



State of Wisconsin
 2007 - 2008 LEGISLATURE
 March 2008 Special Session

LRBb1275/P1
 ALL:all:rs
 Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

fix request sheet

1 At the locations indicated, amend the bill, as shown by assembly substitute
 2 amendment 1, as 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."

fix component

8 2. Page 4, line 17: delete lines 17 to 20 and substitute:

9 "SECTION 8m. 20.005 (3) (schedule) of the statutes: at the appropriate place,
 10 insert the following amounts for the purposes indicated:

16: after that line insert

6m

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

”
#. Page 4, line 18: on lines 18 and 20, delete
3. Page 4, line 25: after that line insert: “\$20,000,000” and
“SECTION 9ac. 20.435 (4) (gp) of the statutes is repealed. substitute
SECTION 9ad. 20.435 (4) (xc) of the statutes is created to read: “\$55,000,000”

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:

20.435 (4) (xd) *Hospital assessment fund; Medical Assistance program benefits.*

Biennially, from the hospital assessment fund, the amounts in the schedule to

1 provide a portion of the state share of Medical Assistance program benefits
2 administered under subch. IV of ch. 49.

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

4 20.566 (1) (ho) *Collections under multistate streamlined sales tax project.* From
5 moneys collected under the multistate streamlined sales tax project as provided
6 under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the
7 governing board of the multistate streamlined sales tax project.

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

9 20.866 (2) (uur) *Transportation; state highway rehabilitation projects.* From
10 the capital improvement fund, a sum sufficient for the department of transportation
11 to fund state highway rehabilitation projects, as provided under s. 84.95. The state
12 may contract public debt in an amount not to exceed ~~\$250,000,000~~ \$300,000,000 for
13 this purpose.

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

15 25.17 (1) (gs) Hospital assessment fund (s. 25.772);

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

18 **25.69 Permanent endowment fund.** There is established a separate
19 nonlapsible trust fund designated as the permanent endowment fund, consisting of
20 all of the proceeds from the sale of the state's right to receive payments under the
21 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
22 and all investment earnings on the proceeds. There is transferred from the
23 permanent endowment fund to the Medical Assistance trust fund ~~\$50,000,000~~
24 \$68,000,000 in each fiscal year.

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

1 **25.772 Hospital assessment fund.** There is established a separate
2 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
3 moneys received under s. 50.375 from assessments on hospitals.

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

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

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

15 46.27 (10) (a) 1. The department shall determine for each county participating
16 in the pilot project under sub. (9) a funding level of state medical assistance
17 expenditures to be received by the county. This level shall equal the amount that the
18 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp), or (w),~~
19 or (xd), or because of increased utilization of nursing home services, as estimated by
20 the department.

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

22 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
23 department under sub. (3r), provides under this program is available from the
24 appropriation accounts under s. 20.435 (4) (b), ~~(gp), (o), and (w),~~ and (xd). If 2 or more
25 counties jointly contract to provide services under this program and the department

1 approves the contract, Medical Assistance reimbursement is also available for
2 services provided jointly by these counties.

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

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

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

12 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
13 (bm), ~~(gp)~~, (pa), and (w), and (xd) and (7) (b), (bd), and (md), the department may
14 contract with organizations that meet standards under sub. (3) for performance of
15 the duties under sub. (4) and shall distribute funds for services provided by resource
16 centers.

17 **SECTION 9ap.** 46.284 (5) (a) of the statutes, as affected by 2007 Wisconsin Act
18 20, is amended to read:

19 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
20 (im), (o), and (w), and (xd) and (7) (b), (bd), and (g), the department shall provide
21 funding on a capitated payment basis for the provision of services under this section.
22 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
23 under contract with the department may expend the funds, consistent with this
24 section, including providing payment, on a capitated basis, to providers of services
25 under the family care benefit.

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

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

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

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

10 49.155 **(6m)** AUTHORIZATION FOR PAYMENT. (a) In this subsection:

11 1. "Certified provider" means a child care provider certified under s. 48.651.

12 2. "Child care administrative agency" means any agency that has a contract
13 with the department to administer child care funds or any agency that has a
14 subcontract to administer child care funds with an agency that has a contract with
15 the department.

16 3. "Licensed provider" means a child care provider licensed under s. 48.65.

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

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

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

1 b. 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, if the child care administrative agency has documented 3 separate
4 occasions on which the provider significantly overreported the attendance of a child.

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

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

17 **SECTION 9be.** 49.175 (1) (p) of the statutes, as affected by 2007 Wisconsin Act
18 20, is amended to read:

19 49.175 (1) (p) *Direct child care services.* For direct child care services under s.
20 49.155, ~~\$340,601,800~~ \$359,201,800 in fiscal year 2007-08 and \$355,352,000 in fiscal
21 year 2008-09.

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

23 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
24 organization, the joint committee on finance and appropriate standing committees,
25 as determined by the presiding officer of each house, if the appropriation accounts

1 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
2 medical assistance.

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

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

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

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

16 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
17 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
18 provided in pars. (bg), (bm), and (br), be determined according to a prospective
19 payment system updated annually by the department. The payment system shall
20 implement standards that are necessary and proper for providing patient care and
21 that meet quality and safety standards established under subch. II of ch. 50 and ch.
22 150. The payment system shall reflect all of the following:

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

24 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
25 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that

1 provides information on the utilization of beds by recipients of medical assistance in
2 facilities and a discussion and detailed projection of the likely balances,
3 expenditures, encumbrances and carry over of currently appropriated amounts in
4 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, ~~and (o)~~, and (xd).

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

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

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

13 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
14 under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department shall may
15 distribute funding in each fiscal year to provide supplemental payment to hospitals
16 that enter into a contract under s. 49.02 (2) to provide health care services funded
17 by a relief block grant, as determined by the department, for hospital services that
18 are not in excess of the hospitals' customary charges for the services, as limited under
19 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
20 allocation of funds to such hospitals would exceed any limitation under 42 USC
21 1396b (i) (3), the department may distribute funds to hospitals that have not entered
22 into a contract under s. 49.02 (2).

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

24 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
25 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department shall distribute

1 funding in each fiscal year to provide supplemental payments to hospitals that enter
2 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
3 to provide health care services funded by a relief block grant, as determined by the
4 department, for hospital services that are not in excess of the hospitals' customary
5 charges for the services, as limited under 42 USC 1396b (i) (3).

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

8 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
9 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department may
10 distribute funding in each fiscal year to supplement payment for services to hospitals
11 that enter into indigent care agreements, in accordance with the approved state plan
12 for services under 42 USC 1396a, with relief agencies that administer the medical
13 relief block grant under this chapter, if the department determines that the hospitals
14 serve a disproportionate number of low-income patients with special needs. If no
15 medical relief block grant under this chapter is awarded or if the allocation of funds
16 to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
17 department may distribute funds to hospitals that have not entered into indigent
18 care agreements. The department may not distribute funds under this subsection
19 to the extent that the distribution would do any of the following:

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

21 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd)
22 for home health services provided by a certified home health agency or independent
23 nurse shall be made at the home health agency's or nurse's usual and customary fee
24 per patient care visit, subject to a maximum allowable fee per patient care visit that
25 is established under par. (c).

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

2 49.45 **(24m)** (intro.) From the appropriation accounts under s. 20.435 (4) (b),
3 ~~(gp)~~, (o), and (w), and (xd), in order to test the feasibility of instituting a system of
4 reimbursement for providers of home health care and personal care services for
5 medical assistance recipients that is based on competitive bidding, the department
6 shall:

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

8 49.45 **(52)** PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
9 department may, from the appropriation account under s. 20.435 (7) (b), make
10 Medical Assistance payment adjustments to county departments under s. 46.215,
11 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
12 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
13 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
14 adjustments under this subsection shall include the state share of the payments.
15 The total of any payment adjustments under this subsection and Medical Assistance
16 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
17 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
18 (30) (A).

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

20 49.45 **(58)** HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
21 department shall develop a methodology for calculating rate increases for inpatient
22 and outpatient hospital services in connection with the assessment imposed on
23 hospitals under s. 50.375. The methodology shall incorporate encounter data
24 provided by health maintenance organizations and information that the department
25 uses to calculate the capitated rates that the department pays health maintenance

1 organizations for providing services to recipients of medical assistance. The
2 department shall publicly disclose the methodology. The department shall review
3 the methodology at least once every 12 months.

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

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

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

14 3. Within 90 days after the end of each 6-month period, compare the amounts
15 that the health maintenance organization paid hospitals under subd. 1. for the
16 6-month period with the amounts calculated under subd. 2. for services provided
17 during that same period. If the amounts under subd. 2. exceed the amounts of the
18 payments under subd. 1., pay hospitals the difference within 90 days.

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

24 (d) If the department determines that a health maintenance organization has
25 not complied with a condition under par. (b), the department shall require the health

1 maintenance organization to comply with the condition within 15 days after the
2 department's determination. The department may terminate a contract with a
3 health maintenance organization for failure to comply with a condition under par.
4 (b). The department shall audit health maintenance organizations to determine
5 whether they have complied with the conditions under par. (b).

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

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

16 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
17 under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department shall, on the part of an
18 individual who is eligible for medical assistance under sub. (3), pay premiums for or
19 purchase individual coverage offered by the individual's employer if the department
20 determines that paying the premiums for or purchasing the coverage will not be more
21 costly than providing medical assistance.

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

23 49.472 (6) (b) If federal financial participation is available, from the
24 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department may

1 pay medicare Part A and Part B premiums for individuals who are eligible for
2 medicare and for medical assistance under sub. (3).

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

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

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

10 **50.375 Assessment.** (1) Except as provided in subs. (2) and (7), for the
11 privilege of doing business in this state, there is imposed on each hospital an annual
12 assessment, based on the hospital's gross patient revenue, that each hospital shall
13 pay quarterly by September 1, December 1, March 1, and June 1 of each year,
14 beginning with the payment due by September 1, 2008, except that the entire annual
15 assessment for fiscal year 2007-08 shall be paid by June 1, 2008. The assessments
16 shall be deposited into the hospital assessment fund.

17 (2) At the discretion of the department, a hospital that is unable timely to make
18 a payment by a date specified under sub. (1) may be allowed to make a delayed
19 payment. A determination by the department that a hospital may not make a
20 delayed payment under this subsection is final and is not subject to review under ch.
21 227.

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

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

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

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

15 (7) This section does not apply to a critical access hospital, as defined in s. 50.33
16 (1g), or to an institution for mental diseases, as defined in s. 46.011 (1m).

17 (8) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
18 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
19 subch. III of ch. 77, apply to the assessment under this section, except that the
20 amount of any assessment collected under sub. (1) shall be deposited in the hospital
21 assessment fund.

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

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

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

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

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

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

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

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

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

18 59.58 (6) (cb) The authority shall be responsible for sponsoring, developing,
19 constructing, and operating a commuter rail transit system connecting the cities of
20 Kenosha, Racine, and Milwaukee, to be known as the KRM commuter rail link.

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

22 59.58 (6) (cr) The authority may hire staff, conduct studies, and expend funds
23 essential to the preparation of the report specified in par. (e) and in furtherance of
24 its responsibility under par. (cb) to develop and construct the KRM commuter rail
25 link.

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

2 59.58 (6) (e) 3g. A study on the feasibility of adding a commuter rail stop and
3 station at points where any proposed commuter rail route would intersect National
4 Avenue in the city of Milwaukee or Greenfield Avenue in the city of Milwaukee or
5 both.

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

7 59.58 (6) (e) 3m. A study on the feasibility of extending any proposed commuter
8 rail project through the 30th Street corridor in the city of Milwaukee to the northern
9 county line of Milwaukee County.

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

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

12 59.58 (6) (f) 1. The authority may issue bonds, the principal and interest on
13 which are payable exclusively from all or a portion of any revenues received by the
14 authority. The authority may secure its bonds by a pledge of any income or revenues
15 from any operations, rent, aids, grants, subsidies, contributions, or other source of
16 moneys whatsoever.

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

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

23 4. The bonds of the authority are not a debt of the counties that created the
24 authority. Neither these counties nor the state are liable for the payment of the
25 bonds. The bonds of the authority shall be payable only out of funds or properties

1 of the authority. The bonds of the authority shall state the restrictions contained in
2 this subdivision on the face of the bonds.

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

17 6. The authority may issue refunding bonds for the purpose of paying any of
18 its bonds at or prior to maturity or upon acceleration or redemption. The authority
19 may issue refunding bonds at such time prior to the maturity or redemption of the
20 refunded bonds as the authority deems to be in the public interest. The refunding
21 bonds may be issued in sufficient amounts to pay or provide the principal of the bonds
22 being refunded, together with any redemption premium on the bonds, any interest
23 accrued or to accrue to the date of payment of the bonds, the expenses of issue of the
24 refunding bonds, the expenses of redeeming the bonds being refunded, and such
25 reserves for debt service or other capital or current expenses from the proceeds of

1 such refunding bonds as may be required by the resolution, trust indenture, or other
2 security instruments. To the extent applicable, refunding bonds are subject to subd.
3 5.

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

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

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

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

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

18 71.05 (1) (c) 9. The regional transit authority under s. 59.58 (6) (f).

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

20 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
21 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
22 taxable year following the taxable year in which the claimant claims ~~an exemption~~
23 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
24 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
25 taxable year for 2 years, the amount certified by the department of commerce that

1 resulted from the claimant claimed as an exemption claiming a deduction under s.
2 77.54 (48) 77.585 (9).

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

4 71.07 (5e) (c) 1. No credit may be allowed under this subsection unless the
5 claimant satisfies the requirements under s. 77.54 (48) 77.585 (9).

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

7 71.07 (5e) (c) 3. The total amount of the credits and exemptions the sales and
8 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
9 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and 77.54 (48)
10 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

12 71.22 (9) "Person" includes corporations, unless the context requires
13 otherwise. "Person" may include, as determined by the department, any individual,
14 partnership, general partner of a partnership, limited liability company, registered
15 limited liability partnership, foreign limited liability partnership, syndicate, estate,
16 trust, trustee in bankruptcy, receiver, executor, administrator, assignee, or
17 organization.

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

19 **71.255 Combined reporting. (1) DEFINITIONS.** In this section:

20 (a) "Combined group" means the group of all persons whose income and
21 apportionment factors are considered under sub. (2) to determine the taxpayer's
22 share of the net business income or loss that is apportionable to this state.

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

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

3 1. A parent corporation and any corporation or chain of corporations that are
4 connected to the parent corporation by direct or indirect ownership by the parent
5 corporation if the parent corporation owns stock representing more than 50 percent
6 of the voting power of at least one of the connected corporations or if the parent
7 corporation or any of the connected corporations owns stock that cumulatively
8 represents more than 50 percent of the voting power of each of the connected
9 corporations.

10 2. Any 2 or more corporations if a common owner, regardless of whether or not
11 the owner is a corporation, directly or indirectly owns stock representing more than
12 50 percent of the voting power of the corporations or the connected corporations.

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

15 4. Any 2 or more corporations if stock representing more than 50 percent of the
16 voting power in each corporation is directly owned by, or for the benefit of, family
17 members. In this subdivision, "family member" means an individual related by
18 blood, marriage, or adoption within the 2nd degree of kinship as computed under s.
19 852.03 (2), 1995 stats., or the spouse of such an individual.

20 (d) "Corporation" means a corporation, as defined in s. 71.22 (1k), that,
21 regardless of where the corporation is located, would be subject to the taxes imposed
22 under this chapter, if the corporation were doing business in this state. For purposes
23 of this section, the business conducted by a pass-through entity that is directly or
24 indirectly held by a corporation is considered the corporation's business

1 proportionate to the corporation's distributive share of the pass-through entity's
2 income. "Corporation" does not include a tax-option corporation.

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

4 (f) "Internal Revenue Code" means the Internal Revenue Code as defined in s.
5 71.22 (4) and (4m), including any provision of a federal tax treaty that expressly
6 applies to the states of the United States, but not including any other application of
7 a federal tax treaty.

8 (g) "Pass-through entity" means a general or limited partnership, any
9 organization that is treated as a partnership for purposes of this chapter, a real
10 estate investment trust, a regulated investment company, a real estate mortgage
11 investment conduit, a financial asset securitization investment trust, a trust, or an
12 estate.

13 (h) "Tax haven" means a jurisdiction that, for any taxable year, is identified by
14 the organization for economic cooperation and development as a tax haven or as
15 having a harmful, preferential tax regime or has no, or a nominal, effective tax on
16 income and all of the following apply:

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

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

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

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

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

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

13 (j) "Unitary business" means a single economic enterprise that consists of
14 separate parts of a single business entity or of a commonly controlled group of
15 business entities that are sufficiently interdependent, integrated, and interrelated
16 by their activities so as to provide a synergy and a mutual benefit that produces a
17 sharing or exchange of value among them and a significant flow of value to the
18 separate parts. For purposes of this section, 2 or more business entities are
19 considered a unitary business if the entities have unity of ownership, operation, and
20 use, as indicated by centralized management or a centralized executive force;
21 centralized purchasing, advertising, or accounting; intercorporate sales or leases;
22 intercorporate services; intercorporate debts; intercorporate use of proprietary
23 materials; interlocking directorates; or interlocking corporate officers. Any business
24 conducted by a pass-through entity that is owned directly or indirectly by a
25 corporation is considered conducted by the corporation, to the extent of the

1 corporation's distributive share of the pass-through entity's income, regardless of
2 the percentage of the corporation's ownership interest. A business conducted
3 directly or indirectly by one corporation is unitary with that portion of a business
4 conducted by another corporation through its direct or indirect interest in a
5 pass-through entity, if the corporations are sufficiently interdependent, integrated,
6 and interrelated by their activities so as to provide a synergy and a mutual benefit
7 that produces a sharing or exchange of value among them and a significant flow of
8 value to the separate parts and the two corporations are members of the same
9 commonly controlled group.

10 (2) CORPORATIONS REQUIRED TO USE COMBINED REPORTING. (a) A corporation
11 engaged in a unitary business with any other corporation shall file a combined report
12 that includes the income, determined under sub. (3), and apportionment factor,
13 determined under sub. (5) and s. 71.25, of the following members of the unitary
14 business:

15 1. Any member incorporated in the United States, including the District of
16 Columbia and any territory or possession of the United States, or formed under the
17 laws of any state, the District of Columbia, or any territory or possession of the
18 United States.

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

21 a. The value of the member's real property and tangible personal property
22 located in the United States, including the District of Columbia and any territory or
23 possession of the United States, not including property that is used to produce
24 nonapportionable income, divided by the value of all of the member's real property
25 and tangible personal property, not including property that is used to produce

1 nonapportionable income. For purposes of this subd. 2. a., the value of property that
2 the member rents is the net annual rental amount for the property, multiplied by 8.

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

11 c. The member's sales in the United States, including the District of Columbia
12 and any territory or possession of the United States, divided by the member's total
13 sales. For purposes of this subd. 2. c., sales include items identified in s. 71.25 (9) (e),
14 but not items identified in s. 71.25 (9) (f), and the situs of a sale shall be determined
15 in the same manner as for state sales in s. 71.25 (9) (b), (d), (df), and (dh), not
16 including s. 71.25 (9) (b) 2m. and 3., (c), (df) 3., and (dh) 4.

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

21 4. Any member that is a controlled foreign corporation as defined in section 957
22 of the Internal Revenue Code, to the extent of the member's income that is defined
23 in section 952 of of the Internal Revenue Code, including any lower-tier subsidiary's
24 distribution of such income that was previously taxed, determined without regard
25 to federal treaties, and the apportionment factors related to that income. For

1 purposes of this subdivision, any item of income received by a controlled foreign
2 corporation is excluded if the income was subject to an income tax imposed by a
3 foreign country at an effective tax rate greater than 90 percent of the maximum tax
4 rate specified in section 11 of the Internal Revenue Code.

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

9 6. Any member that is doing business in a tax haven, if the member is engaged
10 in an activity that is sufficient for that tax haven jurisdiction to impose a tax under
11 federal law. If the member's business activity in a tax haven is entirely outside the
12 scope of the laws and practices that cause the jurisdiction to be a tax haven, the
13 member's business activity is not considered to be conducted in a tax haven for
14 purposes of this section.

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

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

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

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

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

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

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

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

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

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

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

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

5 1. For any member incorporated in the United States, including the District of
6 Columbia and any territory or possession of the United States, or included in a
7 consolidated federal corporate income tax return, the income included in the total
8 income of the combined group is the corporation's taxable income as determined
9 under s. 71.26.

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

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

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

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

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

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

3 3. If the department determines that the income determination under this
4 subsection reasonably approximates income as determined under s. 71.26, any
5 member not included in subd. 1. may determine its income based on a consolidated
6 profit and loss statement that includes the member and that is prepared for the
7 purpose of filing, by related corporations, with the securities and exchange
8 commission. If the member is not required to file with the securities and exchange
9 commission, the department may allow, for purposes of this subdivision, the use of
10 the consolidated profit and loss statement prepared for reporting to shareholders
11 and subject to review by an independent auditor. If a statement described in this
12 subdivision does not reasonably approximate income as determined under s. 71.26,
13 the department may accept the statement if the member makes appropriate
14 adjustments to the statement, as determined by the department, to approximate the
15 income determined under s. 71.26.

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

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

24 6. Except as provided by the department by rule, business income or loss from
25 an intercompany transaction between members of the same combined group shall be

1 deferred in a manner similar to 26 CFR 1.1502-13. Upon the occurrence of any of
2 the following events, deferred business income or loss resulting from an
3 intercompany transaction between members of a combined group shall be included
4 in the income of the seller and shall be apportioned as business income earned
5 immediately before the event:

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

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

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

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

15 7. A charitable expense incurred by a member of a combined group, to the
16 extent allowable as a deduction under section 170 of the Internal Revenue Code,
17 shall be subtracted first from the business income of the combined group, subject to
18 the income limitations of section 170 of the Internal Revenue Code as it applies to
19 the entire business income of the group, and any remaining amount shall be treated
20 as a nonbusiness expense allocable to the member that incurred the expense, subject
21 to the income limitations of section 170 of the Internal Revenue Code as it applies
22 to the nonbusiness income of that member. Any charitable deduction described
23 under this subdivision that is allowed as a carryover deduction in a subsequent year
24 is considered to be originally incurred in the subsequent year by the same member,

1 and this section applies in the subsequent year for purposes of determining the
2 allowable deduction in that year.

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

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

12 b. Each taxpayer member shall net its apportioned business gain or loss for all
13 classes, as determined under subd. 8. a., including any such apportioned business
14 gain and loss from other combined groups, against the taxpayer member's
15 nonbusiness gain and loss for all classes allocated to this state as provided under
16 sections 1231 and 1222 of the Internal Revenue Code, not including nonbusiness
17 items allocated to another state.

18 c. Any resulting state source income or loss, if the loss is not subject to section
19 1211 of the Internal Revenue Code, of a taxpayer member produced by the
20 application of subd. 8. a. and b. shall then be applied to all other state source income
21 or loss of that member.

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

1 9. Any expense of one member of the unitary business that is directly or
2 indirectly attributable to the nonbusiness or exempt income of another member of
3 the unitary business shall be allocated to that other member as corresponding
4 nonbusiness or exempt expense, as appropriate.

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

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

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

15 (b) Include in the numerator the taxpayer member's sales associated with the
16 combined group's unitary business to another state in which the taxpayer member
17 is not engaged in business, regardless of whether another member of the combined
18 group is engaged in business in the other state.

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

22 (d) Include sales of a pass-through entity owned directly or indirectly by a
23 corporation in proportion to a ratio the numerator of which is the amount of the
24 corporation's distributive share of the pass-through entity's unitary income included

1 in the income of the combined group in under sub. (4) and the denominator of which
2 is the amount of the pass-through entity's total unitary income.

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

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

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

12 **(7) DESIGNATED AGENT.** (a) For purposes of administering this section, each
13 combined group shall appoint a sole designated agent. The designated agent is the
14 parent corporation of the combined group, if the parent corporation is a taxpayer
15 member of the combined group and the income of the parent corporation is included
16 in the combined report. If there is no such parent corporation, the designated agent
17 may be appointed by the taxpayer members. If there is no such parent corporation
18 and no taxpayer member is appointed, the designated agent is the taxpayer member
19 that has the most significant operations in this state on a recurring basis, as
20 determined by the department. The designated agent may change only when the
21 designated agent is no longer subject to the tax imposed under s. 71.23 (1) or (2), in
22 which case the combined group shall notify the department of such a change in the
23 manner prescribed by the department.

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

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

2 2. File any extensions under s. 71.24.

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

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

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

10 6. Participate on behalf of the combined group members in any investigation
11 or hearing requested by the department regarding a combined report, produce all
12 information requested by the department regarding the combined report, and file
13 any appeal related to a combined report. Any appeal filed by the designated agent
14 is considered filed by all members of the combined group.

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

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

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

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

6 **(8) TAXABLE YEAR OF THE COMBINED GROUP.** (a) Except as provided in par. (b), the
7 combined group's taxable year is the designated agent's taxable year. If a member's
8 taxable year is different from the combined group's taxable year, the designated
9 agent may elect to determine the portion of each member's income to be included in
10 the combined report either from a separate income statement from each member that
11 is prepared by the member's books and records for the months that are included in
12 the combined group's taxable year or by including in the combined report all of the
13 income of each member for the year that ends during the combined group's taxable
14 year. Any election made under this paragraph remains in effect for subsequent years
15 unless the designated agent submits a request to the department to change the
16 election and the department approves in writing.

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

20 **(9) PART-YEAR MEMBERS OF A COMBINED GROUP.** If a corporation becomes a
21 member of a combined group, or ceases to be a member of a combined group, after
22 the beginning of the combined group's taxable year, the corporation's income shall
23 be determined as provided under subs. (3), (4), and (5) for that portion of the year in
24 which the corporation was a member of the combined group, and the income shall be

1 included in the combined report. The income for the remaining short period shall be
2 reported on a separate return or separate combined report.

3 (10) PRESUMPTIONS AND BURDEN OF PROOF. A commonly controlled group is
4 presumed to be engaged in a unitary business and all of the income of the unitary
5 business is presumed to be apportionable business income under this section. A
6 corporation has the burden of proving that it is not a member of a combined group
7 that is subject to this section.

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

9 71.26 (1m) (j) Those issued under s. 59.58 (6) (f).

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

11 71.26 (3) (x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to
12 consolidated returns) are excluded, except as provided under section 1502 of the U.S.
13 treasury regulations as it relates to deferred gain or loss from an intercompany
14 transaction under s. 71.255 (4) (a) 6.

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

16 71.27 (1) The taxes to be assessed, levied and collected upon Wisconsin net
17 incomes of corporations shall be computed at the rate of ~~7.9%~~ 7.8 percent.

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

19 71.27 (2) The corporation franchise tax imposed under s. 71.23 (2) and
20 measured by Wisconsin net income shall be computed at the rate of ~~7.9%~~ 7.8 percent.

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

22 71.28 (5e) (b) *Filing claims.* Subject to the limitations provided in this
23 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
24 taxable year following the taxable year in which the claimant claims ~~an exemption~~
25 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against

1 the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable
2 year for 2 years, the amount certified by the department of commerce that resulted
3 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
4 77.585 (9).

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

6 71.28 (5e) (c) 1. No credit may be allowed under this subsection unless the
7 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

9 71.28 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
10 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
11 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
12 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

14 71.45 (1t) (j) Those issued under s. 59.58 (6) (f).

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

16 71.46 (1) The taxes to be assessed, levied and collected upon Wisconsin net
17 incomes of corporations shall be computed at the rate of ~~7.9%~~ 7.8 percent.

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

19 71.46 (2) The corporation franchise tax imposed under s. 71.43 (2) and
20 measured by Wisconsin net income shall be computed at the rate of ~~7.9%~~ 7.8 percent.

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

22 71.46 (3) The tax imposed under this subchapter on each domestic insurer on
23 or measured by its entire net income attributable to lines of insurance in this state
24 may not exceed ~~2%~~ 2 percent of the gross premiums, as defined in s. 76.62, received
25 during the taxable year by the insurer on all policies on those lines of insurance if

1 the subject of that insurance was resident, located or to be performed in this state
2 plus ~~7.9%~~ 7.8 percent of the income that is realized from the sale of or purchase and
3 subsequent sale or redemption of lottery prizes if the winning tickets were originally
4 bought in this state.

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

6 71.47 (5e) (b) *Filing claims.* Subject to the limitations provided in this
7 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
8 taxable year following the taxable year in which the claimant claims ~~an exemption~~
9 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
10 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
11 year for 2 years, the amount certified by the department of commerce that resulted
12 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
13 77.585 (9).

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

15 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
16 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

18 71.47 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
19 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
20 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
21 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

23 73.03 (28e) To participate as a member state of the streamlined sales tax
24 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and
25 includes having the governing board enter into contracts that are necessary to

1 implement the agreement on behalf of the member states, and to allocate a portion
2 of the amount collected under ch. 77 through the agreement to the appropriation
3 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
4 board. The department shall allocate the remainder of such collections to the general
5 fund.

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

7 73.03 (50) (d) In the case of a sole proprietor, signs the form or, in the case of
8 other persons, has an individual who is authorized to act on behalf of the person sign
9 the form, or, in the case of a single-owner entity that is disregarded as a separate
10 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
11 person who may register under this subsection may designate an agent, as defined
12 in s. 77.524 (1) (ag), to register with the department under this subsection in the
13 manner prescribed by the department. In this paragraph, "sign" has the meaning
14 given in s. 77.51 (17r).

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

16 73.03 (50b) To waive the fee established under sub. (50) for applying for and
17 renewing the business tax registration certificate, if the person who is applying for
18 or renewing the certificate is not required for purposes of ch. 77 to hold such a
19 certificate.

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

21 73.03 (61) To do all of the following related to the Uniform Sales and Use Tax
22 Administration Act:

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

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

4 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
5 performance standards and eligibility criteria for a seller that sells tangible personal
6 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least
7 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has
8 total annual sales revenue of at least \$500,000,000; that has a proprietary system
9 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
10 sells tangible personal property or taxable services; and that has entered into a
11 performance agreement with the states that are signatories to the agreement, as
12 defined in s. 77.65 (2) (a). For purposes of this paragraph, "seller" includes an
13 affiliated group of sellers using the same proprietary system to calculate the amount
14 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
15 property or taxable services.

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

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

24 (f) Maintain a database that is accessible to sellers and certified service
25 providers, as defined in s. 77.51 (1g), and available in a downloadable format, that

1 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
2 assignments related to the administration of taxes imposed under subchs. III and V
3 of ch. 77.

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

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

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

12 **76.07 (4g) (b) 8.** Determine transport-related revenue by adding public service
13 revenue allocated to this state on the basis of routes for which the company is
14 authorized to receive subsidy payments, mutual aid allocated to this state on the
15 basis of the ratio of transport revenues allocated to this state to transport revenues
16 everywhere in the previous year, in-flight sales allocated to this state as they are
17 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
18 sales made in this state.

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

21 **77.51 (1fd)** "Business" includes any activity engaged in by any person or caused
22 to be engaged in by any person with the object of gain, benefit or advantage, either
23 direct or indirect, and includes also the furnishing and distributing of tangible
24 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services

1 for a consideration by social clubs and fraternal organizations to their members or
2 others.

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

4 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
5 consumption and that contains 0.5 percent or more of alcohol by volume.

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

7 77.51 (1ba) "Ancillary services" means services that are associated with or
8 incidental to providing telecommunications services, including detailed
9 telecommunications billing, directory assistance, vertical service, and voice mail
10 services.

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

12 77.51 (1f) "Bundled transaction" means the retail sale of 2 or more products,
13 not including real property and services to real property, if the products are distinct
14 and identifiable products and sold for one nonitemized price. "Bundled transaction"
15 does not include any of the following:

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

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

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

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

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

10 (e) The retail sale of taxable tangible personal property or items or property
11 under s. 77.52 (1) (b) or (c) and tangible personal property or items or property under
12 s. 77.52 (1) (b) or (c) that is exempt from the taxes imposed under this subchapter,
13 if the transaction includes food and food ingredients, drugs, durable medical
14 equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies
15 and if the seller's purchase price or the sales price of the taxable tangible personal
16 property or items or property under s. 77.52 (1) (b) or (c) is no greater than 50 percent
17 of the seller's total purchase price or sales price of all the tangible personal property
18 or items or property under s. 77.52 (1) (b) or (c) included in what would otherwise be
19 a bundled transaction, as determined by the seller using either the seller's purchase
20 price or the sales price, but not a combination of both.

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

22 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or
23 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
24 flavorings in the form of bars, drops, or pieces. "Candy" does not include a
25 preparation that contains flour or that requires refrigeration.

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

2 77.51 (1n) "Computer" means an electronic device that accepts information in
3 digital or similar form and that manipulates such information to achieve a result
4 based on a sequence of instructions.

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

6 77.51 (1p) "Computer software" means a set of coded instructions designed to
7 cause a computer or automatic data processing equipment to perform a task.

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

9 77.51 (1r) "Conference bridging service" means an ancillary service that links
10 2 or more participants of an audio or video conference call and may include providing
11 a telephone number, but does not include the telecommunications services used to
12 reach the conference bridge.

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

14 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means
15 other than by tangible storage media.

16 **SECTION 9em.** 77.51 (2m) of the statutes is created to read:

17 77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver
18 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or services
19 to a location designated by the purchaser of the tangible personal property, items or
20 property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,
21 shipping, postage, handling, crating, and packing.

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

23 77.51 (3c) "Detailed telecommunications billing service" means an ancillary
24 service that separately indicates information pertaining to individual calls on a
25 customer's billing statement.

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

2 77.51 (3n) "Dietary supplement" means a product, other than tobacco, that is
3 intended to supplement a person's diet, if all of the following apply:

4 (a) The product contains any of the following ingredients or any combination
5 of any of the following ingredients:

6 1. A vitamin.

7 2. A mineral.

8 3. An herb or other botanical.

9 4. An amino acid.

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

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

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

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

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

20 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
21 postal service or other delivery service to a mass audience or to addressees on a
22 mailing list provided by or at the direction of the purchaser of the printed material,
23 if the cost of the printed material or any tangible personal property or items or
24 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed
25 directly to the recipients of the printed material. "Direct mail" includes any tangible

1 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
2 or indirectly by the purchaser of the printed material to the seller of the printed
3 material for inclusion in any package containing the printed material, including
4 billing invoices, return envelopes, and additional marketing materials. "Direct mail"
5 does not include multiple items of printed material delivered to a single address.

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

7 77.51 (3pe) "Directory assistance" means an ancillary service that provides
8 telephone numbers or addresses.

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

10 77.51 (3pf) "Distinct and identifiable product" does not include any of the
11 following:

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

15 (b) A product that is provided free of charge to the consumer in conjunction with
16 the purchase of another product, if the sales price of the other product does not vary
17 depending on whether the product provided free of charge is included in the
18 transaction.

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

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

21 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any
22 component of them, other than food and food ingredients, dietary supplements, or
23 alcoholic beverages, to which any of the following applies:

1 (a) It is listed in the United States Pharmacopoeia, Homeopathic
2 Pharmacopoeia of the United States, or National Formulary, or any supplement to
3 any of them.

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

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

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

8 77.51 (3pm) "Durable medical equipment" means equipment, including the
9 repair parts and replacement parts for the equipment that is primarily and
10 customarily used for a medical purpose related to a person; that can withstand
11 repeated use; that is not generally useful to a person who is not ill or injured; and that
12 is not placed in or worn on the body. "Durable medical equipment" does not include
13 mobility-enhancing equipment.

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

15 77.51 (3pn) "Eight hundred service" means a telecommunications service that
16 allows a caller to dial a toll-free number without incurring a charge for the call and
17 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other
18 number designated as toll-free by the federal communications commission.

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

20 77.51 (3po) "Electronic" means relating to technology having electrical, digital,
21 magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

23 77.51 (3rm) "Fixed wireless service" means a telecommunications service that
24 provides radio communication between fixed points.

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

1 77.51 (3t) "Food and food ingredient" means a substance in liquid,
2 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
3 for chewing, by humans and that is ingested or chewed for its taste or nutritional
4 value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

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

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

8 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
9 (2m), "incidental" means depending upon or appertaining to something else as
10 primary; something necessary, appertaining to, or depending upon another which is
11 termed the principal; something incidental to the main purpose of the service.
12 Tangible personal property or items or property under s. 77.52 (1) (b) or (c)
13 transferred by a service provider is incidental to the service if the purchaser's main
14 purpose or objective is to obtain the service rather than the property or items, even
15 though the property or items may be necessary or essential to providing the service.

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

17 77.51 (5d) "International telecommunications services" means
18 telecommunications services that originate or terminate in the United States,
19 including the District of Columbia and any U.S. territory or possession and originate
20 or terminate outside of the United States, including the District of Columbia and any
21 U.S. territory or possession.

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

23 77.51 (5n) "Interstate telecommunications services" means
24 telecommunications services that originate in one state or U.S. territory or
25 possession and terminate in a different state or U.S. territory or possession.