



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 1048**

March 22, 1996 – Offered by JOINT COMMITTEE ON FINANCE.

1     **AN ACT to repeal** 76.001, 76.02 (9r), 76.07 (4g) (e), 76.38 and 76.38 (4) (b); **to**  
2     **renumber** 76.02 (9t); **to renumber and amend** 76.02 (9u) and 76.38 (4) (a);  
3     **to amend** 20.913 (1) (b), 71.26 (3) (f), 73.01 (4) (a), 73.01 (5) (a), 76.01, 76.02 (9),  
4     76.04 (1), 76.07 (1), 76.07 (2), 76.13 (1), subchapter II (title) of chapter 76  
5     [precedes 76.38], 76.38 (1) (c), 77.52 (2) (a) 5., 134.72 (1) (a), 227.03 (1) and  
6     968.01 (1); **to repeal and recreate** 20.913 (1) (b), 71.26 (3) (f), 73.01 (4) (a),  
7     73.01 (5) (a), 76.28 (4), 76.28 (5), 76.28 (6) and 227.03 (1); **to create** 20.566 (2)  
8     (ht), 25.63, 25.17 (1) (kv), subchapter IV of chapter 76 [precedes 76.80] and  
9     subchapter V of chapter 76 [precedes 76.90] of the statutes; and **to affect** 1991  
10    Wisconsin Act 39, section 9149 (6) and 1991 Wisconsin Act 39, section 9149 (7);  
11    **relating to:** the taxation of telephone companies, property tax relief and  
12    technological equipment fund, imposing the sales tax on coin-operated  
13    telephone services and making an appropriation.

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



1           **25.63 Property tax relief and technological equipment fund.** All moneys  
2 transferred from the general fund to the property tax relief and technological  
3 equipment fund constitute the property tax relief and technological equipment fund.  
4 Moneys in the fund are reserved to provide property tax relief and to purchase  
5 technological equipment.

6           **SECTION 6.** 25.17 (1) (kv) of the statutes is created to read:

7           25.17 (1) (kv) *Property tax relief and technological equipment fund* (s. 25.63).

8           **SECTION 7.** 71.26 (3) (f) of the statutes is amended to read:

9           71.26 (3) (f) Section 164 (a) is modified so that foreign taxes are not deductible  
10 unless the income on which the tax is based is taxable under this chapter and so that  
11 gross receipts taxes assessed in lieu of property taxes, the license fees under ss. 76.28  
12 and 76.38 and the ~~tax~~ taxes under s. ss. 70.375, 76.81 and 76.91 are deductible.

13           **SECTION 8.** 71.26 (3) (f) of the statutes, as affected by 1995 Wisconsin Act ...  
14 (this act), is repealed and recreated to read:

15           71.26 (3) (f) Section 164 (a) is modified so that foreign taxes are not deductible  
16 unless the income on which the tax is based is taxable under this chapter and so that  
17 gross receipts taxes assessed in lieu of property taxes, the license fee under s. 76.28  
18 and the taxes under ss. 70.375, 76.81 and 76.91 are deductible.

19           **SECTION 9.** 73.01 (4) (a) of the statutes is amended to read:

20           73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,  
21 the commission shall be the final authority for the hearing and determination of all  
22 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.  
23 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.995 (8), 76.38 (12) (a), 76.39 (4) (c), 76.48  
24 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06,  
25 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of

1 ch. 77. Whenever with respect to a pending appeal there is filed with the commission  
2 a stipulation signed by the department of revenue and the adverse party, under s.  
3 73.03 (25), agreeing to an affirmance, modification or reversal of the department's  
4 position with respect to some or all of the issues raised in the appeal, the commission  
5 shall enter an order affirming or modifying in whole or in part, or canceling the  
6 assessment appealed from, or allowing in whole or in part or denying the petitioner's  
7 refund claim, as the case may be, pursuant to and in accordance with the stipulation  
8 filed. No responsibility shall devolve upon the commission, respecting the signing  
9 of an order of dismissal as to any pending appeal settled by the department without  
10 the approval of the commission.

11 **SECTION 10.** 73.01 (4) (a) of the statutes, as affected by 1995 Wisconsin Act ....  
12 (this act), is repealed and recreated to read:

13 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,  
14 the commission shall be the final authority for the hearing and determination of all  
15 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.  
16 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.  
17 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,  
18 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch.  
19 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed  
20 with the commission a stipulation signed by the department of revenue and the  
21 adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal  
22 of the department's position with respect to some or all of the issues raised in the  
23 appeal, the commission shall enter an order affirming or modifying in whole or in  
24 part, or canceling the assessment appealed from, or allowing in whole or in part or  
25 denying the petitioner's refund claim, as the case may be, pursuant to and in

1 accordance with the stipulation filed. No responsibility shall devolve upon the  
2 commission, respecting the signing of an order of dismissal as to any pending appeal  
3 settled by the department without the approval of the commission.

4 **SECTION 11.** 73.01 (5) (a) of the statutes is amended to read:

5 73.01 (5) (a) Any person who is aggrieved by a determination of the state board  
6 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)  
7 or who has filed a petition for redetermination with the department of revenue and  
8 who is aggrieved by the redetermination of the department may, within 60 days of  
9 the determination of the state board of assessors or of the department or, in all other  
10 cases, within 60 days after the redetermination but not thereafter, file with the clerk  
11 of the commission a petition for review of the action of the department and the  
12 number of copies of the petition required by rule adopted by the commission. If a  
13 municipality appeals, its appeal shall set forth that the appeal has been authorized  
14 by an order or resolution of its governing body and the appeal shall be verified by a  
15 member of that governing body as pleadings in courts of record are verified. The clerk  
16 of the commission shall transmit one copy to the department of revenue and to each  
17 party. In the case of appeals from manufacturing property assessments, the person  
18 assessed shall be a party to a proceeding initiated by a municipality. At the time of  
19 filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which  
20 the commission shall deposit in the general fund. Within 30 days after such  
21 transmission the department, except for petitions objecting to manufacturing  
22 property assessments, shall file with the clerk of the commission an original and the  
23 number of copies of an answer to the petition required by rule adopted by the  
24 commission and shall serve one copy on the petitioner or the petitioner's attorney or  
25 agent. Within 30 days after service of the answer, the petitioner may file and serve

1 a reply in the same manner as the petition is filed. Any person entitled to be heard  
2 by the commission under s. 76.38 (12) (a), 76.39 (4) (c) ~~or~~, 76.48 or 76.91 may file a  
3 petition with the commission within the time and in the manner provided for the  
4 filing of petitions in income or franchise tax cases. Such papers may be served as a  
5 circuit court summons is served or by certified mail. For the purposes of this  
6 subsection, a petition for review is considered timely filed if mailed by certified mail  
7 in a properly addressed envelope, with postage duly prepaid, which envelope is  
8 postmarked before midnight of the last day for filing.

9 **SECTION 12.** 73.01 (5) (a) of the statutes, as affected by 1995 Wisconsin Act ....  
10 (this act), is repealed and recreated to read:

11 73.01 (5) (a) Any person who is aggrieved by a determination of the state board  
12 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)  
13 or who has filed a petition for redetermination with the department of revenue and  
14 who is aggrieved by the redetermination of the department may, within 60 days of  
15 the determination of the state board of assessors or of the department or, in all other  
16 cases, within 60 days after the redetermination but not thereafter, file with the clerk  
17 of the commission a petition for review of the action of the department and the  
18 number of copies of the petition required by rule adopted by the commission. If a  
19 municipality appeals, its appeal shall set forth that the appeal has been authorized  
20 by an order or resolution of its governing body and the appeal shall be verified by a  
21 member of that governing body as pleadings in courts of record are verified. The clerk  
22 of the commission shall transmit one copy to the department of revenue and to each  
23 party. In the case of appeals from manufacturing property assessments, the person  
24 assessed shall be a party to a proceeding initiated by a municipality. At the time of  
25 filing the petition, the petitioner shall pay to the commission a \$5 filing fee, which

1 the commission shall deposit in the general fund. Within 30 days after such  
2 transmission the department, except for petitions objecting to manufacturing  
3 property assessments, shall file with the clerk of the commission an original and the  
4 number of copies of an answer to the petition required by rule adopted by the  
5 commission and shall serve one copy on the petitioner or the petitioner's attorney or  
6 agent. Within 30 days after service of the answer, the petitioner may file and serve  
7 a reply in the same manner as the petition is filed. Any person entitled to be heard  
8 by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91  
9 may file a petition with the commission within the time and in the manner provided  
10 for the filing of petitions in income or franchise tax cases. Such papers may be served  
11 as a circuit court summons is served or by certified mail. For the purposes of this  
12 subsection, a petition for review is considered timely filed if mailed by certified mail  
13 in a properly addressed envelope, with postage duly prepaid, which envelope is  
14 postmarked before midnight of the last day for filing.

15 **SECTION 13.** 76.001 of the statutes is repealed.

16 **SECTION 14.** 76.01 of the statutes is amended to read:

17 **76.01 Railroads and utilities, assessment.** The department of revenue  
18 shall make an annual assessment of the property of all railroad companies, of all  
19 conservation and regulation companies, of all sleeping car companies, of all air  
20 carriers, ~~of all telephone companies~~ and of all pipeline companies, within this state,  
21 for the purpose of levying and collecting taxes thereon, as provided in this  
22 subchapter.

23 **SECTION 15.** 76.02 (9) of the statutes is amended to read:

24 76.02 (9) "Company", without other designation or qualification, includes any  
25 railroad company, any conservation and regulation company, any express company,

1 any air carrier company, any pipeline company, ~~any telephone company~~ and any  
2 sleeping car company, as defined in this section, to which “company” is applied.

3 **SECTION 16.** 76.02 (9r) of the statutes is repealed.

4 **SECTION 17.** 76.02 (9t) of the statutes is renumbered 76.80 (3).

5 **SECTION 18.** 76.02 (9u) of the statutes is renumbered 76.80 (4) and amended  
6 to read:

7 76.80 (4) “Telephone company” means any person that provides to another  
8 person telecommunications services, including the resale of services provided by  
9 another telephone company, ~~that originate in one local access and transport area, as~~  
10 ~~defined in s. 76.38 (1) (bd), and terminate in a different local access and transport~~  
11 ~~area, as defined in s. 76.38 (1) (bd).~~ “Telephone company” does not include a person  
12 who operates a private shared telecommunications system, as defined in s. 196.201  
13 (1), and who is not otherwise a telephone company. ~~“Telephone company” does not~~  
14 ~~include a person who is a cellular mobile radio telecommunications utility, as defined~~  
15 ~~in s. 196.202 (1).~~

16 **SECTION 19.** 76.04 (1) of the statutes is amended to read:

17 76.04 (1) Every company defined in s. 76.02 shall, annually, file a true and  
18 accurate statement in such manner and form and setting forth such facts as the  
19 department shall deem necessary to enforce ss. 76.01 to 76.26. The annual reports  
20 for railroad companies, sleeping car companies and express companies shall be filed  
21 on or before April 15 and for conservation and regulation companies, air carriers,  
22 ~~telephone companies~~ and pipeline companies on or before May 1.

23 **(1m)** For sufficient reason shown the department may upon written request  
24 allow such further time for making and filing the report under sub. (1) as it may deem  
25 necessary, but not to exceed 30 days. If any company fails to file such report within



1 the time prescribed or as extended under this subsection, the department shall add  
2 to the taxes due from such company \$250 if the report is not filed within 15 days after  
3 the due date or extended due date and an additional \$250 for each month or part of  
4 a month thereafter during which the report is not filed, except that the total penalty  
5 may not exceed \$2,500. No company may in any action or proceeding contest the  
6 imposition of such penalty.

7 **SECTION 20.** 76.07 (1) of the statutes is amended to read:

8 76.07 (1) DUTY OF DEPARTMENT. The department on or before August 1 in each  
9 year in the case of railroad companies and sleeping car companies, and on or before  
10 September 15 in the case of air carrier companies, ~~telephone companies,~~  
11 conservation and regulation companies and pipeline companies, shall, according to  
12 its best knowledge and judgment, ascertain and determine the full market value of  
13 the property of each company within the state.

14 **SECTION 21.** 76.07 (2) of the statutes is amended to read:

15 76.07 (2) RELATION TO STATE VALUATION; DESCRIPTION. The value of the property  
16 of each of said companies for assessment shall be made on the same basis and for the  
17 same period of time, as near as may be, as the value of the general property of the  
18 state is ascertained and determined. The department shall prepare an assessment  
19 roll and place thereon after the name of each of said companies assessed, the  
20 following general description of the property of such company, to wit: "Real estate,  
21 right-of-way, tracks, stations, terminals, appurtenances, rolling stock, equipment,  
22 franchises and all other real estate and personal property of said company," in the  
23 case of railroads, and "Real estate, right-of-way, poles, wires, conduits, cables,  
24 devices, appliances, instruments, franchises and all other real and personal property  
25 of said company," in the case of conservation and regulation companies, and "Real

1 estate, appurtenances, rolling stock, equipment, franchises, and all other real estate  
2 and personal property of said company,” in the case of sleeping car and air carrier  
3 companies, and “Land and land rights, structures, improvements, mains, pumping  
4 and regulation equipment, services, appliances, instruments, franchises and all  
5 other real and personal property of said company,” in the case of pipeline companies,  
6 and “~~All property of the company used in the operation of the company’s telephone~~  
7 ~~business” in the case of telephone companies,~~ which description shall be deemed and  
8 held to include the entire property and franchises of the company specified and all  
9 title and interest therein.

10 **SECTION 22.** 76.07 (4g) (e) of the statutes is repealed.

11 **SECTION 23.** 76.13 (1) of the statutes is amended to read:

12 76.13 (1) The department shall compute and levy a tax upon the property of  
13 each company defined in s. 76.02, as assessed in the manner specified in ss. 76.07 and  
14 76.08, at the average net rate of taxation determined under s. 76.126. The amount  
15 of tax to be paid by each such company shall be extended upon a tax roll opposite the  
16 description of the property of the respective companies. The tax rolls for all  
17 companies required to be assessed on or before August 1 in each year under s. 76.07  
18 (1) shall be completed on or before August 10, and for all companies required to be  
19 assessed on or before September 15 in each year under s. 76.07 (1) shall be completed  
20 on or before October 1; and the department shall thereupon attach to each such roll  
21 a certificate signed by the secretary of revenue, which shall be as follows:

22 “I hereby certify that the foregoing tax roll includes the property of all railroad  
23 companies, sleeping car companies, air carrier companies, conservation and  
24 regulation companies, ~~telephone companies~~ or pipeline companies, as the case may  
25 be, defined in 76.0276, liable to taxation in this state; that the valuation of the

1 property of each company as set down in said tax roll is the full market value thereof  
2 as assessed by the department of revenue, except as changed by court judgment, and  
3 that the taxes thereon charged in said tax roll have been assessed and levied at the  
4 average net rate of taxation in this state, as required by law”.

5 **SECTION 24.** 76.28 (4) of the statutes is repealed and recreated to read:

6 76.28 (4) REDETERMINATION. If after filing the reports specified in sub. (7) and  
7 after the department’s computation and assessment of license fees under sub. (2) it  
8 is determined that the amount of gross revenues reported is in error, the department  
9 shall compute the additional license fee to be paid or the amount of the overpayment  
10 of license fee to be refunded, as the case may be. If an additional license fee is due,  
11 the department shall give notice to the light, heat and power company against whom  
12 the license fee is to be levied. All such additional assessments and claims for refunds  
13 for excess license fees paid are subject to the same procedure for review and final  
14 determination as additional income or franchise tax assessments and claims for  
15 refunds under ch. 71 as far as the same may be applicable, except that appeals of  
16 denials of claims for refunds shall be made directly to the tax appeals commission  
17 and except that the additional license fees shall become delinquent 60 days after  
18 notice provided in this subsection or, if review proceedings are held, 60 days following  
19 final determination of the review proceedings. All additional license fees shall bear  
20 interest at the rate of 12% per year from the time they should have been paid to the  
21 date on which the additional fees shall become delinquent if unpaid.

22 (b) In the case of overpayments of license fees by any light, heat and power  
23 company under par. (a), the department shall certify the overpayments to the  
24 department of administration, which shall audit the amount of the overpayments  
25 and the state treasurer shall pay the amounts determined by means of the audit. All

1 refunds of license fees under this subsection shall bear interest at the annual rate  
2 of 9% from the date of the original payment to the date when the refund is made. The  
3 time for making additional levies of license fees or claims for refunds of excess license  
4 fees paid, in respect to any year, shall be limited to 4 years after the time the report  
5 for such year was filed.

6 **SECTION 25.** 76.28 (5) of the statutes is repealed and recreated to read:

7 76.28 (5) REMEDIES. Delinquent license fees of any light, heat and power  
8 company, together with penalties and interest, for a lien upon all property of such  
9 company prior to all other liens, claims and demands, which lien may be enforced in  
10 an action in the name of the state in any court of competent jurisdiction against the  
11 property of such company within the state as an entirety. The remedies for  
12 nonpayment of taxes specified in s. 76.14 apply to nonpayment of license fees,  
13 penalties and interest referred to under this section.

14 **SECTION 26.** 76.28 (6) of the statutes is repealed and recreated to read:

15 76.28 (6) ADMINISTRATION. (a) The records, books, accounts and papers of any  
16 light, heat and power company are subject to inspection and examination by the  
17 secretary of revenue or by the person that the secretary designates for that purpose.

18 (b) If any light, heat and power company that is required under this section to  
19 file a report fails to file a report within the time prescribed by law or as extended  
20 under sub. (7), unless it is shown that the failure is due to reasonable cause and not  
21 due to wilful neglect, there shall be added to the amount required to be shown as  
22 license fees on the report 5% of the amount of such fees if the failure is for not more  
23 than one month, with an additional 5% for each additional month or fraction thereof  
24 during which the failure continues, not exceeding 25% in the aggregate.

1 (c) If any light, heat and power company fails to make a report as required by  
2 sub. (7) within the time required, the department may enter an assessment against  
3 such company in a sum representing the approximate amount of the license fees,  
4 together with penalties and interest, for which such company may be liable as  
5 estimated by the department. Notice of such assessment shall be given by certified  
6 mail, and unless a report conforming to the requirements of this section is filed  
7 within 15 days of such notice, such estimated assessment shall become final.  
8 Thereafter the light, heat and power company assessed shall be forever barred from  
9 questioning the correctness of the same in any action or proceeding.

10 **SECTION 27.** Subchapter II (title) of chapter 76 [precedes 76.38] of the statutes  
11 is amended to read:

12 **CHAPTER 76**

13 **SUBCHAPTER II**

14 ~~TELEPHONE COMPANIES LICENSE~~

15 ~~FEES; CAR LINE COMPANIES;~~

16 ~~ELECTRIC COOPERATIVE ASSOCIATIONS~~

17 **SECTION 28.** 76.38 of the statutes, as affected by 1995 Wisconsin Act ... (this  
18 act), is repealed.

19 **SECTION 29.** 76.38 (1) (c) of the statutes is amended to read:

20 76.38 (1) (c) "Telephone company" means any person operating a  
21 telecommunications facility or providing telecommunications services to another  
22 person, including the resale of those services provided by another telephone  
23 company. "Telephone company" does not include any person who operates a private  
24 shared telecommunications system as defined in s. 196.201 (1) and who is not

1 otherwise a telephone company. ~~Beginning with the assessment on May 1, 1998,~~  
2 ~~“telephone company” does not include a person described in s. 76.02 (9u).~~

3 **SECTION 30.** 76.38 (4) (a) of the statutes, is renumbered 76.38 (4), and 76.38 (4)  
4 (intro.), (c) and (d) of the statutes, as renumbered, are amended to read:

5 76.38 (4) (intro.) ~~Except as provided in sub. (6), every~~ Every telephone company  
6 ~~operating one or more telephone exchanges~~ shall pay an annual license fee equal to  
7 the following percentages of its total gross revenues in this state ~~for local and rural~~  
8 ~~exchange service:~~

9 (c) For fees assessed on May 1, 1996, ~~5.70%~~ 5.77%.

10 (d) For fees assessed on May 1, 1997, and on each May 1 ~~thereafter, 5.40%, 1998,~~  
11 5.77%.

12 **SECTION 31.** 76.38 (4) (b) of the statutes is repealed.

13 **SECTION 32.** Subchapter IV of chapter 76 [precedes 76.80] of the statutes is  
14 created to read:

## 15 **CHAPTER 76**

### 16 **SUBCHAPTER IV**

#### 17 **TELEPHONE COMPANY TAX**

18 **76.80 Definitions.** In this subchapter:

19 (1) “Department” means the department of revenue.

20 **76.81 Imposition.** There is imposed a tax on the real property of, and the  
21 tangible personal property of, every telephone company, except motor vehicles that  
22 are exempt under s. 70.112 (5) and treatment plant and pollution abatement  
23 equipment that is exempt under s. 70.11 (21) (a). Except as provided in s. 76.815, the  
24 rate for the tax imposed on each description of real property and on each item of

1 tangible personal property is the net rate for the prior year for the tax under ch. 70  
2 in the taxing jurisdictions where the description or item is located.

3 **76.815 Combined reporting.** For taxes payable in 1998 and 1999, telephone  
4 companies that have more than 150,000 access lines in this state may submit a  
5 combined report of their items of personal property. Any company that does so shall  
6 pay the tax on those items at a rate that reflects the company's weighted average  
7 property tax rate based on the value and location of its real property in this state.

8 **76.82 Assessment.** The department, using the methods that it uses to assess  
9 property under s. 70.995, shall assess the property that is taxable under s. 76.81,  
10 including property that is exempt under s. 70.11 (27) from the tax under ch. 70, at  
11 its value as of January 1.

12 **76.83 Report; payment.** On or before March 1, every telephone company  
13 shall send to the department a completed form that the department prescribes. Upon  
14 written request, the department may extend the time for filing the report by no more  
15 than 30 days. The requirements for payment of taxes under s. 76.13 (2a), as they  
16 apply to the tax under subch. I, apply to the tax under this subchapter.

17 **76.84 Administration.** (1) On or before October 1, the department shall  
18 notify each telephone company that is subject to the tax under s. 76.81 of the assessed  
19 value of its property.

20 (2) On or before November 1, the department shall notify each telephone  
21 company that is subject to the tax under s. 76.81 of the amount of that tax.

22 (3) From the revenues collected under this subchapter, the department shall  
23 transfer to the appropriation account under s. 20.566 (2) (ht) in 1997-98 \$307,300,  
24 in 1998-99 \$283,300 and in 1999-2000 and thereafter the amounts necessary to  
25 administer the tax under this subchapter.





1           **76.92 Report; payment.** On or before March 1, every taxpayer that is subject  
2 to the fee under this subchapter shall send to the department a completed form that  
3 the department prescribes. Upon written request, the department may extend the  
4 time for filing the report by no more than 30 days.

5           **76.93 Administration. (1)** On or before May 1, the department shall notify  
6 each taxpayer that is subject to the fee under s. 76.91 of the amount of that fee.

7           **(2)** Sections 76.03 (4), 76.04 (1), 76.05, 76.06, 76.14, 76.18, 76.22, 76.24 (1),  
8 76.25 and 76.28 (4) to (6), as they apply to the tax under subch. I, apply to the fee  
9 under this subchapter.

10           **SECTION 34.** 77.52 (2) (a) 5. of the statutes is amended to read:

11           77.52 **(2)** (a) 5. The sale of telecommunications services, ~~not including services~~  
12 ~~paid for by the insertion of coins in a coin-operated telephone,~~ that originate in this  
13 state and are charged to a service address in this state, regardless of the location  
14 where that charge is billed or paid.

15           **SECTION 35.** 134.72 (1) (a) of the statutes is amended to read:

16           134.72 **(1)** (a) "Facsimile machine" means a machine that transmits copies of  
17 documents by means of a telecommunications facility, ~~as defined in s. 76.38 (1) (bm)~~  
18 telephone line, telegraph line, microwave, satellite, cellular radio, fiber optics,  
19 coaxial cable or any other transmission facility or any switching device.

20           **SECTION 36.** 227.03 (1) of the statutes is amended to read:

21           227.03 **(1)** This chapter applies to cases arising under ss. 76.38, 76.39 and, 76.48  
22 and 76.91.

23           **SECTION 37.** 227.03 (1) of the statutes, as affected by 1995 Wisconsin Act ....  
24 (this act), is repealed and recreated to read:

1           227.03 (1) This chapter applies to cases arising under s. 76.38, 1993 stats., and  
2 ss. 76.39, 76.48 and 76.91.

3           **SECTION 38.** 968.01 (1) of the statutes is amended to read:

4           968.01 (1) “Facsimile machine” ~~means a machine that transmits copies of~~  
5 documents by means of a telecommunications facility, as defined in s. 76.38 (1) (bm)  
6 has the meaning given in s. 134.72 (1) (a).

7           **SECTION 39.** 1991 Wisconsin Act 39, section 9149 (6) is repealed.

8           **SECTION 40.** 1991 Wisconsin Act 39, section 9149 (7) is amended to read:

9           [1991 Wisconsin Act 39] Section 9149 (7) LEGISLATIVE INTENT; TELEPHONE  
10 COMPANIES. The legislature intends that the tax reduction created by the treatment  
11 of chapter 76 of the statutes by this act in regard to telephone companies, ~~when fully~~  
12 ~~and completely implemented in 1997,~~ constitutes a portion of the refund of taxes that  
13 could be claimed pursuant to GTE Sprint Communications Corporation, n.k.a. U.S.  
14 Sprint Communications Company vs. Wisconsin Bell, Inc., and the State of  
15 Wisconsin, (No. 89-0272, May 15, 1990).

16           **SECTION 41. Nonstatutory provisions.**

17           (1) RECONCILIATION. Cellular mobile radio telecommunications utilities and  
18 telephone companies that provide basic local exchange service shall reconcile their  
19 first payments under subchapter V of chapter 76 of the statutes, as created by this  
20 act, to reflect their overpayment or underpayment of their final instalment of gross  
21 receipts taxes. All other telephone companies shall reconcile their first payments  
22 under subchapter IV of chapter 76 of the statutes, as created by this act, to reflect  
23 their overpayment or underpayment of their final instalment of gross receipts taxes.

1           (2) TRANSITION. This act does not affect any amounts due, remedies available  
2 to or appeals available to any telephone company or the department of revenue that  
3 accrued before a change in the method of taxation of any telephone company.

4           (3) INSTALMENT AMOUNT. Notwithstanding section 76.83 of the statutes, as  
5 created by this act, the May 10, 1998, instalment of the tax under subchapter IV of  
6 chapter 76 of the statutes, as created by this act, shall be at least 50% of the tax under  
7 section 76.38 of the statutes that was assessed on May 1, 1998, or at least 40% of the  
8 tax under subchapter IV of chapter 76 of the statutes, as created by this act, that is  
9 due for 1998.

10           (4) PROXY FOR REFUND. The legislature intends that the tax reduction created  
11 by the treatment of chapter 76 of the statutes by this act in regard to telephone  
12 companies, when it is implemented in 1998, constitutes the remainder of taxes that  
13 could be claimed pursuant to GTE Sprint Communications n.k.a. U.S. Sprint  
14 Communications Company v. Wisconsin Bell, Inc., and the State of Wisconsin, (No.  
15 89-0272, May 15, 1990).

16           (5) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if  
17 it is finally adjudicated that any provision of this act is unconstitutional, the entire  
18 act is void.

19           (6) TELEPHONE TAX. The authorized FTE positions for the department of  
20 revenue are increased by 6.0 PR positions on July 1, 1997, to be funded from the  
21 appropriation under section 20.566 (2) (ht) of the statutes, as created by this act, for  
22 the purpose of administering the tax under subchapter IV of chapter 76 of the  
23 statutes, as created by this act.

24           **SECTION 42. Appropriation changes.**

