



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/21/2008 (Per: CMH)

Compile Draft – Appendix E

... Part 01 of 03 ...

- | | |
|---|---|
| A ☞ The <u>2007</u> drafting file for
LRB-3832 | G ☞ The <u>2007</u> drafting file for
LRB-4296 |
| B ☞ The <u>2007</u> drafting file for
LRB-4188 | H ☞ The <u>2007</u> drafting file for
LRB-4297 |
| C ☞ The <u>2007</u> drafting file for
LRB-4292 | I ☞ The <u>2007</u> drafting file for
LRB-4298 |
| D ☞ The <u>2007</u> drafting file for
LRB-4293 | J ☞ The <u>2007</u> drafting file for
LRB-4299 |
| E ☞ The <u>2007</u> drafting file for
LRB-4294 | K ☞ The <u>2007</u> drafting file for
LRB-4300 |
| F ☞ The <u>2007</u> drafting file for
LRB-4295 | L ☞ The <u>2007</u> drafting file for
LRB-4301 |

2007 LRB-4294 has been copied/added to the drafting file for

2007 LRBb1275

(SA 1 to AB 1) (Mr8)

2007 DRAFTING REQUEST

Bill

Received: 03/18/2008

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Rob Reinhardt

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: Tax, Other - sales

Extra Copies:

Submit via email: YES

Requester's email: rob.reinhardt@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Mainstream equity

Instructions:

See Attached--SA1 into SB446

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 03/19/2008	chanaman 03/21/2008		_____			

FE Sent For:

<END>

Barman, Mike

From: Hanaman, Cathlene
Sent: Friday, March 21, 2008 8:55 AM
To: Barman, Mike
Subject: RE: The compile list

-4247 is not in the compile (it is in the sub that was being amended--I put it in so I could tell what should remain in the otherwise gutted sub).

-4294 is SB446 (-3500) with SA1 to SB446 (a1420) engrossed into it.

From: Barman, Mike
Sent: Friday, March 21, 2008 7:59 AM
To: Hanaman, Cathlene
Subject: RE: The compile list

Did this end up being the final compile list?

From: Hanaman, Cathlene
Sent: Wednesday, March 19, 2008 10:25 AM
To: Aaron Gary; Becky Tradewell; Brett Balinsky; Christopher Sundberg; Debora Kennedy; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Marc Shovers; Mark Kunkel; Mary Gibson-Glass; Pam Kahler; Peggy Hurley; Peter Grant; Rick Champagne; Robert Nelson; Robin Kite; Robin Ryan; Tracy Kuczenski; Becky Kraft; Chris Siciliano; Joy Geller; Kathy Follett; Laura Kunkel; Wendy Jackson; Jean Frantzen; Noah Natzke; Patty Greenslet; Ron Schlueter; Christina Duerst; Lori Northrop; Mike Barman; Sarah Basford; Steve Miller
Subject: The compile list

Unless someone corrects me, I believe this is what will be compiled (and then converted into an amendment):

JK	-4292	the comp tax
PG	-4247	school aid
JK	-3832	the ole' Las Vegas Loophole
DAK	-4301	hospital assessment
CMH	-4297	tobacco securitization
MDK	-4296	USF
JK	-4294	Main street equity
ARG	-4295	transportation stuff and real id
	-4299	
	-4300	
PJK	-4293	child care
CMH	-4298	stat balance/rainy day
RAC	-4188	Interfund cash flow borrowing

Assuming all redrafts are processed by 11, we plan to start the compile then (or we'll start it later if need be). After compiling, we will put a master (-4302/p1) in Steve's office in case you get any redraft instructions. We will be converting it into a "simple" this afternoon. Thanks to those of you who have offered assistance (the more reticent ones are subject to being drafted or to ridicule).

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 46.513, 77.51 (4), 77.51 (14) (d), 77.51 (14) (i), 77.51 (14) (k),
2 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (2) (a) 5. b., 77.52 (3m), 77.52 (3n),
3 77.52 (6), 77.52 (14) (a) 2., 77.523 (title), 77.53 (4), 77.54 (14g), 77.54 (14s), 77.54
4 (20), 77.54 (20m), 77.54 (22), 77.54 (40), 77.61 (3), 77.65 (2) (c), 77.72 (title),
5 77.72 (2) and (3) and 77.77 (2); **to renumber** 77.51 (6m), 77.51 (14) (g), 77.524
6 (1) (a) and 77.54 (48) (b); **to renumber and amend** 77.51 (1), 77.52 (1), 77.523,
7 77.524 (1) (b), 77.53 (9m), 77.53 (11), 77.54 (48) (a), 77.61 (2), 77.72 (1) and 77.77
8 (1); **to consolidate, renumber and amend** 77.52 (14) (a) (intro.) and 1. and
9 (b); **to amend** 66.0615 (1m) (f) 2., 70.111 (23), 71.07 (5e) (b), 71.07 (5e) (c) 1.,
10 71.07 (5e) (c) 3., 71.28 (5e) (b), 71.28 (5e) (c) 1., 71.28 (5e) (c) 3., 71.47 (5e) (b),
11 71.47 (5e) (c) 1., 71.47 (5e) (c) 3., 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51 (5), 77.51
12 (9) (a), 77.51 (9) (am), 77.51 (10), 77.51 (12) (b), 77.51 (13) (a), 77.51 (13) (b),
13 77.51 (13) (c), 77.51 (13) (d), 77.51 (13) (e), 77.51 (13) (f), 77.51 (13) (k), 77.51 (13)
14 (m), 77.51 (13) (n), 77.51 (13) (o), 77.51 (13g) (intro.), 77.51 (13r), 77.51 (14)
15 (intro.), 77.51 (14) (a), 77.51 (14) (b), 77.51 (14) (c), 77.51 (14) (h), 77.51 (14) (j),

1 77.51 (14g) (a), 77.51 (14g) (b), 77.51 (14g) (bm), 77.51 (14g) (c), 77.51 (14g) (cm),
2 77.51 (14g) (d), 77.51 (14g) (e), 77.51 (14g) (em), 77.51 (14g) (f), 77.51 (14g) (g),
3 77.51 (14g) (h), 77.51 (17) (intro.), 77.51 (18), 77.51 (20), 77.51 (21), 77.51 (21m),
4 77.51 (22) (a), 77.51 (22) (b), 77.52 (2) (intro.), 77.52 (2) (a) 5m., 77.52 (2) (a) 10.,
5 77.52 (2m) (a), 77.52 (2m) (b), 77.52 (4), 77.52 (7), 77.52 (12), 77.52 (13), 77.52
6 (15), 77.52 (16), 77.52 (19), 77.525, 77.53 (1), 77.53 (2), 77.53 (3), 77.53 (9), 77.53
7 (10), 77.53 (12), 77.53 (14), 77.53 (15), 77.53 (16), 77.53 (17), 77.53 (17m), 77.53
8 (17r) (a), 77.53 (18), 77.54 (1), 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54 (3m)
9 (intro.), 77.54 (4), 77.54 (5) (intro.), 77.54 (6) (intro.), 77.54 (7m), 77.54 (8), 77.54
10 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54 (11), 77.54 (12), 77.54 (13), 77.54 (14)
11 (intro.), 77.54 (14) (a), 77.54 (14) (b), 77.54 (14) (f) (intro.), 77.54 (15), 77.54 (16),
12 77.54 (17), 77.54 (18), 77.54 (21), 77.54 (23m), 77.54 (25), 77.54 (25m), 77.54
13 (26), 77.54 (26m), 77.54 (27), 77.54 (28), 77.54 (29), 77.54 (30) (a) (intro.), 77.54
14 (30) (c), 77.54 (31), 77.54 (32), 77.54 (33), 77.54 (35), 77.54 (36), 77.54 (37), 77.54
15 (38), 77.54 (39), 77.54 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54 (45), 77.54
16 (46), 77.54 (46m), 77.54 (47) (intro.), 77.54 (47) (b) 1., 77.54 (47) (b) 2., 77.54 (49),
17 77.54 (54), 77.54 (56), 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3), 77.56
18 (1), 77.57, 77.58 (3) (a), 77.58 (3) (b), 77.58 (6), 77.59 (5m), 77.59 (9), 77.61 (1)
19 (b), 77.61 (1) (c), 77.61 (4) (a), 77.61 (4) (c), 77.61 (11), 77.65 (2) (a), 77.65 (2) (e),
20 77.65 (2) (f), 77.66, 77.70, 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71
21 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.75, 77.785 (1), 77.785 (2), 77.98, 77.981,
22 77.99, 77.991 (2), 77.994 (1) (intro.), 77.9941 (4), 77.995 (2), 77.996 (6), 86.195
23 (3) (b) 3., 218.0171 (2) (cq), 229.68 (15) and 229.824 (15); **to repeal and**
24 **recreate** 77.51 (7), 77.51 (12) (a), 77.51 (17m), 77.52 (1b), 77.52 (2) (a) 5. a.,
25 77.52 (2n), 77.53 (1b), 77.63, 77.982 (2), 77.9951 (2) and 77.9972 (2); and **to**

1 **create** 20.566 (1) (ho), 73.03 (28e), 73.03 (50b), 73.03 (61), 77.51 (1b), 77.51
2 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1n), 77.51 (1p), 77.51 (1r), 77.51 (2k), 77.51
3 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3pd), 77.51 (3pe), 77.51 (3pf), 77.51 (3pj),
4 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm), 77.51 (3t), 77.51 (5d), 77.51
5 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m), 77.51 (9p), 77.51
6 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10r), 77.51 (10s),
7 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm),
8 77.51 (13rn), 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (21n), 77.51 (21p),
9 77.51 (21q), 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52
10 (1) (c), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52 (7b), 77.52
11 (14) (am), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522, 77.524 (1) (ag),
12 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r), 77.54 (22b),
13 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585, 77.59 (2m), 77.59 (9n),
14 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61 (5m), 77.61
15 (16), 77.61 (17), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77 (1) (b) of the statutes;
16 **relating to:** the streamlined sales and use tax agreement.

Analysis by the Legislative Reference Bureau

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

17 **SECTION 1.** 20.566 (1) (ho) of the statutes is created to read:
18 20.566 (1) (ho) *Collections under multistate streamlined sales tax project.* From
19 moneys collected under the multistate streamlined sales tax project as provided
20 under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the
21 governing board of the multistate streamlined sales tax project.

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

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

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

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

9 70.111 (23) VENDING MACHINES. All machines that automatically dispense soda
10 water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage
11 under s. 77.54 (20) (a) and (b) food and food ingredient, as defined in s. 77.51 (3t),
12 upon the deposit in the machines of specified coins or currency, or insertion of a credit
13 card, in payment for the soda water beverages, food or beverages food and food
14 ingredient, as defined in s. 77.51 (3t).

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

16 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
17 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
18 taxable year following the taxable year in which the claimant claims ~~an exemption~~
19 a deduction under s. ~~77.54 (48) 77.585 (9)~~, a claimant may claim as a credit against
20 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
21 taxable year for 2 years, the amount certified by the department of commerce that
22 resulted from the claimant ~~claimed as an exemption~~ claiming a deduction under s.
23 77.54 (48) 77.585 (9).

24 **SECTION 6.** 71.07 (5e) (c) 1. of the statutes is amended to read:

1 71.07 (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 7.** 71.07 (5e) (c) 3. of the statutes is amended to read:

4 71.07 (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. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
7 77.585 (9) is \$7,500,000, as determined by the department of commerce.

8 **SECTION 8.** 71.28 (5e) (b) of the statutes is amended to read:

9 71.28 (5e) (b) *Filing claims.* Subject to the limitations provided in this
10 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
11 taxable year following the taxable year in which the claimant claims ~~an exemption~~
12 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
13 the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable
14 year for 2 years, the amount certified by the department of commerce that resulted
15 from the claimant ~~claimed as an exemption~~ claiming a deduction under s. ~~77.54 (48)~~
16 77.585 (9).

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

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

20 **SECTION 10.** 71.28 (5e) (c) 3. of the statutes is amended to read:

21 71.28 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
22 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
23 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
24 77.585 (9) is \$7,500,000, as determined by the department of commerce.

25 **SECTION 11.** 71.47 (5e) (b) of the statutes is amended to read:

1 71.47 (5e) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
3 taxable year following the taxable year in which the claimant claims ~~an exemption~~
4 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
5 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
6 year for 2 years, the amount certified by the department of commerce that resulted
7 from the claimant claimed as ~~an exemption~~ claiming a deduction under s. ~~77.54 (48)~~
8 77.585 (9).

9 **SECTION 12.** 71.47 (5e) (c) 1. of the statutes is amended to read:

10 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
11 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

12 **SECTION 13.** 71.47 (5e) (c) 3. of the statutes is amended to read:

13 71.47 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
14 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
15 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
16 77.585 (9) is \$7,500,000, as determined by the department of commerce.

17 **SECTION 14.** 73.03 (28e) of the statutes is created to read:

18 73.03 (28e) To participate as a member state of the streamlined sales tax
19 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and
20 includes having the governing board enter into contracts that are necessary to
21 implement the agreement on behalf of the member states, and to allocate a portion
22 of the amount collected under ch. 77 through the agreement to the appropriation
23 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
24 board. The department shall allocate the remainder of such collections to the general
25 fund.

1 **SECTION 15.** 73.03 (50) (d) of the statutes is amended to read:

2 **73.03 (50) (d)** In the case of a sole proprietor, signs the form or, in the case of
3 other persons, has an individual who is authorized to act on behalf of the person sign
4 the form, or, in the case of a single-owner entity that is disregarded as a separate
5 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
6 person who may register under this subsection may designate an agent, as defined
7 in s. 77.524 (1) (ag), to register with the department under this subsection in the
8 manner prescribed by the department. In this paragraph, "sign" has the meaning
9 given in s. 77.51 (17r).

10 **SECTION 16.** 73.03 (50b) of the statutes is created to read:

11 **73.03 (50b)** To waive the fee established under sub. (50) for applying for and
12 renewing the business tax registration certificate, if the person who is applying for
13 or renewing the certificate is not required for purposes of ch. 77 to hold such a
14 certificate.

15 **SECTION 17.** 73.03 (61) of the statutes is created to read:

16 **73.03 (61)** To do all of the following related to the Uniform Sales and Use Tax
17 Administration Act:

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

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

22 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
23 performance standards and eligibility criteria for a seller that sells tangible personal
24 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least
25 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has

1 total annual sales revenue of at least \$500,000,000; that has a proprietary system
2 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
3 sells tangible personal property or taxable services; and that has entered into a
4 performance agreement with the states that are signatories to the agreement, as
5 defined in s. 77.65 (2) (a). For purposes of this paragraph, "seller" includes an
6 affiliated group of sellers using the same proprietary system to calculate the amount
7 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
8 property or taxable services.

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

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

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

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

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

5 **SECTION 18.** 76.07 (4g) (b) 8. of the statutes is amended to read:

6 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
7 revenue allocated to this state on the basis of routes for which the company is
8 authorized to receive subsidy payments, mutual aid allocated to this state on the
9 basis of the ratio of transport revenues allocated to this state to transport revenues
10 everywhere in the previous year, in-flight sales allocated to this state as they are
11 allocated under s. ~~77.51 (14f)~~ 77.522 and all other transport-related revenues from
12 sales made in this state.

13 **SECTION 19.** 77.51 (1) of the statutes is renumbered 77.51 (1fd) and amended
14 to read:

15 77.51 (1fd) "Business" includes any activity engaged in by any person or caused
16 to be engaged in by any person with the object of gain, benefit or advantage, either
17 direct or indirect, and includes also the furnishing and distributing of tangible
18 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services
19 for a consideration by social clubs and fraternal organizations to their members or
20 others.

21 **SECTION 20.** 77.51 (1b) of the statutes is created to read:

22 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
23 consumption and that contains 0.5 percent or more of alcohol by volume.

24 **SECTION 21.** 77.51 (1ba) of the statutes is created to read:

1 77.51 (1b) “Ancillary services” means services that are associated with or
2 incidental to providing telecommunications services, including detailed
3 telecommunications billing, directory assistance, vertical service, and voice mail
4 services.

5 **SECTION 22.** 77.51 (1f) of the statutes is created to read:

6 77.51 (1f) “Bundled transaction” means the retail sale of 2 or more products,
7 not including real property and services to real property, if the products are distinct
8 and identifiable products and sold for one nonitemized price. “Bundled transaction”
9 does not include any of the following:

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

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

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

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

22 (d) A transaction that includes taxable and nontaxable products, if the seller’s
23 purchase price or the sales price of the taxable products is no greater than 10 percent
24 of the seller’s total purchase price or sales price of all the bundled products, as
25 determined by the seller using either the seller’s purchase price or sales price, but

1 not a combination of both, or, in the case of a service contract, the full term of the
2 service contract.

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

14 **SECTION 23.** 77.51 (1fm) of the statutes is created to read:

15 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or
16 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
17 flavorings in the form of bars, drops, or pieces. "Candy" does not include a
18 preparation that contains flour or that requires refrigeration.

19 **SECTION 24.** 77.51 (1n) of the statutes is created to read:

20 77.51 (1n) "Computer" means an electronic device that accepts information in
21 digital or similar form and that manipulates such information to achieve a result
22 based on a sequence of instructions.

23 **SECTION 25.** 77.51 (1p) of the statutes is created to read:

24 77.51 (1p) "Computer software" means a set of coded instructions designed to
25 cause a computer or automatic data processing equipment to perform a task.

1 **SECTION 26.** 77.51 (1r) of the statutes is created to read:

2 77.51 (1r) "Conference bridging service" means an ancillary service that links
3 2 or more participants of an audio or video conference call and may include providing
4 a telephone number, but does not include the telecommunications services used to
5 reach the conference bridge.

6 **SECTION 27.** 77.51 (2k) of the statutes is created to read:

7 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means
8 other than by tangible storage media.

9 **SECTION 28.** 77.51 (2m) of the statutes is created to read:

10 77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver
11 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or services
12 to a location designated by the purchaser of the tangible personal property, items or
13 property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,
14 shipping, postage, handling, crating, and packing.

15 **SECTION 29.** 77.51 (3c) of the statutes is created to read:

16 77.51 (3c) "Detailed telecommunications billing service" means an ancillary
17 service that separately indicates information pertaining to individual calls on a
18 customer's billing statement.

19 **SECTION 30.** 77.51 (3n) of the statutes is created to read:

20 77.51 (3n) "Dietary supplement" means a product, other than tobacco, that is
21 intended to supplement a person's diet, if all of the following apply:

22 (a) The product contains any of the following ingredients or any combination
23 of any of the following ingredients:

- 24 1. A vitamin.
25 2. A mineral.

1 3. An herb or other botanical.

2 4. An amino acid.

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

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

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

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

12 **SECTION 31.** 77.51 (3pd) of the statutes is created to read:

13 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
14 postal service or other delivery service to a mass audience or to addressees on a
15 mailing list provided by or at the direction of the purchaser of the printed material,
16 if the cost of the printed material or any tangible personal property or items or
17 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed
18 directly to the recipients of the printed material. "Direct mail" includes any tangible
19 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
20 or indirectly by the purchaser of the printed material to the seller of the printed
21 material for inclusion in any package containing the printed material, including
22 billing invoices, return envelopes, and additional marketing materials. "Direct mail"
23 does not include multiple items of printed material delivered to a single address.

24 **SECTION 32.** 77.51 (3pe) of the statutes is created to read:

1 77.51 (3pe) “Directory assistance” means an ancillary service that provides
2 telephone numbers or addresses.

3 **SECTION 33.** 77.51 (3pf) of the statutes is created to read:

4 77.51 (3pf) “Distinct and identifiable product” does not include any of the
5 following:

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

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

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

14 **SECTION 34.** 77.51 (3pj) of the statutes is created to read:

15 77.51 (3pj) “Drug” means a compound, substance, or preparation, or any
16 component of them, other than food and food ingredients, dietary supplements, or
17 alcoholic beverages, to which any of the following applies:

18 (a) It is listed in the United States Pharmacopoeia, Homeopathic
19 Pharmacopoeia of the United States, or National Formulary, or any supplement to
20 any of them.

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

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

24 **SECTION 35.** 77.51 (3pm) of the statutes is created to read:

1 **77.51 (3pm)** “Durable medical equipment” means equipment, including the
2 repair parts and replacement parts for the equipment that is primarily and
3 customarily used for a medical purpose related to a person; that can withstand
4 repeated use; that is not generally useful to a person who is not ill or injured; and that
5 is not placed in or worn on the body. “Durable medical equipment” does not include
6 mobility-enhancing equipment.

7 **SECTION 36.** 77.51 (3pn) of the statutes is created to read:

8 **77.51 (3pn)** “Eight hundred service” means a telecommunications service that
9 allows a caller to dial a toll-free number without incurring a charge for the call and
10 is marketed under “800,” “855,” “866,” “877,” or “888” toll-free calling, or any other
11 number designated as toll-free by the federal communications commission.

12 **SECTION 37.** 77.51 (3po) of the statutes is created to read:

13 **77.51 (3po)** “Electronic” means relating to technology having electrical, digital,
14 magnetic, wireless, optical, electromagnetic, or similar capabilities.

15 **SECTION 38.** 77.51 (3rm) of the statutes is created to read:

16 **77.51 (3rm)** “Fixed wireless service” means a telecommunications service that
17 provides radio communication between fixed points.

18 **SECTION 39.** 77.51 (3t) of the statutes is created to read:

19 **77.51 (3t)** “Food and food ingredient” means a substance in liquid,
20 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
21 for chewing, by humans and that is ingested or chewed for its taste or nutritional
22 value. “Food and food ingredient” does not include alcoholic beverages or tobacco.

23 **SECTION 40.** 77.51 (4) of the statutes, as affected by 2007 Wisconsin Acts 11 and
24 20, is repealed.

25 **SECTION 41.** 77.51 (5) of the statutes is amended to read:

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

9 **SECTION 42.** 77.51 (5d) of the statutes is created to read:

10 77.51 (5d) “International telecommunications services” means
11 telecommunications services that originate or terminate in the United States,
12 including the District of Columbia and any U.S. territory or possession and originate
13 or terminate outside of the United States, including the District of Columbia and any
14 U.S. territory or possession.

15 **SECTION 43.** 77.51 (5n) of the statutes is created to read:

16 77.51 (5n) “Interstate telecommunications services” means
17 telecommunications services that originate in one state or U.S. territory or
18 possession and terminate in a different state or U.S. territory or possession.

19 **SECTION 44.** 77.51 (5r) of the statutes is created to read:

20 77.51 (5r) “Intrastate telecommunications services” means
21 telecommunications services that originate in one state or U.S. territory or
22 possession and terminate in the same state or U.S. territory or possession.

23 **SECTION 45.** 77.51 (6m) of the statutes is renumbered 77.51 (5m).

24 **SECTION 46.** 77.51 (7) of the statutes is repealed and recreated to read:

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

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

9 (b) "Lease or rental" does not include any of the following:

- 10 1. A transfer of possession or control of tangible personal property or items or
11 property under s. 77.52 (1) (b) or (c) under a security agreement or deferred payment
12 plan, if such agreement or plan requires transferring title to the tangible personal
13 property or items or property under s. 77.52 (1) (b) or (c) after making all required
14 payments.

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

- 20 3. Providing tangible personal property or items or property under s. 77.52 (1)
21 (b) or (c) along with an operator, if the operator is necessary for the tangible personal
22 property or items or property under s. 77.52 (1) (b) or (c) to perform in the manner
23 for which it is designed and if the operator does more than maintain, inspect, or set
24 up the tangible personal property or items or property under s. 77.52 (1) (b) or (c).

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

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

9 **SECTION 47.** 77.51 (7g) of the statutes is created to read:

10 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
11 storage media that is not physically transferred to the purchaser.

12 **SECTION 48.** 77.51 (7k) of the statutes is created to read:

13 77.51 (7k) "Mobile wireless service" means a telecommunications service for
14 which the origination or termination points of the service's transmission,
15 conveyance, or routing are not fixed, regardless of the technology used to transmit,
16 convey, or route the service. "Mobile wireless service" includes a telecommunications
17 service provided by a commercial mobile radio service provider.

18 **SECTION 49.** 77.51 (7m) of the statutes is created to read:

19 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
20 repair parts and replacement parts for the equipment, that is primarily and
21 customarily used to provide or increase the ability of a person to move from one place
22 to another; that may be used in a home or motor vehicle; and that is generally not
23 used by a person who has normal mobility. "Mobility-enhancing equipment" does
24 not include a motor vehicle or any equipment on a motor vehicle that is generally

1 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does
2 not include durable medical equipment.

3 SECTION 50. 77.51 (8m) of the statutes is created to read:

4 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
5 service purchased by a subscriber that allows the subscriber's customers to call the
6 subscriber's prerecorded announcement or live service. "Nine hundred service" does
7 not include any charge for collection services provided by the seller of the
8 telecommunications services to the subscriber or for any product or service the
9 subscriber sells to the subscriber's customers. A "nine hundred service" is
10 designated with the "900" number or any other number designated by the federal
11 communications commission.

12 SECTION 51. 77.51 (9) (a) of the statutes is amended to read:

13 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
14 property under s. 77.52 (1) (b) or (c). or taxable services where the infrequency, in
15 relation to the other circumstances, including the sales price and the gross profit,
16 support the inference that the seller is not pursuing a vocation, occupation or
17 business or a partial vocation or occupation or part-time business as a vendor of
18 personal property, items or property under s. 77.52 (1) (b) or (c). or taxable services.
19 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or
20 (c). or taxable service may be deemed an occasional sale if at the time of such sale the
21 seller holds or is required to hold a seller's permit, except that this provision does not
22 apply to an organization required to hold a seller's permit solely for the purpose of
23 conducting bingo games and except as provided in par. (am).

24 SECTION 52. 77.51 (9) (am) of the statutes is amended to read:

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

7 **SECTION 53.** 77.51 (9p) of the statutes is created to read:

8 77.51 (9p) "One nonitemized price" does not include a price that is separately
9 identified by product on a binding sales document, or other sales-related document,
10 that is made available to the customer in paper or electronic form, including an
11 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
12 a periodic notice of rates and services, a rate card, or a price list.

13 **SECTION 54.** 77.51 (9s) of the statutes is created to read:

14 77.51 (9s) "Paging service" means a telecommunications service that transmits
15 coded radio signals to activate specific pagers and may include messages or sounds.

16 **SECTION 55.** 77.51 (10) of the statutes is amended to read:

17 77.51 (10) "Person" includes any natural person, firm, partnership, limited
18 liability company, joint venture, joint stock company, association, public or private
19 corporation, the United States, the state, including any unit or division of the state,
20 any county, city, village, town, municipal utility, municipal power district or other
21 governmental unit, cooperative, unincorporated cooperative association, estate,
22 trust, receiver, personal representative, any other fiduciary, any other legal entity,
23 and any representative appointed by order of any court or otherwise acting on behalf
24 of others. "Person" also includes the owner of a single-owner entity that is
25 disregarded as a separate entity under ch. 71.

1 **SECTION 56.** 77.51 (10d) of the statutes is created to read:

2 **77.51 (10d)** “Prepaid calling service” means the right to exclusively access
3 telecommunications services, if that right is paid for in advance of providing such
4 services, requires using an access number or authorization code to originate calls,
5 and is sold in predetermined units or dollars that decrease with use in a known
6 amount.

7 **SECTION 57.** 77.51 (10f) of the statutes is created to read:

8 **77.51 (10f)** “Prepaid wireless calling service” means a telecommunications
9 service that provides the right to utilize mobile wireless service as well as other
10 nontelecommunications services, including the download of digital products
11 delivered electronically, content, and ancillary services, and that is paid for prior to
12 use and sold in predetermined dollar units whereby the number of units declines
13 with use in a known amount.

14 **SECTION 58.** 77.51 (10m) of the statutes is created to read:

15 **77.51 (10m) (a)** “Prepared food” means:

- 16 1. Food and food ingredients sold in a heated state.
17 2. Food and food ingredients heated by the retailer, except as provided in par.
18 (b).

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

- 24 a. The utensils are available to purchasers and the retailer’s sales of prepared
25 food under subds. 1. and 2., soft drinks, and alcoholic beverages at an establishment

1 are more than 75 percent of the retailer's total sales at that establishment, as
2 determined under par. (c).

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

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

9 (b) "Prepared food" does not include:

10 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
11 combined by a retailer for sale as a single item, if the retailer's primary classification
12 in the 2002 North American Industry Classification System, published by the federal
13 office of management and budget, is manufacturing under subsector 311, not
14 including bakeries and tortilla manufacturing under industry group number 3118.

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

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

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

23 5. For purposes of par. (a) 4., eggs, fish, meat, and poultry, and foods containing
24 any of them in raw form, that require cooking by the consumer, as recommended by

1 the food and drug administration in chapter 3, part 401.11 of its food code to prevent
2 food-borne illnesses.

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

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

8 b. A denominator that includes all food and food ingredients, including
9 prepared food, candy, dietary supplements, and soft drinks, but not including
10 alcoholic beverages.

11 2. a. If the percentage determined under subd. 1. is 75 percent or less, utensils
12 are considered to be provided by the retailer if the retailer's customary practice is to
13 physically give or hand the utensils to the purchaser or, in the case of plates, bowls,
14 glasses, or cups that are necessary to receive the food, to make such items available
15 to the purchaser.

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

19 3. For a retailer whose percentage determined under subd. 1. is greater than
20 75 percent, an item sold by the retailer that contains 4 or more servings packaged
21 as 1 item and sold for a single price does not become prepared food simply because
22 the retailer makes utensils available to the purchaser of the item, but does become
23 prepared food if the retailer physically gives or hands utensils to the purchaser of the
24 item. For purposes of this subdivision 3. a., serving sizes are based on the

1 information contained on the label of each item sold, except that, if the item has no
2 label, the serving size is based on the retailer's reasonable determination.

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

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

11 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
12 retailer's tax year or business fiscal year, based on the retailer's data from the
13 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
14 accounting records are available, but not later than 90 days after the day on which
15 the retailer's tax year or business fiscal year begins. For retailer's with more than
16 one establishment in this state, a single determination under subd. 1. that combines
17 the information for all of the retailer's establishments in this state shall be made
18 annually, as provided in this subdivision, and apply to each of the retailer's
19 establishments in this state. A retailer that has no prior tax year or business fiscal
20 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
21 the retailer's first tax year or business fiscal year and shall adjust the estimate
22 prospectively after the first 3 months of the retailer's operations if the actual
23 percentage is materially different from the estimated percentage.

24 **SECTION 59.** 77.51 (10n) of the statutes is created to read:

1 **77.51 (10n)** “Prescription” means an order, formula, or recipe that is issued by
2 any oral, written, electronic, or other means of transmission and by a person who is
3 authorized by the laws of this state to issue such an order, formula, or recipe.

4 **SECTION 60.** 77.51 (10r) of the statutes is created to read:

5 **77.51 (10r)** “Prewritten computer software” means any of the following:

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

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

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

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

15 (e) Computer software as described under pars. (a) to (d), and any portion of
16 such software, that is modified or enhanced by any degree to a specific purchaser’s
17 specifications, except such modification or enhancement that is reasonably and
18 separately indicated on an invoice, or other statement of the price, provided to the
19 purchaser.

20 **SECTION 61.** 77.51 (10s) of the statutes is created to read:

21 **77.51 (10s)** “Private communication service” means a telecommunications
22 service that entitles the customer to exclusive or priority use of a communications
23 channel or group of communications channels, regardless of the manner in which the
24 communications channel or group of communications channels is connected, and

1 includes switching capacity, extension lines, stations, and other associated services
2 that are provided in connection with the use of such channel or channels.

3 **SECTION 62.** 77.51 (11d) of the statutes is created to read:

4 77.51 (11d) "Product" includes tangible personal property, items or property
5 under s. 77.52 (1) (b) and (c), and services.

6 **SECTION 63.** 77.51 (11m) of the statutes is created to read:

7 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
8 replacement parts for the device, that is placed in or worn on the body to artificially
9 replace a missing portion of the body; to prevent or correct a physical deformity or
10 malfunction; or to support a weak or deformed portion of the body.

11 **SECTION 64.** 77.51 (12) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
12 is repealed and recreated to read:

13 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
14 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
15 otherwise, in any manner or by any means whatever of tangible personal property
16 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
17 transaction for which a person's books and records show the transaction created,
18 with regard to the transferee, an obligation to pay a certain amount of money or an
19 increase in accounts payable or, with regard to the transferor, a right to receive a
20 certain amount of money or an increase in accounts receivable;

21 **SECTION 65.** 77.51 (12) (b) of the statutes is amended to read:

22 77.51 (12) (b) A transaction whereby the possession of property or items or
23 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
24 security for the payment of the price.

25 **SECTION 66.** 77.51 (12m) of the statutes is created to read:

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

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

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

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

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

14 b. If a shipment includes property or items that are subject to tax under this
15 subchapter and property or items that are not subject to tax under this subchapter,
16 the amount of the delivery charge that the seller allocates to the property or items
17 that are subject to tax under this subchapter is based either on the total purchase
18 price of the property or items that are subject to tax under this subchapter as
19 compared to the total purchase price of all the property or items or on the total weight
20 of the property or items that are subject to tax under this subchapter as compared
21 to the total weight of all the property or items, except that if the seller does not make
22 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge
23 amount, consistent with this subd. 4. b.

24 5. Installation charges.

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

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

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

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

12 4. Delivery charges for direct mail.

13 5. In all transactions in which an article of tangible personal property, an item
14 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
15 of an article, item, or property of greater value, the amount of the purchase price that
16 represents the amount allowed for the article, item, or property traded, except that
17 this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

18 6. If a person who purchases a motor vehicle presents a statement issued under
19 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
20 statement to the seller within 60 days from the date of receiving a refund under s.
21 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
22 s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor
23 vehicle. This subdivision applies only to the first motor vehicle purchased by a
24 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

1 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new
2 manufactured home, as defined in s. 101.91 (11). This subdivision does not apply to
3 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 purchase price of a modular home, as defined in
7 s. 101.71 (6), or an amount equal to the purchase price of the home minus the cost
8 of materials that become an ingredient or component part of the home.

9 (c) "Purchase price" includes consideration received by the seller from a 3rd
10 party, 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 67.** 77.51 (12p) of the statutes is created to read:

5 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
6 property is made or to whom a service is furnished.

7 **SECTION 68.** 77.51 (13) (a) of the statutes is amended to read:

8 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
9 is mercantile in nature, of tangible personal property, items or property under s.
10 77.52 (1) (b) or (c). or a service specified under s. 77.52 (2) (a).

11 **SECTION 69.** 77.51 (13) (b) of the statutes is amended to read:

12 77.51 (13) (b) Every person engaged in the business of making sales of tangible
13 personal property or items or property under s. 77.52 (1) (b) or (c) for storage, use or
14 consumption or in the business of making sales at auction of tangible personal
15 property or items or property under s. 77.52 (1) (b) or (c) owned by the person or others
16 for storage, use or other consumption.

17 **SECTION 70.** 77.51 (13) (c) of the statutes is amended to read:

18 77.51 (13) (c) When the department determines that it is necessary for the
19 efficient administration of this subchapter to regard any salespersons,
20 representatives, peddlers or canvassers as the agents of the dealers, distributors,
21 supervisors or employers under whom they operate or from whom they obtain the
22 tangible personal property or items or property under s. 77.52 (1) (b) or (c) sold by
23 them, irrespective of whether they are making the sales on their own behalf or on
24 behalf of such dealers, distributors, supervisors or employers, the department may

1 so regard them and may regard the dealers, distributors, supervisors or employers
2 as retailers for purposes of this subchapter.

3 SECTION 71. 77.51 (13) (d) of the statutes is amended to read:

4 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
5 personal property or items or property under s. 77.52 (1) (b) or (c) to a person other
6 than a seller as defined in sub. (17) provided such wholesaler is not expressly exempt
7 from the sales tax on such sale or from collecting the use tax on such sale.

8 SECTION 72. 77.51 (13) (e) of the statutes is amended to read:

9 77.51 (13) (e) A person selling tangible personal property or items or property
10 under s. 77.52 (1) (b) or (c) to a service provider who transfers the property in
11 conjunction with the selling, performing or furnishing of any service and the
12 property is or items are incidental to the service, unless the service provider is
13 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.
14 This subsection does not apply to sub. (2).

15 SECTION 73. 77.51 (13) (f) of the statutes is amended to read:

16 77.51 (13) (f) A service provider who transfers tangible personal property or
17 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental
18 to the selling, performing or furnishing of any service and a service provider selling,
19 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This
20 subsection does not apply to sub. (2).

21 SECTION 74. 77.51 (13) (k) of the statutes is amended to read:

22 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
23 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
24 or (c) situated in this state.

25 SECTION 75. 77.51 (13) (m) of the statutes is amended to read:

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

5 **SECTION 76.** 77.51 (13) (n) of the statutes is amended to read:

6 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
7 appliances or other items of tangible personal property or items or property under
8 s. 77.52 (1) (b) or (c) to a landlord for use by tenants in leased or rented living
9 quarters.

10 **SECTION 77.** 77.51 (13) (o) of the statutes is amended to read:

11 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
12 As used in this paragraph, “animal” includes livestock, pets and poultry.

13 **SECTION 78.** 77.51 (13g) (intro.) of the statutes is amended to read:

14 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
15 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of
16 the use tax, means any of the following:

17 **SECTION 78d.** 77.51 (13g) (a) of the statutes is amended to read:

18 77.51 (13g) (a) Any retailer owning any real property in this state or leasing
19 or renting out any tangible personal property, or items or property under s. 77.52 (1)
20 (b) or (c), located in this state or maintaining, occupying or using, permanently or
21 temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever
22 name called, an office, place of distribution, sales or sample room or place, warehouse
23 or storage place or other place of business in this state.

24 **SECTION 78e.** 77.51 (13g) (b) of the statutes is amended to read:

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

6 **SECTION 79.** 77.51 (13g) (c) of the statutes is created to read:

7 77.51 (13g) (c) Any retailer selling tangible personal property, items or
8 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other
9 consumption in this state, unless otherwise limited by federal law.

10 **SECTION 80.** 77.51 (13r) of the statutes is amended to read:

11 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
12 be deemed the consumer of the tangible personal property, items or property under
13 s. 77.52 (1) (b) or (c), or services purchased.

14 **SECTION 81.** 77.51 (13rm) of the statutes is created to read:

15 77.51 (13rm) “Retail sale” or “sale at retail” means any sale, lease, or rental
16 for any purpose other than resale, sublease, or subrent.

17 **SECTION 82.** 77.51 (13rn) of the statutes is created to read:

18 77.51 (13rn) “Ringtones” means digitized sound files that are downloaded onto
19 a device and that may be used to alert the customer with regard to a communication.
20 “Ringtones” includes MP3 or musical tones, polyphonic tones, and synthetic music
21 mobile application format tones, but does not include ring-back tones.

22 **SECTION 83.** 77.51 (14) (intro.) of the statutes is amended to read:

23 77.51 (14) (intro.) “Sale”, ~~“sale, lease or rental”, “retail sale”, “sale at retail”, or~~
24 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the
25 ownership of, title to, possession of, or enjoyment of tangible personal property, items

1 or property under s. 77.52 (1) (b) or (c), or services for use or consumption but not for
2 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),
3 or services and includes:

4 **SECTION 84.** 77.51 (14) (a) of the statutes is amended to read:

5 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
6 property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a
7 successful bidder. ~~The proceeds from, except~~ the sale of property or items sold at
8 auction which is are bid in by the seller and on which title does not pass to a new
9 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~
10 ~~on the net proceeds.~~

11 **SECTION 85.** 77.51 (14) (b) of the statutes is amended to read:

12 77.51 (14) (b) The furnishing or distributing of tangible personal property,
13 items or property under s. 77.52 (1) (b) or (c), or taxable services for a consideration
14 by social clubs and fraternal organizations to their members or others.

15 **SECTION 86.** 77.51 (14) (c) of the statutes is amended to read:

16 77.51 (14) (c) A transaction whereby the possession of tangible personal
17 property is or items or property under s. 77.52 (1) (b) or (c) are transferred but the
18 seller retains the title as security for the payment of the price.

19 **SECTION 87.** 77.51 (14) (d) of the statutes is repealed.

20 **SECTION 88.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

21 **SECTION 89.** 77.51 (14) (h) of the statutes is amended to read:

22 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
23 personal property or items or property under s. 77.52 (1) (b) or (c) which has have
24 been produced, fabricated, or printed to the special order of the customer or of any
25 publication.