes the order and who transfers the tangible personal property to a person identified by the purchaser.

(c) This subsection does not apply to sales occurring on or after January 1, 2006.

SECTION 68. 77.523 (title) of the statutes is repealed.

SECTION 69. 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended to read:

77.59 **(9p)** (a) If a customer purchases a service that is subject to 4 USC 116 to 126, as amended by P.L. 106–252, and if the customer believes that the amount of the tax assessed for the service under this subchapter or the place of primary use or taxing jurisdiction assigned to the service is erroneous, the customer may request that the service provider correct the alleged error by sending a written notice to the service provider. The notice shall include a description of the alleged error, the street address for the customer's place of primary use of the service, the account name and number of the service for which the customer seeks a correction, and any other information that the service provider reasonably requires to process the request. Within 60 days from the date that a service provider receives a request under this ~~section~~ paragraph, the service provider shall review its records to determine the customer's taxing jurisdiction. If the review indicates that there is no error as alleged, the service provider shall explain the findings of the review in writing to the customer. If the review indicates that there is an error as alleged, the service provider shall correct the error and shall refund or credit the amount of any tax collected erroneously, along with the related interest, as a result of the error from the customer in the previous 48 months, consistent with s. 77.59 (4). A customer may take no other action, or commence any action, to correct an alleged error in the

amount of the tax assessed under this subchapter on a service that is subject to 4 USC 116 to 126, as amended by P.L. 106–252, or to correct an alleged error in the assigned place of primary use or taxing jurisdiction, unless the customer has exhausted his or her remedies under this ~~section~~ paragraph.

SECTION 70. 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

SECTION 71. 77.524 (1) (ag) of the statutes is created to read:

77.524 **(1)** (ag) "Agent" means a person appointed by a seller to represent the seller before the states that are signatories to the agreement, as defined in 77.65 (2) (a).

SECTION 72. 77.524 (1) (b) of the statutes is renumbered 77.51 (1g).

~~**SECTION 73.** 77.53 (1) of the statutes is amended to read:~~

~~77.53 **(1)** Except as provided in sub. (1m), an excise tax is levied and imposed on the use or consumption in this state of coins, stamps, leased property, and taxable services under s. 77.52 purchased from any retailer, at the rate of 5% of the ~~sales~~ purchase price of ~~those~~ such coins, stamps, leased property, and services; on the storage, use or other consumption in this state of tangible personal property purchased from any retailer, at the rate of 5% of the ~~sales~~ purchase price of that property; and on the storage, use or other consumption of tangible personal property manufactured, processed or otherwise altered, in or outside this state, by the person who stores, uses or consumes it, from material purchased from any retailer, at the rate of 5% of the ~~sales~~ purchase price of that material.~~

SECTION 74. 77.53 (3) of the statutes is amended to read:

77.53 **(3)** Every retailer engaged in business in this state and making sales of tangible personal property or taxable services ~~for delivery into this state or with knowledge directly or indirectly that the property or service is intended for storage,~~

INSERT 38-21

~~use or other consumption in~~ that are sourced to this state under s. 77.522, shall, at the time of making the sales ~~or, if the storage, use or other consumption of the tangible personal property or taxable service is not then taxable under this section, at the time the storage, use or other consumption becomes taxable~~, collect the tax from the purchaser and give to the purchaser a receipt in the manner and form prescribed by the department.

SECTION 75. 77.53 (4) of the statutes is repealed.

SECTION 76. 77.53 (9) of the statutes is amended to read:

77.53 **(9)** Every retailer selling tangible personal property or taxable services for storage, use or other consumption in this state shall register with the department and obtain a certificate under s. 73.03 (50) and give the name and address of all agents operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, the standard industrial code classification of each place of business in this state and the other information that the department requires. Any person who may register under this subsection may designate an agent, as defined in s. 77.524 (1) (ag), to register with the department under this subsection, in the manner prescribed by the department.

SECTION 77. 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a).

SECTION 78. 77.53 (9m) (b) of the statutes is created to read:

77.53 **(9m)** (b) Any person who may register under par. (a) may designate an agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a), in the manner prescribed by the department.

SECTION 79. 77.53 (9m) (c) of the statutes is created to read:

77.53 **(9m)** (c) The registration under par. (a) by a person who is not otherwise required to collect any tax imposed by this subchapter shall not be used as a factor in determining whether the seller has nexus with this state for any tax at any time.

SECTION 80. 77.53 (10) of the statutes is amended to read:

77.53 **(10)** For the purpose of the proper administration of this section and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property or taxable services sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless that person takes from the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by department, to the effect that the property or taxable service is purchased for resale, or otherwise exempt from the tax~~;~~, except that no certificate is required for ~~sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse~~ the sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (14b), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

SECTION 81. 77.53 (11) of the statutes is amended to read:

77.53 **(11)** The certificate referred to in sub. (10) relieves the person selling the property or service from the burden of proof only if taken ~~in good faith~~ from a person ~~who is engaged as a seller of tangible personal property or taxable services and who~~

~~holds the permit provided for by s. 77.52 (9) and who,~~ at the time ~~of purchasing~~ that the person purchases the tangible personal property or taxable service~~, intends to sell it in the regular course of operations or is unable to ascertain at the time of purchase whether the property or service will be sold or will be used for some other purpose, or if taken in good faith from a person claiming exemption~~. The certificate under sub. (10) shall not relieve the seller of the burden of proof if the sale is sourced to this state under s. 77.522 (1) (b) 1. and the claimed exemption is not provided for under this subchapter or if the seller fraudulently fails to collect sales tax or solicit the purchaser to claim an unlawful exemption. The certificate shall ~~be signed by and bear the name and address of~~ provide information that identifies the purchaser and shall indicate ~~the number of the permit issued to the purchaser, the general character of tangible personal property or taxable service sold by the purchaser and~~ the basis for the claimed exemption and a paper certificate shall be signed by the purchaser. The certificate shall be substantially in the form that the department prescribes by rule.

SECTION 82. 77.53 (16) of the statutes is amended to read:

77.53 **(16)** If the purchase, rental or lease of tangible personal property or service subject to the tax imposed by this section was subject to a sales tax by another state in which the purchase was made, the amount of sales tax paid the other state shall be applied as a credit against and deducted from the tax, to the extent thereof, imposed by this section, except no credit may be applied against and deducted from a sales tax paid on the purchase of direct mail, if the direct mail purchaser did not provide to the seller a direct pay permit, a direct mail form, or other information that indicates the appropriate taxing jurisdiction to which the direct mail is delivered to the ultimate recipients. In this subsection "sales tax" includes a use or excise tax

imposed on the use of tangible personal property or taxable service by the state in which the sale occurred and "state" includes the District of Columbia but does not include the commonwealth of Puerto Rico or the several territories organized by congress.

SECTION 83. 77.53 (17) of the statutes is amended to read:

77.53 **(17)** This section does not apply to tangible personal property purchased outside this state, as determined under s. 77.522, other than motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers, all–terrain vehicles and airplanes registered or titled or required to be registered or titled in this state, which is brought into this state by a nondomiciliary for the person's own storage, use or other consumption while temporarily within this state when such property is not stored, used or otherwise consumed in this state in the conduct of a trade, occupation, business or profession or in the performance of personal services for wages or fees.

SECTION 84. 77.53 (17m) of the statutes is amended to read:

77.53 **(17m)** This section does not apply to a boat purchased in a state contiguous to this state, as determined under s. 77.522, by a person domiciled in that state if the boat is berthed in this state's boundary waters adjacent to the state of the domicile of the purchaser and if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made.

SECTION 85. 77.53 (17r) (a) of the statutes is amended to read:

77.53 **(17r)** (a) It is purchased in another state, as determined under s. 77.522.

SECTION 86. 77.53 (18) of the statutes is amended to read:

77.53 **(18)** This section does not apply to the storage, use or other consumption in this state of household goods for personal use or to aircraft, motor vehicles, boats,

snowmobiles, mobile homes, trailers, semitrailers and all–terrain vehicles, for personal use, purchased by a nondomiciliary of this state outside this state, as determined under s. 77.522, 90 days or more before bringing the goods or property into this state in connection with a change of domicile to this state.

SECTION 87. 77.54 (1) of the statutes is amended to read:

77.54 **(1)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption in this state of tangible personal property and services the ~~gross receipts~~ sales price from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state.

SECTION 88. 77.54 (2) of the statutes is amended to read:

77.54 **(2)** The ~~gross receipts~~ sales price from sales of and the storage, use or other consumption of tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale, except as provided in sub. (30) (a) 6.

SECTION 89. 77.54 (2m) of the statutes is amended to read:

77.54 **(2m)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption of tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals, whether or not the shoppers guides, newspapers or periodicals are transferred without charge to the recipient. In this subsection, "shoppers guides", "newspapers" and "periodicals" have the meanings under sub. (15). The exemption

under this subdivision does not apply to advertising supplements that are not newspapers.

SECTION 90. 77.54 (3) (a) of the statutes is amended to read:

77.54 **(3)** (a) The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption of tractors and machines, including accessories, attachments and parts therefor, used exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture and custom farming services, but excluding automobiles, trucks, and other motor vehicles for highway use; excluding personal property that is attached to, fastened to, connected to or built into real property or that becomes an addition to, component of or capital improvement of real property and excluding tangible personal property used or consumed in the erection of buildings or in the alteration, repair or improvement of real property, regardless of any contribution that ~~that~~ the personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine.

SECTION 91. 77.54 (3m) (intro.) of the statutes is amended to read:

77.54 **(3m)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of the following items if they are used exclusively by the purchaser or user in the business of farming; including dairy farming, agriculture, horticulture, floriculture and custom farming services:

SECTION 92. 77.54 (4) of the statutes is amended to read:

77.54 **(4)** ~~Gross receipts~~ The sales price from the sale of tangible personal property, and the storage, use or other consumption in this state of tangible personal property which is the subject of any such sale, by any elementary school or secondary

school, exempted as such from payment of income or franchise tax under ch. 71, whether public or private.

SECTION 93. 77.54 (5) (intro.) of the statutes is amended to read:

77.54 **(5)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of:

SECTION 94. 77.54 (6) (intro.) of the statutes is amended to read:

77.54 **(6)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of:

SECTION 95. 77.54 (8) of the statutes is amended to read:

77.54 **(8)** Charges for ~~interest, financing or~~ insurance where such charges are separately set forth upon the invoice given by the seller to the purchaser.

SECTION 96. 77.54 (9) of the statutes is amended to read:

77.54 **(9)** The ~~gross receipts~~ sales price from sales of tickets or admissions to public and private elementary and secondary school activities, where the entire net proceeds therefrom are expended for educational, religious or charitable purposes.

SECTION 97. 77.54 (9a) (intro.) of the statutes is amended to read:

77.54 **(9a)** (intro.) The ~~gross receipts~~ sales price from sales to, and the storage by, use by or other consumption of tangible personal property and taxable services by:

SECTION 98. 77.54 (10) of the statutes is amended to read:

77.54 **(10)** The ~~gross receipts~~ sales price from the sale of all admission fees, admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees to any museum operated by a nonprofit corporation under a lease agreement with the state historical society.

SECTION 99. 77.54 (11) of the statutes is amended to read:

77.54 **(11)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption in this state of motor vehicle fuel, general aviation fuel or alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel in operating a motor vehicle upon the public highways.

SECTION 100. 77.54 (12) of the statutes is amended to read:

77.54 **(12)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption in this state of rail freight or passenger cars, locomotives or other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants or fuel therefor.

SECTION 101. 77.54 (13) of the statutes is amended to read:

77.54 **(13)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption in this state of commercial vessels and barges of 50–ton burden or over primarily engaged in interstate or foreign commerce or commercial fishing, and the accessories, attachments, parts and fuel therefor.

SECTION 102. 77.54 (14) (intro.) of the statutes is amended to read:

77.54 **(14)** (intro.) The ~~gross receipts~~ sales price from the sales of and the storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of the following:

SECTION 103. 77.54 (14) (a) of the statutes is amended to read:

77.54 **(14)** (a) Prescribed for the treatment of a human being by a person authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by a registered pharmacist in accordance with law.

SECTION 104. 77.54 (14) (b) of the statutes is amended to read:

77.54 **(14)** (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist to a patient who is a human being for treatment of the patient.

SECTION 105. 77.54 (14) (f) of the statutes is amended to read:

77.54 **(14)** (f) Furnished without charge to a physician, surgeon, nurse anesthetist, advanced practice nurse, osteopath, dentist who is licensed under ch. 447, podiatrist who is licensed under ch. 448, or optometrist who is licensed under ch. 449 if the ~~medicine~~ drug may not be dispensed without a prescription.

SECTION 106. 77.54 (14b) of the statutes is created to read:

77.54 **(14b)** The sales price from the sales of and the storage, use, or other consumption of bandages, dressings, syringes, and similar items that are bundled together with drugs that are exempt under sub. (14) for sale by the seller as a single product or piece of merchandise.

SECTION 107. 77.54 (14g) of the statutes is repealed.

SECTION 108. 77.54 (14s) of the statutes is repealed.

SECTION 109. 77.54 (15) of the statutes is amended to read:

77.54 **(15)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of all newspapers, of periodicals sold by subscription and regularly issued at average intervals not exceeding 3 months, or issued at average intervals not exceeding 6 months by an educational association or corporation sales to which are exempt under sub. (9a) (f), of controlled circulation publications sold to commercial publishers for distribution without charge or mainly without charge or regularly distributed by or on behalf of publishers without charge or mainly without charge to the recipient and of shoppers guides which distribute no less than 48 issues in a 12–month period. In this subsection, "shoppers guide" means a community publication delivered, or attempted to be delivered, to most of the households in its

coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals. In this subsection, "controlled circulation publication" means a publication that has at least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes not more than 75% of its pages to advertising and that is not conducted as an auxiliary to, and essentially for the advancement of, the main business or calling of the person that owns and controls it.

SECTION 110. 77.54 (16) of the statutes is amended to read:

77.54 **(16)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of fire trucks and fire fighting equipment, including accessories, attachments, parts and supplies therefor, sold to volunteer fire departments.

SECTION 111. 77.54 (17) of the statutes is amended to read:

77.54 **(17)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption of water, that is not food and food ingredient, when delivered through mains.

SECTION 112. 77.54 (18) of the statutes is amended to read:

77.54 **(18)** When the sale, lease or rental of a service or property that was previously exempt or not taxable under this subchapter becomes taxable, and the service or property is furnished under a written contract by which the seller is unconditionally obligated to provide the service or property for the amount fixed under the contract, the seller is exempt from sales or use tax on the ~~gross receipts~~ sales price for services or property provided until the contract is terminated, extended, renewed or modified. However, from the time the service or property becomes taxable until the contract is terminated, extended, renewed or modified the

**** NOTE: This is reconciled s. 77.54(20). This section has been affected by LRB-0303/2 and LRB-0404/3.

user is subject to use tax, measured by the ~~sales~~ purchase price, on the service or property purchased under the contract.

SECTION 113. 77.54 (20) of the statutes, or affected by 2005 Wisconsin Act .... (this act), is repealed.

SECTION 114. 77.54 (20m) of the statutes is repealed.

SECTION 115. 77.54 (20n) of the statutes is created to read:

77.54 **(20n)** (a) The sales price from the sale of and the storage, use, or other consumption of food and food ingredients, except candy, soft drinks, dietary supplements, and prepared food.

(b) The sales price from the sale of and the storage, use, or other consumption of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums, nursing homes, retirement homes, community–based residential facilities, as defined in s. 50.01 (1g), or day care centers registered under ch. 48, including prepared food that is sold to the elderly or handicapped by persons providing mobile meals on wheels. In this paragraph, "retirement home" means a nonprofit residential facility where 3 or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

(c) The sales price from the sale of and the storage, use, or other consumption of food and food ingredients, furnished in accordance with any contract or agreement or paid for to such institution through the use of an account of such institution, by a public or private institution of higher education to any of the following:

1. An undergraduate student, a graduate student, or a student enrolled in a professional school if the student is enrolled for credit at the public or private institution of higher education and if the food and food ingredients are consumed by the student.

2. A national football league team.

SECTION 116. 77.54 (20r) of the statutes is created to read:

77.54 **(20r)** The sales price from the sales of and the storage, use, or other consumption of candy, soft drinks, dietary supplements, and prepared foods, and disposable products that are transferred with such items, furnished for no consideration by a restaurant to the restaurant's employee during the employee's work hours.

SECTION 117. 77.54 (21) of the statutes is amended to read:

77.54 **(21)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption of caskets and burial vaults for human remains.

SECTION 118. 77.54 (22) of the statutes is repealed.

SECTION 119. 77.54 (22b) of the statutes is created to read:

77.54 **(22b)** The sales price from the sale of and the storage, use, or other consumption of durable medical equipment that is for use in a person's home, mobility–enhancing equipment, and prosthetic devices, and accessories for such equipment or devices, if the equipment or devices are used for a human being.

SECTION 120. 77.54 (23m) of the statutes is amended to read:

77.54 **(23m)** The ~~gross receipts~~ sales price from the sale, lease or rental of or the storage, use or other consumption of motion picture film or tape, and advertising materials related thereto, sold, leased or rented to a motion picture theater or radio or television station.

SECTION 121. 77.54 (25) of the statutes is amended to read:

77.54 **(25)** The ~~gross receipts~~ sales price from the sale of and the storage of printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is

purchased and stored for the purpose of subsequently transporting it outside the state by the purchaser for use thereafter solely outside the state.

SECTION 122. 77.54 (26) of the statutes is amended to read:

77.54 **(26)** The ~~gross receipts~~ sales price from the sales of and the storage, use, or other consumption of tangible personal property which becomes a component part of an industrial waste treatment facility that is exempt under s. 70.11 (21) (a) or that would be exempt under s. 70.11 (21) (a) if the property were taxable under ch. 70, or tangible personal property which becomes a component part of a waste treatment facility of this state or any agency thereof, or any political subdivision of the state or agency thereof as provided in s. 40.02 (28). The exemption includes replacement parts therefor, and also applies to chemicals and supplies used or consumed in operating a waste treatment facility and to purchases of tangible personal property made by construction contractors who transfer such property to their customers in fulfillment of a real property construction activity. This exemption does not apply to tangible personal property installed in fulfillment of a written construction contract entered into, or a formal written bid made, prior to July 31, 1975.

SECTION 123. 77.54 (26m) of the statutes is amended to read:

77.54 **(26m)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of waste reduction or recycling machinery and equipment, including parts therefor, exclusively and directly used for waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. The exemption applies even though an economically useful end product results from the use of the machinery and equipment. For the purposes of this subsection, "solid waste" means garbage, refuse, sludge or other materials or articles, whether these

materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities.

SECTION 124. 77.54 (27) of the statutes is amended to read:

77.54 **(27)** The ~~gross receipts~~ sales price from the sale of semen used for artificial insemination of livestock.

SECTION 125. 77.54 (28) of the statutes is amended to read:

77.54 **(28)** The gross receipts from the sale of and the storage, use or other consumption to or by the ultimate consumer of ~~apparatus or equipment for the injection of insulin or the treatment of diabetes and~~ supplies used to determine blood sugar level.

SECTION 126. 77.54 (29) of the statutes is amended to read:

77.54 **(29)** The ~~gross receipts~~ sales price from the sales of and the storage, use or other consumption of equipment used in the production of maple syrup.

SECTION 127. 77.54 (30) (a) (intro.) of the statutes is amended to read:

77.54 **(30)** (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

SECTION 128. 77.54 (30) (c) of the statutes is amended to read:

77.54 **(30)** (c) If fuel or electricity is sold partly for a use exempt under this subsection and partly for a use which is not exempt under this subsection, no tax shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the percentage of the fuel or electricity which is used for an exempt use, as specified in an exemption certificate provided by the purchaser to the seller.

SECTION 129. 77.54 (31) of the statutes is amended to read:

77.54 **(31)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption in this state, but not the lease or rental, of used mobile homes that are primary housing units under s. 340.01 (29).

SECTION 130. 77.54 (32) of the statutes is amended to read:

77.54 **(32)** The ~~gross receipts~~ sales price from charges, including charges for a search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record that a person may examine and use under s. 16.61 (12) or for copies of a record under s. 19.35 (1).

SECTION 131. 77.54 (33) of the statutes is amended to read:

77.54 **(33)** The ~~gross receipts~~ sales price from sales of and the storage, use or other consumption of ~~medicines~~ drugs used on farm livestock, not including workstock.

SECTION 132. 77.54 (34) of the statutes is amended to read:

77.54 **(34)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of milk house supplies used exclusively in producing and handling milk on dairy farms.

SECTION 133. 77.54 (35) of the statutes is amended to read:

77.54 **(35)** The ~~gross receipts~~ sales price from the sales of tangible personal property, tickets or admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball.

SECTION 134. 77.54 (36) of the statutes is amended to read:

77.54 **(36)** The ~~gross receipts~~ sales price from the rental for a continuous period of one month or more of a mobile home, as defined in s. 66.0435 (1) (d), that is used as a residence. In this subsection, "one month" means a calendar month or 30 days,

1 whichever is less, counting the first day of the rental and not counting the last day
2 of the rental.

3 **SECTION 135.** 77.54 (37) of the statutes is amended to read:

4 77.54 **(37)** The ~~gross receipts~~ sales price from revenues collected under s.
5 146.70 (3) and the surcharge established by rule by the public service commission
6 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
7 (3m) (a) 6.

8 **SECTION 136.** 77.54 (38) of the statutes is amended to read:

9 77.54 **(38)** The ~~gross receipts~~ sales price from the sale of and the storage, use
10 or other consumption of snowmobile trail groomers and attachments for them that
11 are purchased, stored, used or consumed by a snowmobile club that meets at least
12 3 times a year, that has at least 10 members, that promotes snowmobiling and that
13 participates in the department of natural resources' snowmobile program under s.
14 350.12 (4) (b).

15 **SECTION 137.** 77.54 (39) of the statutes is amended to read:

16 77.54 **(39)** The ~~gross receipts~~ sales price from the sale of and the storage, use
17 or other consumption of off–highway, heavy mechanical equipment such as feller
18 bunchers, slashers, delimbers, chippers, hydraulic loaders, loaders,
19 skidder–forwarders, skidders, timber wagons and tractors used exclusively and
20 directly in the harvesting or processing of raw timber products in the field by a person
21 in the logging business. In this subsection, "heavy mechanical equipment" does not
22 include hand tools such as axes, chains, chain saws and wedges.

23 **SECTION 138.** 77.54 (40) of the statutes is repealed.

24 **SECTION 139.** 77.54 (41) of the statutes is amended to read:

77.54 **(41)** The ~~gross receipts~~ sales price from the sale of building materials, supplies and equipment to; and the storage, use or other consumption of those kinds of property by; owners, contractors, subcontractors or builders if that property is acquired solely for or used solely in, the construction, renovation or development of property that would be exempt under s. 70.11 (36).

SECTION 140. 77.54 (42) of the statutes is amended to read:

77.54 **(42)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of animal identification tags provided under s. 93.06 (1h) and standard samples provided under s. 93.06 (1s).

SECTION 141. 77.54 (43) of the statutes is amended to read:

77.54 **(43)** The ~~gross receipts~~ sales price from the sale of and the storage, use or other consumption of raw materials used for the processing, fabricating or manufacturing of, or the attaching to or incorporating into, printed materials that are transported and used solely outside this state.

SECTION 142. 77.54 (44) of the statutes is amended to read:

77.54 **(44)** The ~~gross receipts~~ sales price from the collection of public benefits fees that are charged under s. 16.957 (4) (a) or (5) (a).

SECTION 143. 77.54 (45) of the statutes is amended to read:

77.54 **(45)** The ~~gross receipts~~ sales price from the sale of and the use or other consumption of a onetime license or similar right to purchase admission to professional football games at a football stadium, as defined in s. 229.821 (6), that is granted by a municipality; a local professional football stadium district; or a professional football team or related party, as defined in s. 229.821 (12); if the person who buys the license or right is entitled, at the time the license or right is transferred

to the person, to purchase admission to at least 3 professional football games in this state during one football season.

SECTION 144. 77.54 (46) of the statutes is amended to read:

77.54 **(46)** The ~~gross receipts~~ sales price from the sale of and the storage, use, or other consumption of the U.S. flag or the state flag. This subsection does not apply to a representation of the U.S. flag or the state flag.

SECTION 145. 77.54 (46m) of the statutes is amended to read:

77.54 **(46m)** The ~~gross receipts~~ sales price from the sale of and the storage, use, or other consumption of telecommunications services, if the telecommunications services are obtained by using the rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and by using an access number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was previously paid on the sale or purchase of such rights.

SECTION 146. 77.55 (1) (intro.) of the statutes is amended to read:

77.55 **(1)** (intro.) There ~~are~~ is exempted from the computation of the amount of the sales tax the ~~gross receipts~~ sales price from the sale of any tangible personal property or services to:

SECTION 147. 77.55 (2) of the statutes is amended to read:

77.55 **(2)** There ~~are~~ is exempted from the computation of the amount of the sales tax the ~~gross receipts~~ sales price from sales of tangible personal property to a common or contract carrier, shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out–of–state destination for use by the carrier in the conduct of its business as a carrier.