

2005 DRAFTING REQUEST

Senate Amendment (SA-AB100)

Received: 06/30/2005

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Judith Robson (608) 266-2253

By/Representing: andrew

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Property - credits

Extra Copies:

Submit via email: YES

Requester's email: Sen.Robson@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Homeowner's property tax credit with funding from combined reporting, the additional tax on those earning more than \$1M, and compensation deduction limit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/30/2005	csicilia 06/30/2005		_____			
/1			rschluet 06/30/2005	_____	sbasford 06/30/2005	sbasford 06/30/2005	

FE Sent For:

<END>

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/?	jkreye	↑ cjs	6/30 05				

FE Sent For:

<END>

Hanaman, Cathlene

From: Engel, Andrew
Sent: Wednesday, June 29, 2005 6:29 PM
To: Hanaman, Cathlene; Gratz, Nadine
Subject: Senate Democrat Amendments

We would like to combine the following amendments in a package to use as a funding source:

- 673 ?
- Combined reporting (Irb 0660)
 - The additional tax on those earning more than \$1 million (Irb0759)
 - The CEO equity amendment (Irb 0750)

We would then like to use this funding source and apply the full amount to reduce expenditures or fund entirely the following items individually:

- The Senior pension exemption: (Irb0689)
- * A reduction in the gas tax *transfer from general fund to transportation - based on preceding year's revenue*
- * A direct credit on one's property tax bill (could be done the same way the credit would be applied in our property tax exemption bill b672) *not exceeding the amount collected in the previous.*

So this would be three separate amendments, each using the same funding source.

Please call me with questions and thanks again for your continued support,

Andy Engel
Office of Senator Robson
266-2253

20786/1

~~RM~~
CX

SENATE AMENDMENT,
TO 2005 ASSEMBLY BILL 100

in 6-30-05

D-N

LPS:
turn off
burning
dot
numbers

1 At the locations indicated, amend the engrossed bill as follows:

2 **1.** Page 233, line 2: after that line insert:

3 "(bm) Homeowner's tax credit GPR S -0- -0-".

4 **2.** Page 321, line 21: after that line insert:

5 "SECTION 452hm. 20.835 (3) (bm) of the statutes is created to read:

6 20.835 (3) (bm) *Homeowner's tax credit*. A sum sufficient to make the payments
7 under s. 79.10 (5m) and (6m) (c).".

8 **3.** Page 582, line 17: after that line insert:

9 "SECTION 1311nb. 71.07 (9) (b) 5. of the statutes is amended to read:

10 71.07 (9) (b) 5. For taxable years beginning after December 31, 1999, subject
11 to the limitations under this subsection a claimant may claim as a credit against, but
12 not to exceed the amount of, taxes under s. 71.02, 12% 12 percent of the first \$2,500
13 of property taxes or 16 percent of the first \$2,500 of rent constituting property taxes,

1 or 12% except that a married person filing separately may claim 12 percent of the
2 first \$1,250 of property taxes or 16 percent of the first \$1,250 of rent constituting
3 property taxes of a married person filing separately.”

4 **4.** Page 705, line 19: after that line insert:

5 “**SECTION 1468m.** 74.09 (3) (b) 6. of the statutes is amended to read:

6 74.09 (3) (b) 6. The amount of the credit credits under s. 79.10 (5) and (5m)
7 allocable to the property for the previous year and the current year, and the
8 percentage change between those years.”

9 **5.** Page 730, line 15: after that line insert:

10 “**SECTION 1710b.** 79.10 (1) (dm) of the statutes is amended to read:

11 79.10 (1) (dm) “Principal dwelling” means any dwelling that is used by the
12 owner of the dwelling as a primary residence on January 1 of the year preceding the
13 allocation of a credit credits under sub. (9) (bm) and (bn) and includes improvements
14 that are classified, under ch. 70, as taxable real property or personal property.

15 **SECTION 1710c.** 79.10 (1m) of the statutes is amended to read:

16 79.10 (1m) (a) Each municipality shall notify the department of revenue of the
17 total amount of credits allocated under sub. (9) (bm) and (bn).

18 (b) Counties and municipalities shall submit to the department of revenue all
19 data related to the lottery and gaming credit and homeowner's tax credit that is
20 requested by the department of revenue.

21 **SECTION 1710d.** 79.10 (2) of the statutes is amended to read:

22 79.10 (2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year
23 preceding the distribution under sub. (7m) (a), the department of revenue shall
24 notify the clerk of each town, village and city of the estimated fair market value, as

1 determined under sub. (11), to be used to calculate the lottery and gaming credit
 2 under sub. (5) and the homeowner's tax credit under sub. (5m) and of the amount to
 3 be distributed to it under sub. (7m) (a) on the following 4th Monday in July. The
 4 anticipated receipt of such distribution shall not be taken into consideration in
 5 determining the tax rate of the municipality but shall be applied as tax credits.

6 **SECTION 1710e.** 79.10 (5m) of the statutes is created to read:

7 **79.10 (5m) HOMEOWNER'S TAX CREDIT.** ^{(b) subject to par. (b)} Each municipality shall receive, from the
 8 appropriation under s. 20.835 (3) (bm), an amount determined by multiplying the
 9 school tax rate by the estimated fair market value, determined under sub. (11), but
 10 not to exceed \$60,000, of every principal dwelling that is located in the municipality
 11 and for which a claim for the credit under sub. (9) (bn) is made by the owner of the
 12 principal dwelling.

13 **SECTION 1710f.** 79.10 (6m) (a) of the statutes is amended to read:

14 79.10 **(6m)** (a) Except as provided in pars. (b) and (c), if the department of
 15 administration or the department of revenue determines by October 1 of the year of
 16 any distribution under subs. (4) and, (5), and (5m) that there was an overpayment
 17 or underpayment made in that year's distribution by the department of
 18 administration to municipalities, as determined under subs. (4) and, (5), and (5m),
 19 because of an error by the department of administration, the department of revenue,
 20 or any municipality, the overpayment or underpayment shall be corrected as
 21 provided in this paragraph. Any overpayment shall be corrected by reducing the
 22 subsequent year's distribution, as determined under subs. (4) and, (5), and (5m), by
 23 an amount equal to the amount of the overpayment. Any underpayment shall be
 24 corrected by increasing the subsequent year's distribution, as determined under
 25 subs. (4) and, (5), and (5m), by an amount equal to the amount of the underpayment.

INSERT
3-12

1 Corrections shall be made in the distributions to all municipalities affected by the
2 error. Corrections shall be without interest.

3 **SECTION 1710g.** 79.10 (7m) (c) of the statutes is created to read:

4 79.10 **(7m)** (c) *Homeowner's tax credit.* 1. The amount determined under sub.
5 (5m) with respect to claims filed for which the town, village, or city has furnished
6 notice under sub. (1m) by March 1 shall be distributed from the appropriation under
7 s. 20.835 (3) (bm) by the department of administration on the 4th Monday in March.

8 2. The town, village, or city treasurer shall settle for the amounts distributed
9 on the 4th Monday in March under this paragraph with each taxing jurisdiction
10 within the taxation district or provide the amounts distributed to the appropriate
11 county treasurer for settlement not later than April 15. Failure to settle timely under
12 this subdivision subjects the town, village, or city treasurer to the penalties under
13 s. 74.31. On or before August 20, the county treasurer shall settle with each taxing
14 jurisdiction, including towns, villages, and cities except 1st class cities, in the county.

15 **SECTION 1710h.** 79.10 (9) (bn) of the statutes is created to read:

16 79.10 **(9)** (bn) *Homeowner's tax credit.* Except as provided ^{under sub. (5m) (b) and} in ss. 79.175 and
17 79.18, a homeowner's tax credit shall be allocated to every principal dwelling for
18 which a credit is claimed under sub. (10) in an amount determined by multiplying
19 the estimated fair market value of the principal dwelling, as determined under sub.
20 (11), but not to exceed \$60,000, by the school tax rate.

21 **SECTION 1710i.** 79.10 (9) (c) 1. of the statutes is amended to read:

22 79.10 **(9)** (c) 1. The lottery and gaming credit under par. (bm) and the
23 homeowner's tax credit under par. (bn) shall reduce the property taxes otherwise
24 payable on property that is eligible for that credit and if the property owner
25 completes the information required under sub. (10) (a) or (b).

1 **SECTION 1710j.** 79.10 (10) (title) of the statutes is amended to read:

2 79.10 **(10)** (title) CLAIMING THE LOTTERY AND GAMING CREDIT AND THE
3 HOMEOWNER'S TAX CREDIT.

4 **SECTION 1710k.** 79.10 (10) (a) of the statutes is amended to read:

5 79.10 **(10)** (a) ~~Beginning with property taxes levied in 1999, the~~ The owner of
6 a principal dwelling may claim the ~~credit~~ credits under sub. (9) (bm) and (bn) by
7 applying for the ~~credit~~ credits on a form prescribed by the department of revenue.
8 A claimant shall attest that, as of the certification date, the claimant is an owner of
9 property and that such property is used by the owner in the manner specified under
10 sub. (1) (dm). The certification date is January 1 of the year in which the property
11 taxes are levied. The claimant shall file the application for the ~~lottery and gaming~~
12 ~~credit~~ credits with the treasurer of the county in which the property is located or, if
13 the property is located in a city that collects taxes under s. 74.87, with the treasurer
14 of the city in which the property is located. Subject to review by the department of
15 revenue, a treasurer who receives a completed application shall direct that the
16 property described in the application be identified on the next tax roll as property for
17 which the owner is entitled to receive a ~~lottery and gaming credit~~ credits. A claim
18 that is made under this paragraph is valid for as long as the property is eligible for
19 the ~~credit~~ credits under sub. (9) (bm) and (bn).

20 **SECTION 1710L.** 79.10 (10) (b) of the statutes is amended to read:

21 79.10 **(10)** (b) A person who becomes eligible for a ~~credit~~ credits under sub. (9)
22 (bm) and (bn) may claim the ~~credit~~ credits by filing an application, on a form
23 prescribed by the department of revenue, with the treasurer of the county in which
24 the property is located or, if the property is located in a city that collects taxes under
25 s. 74.87, with the treasurer of the city in which the property is located. Claims made

1 under this paragraph are valid for as long as the property is eligible for the credit
2 credits under sub. (9) (bm) and (bn).

3 **SECTION 1710m.** 79.10 (10) (bm) of the statutes is amended to read:

4 79.10 **(10)** (bm) 1. A person who is eligible for a ~~credit~~ credits under sub. (9) (bm)
5 and (bn) but whose property tax bill does not reflect the ~~credit~~ credits may claim the
6 ~~credit~~ credits by applying to the treasurer of the taxation district in which the
7 property is located for the ~~credit~~ credits under par. (a) by January 31 following the
8 issuance of the person's property tax bill. The treasurer shall compute the amount
9 of the ~~credit~~ credits; subtract the amount of the ~~credit~~ credits from the person's
10 property tax bill; notify the person of the reduced amount of the property taxes due;
11 issue a refund to the person if the person has paid the property taxes in full; and enter
12 the person's property on the next tax roll as property that qualifies for a lottery and
13 gaming credit and a homeowner's tax credit. Claims made under this subdivision
14 are valid for as long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm)
15 and (bn).

16 2. A person who may apply for a ~~credit~~ credits under subd. 1. but who does not
17 timely apply for the ~~credit~~ credits under subd. 1. may apply to the department of
18 revenue no later than October 1 following the issuance of the person's property tax
19 bill. Subject to review by the department, the department shall compute the amount
20 of the ~~credit~~ credits; issue a check to the person in the amount of the ~~credit~~ credits;
21 and notify the treasurer of the county in which the person's property is located or the
22 treasurer of the taxation district in which the person's property is located, if the
23 taxation district collects taxes under s. 74.87. The treasurer shall enter the person's
24 property on the next tax roll as property that qualifies for a lottery and gaming credit

1 and a homeowner's tax credit. Claims made under this subdivision are valid for as
2 long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm) and (bn).

3 **SECTION 1710n.** 79.10 (10) (bn) of the statutes is amended to read:

4 79.10 (10) (bn) 1. If a person who owns and uses property as specified under
5 sub. (1) (dm), as of the certification date under par. (a), transfers the property after
6 the certification date, the transferee may apply to the treasurer of the county in
7 which the property is located or, if the property is located in a city that collects taxes
8 under s. 74.87, to the treasurer of the city in which the property is located for the
9 ~~credit~~ credits under sub. (9) (bm) and (bn) on a form prescribed by the department
10 of revenue. The transferee shall attest that, to the transferee's knowledge, the
11 transferor used the property in the manner specified under sub. (1) (dm) as of the
12 certification date under par. (a). A claim that is made under this subdivision is valid
13 for as long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm) and (bn).

14 2. A person who is eligible for a ~~credit~~ credits under subd. 1. but whose property
15 tax bill does not reflect the ~~credit~~ credits may claim the ~~credit~~ credits by applying to
16 the treasurer of the taxation district in which the property is located for the ~~credit~~ credits
17 credits by January 31 following the issuance of the person's property tax bill. Claims
18 made after January 31, but no later than October 1 following the issuance of the
19 person's property tax bill, shall be made to the department of revenue. Paragraph
20 (bm), as it applies to processing claims made under that paragraph, applies to
21 processing claims made under this subdivision.

22 **SECTION 1710p.** 79.10 (10) (c) of the statutes is amended to read:

23 79.10 (10) (c) If a person who is certified under par. (a) to claim the ~~credit~~ credits
24 under sub. (9) (bm) and (bn) becomes ineligible for the ~~credit~~ credits under sub. (9)
25 (bm) and (bn), that person shall, within 30 days of becoming ineligible, notify the

1 treasurer of the county in which the property is located or, if the property is located
2 in a city that collects taxes under s. 74.87, the treasurer of the city in which the
3 property is located.

4 **SECTION 1710q.** 79.10 (10) (e) 2. of the statutes is amended to read:

5 79.10 (10) (e) 2. The certification procedure includes a procedure that is similar
6 in effect to the procedure described in ~~par.~~ pars. (bm) and (bn).

7 **SECTION 1710r.** 79.10 (10) (f) of the statutes is amended to read:

8 79.10 (10) (f) Each county and city that administers the ~~credit~~ credits under
9 sub. (9) (bm) and (bn) shall implement a procedure to periodically verify the
10 eligibility of properties for which a credit is claimed. In 2004, and every 5th year
11 thereafter, each county and city that administers the ~~credit~~ credits under sub. (9)
12 (bm) and (bn) shall file a report with the department of revenue, in the manner and
13 at the time prescribed by the department of revenue, that describes the procedures
14 that the county or city uses to verify the credits claimed under this subsection and
15 evaluates the efficacy of such procedures.”.

16 **6.** Page 990, line 6: after that line insert:

17 “(1kq) HOMEOWNER'S TAX CREDIT. An application for the lottery and gaming
18 credit under section 79.10 (10), 2003 stats., shall be considered to be an application
19 for the homeowner's tax credit under section 79.10 (10) of the statutes, as affected
20 by this act, and any valid claim for the lottery and gaming credit under section 79.10
21 (10), 2003 stats., shall be considered to be a valid claim for the homeowner's tax credit
22 under section 79.10 (10) of the statutes, as affected by this act.

23 (1mq) REPORT. Notwithstanding section 13.52 (5) and (6) of the statutes, the
24 joint survey committee on tax exemptions shall prepare a report that, to provide

1 funding for the homeowner's tax credit under section 79.10 (5) of the statutes, as
 2 affected by this act, recommends changes to the corporate income and franchise
 3 taxes imposed by this state, not including any increase in corporate income or
 4 franchise tax rates, and repealing certain sales and use tax exemptions that
 5 primarily affect corporations. The committee shall submit the report to the
 6 legislature no later than 60 days after the effective date of this subsection."

Insert
9-6

7 **7.** Page 1037, line 10: after that line insert:

8 "(6mq) HOMEOWNER'S TAX CREDIT. The treatment of sections 20.835 (3) (bm),
 9 74.09 (3) (b) 6., and 79.10 (1) (dm), (1m), (2), (5m), (6m) (a), (7m) (c), (9) (bn) and (c)
 10 1., and (10) (title), (a), (b), (bm), (bn), (c), (e) 2., and (f) of the statutes first applies to
 11 property taxes levied in 2005."

12 (6nq) SCHOOL PROPERTY INCOME TAX CREDIT. The treatment of section 71.07 (9)
 13 (b) 5. of the statutes first applies to taxable years beginning on January 1, 2006."

14 (END)

INSERT
9-13

Insert 3-12

(9)(b) The total amount of the credits that are paid
 each year from the appropriation under $\$20.835(3)(b)$
 may not exceed the amount of tax revenue generated
 in the year preceding the distribution under sub. (7m)(a)
 by the operation of ss. ~~71.06(1) and (2)(i) and (j)~~
 by the operation of ss. 71.06(1) and (2)(i) and (j) and 71.255,
 plus the amount of ~~MMM~~ tax revenue collected
 as a result of the maximum
 in that preceding year as a result of the maximum
 as a deduction under
 limit that may be claimed as a deduction under
 s. 71.26(3)(e) | ✓

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

~~SENATE AMENDMENT ,
TO 2005 ASSEMBLY BILL 100~~

INSERT
2-3

1 At the locations indicated, amend the bill as follows:

2 *b0759/1.1* 1. Page 572, line 24: after that line insert:

3 *b0759/1.1* "SECTION 1292e. 71.06 (1p) (intro.) of the statutes is amended to
4 read:

5 71.06 (1p) FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; AFTER 2000
6 TO 2005. (intro.) The tax to be assessed, levied, and collected upon the taxable incomes
7 of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve
8 funds, and single individuals and heads of households shall be computed at the
9 following rates for taxable years beginning after December 31, 2000, and before
10 January 1, 2006:

11 *b0759/1.1* SECTION 1292f. 71.06 (1q) of the statutes is created to read:



Insert
2-3

1 **71.06 (1q)** FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; AFTER
2 2005. The tax to be assessed, levied, and collected upon the taxable incomes of all
3 fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and
4 single individuals and heads of households shall be computed at the following rates
5 for taxable years beginning after December 31, 2005:

6 (a) On all taxable income from \$0 to \$7,500 , 4.6 percent.

7 (b) On all taxable income exceeding \$7,500 but not exceeding \$15,000, 6.15
8 percent.

9 (c) On all taxable income exceeding \$15,000 but not exceeding \$112,500, 6.5
10 percent.

11 (d) On all taxable income exceeding \$112,500 but not exceeding \$1,000,000,
12 6.75 percent.

13 (e) On all taxable income exceeding \$1,000,000, 7.75 percent.

14 ***b0759/1.1* SECTION 1292g.** 71.06 (2) (g) (intro.) of the statutes is amended to
15 read:

16 71.06 (2) (g) (intro.) For joint returns, for taxable years beginning after
17 December 31, 2000, and before January 1, 2006:

18 ***b0759/1.1* SECTION 1292h.** 71.06 (2) (h) (intro.) of the statutes is amended
19 to read:

20 71.06 (2) (h) (intro.) For married persons filing separately, for taxable years
21 beginning after December 31, 2000, and before January 1, 2006:

22 ***b0759/1.1* SECTION 1292i.** 71.06 (2) (i) of the statutes is created to read:

23 71.06 (2) (i) For joint returns, for taxable years beginning after
24 December 31, 2005:

25 1. On all taxable income from \$0 to \$10,000, 4.6 percent.

Insert
2-3

1 2. On all taxable income exceeding \$10,000 but not exceeding \$20,000, 6.15
2 percent.

3 3. On all taxable income exceeding \$20,000 but not exceeding \$150,000, 6.5
4 percent.

5 4. On all taxable income exceeding \$150,000 but not exceeding \$1,000,000, 6.75
6 percent.

7 5. On all taxable income exceeding \$1,000,000, 7.75 percent.

8 ***b0759/1.1* SECTION 1292j.** 71.06 (2) (j) of the statutes is created to read:

9 71.06 (2) (j) For married persons filing separately, for taxable years beginning
10 after December 31, 2005:

11 1. On all taxable income from \$0 to \$5,000, 4.6 percent.

12 2. On all taxable income exceeding \$5,000 but not exceeding \$10,000, 6.15
13 percent.

14 3. On all taxable income exceeding \$10,000 but not exceeding \$75,000, 6.5
15 percent.

16 4. On all taxable income exceeding \$75,000 but not exceeding \$500,000, 6.75
17 percent.

18 5. On all taxable income exceeding \$500,000, 7.75 percent.

19 ***b0759/1.1* SECTION 1292k.** 71.06 (2e) of the statutes is renumbered 71.06
20 (2e) (a) and amended to read:

21 71.06 (2e) BRACKET INDEXING. (a) For taxable years beginning after
22 December 31, 1998, and before January 1, 2000, the maximum dollar amount in
23 each tax bracket, and the corresponding minimum dollar amount in the next bracket,
24 under subs. (1m) and (2) (c) and (d), and for taxable years beginning after
25 December 31, 1999, and before January 1, 2006, the maximum dollar amount in

1 each tax bracket, and the corresponding minimum dollar amount in the next bracket,
2 under subs. (1n), (1p), and (2) (e), (f), (g), and (h), and for taxable years beginning
3 after December 31, 2006, the maximum dollar amount in each tax bracket, and the
4 corresponding minimum dollar amount in the next bracket, under subs. (1q) and (2)
5 (i) and (j), shall be increased each year by a percentage equal to the percentage
6 change between the U.S. consumer price index for all urban consumers, U.S. city
7 average, for the month of August of the previous year and the U.S. consumer price
8 index for all urban consumers, U.S. city average, for the month of August 1997, as
9 determined by the federal department of labor, except that for taxable years
10 beginning after December 31, 2000, and before January 1, 2002, the dollar amount
11 in the top bracket under subs. (1p) (c) and (d), (2) (g) 3. and 4. and (h) 3. and 4. shall
12 be increased by a percentage equal to the percentage change between the U.S.
13 consumer price index for all urban consumers, U.S. city average, for the month of
14 August of the previous year and the U.S. consumer price index for all urban
15 consumers, U.S. city average, for the month of August 1999, as determined by the
16 federal department of labor. Each amount that is revised under this subsection
17 paragraph shall be rounded to the nearest multiple of \$10 if the revised amount is
18 not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount
19 shall be increased to the next higher multiple of \$10. The department of revenue
20 shall annually adjust the changes in dollar amounts required under this ~~subsection~~
21 paragraph and incorporate the changes into the income tax forms and instructions.

22 *b0759/1.1* SECTION 1292L. 71.06 (2e) (b) of the statutes is created to read:

23 71.06 (2e) (b) For taxable years beginning after December 31, 2004, and before
24 January 1, 2006, the maximum dollar amount in each tax bracket, and the
25 corresponding minimum dollar amount in the next bracket, under subs. (1q) (a), (b),

Insert
2-3

1 (c), and (d) and (2) (i) 1., 2., 3., and 4. and (j) 1., 2., 3., and 4., shall be increased each
2 year by a percentage equal to the percentage change between the U.S. consumer
3 price index for all urban consumers, U.S. city average, for the month of August of the
4 previous year and the U.S. consumer price index for all urban consumers, U.S. city
5 average, for the month of August 1997, as determined by the federal department of
6 labor. Each amount that is revised under this paragraph shall be rounded to the
7 nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised
8 amount is a multiple of \$5, such an amount shall be increased to the next higher
9 multiple of \$10. The department of revenue shall annually adjust the changes in
10 dollar amounts required under this paragraph and incorporate the changes into the
11 income tax forms and instructions.

12 *b0759/1.1* SECTION 1292m. 71.06 (2m) of the statutes is amended to read:

13 71.06 (2m) RATE CHANGES. If a rate under sub. (1), (1m), (1n), (1p), ~~(1q)~~, or (2)
14 changes during a taxable year, the taxpayer shall compute the tax for that taxable
15 year by the methods applicable to the federal income tax under section 15 of the
16 ~~internal revenue code~~ Internal Revenue Code.

17 *b0759/1.1* SECTION 1292n. 71.06 (2s) (d) of the statutes is amended to read:

18 71.06 (2s) (d) For taxable years beginning after December 31, 2000, and before
19 January 1, 2006, with respect to nonresident individuals, including individuals
20 changing their domicile into or from this state, the tax brackets under subs. (1p) and
21 (2) (g) and (h) shall be multiplied by a fraction, the numerator of which is Wisconsin
22 adjusted gross income and the denominator of which is federal adjusted gross
23 income. In this paragraph, for married persons filing separately “adjusted gross
24 income” means the separate adjusted gross income of each spouse, and for married
25 persons filing jointly “adjusted gross income” means the total adjusted gross income

Insert
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Insert 2-3

1 of both spouses. If an individual and that individual's spouse are not both domiciled
2 in this state during the entire taxable year, the tax brackets under subs. (1p) and (2)
3 (g) and (h) on a joint return shall be multiplied by a fraction, the numerator of which
4 is their joint Wisconsin adjusted gross income and the denominator of which is their
5 joint federal adjusted gross income.

6 *b0759/1.1* SECTION ~~1202b~~ 71.06 (2s) (e) of the statutes is created to read:

7 71.06 (2s) (e) For taxable years beginning after December 31, 2005, with
8 respect to nonresident individuals, including individuals changing their domicile
9 into or from this state, the tax brackets under subs. (1q) and (2) (i) and (j) shall be
10 multiplied by a fraction, the numerator of which is Wisconsin adjusted gross income
11 and the denominator of which is federal adjusted gross income. In this paragraph,
12 for married persons filing separately "adjusted gross income" means the separate
13 adjusted gross income of each spouse, and for married persons filing jointly "adjusted
14 gross income" means the total adjusted gross income of both spouses. If an individual
15 and that individual's spouse are not both domiciled in this state during the entire
16 taxable year, the tax brackets under subs. (1q) and (2) (i) and (j) on a joint return shall
17 be multiplied by a fraction, the numerator of which is their joint Wisconsin adjusted
18 gross income and the denominator of which is their joint federal adjusted gross
19 income.".

20 *b0759/1.2* 2. Page 588, line 3: after that line insert:

21 *b0759/1.2* "SECTION 1318e. 71.125 of the statutes is amended to read:

22 71.125 **Imposition of tax.** (1) Except as provided in sub. (2), the tax imposed
23 by this chapter on individuals and the rates under s. 71.06 (1), (1m), (1n), (1p), (1q),
24 and (2) shall apply to the Wisconsin taxable income of estates or trusts, except

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1 nuclear decommissioning trust or reserve funds, and that tax shall be paid by the
2 fiduciary.

3 (2) Each electing small business trust, as defined in section 1361 (e) (1) of the
4 Internal Revenue Code, is subject to tax at the highest rate under s. 71.06 (1), (1m),
5 (1n) ~~or~~ (1p), or (1q), whichever taxable year is applicable, on its income as computed
6 under section 641 of the Internal Revenue Code, as modified by s. 71.05 (6) to (12),
7 (19), and (20).

8 *b0759/1.2* SECTION 1318s. 71.17 (6) of the statutes is amended to read:

9 71.17 (6) FUNERAL TRUSTS. If a qualified funeral trust makes the election under
10 section 685 of the Internal Revenue Code for federal income tax purposes, that
11 election applies for purposes of this chapter and each trust shall compute its own tax
12 and shall apply the rates under s. 71.06 (1), (1m), (1n) ~~or~~ (1p), or (1q).”.

13 *b0673/1.1* 3. Page 614, line 11: after that line insert:

14 *b0673/1.1* “SECTION 1343g. 71.25 (9) (a) of the statutes is amended to read:

15 71.25 (9) (a) The sales factor is a fraction, the numerator of which is the total
16 sales of the taxpayer in this state during the tax period, and the denominator of
17 which is the total sales of the taxpayer everywhere during the tax period. For sales
18 of tangible personal property, the numerator of the sales factor is the sales of the
19 taxpayer during the tax period under par. (b) 1. and 2. plus 50% of the sales of the
20 taxpayer during the tax period under pars. (b) 2m. and 3. and (c). For purposes of
21 determining the numerator of the sales factor for a member of a combined reporting
22 group under s. 71.255 (7), “taxpayer” means the member of a combined reporting
23 group, as defined in s. 71.255 (1) (c), that transferred title to tangible personal

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1 property or, for sales other than sales of tangible personal property, that made the
2 sale.”.

3 *b0673/1.2* 4. Page 616, line 12: after that line insert:

4 *b0673/1.2* “SECTION 1349e. 71.255 of the statutes is created to read:

5 **71.255 Combined reporting. (1) DEFINITIONS.** In this section:

6 (a) “Brother–sister parent corporation” means a parent corporation that is a
7 member of a commonly controlled group, if any members of the commonly controlled
8 group are not connected to the parent corporation by stock ownership or interest
9 ownership as described in par. (d).

10 (b) “Combined report” means a form prescribed by the department that
11 specifies the income of each taxpayer member of a commonly controlled group
12 operating as a unitary business.

13 (c) “Combined reporting group” means the members of a commonly controlled
14 group that are included in a combined report under sub. (2).

15 (d) “Commonly controlled group” means any of the following, but does not
16 include an insurer that is exempt from taxation under s. 71.45 (1):

17 1. A parent corporation and any corporation or chain of corporations that are
18 connected to the parent corporation by direct or indirect ownership by the parent
19 corporation if the parent corporation owns stock representing more than 50 percent
20 of the voting power of at least one of the connected corporations or if the parent
21 corporation or any of the connected corporations own stock that cumulatively
22 represents more than 50 percent of the voting power of each of the connected
23 corporations.

1 2. Any 2 or more corporations if a common owner directly or indirectly owns
2 stock representing more than 50 percent of the voting power of the corporations or
3 the connected corporations.

4 3. A partnership or limited liability company if a parent corporation or any
5 corporation connected to the parent corporation by common ownership directly or
6 indirectly owns more than a 50 percent interest in the capital and profits of the
7 partnership or limited liability company.

8 4. Any 2 or more corporations if stock representing more than 50 percent of the
9 voting power in each corporation is interest that cannot be separately transferred.

10 5. Any 2 or more corporations if stock representing more than 50 percent of the
11 voting power in each corporation is directly owned by, or for the benefit of, family
12 members. In this subdivision, “family member” means an individual related by
13 blood, marriage, or adoption within the 2nd degree of kinship as computed under s.
14 852.03 (2), 1995 stats., or the spouse of such an individual.

15 6. A corporation, partnership, or limited liability company if a parent
16 corporation or, any corporation connected to the parent corporation by common
17 ownership does not hold more than a 50 percent ownership interest in the
18 corporation, partnership, or limited liability company but effectively controls the
19 corporation, partnership, or limited liability company.

20 (e) “Corporation” has the meaning given in s. 71.22 (1) or 71.42 (1).

21 (f) “Department” means the department of revenue.

22 (g) “Designated agent” means the taxpayer member of a commonly controlled
23 group that files a group return on behalf of the taxpayer members of a combined
24 reporting group.

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1 (h) “Group return” means a tax return filed on behalf of the taxpayer members
2 of a combined reporting group.

3 (i) “Intercompany transaction” means a transaction between corporations,
4 partnerships, or limited liability companies that become members of the same
5 combined reporting group immediately after the transaction.

6 (im) “Partnership” means any entity considered a partnership under section
7 7701 of the Internal Revenue Code.

8 (j) “Separate return” means a return filed by a corporation, regardless of
9 whether the corporation is a member of a combined reporting group or is required
10 to file a tax return under s. 71.24 or 71.44.

11 (k) “Taxpayer member” means a corporation that is subject to tax under s. 71.23
12 (1) or (2) or 71.43, that is a member of a combined reporting group, and that files a
13 combined report under this section.

14 (L) “Top-tier corporation” means a member of a commonly controlled group
15 that is not connected with a parent corporation by stock ownership or interest
16 ownership as described in par. (d), is a parent corporation, or is a brother-sister
17 parent corporation, regardless of whether it is doing business in this state or deriving
18 income from sources in this state, and regardless of whether its income and
19 apportionment factors are excluded from a combined report filed under this section.

20 (m) “Unitary business” includes the business activities or operations of an
21 entity that are of mutual benefit to, integrated with, or dependent upon or that
22 contribute to activities of at least one other entity, including transactions that serve
23 an operational function, as determined by the department. Two or more businesses
24 are presumed to be a unitary business if the businesses have unity of ownership,
25 operation, and use as indicated by centralized management or a centralized

1 executive force; centralized purchasing, advertising, or accounting; intercorporate
2 sales or leases; intercorporate services; intercorporate debts; intercorporate use of
3 proprietary materials; interlocking directorates; or interlocking corporate officers.

4 (2) CORPORATIONS REQUIRED TO USE COMBINED REPORTING. (a) Except as provided
5 in par. (b), and subject to sub. (6), a corporation that is subject to the tax imposed
6 under s. 71.23 (1) or (2) or 71.43, that is a member of a commonly controlled group,
7 and that is engaged, in whole or in part, in a unitary business with one or more
8 members of the commonly controlled group shall compute the corporation's income
9 attributable to this state by using the income computation under s. 71.26 or 71.45,
10 the apportionment formula under s. 71.25 (6) or 71.45, and the tax credits under s.
11 71.28 or 71.47 of all of the following that are members of the commonly controlled
12 group:

13 1. Any corporation organized or incorporated under the laws of the United
14 States, any state of the United States, the District of Columbia, the Commonwealth
15 of Puerto Rico, any possession of the United States, or any political subdivision of the
16 United States, including corporations under sections 931 to 936 of the Internal
17 Revenue Code.

18 2. Any domestic international sales corporation under sections 991 to 994 of the
19 Internal Revenue Code.

20 3. Any foreign sales corporation under sections 921 to 927 of the Internal
21 Revenue Code.

22 4. Any export trade corporation under sections 970 and 971 of the Internal
23 Revenue Code.

24 5. Any corporation, regardless of its place of incorporation if the average of its
25 property factor under s. 71.25 (7) and its payroll factor under s. 71.25 (8), for property

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1 and payroll within the United States and computed on an annual basis, is at least
2 20 percent during any part of the taxable year that a corporation is a member of the
3 commonly controlled group.

4 6. Any corporation not described in subds. 1. to 5. to the extent of the
5 corporation's income within the United States and the corporation's property factor
6 under s. 71.25 (7) and payroll factor under s. 71.25 (8) assignable to a location within
7 the United States.

8 (b) A corporation that is subject to the tax imposed under s. 71.23 (1) or (2) or
9 71.43, that is a member of a commonly controlled group, and that is engaged, in whole
10 or in part, in a unitary business with one or more members of the commonly
11 controlled group may, subject to sub. (6), compute the corporation's income
12 attributable to this state by using the income computation under s. 71.26 or 71.45,
13 the apportionment formula under s. 71.25 (6) or 71.45, and the tax credits under s.
14 71.28 or 71.47 of all the members of the commonly controlled group, regardless of the
15 country in which any member of the commonly controlled group is organized or
16 incorporated or conducts business, if all top-tier corporations that are members of
17 the commonly controlled group elect under sub. (3) to compute the corporation's
18 income as provided under this paragraph.

19 **(3) COMPUTATION ELECTION.** (a) A top-tier corporation that is a member of a
20 commonly controlled group may elect on the commonly controlled group's behalf, and
21 in the manner prescribed by the department, to compute the income of each
22 corporation that is a member of the commonly controlled group under sub. (2) (b).
23 If more than one member of the commonly controlled group is a top-tier corporation,
24 an election under this subsection is not effective unless all top-tier corporations elect

1 on the commonly controlled group's behalf, and in the manner prescribed by the
2 department, to compute income under sub. (2) (b).

3 (b) A top-tier corporation shall file an election made under par. (a) with the
4 department before the last day of the taxable year. The top-tier corporation shall
5 designate a taxable year that corresponds with the taxable year of any taxpayer
6 member that is subject to the tax imposed under s. 71.23 (1) or (2) or 71.43. If the
7 top-tier corporation fails to file the election before the last day of the taxable year
8 designated under this paragraph, all members of the commonly controlled group to
9 which the top-tier corporation belongs, including the top-tier corporation, shall
10 compute income under sub. (2) (a).

11 (c) Except as provided under par. (d), the members of the commonly controlled
12 group subject to an election under this subsection shall compute their income under
13 sub. (2) (b) for 7 taxable years, beginning with the taxable year designated under par.
14 (b). Thereafter, the members of the commonly controlled group shall compute their
15 income under sub. (2) (b) for periods of 7 taxable years and until any top-tier
16 corporation that is a member of the commonly controlled group notifies the
17 department, in a manner prescribed by the department, before the last day of the last
18 taxable year in any period of 7 taxable years that the top-tier corporation is
19 terminating the election under this subsection. A termination under this paragraph
20 takes effect on the first day of the first taxable year beginning after the top-tier
21 corporation notifies the department under this paragraph.

22 (d) The department may grant a request by a top-tier corporation to terminate
23 an election under this subsection before the first period of 7 taxable years under par.

24 (c) expires, if the top-tier corporation shows good cause for granting the request, as

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1 determined by the department and consistent with section 1502 of the Internal
2 Revenue Code.

3 (e) Except as provided in par. (f), if an election by a top-tier corporation on
4 behalf of the members of a commonly controlled group under this subsection is
5 terminated, no top-tier corporation may make an election on behalf of the members
6 of the same commonly controlled group until 7 taxable years have elapsed from the
7 day that the termination of the original election took effect.

8 (f) The department may grant a request by a top-tier corporation to make an
9 election under this subsection before the period of 7 taxable years under par. (e) have
10 elapsed, if the top-tier corporation shows good cause for granting the request, as
11 determined by the department and consistent with section 1502 of the Internal
12 Revenue Code.

13 **(4) ACCOUNTING PERIOD.** For purposes of this section, the income under ss. 71.26
14 and 71.45, the apportionment factors under ss. 71.25 and 71.45, and the tax credits
15 under ss. 71.28 and 71.47 of all corporations that are members of a combined
16 reporting group shall be determined by using the same accounting period. If the
17 combined reporting group has a common parent corporation, the accounting period
18 of the common parent corporation shall be used to determine the income, the
19 apportionment factors, and the tax credits of all the corporations that are members
20 of the combined reporting group. If the combined reporting group has no common
21 parent corporation, the income, the apportionment factors, and the tax credits of the
22 combined reporting group shall be determined using the accounting period of the
23 member of the combined reporting group that has the most significant operations on
24 a recurring basis in this state, as determined by the department.

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1 (5) FILING RETURNS. (a) *Corporations with the same accounting period.*
2 Corporations that must file a combined report under this section and that have the
3 same accounting period may file a group return, as prescribed by the department,
4 that reports the aggregate state franchise or state income tax liability of all of the
5 members of the combined reporting group. Corporations that are required to file a
6 combined report under this section may file separate returns reporting the
7 respective apportionment of the corporation's state franchise or state income tax
8 liability as determined under sub. (2), if each corporation filing a separate return
9 pays its own apportionment of its state franchise or state income tax liability.

10 (b) *Corporations with different accounting periods.* Corporations that are
11 required to file a combined report and that have different accounting periods shall
12 file separate returns and shall use the actual figures from the corporations' financial
13 records to determine the proper income and income-related computations to convert
14 to a common accounting period. Corporations that are required to file a combined
15 report may use a proportional method to convert income to a common accounting
16 period if the results of the proportional method do not materially misrepresent the
17 income apportioned to this state. The apportionment factors under ss. 71.25 and
18 71.45 and the tax credits under ss. 71.28 and 71.47 shall be computed according to
19 the same method used to determine the income under ss. 71.26 and 71.45 for the
20 common accounting period. If a corporation performs an interim closing of its
21 financial records to determine the income attributable to the common accounting
22 period, the actual figures from the interim closing shall be used to convert the
23 apportionment factors and tax credits to the common accounting period.

24 (c) *Designated agent.* 1. For corporations that are subject to this section and
25 that file a group return under par. (a), the parent corporation of the combined

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1 reporting group is the sole designated agent for each member of the combined
2 reporting group including the parent corporation, if the parent corporation is a
3 taxpayer member of the combined reporting group and income of the parent
4 corporation is included on the group return. If the parent corporation is not a
5 taxpayer member or if the parent corporation's income is not included on the group
6 return, the taxpayer members may appoint a taxpayer member to be the designated
7 agent. If the parent corporation of the combined reporting group is not eligible to be
8 the designated agent and no taxpayer member is appointed to be the designated
9 agent, the designated agent is the taxpayer member that has the most significant
10 operations in this state on a recurring basis, as determined by the department. The
11 designated agent, as determined under this subdivision, remains the designated
12 agent until the designated agent is no longer a taxpayer member or until the
13 taxpayer members appoint a different designated agent. If the designated agent
14 changes, the combined reporting group shall notify the department of such a change,
15 in a manner prescribed by the department.

16 2. The designated agent shall file the group return under par. (a), shall file for
17 any extensions under s. 71.24 (7) or 71.44 (3), shall file amended reports and claims
18 for refund or credit, and shall send and receive all correspondence with the
19 department regarding a group return. Any notice the department sends to the
20 designated agent is considered a notice sent to all members of the combined reporting
21 group. Any refund with respect to a group return shall be paid to and in the name
22 of the designated agent and shall discharge any liability of the state to any member
23 of a combined reporting group regarding the refund. The combined reporting group
24 filing a group return under par. (a) shall pay all taxes, including estimated taxes, in
25 the designated agent's name. The designated agent shall participate on behalf of the

1 members of the combined reporting group in any investigation or hearing requested
2 by the department regarding a group return and shall produce all information
3 requested by the department regarding a group return. The designated agent may
4 execute a power of attorney on behalf of the members of the combined reporting
5 group. The designated agent shall execute waivers, closing agreements, and other
6 documents regarding a group return filed under par. (a) and any waiver, agreement,
7 or document executed by the designated agent shall be considered as executed by all
8 members of the combined reporting group. If the department acts in good faith with
9 a combined reporting group member that represents itself as the designated agent
10 for the combined reporting group but that combined reporting group member is not
11 the designated agent, any action taken by the department with that combined
12 reporting group member has the same effect as if that combined reporting group
13 member were the actual designated agent for the combined reporting group.

14 (d) *Part-year members.* If a corporation becomes a member of a combined
15 reporting group or ceases to be a member of a combined reporting group after the
16 beginning of a common accounting period, the corporation's income shall be
17 apportioned to this state as follows:

18 1. If the corporation is required to file 2 or more short-period federal returns
19 for the common accounting period, the income for the short period in which the
20 corporation was a member of a combined reporting group shall be determined as
21 provided under sub. (2), the corporation shall join in filing a combined report for that
22 short period, and the corporation may join in filing a group return for that short
23 period. The income for the remaining short period shall be reported on a separate
24 return under s. 71.26 or 71.45. If the corporation becomes a member of another

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1 combined reporting group in the remaining short period, the corporation's income
2 shall be determined for the remaining short period as provided under sub. (2).

3 2. If the corporation is not required to file federal short-period returns, the
4 corporation shall file a separate return. Income shall be determined as follows:

5 a. As provided under sub. (2) for any period that the corporation was a member
6 of a combined reporting group.

7 b. As a separate entity under s. 71.26 or 71.45 for any period that the
8 corporation was not a member of a combined reporting group.

9 (e) *Amended group return.* The election to file a group return under this section
10 applies to an amended group return that includes the same corporations that joined
11 in the filing of the original group return. Under this section, an amended group
12 return shall be filed as follows:

13 1. If an election to file a group return that is in effect for a taxable year is
14 revoked for the taxable year because the combined reporting group that filed the
15 group return is not subject to sub. (2), as determined by the department, the
16 designated agent for the combined reporting group may not file an amended group
17 return. The designated agent and each corporation that joined in filing the group
18 return shall file a separate amended return. To compute the tax due on a separate
19 amended return, a corporation that files a separate amended return shall consider
20 all of the payments, credits, or other amounts, including refunds, that the designated
21 agent allocated to the corporation.

22 2. If a change in tax liability under this section is the result of the removal of
23 a corporation from a combined reporting group because the corporation was not
24 eligible to be a member of the combined reporting group for the taxable year, as

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1 determined by the department, the designated agent shall file an amended group
2 return and the ineligible corporation shall file a separate amended return.

3 3. If a corporation erroneously fails to join in the filing of a group return, the
4 designated agent shall file an amended group return that includes the corporation.
5 If a corporation that erroneously fails to join in the filing of a group return has filed
6 a separate return, the corporation shall file an amended separate return that shows
7 no net income, overpayment, or underpayment, and shows that the corporation has
8 joined in the filing of a group return.

9 (6) INCOME COMPUTATION UNDER COMBINED REPORTING. For the purposes of sub.
10 (2), income attributable to this state shall be determined as follows:

11 (a) Determine the net income of each member of a combined reporting group
12 under s. 71.26 or 71.45, as appropriate, before deducting net business losses. A
13 member of a combined reporting group may determine its net loss or net income
14 under a method of accounting or an election authorized under s. 71.26 (3) (y), 71.30
15 (1), 71.45 (2) (a) 13., or 71.49 (2), as appropriate, regardless of the accounting method
16 used to determine the net loss or net income of other members of the combined
17 reporting group. After a member establishes an accounting method, or makes any
18 election under this section, the member's net loss or net income shall be consistently
19 determined in the combined report of all members of the combined reporting group
20 and in the group return filed by the taxpayer members or in the separate return filed
21 by the members. If a corporation is engaged in 2 or more trades or businesses that
22 are required to use different apportionment formulas under s. 71.25 or 71.45, the net
23 income for each trade or business shall be computed separately. A unitary business
24 with operations in a foreign country shall compute its net loss or net income as
25 provided by rule by the department.

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1 (b) Adjust each member's income, as determined under par. (a), as provided
2 under s. 71.30.

3 (c) From the amount determined under par. (b), subtract intercompany
4 transactions, as provided by rule by the department, such that intercompany
5 accounts of assets, liabilities, equities, income, costs, or expenses are excluded from
6 the income determination to accurately reflect the income, the apportionment
7 factors, and the tax credits in a combined report that is filed under this section. An
8 intercompany transaction includes the following:

9 1. Income or gain from sales, exchanges, contributions, or other transfers of
10 tangible or intangible property from a member of the combined reporting group to
11 another member of the combined reporting group.

12 2. Annual rent paid by a member of the combined reporting group to another
13 member of the combined reporting group.

14 3. Annual license fees or royalties paid by a member of the combined reporting
15 group to another member of the combined reporting group.

16 4. Loans, advances, receivables, and similar items that one member of the
17 combined reporting group owes to another member of the combined reporting group,
18 including interest income and interest expense related to these items.

19 5. Stock or other equity of a member of the combined reporting group that is
20 owned or controlled by another member of the combined reporting group.

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

24 7. Management or service fees paid by a member of the combined reporting
25 group to another member of the combined reporting group.

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1 8. Income or expenses allocated or charged by a member of the combined
2 reporting group to another member of the combined reporting group.

3 (d) From the amount determined under par. (c) for each member of a combined
4 reporting group, subtract nonapportionable income, net of related expenses, and add
5 nonapportionable losses, net of related expenses, to determine each member's
6 apportionable net income or apportionable net loss.

7 (e) Calculate the apportionment factors under sub. (7) and multiply each
8 member's apportionable net income or apportionable net loss, as determined under
9 par. (d), by the member's apportionment factor as determined under sub. (7).

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

12 (g) To the amounts determined under par. (f), add each member's
13 nonapportionable income attributable to this state and subtract each member's
14 nonapportionable losses attributable to this state.

15 (h) If the combined reporting group is not filing a group return, combine the
16 amounts determined under par. (g) for all members of the combined reporting group.

17 (i) If the combined reporting group is filing a group return, combine the
18 amounts determined under par. (g) for all members of the combined reporting group
19 that join in filing the group return.

20 (j) From the amount determined under par. (h) or (i), as appropriate, subtract
21 the combined reporting group's net operating loss as determined under sub. (8).

22 **(7) APPORTIONMENT FACTOR COMPUTATION UNDER COMBINED REPORTING.** For the
23 purposes of sub. (2), this state's apportionment factors are determined as follows:

1 (a) 1. Determine the numerator and the denominator of the apportionment
2 factors as determined under s. 71.25 or 71.45, as appropriate, for each member of the
3 combined reporting group, except as provided in subd. 2.

4 2. If a member of a combined reporting group is not subject to the tax imposed
5 under s. 71.23 or 71.43 because it does not have sufficient connection to this state as
6 a separate entity for income or franchise tax purposes, as determined by the
7 department, the numerator of the member's sales factor under s. 71.25 (9) or
8 apportionment factor under s. 71.45 (3) is zero. If a member of a combined reporting
9 group is a corporation engaged in business wholly within this state, as provided
10 under s. 71.25 (4), the numerator and denominator of the member's apportionment
11 factors are the same. If a member of a combined reporting group is not subject to an
12 income or franchise tax as a separate entity in the state to which a sale is attributed,
13 the sale is attributed to this state.

14 (b) Subtract intercompany transactions under sub. (6) (c) from both the
15 numerators and the denominators as determined under par. (a).

16 (c) Add the denominators of the apportionment factors for each member of the
17 combined reporting group, as determined under par. (b), to arrive at the combined
18 denominator.

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

22 **(8) NET BUSINESS LOSS CARRY-OVER.** (a) For taxable years beginning after
23 December 31, 2005, any net business loss of a corporation that is a member of a
24 combined reporting group as determined under sub. (6) for the taxable year that is
25 not offset against the net income of the other members of the combined reporting

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1 group in the same taxable year may be carried forward as provided under s. 71.26
2 (4), except that any net business loss carried forward to a subsequent taxable year
3 may be offset against either the net income of the corporation that incurred the net
4 business loss or the net income of the combined reporting group of which the
5 corporation is a member, in the manner prescribed by rule by the department.

6 (b) A corporation that is a member of a combined reporting group may not carry
7 forward a net business loss from a taxable year beginning before January 1, 2006,
8 if the corporation was not subject to the tax imposed under s. 71.23 or 71.43 for the
9 same taxable year.

10 (c) A corporation that is a member of a combined reporting group and that
11 incurred a Wisconsin net business loss in a taxable year beginning before January
12 1, 2006, that has not been offset against the corporation's net income in subsequent
13 taxable years may offset the remaining net business loss against the corporation's
14 net income as determined under sub. (6). If the corporation joins in filing a group
15 return under sub. (5) and the corporation's remaining net business loss exceeds the
16 corporation's net income as determined under sub. (6) for the first taxable year
17 beginning after December 31, 2005, that the corporation is subject to this section, the
18 corporation may annually offset up to 20 percent of the remaining net business loss
19 against the net income of the other members of the combined reporting group that
20 join in filing a group return under sub. (5).

21 **(9) NET INCOME OR LOSS FOR CORPORATIONS WITH DIFFERENT ACCOUNTING PERIODS.**
22 If a taxpayer member has a different accounting period from the common accounting
23 period of the combined reporting group, the combined reporting group shall assign
24 the combined report income or loss for the combined reporting group, as determined
25 under sub. (6), proportionally to the number of months in the taxpayer member's

1 taxable year that are wholly or partly within the combined reporting group's common
2 accounting period. The total amount of income or loss assigned to a taxpayer member
3 under this subsection for the portions of the common accounting period that are
4 included in the taxpayer member's taxable period shall be aggregated or netted to
5 determine the taxpayer member's apportionable income.

6 **(10) NET TAX LIABILITY.** (a) A corporation that files a separate return under this
7 section shall determine its net tax liability as follows:

8 1. Multiply the amount determined under sub. (6) (i) for the corporation by the
9 tax rate under s. 71.27 or 71.46, as appropriate.

10 2. From the amount determined under subd. 1., subtract the corporation's tax
11 credits under s. 71.28 or 71.47 based on the corporation's expenses. The corporation
12 may not offset any of its tax credits, or tax credit carry-forwards, against the tax
13 liability of any other member of the combined reporting group to which the
14 corporation belongs.

15 (b) A combined reporting group that files a group return under this section shall
16 determine its net tax liability as follows:

17 1. Multiply the amount determined under sub. (6) (i) for the combined reporting
18 group by the tax rate under s. 71.27 or 71.46, as appropriate.

19 2. From the amount determined under subd. 1., subtract the tax credits under
20 ss. 71.28 and 71.47 for all taxpayer members of the combined reporting group.

21 **(11) ESTIMATED TAX PAYMENTS.** (a) For the first 2 taxable years that a group
22 return is filed under this section, estimated taxes under ss. 71.29 and 71.48 may be
23 paid on a group basis or on a separate basis. The amount of any separate estimated
24 taxes paid in the first 2 taxable years that a group return is filed shall be credited
25 against the group's tax liability. The designated agent shall notify the department

Insert
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1 of any estimated taxes paid on a separate basis in the first 2 taxable years that a
2 group return is filed.

3 (b) If a group return is filed for 2 consecutive taxable years, estimated taxes
4 under ss. 71.29 and 71.48 shall be paid on a group basis for each subsequent taxable
5 year until such time as separate returns are filed by the corporations that were
6 members of a combined reporting group that filed group returns under this section.
7 For each taxable year in which combined estimated taxes are paid under this
8 subsection, the department shall consider the combined reporting group filing a
9 group return to be one taxpayer for purposes of computing interest on the
10 underpayment of estimated taxes. If a corporation subject to this section files a
11 separate return in a taxable year following a year in which the corporation joined in
12 filing a group return, the amount of any estimated tax payments made on a group
13 basis for the previous year shall be credited against the tax liability of the corporation
14 that files a separate return, as allocated by the designated agent with the
15 department's approval.

16 (c) If a combined reporting group pays estimated taxes on a group basis for a
17 taxable year or for any part of a taxable year, and the members of the combined
18 reporting group file separate returns for the taxable year, the designated agent, with
19 the department's approval, shall allocate the estimated tax payments among the
20 members of the combined reporting group.

21 (d) If estimated taxes are paid on a group basis for a taxable year but the group
22 does not file a group return for the taxable year and did not file a group return for
23 the previous taxable year, the estimated tax shall be credited to the member of the
24 combined reporting group that made the estimated tax payment on the group's
25 behalf.

Amend
23

1 (e) If a combined reporting group that will file a group return applies for a
2 refund of estimated taxes under s. 71.29 (3m), the department shall determine the
3 combined reporting group's eligibility for a refund on a group basis.

4 (12) INTEREST FOR UNDERPAYMENT OF ESTIMATED TAX. (a) *General.* The amount
5 of interest that is due for an underpayment of estimated taxes under sub. (11) shall
6 be computed as follows:

7 1. For the first year in which a combined reporting group files a group return,
8 the amount of interest that is due for an underpayment of estimated taxes shall be
9 determined by using the aggregate of the tax and income shown on the returns filed
10 by the members of the combined reporting group for the previous year.

11 2. For any year in which a combined reporting group files a group return, the
12 department shall determine if the combined reporting group qualifies for the
13 exception to interest under s. 71.29 (7) (b) by using the aggregate of the amount of
14 the tax liability and the amount of the net income of all members of the combined
15 reporting group.

16 3. For any year in which a combined reporting group files a group return, the
17 department shall determine if the installment provisions under s. 71.29 (9) or (10)
18 apply to the combined reporting group by using the aggregate of the amount of the
19 tax liability and the amount of the net income of all members of the combined
20 reporting group.

21 4. For estimated taxes paid under sub. (11) (c), the amount of interest that is
22 due from a member of a combined reporting group for an underpayment of estimated
23 taxes paid by the member shall be determined by using the member's separate items
24 from the group return filed for the previous year and the member's allocated share
25 of the combined estimated tax payments for the current year. The designated agent

1 shall report the member's allocated share of the combined estimated tax payments
2 for the current year to the department, in the manner prescribed by the department.

3 (b) *Entering a group.* If a corporation becomes a member of a combined
4 reporting group during a common accounting period under sub. (4), the combined
5 reporting group shall make the following adjustments to determine the amount of
6 interest that is due for an underpayment of estimated taxes:

7 1. If a corporation becomes a member of a combined reporting group at the
8 beginning of a common accounting period, the combined reporting group shall
9 include with the corresponding items on the group return for the previous common
10 accounting period the separate items shown on the corporation's return for the
11 previous taxable year.

12 2. If a corporation is not a member of a combined reporting group for an entire
13 common accounting period, the combined reporting group shall include with the
14 corresponding items on the group return for the current taxable year the
15 corporation's separate items for that portion of the common accounting period that
16 the corporation was not a member of the combined reporting group.

17 3. To determine the separate items under subs. 1. and 2., if a corporation is
18 a member of a combined reporting group during a portion of a common accounting
19 period in which the corporation becomes a member of another combined reporting
20 group, the corporation's separate items shall include the separate items that are
21 attributed to the corporation by the designated agent of the first combined reporting
22 group.

23 (c) *Leaving a group.* If a corporation leaves a combined reporting group during
24 a common accounting period under sub. (4), the combined reporting group shall make

Insert
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1 the following adjustments to determine the amount of interest that is due for an
2 underpayment of estimated taxes:

3 1. If a corporation leaves a combined reporting group before the first day of a
4 common accounting period, the combined reporting group shall exclude the separate
5 items that the designated agent of the combined reporting group attributed to the
6 corporation for the preceding common accounting period from the corresponding
7 items of the combined reporting group for the preceding common accounting period.

8 2. If a corporation leaves a combined reporting group after the first day of a
9 common accounting period, the combined reporting group shall exclude the separate
10 items that the designated agent of the combined reporting group attributed to the
11 corporation for the common accounting period from the corresponding items of the
12 combined reporting group for the current common accounting period.

13 3. A corporation that leaves a combined reporting group shall use the separate
14 items that the designated agent of the combined reporting group attributed to the
15 corporation to determine the amount of interest that is owed for any underpayment
16 of estimated taxes under sub. (11) for the first taxable year beginning after the day
17 that the corporation leaves the combined reporting group or, for a corporation that
18 has a different accounting period from the combined reporting group, for the portion
19 of the corporation's separate taxable year that remains after the day that the
20 corporation leaves the combined reporting group.

21 **(13) ASSESSMENT NOTICE.** If the department sends a notice of taxes that are
22 owed by a combined reporting group to the designated agent of a combined reporting
23 group, the notice shall name each corporation that joined in filing the group return
24 related to the notice during any part of the period covered by the notice. The
25 department's failure to name a corporation on a notice under this subsection shall

Amend
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1 not invalidate the notice as to the unnamed corporation. Any levy, lien, or other
2 proceeding to collect the amount of a tax assessment under this section shall name
3 the corporation from which the department shall collect the assessment. If a
4 corporation that joined in the filing of a group return leaves the combined reporting
5 group, the department shall send the corporation a copy of any notice sent to the
6 combined reporting group under this subsection if the corporation notifies the
7 department that the corporation is no longer a member of the combined reporting
8 group and if the corporation requests in writing that the department send notices
9 under this subsection to the corporation. The department's failure to comply with
10 a corporation's request to receive a notice does not affect the tax liability of the
11 corporation.

12 **(14) LIABILITY FOR TAX, INTEREST, AND PENALTY.** If members of a combined
13 reporting group file a group return, the members of the combined reporting group
14 shall be jointly and severally liable for any combined tax, interest, or penalty. The
15 liability of a member of a combined reporting group for any combined tax, interest,
16 or penalty shall not be reduced by an agreement with another member of the
17 combined reporting group or by an agreement with another person.

18 **(15) PRESUMPTIONS AND BURDEN OF PROOF.** A commonly controlled group shall
19 be presumed to be engaged in a unitary business and all of the income of the unitary
20 business shall be presumed to be apportionable business income under this section.
21 A corporation, partnership, or limited liability company has the burden of proving
22 that it is not a member of a commonly controlled group that is subject to this section.
23 The department shall promulgate rules to implement this subsection.

24 **(16) INFORMATION.** (a) A member of a commonly controlled group shall retain
25 any information, and provide such information to the department at the

Insert
2-3

1 department's request, that the department considers necessary to administer this
2 section, including all documents submitted to or obtained from the internal revenue
3 service or other states regarding income and taxing jurisdiction.

4 (b) A member of a commonly controlled group shall identify, at the department's
5 request, the name, job title, and address of the member's principal officers or
6 employees who have substantial knowledge of, and access to, documents that specify
7 the pricing policies, profit centers, cost centers, and methods of allocating income and
8 expenses among cost centers related to the operations of the member.

9 (c) A member of a commonly controlled group shall retain all information
10 provided under par. (a) during any period for which the member's tax liability to this
11 state is subject to adjustment, including any period in which the state may assess
12 additional income or franchise taxes, an appeal of the member's tax assessment is
13 pending, or a suit related to the member's tax liability is pending.

14 (17) CORPORATIONS NOT FILING. If a corporation that is required to report under
15 this section directly or indirectly owns or controls any other corporation, or is directly
16 or indirectly owned or controlled by another corporation, the department may
17 require that such other corporations join in filing a combined report under this
18 section."

19 *b0673/1.3* 5. Page 646, line 4: after that line insert:

b0673/1.3 "SECTION 1363(a) 71.26 (3) (x) of the statutes is amended to read:

21 71.26 (3) (x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to
22 consolidated returns) are excluded, except to the extent that they pertain to
23 intercompany transactions and the carry-forward of net business loss under s.

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*Insert
p. 3*

1 71.255 and except that they are modified so that more than 50 percent ownership is
2 substituted for at least 80 percent ownership.

3 *b0673/1.3* SECTION 1363m. 71.26 (4) of the statutes is amended to read:

4 71.26 (4) NET BUSINESS LOSS CARRY-FORWARD. A corporation, except a tax-option
5 corporation or an insurer to which s. 71.45 (4) applies, may offset against its
6 Wisconsin net business income any Wisconsin net business loss sustained in any of
7 the next 15 preceding taxable years, if the corporation was subject to taxation under
8 this chapter in the taxable year in which the loss was sustained, to the extent not
9 offset by other items of Wisconsin income in the loss year and by Wisconsin net
10 business income of any year between the loss year and the taxable year for which an
11 offset is claimed. For purposes of this subsection Wisconsin net business income or
12 loss shall consist of all the income attributable to the operation of a trade or business
13 in this state, less the business expenses allowed as deductions in computing net
14 income. The Wisconsin net business income or loss of corporations engaged in
15 business within and without the state shall be determined under s. 71.25 (6) and (10)
16 to (12) or 71.255. Nonapportionable losses having a Wisconsin situs under s. 71.25
17 (5) (b) shall be included in Wisconsin net business loss; and nonapportionable income
18 having a Wisconsin situs under s. 71.25 (5) (b), whether taxable or exempt, shall be
19 included in other items of Wisconsin income and Wisconsin net business income for
20 purposes of this subsection.”.

21 *b0750/1.1* 6. Page 646, line 4: after that line insert:

22 *b0750/1.1* “SECTION 1363m. 71.26 (3) (e) 1. of the statutes is amended to
23 read:

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Move to
p. 30*

Handwritten notes in a circle: "XNS A", "P. 206 to 230", "Move to p. 30".

1 71.26 (3) (e) 1. So that payments for wages, salaries, commissions and bonuses
 2 of employees and officers may be deducted only if the name, address and amount paid
 3 to each resident of this state to whom compensation of \$600 or more has been paid
 4 during the taxable year is reported or if the department of revenue is satisfied that
 5 failure to report has resulted in no revenue loss to this state. A deduction for wages,
 6 salaries, commissions, and bonuses paid to an employee or officer shall not exceed
 7 an amount equal to the product of the wages, salaries, commissions, and bonuses
 8 paid to the corporation's lowest paid full-time employee multiplied by 25."

Handwritten notes in a circle: "MSES", "2-3".

9 *b0673/1.4* 7. Page 653, line 12: after that line insert:

10 *b0673/1.4* "SECTION 1385m. 71.29 (2) of the statutes is amended to read:

11 71.29 (2) WHO SHALL PAY. Every Except as provided in s. 71.255 (11), every
 12 corporation subject to tax under s. 71.23 (1) or (2) and every virtually exempt entity
 13 subject to tax under s. 71.125 or 71.23 (1) or (2) shall pay an estimated tax."

14 *b0673/1.5* 8. Page 681, line 17: after that line insert:

15 *b0673/1.5* "SECTION 1406b. 71.44 (1) (a) of the statutes is amended to read:

16 71.44 (1) (a) Every Except as provided in par. (e), every corporation, except
 17 corporations all of whose income is exempt from taxation and except as provided in
 18 sub. (1m), shall furnish to the department a true and accurate statement, on or before
 19 March 15 of each year, except that returns for fiscal years ending on some other date
 20 than December 31 shall be furnished on or before the 15th day of the 3rd month
 21 following the close of such fiscal year and except that returns for less than a full
 22 taxable year shall be furnished on or before the date applicable for federal income
 23 taxes under the internal revenue code, in such manner and form and setting forth
 24 such facts as the department deems necessary to enforce this chapter. Every

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1 corporation that is required to furnish a statement under this paragraph and that
2 has income that is not taxable under this subchapter shall include with its statement
3 a report that identifies each item of its nontaxable income. The statement shall be
4 subscribed by the president, vice president, treasurer, assistant treasurer, chief
5 accounting officer or any other officer duly authorized so to act. In the case of a return
6 made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The
7 fact that an individual's name is subscribed on the return shall be prima facie
8 evidence that the individual is authorized to subscribe the return on behalf of the
9 corporation.

10 *b0673/1.5* SECTION 1406c. 71.44 (1) (e) of the statutes is created to read:

11 71.44 (1) (e) A corporation that is a member of a commonly controlled group,
12 as defined in s. 71.255 (1) (d), and engaged in a unitary business, as defined in s.
13 71.255 (1) (m), shall file a tax return under s. 71.255.”.

14 *b0673/1.6* 9. Page 682, line 3: after that line insert:

15 *b0673/1.6* “SECTION 1406mh. 71.46 (3) of the statutes is repealed.”.

16 *b0673/1.7* 10. Page 689, line 15: after that line insert:

17 *b0673/1.7* “SECTION 1428m. 71.48 of the statutes is amended to read:

18 71.48 Payments of estimated taxes. Sections Except as provided in s.
19 71.255 (11), ss. 71.29 and 71.84 (2) shall apply to insurers subject to taxation under
20 this chapter.”.

21 *b0759/1.3* 11. Page 689, line 25: after that line insert:

22 *b0759/1.3* “SECTION 1430e. 71.64 (9) (b) (intro.) of the statutes is amended
23 to read:

Insert
2-3

Insert 2-3

1 71.64 (9) (b) (intro.) The department shall from time to time adjust the
2 withholding tables to reflect any changes in income tax rates, any applicable surtax,
3 or any changes in dollar amounts in s. 71.06 (1), (1m), (1n), (1p), (1q), and (2) resulting
4 from statutory changes, except as follows:".

5 *b0759/1.4* **12.** Page 690, line 6: delete "or (1p)" and substitute "~~or~~, (1p), or
6 (1q)".

7 *b0673/1.8* **13.** Page 695, line 14: after that line insert:

8 *b0673/1.8* "SECTION 1432n. 71.84 (2) (a) of the statutes is amended to read:

9 71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment
10 of estimated tax under s. 71.255, 71.29 or 71.48 there shall be added to the aggregate
11 tax for the taxable year interest at the rate of 12% per year on the amount of the
12 underpayment for the period of the underpayment. For corporations, except as
13 provided in par. (b), "period of the underpayment" means the time period from the
14 due date of the installment until either the 15th day of the 3rd month beginning after
15 the end of the taxable year or the date of payment, whichever is earlier. If 90% of the
16 tax shown on the return is not paid by the 15th day of the 3rd month following the
17 close of the taxable year, the difference between that amount and the estimated taxes
18 paid, along with any interest due, shall accrue delinquent interest under s. 71.91 (1)
19 (a).".

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20 *b0673/1.9* **14.** Page 1037, line 5: after that line insert:

21 *b0673/1.9* "~~(5g)~~ COMBINED REPORTING. The treatment of sections 71.25 (9)
22 (a), 71.255, 71.26 (3) (x) and (4), 71.29 (2), 71.44 (1) (a) and (e), 71.46 (3), 71.48, and
23 71.84 (2) (a) of the statutes first applies to taxable years beginning on January 1,
24 2006.".

Insert 9-6

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1 *e 9mq*
 ***b0750/1.2* 15.** Page 1038, line 6: after that line insert:
2 ***b0750/1.2* “(9m)** COMPENSATION DEDUCTION. The treatment of section 71.26
3 (3) (e) 1. of the statutes first applies to taxable years beginning on January 1 of the
4 year in which this subsection takes effect, except that if this subsection takes effect
5 after July 31 the treatment of section 71.26 (3) (e) 1. of the statutes first applies to
6 taxable years beginning on January 1 of the year following the year in which this
7 subsection takes effect.”.
8

(END)

8-0786/1/dh
JK

Senator Rolson:

This amendment creates a homeowner's property tax credit and uses as a funding source the tax revenue generated by combined reporting, the additional tax on ^{persons} persons earning more than ^{compensation} compensation \$1,000,000, and the limitation on compensation deductions (the CEO equity amendment).

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0786/1dn
JK:cx:rs

June 30, 2005

Senator Robson:

This amendment creates a homeowner's property tax credit and uses as a funding source the tax revenue generated by combined reporting, the additional tax on persons earning more than \$1,000,000, and the limitation on compensation deductions (the CEO equity amendment).

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us