

1 expenses, intangible expenses, and management fees that are directly or indirectly  
2 paid, accrued, or incurred to, or in connection directly or indirectly with one or more  
3 direct or indirect transactions with, one or more related entities.

4 **\*-1215/P5\*SECTION 179.** 71.45 (2) (a) 18. of the statutes is amended to read:

5 71.45 (2) (a) 18. A deduction shall be allowed for the amount added, pursuant  
6 to subd. 16. or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.34 (1k) (j), to the federal income  
7 of a related entity that paid interest expenses ~~or~~, rental expenses, intangible  
8 expenses, or management fees to the insurer, to the extent that the related entity  
9 could not offset such amount with the deduction allowable under subd. 17. or s. 71.05  
10 (6) (b) 45., 71.26 (2) (a) 8., or 71.34 (1k) (k).

11 **\*-1942/P1.19\* SECTION 180.** 71.47 (1dy) of the statutes is created to read:

12 71.47 (1dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this  
13 subsection, "claimant" means a person who files a claim under this subsection and  
14 is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

15 (b) *Filing claims.* Subject to the limitations under this subsection and ss.  
16 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant  
17 may claim as a credit against the tax imposed under s. 71.43, up to the amount of the  
18 tax, the amount authorized for the claimant under s. 560.703.

19 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the  
20 claimant includes with the claimant's return a copy of the claimant's certification  
21 under s. 560.701 (2) and a copy of the claimant's notice of eligibility to receive tax  
22 benefits under s. 560.703 (3).

23 2. Partnerships, limited liability companies, and tax-option corporations may  
24 not claim the credit under this subsection, but the eligibility for, and the amount of,  
25 the credit are based on their authorization to claim tax benefits under s. 560.703.

1 A partnership, limited liability company, or tax-option corporation shall compute  
2 the amount of credit that each of its partners, members, or shareholders may claim  
3 and shall provide that information to each of them. Partners, members of limited  
4 liability companies, and shareholders of tax-option corporations may claim the  
5 credit in proportion to their ownership interests.

6 (d) *Administration.* 1. Except as provided in subd. 2., sub. (4) (e) and (f), as it  
7 applies to the credit under sub. (4), applies to the credit under this subsection.

8 2. If a claimant's certification is revoked under s. 560.705, or if a claimant  
9 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim  
10 credits under this subsection for the taxable year that includes the day on which the  
11 certification is revoked; the taxable year that includes the day on which the claimant  
12 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may  
13 not carry over unused credits from previous years to offset the tax imposed under s.  
14 71.43 for the taxable year that includes the day on which certification is revoked; the  
15 taxable year that includes the day on which the claimant becomes ineligible for tax  
16 benefits; or succeeding taxable years.

17 3. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies  
18 to the credit under this subsection.

19 **\*-1947/P1.23\* SECTION 181.** 71.47 (3p) (a) 1m. of the statutes is created to  
20 read:

21 71.47 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
22 185 or 193 for the purpose of obtaining or processing milk.

23 **\*-1947/P1.24\* SECTION 182.** 71.47 (3p) (a) 3. (intro.) of the statutes is amended  
24 to read:

1           71.47 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
2 means constructing, improving, or acquiring buildings or facilities, or acquiring  
3 equipment, for dairy manufacturing, including the following, if used exclusively for  
4 dairy manufacturing and if acquired and placed in service in this state during  
5 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
6 the case of dairy cooperatives, if acquired and placed in service in this state during  
7 taxable years that begin after December 31, 2008, and before January 1, 2017:

8           \*-1947/P1.25\* SECTION 183. 71.47 (3p) (b) of the statutes is amended to read:

9           71.47 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
10 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
11 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
12 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the  
13 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
14 year for dairy manufacturing modernization or expansion related to the claimant's  
15 dairy manufacturing operation.

16           \*-1947/P1.26\* SECTION 184. 71.47 (3p) (c) 2m. b. of the statutes is amended  
17 to read:

18           71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
19 by all claimants, other than members of dairy cooperatives, under this subsection  
20 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year  
21 thereafter, is \$700,000, as allocated under s. 560.207.

22           \*-1947/P1.27\* SECTION 185. 71.47 (3p) (c) 2m. bm. of the statutes is created  
23 to read:

24           71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
25 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28

1 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
2 maximum amount of the credits that may be claimed by members of dairy  
3 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year  
4 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
5 560.207.

6 **\*-1947/P1.28\* SECTION 186.** 71.47 (3p) (c) 3. of the statutes is amended to read:

7 71.47 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option  
8 corporations, and dairy cooperatives may not claim the credit under this subsection,  
9 but the eligibility for, and the amount of, the credit are based on their payment of  
10 expenses under par. (b), except that the aggregate amount of credits that the entity  
11 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
12 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
13 dairy cooperative shall compute the amount of credit that each of its partners,  
14 members, or shareholders may claim and shall provide that information to each of  
15 them. Partners, members of limited liability companies, and shareholders of  
16 tax-option corporations may claim the credit in proportion to their ownership  
17 interest. Members of a dairy cooperative may claim the credit in proportion to the  
18 amount of milk that each member delivers to the dairy cooperative, as determined  
19 by the dairy cooperative.

20 **\*-1947/P1.29\* SECTION 187.** 71.47 (3p) (c) 5. of the statutes is created to read:

21 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
22 the credit, based on amounts described under par. (b) that are paid by the dairy  
23 cooperative, for taxable years beginning after December 31, 2008, and before  
24 January 1, 2017.

25 **\*-1947/P1.30\* SECTION 188.** 71.47 (3p) (c) 6. of the statutes is created to read:

1           71.47 (3p) (c) 6. No credit may be allowed under this subsection unless the  
2 claimant submits with the claimant's return a copy of the claimant's credit  
3 certification and allocation under s. 560.207.

4           \***-1947/P1.31\*** SECTION 189. 71.47 (3p) (d) 2. of the statutes is amended to  
5 read:

6           71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
7 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~  
8 ~~under s. 71.43~~, the amount of the claim not used to offset the tax due shall be certified  
9 by the department of revenue to the department of administration for payment by  
10 check, share draft, or other draft drawn from the appropriation account under s.  
11 20.835 (2) (bn).

12           \***-1947/P1.32\*** SECTION 190. 71.47 (3p) (d) 3. of the statutes is created to read:

13           71.47 (3p) (d) 3. With regard to claims that are based on amounts described  
14 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
15 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the  
16 claim not used to offset the tax due shall be certified by the department of revenue  
17 to the department of administration for payment by check, share draft, or other draft  
18 drawn from the appropriation account under s. 20.835 (2) (bp).

19           \***-1948/P1.12\*** SECTION 191. 71.47 (3r) of the statutes is created to read:

20           71.47 (3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions*. In this  
21 subsection:

22           1. "Claimant" means a person who files a claim under this subsection.

23           2. "Meat processing" means processing livestock into meat products or  
24 processing meat products for sale commercially.

1           3. "Meat processing modernization or expansion" means constructing,  
2 improving, or acquiring buildings or facilities, or acquiring equipment, for meat  
3 processing, including the following, if used exclusively for meat processing and if  
4 acquired and placed in service in this state during taxable years that begin after  
5 December 31, 2008, and before January 1, 2017:

6           a. Building construction, including livestock handling, product intake, storage,  
7 and warehouse facilities.

8           b. Building additions.

9           c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,  
10 and waste facilities.

11           d. Livestock intake and storage equipment.

12           e. Processing and manufacturing equipment, including cutting equipment,  
13 mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking  
14 equipment, pipes, motors, pumps, and valves.

15           f. Packaging and handling equipment, including sealing, bagging, boxing,  
16 labeling, conveying, and product movement equipment.

17           g. Warehouse equipment, including storage and curing racks.

18           h. Waste treatment and waste management equipment, including tanks,  
19 blowers, separators, dryers, digesters, and equipment that uses waste to produce  
20 energy, fuel, or industrial products.

21           i. Computer software and hardware used for managing the claimant's meat  
22 processing operation, including software and hardware related to logistics,  
23 inventory management, production plant controls, and temperature monitoring  
24 controls.

1           4. "Used exclusively" means used to the exclusion of all other uses except for  
2 use not exceeding 5 percent of total use.

3           (b) *Filing claims.* Subject to the limitations provided in this subsection and s.  
4 560.208, for taxable years beginning after December 31, 2008, and before January  
5 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.43,  
6 up to the amount of the tax, an amount equal to 10 percent of the amount the  
7 claimant paid in the taxable year for meat processing modernization or expansion  
8 related to the claimant's meat processing operation.

9           (c) *Limitations.* 1. No credit may be allowed under this subsection for any  
10 amount that the claimant paid for expenses described under par. (b) that the  
11 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

12           2. The aggregate amount of credits that a claimant may claim under this  
13 subsection is \$200,000.

14           3. a. The maximum amount of the credits that may be allocated under this  
15 subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2009-10 is \$300,000, as  
16 allocated under s. 560.208.

17           b. The maximum amount of the credits that may be allocated under this  
18 subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2010-11, and in each fiscal  
19 year thereafter, is \$700,000, as allocated under s. 560.208.

20           4. Partnerships, limited liability companies, and tax-option corporations may  
21 not claim the credit under this subsection, but the eligibility for, and the amount of,  
22 the credit are based on their payment of expenses under par. (b), except that the  
23 aggregate amount of credits that the entity may compute shall not exceed \$200,000.  
24 A partnership, limited liability company, or tax-option corporation shall compute  
25 the amount of credit that each of its partners, members, or shareholders may claim

1 and shall provide that information to each of them. Partners, members of limited  
2 liability companies, and shareholders of tax-option corporations may claim the  
3 credit in proportion to their ownership interest.

4 5. If 2 or more persons own and operate the meat processing operation, each  
5 person may claim a credit under par. (b) in proportion to his or her ownership  
6 interest, except that the aggregate amount of the credits claimed by all persons who  
7 own and operate the meat processing operation shall not exceed \$200,000.

8 6. No credit may be allowed under this subsection unless the claimant submits  
9 with the claimant's return a copy of the claimant's credit certification and allocation  
10 under s. 560.208.

11 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
12 credit under s. 71.28 (4), applies to the credit under this subsection.

13 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise  
14 due under s. 71.43, the amount of the claim not used to offset the tax due shall be  
15 certified by the department of revenue to the department of administration for  
16 payment by check, share draft, or other draft drawn from the appropriation account  
17 under s. 20.835 (2) (bd).

18 **\*-1215/P5\*SECTION 192.** 71.47 (4) (ad) 1. of the statutes is amended to read:

19 71.47 (4) (ad) 1. Except as provided in subds. 2. and 3., any corporation may  
20 credit against taxes otherwise due under this chapter an amount equal to 5 percent  
21 of the amount obtained by subtracting from the corporation's qualified research  
22 expenses, as defined in section 41 of the Internal Revenue Code, except that  
23 "qualified research expenses" includes only expenses incurred by the claimant,  
24 incurred for research conducted in this state for the taxable year, except that a  
25 taxpayer may elect the alternative computation under section 41 (c) (4) of the

1 Internal Revenue Code and that election applies until the department permits its  
2 revocation, except as provided in par. (af), and except that “qualified research  
3 expenses” does not include compensation used in computing the credit under subs.  
4 (1dj) and (1dx), the corporation’s base amount, as defined in section 41 (c) of the  
5 Internal Revenue Code, except that gross receipts used in calculating the base  
6 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)  
7 (b) 1. and 2., ~~(d), (df), and 1. and 2.,~~ (dh) 1., 2., and 3., (dj) 1., and (dk) 1. Section 41  
8 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

9 **\*-1215/P5\*SECTION 193.** 71.47 (4) (ad) 2. of the statutes is amended to read:

10 71.47 (4) (ad) 2. For taxable years beginning after June 30, 2007, any  
11 corporation may credit against taxes otherwise due under this chapter an amount  
12 equal to 10 percent of the amount obtained by subtracting from the corporation’s  
13 qualified research expenses, as defined in section 41 of the Internal Revenue Code,  
14 except that “qualified research expenses” includes only expenses incurred by the  
15 claimant for research related to designing internal combustion engines for vehicles,  
16 including expenses related to designing vehicles that are powered by such engines  
17 and improving production processes for such engines and vehicles, incurred for  
18 research conducted in this state for the taxable year, except that a taxpayer may elect  
19 the alternative computation under section 41 (c) (4) of the Internal Revenue Code  
20 and that election applies until the department permits its revocation, except as  
21 provided in par. (af), and except that “qualified research expenses” does not include  
22 compensation used in computing the credit under subs. (1dj) and (1dx), the  
23 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,  
24 except that gross receipts used in calculating the base amount means gross receipts  
25 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (df) 1. and~~

1 2., (dh) 1., 2., and 3., (dj) 1., and (dk) 1. Section 41 (h) of the Internal Revenue Code  
2 does not apply to the credit under this paragraph.

3 **\*-1215/P5\*SECTION 194.** 71.47 (4) (ad) 3. of the statutes is amended to read:

4 71.47 (4) (ad) 3. For taxable years beginning after June 30, 2007, any  
5 corporation may credit against taxes otherwise due under this chapter an amount  
6 equal to 10 percent of the amount obtained by subtracting from the corporation's  
7 qualified research expenses, as defined in section 41 of the Internal Revenue Code,  
8 except that "qualified research expenses" includes only expenses incurred by the  
9 claimant for research related to the design and manufacturing of energy efficient  
10 lighting systems, building automation and control systems, or automotive batteries  
11 for use in hybrid-electric vehicles, that reduce the demand for natural gas or  
12 electricity or improve the efficiency of its use, incurred for research conducted in this  
13 state for the taxable year, except that a taxpayer may elect the alternative  
14 computation under section 41 (c) (4) of the Internal Revenue Code and that election  
15 applies until the department permits its revocation, except as provided in par. (af),  
16 and except that "qualified research expenses" does not include compensation used  
17 in computing the credit under subs. (1dj) and (1dx), the corporation's base amount,  
18 as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts  
19 used in calculating the base amount means gross receipts from sales attributable to  
20 Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (df) 1. and 2., (dh) 1., 2., and 3., (dj)~~  
21 1., and (dk) 1. Section 41 (h) of the Internal Revenue Code does not apply to the credit  
22 under this paragraph.

23 **\*-1215/P5\*SECTION 195.** 71.47 (4) (am) of the statutes is amended to read:

24 71.47 (4) (am) *Development zone additional research credit.* In addition to the  
25 credit under par. (ad), any corporation may credit against taxes otherwise due under

1 this chapter an amount equal to 5 percent of the amount obtained by subtracting  
2 from the corporation's qualified research expenses, as defined in section 41 of the  
3 Internal Revenue Code, except that "qualified research expenses" include only  
4 expenses incurred by the claimant in a development zone under subch. VI of ch. 560,  
5 except that a taxpayer may elect the alternative computation under section 41 (c) (4)  
6 of the Internal Revenue Code and that election applies until the department permits  
7 its revocation and except that "qualified research expenses" do not include  
8 compensation used in computing the credit under sub. (1dj) nor research expenses  
9 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the  
10 corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code,  
11 in a development zone, except that gross receipts used in calculating the base amount  
12 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and  
13 2., ~~(d)~~, ~~(df)~~, and 1. and 2., ~~(dh)~~ 1., 2., and 3., ~~(dj)~~ 1., and ~~(dk)~~ 1. and research expenses  
14 used in calculating the base amount include research expenses incurred before the  
15 claimant is certified for tax benefits under s. 560.765 (3), in a development zone, if  
16 the claimant submits with the claimant's return a copy of the claimant's certification  
17 for tax benefits under s. 560.765 (3) and a statement from the department of  
18 commerce verifying the claimant's qualified research expenses for research  
19 conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to  
20 the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they apply  
21 to the credit under that subsection apply to claims under this paragraph. Section 41  
22 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.  
23 No credit may be claimed under this paragraph for taxable years that begin on  
24 January 1, 1998, or thereafter. Credits under this paragraph for taxable years that

1 begin before January 1, 1998, may be carried forward to taxable years that begin on  
2 January 1, 1998, or thereafter.

3 **\*-1949/P7\* SECTION 196.** 71.47 (5b) (c) 1. of the statutes is repealed.

4 **\*-1949/P7\* SECTION 197.** 71.47 (5b) (c) 2. of the statutes is renumbered 71.47  
5 (5b) (c).

6 **\*-0377/P10.11\* \*-4294/P1.11\* SECTION 198.** 71.47 (5e) (b) of the statutes is  
7 amended to read:

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

16 **\*-0377/P10.12\* \*-4294/P1.12\* SECTION 199.** 71.47 (5e) (c) 1. of the statutes  
17 is amended to read:

18 71.47 (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 **\*-0377/P10.13\* \*-4294/P1.13\* SECTION 200.** 71.47 (5e) (c) 3. of the statutes  
21 is amended to read:

22 71.47 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and  
23 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed  
24 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~  
25 77.585 (9) is \$7,500,000, as determined by the department of commerce.

1           **\*-1942/P1.20\* SECTION 201.** 71.49 (1) (em) of the statutes is renumbered 71.49  
2 (1) (eh).

3           **\*-1942/P1.21\* SECTION 202.** 71.49 (1) (ema) of the statutes is created to read:  
4 71.49 (1) (ema) Economic development tax credit under s. 71.47 (1dy).

5           **\*-1942/P1.22\* SECTION 203.** 71.49 (1) (emb) of the statutes is renumbered  
6 71.49 (1) (ei).

7           **\*-1942/P1.23\* SECTION 204.** 71.49 (1) (en) of the statutes is renumbered 71.49  
8 (1) (ej).

9           **\*-1942/P1.24\* SECTION 205.** 71.49 (1) (eo) of the statutes is renumbered 71.49  
10 (1) (ek).

11           **\*-1942/P1.25\* SECTION 206.** 71.49 (1) (eom) of the statutes is renumbered  
12 71.49 (1) (eL).

13           **\*-1948/P1.13\* SECTION 207.** 71.49 (1) (f) of the statutes is amended to read:  
14 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47  
15 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under  
16 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),  
17 meat processing facility investment credit under s. 71.47 (3r), enterprise zone jobs  
18 credit under s. 71.47 (3w), film production services credit under s. 71.47 (5f) (b) 2.,  
19 and estimated tax payments under s. 71.48.

20           **\*-1215/P5\*SECTION 208.** 71.80 (1) (b) of the statutes is amended to read:  
21 71.80 (1) (b) In any case of 2 or more organizations, trades or businesses  
22 (whether or not incorporated, whether or not organized in the United States and,  
23 whether or not affiliated, and whether or not unitary) owned or controlled directly  
24 or indirectly by the same interests, the secretary or the secretary's delegate may  
25 distribute, apportion or allocate gross income, deductions, credits or allowances

1 between or among such organizations, trades or businesses, if the secretary  
2 determines that such distribution, apportionment or allocation is necessary in order  
3 to prevent evasion of taxes or clearly to reflect the income of any of such  
4 organizations, trades or businesses. The authority granted under this subsection is  
5 in addition to, and not a limitation of or dependent on, the provisions of sub. (23) and  
6 ss. 71.05 (6) (a) 24. and (b) 45., 71.26 (2) (a) 7. and 8., 71.34 (1k) (j) and (k), and 71.45  
7 (2) (a) 16. and 17.

8 **\*-1215/P5\*SECTION 209.** 71.80 (1m) of the statutes is created to read:

9 71.80 (1m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person,  
10 directly or indirectly, engages in a transaction or series of transactions without  
11 economic substance to create a loss or to reduce taxable income or to increase credits  
12 allowed in determining Wisconsin tax, the department shall determine the amount  
13 of a taxpayer's taxable income or tax so as to reflect what would have been the  
14 taxpayer's taxable income or tax if not for the transaction or transactions without  
15 economic substance causing the reduction in taxable income or tax.

16 (b) A transaction has economic substance only if the taxpayer shows both of the  
17 following:

18 1. The transaction changes the taxpayer's economic position in a meaningful  
19 way, apart from federal, state, local, and foreign tax effects.

20 2. The taxpayer has a substantial nontax purpose for entering into the  
21 transaction and the transaction is a reasonable means of accomplishing the  
22 substantial nontax purpose. A transaction has a substantial nontax purpose if it has  
23 substantial potential for profit, disregarding any tax effects.

24 (c) With respect to transactions between members of a controlled group as  
25 defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall

1 be presumed to lack economic substance and the taxpayer shall bear the burden of  
2 establishing by clear and convincing evidence that a transaction or a series of  
3 transactions between the taxpayer and one or more members of the controlled group  
4 has economic substance.

5 \***-1216/3\***SECTION 210. 71.80 (23) (a) (intro.) of the statutes is amended to  
6 read:

7 71.80 (23) (a) (intro.) The deductions provided under ss. 71.05 (6) (b) 45., 71.26  
8 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall be allowed for any interest expenses  
9 or, rental expenses, intangible expenses, or management fees described in ss. 71.05  
10 (6) (a) 24., 71.26 (2) (a) 7., 71.34 (1k) (j), or 71.45 (2) (a) 16. if any of the following  
11 applies to the interest expenses or, rental expenses, intangible expenses, or  
12 management fees:

13 \***-1216/3\***SECTION 211. 71.80 (23) (a) 1. of the statutes is amended to read:

14 71.80 (23) (a) 1. The related entity to which the taxpayer paid, accrued, or  
15 incurred the interest expenses or, rental expenses, intangible expenses, or  
16 management fees during the taxable year directly or indirectly paid, accrued, or  
17 incurred such amounts in the same taxable year to a person who is not a related  
18 entity or the related entity to which the taxpayer paid, accrued, or incurred such  
19 expenses or fees is a holding company or a direct or indirect subsidiary of a holding  
20 company, as defined in 12 USC 1841 (a) or (l) or 12 USC 1467a (a) (1) (D), not  
21 including any entity that is organized under the laws of another jurisdiction and that  
22 primarily holds and manages investments of a bank, subsidiary, or affiliate. For  
23 purposes of this subdivision, "interest" does not include interest that is paid in  
24 connection with any debt that is incurred to acquire the taxpayer's assets or stock  
25 under section 368 of the Internal Revenue Code. If a portion of such an interest

1 expense or, rental expense, intangible expense, or management fee is paid, accrued,  
2 or incurred in the same taxable year to a person who is not a related entity, that  
3 portion shall be allowed as a deduction to the taxpayer.

4 **\*-1216/3\*SECTION 212.** 71.80 (23) (a) 2. of the statutes is amended to read:

5 71.80 (23) (a) 2. The related entity was subject to tax on, or measured by, its  
6 net income or receipts in this state or any state, U.S. possession, or foreign country;  
7 the related entity's tax base in such state, U.S. possession, or foreign country  
8 included the income received from the taxpayer for the interest expenses or, rental  
9 expenses, intangible expenses, or management fees; the related entity's aggregate  
10 effective tax rate applied to such income or receipts was at least 80 percent of the  
11 taxpayer's aggregate effective tax rate; and the related entity is not a real estate  
12 investment trust under section 856 of the Internal Revenue Code, other than a  
13 qualified real estate investment trust. For purposes of this subdivision, "any state,  
14 U.S. possession, or foreign country" does not include any state, U.S. possession, or  
15 foreign country under the laws of which the taxpayer files with the related entity, or  
16 the related entity files with another entity, a combined income tax report or return,  
17 a consolidated income tax report or return, or any other report or return that is due  
18 because of the imposition of a tax that is measured on or by income or receipts, if the  
19 report or return results in eliminating the tax effects of transactions, directly or  
20 indirectly, between either the taxpayer and the related entity or between the related  
21 entity and another entity.

22 **\*-1216/3\*SECTION 213.** 71.80 (23) (a) 3. of the statutes is amended to read:

23 71.80 (23) (a) 3. The taxpayer establishes that the transaction satisfies any  
24 other conditions that the department considers relevant, based on the facts and  
25 circumstances, to determine that the primary motivation for the transaction was one

1 or more business purposes other than the avoidance or reduction of state income or  
2 franchise taxes; that the transaction changed the economic position of the taxpayer  
3 in a meaningful way apart from tax effects; and that the interest expenses or, rental  
4 expenses, intangible expenses, or management fees were paid, accrued, or incurred  
5 using terms that reflect an arm's-length relationship.

6 **\*-1216/3\*SECTION 214.** 71.80 (23) (b) of the statutes is amended to read:

7 71.80 (23) (b) Notwithstanding par. (a), the deductions provided under ss. 71.05  
8 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall not be allowed for  
9 any interest expenses or, rental expenses, intangible expenses, or management fees  
10 that are directly or indirectly paid, accrued, or incurred to, or in connection directly  
11 or indirectly with one or more direct or indirect transactions with, one or more  
12 related entities, if the aggregate amount paid, accrued, or incurred for those related  
13 entity transactions is not disclosed on a separate form prescribed by the department  
14 in the manner prescribed by the department.

15 **\*-0377/P10.14\* \*-4294/P1.14\* SECTION 215.** 73.03 (28e) of the statutes is  
16 created to read:

17 73.03 (28e) To participate as a member state of the streamlined sales tax  
18 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and  
19 includes having the governing board enter into contracts that are necessary to  
20 implement the agreement on behalf of the member states, and to allocate a portion  
21 of the amount collected under ch. 77 through the agreement to the appropriation  
22 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing  
23 board. The department shall allocate the remainder of such collections to the general  
24 fund.

1           **\*-0377/P10.15\* \*-4294/P1.15\* SECTION 216.** 73.03 (50) (d) of the statutes is  
2 amended to read:

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

11           **\*-0377/P10.16\* \*-4294/P1.16\* SECTION 217.** 73.03 (50b) of the statutes is  
12 created to read:

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

17           **\*-0377/P10.17\* \*-4294/P1.17\* SECTION 218.** 73.03 (61) of the statutes is  
18 created to read:

19           73.03 (61) To do all of the following related to the Uniform Sales and Use Tax  
20 Administration Act:

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

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

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

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

19 (e) Maintain a database that is accessible to sellers and certified service  
20 providers, as defined in s. 77.51 (1g), that indicates whether items defined in  
21 accordance with the agreement, as defined in s. 77.65 (2) (a), are taxable or  
22 nontaxable.

23 (f) Maintain a database that is accessible to sellers and certified service  
24 providers, as defined in s. 77.51 (1g), and available in a downloadable format  
25 approved by the governing board of the agreement, as defined in s. 77.65 (2) (a), 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. The database shall be provided at no cost and be available to sellers and  
4 certified service providers, as defined in s. 77.51 (1g), no later than the first day of  
5 the month prior to the first day of the calendar quarter.

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

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

13 **\*-1949/P3\* SECTION 219.** 73.03 (63) of the statutes is amended to read:

14 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07  
15 (5b) (c) 1. and (5d) (c) 1., ~~71.28 (5b) (e) 1., 71.47 (5b) (e) 1.,~~ and 560.205 (3) (d), in  
16 consultation with the department of commerce, to carry forward to subsequent  
17 taxable years unclaimed credit amounts of the early stage seed investment credits  
18 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b),~~ and 76.638 and the angel investment  
19 credit under s. 71.07 (5d). Annually, no later than July 1, the department of  
20 commerce shall submit to the department of revenue its recommendations for the  
21 carry forward of credit amounts as provided under this subsection.

22 **\*-1896/1.5\* SECTION 220.** 73.0301 (1) (d) 6. of the statutes is amended to read:

23 73.0301 (1) (d) 6. A license or certificate of registration issued by the  
24 department of financial institutions, or a division of it, under ss. 138.09, 138.12,

1 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, 224.93 or  
2 under subch. IV of ch. 551.

3 **\*-0377/P10.18\* \*-4294/P1.18\* SECTION 221.** 76.07 (4g) (b) 8. of the statutes  
4 is amended to read:

5 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service  
6 revenue allocated to this state on the basis of routes for which the company is  
7 authorized to receive subsidy payments, mutual aid allocated to this state on the  
8 basis of the ratio of transport revenues allocated to this state to transport revenues  
9 everywhere in the previous year, in-flight sales allocated to this state as they are  
10 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from  
11 sales made in this state.

12 **\*-1942/P1.26\* SECTION 222.** 76.637 of the statutes is created to read:

13 **76.637 Economic development credit. (1) DEFINITION.** In this section,  
14 "claimant" means an insurer who files a claim under this section and is certified  
15 under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

16 **(2) FILING CLAIMS.** Subject to the limitations under this section and ss. 560.701  
17 to 560.706, for taxable years beginning after December 31, 2008, a claimant may  
18 claim as a credit against the fees due under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the  
19 amount authorized for the claimant under s. 560.703.

20 **(3) LIMITATIONS.** No credit may be allowed under this section unless the insurer  
21 includes with the insurer's annual return under s. 76.64 a copy of the claimant's  
22 certification under s. 560.701 (2) and a copy of the claimant's notice of eligibility to  
23 receive tax benefits under s. 560.703 (3).

24 **(4) ADMINISTRATION.** If an insurer's certification is revoked under s. 560.705,  
25 or if an insurer becomes ineligible for tax benefits under s. 560.702, the insurer may

1 not claim credits under this section for the taxable year that includes the day on  
2 which the certification is revoked; the taxable year that includes the day on which  
3 the insurer becomes ineligible for tax benefits; or succeeding taxable years and the  
4 insurer may not carry over unused credits from previous years to offset the fees  
5 imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year that  
6 includes the day on which certification is revoked; the taxable year that includes the  
7 day on which the insurer becomes ineligible for tax benefits; or succeeding taxable  
8 years.

9 **\*-1949/P3\*SECTION 223.** 76.638 of the statutes is created to read:

10 **76.638 Early stage seed investment credit.** (1) DEFINITIONS. In this  
11 section, "fund manager" means an investment fund manager certified under s.  
12 560.205 (2).

13 (2) FILING CLAIMS. For taxable years beginning after December 31, 2008,  
14 subject to the limitations provided under this subsection and s. 560.205, an insurer  
15 may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66,  
16 or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund  
17 manager invests in a business certified under s. 560.205 (1).

18 (3) INVESTMENT BASIS. The Wisconsin adjusted basis of any investment for  
19 which a credit is claimed under sub. (2) shall be reduced by the amount of the credit  
20 that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

21 (4) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the  
22 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance  
23 may be carried forward and credited against those fees for the following 15 years to  
24 the extent that it is not offset by those fees otherwise due in all the years between

1 the year in which the expense was made and the year in which the carry-forward  
2 credit is claimed.

3 **\*-1942/P1.27\* SECTION 224.** 76.67 (2) of the statutes is amended to read:

4 76.67 (2) If any domestic insurer is licensed to transact insurance business in  
5 another state, this state may not require similar insurers domiciled in that other  
6 state to pay taxes greater in the aggregate than the aggregate amount of taxes that  
7 a domestic insurer is required to pay to that other state for the same year less the  
8 credits under ss. 76.635, 76.636, and 76.655, except that the amount imposed shall  
9 not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if  
10 the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under  
11 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.637,  
12 76.638, and 76.655 against that total, and except that the amount imposed shall not  
13 be less than the amount due under s. 601.93.

14 **\*-0377/P10.19\* \*-4294/P1.19\* SECTION 225.** 77.51 (1) of the statutes is  
15 renumbered 77.51 (1fd) and amended to read:

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

22 **\*-0377/P10.20\* SECTION 226.** 77.51 (1a) of the statutes is created to read:

23 77.51 (1a) (a) "Additional digital goods" means all of the following, if they are  
24 transferred electronically:

- 25 1. Greeting cards.

1           2. Finished artwork.

2           3. Periodicals.

3           4. Video or electronic games.

4           (b) For purposes of this subchapter, the sale of or the storage, use, or other  
5 consumption of a digital code is treated the same as the sale of or the storage, use,  
6 or other consumption of any additional digital goods for which the digital code  
7 relates.

8           **\*-0377/P10.21\* \*-4294/P1.20\* SECTION 227.** 77.51 (1b) of the statutes is  
9 created to read:

10           77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human  
11 consumption and that contains 0.5 percent or more of alcohol by volume.

12           **\*-0377/P10.22\* \*-4294/P1.21\* SECTION 228.** 77.51 (1ba) of the statutes is  
13 created to read:

14           77.51 (1ba) "Ancillary services" means services that are associated with or  
15 incidental to providing telecommunications services, including detailed  
16 telecommunications billing, directory assistance, vertical service, and voice mail  
17 services.

18           **\*-0377/P10.23\* \*-4294/P1.22\* SECTION 229.** 77.51 (1f) of the statutes is  
19 created to read:

20           77.51 (1f) "Bundled transaction" means the retail sale of 2 or more products,  
21 not including real property and services to real property, if the products are distinct  
22 and identifiable products and sold for one nonitemized price. "Bundled transaction"  
23 does not include any of the following:

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

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

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

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

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

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

1 (b), (c), or (d) included in what would otherwise be a bundled transaction, as  
2 determined by the seller using either the seller's purchase price or the sales price,  
3 but not a combination of both.

4 **\*-0377/P10.24\* \*-4294/P1.23\* SECTION 230.** 77.51 (1fm) of the statutes is  
5 created to read:

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

10 **\*-0377/P10.25\* \*-4294/P1.24\* SECTION 231.** 77.51 (1n) of the statutes is  
11 created to read:

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

15 **\*-0377/P10.26\* \*-4294/P1.25\* SECTION 232.** 77.51 (1p) of the statutes is  
16 created to read:

17 77.51 (1p) "Computer software" means a set of coded instructions designed to  
18 cause a computer or automatic data processing equipment to perform a task.

19 **\*-0377/P10.27\* SECTION 233.** 77.51 (1pd) of the statutes is created to read:

20 77.51 (1pd) "Computer software maintenance contract" means a contract that  
21 obligates a vendor of computer software to provide a customer with future updates  
22 or upgrades to computer software, computer software support services, or both.

23 **\*-0377/P10.28\* \*-4294/P1.26\* SECTION 234.** 77.51 (1r) of the statutes is  
24 created to read:

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

5           **SECTION 235.** 77.51 (2) of the statutes is amended to read:

6           77.51 (2) "Contractors" and "subcontractors" are the consumers of tangible  
7           personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) used  
8           by them in real property construction activities and the sales and use tax applies to  
9           the sale of tangible personal property or items, property, or goods under s. 77.52 (1)  
10          (b), (c), or (d) to them. A contractor engaged primarily in real property construction  
11          activities may use resale certificates only with respect to purchases of tangible  
12          personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which  
13          the contractor has sound reason to believe the contractor will sell to customers for  
14          whom the contractor will not perform real property construction activities involving  
15          the use of such tangible personal property or items, property, or goods under s. 77.52  
16          (1) (b), (c), or (d). In this subsection, "real property construction activities" means  
17          activities that occur at a site where tangible personal property or items, property, or  
18          goods under s. 77.52 (1) (b), (c), or (d) that ~~is~~ are applied or adapted to the use or  
19          purpose to which real property is devoted ~~is~~ are affixed to that real property, if the  
20          intent of the person who affixes that property is to make a permanent accession to  
21          the real property. In this subsection, "real property construction activities" ~~do~~ does  
22          not include affixing to real property tangible personal property or items, property,  
23          or goods under s. 77.52 (1) (b), (c), or (d) that ~~remains~~ remain tangible personal  
24          property after ~~it is~~ they are affixed.

1           **\*-0377/P10.29\* \*-4294/P1.27\* SECTION 236.** 77.51 (2k) of the statutes is  
2 created to read:

3           77.51 (2k) "Delivered electronically" means delivered to a purchaser by means  
4 other than by tangible storage media.

5           **\*-0377/P10.30\* \*-4294/P1.28\* SECTION 237.** 77.51 (2m) of the statutes is  
6 created to read:

7           77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver  
8 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
9 (d), or services to a location designated by the purchaser of the tangible personal  
10 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services,  
11 including charges for transportation, shipping, postage, handling, crating, and  
12 packing.

13           **\*-0377/P10.31\* \*-4294/P1.29\* SECTION 238.** 77.51 (3c) of the statutes is  
14 created to read:

15           77.51 (3c) "Detailed telecommunications billing service" means an ancillary  
16 service that separately indicates information pertaining to individual calls on a  
17 customer's billing statement.

18           **\*-0377/P10.32\* \*-4294/P1.30\* SECTION 239.** 77.51 (3n) of the statutes is  
19 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           **\*-0377/P10.33\* SECTION 240.** 77.51 (3p) of the statutes is created to read:

13           77.51 (3p) "Digital audiovisual works" means a series of related images that,  
14 when shown in succession, impart an impression of motion, along with  
15 accompanying sounds, if any, and that are transferred electronically. "Digital  
16 audiovisual works" includes motion pictures, musical videos, news and  
17 entertainment programs, and live events, but does not include video greeting cards  
18 or video or electronic games.

19           **\*-0377/P10.34\* SECTION 241.** 77.51 (3pa) of the statutes is created to read:

20           77.51 (3pa) "Digital audio works" means works that result from the fixation  
21 of a series of musical, spoken, or other sounds that are transferred electronically,  
22 including prerecorded or live music, prerecorded or live readings of books or other  
23 written materials, prerecorded or live speeches, ringtones, or other sound recordings  
24 but not including audio greeting cards sent by electronic mail.

25           **\*-0377/P10.35\* SECTION 242.** 77.51 (3pb) of the statutes is created to read:

1           77.51 (3pb) "Digital books" means works that are generally recognized in the  
2 ordinary and usual sense as books and are transferred electronically. "Digital books"  
3 includes any literary work, other than a digital audio work or digital audiovisual  
4 work, that is expressed in words, numbers, or other verbal or numerical symbols or  
5 indicia, if the literary work is generally recognized in the ordinary and usual sense  
6 as a book, work of fiction or nonfiction, or a short story, but does not include  
7 newspapers or other news or information products, periodicals, chat room  
8 discussions, or blogs.

9           \*-0377/P10.36\* SECTION 243. 77.51 (3pc) of the statutes is created to read:

10           77.51 (3pc) "Digital code" means a code that provides the person who holds the  
11 code a right to obtain an additional digital good, a digital audiovisual work, digital  
12 audio work, or digital book and that may be obtained by any means, including  
13 tangible forms and electronic mail, regardless of whether the code is designated as  
14 song code, video code, or book code. "Digital code" includes codes used to access or  
15 obtain any specified digital goods, or any additional digital goods that have been  
16 previously purchased, and promotion cards or codes that are purchased by a retailer  
17 or other business entity for use by the retailer's or entity's customers. "Digital code"  
18 does not include the following:

19           (a) A code that represents any redeemable card, gift card, or gift certificate that  
20 entitles the holder of such card or certificate to select any specified digital goods or  
21 additional digital goods at the cash value indicated by the card or certificate.

22           (b) Digital cash that represents a monetary value that a customer may use to  
23 pay for a future purchase.

24           \*-0377/P10.37\* \*-4294/P1.31\* SECTION 244. 77.51 (3pd) of the statutes is  
25 created to read:

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

13           \*-0377/P10.38\* \*-4294/P1.32\* SECTION 245. 77.51 (3pe) of the statutes is  
14 created to read:

15           77.51 (3pe) "Directory assistance" means an ancillary service that provides  
16 telephone numbers or addresses.

17           \*-0377/P10.39\* \*-4294/P1.33\* SECTION 246. 77.51 (3pf) of the statutes is  
18 created to read:

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

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

24           (b) A product that is provided free of charge to the consumer in conjunction with  
25 the required purchase of another product, if the sales price of the other product does

1 not vary depending on whether the product provided free of charge is included in the  
2 transaction.

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

4 **\*-0377/P10.40\* \*-4294/P1.34\* SECTION 247.** 77.51 (3pj) of the statutes is  
5 created to read:

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

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

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

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

15 **\*-0377/P10.41\* \*-4294/P1.35\* SECTION 248.** 77.51 (3pm) of the statutes is  
16 created to read:

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

23 **\*-0377/P10.42\* \*-4294/P1.36\* SECTION 249.** 77.51 (3pn) of the statutes is  
24 created to read:

1           77.51 (3pn) "Eight hundred service" means a telecommunications service that  
2 allows a caller to dial a toll-free number without incurring a charge for the call and  
3 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other  
4 number designated as toll-free by the federal communications commission.

5           \*-0377/P10.43\* \*-4294/P1.37\* SECTION 250. 77.51 (3po) of the statutes is  
6 created to read:

7           77.51 (3po) "Electronic" means relating to technology having electrical, digital,  
8 magnetic, wireless, optical, electromagnetic, or similar capabilities.

9           \*-0377/P10.44\* SECTION 251. 77.51 (3rm) of the statutes is created to read:

10          77.51 (3rm) "Finished artwork" means the final art used for actual  
11 reproduction by photomechanical or other processes or for display purposes.  
12 "Finished artwork" also includes all of the following items regardless of whether such  
13 items are reproduced:

- 14          (a) Drawings.
- 15          (b) Paintings.
- 16          (c) Designs.
- 17          (d) Photographs.
- 18          (e) Lettering.
- 19          (f) Paste-ups.
- 20          (g) Mechanicals.
- 21          (h) Assemblies.
- 22          (i) Charts.
- 23          (j) Graphs.
- 24          (k) Illustrative materials.

1           **\*-0377/P10.45\* \*-4294/P1.38\* SECTION 252.** 77.51 (3rn) of the statutes is  
2 created to read:

3           77.51 (3rn) "Fixed wireless service" means a telecommunications service that  
4 provides radio communication between fixed points.

5           **\*-0377/P10.46\* \*-4294/P1.39\* SECTION 253.** 77.51 (3t) of the statutes is  
6 created to read:

7           77.51 (3t) "Food and food ingredient" means a substance in liquid,  
8 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or  
9 for chewing, by humans and that is ingested or chewed for its taste or nutritional  
10 value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

11           **\*-0377/P10.47\* \*-4294/P1.40\* SECTION 254.** 77.51 (4) of the statutes is  
12 repealed.

13           **\*-0377/P10.48\* \*-4294/P1.41\* SECTION 255.** 77.51 (5) of the statutes is  
14 amended to read:

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

24           **\*-0377/P10.49\* \*-4294/P1.42\* SECTION 256.** 77.51 (5d) of the statutes is  
25 created to read:

1           77.51 (5d)       “International telecommunications services” means  
2 telecommunications services that originate or terminate in the United States,  
3 including the District of Columbia and any U.S. territory or possession and originate  
4 or terminate outside of the United States, including the District of Columbia and any  
5 U.S. territory or possession.

6           \***-0377/P10.50\*** \***-4294/P1.43\*** SECTION 257. 77.51 (5n) of the statutes is  
7 created to read:

8           77.51 (5n)       “Interstate telecommunications services” means  
9 telecommunications services that originate in one state or U.S. territory or  
10 possession and terminate in a different state or U.S. territory or possession.

11          \***-0377/P10.51\*** \***-4294/P1.44\*** SECTION 258. 77.51 (5r) of the statutes is  
12 created to read:

13          77.51 (5r)       “Intrastate telecommunications services” means  
14 telecommunications services that originate in one state or U.S. territory or  
15 possession and terminate in the same state or U.S. territory or possession.

16          \***-0377/P10.52\*** SECTION 259. 77.51 (6m) of the statutes is renumbered 77.51  
17 (5m) and amended to read:

18          77.51 (5m) For purposes of s. ~~77.54 (48)~~ 77.585 (9), “Internet equipment used  
19 in the broadband market” means equipment that is capable of transmitting data  
20 packets or Internet signals at speeds of at least 200 kilobits per second in either  
21 direction.

22          \***-0377/P10.53\*** \***-4294/P1.46\*** SECTION 260. 77.51 (7) of the statutes is  
23 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, property, or goods under s. 77.52 (1) (b), (c), or  
3 (d) for a fixed 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,  
11 property, or goods under s. 77.52 (1) (b), (c), or (d) under a security agreement or  
12 deferred payment plan, if such agreement or plan requires transferring title to the  
13 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or  
14 (d) after making all required payments.

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

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

1 than maintain, inspect, or set up the tangible personal property or items, property,  
2 or goods under s. 77.52 (1) (b), (c), or (d).

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

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

11 \*-0377/P10.54\* \*-4294/P1.47\* SECTION 261. 77.51 (7g) of the statutes is  
12 created to read:

13 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible  
14 storage media that is not physically transferred to the purchaser.

15 \*-0377/P10.55\* \*-4294/P1.48\* SECTION 262. 77.51 (7k) of the statutes is  
16 created to read:

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

22 \*-0377/P10.56\* \*-4294/P1.49\* SECTION 263. 77.51 (7m) of the statutes is  
23 created to read:

24 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the  
25 repair parts and replacement parts for the equipment, that is primarily and

1 customarily used to provide or increase the ability of a person to move from one place  
2 to another; that may be used in a home or motor vehicle; and that is generally not  
3 used by a person who has normal mobility. "Mobility-enhancing equipment" does  
4 not include a motor vehicle or any equipment on a motor vehicle that is generally  
5 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does  
6 not include durable medical equipment.

7 **\*-0377/P10.57\* \*-4294/P1.50\* SECTION 264.** 77.51 (8m) of the statutes is  
8 created to read:

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

17 **\*-0377/P10.58\* \*-4294/P1.51\* SECTION 265.** 77.51 (9) (a) of the statutes is  
18 amended to read:

19 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, or items,  
20 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services where the  
21 infrequency, in relation to the other circumstances, including the sales price and the  
22 gross profit, support the inference that the seller is not pursuing a vocation,  
23 occupation or business or a partial vocation or occupation or part-time business as  
24 a vendor of personal property, or items, property, or goods under s. 77.52 (1) (b), (c),  
25 or (d), or taxable services. No sale of any tangible personal property, or items,

1 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable service may be deemed  
2 an occasional sale if at the time of such sale the seller holds or is required to hold a  
3 seller's permit, except that this provision does not apply to an organization required  
4 to hold a seller's permit solely for the purpose of conducting bingo games and except  
5 as provided in par. (am).

6 \***-0377/P10.59\*** \***-4294/P1.52\*** SECTION 266. 77.51 (9) (am) of the statutes is  
7 amended to read:

8 77.51 (9) (am) The sale of personal property or items, property, or goods under  
9 s. 77.52 (1) (b), (c), or (d), other than inventory held for sale, previously used by a  
10 seller to conduct its trade or business at a location after that person has ceased  
11 actively operating in the regular course of business as a seller of tangible personal  
12 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable  
13 services at that location, even though the seller holds a seller's permit for one or more  
14 other locations.

15 \***-0377/P10.60\*** \***-4294/P1.53\*** SECTION 267. 77.51 (9p) of the statutes is  
16 created to read:

17 77.51 (9p) "One nonitemized price" does not include a price that is separately  
18 identified by product on a binding sales document, or other sales-related document,  
19 that is made available to the customer in paper or electronic form, including an  
20 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,  
21 a periodic notice of rates and services, a rate card, or a price list.

22 \***-0377/P10.61\*** \***-4294/P1.54\*** SECTION 268. 77.51 (9s) of the statutes is  
23 created to read:

24 77.51 (9s) "Paging service" means a telecommunications service that transmits  
25 coded radio signals to activate specific pagers and may include messages or sounds.

1           \*~~-0377/P10.62~~\* \*~~-4294/P1.55~~\* SECTION 269. 77.51 (10) of the statutes is  
2 amended to read:

3           77.51 (10) "Person" includes any natural person, firm, partnership, limited  
4 liability company, joint venture, joint stock company, association, public or private  
5 corporation, the United States, the state, including any unit or division of the state,  
6 any county, city, village, town, municipal utility, municipal power district or other  
7 governmental unit, cooperative, unincorporated cooperative association, estate,  
8 trust, receiver, personal representative, any other fiduciary, any other legal entity,  
9 and any representative appointed by order of any court or otherwise acting on behalf  
10 of others. "Person" also includes the owner of a single-owner entity that is  
11 disregarded as a separate entity under ch. 71.

12           \*~~-0377/P10.63~~\* \*~~-4294/P1.56~~\* SECTION 270. 77.51 (10d) of the statutes is  
13 created to read:

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

19           \*~~-0377/P10.64~~\* \*~~-4294/P1.57~~\* SECTION 271. 77.51 (10f) of the statutes is  
20 created to read:

21           77.51 (10f) "Prepaid wireless calling service" means a telecommunications  
22 service that provides the right to utilize mobile wireless service as well as other  
23 nontelecommunications services, including the download of digital products  
24 delivered electronically, content, and ancillary services, and that is paid for prior to

1 use and sold in predetermined dollar units whereby the number of units declines  
2 with use in a known amount.

3 \*~~0377/P10.65~~\* \*~~4294/P1.58~~\* SECTION 272. 77.51 (10m) of the statutes is  
4 created to read:

5 77.51 (10m) (a) "Prepared food" means:

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

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

8 (b).

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

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

18 b. For retailers not described under subd. 3. a., the retailer's customary practice  
19 is to physically give or hand the utensils to the purchaser, except that plates, glasses,  
20 or cups that are necessary for the purchaser to receive the food and food ingredients  
21 need only be made available to the purchaser.

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

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

1           1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or  
2 combined by a retailer for sale as a single item, if the retailer's primary classification  
3 in the North American Industry Classification System, 2002 edition, published by  
4 the federal office of management and budget, is manufacturing under subsector 311,  
5 not including bakeries and tortilla manufacturing under industry group number  
6 3118.

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

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

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

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

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

21           a. A numerator that includes sales of prepared food, as defined in par. (a) 1.,  
22 2., and 4., and food for which plates, bowls, glasses, or cups are necessary to receive  
23 the food, but not including alcoholic beverages.

1           b. A denominator that includes all food and food ingredients, including  
2 prepared food, candy, dietary supplements, and soft drinks, but not including  
3 alcoholic beverages.

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

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

12           3. For a retailer whose percentage determined under subd. 1. is greater than  
13 75 percent, an item sold by the retailer that contains 4 or more servings packaged  
14 as one item and sold for a single price does not become prepared food simply because  
15 the retailer makes utensils available to the purchaser of the item, but does become  
16 prepared food if the retailer physically gives or hands utensils to the purchaser of the  
17 item, except that plates, bowls, glasses, or cups necessary for the purchaser to receive  
18 the food need only be made available to the purchaser. For purposes of this  
19 subdivision 3., serving sizes are based on the information contained on the label of  
20 each item sold, except that, if the item has no label, the serving size is based on the  
21 retailer's reasonable determination.

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

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

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

19           **\*-0377/P10.66\* \*-4294/P1.59\* SECTION 273.** 77.51 (10n) of the statutes is  
20 created to read:

21           77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by  
22 any oral, written, electronic, or other means of transmission and by a person who is  
23 authorized by the laws of this state to issue such an order, formula, or recipe.

24           **\*-0377/P10.67\* \*-4294/P1.60\* SECTION 274.** 77.51 (10r) of the statutes is  
25 created to read:

1           77.51 (10r) "Prewritten computer software" means computer software,  
2 including prewritten upgrades, that is not designed and developed by the author or  
3 other creator to the specifications of a specific purchaser. The combining of 2 or more  
4 "prewritten computer software" programs or prewritten portions of computer  
5 software does not cause the combination to be other than "prewritten computer  
6 software." "Prewritten computer software" includes software designed and  
7 developed by the author or other creator to the specifications of a specific purchaser  
8 if it is sold to a person other than the specific purchaser. For purposes of this  
9 subsection, if a person modifies or enhances computer software of which the person  
10 is not the author or creator, the person is the author or creator only of the person's  
11 modifications or enhancements. "Prewritten computer software" or a prewritten  
12 portion of computer software that is modified or enhanced to any degree, with regard  
13 to a modification or enhancement that is designed and developed to the specifications  
14 of a specific purchaser, remains "prewritten computer software," except that if there  
15 is a reasonable, separately stated charge or an invoice or other statement of the price  
16 given to the purchaser for the modification or enhancement, the modification or  
17 enhancement is not "prewritten computer software."

18           \***-0377/P10.68\*** \***-4294/P1.61\*** SECTION 275. 77.51 (10s) of the statutes is  
19 created to read:

20           77.51 (10s) "Private communication service" means a telecommunications  
21 service that entitles the customer to exclusive or priority use of a communications  
22 channel or group of communications channels, regardless of the manner in which the  
23 communications channel or group of communications channels is connected, and  
24 includes switching capacity, extension lines, stations, and other associated services  
25 that are provided in connection with the use of such channel or channels.

1           **\*-0377/P10.69\* \*-4294/P1.62\* SECTION 276.** 77.51 (11d) of the statutes is  
2 created to read:

3           **77.51 (11d)** For purposes of subs. (1f), (3pf), and (9p) and ss. 77.52 (20) and (21),  
4 77.522, and 77.54 (51) and (52), "product" includes tangible personal property, and  
5 items, property, and goods under s. 77.52 (1) (b), (c), and (d), and services.

6           **\*-0377/P10.70\* \*-4294/P1.63\* SECTION 277.** 77.51 (11m) of the statutes is  
7 created to read:

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

12           **\*-0377/P10.71\* \*-4294/P1.64\* SECTION 278.** 77.51 (12) (a) of the statutes is  
13 repealed and recreated to read:

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

22           **\*-0377/P10.72\* \*-4294/P1.65\* SECTION 279.** 77.51 (12) (b) of the statutes is  
23 amended to read:

1           77.51 (12) (b) A transaction whereby the possession of property, or items,  
2           property, or goods under s. 77.52 (1) (b), (c), or (d) is transferred but the seller retains  
3           the title as security for the payment of the price.

4           \***-0377/P10.73\*** \***-4294/P1.66\*** **SECTION 280.** 77.51 (12m) of the statutes is  
5           created to read:

6           77.51 (12m) (a) "Purchase price" means the total amount of consideration,  
7           including cash, credit, property, and services, for which tangible personal property,  
8           or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services are sold,  
9           licensed, leased, or rented, valued in money, whether paid in money or otherwise,  
10          without any deduction for the following:

11          1. The seller's cost of the property or items, property, or goods under s. 77.52  
12          (1) (b), (c), or (d) sold.

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

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

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

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

1 compared to the total weight of all the property and items, except that if the seller  
2 does not make the allocation under this subd. 4. b., the purchaser shall allocate the  
3 delivery charge amount, consistent with this subd. 4. b.

4 5. Installation charges.

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

6 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
7 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
8 taken by a purchaser on a sale.

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

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

17 4. Delivery charges for direct mail, if the delivery charges for direct mail are  
18 separately stated on the invoice, bill of sale, or similar document that the seller gives  
19 to the purchaser.

20 5. In all transactions in which an article of tangible personal property, an item  
21 under s. 77.52 (1) (b), property under s. 77.52 (1) (c), or a good under s. 77.52 (1) (d)  
22 is traded toward the purchase of an article, item, property, or good of greater value,  
23 the amount of the purchase price that represents the amount allowed for the article,  
24 item, property, or good traded, except that this subdivision does not apply to any  
25 transaction to which subd. 7. or 8. applies.

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

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

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

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

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

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

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

25           4. One of the following also applies:

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

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

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

11 **\*-0377/P10.74\* \*-4294/P1.67\* SECTION 281.** 77.51 (12p) of the statutes is  
12 created to read:

13 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal  
14 property is made or to whom a service is furnished.

15 **\*-0377/P10.75\* \*-4294/P1.68\* SECTION 282.** 77.51 (13) (a) of the statutes is  
16 amended to read:

17 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale  
18 is mercantile in nature, of tangible personal property, or items, property, or goods  
19 under s. 77.52 (1) (b), (c), or (d), or a service specified under s. 77.52 (2) (a).

20 **\*-0377/P10.76\* \*-4294/P1.69\* SECTION 283.** 77.51 (13) (b) of the statutes is  
21 amended to read:

22 77.51 (13) (b) Every person engaged in the business of making sales of tangible  
23 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) for  
24 storage, use or consumption or in the business of making sales at auction of tangible