

2007 – 2008 LEGISLATURE
March 2008 Special Session

LRBb1275/1
ALL:all:jf

SENATE AMENDMENT 1,
TO ASSEMBLY BILL 1

March 20, 2008 – Offered by COMMITTEE ON FINANCE.

1 At the locations indicated, amend the bill, as shown by assembly bill 1, as
2 follows:

3 **1.** Page 3, line 15: after that line insert:

4 “**SECTION 1g.** 13.101 (18) of the statutes is created to read:

5 13.101 **(18)** Notwithstanding sub. (4), the committee may not transfer moneys
6 from the appropriation account under s. 20.435 (4) (xc) to another appropriation
7 account.”.

8 **2.** Page 4, line 16: after that line insert:

9 “**SECTION 6m.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
10 insert the following amounts for the purposes indicated:

2007–08 2008–09

**20.435 Health and family services, department
of**

(4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH
CARE FIN; OTHER SUPPORT PGMS

(xc) Hospital assessment fund; hospi-
tal payments and refunds SEG B 145,032,800 147,726,500

(xd) Hospital assessment fund; Medi-
cal Assistance program benefits SEG B 58,500,000 65,000,000

”.

3. Page 4, line 18: on lines 18 and 20, delete “\$20,000,000” and substitute
“\$55,000,000”.

4. Page 4, line 25: after that line insert:

“**SECTION 9ac.** 20.435 (4) (gp) of the statutes is repealed.

SECTION 9ad. 20.435 (4) (xc) of the statutes is created to read:

20.435 (4) (xc) *Hospital assessment fund; hospital payments and refunds.*

Biennially, from the medical assessment trust fund, the amounts in the schedule for increased payments and refunds to hospitals and for higher capitated payment rates under s. 49.45 (58) (a), as the Medical Assistance nonfederal share, in order to increase payment rates in excess of the aggregate inpatient and outpatient hospital payment rates in effect in fiscal year 2006–07 for services provided by hospitals under the Medical Assistance program administered under subch. IV of ch. 49.

SECTION 9ae. 20.435 (4) (xd) of the statutes is created to read:

1 20.435 **(4)** (xd) *Hospital assessment fund; Medical Assistance program benefits.*
2 Biennially, from the hospital assessment fund, the amounts in the schedule to
3 provide a portion of the state share of Medical Assistance program benefits
4 administered under subch. IV of ch. 49.

5 **SECTION 9af.** 20.566 (1) (ho) of the statutes is created to read:

6 20.566 **(1)** (ho) *Collections under multistate streamlined sales tax project.* From
7 moneys collected under the multistate streamlined sales tax project as provided
8 under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the
9 governing board of the multistate streamlined sales tax project.

10 **SECTION 9ag.** 20.866 (2) (uur) of the statutes is amended to read:

11 20.866 **(2)** (uur) *Transportation; state highway rehabilitation projects.* From
12 the capital improvement fund, a sum sufficient for the department of transportation
13 to fund state highway rehabilitation projects, as provided under s. 84.95. The state
14 may contract public debt in an amount not to exceed ~~\$250,000,000~~ \$300,000,000 for
15 this purpose.

16 **SECTION 9ah.** 25.17 (1) (gs) of the statutes is created to read:

17 25.17 **(1)** (gs) Hospital assessment fund (s. 25.772);

18 **SECTION 9ai.** 25.69 of the statutes, as affected by 2007 Wisconsin Act 20, is
19 amended to read:

20 **25.69 Permanent endowment fund.** There is established a separate
21 nonlapsible trust fund designated as the permanent endowment fund, consisting of
22 all of the proceeds from the sale of the state's right to receive payments under the
23 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
24 and all investment earnings on the proceeds. There is transferred from the

1 permanent endowment fund to the Medical Assistance trust fund \$50,000,000
2 \$68,000,000 in each fiscal year.

3 **SECTION 9aj.** 25.772 of the statutes is created to read:

4 **25.772 Hospital assessment fund.** There is established a separate
5 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
6 moneys received under s. 50.375 from assessments on hospitals.

7 **SECTION 9ak.** 46.27 (9) (a) of the statutes is amended to read:

8 46.27 (9) (a) The department may select up to 5 counties that volunteer to
9 participate in a pilot project under which they will receive certain funds allocated for
10 long-term care. The department shall allocate a level of funds to these counties
11 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp), or (w).~~
12 or (xd), to nursing homes for providing care because of increased utilization of
13 nursing home services, as estimated by the department. In estimating these levels,
14 the department shall exclude any increased utilization of services provided by state
15 centers for the developmentally disabled. The department shall calculate these
16 amounts on a calendar year basis under sub. (10).

17 **SECTION 9aL.** 46.27 (10) (a) 1. of the statutes is amended to read:

18 46.27 (10) (a) 1. The department shall determine for each county participating
19 in the pilot project under sub. (9) a funding level of state medical assistance
20 expenditures to be received by the county. This level shall equal the amount that the
21 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp), or (w).~~
22 or (xd), or because of increased utilization of nursing home services, as estimated by
23 the department.

24 **SECTION 9am.** 46.275 (5) (a) of the statutes is amended to read:

1 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
2 department under sub. (3r), provides under this program is available from the
3 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and (xd). If 2 or more
4 counties jointly contract to provide services under this program and the department
5 approves the contract, Medical Assistance reimbursement is also available for
6 services provided jointly by these counties.

7 **SECTION 9an.** 46.275 (5) (c) of the statutes is amended to read:

8 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and
9 (xd) to counties and to the department under sub. (3r) for services provided under
10 this section may not exceed the amount approved by the federal department of health
11 and human services. A county may use funds received under this section only to
12 provide services to persons who meet the requirements under sub. (4) and may not
13 use unexpended funds received under this section to serve other developmentally
14 disabled persons residing in the county.

15 **SECTION 9ao.** 46.283 (5) of the statutes is amended to read:

16 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
17 (bm), ~~(gp)~~, (pa), ~~and (w)~~, and (xd) and (7) (b), (bd), and (md), the department may
18 contract with organizations that meet standards under sub. (3) for performance of
19 the duties under sub. (4) and shall distribute funds for services provided by resource
20 centers.

21 **SECTION 9ap.** 46.284 (5) (a) of the statutes, as affected by 2007 Wisconsin Act
22 20, is amended to read:

23 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
24 (im), (o), ~~and (w)~~, and (xd) and (7) (b), (bd), and (g), the department shall provide
25 funding on a capitated payment basis for the provision of services under this section.

1 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
2 under contract with the department may expend the funds, consistent with this
3 section, including providing payment, on a capitated basis, to providers of services
4 under the family care benefit.

5 **SECTION 9aq.** 46.485 (2g) (intro.) of the statutes is amended to read:

6 46.485 (2g) (intro.) From the appropriation accounts under s. 20.435 (4) (b) and
7 ~~(gp)~~ (xd), the department may in each fiscal year transfer funds to the appropriation
8 under s. 20.435 (7) (kb) for distribution under this section and from the appropriation
9 account under s. 20.435 (7) (mb) the department ~~may not~~ shall distribute ~~more than~~
10 \$1,330,500 in each fiscal year to applying counties in this state that meet all of the
11 following requirements, as determined by the department:

12 **SECTION 9ar.** 46.513 of the statutes is repealed.

13 **SECTION 9bd.** 49.155 (6m) of the statutes is created to read:

14 49.155 (6m) AUTHORIZATION FOR PAYMENT. (a) In this subsection:

15 1. “Certified provider” means a child care provider certified under s. 48.651.

16 2. “Child care administrative agency” means any agency that has a contract
17 with the department to administer child care funds or any agency that has a
18 subcontract to administer child care funds with an agency that has a contract with
19 the department.

20 3. “Licensed provider” means a child care provider licensed under s. 48.65.

21 (b) A child care administrative agency shall authorize payment to child care
22 providers as follows:

23 1. For a licensed provider, the child care administrative agency shall authorize
24 payment based on authorized units of service, except as follows:

1 a. The child care administrative agency may authorize payment to a licensed
2 provider based on units of service used by each child, up to the maximum number of
3 authorized units, with the reimbursement rate increased by 10 percent to account
4 for absent days, if the schedule of child care to be used is expected to vary widely.

5 b. The child care administrative agency may authorize payment to a licensed
6 provider based on units of service used by each child, up to the maximum number of
7 authorized units, if the child care administrative agency has documented 3 separate
8 occasions on which the provider significantly overreported the attendance of a child.

9 2. For a certified provider, the child care administrative agency shall authorize
10 payment for units of service used by each child, up to the maximum number of
11 authorized units, except as provided in par. (c).

12 (c) A child care administrative agency may authorize payment to a licensed or
13 certified provider to hold a slot for a child if the child's parent has a temporary break
14 in employment and intends to return to work and to continue to use the services of
15 the provider upon returning to work. The child care administrative agency may
16 authorize payment for no more than 6 weeks if the absence is due to a medical reason
17 and is documented by a physician or for no more than 4 weeks if the absence is due
18 to another reason. The department and child care administrative agency may not
19 consider payment for a temporary absence to be an overpayment if the parent
20 intended to, but does not actually, return to work.

21 **SECTION 9be.** 49.175 (1) (p) of the statutes, as affected by 2007 Wisconsin Act
22 20, is amended to read:

23 49.175 (1) (p) *Direct child care services.* For direct child care services under s.
24 49.155, ~~\$340,601,800~~ \$359,201,800 in fiscal year 2007–08 and \$355,352,000 in fiscal
25 year 2008–09.

1 **SECTION 9bf.** 49.45 (2) (a) 17. of the statutes is amended to read:

2 49.45 **(2)** (a) 17. Notify the governor, the joint committee on legislative
3 organization, the joint committee on finance and appropriate standing committees,
4 as determined by the presiding officer of each house, if the appropriation accounts
5 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
6 medical assistance.

7 **SECTION 9bg.** 49.45 (5m) (ag) of the statutes is repealed.

8 **SECTION 9bh.** 49.45 (5m) (am) of the statutes is amended to read:

9 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
10 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
11 more than ~~\$2,256,000~~ \$5,256,000 in each fiscal year 2007–08 and each fiscal year
12 thereafter, to provide supplemental funds to rural hospitals that, as determined by
13 the department, have high utilization of inpatient services by patients whose care
14 is provided from governmental sources, ~~and to provide supplemental funds to critical~~
15 ~~access hospitals~~, except that the department may not distribute funds to a rural
16 hospital ~~or to a critical access hospital~~ to the extent that the distribution would
17 exceed any limitation under 42 USC 1396b (i) (3).

18 **SECTION 9bi.** 49.45 (6m) (ag) (intro.) of the statutes, as affected by 2007
19 Wisconsin Act 97, is amended to read:

20 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
21 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
22 provided in pars. (bg), (bm), and (br), be determined according to a prospective
23 payment system updated annually by the department. The payment system shall
24 implement standards that are necessary and proper for providing patient care and

1 that meet quality and safety standards established under subch. II of ch. 50 and ch.
2 150. The payment system shall reflect all of the following:

3 **SECTION 9bk.** 49.45 (6v) (b) of the statutes is amended to read:

4 49.45 (6v) (b) The department shall, each year, submit to the joint committee
5 on finance a report for the previous fiscal year, except for the 1997–98 fiscal year, that
6 provides information on the utilization of beds by recipients of medical assistance in
7 facilities and a discussion and detailed projection of the likely balances,
8 expenditures, encumbrances and carry over of currently appropriated amounts in
9 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd).

10 **SECTION 9bL.** 49.45 (6x) (a) of the statutes is amended to read:

11 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
12 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
13 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
14 hospital, except that the department may not allocate funds to an essential access
15 city hospital to the extent that the allocation would exceed any limitation under 42
16 USC 1396b (i) (3).

17 **SECTION 9bm.** 49.45 (6y) (a) of the statutes is amended to read:

18 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
19 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department ~~shall~~ may
20 distribute funding in each fiscal year to provide supplemental payment to hospitals
21 that enter into a contract under s. 49.02 (2) to provide health care services funded
22 by a relief block grant, as determined by the department, for hospital services that
23 are not in excess of the hospitals' customary charges for the services, as limited under
24 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
25 allocation of funds to such hospitals would exceed any limitation under 42 USC

1 1396b (i) (3), the department may distribute funds to hospitals that have not entered
2 into a contract under s. 49.02 (2).

3 **SECTION 9bn.** 49.45 (6y) (am) of the statutes is amended to read:

4 49.45 **(6y)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
5 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department shall distribute
6 funding in each fiscal year to provide supplemental payments to hospitals that enter
7 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
8 to provide health care services funded by a relief block grant, as determined by the
9 department, for hospital services that are not in excess of the hospitals' customary
10 charges for the services, as limited under 42 USC 1396b (i) (3).

11 **SECTION 9bp.** 49.45 (6z) (a) (intro.) of the statutes, as affected by 2007
12 Wisconsin Act 20, is amended to read:

13 49.45 **(6z)** (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
14 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department may
15 distribute funding in each fiscal year to supplement payment for services to hospitals
16 that enter into indigent care agreements, in accordance with the approved state plan
17 for services under 42 USC 1396a, with relief agencies that administer the medical
18 relief block grant under this chapter, if the department determines that the hospitals
19 serve a disproportionate number of low-income patients with special needs. If no
20 medical relief block grant under this chapter is awarded or if the allocation of funds
21 to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
22 department may distribute funds to hospitals that have not entered into indigent
23 care agreements. The department may not distribute funds under this subsection
24 to the extent that the distribution would do any of the following:

25 **SECTION 9bq.** 49.45 (8) (b) of the statutes is amended to read:

1 49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd)
2 for home health services provided by a certified home health agency or independent
3 nurse shall be made at the home health agency's or nurse's usual and customary fee
4 per patient care visit, subject to a maximum allowable fee per patient care visit that
5 is established under par. (c).

6 **SECTION 9br.** 49.45 (24m) (intro.) of the statutes is amended to read:

7 49.45 **(24m)** (intro.) From the appropriation accounts under s. 20.435 (4) (b),
8 ~~(gp)~~, (o), and (w), and (xd), in order to test the feasibility of instituting a system of
9 reimbursement for providers of home health care and personal care services for
10 medical assistance recipients that is based on competitive bidding, the department
11 shall:

12 **SECTION 9bt.** 49.45 (52) of the statutes is amended to read:

13 49.45 **(52)** PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
14 department may, from the appropriation account under s. 20.435 (7) (b), make
15 Medical Assistance payment adjustments to county departments under s. 46.215,
16 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
17 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
18 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
19 adjustments under this subsection shall include the state share of the payments.
20 The total of any payment adjustments under this subsection and Medical Assistance
21 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
22 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
23 (30) (A).

24 **SECTION 9bu.** 49.45 (58) of the statutes is created to read:

1 **49.45 (58) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS.** (a) The
2 department shall develop a methodology for calculating rate increases for inpatient
3 and outpatient hospital services in connection with the assessment imposed on
4 hospitals under s. 50.375. The methodology shall incorporate encounter data
5 provided by health maintenance organizations and information that the department
6 uses to calculate the capitated rates that the department pays health maintenance
7 organizations for providing services to recipients of medical assistance. The
8 department shall publicly disclose the methodology. The department shall review
9 the methodology at least once every 12 months.

10 (b) The department shall require, as a term of contracts with health
11 maintenance organizations to provide medical assistance services, that the health
12 maintenance organization do all of the following:

13 1. Make monthly prospective payments, calculated using the methodology
14 under par. (a), to hospitals that serve medical assistance recipients who are enrolled
15 in the health maintenance organization.

16 2. Calculate the amounts that result from applying the rate increases that are
17 derived using the methodology under par. (a) to services for recipients of medical
18 assistance for which hospitals submit claims to the health maintenance
19 organization.

20 3. Within 90 days after the end of each 6-month period, compare the amounts
21 that the health maintenance organization paid hospitals under subd. 1. for the
22 6-month period with the amounts calculated under subd. 2. for services provided
23 during that same period. If the amounts under subd. 2. exceed the amounts of the
24 payments under subd. 1., pay hospitals the difference within 90 days.

1 (c) If the amounts that a health maintenance organization paid hospitals under
2 par. (b) 1. for a 6-month period exceed the amounts calculated under par. (b) 2. for
3 services provided during the same period, hospitals shall pay the health
4 maintenance organization the difference within 90 days after the comparison of
5 amounts under par. (b) 3. is completed.

6 (d) If the department determines that a health maintenance organization has
7 not complied with a condition under par. (b), the department shall require the health
8 maintenance organization to comply with the condition within 15 days after the
9 department's determination. The department may terminate a contract with a
10 health maintenance organization for failure to comply with a condition under par.
11 (b). The department shall audit health maintenance organizations to determine
12 whether they have complied with the conditions under par. (b).

13 (e) If a health maintenance organization and hospital cannot resolve the
14 amount that a health maintenance organization owes a hospital under par. (b) 3. or
15 that a hospital owes a health maintenance organization under par. (c), and either the
16 health maintenance organization or the hospital, within 6 months after the end of
17 the time period to which the disputed amount relates, requests that the department
18 determine the amount owed, the department shall determine the amount within 90
19 days after the request is made. The health maintenance organization or hospital is,
20 upon request, entitled to a contested case hearing under ch. 227 on the department's
21 determination.

22 **SECTION 9cb.** 49.472 (6) (a) of the statutes is amended to read:

23 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
24 under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department shall, on the part of an
25 individual who is eligible for medical assistance under sub. (3), pay premiums for or

1 purchase individual coverage offered by the individual's employer if the department
2 determines that paying the premiums for or purchasing the coverage will not be more
3 costly than providing medical assistance.

4 **SECTION 9cc.** 49.472 (6) (b) of the statutes is amended to read:

5 49.472 **(6)** (b) If federal financial participation is available, from the
6 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department may
7 pay medicare Part A and Part B premiums for individuals who are eligible for
8 medicare and for medical assistance under sub. (3).

9 **SECTION 9cd.** 49.473 (5) of the statutes is amended to read:

10 49.473 **(5)** The department shall audit and pay, from the appropriation
11 accounts under s. 20.435 (4) (b), ~~(gp)~~, ~~and (o)~~, and (xd), allowable charges to a provider
12 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
13 who meets the requirements under sub. (2) for all benefits and services specified
14 under s. 49.46 (2).

15 **SECTION 9ce.** 50.375 of the statutes is created to read:

16 **50.375 Assessment.** **(1)** Except as provided in subs. (2) and (7), for the
17 privilege of doing business in this state, there is imposed on each hospital an annual
18 assessment, based on the hospital's gross patient revenue, that each hospital shall
19 pay quarterly by September 1, December 1, March 1, and June 1 of each year,
20 beginning with the payment due by September 1, 2008, except that the entire annual
21 assessment for fiscal year 2007–08 shall be paid by June 1, 2008. The assessments
22 shall be deposited into the hospital assessment fund.

23 **(2)** At the discretion of the department, a hospital that is unable timely to make
24 a payment by a date specified under sub. (1) may be allowed to make a delayed
25 payment. A determination by the department that a hospital may not make a

1 delayed payment under this subsection is final and is not subject to review under ch.
2 227.

3 **(3)** The amount of each hospital's assessment shall be based on the information
4 that shall be provided to the department under s. 153.46 (5) or shall be based on any
5 other source that is approved in the state plan for services under 42 USC 1396.

6 **(4)** The department shall verify the amount of each hospital's gross patient
7 revenue and shall determine the amount of the assessment owed by each hospital
8 based on a uniform rate that is applicable to total gross patient revenue that the
9 department estimates will yield the amounts specified in the appropriation schedule
10 under s. 20.005 (3) for the appropriation accounts under s. 20.435 (4) (xc) and (xd).

11 **(5)** The department shall levy, enforce, and collect the assessments under this
12 section and shall develop and distribute forms necessary for these purposes.

13 **(6)** If the department determines that any portion of the revenue collected
14 under sub. (5) to provide Medical Assistance program benefits and payment
15 increases for inpatient and outpatient hospital services as fee for service or through
16 health maintenance organizations or to support the Medical Assistance Program is
17 not eligible for federal financial participation, the department will refund that
18 amount of revenue to hospitals in proportion to each hospital's payment of the
19 assessment.

20 **(7)** This section does not apply to a critical access hospital, as defined in s. 50.33
21 (1g), or to an institution for mental diseases, as defined in s. 46.011 (1m).

22 **(8)** Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
23 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
24 subch. III of ch. 77, apply to the assessment under this section, except that the

1 amount of any assessment collected under sub. (1) shall be deposited in the hospital
2 assessment fund.

3 (9) By December 31, 2008, and by every December 31 thereafter, the
4 department shall report to the joint committee on finance all of the following
5 information for the immediately previous state fiscal year:

6 (a) The total amount of assessments collected under this section.

7 (b) The total amount of assessments collected from each hospital under this
8 section.

9 (c) The total amounts that the department determines were paid to health
10 maintenance organizations for increased Medical Assistance payments to hospitals.

11 (d) The total amount of payments made to each hospital by health maintenance
12 organizations under s. 49.45 (58) (b) 1.

13 (e) The total amount of Medical Assistance payments made to each hospital and
14 the portion of the Medical Assistance capitated payments made to health
15 maintenance organizations for inpatient and outpatient hospital services from
16 appropriation accounts of general purpose revenues.

17 (f) The total amounts, including the amounts specified under par. (c), that the
18 department determines were paid to health maintenance organizations for Medical
19 Assistance payments to hospitals.

20 (g) The results of any audits conducted by the department under s. 49.45 (58)
21 concerning Medical Assistance payments and any actions taken by the department
22 as a result of such an audit.

23 **SECTION 9cf.** 59.58 (6) (cb) of the statutes is created to read:

1 59.58 (6) (cb) The authority shall be responsible for sponsoring, developing,
2 constructing, and operating a commuter rail transit system connecting the cities of
3 Kenosha, Racine, and Milwaukee, to be known as the KRM commuter rail link.

4 **SECTION 9cg.** 59.58 (6) (cr) of the statutes is amended to read:

5 59.58 (6) (cr) The authority may hire staff, conduct studies, and expend funds
6 essential to the preparation of the report specified in par. (e) and in furtherance of
7 its responsibility under par. (cb) to develop and construct the KRM commuter rail
8 link.

9 **SECTION 9ch.** 59.58 (6) (e) 3g. of the statutes is created to read:

10 59.58 (6) (e) 3g. A study on the feasibility of adding a commuter rail stop and
11 station at points where any proposed commuter rail route would intersect National
12 Avenue in the city of Milwaukee or Greenfield Avenue in the city of Milwaukee or
13 both.

14 **SECTION 9ci.** 59.58 (6) (e) 3m. of the statutes is created to read:

15 59.58 (6) (e) 3m. A study on the feasibility of extending any proposed commuter
16 rail project through the 30th Street corridor in the city of Milwaukee to the northern
17 county line of Milwaukee County.

18 **SECTION 9cj.** 59.58 (6) (e) 4r. and 6. of the statutes are repealed.

19 **SECTION 9ck.** 59.58 (6) (f) of the statutes is created to read:

20 59.58 (6) (f) 1. The authority may issue bonds, the principal and interest on
21 which are payable exclusively from all or a portion of any revenues received by the
22 authority. The authority may secure its bonds by a pledge of any income or revenues
23 from any operations, rent, aids, grants, subsidies, contributions, or other source of
24 moneys whatsoever.

1 2. The authority may issue bonds in an aggregate principal amount not to
2 exceed \$50,000,000, excluding bonds issued to refund outstanding bonds issued
3 under this subdivision, for the purpose of providing funds for the anticipated local
4 funding share required for initiating KRM commuter rail link service.

5 3. Neither the governing body of the authority nor any person executing the
6 bonds is personally liable on the bonds by reason of the issuance of the bonds.

7 4. The bonds of the authority are not a debt of the counties that created the
8 authority. Neither these counties nor the state are liable for the payment of the
9 bonds. The bonds of the authority shall be payable only out of funds or properties
10 of the authority. The bonds of the authority shall state the restrictions contained in
11 this subdivision on the face of the bonds.

12 5. Bonds of the authority shall be authorized by resolution of the authority's
13 governing body. The bonds may be issued under such a resolution or under a trust
14 indenture or other security instrument. The bonds may be issued in one or more
15 series and may be in the form of coupon bonds or registered bonds under s. 67.09.
16 The bonds shall bear the dates, mature at the times, bear interest at the rates, be in
17 the denominations, have the rank or priority, be executed in the manner, be payable
18 in the medium of payment and at the places, and be subject to the terms of
19 redemption, with or without premium, as the resolution, trust indenture, or other
20 security instrument provides. The authority may sell the bonds at public or private
21 sales at the price or prices determined by the authority. If a member of the governing
22 body of the authority whose signature appears on any bonds or coupons ceases to be
23 a member of the governing body of the authority before the delivery of such
24 obligations, the member's signature shall, nevertheless, be valid for all purposes as
25 if the member had remained a member until delivery of the bonds.

1 6. The authority may issue refunding bonds for the purpose of paying any of
2 its bonds at or prior to maturity or upon acceleration or redemption. The authority
3 may issue refunding bonds at such time prior to the maturity or redemption of the
4 refunded bonds as the authority deems to be in the public interest. The refunding
5 bonds may be issued in sufficient amounts to pay or provide the principal of the bonds
6 being refunded, together with any redemption premium on the bonds, any interest
7 accrued or to accrue to the date of payment of the bonds, the expenses of issue of the
8 refunding bonds, the expenses of redeeming the bonds being refunded, and such
9 reserves for debt service or other capital or current expenses from the proceeds of
10 such refunding bonds as may be required by the resolution, trust indenture, or other
11 security instruments. To the extent applicable, refunding bonds are subject to subd.
12 5.

13 **SECTION 9cL.** 66.0615 (1m) (f) 2. of the statutes is amended to read:

14 66.0615 **(1m)** (f) 2. Sections 77.51 (12m), (14) ~~(e), (f) and (j)~~ and, (14g), (15a),
15 and (15b), 77.52 (3), (4), ~~(6) and (13), (14), (18), and (19)~~, 77.522, 77.58 (1) to (5), (6m),
16 and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to ~~(14)~~ (15), and
17 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax described
18 under subd. 1.

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

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

1 **SECTION 9cn.** 71.05 (1) (c) 9. of the statutes is created to read:

2 71.05 **(1)** (c) 9. The regional transit authority under s. 59.58 (6) (f).

3 **SECTION 9co.** 71.07 (5e) (b) of the statutes is amended to read:

4 71.07 **(5e)** (b) *Filing claims.* Subject to the limitations provided in this
5 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
6 taxable year following the taxable year in which the claimant claims ~~an exemption~~
7 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
8 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
9 taxable year for 2 years, the amount certified by the department of commerce that
10 resulted from the claimant claimed as an exemption claiming a deduction under s.
11 ~~77.54 (48)~~ 77.585 (9).

12 **SECTION 9cp.** 71.07 (5e) (c) 1. of the statutes is amended to read:

13 71.07 **(5e)** (c) 1. No credit may be allowed under this subsection unless the
14 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

15 **SECTION 9cr.** 71.07 (5e) (c) 3. of the statutes is amended to read:

16 71.07 **(5e)** (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
17 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
18 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
19 77.585 (9) is \$7,500,000, as determined by the department of commerce.

20 **SECTION 9dc.** 71.22 (9) of the statutes is amended to read:

21 71.22 **(9)** “Person” includes corporations, unless the context requires
22 otherwise. “Person” may include, as determined by the department, any individual,
23 partnership, general partner of a partnership, limited liability company, registered
24 limited liability partnership, foreign limited liability partnership, syndicate, estate,

1 trust, trustee in bankruptcy, receiver, executor, administrator, assignee, or
2 organization.

3 **SECTION 9dd.** 71.255 of the statutes is created to read:

4 **71.255 Combined reporting. (1) DEFINITIONS.** In this section:

5 (a) “Combined group” means the group of all persons whose income and
6 apportionment factors are considered under sub. (2) to determine the taxpayer’s
7 share of the net business income or loss that is apportionable to this state.

8 (b) “Combined report” means a return under s. 71.24 that is filed on a form
9 prescribed by the department that specifies the income, credits, and tax of each
10 taxpayer member of a commonly controlled group operating as a unitary business.

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

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

20 2. Any 2 or more corporations if a common owner, regardless of whether or not
21 the owner is a corporation, directly or indirectly owns stock representing more than
22 50 percent of the voting power of the corporations or the connected corporations.

23 3. Any 2 or more corporations if stock representing more than 50 percent of the
24 voting power in each corporation are interests that cannot be separately transferred.

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

6 (d) “Corporation” means a corporation, as defined in s. 71.22 (1k), that,
7 regardless of where the corporation is located, would be subject to the taxes imposed
8 under this chapter, if the corporation were doing business in this state. For purposes
9 of this section, the business conducted by a pass-through entity that is directly or
10 indirectly held by a corporation is considered the corporation’s business
11 proportionate to the corporation’s distributive share of the pass-through entity’s
12 income. “Corporation” does not include a tax-option corporation.

13 (e) “Department” means the department of revenue.

14 (f) “Internal Revenue Code” means the Internal Revenue Code as defined in s.
15 71.22 (4) and (4m), including any provision of a federal tax treaty that expressly
16 applies to the states of the United States, but not including any other application of
17 a federal tax treaty.

18 (g) “Pass-through entity” means a general or limited partnership, any
19 organization that is treated as a partnership for purposes of this chapter, a real
20 estate investment trust, a regulated investment company, a real estate mortgage
21 investment conduit, a financial asset securitization investment trust, a trust, or an
22 estate.

23 (h) “Tax haven” means a jurisdiction that, for any taxable year, is identified by
24 the organization for economic cooperation and development as a tax haven or as

1 having a harmful, preferential tax regime or has no, or a nominal, effective tax on
2 income and all of the following apply:

3 1. The jurisdiction has laws or practices that prevent the effective exchange of
4 information, for tax purposes, with other governments on taxpayers benefiting from
5 the tax regime.

6 2. The details of the legislative, legal, or administrative provisions of the
7 jurisdiction's tax regime are not publicly available and apparent or are not
8 consistently applied to similarly situated taxpayers or the information needed by tax
9 authorities to determine a taxpayer's correct tax liability, including accounting
10 records and underlying documentation, is not adequately available.

11 3. The jurisdiction facilitates the establishment of foreign-owned entities
12 without requiring a local substantive presence or prohibits such entities from having
13 any commercial impact on the local economy.

14 4. The tax regime explicitly or implicitly excludes the jurisdiction's resident
15 taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises
16 that benefit from the regime from operating in the jurisdiction's domestic market.

17 5. The jurisdiction has created a tax regime that is favorable for tax avoidance,
18 based upon an overall assessment of relevant factors, including whether the
19 jurisdiction has a significant untaxed offshore financial or other services sector
20 relative to its overall economy.

21 (i) "Taxpayer member" means a corporation that is subject to tax under s. 71.23
22 (1) or (2) and that is a member of a combined group.

23 (j) "Unitary business" means a single economic enterprise that consists of
24 separate parts of a single business entity or of a commonly controlled group of
25 business entities that are sufficiently interdependent, integrated, and interrelated

1 by their activities so as to provide a synergy and a mutual benefit that produces a
2 sharing or exchange of value among them and a significant flow of value to the
3 separate parts. For purposes of this section, 2 or more business entities are
4 considered a unitary business if the entities have unity of ownership, operation, and
5 use, as indicated by centralized management or a centralized executive force;
6 centralized purchasing, advertising, or accounting; intercorporate sales or leases;
7 intercorporate services; intercorporate debts; intercorporate use of proprietary
8 materials; interlocking directorates; or interlocking corporate officers. Any business
9 conducted by a pass-through entity that is owned directly or indirectly by a
10 corporation is considered conducted by the corporation, to the extent of the
11 corporation's distributive share of the pass-through entity's income, regardless of
12 the percentage of the corporation's ownership interest. A business conducted
13 directly or indirectly by one corporation is unitary with that portion of a business
14 conducted by another corporation through its direct or indirect interest in a
15 pass-through entity, if the corporations are sufficiently interdependent, integrated,
16 and interrelated by their activities so as to provide a synergy and a mutual benefit
17 that produces a sharing or exchange of value among them and a significant flow of
18 value to the separate parts and the two corporations are members of the same
19 commonly controlled group.

20 **(2) CORPORATIONS REQUIRED TO USE COMBINED REPORTING.** (a) A corporation
21 engaged in a unitary business with any other corporation shall file a combined report
22 that includes the income, determined under sub. (3), and apportionment factor,
23 determined under sub. (5) and s. 71.25, of the following members of the unitary
24 business:

1 1. Any member incorporated in the United States, including the District of
2 Columbia and any territory or possession of the United States, or formed under the
3 laws of any state, the District of Columbia, or any territory or possession of the
4 United States.

5 2. Any member, regardless of where the entity is incorporated or formed, if the
6 average of the following ratios is 20 percent or more:

7 a. The value of the member's real property and tangible personal property
8 located in the United States, including the District of Columbia and any territory or
9 possession of the United States, not including property that is used to produce
10 nonapportionable income, divided by the value of all of the member's real property
11 and tangible personal property, not including property that is used to produce
12 nonapportionable income. For purposes of this subd. 2. a., the value of property that
13 the member rents is the net annual rental amount for the property, multiplied by 8.

14 b. The amount of the member's payroll that is paid in the United States,
15 including the District of Columbia and any territory or possession of the United
16 States, divided by the amount of the member's total payroll. For purposes of this
17 subd. 2. b., payroll includes compensation paid to employees, but does not include
18 payroll used to produce nonapportionable income. The payroll paid in the United
19 States, including the District of Columbia and any territory or possession of the
20 United States, shall be determined in the same manner as payroll is determined for
21 this state under s. 71.25 (8) (b) 1. to 5.

22 c. The member's sales in the United States, including the District of Columbia
23 and any territory or possession of the United States, divided by the member's total
24 sales. For purposes of this subd. 2. c., sales include items identified in s. 71.25 (9) (e),
25 but not items identified in s. 71.25 (9) (f), and the situs of a sale shall be determined

1 in the same manner as for state sales in s. 71.25 (9) (b), (d), (df), and (dh), not
2 including s. 71.25 (9) (b) 2m. and 3., (c), (df) 3., and (dh) 4.

3 3. Any member that is a domestic international sales corporation as described
4 in sections 991 to 994 of the Internal Revenue Code, a foreign sales corporation as
5 described in sections 921 to 927 of the Internal Revenue Code, or an export trade
6 corporation as described in sections 970 to 971 of the Internal Revenue Code.

7 4. Any member that is a controlled foreign corporation as defined in section 957
8 of the Internal Revenue Code, to the extent of the member's income that is defined
9 in section 952 of of the Internal Revenue Code, including any lower-tier subsidiary's
10 distribution of such income that was previously taxed, determined without regard
11 to federal treaties, and the apportionment factors related to that income. For
12 purposes of this subdivision, any item of income received by a controlled foreign
13 corporation is excluded if the income was subject to an income tax imposed by a
14 foreign country at an effective tax rate greater than 90 percent of the maximum tax
15 rate specified in section 11 of the Internal Revenue Code.

16 5. Any member that earns more than 20 percent of its income, directly or
17 indirectly, from intangible property or service-related activities that are deductible
18 against the business income of other members of the combined group, to the extent
19 of that income and the apportionment factors related to that income.

20 6. Any member that is doing business in a tax haven, if the member is engaged
21 in an activity that is sufficient for that tax haven jurisdiction to impose a tax under
22 federal law. If the member's business activity in a tax haven is entirely outside the
23 scope of the laws and practices that cause the jurisdiction to be a tax haven, the
24 member's business activity is not considered to be conducted in a tax haven for
25 purposes of this section.

1 7. Any member not described in subs. 1. to 6., to the extent that its income is
2 derived from or attributable to sources within the United States, including the
3 District of Columbia and any territory or possession of the United States, as
4 determined under the Internal Revenue Code and by its apportionment factors
5 related to that income.

6 (b) The department may require that a combined report filed under this section
7 include the income and associated apportionment factors of any persons not
8 described under par. (a) that are members of a unitary business to reflect the proper
9 apportionment of income of the entire unitary business, including persons that are
10 not, or would not be, subject to the taxes imposed under this chapter if doing business
11 in this state.

12 **(3) COMPONENTS OF INCOME SUBJECT TO TAX.** Each taxpayer member is
13 responsible for the tax imposed under this chapter based on its taxable income or loss
14 apportioned or allocated to this state, including:

15 (a) Its share of any business income apportionable to this state of each of the
16 combined groups of which it is a member, as determined under subs. (4) and (5).

17 (b) Its share of any business income apportionable to this state of a distinct
18 business activity conducted in and outside this state wholly by the taxpayer member,
19 as determined under s. 71.25.

20 (c) Its income from a business conducted wholly by the taxpayer member
21 entirely in this state.

22 (d) Its income sourced to this state from the sale or exchange of capital or assets
23 and from involuntary conversions, as determined under sub. (4) (a) 8.

24 (e) Its nonbusiness income or loss allocable to this state.

1 (f) Its income or loss allocated or apportioned in an earlier year that is state
2 source income during the income year, other than a net business loss carry-forward.

3 (g) Its net business loss carry-forward. If the taxable income computed under
4 this subsection and subs. (4) and (5) results in a loss for a taxpayer member of the
5 combined group, the taxpayer member has a net business loss, subject to the net
6 business loss limitations and carry-forward provisions in s. 71.26 (4). The business
7 loss is applied as a deduction in a subsequent year only if the taxpayer member has
8 net income sourced to this state, regardless of whether the taxpayer is a member of
9 a combined group in the subsequent year.

10 **(4) BUSINESS INCOME OF THE COMBINED GROUP.** The business income of a
11 combined group is determined as follows:

12 (a) Compute the sum of the income of each member of the combined group as
13 determined for federal income tax purposes, as if the members were not consolidated
14 for federal purposes, and modified as provided under s. 71.26. Each member of the
15 combined group shall determine its income as follows:

16 1. For any member incorporated in the United States, including the District of
17 Columbia and any territory or possession of the United States, or included in a
18 consolidated federal corporate income tax return, the income included in the total
19 income of the combined group is the corporation's taxable income as determined
20 under s. 71.26.

21 2. Except as provided in subd. 3, for any member not included in subd. 1., the
22 income included in the total income of the combined group shall be determined as
23 follows:

1 a. Each foreign branch or foreign corporation shall prepare a profit and loss
2 statement in the currency in which the branch's or corporation's books of account are
3 regularly maintained.

4 b. The member shall adjust any statement prepared under subd. 2. a. to
5 conform to the accounting principles generally accepted in the United States for the
6 preparation of profit and loss statements.

7 c. The member shall adjust any statement prepared under subd. 2. a. to
8 conform to the tax accounting standards required by the department for the
9 administration of this chapter.

10 d. Each member of the combined group shall translate its profit and loss
11 statements, and the related apportionment factors, into the currency in which the
12 parent corporation maintains its books and records.

13 e. Each member shall express in U.S. dollars the income apportioned to this
14 state.

15 3. If the department determines that the income determination under this
16 subsection reasonably approximates income as determined under s. 71.26, any
17 member not included in subd. 1. may determine its income based on a consolidated
18 profit and loss statement that includes the member and that is prepared for the
19 purpose of filing, by related corporations, with the securities and exchange
20 commission. If the member is not required to file with the securities and exchange
21 commission, the department may allow, for purposes of this subdivision, the use of
22 the consolidated profit and loss statement prepared for reporting to shareholders
23 and subject to review by an independent auditor. If a statement described in this
24 subdivision does not reasonably approximate income as determined under s. 71.26,
25 the department may accept the statement if the member makes appropriate

1 adjustments to the statement, as determined by the department, to approximate the
2 income determined under s. 71.26.

3 4. If a unitary business includes income from a pass-through entity, the total
4 income of the combined group includes the member's direct and indirect distributive
5 share of the pass-through entity's unitary business income.

6 5. All dividends paid by one member to another are not included in the
7 recipients income, if the dividends are paid out of the earnings and profits of the
8 unitary business in the current taxable year or in an earlier taxable year. This
9 subdivision does not apply to dividends received from members of a unitary business
10 that are not a part of the combined group.

11 6. Except as provided by the department by rule, business income or loss from
12 an intercompany transaction between members of the same combined group shall be
13 deferred in a manner similar to 26 CFR 1.1502-13. Upon the occurrence of any of
14 the following events, deferred business income or loss resulting from an
15 intercompany transaction between members of a combined group shall be included
16 in the income of the seller and shall be apportioned as business income earned
17 immediately before the event:

18 a. The object of the deferred intercompany transaction is sold by the buyer to
19 an entity that is not a member of the combined group.

20 b. The object of the deferred intercompany transaction is sold by the buyer to
21 an entity that is a member of the combined group for use outside the unitary business
22 in which the buyer and seller are engaged.

23 c. The object of the deferred intercompany transaction is converted by the buyer
24 to a use outside the unitary business in which the buyer and seller are engaged.

1 d. The buyer and seller are no longer members of the same combined group,
2 regardless of whether the members remain a unitary business.

3 7. A charitable expense incurred by a member of a combined group, to the
4 extent allowable as a deduction under section 170 of the Internal Revenue Code,
5 shall be subtracted first from the business income of the combined group, subject to
6 the income limitations of section 170 of the Internal Revenue Code as it applies to
7 the entire business income of the group, and any remaining amount shall be treated
8 as a nonbusiness expense allocable to the member that incurred the expense, subject
9 to the income limitations of section 170 of the Internal Revenue Code as it applies
10 to the nonbusiness income of that member. Any charitable deduction described
11 under this subdivision that is allowed as a carryover deduction in a subsequent year
12 is considered to be originally incurred in the subsequent year by the same member,
13 and this section applies in the subsequent year for purposes of determining the
14 allowable deduction in that year.

15 8. Gain or loss from the sale or exchange of capital assets, property described
16 in section 1231 (a) (3) of the Internal Revenue Code, and property subject to an
17 involuntary conversion, is removed from the total separate net income of each
18 member of a combined group and is apportioned and allocated as follows:

19 a. For short-term capital gains or losses, long-term capital gains or losses,
20 gains or losses under section 1231 of the Internal Revenue Code, and involuntary
21 conversions, the business gain and loss of all members are combined within each
22 class of net business gain or loss and each such class is separately apportioned to each
23 member using the member's apportionment percentage determined under sub. (5).

24 b. Each taxpayer member shall net its apportioned business gain or loss for all
25 classes, as determined under subd. 8. a., including any such apportioned business

1 gain and loss from other combined groups, against the taxpayer member's
2 nonbusiness gain and loss for all classes allocated to this state as provided under
3 sections 1231 and 1222 of the Internal Revenue Code, not including nonbusiness
4 items allocated to another state.

5 c. Any resulting state source income or loss, if the loss is not subject to section
6 1211 of the Internal Revenue Code, of a taxpayer member produced by the
7 application of subd. 8. a. and b. shall then be applied to all other state source income
8 or loss of that member.

9 d. Any resulting state source loss of a member that is subject to section 1211
10 of the Internal Revenue Code shall be carried forward or carried back by that
11 member and shall be treated as state source short-term capital loss incurred by that
12 member for the year for which the carry-forward or carry-back applies.

13 9. Any expense of one member of the unitary business that is directly or
14 indirectly attributable to the nonbusiness or exempt income of another member of
15 the unitary business shall be allocated to that other member as corresponding
16 nonbusiness or exempt expense, as appropriate.

17 (b) Subtract any nonbusiness income of the combined group from the amount
18 determined under par. (a) and add any nonbusiness expense or loss of the combined
19 group to the amount determined under par. (a).

20 **(5) TAXPAYER'S SHARE OF BUSINESS INCOME OF A COMBINED GROUP.** The taxpayer's
21 share of the business income apportionable to this state of each combined group of
22 which it is a member shall be the product of the business income of the combined
23 group as determined under sub. (4) and the taxpayer member's sales factor
24 percentage, determined under s. 71.25, modified as follows:

1 (a) Include in the numerator the taxpayer member's sales associated with the
2 combined group's unitary business in this state.

3 (b) Include in the numerator the taxpayer member's sales associated with the
4 combined group's unitary business to another state in which the taxpayer member
5 is not engaged in business, regardless of whether another member of the combined
6 group is engaged in business in the other state.

7 (c) Include in the denominator the sales of all members of the combined group,
8 including the taxpayer, that are associated with the combined group's unitary
9 business regardless of where that business is located.

10 (d) Include sales of a pass-through entity owned directly or indirectly by a
11 corporation in proportion to a ratio the numerator of which is the amount of the
12 corporation's distributive share of the pass-through entity's unitary income included
13 in the income of the combined group in under sub. (4) and the denominator of which
14 is the amount of the pass-through entity's total unitary income.

15 (e) Exclude sales between members of the combined group.

16 (f) If a member of a combined group is not subject to the taxes imposed under
17 s. 71.23 because it is not engaged in business in this state, the numerator of the
18 member's sales factor is zero.

19 **(6) CREDITS AND POST-APPORTIONMENT DEDUCTIONS.** No tax credit or
20 post-apportionment deduction earned by one member of the combined group, but not
21 completed, used by, or allowed to that member, may be used in whole or in part by
22 another member of the combined group or applied in whole or in part against the total
23 income of the combined group.

24 **(7) DESIGNATED AGENT.** (a) For purposes of administering this section, each
25 combined group shall appoint a sole designated agent. The designated agent is the

1 parent corporation of the combined group, if the parent corporation is a taxpayer
2 member of the combined group and the income of the parent corporation is included
3 in the combined report. If there is no such parent corporation, the designated agent
4 may be appointed by the taxpayer members. If there is no such parent corporation
5 and no taxpayer member is appointed, the designated agent is the taxpayer member
6 that has the most significant operations in this state on a recurring basis, as
7 determined by the department. The designated agent may change only when the
8 designated agent is no longer subject to the tax imposed under s. 71.23 (1) or (2), in
9 which case the combined group shall notify the department of such a change in the
10 manner prescribed by the department.

11 (b) The designated agent is responsible for acting on behalf of the taxpayer
12 members of the combined group and shall do all of the following:

13 1. File with the department a combined report under sub. (1) (b).

14 2. File any extensions under s. 71.24.

15 3. File any amended combined reports and claims for refund or credit.

16 4. Send and receive all correspondence with the department regarding the
17 combined report.

18 5. Remit all taxes, including estimated taxes, to the department. For purposes
19 of computing interest on late payments, all payments remitted are considered to be
20 made on a proportionate basis by all taxpayer members of the combined group,
21 unless otherwise specified by the designated agent.

22 6. Participate on behalf of the combined group members in any investigation
23 or hearing requested by the department regarding a combined report, produce all
24 information requested by the department regarding the combined report, and file

1 any appeal related to a combined report. Any appeal filed by the designated agent
2 is considered filed by all members of the combined group.

3 7. Execute any waiver, closing agreement, power of attorney, or other document
4 regarding the combined report filed under sub. (1) (b). Any waiver, agreement, or
5 document executed by the designated agent is considered executed by all members
6 of the combined group.

7 8. Receive notices regarding the combined report. Any such notice the
8 department sends to the designated agent is considered sent to all taxpayer members
9 of the combined group.

10 9. Receive refunds regarding the combined report. Any such refund shall be
11 paid to and in the name of the designated agent and shall discharge any liability of
12 the state to any member of the combined group regarding the refund.

13 (c) The department may relieve the designated agent from any of the duties
14 described in par. (b) to the extent that the duties relate to income, expense, or loss
15 that is not includable in the business income of the combined group under sub. (4).
16 Unless the department provides for such relief by rule, a designated agent shall
17 obtain written approval from the department to be relieved of any such duties.

18 **(8) TAXABLE YEAR OF THE COMBINED GROUP.** (a) Except as provided in par. (b), the
19 combined group's taxable year is the designated agent's taxable year. If a member's
20 taxable year is different from the combined group's taxable year, the designated
21 agent may elect to determine the portion of each member's income to be included in
22 the combined report either from a separate income statement from each member that
23 is prepared by the member's books and records for the months that are included in
24 the combined group's taxable year or by including in the combined report all of the
25 income of each member for the year that ends during the combined group's taxable

1 year. Any election made under this paragraph remains in effect for subsequent years
2 unless the designated agent submits a request to the department to change the
3 election and the department approves in writing.

4 (b) If 2 or more members of a combined group file a federal consolidated return,
5 the combined group's taxable year is the taxable year that corresponds to the federal
6 consolidated return.

7 **(9) PART-YEAR MEMBERS OF A COMBINED GROUP.** If a corporation becomes a
8 member of a combined group, or ceases to be a member of a combined group, after
9 the beginning of the combined group's taxable year, the corporation's income shall
10 be determined as provided under subs. (3), (4), and (5) for that portion of the year in
11 which the corporation was a member of the combined group, and the income shall be
12 included in the combined report. The income for the remaining short period shall be
13 reported on a separate return or separate combined report.

14 **(10) PRESUMPTIONS AND BURDEN OF PROOF.** A commonly controlled group is
15 presumed to be engaged in a unitary business and all of the income of the unitary
16 business is presumed to be apportionable business income under this section. A
17 corporation has the burden of proving that it is not a member of a combined group
18 that is subject to this section.

19 **SECTION 9de.** 71.26 (1m) (j) of the statutes is created to read:

20 71.26 **(1m)** (j) Those issued under s. 59.58 (6) (f).

21 **SECTION 9df.** 71.26 (3) (x) of the statutes is amended to read:

22 71.26 **(3)** (x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to
23 consolidated returns) are excluded, except as provided under section 1502 of the U.S.
24 treasury regulations as it relates to deferred gain or loss from an intercompany
25 transaction under s. 71.255 (4) (a) 6.

1 **SECTION 9dg.** 71.27 (1) of the statutes is amended to read:

2 71.27 (1) The taxes to be assessed, levied and collected upon Wisconsin net
3 incomes of corporations shall be computed at the rate of ~~7.9%~~ 7.8 percent.

4 **SECTION 9dh.** 71.27 (2) of the statutes is amended to read:

5 71.27 (2) The corporation franchise tax imposed under s. 71.23 (2) and
6 measured by Wisconsin net income shall be computed at the rate of ~~7.9%~~ 7.8 percent.

7 **SECTION 9di.** 71.28 (5e) (b) of the statutes is amended to read:

8 71.28 (5e) (b) *Filing claims.* Subject to the limitations provided in this
9 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
10 taxable year following the taxable year in which the claimant claims ~~an exemption~~
11 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
12 the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable
13 year for 2 years, the amount certified by the department of commerce that resulted
14 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
15 77.585 (9).

16 **SECTION 9dj.** 71.28 (5e) (c) 1. of the statutes is amended to read:

17 71.28 (5e) (c) 1. No credit may be allowed under this subsection unless the
18 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

19 **SECTION 9dk.** 71.28 (5e) (c) 3. of the statutes is amended to read:

20 71.28 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
21 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
22 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
23 77.585 (9) is \$7,500,000, as determined by the department of commerce.

24 **SECTION 9dL.** 71.45 (1t) (j) of the statutes is created to read:

25 71.45 (1t) (j) Those issued under s. 59.58 (6) (f).

1 **SECTION 9dm.** 71.46 (1) of the statutes is amended to read:

2 71.46 (1) The taxes to be assessed, levied and collected upon Wisconsin net
3 incomes of corporations shall be computed at the rate of ~~7.9%~~ 7.8 percent.

4 **SECTION 9dn.** 71.46 (2) of the statutes is amended to read:

5 71.46 (2) The corporation franchise tax imposed under s. 71.43 (2) and
6 measured by Wisconsin net income shall be computed at the rate of ~~7.9%~~ 7.8 percent.

7 **SECTION 9do.** 71.46 (3) of the statutes is amended to read:

8 71.46 (3) The tax imposed under this subchapter on each domestic insurer on
9 or measured by its entire net income attributable to lines of insurance in this state
10 may not exceed ~~2%~~ 2 percent of the gross premiums, as defined in s. 76.62, received
11 during the taxable year by the insurer on all policies on those lines of insurance if
12 the subject of that insurance was resident, located or to be performed in this state
13 plus ~~7.9%~~ 7.8 percent of the income that is realized from the sale of or purchase and
14 subsequent sale or redemption of lottery prizes if the winning tickets were originally
15 bought in this state.

16 **SECTION 9dp.** 71.47 (5e) (b) of the statutes is amended to read:

17 71.47 (5e) (b) *Filing claims.* Subject to the limitations provided in this
18 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
19 taxable year following the taxable year in which the claimant claims ~~an exemption~~
20 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
21 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
22 year for 2 years, the amount certified by the department of commerce that resulted
23 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
24 77.585 (9).

25 **SECTION 9dq.** 71.47 (5e) (c) 1. of the statutes is amended to read:

1 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
2 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

3 **SECTION 9dr.** 71.47 (5e) (c) 3. of the statutes is amended to read:

4 71.47 (5e) (c) 3. The total amount of the credits and exemptions the sales and
5 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
6 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
7 77.585 (9) is \$7,500,000, as determined by the department of commerce.

8 **SECTION 9ds.** 73.03 (28e) of the statutes is created to read:

9 73.03 (28e) To participate as a member state of the streamlined sales tax
10 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and
11 includes having the governing board enter into contracts that are necessary to
12 implement the agreement on behalf of the member states, and to allocate a portion
13 of the amount collected under ch. 77 through the agreement to the appropriation
14 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
15 board. The department shall allocate the remainder of such collections to the general
16 fund.

17 **SECTION 9dt.** 73.03 (50) (d) of the statutes is amended to read:

18 73.03 (50) (d) In the case of a sole proprietor, signs the form or, in the case of
19 other persons, has an individual who is authorized to act on behalf of the person sign
20 the form, or, in the case of a single-owner entity that is disregarded as a separate
21 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
22 person who may register under this subsection may designate an agent, as defined
23 in s. 77.524 (1) (ag), to register with the department under this subsection in the
24 manner prescribed by the department. In this paragraph, “sign” has the meaning
25 given in s. 77.51 (17r).

1 **SECTION 9dv.** 73.03 (50b) of the statutes is created to read:

2 **73.03 (50b)** To waive the fee established under sub. (50) for applying for and
3 renewing the business tax registration certificate, if the person who is applying for
4 or renewing the certificate is not required for purposes of ch. 77 to hold such a
5 certificate.

6 **SECTION 9eb.** 73.03 (61) of the statutes is created to read:

7 **73.03 (61)** To do all of the following related to the Uniform Sales and Use Tax
8 Administration Act:

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

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

13 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
14 performance standards and eligibility criteria for a seller that sells tangible personal
15 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least
16 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has
17 total annual sales revenue of at least \$500,000,000; that has a proprietary system
18 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
19 sells tangible personal property or taxable services; and that has entered into a
20 performance agreement with the states that are signatories to the agreement, as
21 defined in s. 77.65 (2) (a). For purposes of this paragraph, “seller” includes an
22 affiliated group of sellers using the same proprietary system to calculate the amount
23 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
24 property or taxable services.

1 (d) Issue a tax identification number to a person who claims an exemption
2 under subch. III or V of ch. 77 and who is not required to register with the department
3 for the purposes of subch. III or V of ch. 77 and establish procedures for the
4 registration of such a person.

5 (e) Maintain a database that is accessible to sellers and certified service
6 providers, as defined in s. 77.51 (1g), that indicates whether items defined in
7 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
8 nontaxable.

9 (f) Maintain a database that is accessible to sellers and certified service
10 providers, as defined in s. 77.51 (1g), and available in a downloadable format, that
11 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
12 assignments related to the administration of taxes imposed under subchs. III and V
13 of ch. 77.

14 (g) Set forth the information that the seller shall provide to the department for
15 tax exemptions claimed by purchasers and establish the manner in which a seller
16 shall provide such information to the department.

17 (h) Provide monetary allowances, in addition to the retailer's discount provided
18 under s. 77.61 (4) (c), to certified service providers, as defined in s. 77.51 (1g), and
19 sellers that use certified automated systems, as defined in s. 77.524 (1) (am), or
20 proprietary systems, pursuant to the agreement as defined in s. 77.65 (2) (a).

21 **SECTION 9ec.** 76.07 (4g) (b) 8. of the statutes is amended to read:

22 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
23 revenue allocated to this state on the basis of routes for which the company is
24 authorized to receive subsidy payments, mutual aid allocated to this state on the
25 basis of the ratio of transport revenues allocated to this state to transport revenues

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

4 **SECTION 9ed.** 77.51 (1) of the statutes is renumbered 77.51 (1fd) and amended
5 to read:

6 77.51 (1fd) “Business” includes any activity engaged in by any person or caused
7 to be engaged in by any person with the object of gain, benefit or advantage, either
8 direct or indirect, and includes also the furnishing and distributing of tangible
9 personal property, items or property under s. 77.52 (1) (b) or (c). or taxable services
10 for a consideration by social clubs and fraternal organizations to their members or
11 others.

12 **SECTION 9ee.** 77.51 (1b) of the statutes is created to read:

13 77.51 (1b) “Alcoholic beverage” means a beverage that is suitable for human
14 consumption and that contains 0.5 percent or more of alcohol by volume.

15 **SECTION 9ef.** 77.51 (1ba) of the statutes is created to read:

16 77.51 (1ba) “Ancillary services” means services that are associated with or
17 incidental to providing telecommunications services, including detailed
18 telecommunications billing, directory assistance, vertical service, and voice mail
19 services.

20 **SECTION 9eg.** 77.51 (1f) of the statutes is created to read:

21 77.51 (1f) “Bundled transaction” means the retail sale of 2 or more products,
22 not including real property and services to real property, if the products are distinct
23 and identifiable products and sold for one nonitemized price. “Bundled transaction”
24 does not include any of the following:

1 (a) The sale of any products for which the sales price varies or is negotiable
2 based on the purchaser's selection of the products included in the transaction.

3 (b) 1. The retail sale of tangible personal property and a service, if the tangible
4 personal property is essential to the use of the service, and provided exclusively in
5 connection with the service, and if the true object of the transaction is the service.

6 2. The retail sale of a service and items or property under s. 77.52 (1) (b) or (c),
7 if such property or items are essential to the use of the service, and provided
8 exclusively in connection with the service, and if the true object of the transaction
9 is the service.

10 (c) The retail sale of services, if one of the services is essential to the use or
11 receipt of another service, and provided exclusively in connection with the other
12 service, and if the true object of the transaction is the other service.

13 (d) A transaction that includes taxable and nontaxable products, if the seller's
14 purchase price or the sales price of the taxable products is no greater than 10 percent
15 of the seller's total purchase price or sales price of all the bundled products, as
16 determined by the seller using either the seller's purchase price or sales price, but
17 not a combination of both, or, in the case of a service contract, the full term of the
18 service contract.

19 (e) The retail sale of taxable tangible personal property or items or property
20 under s. 77.52 (1) (b) or (c) and tangible personal property or items or property under
21 s. 77.52 (1) (b) or (c) that is exempt from the taxes imposed under this subchapter,
22 if the transaction includes food and food ingredients, drugs, durable medical
23 equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies
24 and if the seller's purchase price or the sales price of the taxable tangible personal
25 property or items or property under s. 77.52 (1) (b) or (c) is no greater than 50 percent

1 of the seller’s total purchase price or sales price of all the tangible personal property
2 or items or property under s. 77.52 (1) (b) or (c) included in what would otherwise be
3 a bundled transaction, as determined by the seller using either the seller’s purchase
4 price or the sales price, but not a combination of both.

5 **SECTION 9eh.** 77.51 (1fm) of the statutes is created to read:

6 77.51 (1fm) “Candy” means a preparation of sugar, honey, or other natural or
7 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
8 flavorings in the form of bars, drops, or pieces. “Candy” does not include a
9 preparation that contains flour or that requires refrigeration.

10 **SECTION 9ei.** 77.51 (1n) of the statutes is created to read:

11 77.51 (1n) “Computer” means an electronic device that accepts information in
12 digital or similar form and that manipulates such information to achieve a result
13 based on a sequence of instructions.

14 **SECTION 9ej.** 77.51 (1p) of the statutes is created to read:

15 77.51 (1p) “Computer software” means a set of coded instructions designed to
16 cause a computer or automatic data processing equipment to perform a task.

17 **SECTION 9ek.** 77.51 (1r) of the statutes is created to read:

18 77.51 (1r) “Conference bridging service” means an ancillary service that links
19 2 or more participants of an audio or video conference call and may include providing
20 a telephone number, but does not include the telecommunications services used to
21 reach the conference bridge.

22 **SECTION 9eL.** 77.51 (2k) of the statutes is created to read:

23 77.51 (2k) “Delivered electronically” means delivered to a purchaser by means
24 other than by tangible storage media.

25 **SECTION 9em.** 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, items or property under s. 77.52 (1) (b) or (c), or services
3 to a location designated by the purchaser of the tangible personal property, items or
4 property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,
5 shipping, postage, handling, crating, and packing.

6 **SECTION 9en.** 77.51 (3c) of the statutes is created to read:

7 **77.51 (3c)** “Detailed telecommunications billing service” means an ancillary
8 service that separately indicates information pertaining to individual calls on a
9 customer’s billing statement.

10 **SECTION 9eo.** 77.51 (3n) of the statutes is created to read:

11 **77.51 (3n)** “Dietary supplement” means a product, other than tobacco, that is
12 intended to supplement a person’s diet, if all of the following apply:

13 (a) The product contains any of the following ingredients or any combination
14 of any of the following ingredients:

15 1. A vitamin.

16 2. A mineral.

17 3. An herb or other botanical.

18 4. An amino acid.

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

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

22 (b) The product is intended for ingestion in tablet, capsule, powder, soft-gel,
23 gel-cap, or liquid form, or, if not intended for ingestion in such forms, is not
24 represented as conventional food and is not represented for use as the sole item of
25 a meal or diet.

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

3 **SECTION 9ep.** 77.51 (3pd) of the statutes is created to read:

4 77.51 (3pd) “Direct mail” means printed material that is delivered by the U.S.
5 postal service or other delivery service to a mass audience or to addressees on a
6 mailing list provided by or at the direction of the purchaser of the printed material,
7 if the cost of the printed material or any tangible personal property or items or
8 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed
9 directly to the recipients of the printed material. “Direct mail” includes any tangible
10 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
11 or indirectly by the purchaser of the printed material to the seller of the printed
12 material for inclusion in any package containing the printed material, including
13 billing invoices, return envelopes, and additional marketing materials. “Direct mail”
14 does not include multiple items of printed material delivered to a single address.

15 **SECTION 9eq.** 77.51 (3pe) of the statutes is created to read:

16 77.51 (3pe) “Directory assistance” means an ancillary service that provides
17 telephone numbers or addresses.

18 **SECTION 9er.** 77.51 (3pf) of the statutes is created to read:

19 77.51 (3pf) “Distinct and identifiable product” does not include any of the
20 following:

21 (a) Packaging, including containers, boxes, sacks, bags, bottles, and envelopes;
22 and other materials, including wrapping, labels, tags, and instruction guides; that
23 accompany, and are incidental or immaterial to, the retail sale of any product.

24 (b) A product that is provided free of charge to the consumer in conjunction with
25 the purchase of another product, if the sales price of the other product does not vary

1 depending on whether the product provided free of charge is included in the
2 transaction.

3 (c) Any items specified under sub. (12m) (a) or (15b) (a).

4 **SECTION 9es.** 77.51 (3pj) of the statutes is created to read:

5 77.51 **(3pj)** “Drug” means a compound, substance, or preparation, or any
6 component of them, other than food and food ingredients, dietary supplements, or
7 alcoholic beverages, to which any of the following applies:

8 (a) It is listed in the United States Pharmacopoeia, Homeopathic
9 Pharmacopoeia of the United States, or National Formulary, or any supplement to
10 any of them.

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

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

14 **SECTION 9fb.** 77.51 (3pm) of the statutes is created to read:

15 77.51 **(3pm)** “Durable medical equipment” means equipment, including the
16 repair parts and replacement parts for the equipment that is primarily and
17 customarily used for a medical purpose related to a person; that can withstand
18 repeated use; that is not generally useful to a person who is not ill or injured; and that
19 is not placed in or worn on the body. “Durable medical equipment” does not include
20 mobility-enhancing equipment.

21 **SECTION 9fc.** 77.51 (3pn) of the statutes is created to read:

22 77.51 **(3pn)** “Eight hundred service” means a telecommunications service that
23 allows a caller to dial a toll-free number without incurring a charge for the call and
24 is marketed under “800,” “855,” “866,” “877,” or “888” toll-free calling, or any other
25 number designated as toll-free by the federal communications commission.

1 **SECTION 9fd.** 77.51 (3po) of the statutes is created to read:

2 77.51 **(3po)** “Electronic” means relating to technology having electrical, digital,
3 magnetic, wireless, optical, electromagnetic, or similar capabilities.

4 **SECTION 9fe.** 77.51 (3rm) of the statutes is created to read:

5 77.51 **(3rm)** “Fixed wireless service” means a telecommunications service that
6 provides radio communication between fixed points.

7 **SECTION 9ff.** 77.51 (3t) of the statutes is created to read:

8 77.51 **(3t)** “Food and food ingredient” means a substance in liquid,
9 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
10 for chewing, by humans and that is ingested or chewed for its taste or nutritional
11 value. “Food and food ingredient” does not include alcoholic beverages or tobacco.

12 **SECTION 9fg.** 77.51 (4) of the statutes, as affected by 2007 Wisconsin Acts 11
13 and 20, is repealed.

14 **SECTION 9fh.** 77.51 (5) of the statutes is amended to read:

15 77.51 **(5)** For purposes of subs. (13) (e) and (f) and ~~(14)–(L)~~ (15a) and s. 77.52
16 (2m), “incidental” means depending upon or appertaining to something else as
17 primary; something necessary, appertaining to, or depending upon another which is
18 termed the principal; something incidental to the main purpose of the service.
19 Tangible personal property or items or property under s. 77.52 (1) (b) or (c)
20 transferred by a service provider is incidental to the service if the purchaser’s main
21 purpose or objective is to obtain the service rather than the property or items, even
22 though the property or items may be necessary or essential to providing the service.

23 **SECTION 9fi.** 77.51 (5d) of the statutes is created to read:

24 77.51 **(5d)** “International telecommunications services” means
25 telecommunications services that originate or terminate in the United States,

1 including the District of Columbia and any U.S. territory or possession and originate
2 or terminate outside of the United States, including the District of Columbia and any
3 U.S. territory or possession.

4 **SECTION 9fj.** 77.51 (5n) of the statutes is created to read:

5 77.51 (5n) “Interstate telecommunications services” means
6 telecommunications services that originate in one state or U.S. territory or
7 possession and terminate in a different state or U.S. territory or possession.

8 **SECTION 9fk.** 77.51 (5r) of the statutes is created to read:

9 77.51 (5r) “Intrastate telecommunications services” means
10 telecommunications services that originate in one state or U.S. territory or
11 possession and terminate in the same state or U.S. territory or possession.

12 **SECTION 9fm.** 77.51 (6m) of the statutes is renumbered 77.51 (5m).

13 **SECTION 9fn.** 77.51 (7) of the statutes is repealed and recreated to read:

14 77.51 (7) (a) “Lease or rental” means any transfer of possession or control of
15 tangible personal property or items or property under s. 77.52 (1) (b) or (c) for a fixed
16 or indeterminate term and for consideration and includes:

- 17 1. A transfer that includes future options to purchase or extend.
18 2. Agreements related to the transfer of possession or control of motor vehicles
19 or trailers, if the amount of any consideration may be increased or decreased by
20 reference to the amount realized on the sale or other disposition of such motor
21 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

22 (b) “Lease or rental” does not include any of the following:

- 23 1. A transfer of possession or control of tangible personal property or items or
24 property under s. 77.52 (1) (b) or (c) under a security agreement or deferred payment
25 plan, if such agreement or plan requires transferring title to the tangible personal

1 property or items or property under s. 77.52 (1) (b) or (c) after making all required
2 payments.

3 2. A transfer of possession or control of tangible personal property or items or
4 property under s. 77.52 (1) (b) or (c) under any agreement that requires transferring
5 title to the tangible personal property or items or property under s. 77.52 (1) (b) or
6 (c) after making all required payments and after paying an option price that does not
7 exceed the greater of \$100 or 1 percent of the total amount of the required payments.

8 3. Providing tangible personal property or items or property under s. 77.52 (1)
9 (b) or (c) along with an operator, if the operator is necessary for the tangible personal
10 property or items or property under s. 77.52 (1) (b) or (c) to perform in the manner
11 for which it is designed and if the operator does more than maintain, inspect, or set
12 up the tangible personal property or items or property under s. 77.52 (1) (b) or (c).

13 (c) 1. Transfers described under par. (a) are considered a lease or rental,
14 regardless of whether such transfer is considered a lease or rental under generally
15 accepted accounting principles, or any provision of federal or local law, or any other
16 provision of state law.

17 2. Transfers described under par. (b) are not considered a lease or rental,
18 regardless of whether such transfer is considered a lease or rental under generally
19 accepted accounting principles, or any provision of federal or local law, or any other
20 provision of state law.

21 **SECTION 9fo.** 77.51 (7g) of the statutes is created to read:

22 77.51 (7g) “Load–and–leave” means delivery to a purchaser by using a tangible
23 storage media that is not physically transferred to the purchaser.

24 **SECTION 9fp.** 77.51 (7k) of the statutes is created to read:

1 77.51 (7k) “Mobile wireless service” means a telecommunications service for
2 which the origination or termination points of the service’s transmission,
3 conveyance, or routing are not fixed, regardless of the technology used to transmit,
4 convey, or route the service. “Mobile wireless service” includes a telecommunications
5 service provided by a commercial mobile radio service provider.

6 **SECTION 9fq.** 77.51 (7m) of the statutes is created to read:

7 77.51 (7m) “Mobility-enhancing equipment” means equipment, including the
8 repair parts and replacement parts for the equipment, that is primarily and
9 customarily used to provide or increase the ability of a person to move from one place
10 to another; that may be used in a home or motor vehicle; and that is generally not
11 used by a person who has normal mobility. “Mobility-enhancing equipment” does
12 not include a motor vehicle or any equipment on a motor vehicle that is generally
13 provided by a motor vehicle manufacturer. “Mobility-enhancing equipment” does
14 not include durable medical equipment.

15 **SECTION 9fr.** 77.51 (8m) of the statutes is created to read:

16 77.51 (8m) “Nine hundred service” means an inbound toll telecommunications
17 service purchased by a subscriber that allows the subscriber’s customers to call the
18 subscriber’s prerecorded announcement or live service. “Nine hundred service” does
19 not include any charge for collection services provided by the seller of the
20 telecommunications services to the subscriber or for any product or service the
21 subscriber sells to the subscriber’s customers. A “nine hundred service” is
22 designated with the “900” number or any other number designated by the federal
23 communications commission.

24 **SECTION 9fs.** 77.51 (9) (a) of the statutes is amended to read:

1 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
2 property under s. 77.52 (1) (b) or (c), or taxable services where the infrequency, in
3 relation to the other circumstances, including the sales price and the gross profit,
4 support the inference that the seller is not pursuing a vocation, occupation or
5 business or a partial vocation or occupation or part-time business as a vendor of
6 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services.
7 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or
8 (c), or taxable service may be deemed an occasional sale if at the time of such sale the
9 seller holds or is required to hold a seller's permit, except that this provision does not
10 apply to an organization required to hold a seller's permit solely for the purpose of
11 conducting bingo games and except as provided in par. (am).

12 **SECTION 9ft.** 77.51 (9) (am) of the statutes is amended to read:

13 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
14 previously used by a seller to conduct its trade or business at a location after that
15 person has ceased actively operating in the regular course of business as a seller of
16 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
17 services at that location, even though the seller holds a seller's permit for one or more
18 other locations.

19 **SECTION 9fv.** 77.51 (9p) of the statutes is created to read:

20 77.51 (9p) "One nonitemized price" does not include a price that is separately
21 identified by product on a binding sales document, or other sales-related document,
22 that is made available to the customer in paper or electronic form, including an
23 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
24 a periodic notice of rates and services, a rate card, or a price list.

25 **SECTION 9fw.** 77.51 (9s) of the statutes is created to read:

1 77.51 (9s) “Paging service” means a telecommunications service that transmits
2 coded radio signals to activate specific pagers and may include messages or sounds.

3 **SECTION 9gb.** 77.51 (10) of the statutes is amended to read:

4 77.51 (10) “Person” includes any natural person, firm, partnership, limited
5 liability company, joint venture, joint stock company, association, public or private
6 corporation, the United States, the state, including any unit or division of the state,
7 any county, city, village, town, municipal utility, municipal power district or other
8 governmental unit, cooperative, unincorporated cooperative association, estate,
9 trust, receiver, personal representative, any other fiduciary, any other legal entity,
10 and any representative appointed by order of any court or otherwise acting on behalf
11 of others. “Person” also includes the owner of a single-owner entity that is
12 disregarded as a separate entity under ch. 71.

13 **SECTION 9gc.** 77.51 (10d) of the statutes is created to read:

14 77.51 (10d) “Prepaid calling service” means the right to exclusively access
15 telecommunications services, if that right is paid for in advance of providing such
16 services, requires using an access number or authorization code to originate calls,
17 and is sold in predetermined units or dollars that decrease with use in a known
18 amount.

19 **SECTION 9gd.** 77.51 (10f) of the statutes is created to read:

20 77.51 (10f) “Prepaid wireless calling service” means a telecommunications
21 service that provides the right to utilize mobile wireless service as well as other
22 nontelecommunications services, including the download of digital products
23 delivered electronically, content, and ancillary services, and that is paid for prior to
24 use and sold in predetermined dollar units whereby the number of units declines
25 with use in a known amount.

1 **SECTION 9ge.** 77.51 (10m) of the statutes is created to read:

2 77.51 **(10m)** (a) “Prepared food” means:

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

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

5 (b).

6 3. Food and food ingredients sold with eating utensils that are provided by the
7 retailer of the food and food ingredients, including plates, knives, forks, spoons,
8 glasses, cups, napkins, or straws. In this subdivision, “plate” does not include a
9 container or packaging used to transport food and food ingredients. For purposes of
10 this subdivision, a retailer provides utensils if any of the following applies:

11 a. The utensils are available to purchasers and the retailer’s sales of prepared
12 food under subds. 1. and 2., soft drinks, and alcoholic beverages at an establishment
13 are more than 75 percent of the retailer’s total sales at that establishment, as
14 determined under par. (c).

15 b. For retailers not described under subd. 3. a., the retailer’s customary practice
16 is to physically give or hand the utensils to the purchaser, not including plates,
17 glasses, or cups that are necessary for the purchaser to receive the food and food
18 ingredients and that the retailer makes available to the purchaser.

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

21 (b) “Prepared food” does not include:

22 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
23 combined by a retailer for sale as a single item, if the retailer’s primary classification
24 in the 2002 North American Industry Classification System, published by the federal

1 office of management and budget, is manufacturing under subsector 311, not
2 including bakeries and tortilla manufacturing under industry group number 3118.

3 2. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
4 combined by a retailer for sale as a single item, sold unheated, and sold by volume
5 or weight.

6 3. For purposes of par. (a) 2. and 4., bakery items made by a retailer, including
7 breads, rolls, pastries, buns, biscuits, bagels, croissants, donuts, danish, cakes,
8 tortes, pies, tarts, muffins, bars, cookies, and tortillas.

9 4. For purposes of par. (a) 4., food and food ingredients that are only sliced,
10 repackaged, or pasteurized by a retailer.

11 5. For purposes of par. (a) 4., eggs, fish, meat, and poultry, and foods containing
12 any of them in raw form, that require cooking by the consumer, as recommended by
13 the food and drug administration in chapter 3, part 401.11 of its food code to prevent
14 food-borne illnesses.

15 (c) 1. The percentage specified under par. (a) 3. a. shall be determined using the
16 following:

17 a. A numerator that includes sales of prepared food, as defined in par. (a) 1. and
18 2. and food for which plates, bowls, glasses, or cups are necessary to receive the food,
19 but not including alcoholic beverages.

20 b. A denominator that includes all food and food ingredients, including
21 prepared food, candy, dietary supplements, and soft drinks, but not including
22 alcoholic beverages.

23 2. a. If the percentage determined under subd. 1. is 75 percent or less, utensils
24 are considered to be provided by the retailer if the retailer's customary practice is to
25 physically give or hand the utensils to the purchaser or, in the case of plates, bowls,

1 glasses, or cups that are necessary to receive the food, to make such items available
2 to the purchaser.

3 b. If the percentage determined under subd. 1. is greater than 75 percent,
4 utensils are considered to be provided by the retailer if the utensils are made
5 available to the purchaser.

6 3. For a retailer whose percentage determined under subd. 1. is greater than
7 75 percent, an item sold by the retailer that contains 4 or more servings packaged
8 as 1 item and sold for a single price does not become prepared food simply because
9 the retailer makes utensils available to the purchaser of the item, but does become
10 prepared food if the retailer physically gives or hands utensils to the purchaser of the
11 item. For purposes of this subdivision 3. a., serving sizes are based on the
12 information contained on the label of each item sold, except that, if the item has no
13 label, the serving size is based on the retailer's reasonable determination.

14 4. a. Except as provided in subd. 4. b., if a retailer sells food items that have a
15 utensil placed in a package by a person other than the retailer, the utensils are
16 considered to be provided by the retailer.

17 b. Except as provided in subds. 2. and 3., if a retailer sells food items that have
18 a utensil placed in a package by a person other than the retailer and the person's
19 primary classification in the 2002 North American Industry Classification System,
20 published by the federal office of management and budget, is manufacturing under
21 subsector 311, the utensils are not considered to be provided by the retailer.

22 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
23 retailer's tax year or business fiscal year, based on the retailer's data from the
24 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
25 accounting records are available, but not later than 90 days after the day on which

1 the retailer's tax year or business fiscal year begins. For retailer's with more than
2 one establishment in this state, a single determination under subd. 1. that combines
3 the information for all of the retailer's establishments in this state shall be made
4 annually, as provided in this subdivision, and apply to each of the retailer's
5 establishments in this state. A retailer that has no prior tax year or business fiscal
6 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
7 the retailer's first tax year or business fiscal year and shall adjust the estimate
8 prospectively after the first 3 months of the retailer's operations if the actual
9 percentage is materially different from the estimated percentage.

10 **SECTION 9gf.** 77.51 (10n) of the statutes is created to read:

11 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
12 any oral, written, electronic, or other means of transmission and by a person who is
13 authorized by the laws of this state to issue such an order, formula, or recipe.

14 **SECTION 9gg.** 77.51 (10r) of the statutes is created to read:

15 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

23 (d) Any combination of computer software under pars. (a) to (c), including any
24 combination with any portion of such software.

1 (e) Computer software as described under pars. (a) to (d), and any portion of
2 such software, that is modified or enhanced by any degree to a specific purchaser's
3 specifications, except such modification or enhancement that is reasonably and
4 separately indicated on an invoice, or other statement of the price, provided to the
5 purchaser.

6 **SECTION 9gh.** 77.51 (10s) of the statutes is created to read:

7 77.51 (10s) "Private communication service" means a telecommunications
8 service that entitles the customer to exclusive or priority use of a communications
9 channel or group of communications channels, regardless of the manner in which the
10 communications channel or group of communications channels is connected, and
11 includes switching capacity, extension lines, stations, and other associated services
12 that are provided in connection with the use of such channel or channels.

13 **SECTION 9gi.** 77.51 (11d) of the statutes is created to read:

14 77.51 (11d) "Product" includes tangible personal property, items or property
15 under s. 77.52 (1) (b) and (c), and services.

16 **SECTION 9gj.** 77.51 (11m) of the statutes is created to read:

17 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
18 replacement parts for the device, that is placed in or worn on the body to artificially
19 replace a missing portion of the body; to prevent or correct a physical deformity or
20 malfunction; or to support a weak or deformed portion of the body.

21 **SECTION 9gk.** 77.51 (12) (a) of the statutes, as affected by 2007 Wisconsin Act
22 20, is repealed and recreated to read:

23 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
24 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
25 otherwise, in any manner or by any means whatever of tangible personal property

1 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
2 transaction for which a person's books and records show the transaction created,
3 with regard to the transferee, an obligation to pay a certain amount of money or an
4 increase in accounts payable or, with regard to the transferor, a right to receive a
5 certain amount of money or an increase in accounts receivable;

6 **SECTION 9gL.** 77.51 (12) (b) of the statutes is amended to read:

7 77.51 (12) (b) A transaction whereby the possession of property or items or
8 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
9 security for the payment of the price.

10 **SECTION 9gm.** 77.51 (12m) of the statutes is created to read:

11 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
12 including cash, credit, property, and services, for which tangible personal property,
13 items or property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented,
14 valued in money, whether paid in money or otherwise, without any deduction for the
15 following:

16 1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or
17 (c) sold.

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

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

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

24 b. If a shipment includes property or items that are subject to tax under this
25 subchapter and property or items that are not subject to tax under this subchapter,

1 the amount of the delivery charge that the seller allocates to the property or items
2 that are subject to tax under this subchapter is based either on the total purchase
3 price of the property or items that are subject to tax under this subchapter as
4 compared to the total purchase price of all the property or items or on the total weight
5 of the property or items that are subject to tax under this subchapter as compared
6 to the total weight of all the property or items, except that if the seller does not make
7 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge
8 amount, consistent with this subd. 4. b.

9 5. Installation charges.

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

11 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
12 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
13 taken by a purchaser on a sale.

14 2. Interest, financing, and carrying charges from credit that is extended on a
15 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or
16 services, if the amount of the interest, financing, or carrying charges is separately
17 stated on the invoice, bill of sale, or similar document that the seller gives to the
18 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, an item
24 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
25 of an article, item, or property of greater value, the amount of the purchase price that

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

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

10 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new
11 manufactured home, as defined in s. 101.91 (11). This subdivision does not apply to
12 a lease or rental.

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

18 (c) "Purchase price" includes consideration received by the seller from a 3rd
19 party, if:

20 1. The seller actually receives consideration from a 3rd party, other than the
21 purchaser, and the consideration is directly related to a price reduction or discount
22 on a sale.

23 2. The seller is obliged to pass the price reduction or discount to the purchaser.

1 3. The amount of the consideration that is attributable to the sale is a fixed
2 amount and the seller is able to determine that amount at the time of the sale to the
3 purchaser.

4 4. One of the following also applies:

5 a. The purchaser presents a coupon, certificate, or other documentation to the
6 seller to claim the price reduction or discount, if the coupon, certificate, or other
7 documentation is authorized, distributed, or granted by the 3rd party with the
8 understanding that the 3rd party will reimburse the seller for the amount of the price
9 reduction or discount.

10 b. The purchaser identifies himself or herself to the seller as a member of a
11 group or organization that may claim the price reduction or discount.

12 c. The seller provides an invoice to the purchaser, or the purchaser presents a
13 coupon, certificate, or other documentation to the seller, that identifies the price
14 reduction or discount as a 3rd-party price reduction or discount.

15 **SECTION 9gn.** 77.51 (12p) of the statutes is created to read:

16 77.51 (12p) “Purchaser” means a person to whom a sale of tangible personal
17 property is made or to whom a service is furnished.

18 **SECTION 9go.** 77.51 (13) (a) of the statutes is amended to read:

19 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
20 is mercantile in nature, of tangible personal property, items or property under s.
21 77.52 (1) (b) or (c), or a service specified under s. 77.52 (2) (a).

22 **SECTION 9gp.** 77.51 (13) (b) of the statutes is amended to read:

23 77.51 (13) (b) Every person engaged in the business of making sales of tangible
24 personal property or items or property under s. 77.52 (1) (b) or (c) for storage, use or
25 consumption or in the business of making sales at auction of tangible personal

1 property or items or property under s. 77.52 (1) (b) or (c) owned by the person or others
2 for storage, use or other consumption.

3 **SECTION 9gq.** 77.51 (13) (c) of the statutes is amended to read:

4 77.51 (13) (c) When the department determines that it is necessary for the
5 efficient administration of this subchapter to regard any salespersons,
6 representatives, peddlers or canvassers as the agents of the dealers, distributors,
7 supervisors or employers under whom they operate or from whom they obtain the
8 tangible personal property or items or property under s. 77.52 (1) (b) or (c) sold by
9 them, irrespective of whether they are making the sales on their own behalf or on
10 behalf of such dealers, distributors, supervisors or employers, the department may
11 so regard them and may regard the dealers, distributors, supervisors or employers
12 as retailers for purposes of this subchapter.

13 **SECTION 9gr.** 77.51 (13) (d) of the statutes is amended to read:

14 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
15 personal property or items or property under s. 77.52 (1) (b) or (c) to a person other
16 than a seller as defined in sub. (17) provided such wholesaler is not expressly exempt
17 from the sales tax on such sale or from collecting the use tax on such sale.

18 **SECTION 9gs.** 77.51 (13) (e) of the statutes is amended to read:

19 77.51 (13) (e) A person selling tangible personal property or items or property
20 under s. 77.52 (1) (b) or (c) to a service provider who transfers the property in
21 conjunction with the selling, performing or furnishing of any service and the
22 property is or items are incidental to the service, unless the service provider is
23 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.
24 This subsection does not apply to sub. (2).

25 **SECTION 9gt.** 77.51 (13) (f) of the statutes is amended to read:

1 77.51 (13) (f) A service provider who transfers tangible personal property or
2 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental
3 to the selling, performing or furnishing of any service and a service provider selling,
4 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This
5 subsection does not apply to sub. (2).

6 **SECTION 9gv.** 77.51 (13) (k) of the statutes is amended to read:

7 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
8 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
9 or (c) situated in this state.

10 **SECTION 9gw.** 77.51 (13) (m) of the statutes is amended to read:

11 77.51 (13) (m) A person selling tangible personal property or items or property
12 under s. 77.52 (1) (b) or (c) to a veterinarian to be used or furnished by the
13 veterinarian in the performance of services in some manner related to domestic
14 animals, including pets or poultry.

15 **SECTION 9hb.** 77.51 (13) (n) of the statutes is amended to read:

16 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
17 appliances or other items of tangible personal property or items or property under
18 s. 77.52 (1) (b) or (c) to a landlord for use by tenants in leased or rented living
19 quarters.

20 **SECTION 9hc.** 77.51 (13) (o) of the statutes is amended to read:

21 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
22 As used in this paragraph, “animal” includes livestock, pets and poultry.

23 **SECTION 9hd.** 77.51 (13g) (intro.) of the statutes is amended to read:

1 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
2 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of
3 the use tax, means any of the following:

4 **SECTION 9he.** 77.51 (13g) (a) of the statutes is amended to read:

5 77.51 (13g) (a) Any retailer owning any real property in this state or leasing
6 or renting out any tangible personal property, or items or property under s. 77.52 (1)
7 (b) or (c), located in this state or maintaining, occupying or using, permanently or
8 temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever
9 name called, an office, place of distribution, sales or sample room or place, warehouse
10 or storage place or other place of business in this state.

11 **SECTION 9hf.** 77.51 (13g) (b) of the statutes is amended to read:

12 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,
13 canvasser or solicitor operating in this state under the authority of the retailer or its
14 subsidiary for the purpose of selling, delivering or the taking of orders for any
15 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
16 services.

17 **SECTION 9hg.** 77.51 (13g) (c) of the statutes is created to read:

18 77.51 (13g) (c) Any retailer selling tangible personal property, items or
19 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other
20 consumption in this state, unless otherwise limited by federal law.

21 **SECTION 9hh.** 77.51 (13r) of the statutes is amended to read:

22 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
23 be deemed the consumer of the tangible personal property, items or property under
24 s. 77.52 (1) (b) or (c), or services purchased.

25 **SECTION 9hi.** 77.51 (13rm) of the statutes is created to read:

1 77.51 (13rm) “Retail sale” or “sale at retail” means any sale, lease, or rental
2 for any purpose other than resale, sublease, or subrent.

3 **SECTION 9hj.** 77.51 (13rn) of the statutes is created to read:

4 77.51 (13rm) “Ringtones” means digitized sound files that are downloaded onto
5 a device and that may be used to alert the customer with regard to a communication.
6 “Ringtones” includes MP3 or musical tones, polyphonic tones, and synthetic music
7 mobile application format tones, but does not include ring-back tones.

8 **SECTION 9hk.** 77.51 (14) (intro.) of the statutes is amended to read:

9 77.51 (14) (intro.) “Sale”, ~~“sale, lease or rental”, “retail sale”, “sale at retail”, or~~
10 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the
11 ownership of, title to, possession of, or enjoyment of tangible personal property, items
12 or property under s. 77.52 (1) (b) or (c). or services for use or consumption but not for
13 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c).
14 or services and includes:

15 **SECTION 9hL.** 77.51 (14) (a) of the statutes is amended to read:

16 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
17 property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a
18 successful bidder. ~~The proceeds from, except~~ the sale of property or items sold at
19 auction which is are bid in by the seller and on which title does not pass to a new
20 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~
21 ~~on the net proceeds.~~

22 **SECTION 9hm.** 77.51 (14) (b) of the statutes is amended to read:

23 77.51 (14) (b) The furnishing or distributing of tangible personal property,
24 items or property under s. 77.52 (1) (b) or (c). or taxable services for a consideration
25 by social clubs and fraternal organizations to their members or others.

1 **SECTION 9hn.** 77.51 (14) (c) of the statutes is amended to read:

2 77.51 (14) (c) A transaction whereby the possession of tangible personal
3 property is or items or property under s. 77.52 (1) (b) or (c) are transferred but the
4 seller retains the title as security for the payment of the price.

5 **SECTION 9hp.** 77.51 (14) (d) of the statutes is repealed.

6 **SECTION 9hq.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

7 **SECTION 9hr.** 77.51 (14) (h) of the statutes is amended to read:

8 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
9 personal property or items or property under s. 77.52 (1) (b) or (c) which has have
10 been produced, fabricated, or printed to the special order of the customer or of any
11 publication.

12 **SECTION 9hs.** 77.51 (14) (i) of the statutes is repealed.

13 **SECTION 9ht.** 77.51 (14) (j) of the statutes is amended to read:

14 77.51 (14) (j) The granting of possession of tangible personal property or items
15 or property under s. 77.52 (1) (b) or (c) by a lessor to a lessee, or to another person at
16 the direction of the lessee. Such a transaction is deemed a continuing sale in this
17 state ~~by the lessor for the duration of the lease as respects any period of time the~~
18 ~~leased property is situated in this state, irrespective of the time or place of delivery~~
19 ~~of the property to the lessee or such other person.~~

20 **SECTION 9hv.** 77.51 (14) (k) of the statutes is repealed.

21 **SECTION 9hw.** 77.51 (14) (L) of the statutes is repealed.

22 **SECTION 9ib.** 77.51 (14g) (a) of the statutes is amended to read:

23 77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)
24 (b) or (c) to a corporation upon its organization solely in consideration for the issuance
25 of its stock;

1 **SECTION 9ic.** 77.51 (14g) (b) of the statutes is amended to read:

2 77.51 **(14g)** (b) The contribution of property or items or property under s. 77.52
3 (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership
4 interest therein;

5 **SECTION 9id.** 77.51 (14g) (bm) of the statutes is amended to read:

6 77.51 **(14g)** (bm) The contribution of property or items or property under s.
7 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in
8 consideration for a membership interest;

9 **SECTION 9ie.** 77.51 (14g) (c) of the statutes is amended to read:

10 77.51 **(14g)** (c) The transfer of property or items or property under s. 77.52 (1)
11 (b) or (c) to a corporation, solely in consideration for the issuance of its stock,
12 pursuant to a merger or consolidation;

13 **SECTION 9if.** 77.51 (14g) (cm) of the statutes is amended to read:

14 77.51 **(14g)** (cm) The transfer of property or items or property under s. 77.52
15 (1) (b) or (c) to a limited liability company, solely in consideration for a membership
16 interest, pursuant to a merger;

17 **SECTION 9ig.** 77.51 (14g) (d) of the statutes is amended to read:

18 77.51 **(14g)** (d) The distribution of property or items or property under s. 77.52
19 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial
20 liquidation;

21 **SECTION 9ih.** 77.51 (14g) (e) of the statutes is amended to read:

22 77.51 **(14g)** (e) The distribution of property or items or property under s. 77.52
23 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

24 **SECTION 9ii.** 77.51 (14g) (em) of the statutes is amended to read:

1 77.51 (14g) (em) The distribution of property or items or property under s.
2 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial
3 liquidation;

4 **SECTION 9ij.** 77.51 (14g) (f) of the statutes is amended to read:

5 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)
6 **(b) or (c)** by the seller from the purchaser when the only consideration is cancellation
7 of the purchaser’s obligation to pay the remaining balance of the purchase price;

8 **SECTION 9ik.** 77.51 (14g) (g) of the statutes is amended to read:

9 77.51 (14g) (g) The transfer of property or items or property under s. 77.52 (1)
10 **(b) or (c)** in a reorganization as defined in section 368 of the internal revenue code
11 in which no gain or loss is recognized for franchise or income tax purposes; or

12 **SECTION 9iL.** 77.51 (14g) (h) of the statutes is amended to read:

13 77.51 (14g) (h) Any transfer of all or substantially all the property or items or
14 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an
15 activity requiring the holding of a seller’s permit, if after the transfer the real or
16 ultimate ownership of the property or items is substantially similar to that which
17 existed before the transfer. For the purposes of this section, stockholders,
18 bondholders, partners, members or other persons holding an interest in a
19 corporation or other entity are regarded as having the real or ultimate ownership of
20 the property or items of the corporation or other entity. In this paragraph,
21 “substantially similar” means 80% or more of ownership.

22 **SECTION 9im.** 77.51 (14r) of the statutes is repealed.

23 **SECTION 9in.** 77.51 (15) of the statutes, as affected by 2007 Wisconsin Act 11,
24 is repealed.

25 **SECTION 9io.** 77.51 (15a) of the statutes is created to read:

1 77.51 **(15a)** (a) “Sales, lease, or rental for resale, sublease, or subrent” includes
2 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or
3 (c) to a service provider that the service provider transfers in conjunction with but
4 not incidental to the selling, performing, or furnishing of any service, and transfers
5 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a
6 service provider that the service provider physically transfers in conjunction with
7 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.
8 This paragraph does not apply to sub. (2).

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

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

15 2. Any sale of tangible personal property or items or property under s. 77.52
16 (1) (b) or (c) to a purchaser even though such property or items may be used or
17 consumed by some other person to whom such purchaser transfers the property or
18 items without valuable consideration, such as gifts, and advertising specialties
19 distributed at no charge and apart from the sale of other tangible personal property,
20 items or property under s. 77.52 (1) (b) or (c), or service.

21 3. Transfers of tangible personal property or items or property under s. 77.52
22 (1) (b) or (c) to a service provider that the service provider transfers in conjunction
23 with the selling, performing, or furnishing of any service, if the tangible personal
24 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,

1 unless the service provider is selling, performing, or furnishing services under s.
2 77.52 (2) (a) 7., 10., 11., or 20.

3 **SECTION 9ip.** 77.51 (15b) of the statutes is created to read:

4 77.51 (15b) (a) “Sales price” means the total amount of consideration, including
5 cash, credit, property, and services, for which tangible personal property, items or
6 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in
7 money, whether received in money or otherwise, without any deduction for the
8 following:

9 1. The seller’s cost of the property or items or property under s. 77.52 (1) (b) or
10 (c) sold.

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

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

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

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

25 5. Installation charges.

1 (b) “Sales price” does not include:

2 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
3 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
4 taken by a purchaser on a sale.

5 2. Interest, financing, and carrying charges from credit that is extended on a
6 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or
7 services, if the amount of the interest, financing, or carrying charges is separately
8 stated on the invoice, bill of sale, or similar document that the seller gives to the
9 purchaser.

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

13 4. Delivery charges for direct mail.

14 5. In all transactions in which an article of tangible personal property, an item
15 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
16 of an article, item, or property of greater value, the amount of the sales price that
17 represents the amount allowed for the article, item, or property traded, except that
18 this subdivision 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
2 manufactured home, as defined in s. 101.91 (11) . This subdivision does not apply
3 to a lease or rental.

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

9 (c) “Sales price” includes consideration received by the seller from a 3rd party,
10 if:

11 1. The seller actually receives consideration from a 3rd party, other than the
12 purchaser, and the consideration is directly related to a price reduction or discount
13 on a sale.

14 2. The seller is obliged to pass the price reduction or discount to the purchaser.

15 3. The amount of the consideration that is attributable to the sale is a fixed
16 amount and the seller is able to determine that amount at the time of the sale to the
17 purchaser.

18 4. One of the following also applies:

19 a. The purchaser presents a coupon, certificate, or other documentation to the
20 seller to claim the price reduction or discount, if the coupon, certificate, or other
21 documentation is authorized, distributed, or granted by the 3rd party with the
22 understanding that the 3rd party will reimburse the seller for the amount of the price
23 reduction or discount.

24 b. The purchaser identifies himself or herself to the seller as a member of a
25 group or organization that may claim the price reduction or discount.

1 c. The seller provides an invoice to the purchaser, or the purchaser presents a
2 coupon, certificate, or other documentation to the seller, that identifies the price
3 reduction or discount as a 3rd-party price reduction or discount.

4 **SECTION 9iq.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin
5 Act 20, is amended to read:

6 77.51 (17) (intro.) “Seller” includes every person selling, leasing, or renting
7 tangible personal property or items or property under s. 77.52 (1) (b) or (c) or selling,
8 performing, or furnishing services of a kind the ~~gross receipts~~ sales price from the
9 sale, lease, rental, performance, or furnishing of which ~~are~~ is required to be included
10 in the measure of the sales tax, regardless of all of the following:

11 **SECTION 9ir.** 77.51 (17m) of the statutes is repealed and recreated to read:

12 77.51 (17m) “Service address” means any of the following:

13 (a) The location of the telecommunications equipment to which a customer’s
14 telecommunications service is charged and from which the telecommunications
15 service originates or terminates, regardless of where the telecommunications service
16 is billed or paid.

17 (b) If the location described under par. (a) is not known by the seller who sells
18 the telecommunications service, the location where the signal of the
19 telecommunications service originates, as identified by the seller’s
20 telecommunications system or, if the signal is not transmitted by the seller’s
21 telecommunications system, by information that the seller received from the seller’s
22 service provider.

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

25 **SECTION 9is.** 77.51 (17w) of the statutes is created to read:

1 77.51 (17w) “Soft drink” means a beverage that contains less than 0.5 percent
2 of alcohol and that contains natural or artificial sweeteners. “Soft drink” does not
3 include a beverage that contains milk or milk products; soy, rice, or similar milk
4 substitutes; or more than 50 percent vegetable or fruit juice by volume.

5 **SECTION 9it.** 77.51 (18) of the statutes is amended to read:

6 77.51 (18) “Storage” includes any keeping or retention in this state of tangible
7 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a
8 retailer for any purpose except sale in the regular course of business.

9 **SECTION 9iv.** 77.51 (20) of the statutes is amended to read:

10 77.51 (20) “Tangible personal property” means ~~all tangible personal property~~
11 ~~of every kind and description~~ that can be seen, weighed, measured, felt, or touched,
12 or that is in any other manner perceptible to the senses, and includes electricity,
13 natural gas, steam and, water, and also leased property affixed to realty if the lessor
14 has the right to remove the property upon breach or termination of the lease
15 agreement, unless the lessor of the property is also the lessor of the realty to which
16 the property is affixed. “Tangible personal property” also includes coins and stamps
17 of the United States sold or traded as collectors’ items above their face value and
18 computer programs except custom computer programs prewritten computer
19 software, but does not include items or property under s. 77.52 (1) (b) or (c).

20 **SECTION 9iw.** 77.51 (21) of the statutes is amended to read:

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

24 **SECTION 9jb.** 77.51 (21m) of the statutes is amended to read:

1 **77.51 (21m)** “Telecommunications and Internet access services” means
2 sending messages and information transmitted through the use of local, toll and
3 wide–area telephone service; channel services; telegraph services; teletypewriter;
4 computer exchange services; cellular mobile telecommunications service; specialized
5 mobile radio; stationary two–way radio; paging service; or any other form of mobile
6 and portable one–way or two–way communications; or any other transmission of
7 messages or information by electronic or similar means between or among points by
8 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
9 “Telecommunications and Internet access services” does not include sending collect
10 telecommunications that are received outside of the state.

11 **SECTION 9jc.** 77.51 (21m) of the statutes, as affected by 2007 Wisconsin Act
12 (this act), is repealed and recreated to read:

13 **77.51 (21m)** “Internet access services” means sending messages and
14 information transmitted through the use of local, toll and wide–area telephone
15 service; channel services; telegraph services; teletypewriter; computer exchange
16 services; cellular mobile telecommunications service; specialized mobile radio;
17 stationary two–way radio; paging service; or any other form of mobile and portable
18 one–way or two–way communications; or any other transmission of messages or
19 information by electronic or similar means between or among points by wire, cable,
20 fiber optics, laser, microwave, radio, satellite or similar facilities. “Internet access
21 services” does not include telecommunications services to the extent that such
22 services are taxable under s. 77.52 (2) (a) 5. am.

23 **SECTION 9jd.** 77.51 (21n) of the statutes is created to read:

24 **77.51 (21n)** “Telecommunications services” means electronically transmitting,
25 conveying, or routing voice, data, audio, video, or other information or signals to a

1 point or between or among points. “Telecommunications services” includes the
2 transmission, conveyance, or routing of such information or signals in which
3 computer processing applications are used to act on the content’s form, code, or
4 protocol for transmission, conveyance, or routing purposes, regardless of whether
5 the service is referred to as a voice over Internet protocol service or classified by the
6 federal communications commission as an enhanced or value-added service.

7 “Telecommunications services” does not include any of the following:

8 (a) Data processing and information services that allow data to be generated,
9 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic
10 transmission, if the purchaser’s primary purpose for the underlying transaction is
11 the processed data.

12 (b) Installing or maintaining wiring or equipment on a customer’s premises.

13 (c) Tangible personal property.

14 (d) Advertising, including directory advertising.

15 (e) Billing and collection services provided to 3rd parties.

16 (f) Internet access services.

17 (g) Radio and television audio and video programming services, regardless of
18 the medium in which the services are provided, including cable service, as defined
19 in 47 USC 522 (6), audio and video programming services delivered by commercial
20 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,
21 conveying, or routing of such services by the programming service provider.

22 (h) Ancillary services.

23 (i) Digital products delivered electronically, including software, music, video,
24 reading materials, or ringtones.

25 **SECTION 9je.** 77.51 (21p) of the statutes is created to read:

1 77.51 **(21p)** “Tobacco” means cigarettes, cigars, chewing tobacco, pipe tobacco,
2 and any other item that contains tobacco.

3 **SECTION 9jf.** 77.51 (21q) of the statutes is created to read:

4 77.51 **(21q)** “Transferred electronically” means accessed or obtained by the
5 purchaser by means other than tangible storage media.

6 **SECTION 9jg.** 77.51 (22) (a) of the statutes is amended to read:

7 77.51 **(22)** (a) “Use” includes the exercise of any right or power over tangible
8 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services
9 incident to the ownership, possession or enjoyment of the property, items, or services,
10 or the results produced by the services, including installation or affixation to real
11 property and including the possession of, or the exercise of any right or power over
12 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee
13 under a lease, except that “use” does not include the activities under sub. (18).

14 **SECTION 9jh.** 77.51 (22) (b) of the statutes is amended to read:

15 77.51 **(22)** (b) In this subsection “enjoyment” includes a purchaser’s right to
16 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),
17 whether or not the purchaser has possession of the property or items. “Enjoyment”
18 also includes, but is not limited to, having shipped into this state by an out-of-state
19 supplier printed material which is designed to promote the sale of property, items or
20 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the
21 business activities, of the purchaser of the printed material or printing service.

22 **SECTION 9ji.** 77.51 (22) (bm) of the statutes is created to read:

23 77.51 **(22)** (bm) In this subsection, “exercise of any right or power over tangible
24 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services”
25 includes distributing, selecting recipients, determining mailing schedules, or

1 otherwise directing the distribution, dissemination, or disposal of tangible personal
2 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless
3 of whether the purchaser of such property, items, or services owns or physically
4 possesses, in this state, the property, items, or services.

5 **SECTION 9jj.** 77.51 (24) of the statutes is created to read:

6 77.51 (24) “Value-added non-voice data service” means a service in which
7 computer processing applications are used to act on the form, content, code, or
8 protocol of the data provided by the service and are used primarily for a purpose other
9 than for transmitting, conveying, or routing data.

10 **SECTION 9jk.** 77.51 (25) of the statutes is created to read:

11 77.51 (25) “Vertical service” means an ancillary service that is provided with
12 one or more telecommunications services and allows customers to identify callers
13 and to manage multiple calls and call connections, including conference bridging
14 services.

15 **SECTION 9jL.** 77.51 (26) of the statutes is created to read:

16 77.51 (26) “Voice mail service” means an ancillary service that allows a
17 customer to store, send, or receive recorded messages, not including any vertical
18 service that the customer must have to use the voice mail service.

19 **SECTION 9jm.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
20 to read:

21 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
22 personal property, including accessories, components, attachments, parts, supplies
23 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
24 gross receipts sales price from the sale, license, lease or rental of tangible personal

1 property, including accessories, components, attachments, parts, supplies and
2 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

3 **SECTION 9jn.** 77.52 (1) (b) of the statutes is created to read:

4 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United
5 States that are sold or traded as collectors' items above their face value, a tax is
6 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such
7 coins and stamps.

8 **SECTION 9jo.** 77.52 (1) (c) of the statutes is created to read:

9 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
10 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease
11 of such property, if the lessor has the right to remove the leased property upon breach
12 or termination of the lease agreement, unless the lessor of the leased property is also
13 the lessor of the real property to which the leased property is affixed.

14 **SECTION 9jp.** 77.52 (1b) of the statutes, as created by 2007 Wisconsin Act 20,
15 is repealed and recreated to read:

16 77.52 (1b) All sales, leases, or rentals of tangible personal property or items
17 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed
18 under sub. (1) unless an exemption in this subchapter applies.

19 **SECTION 9jq.** 77.52 (2) (intro.) of the statutes is amended to read:

20 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
21 the services described under par. (a) at retail in this state, as determined under s.
22 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,
23 performing or furnishing the services at the rate of 5% of the ~~gross receipts~~ sales price
24 from the sale, license, performance or furnishing of the services.

25 **SECTION 9jr.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

1 77.52 (2) (a) 5. a. The sale of telecommunications and Internet access services,
2 except services subject to 4 USC 116 to 126, as amended by P.L. 106–252, that either
3 originate or terminate in this state; except services that are obtained by means of a
4 toll-free number, that originate outside this state and that terminate in this state;
5 and are charged to a service address in this state, regardless of the location where
6 that charge is billed or paid; and the sale of the rights to purchase
7 telecommunications services, including purchasing reauthorization numbers, by
8 paying in advance and by using an access number and authorization code, except
9 sales that are subject to subd. 5. b.

10 **SECTION 9js.** 77.52 (2) (a) 5. a. of the statutes, as affected by 2007 Wisconsin
11 Act (this act), is repealed and recreated to read:

12 77.52 (2) (a) 5. a. The sale of Internet access services.

13 **SECTION 9jt.** 77.52 (2) (a) 5. am. of the statutes is created to read:

14 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
15 telecommunications services, except interstate 800 services.

16 **SECTION 9jv.** 77.52 (2) (a) 5. b. of the statutes is repealed.

17 **SECTION 9jw.** 77.52 (2) (a) 5. c. of the statutes is created to read:

18 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed
19 telecommunications billing services.

20 **SECTION 9kb.** 77.52 (2) (a) 5m. of the statutes is amended to read:

21 77.52 (2) (a) 5m. The sale of services that consist of recording
22 telecommunications messages and transmitting them to the purchaser of the service
23 or at that purchaser's direction, but not including those services if they are merely
24 an that are taxable under subd. 5. or services that are incidental, as defined in s.
25 77.51 (5), ~~element of~~ to another service that is not taxable under this subchapter and

1 sold to ~~that~~ the purchaser of the incidental service and is ~~not taxable under this~~
2 subchapter.

3 **SECTION 9kc.** 77.52 (2) (a) 10. of the statutes is amended to read:

4 77.52 **(2)** (a) 10. Except for services provided by veterinarians and except for
5 installing or applying tangible personal property that, subject to par. (ag), when
6 installed or applied, will constitute an addition or capital improvement of real
7 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
8 inspection, and maintenance of all items of tangible personal property or items or
9 property under sub. (1) (b) or (c). unless, at the time of that ~~the~~ repair, service,
10 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance,
11 a sale in this state of the type of property or item repaired, serviced, altered, fitted,
12 cleaned, painted, coated, towed, inspected, or maintained would have been exempt
13 to the customer from sales taxation under this subchapter, other than the exempt
14 sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other
15 than nontaxable sales under s. ~~77.51–(14r) juvenile 77.522~~ or unless the repair,
16 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or
17 maintenance is provided under a contract that is subject to tax under subd. 13m. The
18 tax imposed under this subsection applies to the repair, service, alteration, fitting,
19 cleaning, painting, coating, towing, inspection, or maintenance of items listed in par.
20 (ag), regardless of whether the installation or application of tangible personal
21 property or items or property under sub. (1) (b) or (c) related to the items is an
22 addition to or a capital improvement of real property, except that the tax imposed
23 under this subsection does not apply to the original installation or the complete
24 replacement of an item listed in par. (ag), if that ~~the~~ installation or replacement is
25 a real property construction activity under s. 77.51 (2).

1 **SECTION 9kd.** 77.52 (2) (a) 11. of the statutes, as affected by 2007 Wisconsin Act
2 20, is amended to read:

3 77.52 (2) (a) 11. The producing, fabricating, processing, printing, or imprinting
4 of tangible personal property or items or property under sub. (1) (b) or (c) for a
5 consideration for consumers who furnish directly or indirectly the materials used in
6 the producing, fabricating, processing, printing, or imprinting. This subdivision
7 does not apply to the printing or imprinting of tangible personal property or items
8 or property under sub. (1) (b) or (c) that results in printed material, catalogs, or
9 envelopes that are exempt under s. 77.54 (25) or (25m).

10 **SECTION 9ke.** 77.52 (2) (a) 13m. of the statutes is created to read:

11 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
12 maintenance agreements, and warranties, that provide, in whole or in part, for the
13 future performance of or payment for the repair, service, alteration, fitting, cleaning,
14 painting, coating, towing, inspection, or maintenance of tangible personal property
15 or items or property under sub. (1) (b) or (c), unless the sale, lease, or rental in this
16 state of the property or items to which the contract relates is or was exempt, to the
17 purchaser of the contract, from taxation under this subchapter.

18 **SECTION 9kf.** 77.52 (2m) (a) of the statutes is amended to read:

19 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
20 of the charge for the service may be deemed a sale or rental of tangible personal
21 property or items or property under sub. (1) (b) or (c) if the property or items
22 transferred by the service provider ~~is~~ are incidental to the selling, performing or
23 furnishing of the service, except as provided in par. (b).

24 **SECTION 9kg.** 77.52 (2m) (b) of the statutes is amended to read:

1 77.52 **(2m)** (b) With respect to the services subject to tax under sub. (2) (a) 7.,
2 10., 11. and 20., all property or items or property under sub. (1) (b) or (c) physically
3 transferred, or transferred electronically, to the customer in conjunction with the
4 selling, performing or furnishing of the service is a sale of tangible personal property
5 or items or property under sub. (1) (b) or (c) separate from the selling, performing or
6 furnishing of the service.

7 **SECTION 9kh.** 77.52 (2n) of the statutes, as created by 2007 Wisconsin Act 20,
8 is repealed and recreated to read:

9 77.52 **(2n)** The selling, licensing, performing, or furnishing of the services
10 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is
11 subject to the tax imposed under sub. (2) unless an exemption in this subchapter
12 applies.

13 **SECTION 9ki.** 77.52 (3m) of the statutes is repealed.

14 **SECTION 9kj.** 77.52 (3n) of the statutes is repealed.

15 **SECTION 9kk.** 77.52 (4) of the statutes is amended to read:

16 77.52 **(4)** It is unlawful for any retailer to advertise or hold out or state to the
17 public or to any customer, directly or indirectly, that the tax or any part thereof will
18 be assumed or absorbed by the retailer or that it will not be added to the selling price
19 of the property or items or property under sub. (1) (b) or (c) sold or that if added it,
20 or any part thereof, will be refunded. Any person who violates this subsection is
21 guilty of a misdemeanor.

22 **SECTION 9kL.** 77.52 (6) of the statutes is repealed.

23 **SECTION 9km.** 77.52 (7) of the statutes is amended to read:

24 77.52 **(7)** Every person desiring to operate as a seller within this state who
25 holds a valid certificate under s. 73.03 (50) shall file with the department an

1 application for a permit for each place of operations. Every application for a permit
2 shall be made upon a form prescribed by the department and shall set forth the name
3 under which the applicant intends to operate, the location of the applicant's place of
4 operations, and the other information that the department requires. The Except as
5 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
6 in the case of sellers other than sole proprietors, the application shall be signed by
7 the person authorized to act on behalf of such sellers. A nonprofit organization that
8 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
9 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
10 received after it is required to obtain that permit. If that organization becomes
11 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
12 seller's permit, it may surrender that permit.

13 **SECTION 9kn.** 77.52 (7b) of the statutes is created to read:

14 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
15 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
16 manner prescribed by the department.

17 **SECTION 9ko.** 77.52 (12) of the statutes is amended to read:

18 77.52 (12) A person who operates as a seller in this state without a permit or
19 after a permit has been suspended or revoked or has expired, unless the person has
20 a temporary permit under sub. (11), and each officer of any corporation, partnership
21 member, limited liability company member, or other person authorized to act on
22 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
23 only by persons actively operating as sellers of tangible personal property, items or
24 property under sub. (1) (b) or (c), or taxable services. Any person not so operating
25 shall forthwith surrender that person's permit to the department for cancellation.

1 The department may revoke the permit of a person found not to be actively operating
2 as a seller of tangible personal property, items or property under sub. (1) (b) or (c),
3 or taxable services.

4 **SECTION 9kp.** 77.52 (13) of the statutes is amended to read:

5 77.52 (13) For the purpose of the proper administration of this section and to
6 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
7 the tax until the contrary is established. The burden of proving that a sale of tangible
8 personal property, items or property under sub. (1) (b) or (c), or services is not a
9 taxable sale at retail is upon the person who makes the sale unless that person takes
10 from the purchaser ~~a~~ an electronic or a paper certificate, in a manner prescribed by
11 the department, to the effect that the property, item, or service is purchased for resale
12 or is otherwise exempt; ~~except that no certificate is required for sales of cattle, sheep,~~
13 ~~goats, and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and~~
14 ~~no certificate is required for sales of commodities, as defined in 7 USC 2, that are~~
15 ~~consigned for sale in a warehouse in or from which the commodity is deliverable on~~
16 ~~a contract for future delivery subject to the rules of a commodity market regulated~~
17 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~
18 ~~is not removed from the warehouse~~ the sale of tangible personal property, items or
19 property under sub. (1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m),
20 (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42),
21 (44), (45), (46), (51), and (52), except as provided in s. 77.54 (30) (e) and (f).

22 **SECTION 9kq.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are
23 consolidated, renumbered 77.52 (14) (a) and amended to read:

24 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller ~~from the~~
25 ~~burden of proof~~ of the tax otherwise applicable only if ~~any of the following is true:~~

1 ~~1. The certificate is taken in good faith the seller obtains a fully completed exemption~~
2 ~~certificate, or the information required to prove the exemption, from a person who~~
3 ~~is engaged as a seller of tangible personal property or taxable services and who holds~~
4 ~~the permit provided for in sub. (9) and who, at the time of purchasing purchaser no~~
5 ~~later than 90 days after the date of the sale of the tangible personal property, items~~
6 ~~or property under sub. (1) (b) or (c), or services, intends to sell it in the regular course~~
7 ~~of operations or is unable to ascertain at the time of purchase whether the property~~
8 ~~or service will be sold or will be used for some other purpose. (b) except as provided~~
9 ~~in par. (am). The certificate under sub. (13) shall not relieve the seller of the tax~~
10 ~~otherwise applicable if the seller fraudulently fails to collect sales tax, solicits the~~
11 ~~purchaser to claim an unlawful exemption, accepts an exemption certificate from a~~
12 ~~purchaser who claims to be an entity that is not subject to the taxes imposed under~~
13 ~~this subchapter, if the subject of the transaction sought to be covered by the~~
14 ~~exemption certificate is received by the purchaser at a location operated by the seller~~
15 ~~in this state and the exemption certificate clearly and affirmatively indicates that~~
16 ~~the claimed exemption is not available in this state. The certificate referred to in sub.~~
17 ~~(13) shall be signed by and bear the name and address of provide information that~~
18 ~~identifies the purchaser, and shall indicate the general character of the tangible~~
19 ~~personal property or service sold by the purchaser and the basis for the claimed~~
20 ~~exemption and a paper certificate shall be signed by the purchaser. The certificate~~
21 ~~shall be in such form as the department prescribes by rule.~~

22 **SECTION 9kr.** 77.52 (14) (a) 2. of the statutes is repealed.

23 **SECTION 9ks.** 77.52 (14) (am) of the statutes is created to read:

24 77.52 **(14)** (am) If the seller has not obtained a fully completed exemption
25 certificate or the information required to prove the exemption, as provided in par. (a),

1 the seller may, no later than 120 days after the department requests that the seller
2 substantiate the exemption, either provide proof of the exemption to the department
3 by other means or obtain, in good faith, a fully completed exemption certificate from
4 the purchaser.

5 **SECTION 9kt.** 77.52 (15) of the statutes is amended to read:

6 **77.52 (15)** If a purchaser who ~~gives a resale certificate~~ purchases tangible
7 personal property, items or property under sub. (1) (b) or (c), or taxable services
8 without paying a sales tax or use tax on such purchase because such property, items,
9 or services were for resale makes any use of the property, items, or services other than
10 retention, demonstration or display while holding it the property, items, or services
11 for sale, lease or rental in the regular course of the purchaser's operations, the use
12 shall be taxable to the purchaser under s. 77.53 as of the time that the property is,
13 items, or services are first used by the purchaser, and the sales purchase price of the
14 property, items, or services to the purchaser shall be the measure of the tax. Only
15 ~~when there is an unsatisfied use tax liability on this basis because the seller has~~
16 ~~provided incorrect information about that transaction to the department shall the~~
17 ~~seller be liable for sales tax with respect to the sale of the property to the purchaser.~~

18 **SECTION 9kv.** 77.52 (16) of the statutes is amended to read:

19 **77.52 (16)** Any person who gives a resale certificate for property, items or
20 property under sub. (1) (b) or (c), or services which that person knows at the time of
21 purchase is not to be resold by that person in the regular course of that person's
22 operations as a seller for the purpose of evading payment to the seller of the amount
23 of the tax applicable to the transaction is guilty of a misdemeanor. Any person
24 certifying to the seller that the sale of property, items or property under sub. (1) (b)
25 or (c), or taxable service is exempt, knowing at the time of purchase that it is not

1 exempt, for the purpose of evading payment to the seller of the amount of the tax
2 applicable to the transaction, is guilty of a misdemeanor.

3 **SECTION 9kw.** 77.52 (17m) (b) 6. of the statutes is amended to read:

4 77.52 (17m) (b) 6. The applicant purchases enough tangible personal property
5 or items or property under sub. (1) (b) or (c) under circumstances that make it
6 difficult to determine whether the property or items will be subject to a tax under this
7 subchapter.

8 **SECTION 9Lb.** 77.52 (19) of the statutes is amended to read:

9 77.52 (19) The department shall by rule provide for the efficient collection of
10 the taxes imposed by this subchapter on sales of property, items or property under
11 sub. (1) (b) or (c), or services by persons not regularly engaged in selling at retail in
12 this state or not having a permanent place of business, but who are temporarily
13 engaged in selling from trucks, portable roadside stands, concessions at fairs and
14 carnivals, and the like. The department may authorize such persons to sell property
15 or items or property under sub. (1) (b) or (c) or sell, perform, or furnish services on
16 a permit or nonpermit basis as the department by rule prescribes and failure of any
17 person to comply with such rules constitutes a misdemeanor.

18 **SECTION 9Lc.** 77.52 (20) of the statutes is created to read:

19 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
20 transaction is subject to the tax imposed under this subchapter.

21 (b) At the retailer's option, if the retailer can identify, by reasonable and
22 verifiable standards from the retailer's books and records that are kept in the
23 ordinary course of its business for other purposes, including purposes unrelated to
24 taxes, the portion of the price that is attributable to products that are not subject to
25 the tax imposed under this subchapter, that portion of the sales price is not taxable

1 under this subchapter. This paragraph does not apply to a bundled transaction that
2 contains food and food ingredients, drugs, durable medical equipment, mobility
3 enhancing equipment, prosthetic devices, or medical supplies.

4 **SECTION 9Ld.** 77.52 (21) of the statutes is created to read:

5 77.52 (21) A person who provides a product that is not a distinct and
6 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)
7 (b), is the consumer of that product and shall pay the tax imposed under this
8 subchapter on the purchase price of that product.

9 **SECTION 9Le.** 77.52 (22) of the statutes is created to read:

10 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
11 provider is the consumer of the tangible personal property or items or property under
12 sub. (1) (b) or (c) and shall pay the tax imposed under this subchapter on the purchase
13 price of the property or items.

14 **SECTION 9Lf.** 77.52 (23) of the statutes is created to read:

15 77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service
16 provider is the consumer of the service that is essential to the use or receipt of the
17 other service and shall pay the tax imposed under this subchapter on the purchase
18 price of the service that is essential to the use or receipt of the other service.

19 **SECTION 9Lg.** 77.522 of the statutes is created to read:

20 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

21 1. “Direct mail form” means a form for direct mail prescribed by the
22 department.

23 2. “Receive” means taking possession of tangible personal property or items or
24 property under s. 77.52 (1) (b) or (c); making first use of services; or taking possession
25 or making first use of digital goods, whichever comes first. “Receive” does not include

1 a shipping company taking possession of tangible personal property or items or
2 property under s. 77.52 (1) (b) or (c) on a purchaser's behalf.

3 3. "Transportation equipment" means any of the following:

4 a. Locomotives and railcars that are used to carry persons or property in
5 interstate commerce.

6 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
7 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
8 registered under the international registration plan and operated under the
9 authority of a carrier that is authorized by the federal government to carry persons
10 or property in interstate commerce.

11 c. Aircraft that is operated by air carriers that are authorized by the federal
12 government or a foreign authority to carry persons or property in interstate or
13 foreign commerce.

14 d. Containers that are designed for use on the vehicles described in subd. 3. a.
15 to c. and component parts attached to or secured on such vehicles.

16 (b) Except as provided in par. (c) and subs. (2), (3), and (4), the location of a sale
17 is determined as follows:

18 1. If a purchaser receives the product at a seller's business location, the sale
19 occurs at that business location.

20 2. If a purchaser does not receive the product at a seller's business location, the
21 sale occurs at the location where the purchaser, or the purchaser's designated donee,
22 receives the product, including the location indicated by the instructions known to
23 the seller for delivery to the purchaser or the purchaser's designated donee.

24 3. If the location of a sale of a product cannot be determined under subs. 1. and
25 2., the sale occurs at the purchaser's address as indicated by the seller's business

1 records, if the records are maintained in the ordinary course of the seller's business
2 and if using that address to establish the location of a sale is not in bad faith.

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

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

9 a. If the item sold is tangible personal property or items or property under s.
10 77.52 (1) (b) or (c), the sale occurs at the location from which the tangible personal
11 property or items or property under s. 77.52 (1) (b) or (c) is shipped.

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

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

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

1 provided the form, unless the purchaser revokes the form in writing and provides
2 such revocation to the seller.

3 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regard
4 to the first or only payment on the lease or rental, the lease or rental of tangible
5 personal property or items or property under s. 77.52 (1) (b) or (c) occurs at the
6 location determined under sub. (1) (b). If the property or item is moved from the place
7 where the property or item was initially delivered, the subsequent periodic payments
8 on the lease or rental occur at the property's or item's primary location as indicated
9 by an address for the property or item 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 or item 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 or items or property under s. 77.52
2 (1) (b) or (c) shall be treated as a lease or rental of tangible personal property under
3 this subsection.

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

5 1. “Air-to-ground radiotelephone service” means a radio service in which
6 common carriers are authorized to offer and provide radio telecommunications
7 service for hire to subscribers in aircraft.

8 2. “Call-by-call basis” means any method of charging for telecommunications
9 services by which the price of such services is measured by individual calls.

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

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

20 5. “Customer channel termination point” means the location where a customer
21 inputs or receives communications.

22 6. “End user” means the person who uses a telecommunications service. In the
23 case of an entity, “end user” means the individual who uses the telecommunications
24 service on the entity’s behalf.

1 7. “Home service provider” means a home service provider under section 124
2 (5) of P.L. 106–252.

3 8. “Mobile telecommunications service” means a mobile telecommunications
4 service under 4 USC 116 to 126, as amended by P.L. 106–252.

5 9. “Place of primary use” means place of primary use, as determined under 4
6 USC 116 to 126, as amended by P.L. 106–252.

7 10. “Postpaid calling service” means a telecommunications service that is
8 obtained by paying for it on a call–by–call basis using a bankcard, travel card, credit
9 card, debit card, or similar method, or by charging it to a telephone number that is
10 not associated with the location where the telecommunications service originates or
11 terminates. “Postpaid calling service” includes a telecommunications service, not
12 including a prepaid wireless calling service, that would otherwise be a prepaid
13 calling service except that the service provided to the customer is not exclusively a
14 telecommunications service.

15 14. “Radio service” means a communication service provided by the use of radio,
16 including radiotelephone, radiotelegraph, paging, and facsimile service.

17 15. “Radiotelegraph service” means transmitting messages from one place to
18 another by means of radio.

19 16. “Radiotelephone service” means transmitting sound from one place to
20 another by means of radio.

21 (b) Except as provided in pars. (d) to (j), the sale of a telecommunications service
22 that is sold on a call–by–call basis occurs in the taxing jurisdiction for sales and use
23 tax purposes where the call originates and terminates, in the case of a call that
24 originates and terminates in the same such jurisdiction, or the taxing jurisdiction for

1 sales and use tax purposes where the call originates or terminates and where the
2 service address is located.

3 (c) Except as provided in pars. (d) to (j), the sale of a telecommunications service
4 that is sold on a basis other than a call-by-call basis occurs at the customer's place
5 of primary use.

6 (d) The sale of a mobile telecommunications service, except an air-to-ground
7 radiotelephone service and a prepaid calling service, occurs at the customer's place
8 of primary use.

9 (e) The sale of a postpaid calling service occurs at the location where the signal
10 of the telecommunications service originates, as first identified by the seller's
11 telecommunications system or, if the signal is not transmitted by the seller's
12 telecommunications system, by information that the seller received from the seller's
13 service provider.

14 (f) The sale of a prepaid calling service or a prepaid wireless calling service
15 occurs at the location determined under sub. (1) (b), except that, if the service is a
16 prepaid wireless calling service and the location cannot be determined under sub. (1)
17 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined
18 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,
19 as determined by the seller.

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

23 2. The sale of a private communication service in which all customer channel
24 termination points are located entirely in one taxing jurisdiction for sales and use

1 tax purposes occurs in the taxing jurisdiction in which the customer channel
2 termination points are located.

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

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

14 (h) The sale of an Internet access service occurs at the customer's place of
15 primary use.

16 (i) The sale of ancillary services occurs at the customer's place of primary use.

17 (j) If the location of the customer's service address, channel termination point,
18 or place of primary use is not known, the location where the seller receives or hands
19 off the signal shall be considered, for purposes of this section, the customer's service
20 address, channel termination point, or place of primary use.

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

1 (b) Sales by a retail florist occur at the location determined by rule by the
2 department.

3 **SECTION 9Lh.** 77.523 (title) of the statutes is repealed.

4 **SECTION 9Li.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
5 to read:

6 **77.59 (9p) (a)** If a customer purchases a service that is subject to 4 USC 116
7 to 126, as amended by P.L. 106–252, and if the customer believes that the amount
8 of the tax assessed for the service under this subchapter or the place of primary use
9 or taxing jurisdiction assigned to the service is erroneous, the customer may request
10 that the service provider correct the alleged error by sending a written notice to the
11 service provider. The notice shall include a description of the alleged error, the street
12 address for the customer’s place of primary use of the service, the account name and
13 number of the service for which the customer seeks a correction, and any other
14 information that the service provider reasonably requires to process the request.
15 Within 60 days from the date that a service provider receives a request under this
16 ~~section~~ paragraph, the service provider shall review its records to determine the
17 customer’s taxing jurisdiction. If the review indicates that there is no error as
18 alleged, the service provider shall explain the findings of the review in writing to the
19 customer. If the review indicates that there is an error as alleged, the service
20 provider shall correct the error and shall refund or credit the amount of any tax
21 collected erroneously, along with the related interest, as a result of the error from the
22 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
23 take no other action against the service provider, or commence any action, to correct
24 an alleged error in the amount of the tax assessed under this subchapter on a service
25 that is subject to 4 USC 116 to 126, as amended by P.L. 106–252, or to correct an

1 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
2 customer has exhausted his or her remedies under this section paragraph.

3 **SECTION 9Lj.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

4 **SECTION 9Lk.** 77.524 (1) (ag) of the statutes is created to read:

5 77.524 (1) (ag) “Agent” means a person appointed by a seller to represent the
6 seller before the states that are signatories to the agreement, as defined in s. 77.65
7 (2) (a).

8 **SECTION 9Lm.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g) and
9 amended to read:

10 77.51 (1g) “Certified service provider” means an agent that is certified jointly
11 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
12 that performs all of a seller’s sales tax and use tax functions related to the seller’s
13 retail sales, except that a certified service provider is not responsible for a retailer’s
14 obligation to remit tax on the retailer’s own purchases.

15 **SECTION 9Ln.** 77.525 of the statutes is amended to read:

16 **77.525 Reduction to prevent double taxation.** Any person who is subject
17 to the tax under s. 77.52 (2) (a) 5. ~~a.~~ on telecommunications services that terminate
18 in this state and who has paid a similar tax on the same services to another state may
19 reduce the amount of the tax remitted to this state by an amount equal to the similar
20 tax properly paid to another state on those services or by the amount due this state
21 on those services, whichever is less. That person shall refund proportionally to the
22 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a.~~ was passed on an amount equal
23 to the amounts not remitted.

24 **SECTION 9Lo.** 77.53 (1) of the statutes is amended to read:

1 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
2 on the use or consumption in this state of taxable services under s. 77.52 purchased
3 from any retailer, at the rate of 5% of the sales purchase price of those services; on
4 the storage, use or other consumption in this state of tangible personal property and
5 items or property under s. 77.52 (1) (b) or (c) purchased from any retailer, at the rate
6 of 5% of the sales purchase price of that the property or items; and on the storage,
7 use or other consumption of tangible personal property or items or property under
8 s. 77.52 (1) (b) or (c) manufactured, processed or otherwise altered, in or outside this
9 state, by the person who stores, uses or consumes it, from material purchased from
10 any retailer, at the rate of 5% of the sales purchase price of that material.

11 **SECTION 9Lp.** 77.53 (1b) of the statutes, as created by 2007 Wisconsin Act 20,
12 is repealed and recreated to read:

13 77.53 (1b) The storage, use, or other consumption in this state of tangible
14 personal property or items or property under s. 77.52 (1) (b) or (c), and the use or other
15 consumption in this state of a taxable service, purchased from any retailer is subject
16 to the tax imposed in this section unless an exemption in this subchapter applies.

17 **SECTION 9Lq.** 77.53 (2) of the statutes is amended to read:

18 77.53 (2) Every person storing, using, or otherwise consuming in this state
19 tangible personal property, items or property specified under s. 77.52 (1) (b) or (c), or
20 taxable services purchased from a retailer is liable for the tax imposed by this section.
21 The person's liability is not extinguished until the tax has been paid to this state, but
22 a receipt with the tax separately stated from a retailer engaged in business in this
23 state or from a retailer who is authorized by the department, under such rules as it
24 prescribes, to collect the tax and who is regarded as a retailer engaged in business
25 in this state for purposes of the tax imposed by this section given to the purchaser

1 under sub. (3) relieves the purchaser from further liability for the tax to which the
2 receipt refers.

3 **SECTION 9Lr.** 77.53 (3) of the statutes is amended to read:

4 77.53 (3) Every retailer engaged in business in this state and making sales of
5 tangible personal property, items or property under s. 77.52 (1) (b) or (c). or taxable
6 services ~~for delivery into this state or with knowledge directly or indirectly that the~~
7 ~~property or service is intended for storage, use or other consumption in that are~~
8 sourced to this state under s. 77.522, shall, at the time of making the sales ~~or, if the~~
9 ~~storage, use or other consumption of the tangible personal property or taxable service~~
10 ~~is not then taxable under this section, at the time the storage, use or other~~
11 ~~consumption becomes taxable,~~ collect the tax from the purchaser and give to the
12 purchaser a receipt in the manner and form prescribed by the department.

13 **SECTION 9Ls.** 77.53 (4) of the statutes is repealed.

14 **SECTION 9Lt.** 77.53 (9) of the statutes is amended to read:

15 77.53 (9) Every retailer selling tangible personal property, items or property
16 under s. 77.52 (1) (b) or (c). or taxable services for storage, use or other consumption
17 in this state shall register with the department and obtain a certificate under s. 73.03
18 (50) and give the name and address of all agents operating in this state, the location
19 of all distribution or sales houses or offices or other places of business in this state,
20 the standard industrial code classification of each place of business in this state and
21 the other information that the department requires. Any person who may register
22 under this subsection may designate an agent, as defined in s. 77.524 (1) (ag), to
23 register with the department under this subsection, in the manner prescribed by the
24 department.

1 **SECTION 9Lv.** 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a) and
2 amended to read:

3 **77.53 (9m) (a)** Any person who is not otherwise required to collect any tax
4 imposed by this subchapter and who makes sales to persons within this state of
5 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
6 services the use of which is subject to tax under this subchapter may register with
7 the department under the terms and conditions that the department imposes and
8 shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and
9 required to collect, report, and remit to the department the use tax imposed by this
10 subchapter.

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

12 **77.53 (9m) (b)** Any person who may register under par. (a) may designate an
13 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
14 in the manner prescribed by the department.

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

16 **77.53 (9m) (c)** The registration under par. (a) by a person who is not otherwise
17 required to collect any tax imposed by this subchapter shall not be used as a factor
18 in determining whether the seller has nexus with this state for any tax at any time.

19 **SECTION 9mc.** 77.53 (10) of the statutes is amended to read:

20 **77.53 (10)** For the purpose of the proper administration of this section and to
21 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
22 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
23 services sold by any person for delivery in this state is sold for storage, use, or other
24 consumption in this state until the contrary is established. The burden of proving
25 the contrary is upon the person who makes the sale unless that person takes from

1 the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by
2 department, to the effect that the property, items or property under s. 77.52 (1) (b)
3 or (c), or taxable service is purchased for resale, or otherwise exempt from the tax,
4 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are
5 sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required
6 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
7 warehouse in or from which the commodity is deliverable on a contract for future
8 delivery subject to the rules of a commodity market regulated by the U.S. commodity
9 futures trading commission if upon the sale the commodity is not removed from the
10 warehouse the sale of tangible personal property, items or property under s. 77.52
11 (1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14),
12 (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51),
13 and (52), except as provided in s. 77.54 (30) (e) and (f).

14 **SECTION 9md.** 77.53 (11) of the statutes is renumbered 77.53 (11) (a) and
15 amended to read:

16 77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person
17 selling the property, items or property under s. 77.52 (1) (b) or (c), or service from the
18 burden of proof of the tax otherwise applicable only if taken in good faith the seller
19 obtains a fully completed exemption certificate, or the information required to prove
20 the exemption, from a person who is engaged as a seller of tangible personal property
21 or taxable services and who holds the permit provided for by s. 77.52 (9) and who, at
22 the time of purchasing the purchaser no later than 90 days after the date of the sale
23 of the tangible personal property, items or property under s. 77.52 (1) (b) or (c), or
24 taxable service, intends to sell it in the regular course of operations or is unable to
25 ascertain at the time of purchase whether the property or service will be sold or will

1 ~~be used for some other purpose, or if taken in good faith from a person claiming~~
2 ~~exemption, except as provided in par. (b). The certificate under sub. (10) shall not~~
3 ~~relieve the seller of the tax otherwise applicable if the seller fraudulently fails to~~
4 ~~collect sales tax or solicits the purchaser to claim an unlawful exemption, accepts an~~
5 ~~exemption certificate from a purchaser who claims to be an entity that is not subject~~
6 ~~to the taxes imposed under this subchapter, if the subject of the transaction sought~~
7 ~~to be covered by the exemption certificate is received by the purchaser at a location~~
8 ~~operated by the seller in this state and the exemption certificate clearly and~~
9 ~~affirmatively indicates that the claimed exemption is not available in this state. The~~
10 ~~certificate shall be signed by and bear the name and address of~~ provide information
11 that identifies the purchaser and shall indicate ~~the number of the permit issued to~~
12 ~~the purchaser, the general character of tangible personal property or taxable service~~
13 ~~sold by the purchaser and the basis for the claimed exemption and a paper certificate~~
14 shall be signed by the purchaser. The certificate shall be substantially in the form
15 that the department prescribes by rule.

16 **SECTION 9me.** 77.53 (11) (b) of the statutes is created to read:

17 77.53 **(11)** (b) If the seller has not obtained a fully completed exemption
18 certificate or the information required to prove the exemption, as provided in par. (a),
19 the seller may, no later than 120 days after the department requests that the seller
20 substantiate the exemption, either provide proof of the exemption to the department
21 by other means or obtain, in good faith, a fully completed exemption certificate from
22 the purchaser.

23 **SECTION 9mf.** 77.53 (12) of the statutes is amended to read:

24 77.53 **(12)** If a purchaser who gives a certificate makes any storage or use of
25 the property, items or property under s. 77.52 (1) (b) or (c), or service other than

1 retention, demonstration, or display while holding it for sale in the regular course
2 of operations as a seller, the storage or use is taxable as of the time the property, items
3 or property under s. 77.52 (1) (b) or (c), or service is first so stored or used.

4 **SECTION 9mg.** 77.53 (14) of the statutes is amended to read:

5 77.53 (14) It is presumed that tangible personal property, items or property
6 under s. 77.52 (1) (b) or (c), or taxable services shipped or brought to this state by the
7 purchaser were purchased from or serviced by a retailer.

8 **SECTION 9mh.** 77.53 (15) of the statutes is amended to read:

9 77.53 (15) It is presumed that tangible personal property, items or property
10 under s. 77.52 (1) (b) or (c), or taxable services delivered outside this state to ~~a~~
11 ~~purchaser known by the retailer to be~~ a resident of this state were purchased from
12 a retailer for storage, use, or other consumption in this state and stored, used, or
13 otherwise consumed in this state. ~~This presumption may be controverted by a~~
14 ~~written statement, signed by the purchaser or an authorized representative, and~~
15 ~~retained by the seller that the property or service was purchased for use at a~~
16 ~~designated point outside this state.~~ This presumption may also be controverted by
17 other evidence satisfactory to the department that the property, item, or service was
18 not purchased for storage, use, or other consumption in this state.

19 **SECTION 9mi.** 77.53 (16) of the statutes is amended to read:

20 77.53 (16) If the purchase, rental or lease of tangible personal property, items
21 or property under s. 77.52 (1) (b) or (c), or service subject to the tax imposed by this
22 section was subject to a sales tax by another state in which the purchase was made,
23 the amount of sales tax paid the other state shall be applied as a credit against and
24 deducted from the tax, to the extent thereof, imposed by this section, except no credit
25 may be applied against and deducted from a sales tax paid on the purchase of direct

1 mail, if the direct mail purchaser did not provide to the seller a direct pay permit, a
2 direct mail form, or other information that indicates the appropriate taxing
3 jurisdiction to which the direct mail is delivered to the ultimate recipients. In this
4 subsection “sales tax” includes a use or excise tax imposed on the use of tangible
5 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable service
6 by the state in which the sale occurred and “state” includes the District of Columbia
7 ~~but does not include~~ and the commonwealth of Puerto Rico or ~~but does not include~~
8 the several territories organized by congress.

9 **SECTION 9mj.** 77.53 (17) of the statutes, as affected by 2007 Wisconsin Act 11,
10 is amended to read:

11 77.53 (17) This section does not apply to tangible personal property or items
12 or property under s. 77.52 (1) (b) or (c) purchased outside this state, as determined
13 under s. 77.522, other than motor vehicles, boats, snowmobiles, recreational
14 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles and
15 airplanes registered or titled or required to be registered or titled in this state, which
16 is brought into this state by a nondomiciliary for the person’s own storage, use or
17 other consumption while temporarily within this state when such property or item
18 is not stored, used or otherwise consumed in this state in the conduct of a trade,
19 occupation, business or profession or in the performance of personal services for
20 wages or fees.

21 **SECTION 9mk.** 77.53 (17m) of the statutes is amended to read:

22 77.53 (17m) This section does not apply to a boat purchased in a state
23 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
24 state if the boat is berthed in this state’s boundary waters adjacent to the state of the

1 domicile of the purchaser and if the transaction was an exempt occasional sale under
2 the laws of the state in which the purchase was made.

3 **SECTION 9mL.** 77.53 (17r) (a) of the statutes is amended to read:

4 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

5 **SECTION 9mm.** 77.53 (18) of the statutes, as affected by 2007 Wisconsin Act 11,
6 is amended to read:

7 77.53 (18) This section does not apply to the storage, use or other consumption
8 in this state of household goods or items or property under s. 77.52 (1) (b) or (c) for
9 personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
10 manufactured homes, as defined in s. 101.91 (2), recreational vehicles, as defined in
11 s. 340.01 (48r), trailers, semitrailers and all-terrain vehicles, for personal use,
12 purchased by a nondomiciliary of this state outside this state, as determined under
13 s. 77.522, 90 days or more before bringing the goods, items, or property into this state
14 in connection with a change of domicile to this state.

15 **SECTION 9mn.** 77.54 (1) of the statutes is amended to read:

16 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
17 other consumption in this state of tangible personal property, items and property
18 under s. 77.52 (1) (b) and (c) and services the ~~gross receipts~~ sales price from the sale
19 of which, or the storage, use or other consumption of which, this state is prohibited
20 from taxing under the constitution or laws of the United States or under the
21 constitution of this state.

22 **SECTION 9mo.** 77.54 (2) of the statutes is amended to read:

23 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
24 other consumption of tangible personal property becoming an ingredient or
25 component part of an article of tangible personal property or which is consumed or

1 destroyed or loses its identity in the manufacture of tangible personal property in
2 any form destined for sale, except as provided in sub. (30) (a) 6.

3 **SECTION 9mp.** 77.54 (2m) of the statutes is amended to read:

4 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption of tangible personal property or services that become an
6 ingredient or component of shoppers guides, newspapers or periodicals or that are
7 consumed or lose their identity in the manufacture of shoppers guides, newspapers
8 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
9 transferred without charge to the recipient. In this subsection, “shoppers guides”,
10 “newspapers” and “periodicals” have the meanings under sub. (15). The exemption
11 under this subdivision does not apply to advertising supplements that are not
12 newspapers.

13 **SECTION 9mq.** 77.54 (3) (a) of the statutes, as affected by 2005 Wisconsin Act
14 366, is amended to read:

15 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
16 or other consumption of tractors and machines, including accessories, attachments,
17 and parts, lubricants, nonpowered equipment, and other tangible personal property
18 that are used exclusively and directly, or are consumed or lose their identities, in the
19 business of farming, including dairy farming, agriculture, horticulture, floriculture,
20 silviculture, and custom farming services, but excluding automobiles, trucks, and
21 other motor vehicles for highway use; excluding personal property that is attached
22 to, fastened to, connected to, or built into real property or that becomes an addition
23 to, component of, or capital improvement of real property; and excluding tangible
24 personal property used or consumed in the erection of buildings or in the alteration,
25 repair or improvement of real property, regardless of any contribution that that

1 personal property makes to the production process in that building or real property
2 and regardless of the extent to which that personal property functions as a machine,
3 except as provided in par. (c).

4 **SECTION 9mr.** 77.54 (3m) (intro.) of the statutes, as affected by 2005 Wisconsin
5 Act 366, is amended to read:

6 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
7 storage, use or other consumption of the following items if they are used exclusively
8 by the purchaser or user in the business of farming; including dairy farming,
9 agriculture, horticulture, floriculture, silviculture, and custom farming services:

10 **SECTION 9ms.** 77.54 (4) of the statutes is amended to read:

11 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
12 property and items and property under s. 77.52 (1) (b) and (c), and the storage, use
13 or other consumption in this state of tangible personal property and items and
14 property under s. 77.52 (1) (b) and (c) which is the subject of any such sale, by any
15 elementary school or secondary school, exempted as such from payment of income or
16 franchise tax under ch. 71, whether public or private.

17 **SECTION 9mt.** 77.54 (5) (intro.) of the statutes is amended to read:

18 77.54 (5) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
19 use or other consumption of:

20 **SECTION 9mv.** 77.54 (6) (intro.) of the statutes is amended to read:

21 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
22 use or other consumption of:

23 **SECTION 9mw.** 77.54 (7m) of the statutes is amended to read:

24 77.54 (7m) Occasional sales of tangible personal property, items or property
25 under s. 77.52 (1) (b) and (c), or services, including admissions or tickets to an event;

1 by a neighborhood association, church, civic group, garden club, social club or similar
2 nonprofit organization; not involving entertainment for which payment in the
3 aggregate exceeds \$500 for performing or as reimbursement of expenses unless
4 access to the event may be obtained without payment of a direct or indirect admission
5 fee; conducted by the organization if the organization is not engaged in a trade or
6 business and is not required to have a seller's permit. For purposes of this
7 subsection, an organization is engaged in a trade or business and is required to have
8 a seller's permit if its sales of tangible personal property, items and property under
9 s. 77.52 (1) (b) and (c). and services, not including sales of tickets to events, and its
10 events occur on more than 20 days during the year, unless its receipts do not exceed
11 \$25,000 during the year. The exemption under this subsection does not apply to ~~gross~~
12 receipts the sales price from the sale of bingo supplies to players or to the sale, rental
13 or use of regular bingo cards, extra regular cards and special bingo cards.

14 **SECTION 9nb.** 77.54 (8) of the statutes is amended to read:

15 77.54 (8) Charges for interest, ~~financing or insurance,~~ not including contracts
16 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
17 invoice given by the seller to the purchaser.

18 **SECTION 9nc.** 77.54 (9) of the statutes is amended to read:

19 77.54 (9) The ~~gross receipts~~ sales price from sales of tickets or admissions to
20 public and private elementary and secondary school activities, where the entire net
21 proceeds therefrom are expended for educational, religious or charitable purposes.

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

23 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
24 by, use by or other consumption of tangible personal property, items and property
25 under s. 77.52 (1) (b) and (c). and taxable services by:

1 **SECTION 9ne.** 77.54 (10) of the statutes is amended to read:

2 77.54 (10) The ~~gross receipts~~ sales price from the sale of all admission fees,
3 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees
4 to any museum operated by a nonprofit corporation under a lease agreement with
5 the state historical society.

6 **SECTION 9nf.** 77.54 (11) of the statutes is amended to read:

7 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
8 or other consumption in this state of motor vehicle fuel, general aviation fuel or
9 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
10 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
11 in operating a motor vehicle upon the public highways.

12 **SECTION 9ng.** 77.54 (12) of the statutes is amended to read:

13 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
14 or other consumption in this state of rail freight or passenger cars, locomotives or
15 other rolling stock used in railroad operations, or accessories, attachments, parts,
16 lubricants or fuel therefor.

17 **SECTION 9nh.** 77.54 (13) of the statutes is amended to read:

18 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
19 or other consumption in this state of commercial vessels and barges of 50-ton burden
20 or over primarily engaged in interstate or foreign commerce or commercial fishing,
21 and the accessories, attachments, parts and fuel therefor.

22 **SECTION 9ni.** 77.54 (14) (intro.) of the statutes is amended to read:

23 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
24 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
25 the following:

1 **SECTION 9nj.** 77.54 (14) (a) of the statutes is amended to read:

2 77.54 **(14)** (a) Prescribed for the treatment of a human being by a person
3 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
4 a registered pharmacist in accordance with law.

5 **SECTION 9nk.** 77.54 (14) (b) of the statutes is amended to read:

6 77.54 **(14)** (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
7 to a patient who is a human being for treatment of the patient.

8 **SECTION 9nL.** 77.54 (14) (f) (intro.) of the statutes is amended to read:

9 77.54 **(14)** (f) (intro.) Furnished without charge to any of the following if the
10 ~~medicine~~ drug may not be dispensed without a prescription:

11 **SECTION 9nm.** 77.54 (14g) of the statutes is repealed.

12 **SECTION 9no.** 77.54 (14s) of the statutes is repealed.

13 **SECTION 9np.** 77.54 (15) of the statutes is amended to read:

14 77.54 **(15)** The ~~gross receipts~~ sales price from the sale of and the storage, use
15 or other consumption of all newspapers, of periodicals sold by subscription and
16 regularly issued at average intervals not exceeding 3 months, or issued at average
17 intervals not exceeding 6 months by an educational association or corporation sales
18 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
19 commercial publishers for distribution without charge or mainly without charge or
20 regularly distributed by or on behalf of publishers without charge or mainly without
21 charge to the recipient and of shoppers guides which distribute no less than 48 issues
22 in a 12-month period. In this subsection, “shoppers guide” means a community
23 publication delivered, or attempted to be delivered, to most of the households in its
24 coverage area without a required subscription fee, which advertises a broad range
25 of products and services offered by several types of businesses and individuals. In

1 this subsection, “controlled circulation publication” means a publication that has at
2 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
3 not more than 75% of its pages to advertising and that is not conducted as an
4 auxiliary to, and essentially for the advancement of, the main business or calling of
5 the person that owns and controls it.

6 **SECTION 9nq.** 77.54 (16) of the statutes is amended to read:

7 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
8 or other consumption of fire trucks and fire fighting equipment, including
9 accessories, attachments, parts and supplies therefor, sold to volunteer fire
10 departments.

11 **SECTION 9nr.** 77.54 (17) of the statutes is amended to read:

12 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
13 or other consumption of water, that is not food and food ingredient, when delivered
14 through mains.

15 **SECTION 9ns.** 77.54 (18) of the statutes is amended to read:

16 77.54 (18) When the sale, lease or rental of a service or property, including
17 items and property under s. 77.52 (1) (b) and (c), that was previously exempt or not
18 taxable under this subchapter becomes taxable, and the service or property is
19 furnished under a written contract by which the seller is unconditionally obligated
20 to provide the service or property for the amount fixed under the contract, the seller
21 is exempt from sales or use tax on the ~~gross receipts~~ sales price for services or
22 property provided until the contract is terminated, extended, renewed or modified.
23 However, from the time the service or property becomes taxable until the contract
24 is terminated, extended, renewed or modified the user is subject to use tax, measured
25 by the ~~sales~~ purchase price, on the service or property purchased under the contract.

1 **SECTION 9nt.** 77.54 (20) of the statutes is repealed.

2 **SECTION 9nv.** 77.54 (20m) of the statutes is repealed.

3 **SECTION 9nw.** 77.54 (20n) of the statutes is created to read:

4 77.54 **(20n)** (a) The sales price from the sale of and the storage, use, or other
5 consumption of food and food ingredients, except candy, soft drinks, dietary
6 supplements, and prepared food.

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

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

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

24 2. A national football league team.

25 **SECTION 9ob.** 77.54 (20r) of the statutes is created to read:

1 77.54 **(20r)** The sales price from the sales of and the storage, use, or other
2 consumption of candy, soft drinks, dietary supplements, and prepared foods, and
3 disposable products that are transferred with such items, furnished for no
4 consideration by a restaurant to the restaurant’s employee during the employee’s
5 work hours.

6 **SECTION 9oc.** 77.54 (21) of the statutes is amended to read:

7 77.54 **(21)** The ~~gross receipts~~ sales price from the sales of and the storage, use
8 or other consumption of caskets and burial vaults for human remains.

9 **SECTION 9od.** 77.54 (22) of the statutes is repealed.

10 **SECTION 9oe.** 77.54 (22b) of the statutes is created to read:

11 77.54 **(22b)** The sales price from the sale of and the storage, use, or other
12 consumption of durable medical equipment that is for use in a person’s home,
13 mobility-enhancing equipment, and prosthetic devices, and accessories for such
14 equipment or devices, if the equipment or devices are used for a human being.

15 **SECTION 9of.** 77.54 (23m) of the statutes, as affected by 2007 Wisconsin Act 20,
16 is amended to read:

17 77.54 **(23m)** The ~~gross receipts~~ sales price from the sale, license, lease or rental
18 of or the storage, use or other consumption of motion picture film or tape, and motion
19 pictures or radio or television programs for listening, viewing, or broadcast, and
20 advertising materials related thereto, sold, licensed, leased or rented to a motion
21 picture theater or radio or television station.

22 **SECTION 9og.** 77.54 (25) of the statutes, as affected by 2007 Wisconsin Act 20,
23 is amended to read:

24 77.54 **(25)** The ~~gross receipts~~ sales price from the sale of and the storage of
25 printed material which is designed to advertise and promote the sale of merchandise,

1 or to advertise the services of individual business firms, which printed material is
2 purchased and stored for the purpose of subsequently transporting it outside the
3 state by the purchaser for use thereafter solely outside the state. This subsection
4 does not apply to catalogs and the envelopes in which the catalogs are mailed.

5 **SECTION 9oh.** 77.54 (25m) of the statutes, as affected by 2007 Wisconsin Act
6 20, is amended to read:

7 77.54 (25m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
8 or other consumption of catalogs, and the envelopes in which the catalogs are mailed,
9 that are designed to advertise and promote the sale of merchandise or to advertise
10 the services of individual business firms.

11 **SECTION 9oi.** 77.54 (26) of the statutes, as affected by 2007 Wisconsin Act 19,
12 is amended to read:

13 77.54 (26) The ~~gross receipts~~ sales price from the sales of and the storage, use,
14 or other consumption of tangible personal property and property under s. 77.52 (1)
15 (b) and (c) which becomes a component part of an industrial waste treatment facility
16 that is exempt under s. 70.11 (21) or that would be exempt under s. 70.11 (21) if the
17 property were taxable under ch. 70, or tangible personal property and property
18 under s. 77.52 (1) (b) and (c) which becomes a component part of a waste treatment
19 facility of this state or any agency thereof, or any political subdivision of the state or
20 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
21 parts therefor, and also applies to chemicals and supplies used or consumed in
22 operating a waste treatment facility and to purchases of tangible personal property
23 and property under s. 77.52 (1) (b) and (c) made by construction contractors who
24 transfer such property to their customers in fulfillment of a real property
25 construction activity. This exemption does not apply to tangible personal property

1 and property under s. 77.52 (1) (b) and (c) installed in fulfillment of a written
2 construction contract entered into, or a formal written bid made, prior to July 31,
3 1975.

4 **SECTION 9oj.** 77.54 (26m) of the statutes is amended to read:

5 77.54 **(26m)** The ~~gross receipts~~ sales price from the sale of and the storage, use
6 or other consumption of waste reduction or recycling machinery and equipment,
7 including parts therefor, exclusively and directly used for waste reduction or
8 recycling activities which reduce the amount of solid waste generated, reuse solid
9 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
10 The exemption applies even though an economically useful end product results from
11 the use of the machinery and equipment. For the purposes of this subsection, “solid
12 waste” means garbage, refuse, sludge or other materials or articles, whether these
13 materials or articles are discarded or purchased, including solid, semisolid, liquid or
14 contained gaseous materials or articles resulting from industrial, commercial,
15 mining or agricultural operations or from domestic use or from public service
16 activities.

17 **SECTION 9ok.** 77.54 (27) of the statutes is amended to read:

18 77.54 **(27)** The ~~gross receipts~~ sales price from the sale of semen used for
19 artificial insemination of livestock.

20 **SECTION 9oL.** 77.54 (28) of the statutes is amended to read:

21 77.54 **(28)** The ~~gross receipts~~ sales price from the sale of and the storage, use
22 or other consumption to or by the ultimate consumer of ~~apparatus or equipment for~~
23 ~~the injection of insulin or the treatment of diabetes and supplies used to determine~~
24 blood sugar level.

25 **SECTION 9om.** 77.54 (29) of the statutes is amended to read:

1 77.54 **(29)** The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption of equipment used in the production of maple syrup.

3 **SECTION 9on.** 77.54 (30) (a) (intro.) of the statutes is amended to read:

4 77.54 **(30)** (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

5 **SECTION 9oo.** 77.54 (30) (c) of the statutes is amended to read:

6 77.54 **(30)** (c) If fuel or electricity is sold partly for a use exempt under this
7 subsection and partly for a use which is not exempt under this subsection, no tax
8 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
9 percentage of the fuel or electricity which is used for an exempt use, as specified in
10 an exemption certificate provided by the purchaser to the seller.

11 **SECTION 9op.** 77.54 (31) of the statutes, as affected by 2007 Wisconsin Act 11,
12 is amended to read:

13 77.54 **(31)** The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption in this state, but not the lease or rental, of used mobile homes,
15 as defined in s. 101.91 (10), and used manufactured homes, as defined in s. 101.91
16 (12).

17 **SECTION 9oq.** 77.54 (32) of the statutes is amended to read:

18 77.54 **(32)** The ~~gross receipts~~ sales price from charges, including charges for a
19 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
20 that a person may examine and use under s. 16.61 (12) or for copies of a record under
21 s. 19.35 (1).

22 **SECTION 9or.** 77.54 (33) of the statutes is amended to read:

23 77.54 **(33)** The ~~gross receipts~~ sales price from sales of and the storage, use or
24 other consumption of medicines drugs used on farm livestock, not including
25 workstock.

1 **SECTION 9os.** 77.54 (35) of the statutes is amended to read:

2 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
3 property, items or property under s. 77.52 (1) (b) or (c), tickets or admissions by any
4 baseball team affiliated with the Wisconsin Department of American Legion
5 baseball.

6 **SECTION 9ot.** 77.54 (36) of the statutes, as affected by 2007 Wisconsin Act 11,
7 is amended to read:

8 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
9 of one month or more of a mobile home, as defined in s. 101.91 (10), or a manufactured
10 home, as defined in s. 101.91 (2), that is used as a residence. In this subsection, “one
11 month” means a calendar month or 30 days, whichever is less, counting the first day
12 of the rental and not counting the last day of the rental.

13 **SECTION 9ov.** 77.54 (37) of the statutes is amended to read:

14 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
15 146.70 (3) and the surcharge established by rule by the public service commission
16 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
17 (3m) (a) 6.

18 **SECTION 9ow.** 77.54 (38) of the statutes is amended to read:

19 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
20 or other consumption of snowmobile trail groomers and attachments for them that
21 are purchased, stored, used or consumed by a snowmobile club that meets at least
22 3 times a year, that has at least 10 members, that promotes snowmobiling and that
23 participates in the department of natural resources’ snowmobile program under s.
24 350.12 (4) (b).

25 **SECTION 9pb.** 77.54 (39) of the statutes is amended to read:

1 77.54 **(39)** The ~~gross receipts~~ sales price from the sale of and the storage, use
2 or other consumption of off-highway, heavy mechanical equipment such as feller
3 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
4 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
5 directly in the harvesting or processing of raw timber products in the field by a person
6 in the logging business. In this subsection, “heavy mechanical equipment” does not
7 include hand tools such as axes, chains, chain saws and wedges.

8 **SECTION 9pc.** 77.54 (40) of the statutes is repealed.

9 **SECTION 9pd.** 77.54 (41) of the statutes is amended to read:

10 77.54 **(41)** The ~~gross receipts~~ sales price from the sale of building materials,
11 supplies and equipment to; and the storage, use or other consumption of those kinds
12 of property by; owners, contractors, subcontractors or builders if that property is
13 acquired solely for or used solely in, the construction, renovation or development of
14 property that would be exempt under s. 70.11 (36).

15 **SECTION 9pe.** 77.54 (42) of the statutes is amended to read:

16 77.54 **(42)** The ~~gross receipts~~ sales price from the sale of and the storage, use
17 or other consumption of animal identification tags provided under s. 93.06 (1h) and
18 standard samples provided under s. 93.06 (1s).

19 **SECTION 9pf.** 77.54 (43) of the statutes is amended to read:

20 77.54 **(43)** The ~~gross receipts~~ sales price from the sale of and the storage, use
21 or other consumption of raw materials used for the processing, fabricating or
22 manufacturing of, or the attaching to or incorporating into, printed materials that
23 are transported and used solely outside this state.

24 **SECTION 9pg.** 77.54 (44) of the statutes, as affected by 2005 Wisconsin Act 141,
25 is amended to read:

1 77.54 **(44)** The ~~gross receipts~~ sales price from the collection of low-income
2 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

3 **SECTION 9ph.** 77.54 (45) of the statutes is amended to read:

4 77.54 **(45)** The ~~gross receipts~~ sales price from the sale of and the use or other
5 consumption of a onetime license or similar right to purchase admission to
6 professional football games at a football stadium, as defined in s. 229.821 (6), that
7 is granted by a municipality; a local professional football stadium district; or a
8 professional football team or related party, as defined in s. 229.821 (12); if the person
9 who buys the license or right is entitled, at the time the license or right is transferred
10 to the person, to purchase admission to at least 3 professional football games in this
11 state during one football season.

12 **SECTION 9pi.** 77.54 (46) of the statutes is amended to read:

13 77.54 **(46)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
14 or other consumption of the U.S. flag or the state flag. This subsection does not apply
15 to a representation of the U.S. flag or the state flag.

16 **SECTION 9pj.** 77.54 (46m) of the statutes is amended to read:

17 77.54 **(46m)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
18 or other consumption of telecommunications services, if the telecommunications
19 services are obtained by using the rights to purchase telecommunications services,
20 including purchasing reauthorization numbers, by paying in advance and by using
21 an access number and authorization code; and if the tax imposed under s. 77.52 or
22 77.53 was previously paid on the sale or purchase of such rights.

23 **SECTION 9pk.** 77.54 (47) (intro.) of the statutes is amended to read:

24 77.54 **(47)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
25 use, or other consumption of all of the following:

1 **SECTION 9pL.** 77.54 (47) (b) 1. of the statutes is amended to read:

2 77.54 **(47)** (b) 1. The shooting facility is required to pay the tax imposed under
3 s. 77.52 on its ~~gross receipts~~ the sales price from charges for shooting at the facility.

4 **SECTION 9pm.** 77.54 (47) (b) 2. of the statutes, as affected by 2007 Wisconsin
5 Act 20, is amended to read:

6 77.54 **(47)** (b) 2. The shooting facility is a nonprofit organization that charges
7 for shooting at the facility, but is not required to pay the tax imposed under s. 77.52
8 on its ~~gross receipts~~ sales price from such charges because the charges are for
9 occasional sales, as provided under sub. (7m), or because the charges satisfy the
10 exemption under s. 77.52 (2) (a) 2. b.

11 **SECTION 9pn.** 77.54 (48) (a) of the statutes, as created by 2005 Wisconsin Act
12 479, is renumbered 77.585 (9) (a) and amended to read:

13 77.585 **(9)** (a) Subject to 2005 Wisconsin Act 479, section 17, ~~the gross receipts~~
14 ~~from the sale of and the storage, use, or other consumption~~ a purchaser may claim
15 as a deduction that portion of its purchase price of Internet equipment used in the
16 broadband market for which the tax was imposed under this subchapter, if the
17 purchaser certifies to the department of commerce, in the manner prescribed by the
18 department of commerce, that the purchaser will, within 24 months after July 1,
19 2007, make an investment that is reasonably calculated to increase broadband
20 Internet availability in this state. The purchaser shall claim the deduction in the
21 same reporting period as the purchaser paid the tax imposed under this subchapter.

22 **SECTION 9po.** 77.54 (48) (b) of the statutes, as created by 2005 Wisconsin Act
23 479, is renumbered 77.585 (9) (b).

24 **SECTION 9pq.** 77.54 (49) of the statutes is amended to read:

1 77.54 **(49)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
2 or other consumption of taxable services and tangible personal property, or items or
3 property under s. 77.52 (1) (b) or (c), that is physically transferred to the purchaser
4 as a necessary part of services that are subject to the taxes imposed under s. 77.52
5 (2) (a) 7., 10., 11., and 20., if the seller and the purchaser of such services and property
6 or item are members of the same affiliated group under section 1504 of the Internal
7 Revenue Code and are eligible to file a single consolidated return for federal income
8 tax purposes. For purposes of this subsection, if a seller purchases a taxable service,
9 item or property under s. 77.52 (1) (b) or (c), or tangible personal property, as
10 described in the subsection, that is subsequently sold to a member of the seller's
11 affiliated group and the sale is exempt under this subsection from the taxes imposed
12 under this subchapter, the original purchase of the taxable service, item or property
13 under s. 77.52 (1) (b) or (c), or tangible personal property by the seller is not
14 considered a sale for resale or exempt under this subsection.

15 **SECTION 9pr.** 77.54 (51) of the statutes is created to read:

16 77.54 **(51)** The sales price from the sales of and the storage, use, or other
17 consumption of products sold in a transaction that would be a bundled transaction,
18 except that it contains taxable and nontaxable products as described in s. 77.51 (1f)
19 (d), and except that the first person combining the products shall pay the tax imposed
20 under this subchapter on the person's purchase price of the taxable items.

21 **SECTION 9ps.** 77.54 (52) of the statutes is created to read:

22 77.54 **(52)** The sales price from the sales of and the storage, use, or other
23 consumption of products sold in a transaction that would be a bundled transaction,
24 except that the transaction meets the conditions described in s. 77.51 (1f) (e).

1 **SECTION 9pt.** 77.54 (54) of the statutes, as created by 2007 Wisconsin Act 20,
2 is amended to read:

3 77.54 **(54)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
4 or other consumption of tangible personal property, items and property under s.
5 77.52 (1) (b) and (c), and taxable services that are sold by a home exchange service
6 that receives moneys from the appropriation account under s. 20.485 (1) (g) and is
7 operated by the department of veterans affairs.

8 **SECTION 9pv.** 77.54 (56) of the statutes, as created by 2007 Wisconsin Act 20,
9 is amended to read:

10 77.54 **(56)** (a) The ~~gross receipts~~ sales price from the sale of and the storage,
11 use, or other consumption of a product whose power source is wind energy, direct
12 radiant energy received from the sun, or gas generated from anaerobic digestion of
13 animal manure and other agricultural waste, if the product produces at least 200
14 watts of alternating current or 600 British thermal units per day, except that the
15 exemption under this subsection does not apply to an uninterruptible power source
16 that is designed primarily for computers.

17 (b) Except for the sale of electricity or energy that is exempt from taxation
18 under sub. (30), the ~~gross receipts~~ sales price from the sale of and the storage, use,
19 or other consumption of electricity or energy produced by a product described under
20 par. (a).

21 **SECTION 9pw.** 77.55 (1) (intro.) of the statutes is amended to read:

22 77.55 **(1)** (intro.) There ~~are~~ is exempted from the computation of the amount
23 of the sales tax the ~~gross receipts~~ sales price from the sale of any tangible personal
24 property, items or property under s. 77.52 (1) (b) or (c), or services to:

25 **SECTION 9qb.** 77.55 (2) of the statutes is amended to read:

1 77.55 (2) There ~~are~~ is exempted from the computation of the amount of the sales
2 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items
3 and property under s. 77.52 (1) (b) and (c), to a common or contract carrier, shipped
4 by the seller via the purchasing carrier under a bill of lading whether the freight is
5 paid in advance, or the shipment is made freight charges collect, to a point outside
6 this state and the property or item is actually transported to the out-of-state
7 destination for use by the carrier in the conduct of its business as a carrier.

8 **SECTION 9qc.** 77.55 (2m) of the statutes is amended to read:

9 77.55 (2m) There ~~are~~ is exempted from the computation of the amount of sales
10 tax the ~~gross receipts~~ sales price from sales of railroad crossties to a common or
11 contract carrier, shipped wholly or in part by way of the purchasing carrier under a
12 bill of lading, whether the freight is paid in advance or the shipment is made freight
13 charges collect, to a point outside this state if the property is transported to the
14 out-of-state destination for use by the carrier in the conduct of its business as a
15 carrier. Interruption of the shipment for storage, drying, processing or creosoting of
16 the railroad crossties in this state does not invalidate the exemption under this
17 subsection.

18 **SECTION 9qd.** 77.55 (3) of the statutes is amended to read:

19 77.55 (3) There ~~are~~ is exempted from the computation of the amount of the sales
20 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items
21 and property under s. 77.52 (1) (b) and (c), purchased for use solely outside this state
22 and delivered to a forwarding agent, export packer, or other person engaged in the
23 business of preparing goods for export or arranging for their exportation, and
24 actually delivered to a port outside the continental limits of the United States prior
25 to making any use thereof.

1 **SECTION 9qe.** 77.56 (1) of the statutes is amended to read:

2 77.56 **(1)** The storage, use or other consumption in this state of property,
3 including items and property under s. 77.52 (1) (b) and (c). the gross receipts sales
4 price from the sale of which are is reported to the department in the measure of the
5 sales tax, is exempted from the use tax.

6 **SECTION 9qf.** 77.57 of the statutes is amended to read:

7 **77.57 Liability of purchaser.** If a purchaser certifies in writing to a seller
8 that the property or items or property under s. 77.52 (1) (b) or (c) purchased will be
9 used in a manner or for a purpose entitling the seller to regard the gross receipts sales
10 price from the sale as exempted by this subchapter from the computation of the
11 amount of the sales tax and uses the property or items or property under s. 77.52 (1)
12 (b) or (c) in some other manner or for some other purpose, the purchaser is liable for
13 payment of the sales tax. The tax shall be measured by the sales price of the property
14 or items or property under s. 77.52 (1) (b) or (c) to the purchaser, ~~but if the taxable~~
15 ~~use first occurs more than 6 months after the sale to the purchaser, the purchaser~~
16 ~~may use as the measure of the tax either that sales price or the fair market value of~~
17 ~~the property at the time the taxable use first occurs.~~

18 **SECTION 9qg.** 77.58 (3) (a) of the statutes is amended to read:

19 77.58 **(3)** (a) For purposes of the sales tax a return shall be filed by every seller.
20 For purposes of the use tax a return shall be filed by every retailer engaged in
21 business in this state and by every person purchasing tangible personal property,
22 items or property under s. 77.52 (1) (b) or (c). or services, the storage, use, or other
23 consumption of which is subject to the use tax, who has not paid the use tax due to
24 a retailer required to collect the tax. If a qualified subchapter S subsidiary is not
25 regarded as a separate entity under ch. 71, the owner of that subsidiary shall include

1 the information for that subsidiary on the owner's return. Returns shall be signed
2 by the person required to file the return or by a duly authorized agent but need not
3 be verified by oath. If a single-owner entity is disregarded as a separate entity under
4 ch. 71, the owner shall include the information from the entity on the owner's return.

5 **SECTION 9qh.** 77.58 (3) (b) of the statutes is amended to read:

6 77.58 (3) (b) ~~For purposes of the sales tax the return shall show the gross~~
7 ~~receipts of the seller during the preceding reporting period. For purposes of the use~~
8 ~~tax, in case of a return filed by a retailer, the return shall show the total sales price~~
9 ~~of the property or taxable services sold, the storage, use or consumption of which~~
10 ~~became subject to the use tax during the preceding reporting period. In case of a sales~~
11 ~~or use tax return filed by a purchaser, the return shall show the total sales price of~~
12 ~~the property and taxable services purchased, the storage, use or consumption of~~
13 ~~which became subject to the use tax during the preceding reporting period. The~~
14 ~~return shall also show the amount of the taxes for the period covered by the return~~
15 ~~and such other information as the department deems necessary for the proper~~
16 ~~administration of this subchapter.~~

17 **SECTION 9qi.** 77.58 (6) of the statutes is amended to read:

18 77.58 (6) For the purposes of the sales tax gross receipts, the sales price from
19 rentals or leases of tangible personal property or items or property under s. 77.52 (1)
20 (b) or (c) shall be reported and the tax paid in accordance with such rules as the
21 department prescribes.

22 **SECTION 9qj.** 77.58 (6m) of the statutes is created to read:

23 77.58 (6m) (a) The department may, in cases where it is satisfied that an undue
24 hardship would otherwise result, permit the reporting of a sales price or purchase
25 price on some basis other than the accrual basis.

1 (b) The entire sales price of credit transactions shall be reported in the period
2 in which the sale is made without reduction in the amount of tax payable by the
3 retailer by reason of the retailer's transfer at a discount of any open account, note,
4 conditional sales contract, lease contract, or other evidence of indebtedness.

5 **SECTION 9qk.** 77.58 (9a) of the statutes is created to read:

6 **77.58 (9a)** In addition to filing a return as provided in this section, a person
7 described under s. 77.524 (3), (4), or (5) shall provide to the department any
8 information that the department considers necessary for the administration of this
9 subchapter, in the manner prescribed by the department, except that the
10 department may not require that the person provide such information to the
11 department more than once every 180 days.

12 **SECTION 9qL.** 77.585 of the statutes is created to read:

13 **77.585 Return adjustments. (1)** (a) In this subsection, "bad debt" means the
14 portion of the sales price or purchase price that the seller has reported as taxable
15 under this subchapter and that the seller may claim as a deduction under section 166
16 of the Internal Revenue Code. "Bad debt" does not include financing charges or
17 interest, sales or use taxes imposed on the sales price or purchase price, uncollectible
18 amounts on property or items or property under s. 77.52 (1) (b) or (c) that remain in
19 the seller's possession until the full sales price or purchase price is paid, expenses
20 incurred in attempting to collect any debt, debts sold or assigned to 3rd parties for
21 collection, and repossessed property or items.

22 (b) A seller may claim as a deduction on a return under s. 77.58 the amount of
23 any bad debt that the seller writes off as uncollectible in the seller's books and records
24 and that is eligible to be deducted as a bad debt for federal income tax purposes,
25 regardless of whether the seller is required to file a federal income tax return. A

1 seller who claims a deduction under this paragraph shall claim the deduction on the
2 return under s. 77.58 that is submitted for the period in which the seller writes off
3 the amount of the deduction as uncollectible in the seller's books and records and in
4 which such amount is eligible to be deducted as bad debt for federal income tax
5 purposes. If the seller subsequently collects in whole or in part any bad debt for
6 which a deduction is claimed under this paragraph, the seller shall include the
7 amount collected in the return filed for the period in which the amount is collected
8 and shall pay the tax with the return.

9 (c) For purposes of computing a bad debt deduction or reporting a payment
10 received on a previously claimed bad debt, any payment made on a debt or on an
11 account is applied first to the price of the property, items or property under s. 77.52
12 (1) (b) or (c), or service sold, and the proportionate share of the sales tax on that
13 property, items or property under s. 77.52 (1) (b) or (c), or service, and then to interest,
14 service charges, and other charges related to the sale.

15 (d) A seller may obtain a refund of the tax collected on any bad debt amount
16 deducted under par. (b) that exceeds the amount of the seller's taxable sales as
17 provided under s. 77.59 (4), except that the period for making a claim as determined
18 under s. 77.59 (4) begins on the date on which the return on which the bad debt could
19 be claimed would have been required to be submitted to the department under s.
20 77.58.

21 (e) If a seller is using a certified service provider, the certified service provider
22 may claim a bad debt deduction under this subsection on the seller's behalf if the
23 seller has not claimed and will not claim the same deduction. A certified service
24 provider who receives a bad debt deduction under this subsection shall credit that

1 deduction to the seller and a certified service provider who receives a refund under
2 this subsection shall submit that refund to the seller.

3 (f) If a bad debt relates to the retail sales of tangible personal property, items
4 or property under s. 77.52 (1) (b) or (c), or taxable services that occurred in this state
5 and in one or more other states, as determined under s. 77.522, the total amount of
6 such bad debt shall be apportioned among the states in which the underlying sales
7 occurred in a manner prescribed by the department to arrive at the amount of the
8 deduction under par. (b).

9 (2) If a lessor of tangible personal property or items or property under s. 77.52
10 (1) (b) or (c) has reimbursed the vendor for the sales tax on the sale of the property
11 or items by the vendor to the lessor, the tax due from the lessor on the rental receipts
12 may be offset by a credit equal to the tax otherwise due on the rental receipts from
13 the property or items for the reporting period. The credit shall expire when the
14 cumulative rental receipts equal the sales price upon which the vendor paid sales
15 taxes to this state.

16 (3) If a purchaser of tangible personal property or items or property under s.
17 77.52 (1) (b) or (c) has reimbursed the vendor of the property or items for the sales
18 tax on the sale and subsequently, before making any use of the property or items
19 other than retention, demonstration, or display while holding it for sale or rental,
20 makes a taxable sale of the property or items, the tax due on the taxable sale may
21 be offset by the tax reimbursed.

22 (4) A seller may claim a deduction on any part of the sales price or purchase
23 price that the seller refunds in cash or credit as a result of returned property or items
24 or property under s. 77.52 (1) (b) or (c) or adjustments in the sales price or purchase
25 price after the sale has been completed, if the seller has included the refunded price

1 in a prior return made by the seller and has paid the tax on such price, and if the seller
2 has returned to the purchaser in cash or in credit all tax previously paid by the
3 purchaser on the amount of the refund at the time of the purchase. A deduction
4 under this subsection shall be claimed on the return for the period in which the
5 refund is paid.

6 (5) No reduction in the amount of tax payable by the retailer is allowable in the
7 event property or items or property under s. 77.52 (1) (b) or (c) sold on credit are
8 repossessed except where the entire consideration paid by the purchaser is refunded
9 to the purchaser or where a credit for a worthless account is allowable under sub. (1).

10 (6) A purchaser who is subject to the use tax on the storage, use, or other
11 consumption of fuel may claim a deduction from the purchase price that is subject
12 to the use tax for fuel taxes refunded by this state or the United States to the
13 purchaser that is included in the purchase price of the fuel.

14 (7) For sales tax purposes, if a retailer establishes to the department's
15 satisfaction that the sales tax has been added to the total amount of the sales price
16 and has not been absorbed by the retailer, the total amount of the sales price shall
17 be the amount received exclusive of the sales tax imposed.

18 (8) A sale or purchase involving transfer of ownership of property or items or
19 property under s. 77.52 (1) (b) or (c) is completed at the time when possession is
20 transferred by the seller or the seller's agent to the purchaser or the purchaser's
21 agent, except that for purposes of sub. (1) a common carrier or the U.S. postal service
22 shall be considered the agent of the seller, regardless of any f.o.b. point and
23 regardless of the method by which freight or postage is paid.

24 **SECTION 9qm.** 77.59 (2m) of the statutes is created to read:

1 77.59 (2m) The department may audit, or may authorize others to audit, sellers
2 and certified service providers who are registered with the department pursuant to
3 the agreement, as defined in s. 77.65 (2) (a).

4 **SECTION 9qn.** 77.59 (5m) of the statutes is amended to read:

5 77.59 (5m) A seller who receives a refund under sub. (4) (a) or (b) of taxes that
6 the seller has collected from buyers, who collects amounts as taxes erroneously from
7 buyers, but who does not remit such amounts to the state, or who is entitled to a
8 refund under sub. (4) (a) or (b) that is offset under sub. (5), shall submit the taxes and
9 related interest to the buyers from whom the taxes were collected, or to the
10 department if the seller cannot locate the buyers, within 90 days after the date of the
11 refund, after the date of the offset, or after discovering that the seller has collected
12 taxes erroneously from the buyers. If the seller does not submit the taxes and related
13 interest to the department or the buyers within that period, the seller shall submit
14 to the department any part of a refund or taxes that the seller does not submit to a
15 buyer or to the department along with a penalty of 25% of the amount not submitted
16 or, in the case of fraud, a penalty equal to the amount not submitted. A person who
17 collects amounts as taxes erroneously from buyers for a real property construction
18 activity or nontaxable service may reduce the taxes and interest that he or she is
19 required to submit to the buyer or to the department under this subsection for that
20 activity or service by the amount of tax and interest subsequently due and paid on
21 the sale of or the storage, use, or other consumption of tangible personal property or
22 items or property under s. 77.52 (1) (b) or (c) that is are used by the person in that
23 activity or service and transferred to the buyer.

24 **SECTION 9qo.** 77.59 (9) of the statutes is amended to read:

1 77.59 (9) If any person fails to file a return, the department shall make an
2 estimate of the amount of the ~~gross receipts~~ sales price of the ~~person~~ person's sales,
3 or, as the case may be, of the amount of the total ~~sales~~ purchase price of tangible
4 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable service
5 sold or purchased by the person, the sale by or the storage, use, or other consumption
6 of which in this state is subject to sales or use tax. The estimate shall be made for
7 the period in respect to which the person failed to make a return and shall be based
8 upon any information which is in the department's possession or may come into its
9 possession. Upon the basis of this estimate the department shall compute and
10 determine the amount required to be paid to the state, adding to the sum thus arrived
11 at a penalty equal to 25% thereof. One or more such determinations may be made
12 for one or for more than one period. When a business is discontinued a determination
13 may be made at any time thereafter, within the periods specified in sub. (3), as to
14 liability arising out of that business.

15 **SECTION 9qp.** 77.59 (9n) of the statutes is created to read:

16 77.59 (9n) (a) Notwithstanding s. 73.03 (47), no seller or certified service
17 provider is liable for tax, interest, or penalties imposed on a transaction under this
18 subchapter in the circumstances covered under sections 306, 328, and 502 of the
19 agreement, as defined in s. 77.65 (2) (a).

20 (b) A purchaser is not liable for the tax, interest, or penalties imposed on a
21 transaction under this subchapter in the circumstances covered by section 331 of the
22 agreement, as defined in s. 77.65 (2) (a).

23 **SECTION 9qq.** 77.59 (9p) (b) of the statutes is created to read:

24 77.59 (9p) (b) If a customer purchases a service that is not subject to 4 USC 116
25 to 126, as amended by P.L. 106–252, tangible personal property, or items or property

1 under s. 77.52 (1) (b) or (c), and if the customer believes that the amount of the tax
2 assessed for the sale of the service, property, or items, under this subchapter is
3 erroneous, the customer may request that the seller correct the alleged error by
4 sending a written notice to the seller. The notice shall include a description of the
5 alleged error and any other information that the seller reasonably requires to process
6 the request. Within 60 days from the date that a seller receives a request under this
7 paragraph, the seller shall review its records to determine the validity of the
8 customer's claim. If the review indicates that there is no error as alleged, the seller
9 shall explain the findings of the review in writing to the customer. If the review
10 indicates that there is an error as alleged, the seller shall correct the error and shall
11 refund the amount of any tax collected erroneously, along with the related interest,
12 as a result of the error from the customer, consistent with s. 77.59 (4). A customer
13 may take no other action against the seller, or commence any action against the
14 seller, to correct an alleged error in the amount of the tax assessed under this
15 subchapter on a service that is not subject to 4 USC 116 to 126, as amended by P.L.
16 106–252, tangible personal property, or items or property under s. 77.52 (1) (b) or (c)
17 unless the customer has exhausted his or her remedies under this paragraph.

18 **SECTION 9qr.** 77.59 (9r) of the statutes is created to read:

19 77.59 (9r) With regard to a purchaser's request for a refund under this section,
20 a seller is presumed to have reasonable business practices if the seller uses a certified
21 service provider, a certified automated system, as defined in s. 77.524 (1) (am), or a
22 proprietary system certified by the department to collect the taxes imposed under
23 this subchapter and if the seller has remitted to the department all taxes collected
24 under this subchapter, less any deductions, credits, or allowances.

25 **SECTION 9qs.** 77.60 (13) of the statutes is created to read:

1 77.60 (13) A person who uses any of the following documents in a manner that
2 is prohibited by or inconsistent with this subchapter, or provides incorrect
3 information to a seller or certified service provider related to the use of such
4 documents or regarding an exemption to the taxes imposed under this subchapter,
5 shall pay a penalty of \$250 for each invoice or bill of sale related to the prohibited or
6 inconsistent use or incorrect information:

7 (a) An exemption certificate described under ss. 77.52 (13) and 77.53 (10).

8 (b) A direct pay permit under s. 77.52 (17m).

9 (c) A direct mail form, as defined in s. 77.522 (1) (a) 1.

10 **SECTION 9qt.** 77.61 (1) (b) of the statutes is amended to read:

11 77.61 (1) (b) In the case of ~~a motor vehicle~~ motor vehicles, boats, snowmobiles,
12 recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain
13 vehicles, or aircraft purchased from a ~~licensed Wisconsin motor vehicle dealer~~
14 retailer, the registrant shall present proof that the tax has been paid to such dealer
15 retailer.

16 **SECTION 9qv.** 77.61 (1) (c) of the statutes, as affected by 2007 Wisconsin Act 11,
17 is amended to read:

18 77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, recreational
19 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, or
20 aircraft registered or titled, or required to be registered or titled, in this state
21 purchased from persons who are not ~~Wisconsin boat, trailer, or semitrailer dealers,~~
22 ~~licensed Wisconsin aircraft, motor vehicle, or recreational vehicle, as defined in s.~~
23 ~~340.01 (48r), dealers or registered Wisconsin snowmobile or all-terrain vehicle~~
24 ~~dealers~~ retailers, the purchaser shall file a sales tax return and pay the tax prior to

1 registering or titling the motor vehicle, boat, snowmobile, recreational vehicle, as
2 defined in s. 340.01 (48r), semitrailer, all-terrain vehicle, or aircraft in this state.

3 **SECTION 9qw.** 77.61 (2) of the statutes is renumbered 77.61 (2) (intro.) and
4 amended to read:

5 77.61 (2) (intro.) In order to protect the revenue of the state:

6 (a) Except as provided in par. (b), the department may require any person who
7 is or will be liable to it for the tax imposed by this subchapter to place with it, before
8 or after a permit is issued, the security, not in excess of \$15,000, that the department
9 determines. In determining the amount of security to require under this subsection,
10 the department may consider the person's payment of other taxes administered by
11 the department and any other relevant facts. If any taxpayer fails or refuses to place
12 that security, the department may refuse or revoke the permit. If any taxpayer is
13 delinquent in the payment of the taxes imposed by this subchapter, the department
14 may, upon 10 days' notice, recover the taxes, interest, costs and penalties from the
15 security placed with the department by the taxpayer in the following order: costs,
16 penalties, delinquent interest, delinquent tax. No interest may be paid or allowed
17 by the state to any person for the deposit of security. Any security deposited under
18 this subsection shall be returned to the taxpayer if the taxpayer has, for 24
19 consecutive months, complied with all the requirements of this subchapter.

20 **SECTION 9rb.** 77.61 (2) (b) of the statutes is created to read:

21 77.61 (2) (b) A certified service provider who has contracted with a seller, and
22 filed an application, to collect and remit sales and use taxes imposed under this
23 subchapter on behalf of the seller shall submit a surety bond to the department to
24 guarantee the payment of sales and use taxes, including any penalty and interest on
25 such payment. The department shall approve the form and contents of a bond

1 submitted under this paragraph and shall determine the amount of such bond. The
2 surety bond shall be submitted to the department within 60 days after the date on
3 which the department notifies the certified service provider that the certified service
4 provider is registered to collect sales and use taxes imposed under this subchapter.
5 If the department determines, with regards to any one certified service provider, that
6 no bond is necessary to protect the tax revenues of this state, the secretary of revenue
7 or the secretary's designee may waive the requirements under this paragraph with
8 regard to that certified service provider. Any bond submitted under this paragraph
9 shall remain in force until the secretary of revenue or the secretary's designee
10 releases the liability under the bond.

11 **SECTION 9rc.** 77.61 (3) of the statutes is repealed.

12 **SECTION 9rd.** 77.61 (3m) of the statutes is created to read:

13 77.61 **(3m)** A retailer shall use a straight mathematical computation to
14 determine the amount of the tax that the retailer may collect from the retailer's
15 customers. The retailer shall calculate the tax amount by combining the applicable
16 tax rates under this subchapter and subch. V and multiplying the combined tax rate
17 by the sales price or purchase price of each item or invoice, as appropriate. The
18 retailer shall calculate the tax amount to the 3rd decimal place, disregard tax
19 amounts of less than 0.5 cent, and consider tax amounts of at least 0.5 cent but less
20 than 1 cent to be an additional cent. The use of a straight mathematical computation,
21 as provided in this subsection, shall not relieve the retailer from liability for payment
22 of the full amount of the tax levied under this subchapter.

23 **SECTION 9re.** 77.61 (4) (a) of the statutes is amended to read:

24 77.61 **(4)** (a) Every seller and retailer and every person storing, using or
25 otherwise consuming in this state tangible personal property, items or property

1 under s. 77.52 (1) (b) or (c), or taxable services purchased from a retailer shall keep
2 such records, receipts, invoices, and other pertinent papers and records, including
3 machine-readable records, in such form as the department requires. The
4 department may, after giving notice, require any person to keep whatever records are
5 needed for the department to compute the sales or use taxes the person should pay.
6 Thereafter, the department shall add to any taxes assessed on the basis of
7 information not contained in the records required a penalty of 25% of the amount of
8 the tax so assessed in addition to all other penalties under this chapter.

9 **SECTION 9rf.** 77.61 (4) (c) of the statutes is amended to read:

10 77.61 (4) (c) For reporting the sales tax and collecting and reporting the use tax
11 imposed on the retailer under s. 77.53 (3) and the accounting connected with it,
12 retailers, not including certified service providers that receive compensation under
13 s. 73.03 (61) (h), may deduct 0.5% of those taxes payable or \$10 for that reporting
14 period required under s. 77.58 (1), whichever is greater, but not more than the
15 amount of the sales taxes or use taxes that is payable under ss. 77.52 (1) and 77.53
16 (3) for that reporting period required under s. 77.58 (1), as administration expenses
17 if the payment of the taxes is not delinquent. For purposes of calculating the
18 retailer's discount under this paragraph, the taxes on retail sales reported by
19 retailers under subch. V, including taxes collected and remitted as required under
20 s. 77.785, shall be included if the payment of those taxes is not delinquent.

21 **SECTION 9rg.** 77.61 (5m) of the statutes is created to read:

22 77.61 (5m) (a) In this subsection, "personally identifiable information" means
23 any information that identifies a person.

24 (b) A certified service provider may use personally identifiable information as
25 necessary only for the administration of its system to perform a seller's sales and use

1 tax functions and shall provide consumers clear and conspicuous notice of its practice
2 regarding such information, including what information it collects, how it collects
3 the information, how it uses the information, how long, if at all, it retains the
4 information, and under what circumstances it discloses the information to states
5 participating in the agreement, as defined in 77.65 (2) (a).

6 (c) A certified service provider may collect, use, and retain personally
7 identifiable information only to verify exemption claims, to investigate fraud, and to
8 ensure its system's reliability.

9 (d) A certified service provider shall provide sufficient technical, physical, and
10 administrative safeguards to protect personally identifiable information from
11 unauthorized access and disclosure.

12 (e) For purposes of this subchapter, the state shall provide to consumers public
13 notice of the state's practices related to collecting, using, and retaining personally
14 identifiable information.

15 (f) The state shall not retain personally identifiable information obtained for
16 purposes of administering this subchapter unless the state is otherwise required to
17 retain the information by law or as provided under the agreement, as defined in s.
18 77.65 (2) (a).

19 (g) For purposes of this subchapter, the state shall provide an individual
20 reasonable access to that individual's personally identifiable information and the
21 right to correct any inaccurately recorded information.

22 (h) If any person, other than another state that is a signatory to the agreement,
23 as defined in s. 77.65 (2) (a), or a person authorized under state law to access the
24 information, requests access to an individual's personally identifiable information,

1 the state shall make a reasonable and timely effort to notify the individual of the
2 request.

3 **SECTION 9rh.** 77.61 (11) of the statutes is amended to read:

4 77.61 (11) Any city, village or town clerk or other official whose duty it is to issue
5 licenses or permits to engage in a business involving the sale at retail of tangible
6 personal property or items or property under s. 77.52 (1) (b) or (c) subject to tax under
7 this subchapter, or the furnishing of services so subject to tax, shall, before issuing
8 such license or permit, require proof that the person to whom such license or permit
9 is to be issued is the holder of a seller's permit or is registered to collect, report, and
10 remit use tax under this subchapter or has been informed by an employee of the
11 department that the department will issue a seller's permit to that person or register
12 that person to collect, report, and remit use tax.

13 **SECTION 9ri.** 77.61 (16) of the statutes is created to read:

14 77.61 (16) Any person who remits taxes and files returns under this subchapter
15 may designate an agent, as defined in s. 77.524 (1) (ag), to remit such taxes and file
16 such returns with the department in a manner prescribed by the department.

17 **SECTION 9rj.** 77.61 (17) of the statutes is created to read:

18 77.61 (17) With regard to services subject to the tax under s. 77.52 (2) or the
19 lease, rental, or license of tangible personal property and property and items
20 specified under s. 77.52 (1) (b) and (c), an increase in the tax rate applies to the first
21 billing period beginning on or after the rate increase's effective date and a decrease
22 in the tax rate applies to bills that are rendered on or after the rate decrease's
23 effective date.

24 **SECTION 9rk.** 77.63 of the statutes is repealed and recreated to read:

1 **77.63 Collection compensation.** The following persons may retain a portion
2 of sales and use taxes collected on retail sales under this subchapter and subch. V
3 in an amount determined by the department and by contracts that the department
4 enters into jointly with other states as a member state of the streamlined sales tax
5 governing board pursuant to the agreement, as defined in s. 77.65 (2) (a):

6 **(1)** A certified service provider.

7 **(2)** A seller that uses a certified automated system, as defined in s. 77.524 (1)
8 (am).

9 **(3)** A seller that sells tangible personal property, items or property under s.
10 77.52 (1) (b) or (c), or taxable services in at least 5 states that are signatories to the
11 agreement, as defined in s. 77.65 (2) (a); that has total annual sales revenue of at
12 least \$500,000,000; that has a proprietary system that calculates the amount of tax
13 owed to each taxing jurisdiction in which the seller sells tangible personal property,
14 items or property under s. 77.52 (1) (b) or (c), or taxable services; and that has entered
15 into a performance agreement with the states that are signatories to the agreement,
16 as defined in s. 77.65 (2) (a). For purposes of this subsection, “seller” includes an
17 affiliated group of sellers using the same proprietary system to calculate the amount
18 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
19 property, items or property under s. 77.52 (1) (b) or (c), or taxable services.

20 **SECTION 9rL.** 77.65 (2) (a) of the statutes is amended to read:

21 77.65 **(2)** (a) “Agreement” means the streamlined sales and use tax agreement,
22 including amendments to the agreement.

23 **SECTION 9rm.** 77.65 (2) (c) of the statutes is repealed.

24 **SECTION 9rn.** 77.65 (2) (e) of the statutes is amended to read:

1 77.65 (2) (e) “Seller” means any person who sells, leases, or rents tangible
2 personal property, items or property under s. 77.52 (1) (b) or (c), or services.

3 **SECTION 9ro.** 77.65 (2) (f) of the statutes is amended to read:

4 77.65 (2) (f) “State” means any state of the United States ~~and~~, the District of
5 Columbia, and the Commonwealth of Puerto Rico.

6 **SECTION 9rp.** 77.65 (4) (fm) of the statutes is created to read:

7 77.65 (4) (fm) Provide that a seller who registers with the central electronic
8 registration system under par. (f) may cancel the registration at any time, as
9 provided under uniform procedures adopted by the governing board of the states that
10 are signatories to the agreement, but is required to remit any Wisconsin taxes
11 collected pursuant to the agreement to the department.

12 **SECTION 9rq.** 77.66 of the statutes is amended to read:

13 **77.66 Certification for collection of sales and use tax.** The secretary of
14 revenue shall determine and periodically certify to the secretary of administration
15 the names of persons, and affiliates, as defined in s. 16.70 (1b), of persons, who make
16 sales of tangible personal property, items or property under s. 77.52 (1) (b) and (c),
17 and taxable services that are subject to the taxes imposed under this subchapter but
18 who are not registered to collect and remit such taxes to the department or, if
19 registered, do not collect and remit such taxes.

20 **SECTION 9rr.** 77.67 of the statutes is created to read:

21 **77.67 Amnesty for new registrants. (1)** A seller is not liable for uncollected
22 and unpaid taxes, including penalties and interest, imposed under this subchapter
23 and subch. V on sales made to purchasers in this state before the seller registers
24 under par. (a), if all of the following apply:

1 (a) The seller registers with the department, in a manner that the department
2 prescribes, to collect and remit the taxes imposed under this subchapter and subch.
3 V on sales to purchasers in this state in accordance with the agreement, as defined
4 in s. 77.65 (2) (a).

5 (b) The seller registers under par. (a) no later than 365 days after the effective
6 date of this state's participation in the agreement under s. 77.65 (2) (a), as
7 determined by the department.

8 (c) The seller was not registered to collect and remit the taxes imposed under
9 this subchapter and subch. V during the 365 consecutive days immediately before
10 the effective date of this state's participation in the agreement under s. 77.65 (2) (a),
11 as determined by the department.

12 (d) The seller has not received a notice of the commencement of an audit from
13 the department or, if the seller has received a notice of the commencement of an audit
14 from the department, the audit has been fully resolved, including any related
15 administrative and judicial processes, at the time that the seller registers under par.
16 (a).

17 (e) The seller has not committed or been involved in a fraud or an intentional
18 misrepresentation of a material fact.

19 (f) The seller collects and remits the taxes imposed under this subchapter and
20 subch. V on sales to purchasers in this state for at least 3 consecutive years after the
21 date on which the seller's collection obligation begins

22 **(2)** Subsection (1) does not apply to taxes imposed under this subchapter and
23 subch. V that are due from the seller for purchases made by the seller.

24 **SECTION 9rs.** 77.70 of the statutes is amended to read:

1 **77.70 Adoption by county ordinance.** Any county desiring to impose county
2 sales and use taxes under this subchapter may do so by the adoption of an ordinance,
3 stating its purpose and referring to this subchapter. The county sales and use taxes
4 may be imposed only for the purpose of directly reducing the property tax levy and
5 only in their entirety as provided in this subchapter. That ordinance shall be
6 effective on the first day of January, the first day of April, the first day of July or the
7 first day of October. A certified copy of that ordinance shall be delivered to the
8 secretary of revenue at least 120 days prior to its effective date. The repeal of any
9 such ordinance shall be effective on December 31. A certified copy of a repeal
10 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before
11 the effective date of the repeal.

12 **SECTION 9rt.** 77.705 of the statutes is amended to read:

13 **77.705 Adoption by resolution; baseball park district.** A local
14 professional baseball park district created under subch. III of ch. 229, by resolution
15 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at
16 a rate of no more than 0.1% of the ~~gross receipts or sales price~~ or purchase price.
17 Those taxes may be imposed only in their entirety. The resolution shall be effective
18 on the first day of the first month January 1, April 1, July 1, or October 1 that begins
19 at least ~~30~~ 120 days after the adoption of the resolution. Any moneys transferred
20 from the appropriation account under s. 20.566 (1) (gd) to the appropriation account
21 under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt.

22 **SECTION 9rv.** 77.706 of the statutes is amended to read:

23 **77.706 Adoption by resolution; football stadium district.** A local
24 professional football stadium district created under subch. IV of ch. 229, by
25 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this

1 subchapter at a rate of 0.5% of the ~~gross receipts or sales price~~ or purchase price.
2 Those taxes may be imposed only in their entirety. The imposition of the taxes under
3 this section shall be effective on the first day of the first month January 1, April 1,
4 July 1, or October 1 that begins at least 30 120 days after the certification of the
5 approval of the resolution by the electors in the district's jurisdiction under s. 229.824
6 (15). Any moneys transferred from the appropriation account under s. 20.566 (1) (ge)
7 to the appropriation account under s. 20.835 (4) (ge) shall be used exclusively to retire
8 the district's debt.

9 **SECTION 9rw.** 77.707 (1) of the statutes is amended to read:

10 77.707 (1) Retailers and the department of revenue may not collect a tax under
11 s. 77.705 for any local professional baseball park district created under subch. III of
12 ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days from
13 the date on which the local professional baseball park district board makes a
14 certification to the department of revenue under s. 229.685 (2), except that the
15 department of revenue may collect from retailers taxes that accrued before the day
16 after the last day of that calendar quarter and fees, interest and penalties that relate
17 to those taxes.

18 **SECTION 9sb.** 77.707 (2) of the statutes is amended to read:

19 77.707 (2) Retailers and the department of revenue may not collect a tax under
20 s. 77.706 for any local professional football stadium district created under subch. IV
21 of ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days
22 from the date on which the local professional football stadium district board makes
23 all of the certifications to the department of revenue under s. 229.825 (3), except that
24 the department of revenue may collect from retailers taxes that accrued before the

1 day after the last day of that calendar quarter and fees, interest and penalties that
2 relate to those taxes.

3 **SECTION 9sc.** 77.71 (1) of the statutes is amended to read:

4 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
5 personal property, and the property and items specified under s. 77.52 (1) (b) and (c),
6 and for the privilege of selling, licensing, performing or furnishing services a sales
7 tax is imposed upon retailers at the rate of 0.5% in the case of a county tax or at the
8 rate under s. 77.705 or 77.706 in the case of a special district tax of the ~~gross receipts~~
9 sales price from the sale, licensing, lease or rental of tangible personal property, and
10 the property and items specified under s. 77.52 (1) (b) and (c), except property taxed
11 under sub. (4), sold, licensed, leased or rented at retail in the county or special district
12 or from selling, licensing, performing or furnishing services described under s. 77.52
13 (2) in the county or special district.

14 **SECTION 9sd.** 77.71 (2) of the statutes is amended to read:

15 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
16 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the ~~sales~~
17 purchase price upon every person storing, using or otherwise consuming in the
18 county or special district tangible personal property, property and items specified
19 under s. 77.52 (1) (b) and (c), or services if the property, item, or service is subject to
20 the state use tax under s. 77.53, except that a receipt indicating that the tax under
21 sub. (1), (3) or (4) has been paid relieves the buyer of liability for the tax under this
22 subsection and except that if the buyer has paid a similar local tax in another state
23 on a purchase of the same property, item, or services that tax shall be credited against
24 the tax under this subsection and except that for motor vehicles that are used for a
25 purpose in addition to retention, demonstration or display while held for sale in the

1 regular course of business by a dealer the tax under this subsection is imposed not
2 on the sales purchase price but on the amount under s. 77.53 (1m).

3 **SECTION 9se.** 77.71 (3) of the statutes is amended to read:

4 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
5 activities within the county or special district, at the rate of 0.5% in the case of a
6 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
7 of the sales purchase price of tangible personal property that is used in constructing,
8 altering, repairing or improving real property and that becomes a component part
9 of real property in that county or special district, except that if the contractor has
10 paid the sales tax of a county in the case of a county tax or of a special district in the
11 case of a special district tax in this state on that property, or has paid a similar local
12 sales tax in another state on a purchase of the same property, that tax shall be
13 credited against the tax under this subsection.

14 **SECTION 9sf.** 77.71 (4) of the statutes, as affected by 2007 Wisconsin Act 11, is
15 amended to read:

16 77.71 (4) An excise tax is imposed at the rate of 0.5 percent in the case of a
17 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
18 of the sales purchase price upon every person storing, using or otherwise consuming
19 a motor vehicle, boat, ~~snowmobile~~, recreational vehicle, as defined in s. 340.01 (48r),
20 trailer, semitrailer, ~~all-terrain vehicle~~ or aircraft, if that property must be registered
21 or titled with this state and if that property is to be customarily kept in a county that
22 has in effect an ordinance under s. 77.70 or in a special district that has in effect a
23 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
24 sales tax in another state on a purchase of the same property that tax shall be
25 credited against the tax under this subsection.

1 **SECTION 9sg.** 77.72 (title) of the statutes is repealed.

2 **SECTION 9sh.** 77.72 (1) of the statutes is renumbered 77.72 and amended to
3 read:

4 **77.72 General rule for property.** For the purposes of this subchapter, all
5 retail sales of tangible personal property ~~are completed at the time when, and the~~
6 ~~place where, the seller or the seller's agent transfers possession to the buyer or the~~
7 ~~buyer's agent. In this subsection, a common carrier or the U.S. postal service is the~~
8 ~~agent of the seller, regardless of any f.o.b. point and regardless of the method by~~
9 ~~which freight or postage is paid. Rentals and leases of property, except property~~
10 ~~under sub. (2), have a situs at the location of that property, and property and items~~
11 ~~specified under s. 77.52 (1) (b) and (c), and taxable services occur as provided in s.~~
12 77.522.

13 **SECTION 9si.** 77.72 (2) and (3) of the statutes are repealed.

14 **SECTION 9sj.** 77.73 (2) of the statutes is amended to read:

15 **77.73 (2)** Counties and special districts do not have jurisdiction to impose the
16 tax under s. 77.71 (2) in regard to items and property under s. 77.52 (1) (b) and (c)
17 and tangible personal property, except snowmobiles, trailers, semitrailers, and
18 all-terrain vehicles, purchased in a sale that is consummated in another county or
19 special district in this state that does not have in effect an ordinance or resolution
20 imposing the taxes under this subchapter and later brought by the buyer into the
21 county or special district that has imposed a tax under s. 77.71 (2).

22 **SECTION 9sk.** 77.73 (3) of the statutes is created to read:

23 **77.73 (3)** Counties and special districts have jurisdiction to impose the taxes
24 under this subchapter on retailers who file an application under s. 77.52 (7) or who
25 register under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged

1 in business in the county or special district, as provided in s. 77.51 (13g). A retailer
2 who files an application under s. 77.52 (7) or who registers under s. 77.53 (9) or (9m)
3 shall collect, report, and remit to the department the taxes imposed under this
4 subchapter for all counties and special districts that have an ordinance or resolution
5 imposing the taxes under this subchapter.

6 **SECTION 9sL.** 77.75 of the statutes is amended to read:

7 **77.75 Reports.** Every person subject to county or special district sales and use
8 taxes shall, for each reporting period, record that person's sales made in the county
9 or special district that has imposed those taxes separately from sales made
10 elsewhere in this state and file a report of the measure of the county or special district
11 sales and use taxes and the tax due thereon separately as prescribed by the
12 department of revenue.

13 **SECTION 9sm.** 77.77 (1) of the statutes is renumbered 77.77 (1) (a) and amended
14 to read:

15 **77.77 (1) (a)** ~~The gross receipts sales price from services subject to the tax under~~
16 ~~s. 77.52 (2) are not~~ or the lease, rental, or license of tangible personal property, and
17 property and items specified under s. 77.52 (1) (b) and (c), is subject to the taxes under
18 this subchapter, and the incremental amount of tax caused by a rate increase
19 applicable to those services, leases, rentals, or licenses is not due, if those services
20 are billed to the customer and paid for before beginning with the first billing period
21 starting on or after the effective date of the county ordinance, special district
22 resolution, or rate increase, regardless of whether the service is furnished or the
23 property or item is leased, rented, or licensed to the customer before or after that
24 date.

25 **SECTION 9sn.** 77.77 (1) (b) of the statutes is created to read:

1 77.77 (1) (b) The sales price from services subject to the tax under s. 77.52 (2)
2 or the lease, rental, or license of tangible personal property, and property and items
3 specified under s. 77.52 (1) (b) and (c), is not subject to the taxes under this
4 subchapter, and a decrease in the tax rate imposed under this subchapter on those
5 services first applies, beginning with bills rendered on or after the effective date of
6 the repeal or sunset of a county ordinance or special district resolution imposing the
7 tax or other rate decrease, regardless of whether the service is furnished or the
8 property or item is leased, rented, or licensed to the customer before or after that
9 date.

10 **SECTION 9so.** 77.77 (2) of the statutes is repealed.

11 **SECTION 9sp.** 77.785 (1) of the statutes is amended to read:

12 77.785 (1) All retailers shall collect and report the taxes under this subchapter
13 on the ~~gross receipts~~ sales price from leases and rentals of property or items and
14 property under s. 77.52 (1) (b) and (c) under s. 77.71 (4).

15 **SECTION 9sq.** 77.785 (2) of the statutes, as affected by 2007 Wisconsin Act 11,
16 is amended to read:

17 77.785 (2) Prior to registration or titling, a retailer of a boat, all-terrain vehicle,
18 trailer and semi-trailer dealers and licensed aircraft, motor vehicle, manufactured
19 home, as defined in s. 101.91 (2), or recreational vehicle, as defined in s. 340.01 (48r),
20 and snowmobile dealers shall collect the taxes under this subchapter on sales of
21 items under s. 77.71 (4). The ~~dealer~~ retailer shall remit those taxes to the
22 department of revenue along with payments of the taxes under subch. III.

23 **SECTION 9sr.** 77.98 of the statutes is amended to read:

24 **77.98 Imposition.** A local exposition district under subch. II of ch. 229 may
25 impose a tax on the retail sale, except sales for resale, within the district's

1 jurisdiction under s. 229.43 of ~~products that are subject to a tax under s. 77.54 (20)~~
2 ~~(c) 1. to 3. and not candy, as defined in s. 77.51 (1fm), prepared food, as defined in s.~~
3 ~~77.51 (10m), and soft drinks, as defined in s. 77.51 (17w), unless exempt from the~~
4 ~~sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), (9a) or (20) (c) 5., (20n) (b) and (c).~~
5 ~~and (20r).~~

6 **SECTION 9ss.** 77.981 of the statutes is amended to read:

7 **77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products
8 at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote
9 of a majority of the authorized members of its board of directors, may impose the tax
10 at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized
11 members of the district's board may vote that, if the balance in a special debt service
12 reserve fund of the district is less than the requirement under s. 229.50 (5), the tax
13 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next
14 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued
15 by the district and secured by the special debt service reserve fund are outstanding.

16 **SECTION 9st.** 77.982 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
17 is repealed and recreated to read:

18 **77.982 (2)** Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
19 (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60,
20 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
21 subch. III, apply to the tax under this subchapter. Section 77.73, as it applies to the
22 taxes under subch. V, applies to the tax under this subchapter.

23 **SECTION 9sv.** 77.99 of the statutes is amended to read:

24 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
25 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not

1 for rental and not for rental as a service or repair replacement vehicle, within the
2 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
3 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
4 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
5 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
6 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
7 authorized board of directors may vote to increase the tax rate under this subchapter
8 to 4%. A resolution to adopt the taxes imposed under this section, or an increase in
9 the tax rate, shall be effective on the first January 1, April 1, July 1, or October 1
10 following the adoption of the resolution or tax increase.

11 **SECTION 9sw.** 77.991 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
12 is repealed and recreated to read:

13 77.991 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
14 (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60,
15 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
16 subch. III, apply to the tax under this subchapter. Section 77.73, as it applies to the
17 taxes under subch. V, applies to the tax under this subchapter. The renter shall
18 collect the tax under this subchapter from the person to whom the passenger car is
19 rented.

20 **SECTION 9tb.** 77.994 (1) (intro.) of the statutes is amended to read:

21 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all
22 of which is included in a premier resort area under s. 66.1113 may, by ordinance,
23 impose a tax at a rate of 0.5% of the ~~gross receipts~~ sales price from the sale, license,
24 lease, or rental in the municipality or county of goods or services that are taxable
25 under subch. III made by businesses that are classified in the standard industrial

1 classification manual, 1987 edition, published by the U.S. office of management and
2 budget, under the following industry numbers:

3 **SECTION 9tc.** 77.9941 (4) of the statutes is amended to read:

4 77.9941 (4) Sections 77.72 (1), ~~(2) (a) and (3) (a)~~, 77.73, 77.74, 77.75, 77.76 (1),
5 (2), and (4), 77.77 (1) ~~and (2)~~, 77.785 (1), and 77.79, as they apply to the taxes under
6 subch. V, apply to the tax under this subchapter.

7 **SECTION 9td.** 77.995 (2) of the statutes, as affected by 2007 Wisconsin Act 11,
8 is amended to read:

9 77.995 (2) There is imposed a fee at the rate of 5 percent of the ~~gross receipts~~
10 sales price on the rental, but not for rental and not for rental as a service or repair
11 replacement vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of
12 recreational vehicles, as defined in s. 340.01 (48r); of motor homes, as defined in s.
13 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by establishments
14 primarily engaged in short-term rental of vehicles without drivers, for a period of 30
15 days or less, unless the sale is exempt from the sales tax under s. 77.54 (1), (4), (7)
16 (a), (7m) or (9a). There is also imposed a fee at the rate of 5 percent of the ~~gross~~
17 receipts sales price on the rental of limousines.

18 **SECTION 9te.** 77.9951 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
19 is repealed and recreated to read:

20 77.9951 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
21 (4), (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59,
22 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes
23 under subch. III, apply to the fee under this subchapter. The renter shall collect the
24 fee under this subchapter from the person to whom the vehicle is rented.

25 **SECTION 9tf.** 77.996 (6) of the statutes is amended to read:

1 77.996 (6) “Gross receipts” ~~has the meaning given in s. 77.51 (4) (a), (b) 1. and~~
2 5., (c) 1. to 4., and (d) means the sales price, as defined in s. 77.51 (15b), of tangible
3 personal property and taxable services sold by a dry cleaning facility. “Gross
4 receipts” does not include the license fee imposed under s. 77.9961 (1m) that is passed
5 on to customers.

6 **SECTION 9tg.** 77.9971 of the statutes is amended to read:

7 **77.9971 Imposition.** A regional transit authority under s. 59.58 (6) may
8 impose a fee at a rate not to exceed \$2 \$15 for each transaction in the region, as
9 defined in s. 59.58 (6) (a) 2., on the rental, but not for rental and not for rental as
10 a service or repair replacement vehicle, of Type 1 automobiles, as defined in s. 340.01
11 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
12 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
13 tax under s. 77.54 (1), (4), (7) (a), (7m), (9), or (9a). The fee imposed under this
14 subchapter shall be effective on the first day of the first month that begins at least
15 90 days after the governing body of the regional transit authority approves the
16 imposition of the fee and notifies the department of revenue. The governing body
17 shall notify the department of a repeal of the fee imposed under this subchapter at
18 least 60 days before the effective date of the repeal.

19 **SECTION 9th.** 77.9972 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
20 is repealed and recreated to read:

21 77.9972 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
22 (4), (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59,
23 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes
24 under subch. III, apply to the fee under this subchapter. Section 77.73, as it applies
25 to the taxes under subch. V, applies to the fee under this subchapter. The renter shall

1 collect the fee under this subchapter from the person to whom the passenger car is
2 rented.

3 **SECTION 9ti.** 86.195 (3) (b) 3. of the statutes is amended to read:

4 86.195 (3) (b) 3. Fifty percent of the ~~gross receipts~~ sales price, as defined in s.
5 77.51 (15b). of the business are from ~~meal, food, the sale of food product and beverage~~
6 ~~sales and food ingredients, as defined in s. 77.51 (3t), that are taxable under s. 77.54~~
7 ~~(20) (c) subch. III of ch. 77; and~~".

8 **5.** Page 6, line 9: delete lines 9 to 20 and substitute:

9 "SECTION 14f. 146.99 of the statutes is repealed.

10 **SECTION 14j.** 196.218 (3) (f) of the statutes, as affected by 2007 Wisconsin Act
11 20, is amended to read:

12 196.218 (3) (f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)
13 and (6), 196.213 and 196.215, and except as provided in par. (fm), a
14 telecommunications utility that provides local exchange service may make
15 adjustments to local exchange service rates for the purpose of recovering its
16 contributions to the universal service fund required under this subsection. A
17 telecommunications utility that adjusts local exchange service rates for the purpose
18 of recovering such contributions shall identify on customer bills a single amount that
19 is the total amount of the adjustment. The public service commission shall provide
20 telecommunications utilities the information necessary to identify such amounts on
21 customer bills.

22 **SECTION 14L.** 196.28 (3) (fm) of the statutes is created to read:

23 196.28 (3) (fm) The commission shall determine the portion of each
24 telecommunications provider's contribution to the universal service fund that is

1 necessary to generate the amount appropriated under s. 20.255 (3) (qm) less
2 \$5,486,100. A telecommunications utility that provides local exchange service may
3 not adjust local exchange service rates under par. (f) to recover the portion
4 determined by the commission under this paragraph for the telecommunications
5 utility, and any other telecommunications provider may not recover the portion
6 determined by the commission under this paragraph for the telecommunications
7 provider from the telecommunications provider's customers.

8 **SECTION 14o.** 218.0171 (2) (cq) of the statutes is amended to read:

9 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
10 the manufacturer shall provide to the consumer a written statement that specifies
11 the trade-in amount previously applied under s. 77.51 (4) (b) 3. ~~or 3m. or (15) (b) 4.~~
12 ~~or 4m. (12m) (b) 5. or 6. or (15b) (b) 5. or 6.~~ toward the sales price of the motor vehicle
13 having the nonconformity and the date on which the manufacturer provided the
14 refund.

15 **SECTION 14q.** 229.68 (15) of the statutes is amended to read:

16 229.68 (15) Impose, by the adoption of a resolution, the taxes under subch. V
17 of ch. 77. A district may not levy any taxes that are not expressly authorized under
18 subch. V of ch. 77 and that do not receive the affirmative vote of a supermajority of
19 the district board. If a district adopts a resolution which imposes taxes, it shall
20 deliver a certified copy of the resolution to the secretary of revenue at least ~~30~~ 120
21 days before its effective date.

22 **SECTION 14s.** 229.824 (15) of the statutes is amended to read:

23 229.824 (15) Impose, by the adoption of a resolution, the taxes under subch. V
24 of ch. 77, except that the taxes imposed by the resolution may not take effect until
25 the resolution is approved by a majority of the electors in the district's jurisdiction

1 voting on the resolution at a referendum, to be held at the first spring primary or
2 September primary following by at least 45 days the date of adoption of the
3 resolution. Two questions shall appear on the ballot. The first question shall be:
4 “Shall a sales tax and a use tax be imposed at the rate of 0.5% in County for
5 purposes related to football stadium facilities in the Professional Football
6 Stadium District?” The 2nd question shall be: “Shall excess revenues from the 0.5%
7 sales tax and use tax be permitted to be used for property tax relief purposes in
8 County?” Approval of the first question constitutes approval of the resolution of the
9 district board. Approval of the 2nd question is not effective unless the first question
10 is approved. The clerk of the district shall publish the notices required under s. 10.06
11 (4) (c), (f) and (i) for any referendum held under this subsection. Notwithstanding
12 s. 10.06 (4) (c), the type A notice under s. 10.01 (2) (a) relating to the referendum is
13 valid even if given and published late as long as it is given and published prior to the
14 election as early as practicable. A district may not levy any taxes that are not
15 expressly authorized under subch. V of ch. 77. The district may not levy any taxes
16 until the professional football team and the governing body of the municipality in
17 which the football stadium facilities are located agree on how to fund the
18 maintenance of the football stadium facilities. The district may not levy any taxes
19 until the professional football team and the governing body of the municipality in
20 which the football stadium facilities are located agree on how to distribute the
21 proceeds, if any, from the sale of naming rights related to the football stadium
22 facilities. If a district board adopts a resolution that imposes taxes and the resolution
23 is approved by the electors, the district shall deliver a certified copy of the resolution
24 to the secretary of revenue at least ~~30~~ 120 days before its effective date. If a district

1 board adopts a resolution that imposes taxes and the resolution is not approved by
2 the electors, the district is dissolved.

3 **SECTION 9101. Nonstatutory provisions; administration.**

4 (1i) TEMPORARY REALLOCATIONS TO THE GENERAL FUND. Notwithstanding section
5 20.002 (11) (b) 2. of the statutes, except as provided in section 20.002 (11) (b) 3. of the
6 statutes, the secretary of administration, during the 2007–09 fiscal biennium, shall
7 limit the total amount of any temporary reallocations to the general fund at any one
8 time during a fiscal year to an amount equal to 10 percent of the total amounts shown
9 in the schedule under section 20.005 (3) of the statutes, as affected by the acts of 2007,
10 of appropriations of general purpose revenues, calculated by the secretary as of that
11 time and for that fiscal year.”.

12 **6.** Page 7, line 5: after that line insert:

13 **“SECTION 9148. Nonstatutory provisions; Transportation.**

14 (1j) JOINT FINANCE COMMITTEE SUPPLEMENTAL FUNDING RELATED TO REAL ID ACT
15 IMPLEMENTATION. Notwithstanding section 13.101 (1), (3), and (5) of the statutes, the
16 joint committee on finance may not, for purposes relating to implementation of the
17 federal REAL ID Act of 2005, supplement in the 2007–09 fiscal biennium, from the
18 appropriation account under section 20.865 (4) (u) of the statutes, any appropriation
19 of the department of transportation for expenditures of the department of
20 transportation in the 2007–09 fiscal biennium relating to implementation of the
21 federal REAL ID Act of 2005.

22 (2j) JOINT FINANCE COMMITTEE SUPPLEMENTAL FUNDING RELATED TO THE
23 KENOSHA–RACINE–MILWAUKEE COMMUTER RAIL EXTENSION PROJECT. Notwithstanding
24 section 13.101 (1), (3), and (5) of the statutes and 2007 Wisconsin Act 20, Section 9148

1 (9u), the joint committee on finance may not, from the appropriation account under
2 section 20.865 (4) (u) of the statutes, supplement any appropriation of the
3 department of transportation in the 2007–09 fiscal biennium for purposes related to
4 the Kenosha–Racine–Milwaukee commuter rail extension project.

5 (3j) DEPARTMENT OF TRANSPORTATION APPROPRIATION LAPSES UNDER ACT 20.

6 (a) Notwithstanding section 9201 (1c) of 2007 Wisconsin Act 20, the secretary
7 of administration may not, under section 9201 (1c) (a) of 2007 Wisconsin Act 20, do
8 any of the following:

9 1. Lapse or transfer more than a total of \$50,000,000 in the 2007–09 fiscal
10 biennium from the appropriations made to the department of transportation.

11 2. Lapse or transfer any amount in the 2007–09 fiscal biennium from any
12 appropriation made to the department of transportation other than the
13 appropriation account under section 20.395 (3) (cq) of the statutes.

14 (b) If the secretary of administration has, prior to the effective date of this
15 paragraph, lapsed or transferred moneys under section 9201 (1c) (a) of 2007
16 Wisconsin Act 20 in a manner that would have been inconsistent with paragraph (a)
17 1. or 2. if the lapse or transfer occurred after the effective date of this paragraph, the
18 secretary of administration shall do all of the following:

19 1. If the lapse or transfer would have been inconsistent with paragraph (a) 1.,
20 the secretary of administration shall transfer, from the general fund to the fund or
21 appropriation account from which the lapse or transfer was made except with respect
22 to the appropriation account under section 20.395 (3) (cq) of the statutes to the extent
23 the amount lapsed or transferred from this appropriation account did not exceed
24 \$50,000,000, pro rata amounts as determined by the secretary totalling the amount
25 by which the lapse or transfer exceeded \$50,000,000.

1 2. If the lapse or transfer would have been inconsistent with paragraph (a) 2.,
2 the secretary of administration shall transfer, from the general fund to the fund or
3 appropriation account from which the lapse or transfer was made, any amount
4 lapsed or transferred other than an amount lapsed or transferred from the
5 appropriation account under section 20.395 (3) (cq) of the statutes.

6 (4j) ESTIMATES FOR CERTAIN DEPARTMENT OF TRANSPORTATION APPROPRIATIONS.
7 Notwithstanding s. 84.03 (2), the secretary of administration and department of
8 transportation shall estimate the following additional revenues, for the following
9 appropriations, which additional revenues are not reflected in the schedule under
10 section 20.005 (3) of the statutes, as created by 2007 Wisconsin Act 20:

11 (a) Additional revenues of \$20,000,000 in fiscal year 2007–08 for the
12 appropriation account under section 20.395 (3) (bx) of the statutes.

13 (b) Additional revenues of \$56,967,500 in fiscal year 2007–08 for the
14 appropriation account under section 20.395 (3) (cx) of the statutes.”.

15 **7.** Page 7, line 19: delete “1.”.

16 **8.** Page 7, line 22: delete the material beginning with “not specified” and
17 ending with “2.” on line 23.

18 **9.** Page 7, line 24: delete that line and substitute “\$40,000,000 during the
19 2007–09 fiscal biennium and \$40,000,000 during the”.

20 **10.** Page 7, line 25: delete “subdivision” and substitute “paragraph”.

21 **11.** Page 8, line 2: delete the material beginning with “This subdivision” and
22 ending with “allocated.” on line 10 and substitute “This paragraph shall not apply
23 to an appropriation to the department of public instruction under section 20.255 (2)
24 of the statutes, to an appropriation to the department of revenue under section

1 20.566 of the statutes, to an appropriation to the department of transportation under
2 section 20.395 of the statutes, or to an appropriation to the technical college system
3 board under section 20.292 (1) of the statutes.”.

4 **12.** Page 8, line 14: after that line insert:

5 **“SECTION 9221. Fiscal changes; Health and Family Services.**

6 (1k) MEDICAL ASSISTANCE PROGRAM BENEFITS. In the schedule under section
7 20.005 (3) of the statutes for the appropriation to the department of health and family
8 services under section 20.435 (4) (b) of the statutes, as affected by the acts of 2007,
9 the dollar amount is decreased by \$18,000,000 for fiscal year 2007–08 and the dollar
10 amount is decreased by \$18,000,000 for fiscal year 2008–09 to reduce funding for the
11 purposes for which the appropriation is made.

12 (2k) MEDICAL ASSISTANCE TRUST FUND. In the schedule under section 20.005 (3)
13 of the statutes for the appropriation to the department of health and family services
14 under section 20.435 (4) (w) of the statutes, as affected by the acts of 2007, the dollar
15 amount is increased by \$18,000,000 for fiscal year 2007–08 and the dollar amount
16 is increased by \$18,000,000 for fiscal year 2008–09 to increase funding for the
17 purposes for which the appropriation is made.

18 (3k) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE DECREASE. In the schedule
19 under section 20.005 (3) of the statutes for the appropriation to the department of
20 health and family services under section 20.435 (4) (b) of the statutes, as affected by
21 the acts of 2007, the dollar amount is decreased by \$60,000,000 for fiscal year
22 2007–08 and the dollar amount is decreased by \$62,500,000 for fiscal year 2008–09
23 for the purposes for which the appropriation is made.”.

24 **13.** Page 8, line 19: after that line insert:

1 “(2i) PUBLIC LIBRARY SYSTEM AID.

2 (a) In the schedule under section 20.005 (3) of the statutes for the appropriation
3 to the department of public instruction under section 20.255 (3) (e) of the statutes,
4 as affected by the acts of 2007, the dollar amount is decreased by \$11,297,400 for
5 fiscal year 2008–09 to decrease funding for the purpose for which the appropriation
6 is made.

7 (b) In the schedule under section 20.005 (3) of the statutes for the appropriation
8 to the department of public instruction under section 20.255 (3) (qm) of the statutes,
9 as affected by the acts of 2007, the dollar amount is increased by \$11,297,400 for
10 fiscal year 2008–09 to increase funding for the purpose for which the appropriation
11 is made.

12 **SECTION 9248. Fiscal changes; Transportation.**

13 (1j) TRANSFER TO GENERAL FUND. Notwithstanding section 25.40 (3) (a) of the
14 statutes, the secretary of administration shall transfer from the transportation fund
15 to the general fund \$9,805,300 in fiscal year 2007–08 and \$12,184,000 in fiscal year
16 2008–09.

17 (2j) APPROPRIATION CHANGE RELATED TO COMMUTER RAIL. In the schedule under
18 section 20.005 (3) of the statutes for the appropriation to the department of
19 transportation under section 20.395 (2) (ct) of the statutes, as affected by the acts of
20 2007, the dollar amount is increased by \$800,000 for fiscal year 2007–08 to increase
21 funding for commuter rail transit system development.

22 **SECTION 9254. Fiscal changes; Workforce Development.**

23 (1k) CHILD CARE FUNDS. In the schedule under section 20.005 (3) of the statutes
24 for the appropriation to the department of workforce development under section
25 20.445 (3) (cm) of the statutes, as affected by the acts of 2007, the dollar amount is

1 increased by \$18,600,000 for fiscal year 2007–08 to increase funding for the purpose
2 for which the appropriation is made.”.

3 **14.** Page 8, line 24: after that line insert:

4 **“SECTION 9339. Initial applicability; Public Service Commission.**

5 (1j) UNIVERSAL SERVICE FUND CONTRIBUTIONS. The treatment of section 196.218
6 (3) (f) and (fm) of the statutes first applies to determinations made by the public
7 service commission regarding contributions necessary to generate the amount
8 appropriated under section 20.255 (3) (qm) of the statutes for fiscal year 2008–09.

9 **SECTION 9341. Initial applicability; Revenue.**

10 (1j) CORPORATE TAX RATE. The treatment of sections 71.27 (1) and (2) and 71.46
11 (1), (2), and (3) of the statutes first applies to taxable years beginning on January 1,
12 2009.

13 (2j) COMBINED REPORTING. The treatment of sections 71.22 (9), 71.255, and 71.26
14 (3) (x) of the statutes first applies to taxable years beginning on January 1, 2008.”.

15 **15.** Page 9, line 4: before “The treatment” insert “EQUALIZATION AID SHIFT.”.

16 **16.** Page 9, line 5: after that line insert:

17 **“SECTION 9441. Effective dates; Revenue.**

18 (1k) MAIN STREET EQUITY ACT.

19 (a) The repeal of sections 46.513, 77.51 (4), 77.51 (14) (d), 77.51 (14) (i), 77.51
20 (14) (k), 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (2) (a) 5. b., 77.52 (3m), 77.52 (3n),
21 77.52 (6), 77.52 (14) (a) 2., 77.523 (title), 77.53 (4), 77.54 (14g), 77.54 (14s), 77.54 (20),
22 77.54 (20m), 77.54 (22), 77.54 (40), 77.61 (3), 77.65 (2) (c), 77.72 (title), 77.72 (2) and
23 (3), and 77.77 (2) of the statutes, the renumbering of sections 77.51 (6m), 77.51 (14)
24 (g), 77.524 (1) (a), and 77.54 (48) (b) of the statutes, the renumbering and amendment

1 of sections 77.51 (1), 77.52 (1), 77.523, 77.524 (1) (b), 77.53 (9m), 77.53 (11), 77.54 (48)
2 (a), 77.61 (2), 77.72 (1), and 77.77 (1) of the statutes, the consolidation, renumbering,
3 and amendment of section 77.52 (14) (a) (intro.) and 1. and (b) of the statutes, the
4 amendment of sections 66.0615 (1m) (f) 2., 70.111 (23), 71.07 (5e) (b), 71.07 (5e) (c)
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11 77.51 (1f), 77.51 (1fm), 77.51 (1n), 77.51 (1p), 77.51 (1r), 77.51 (2k), 77.51 (2m), 77.51
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23 77.61 (5m), 77.61 (16), 77.61 (17), 77.65 (4) (fm), 77.67, 77.73 (3), and 77.77 (1) (b) of
24 the statutes take effect on January 1, 2009.

