

## GENERAL FUND TAXES

### 1. GENERAL FUND TAX CHANGES

**Governor:** The following table shows the general fund tax changes recommended by the Governor, along with their fiscal effects in the 2019-21 biennium. The table does not include tax law changes that are estimated to have a minimal fiscal effect. The table also does not include changes to refundable tax credits, because they are paid from appropriations rather than recorded as a reduction in tax revenues.

#### 2019-21 General Fund Tax Changes (In Millions)

	<u>2019-20</u>	<u>2020-21</u>	<u>2019-21 Biennium</u>
<b>Income and Franchise Taxes</b>			
Family and Individual Reinvestment Credit	-\$421.55	-\$412.05	-\$833.60
Limit Capital Gains Exclusion	285.10	220.00	505.10
Limit MAC for Manufacturers	279.50	237.10	516.60
IRC Update	187.85	174.45	362.30
Sunset Private School Tuition Deduction	12.10	12.20	24.30
Child and Dependent Care Credit	0.00	-9.90	-9.90
Modify Medical Insurance Deduction	0.00	-9.50	-9.50
Repeal NOL Carrybacks	2.00	4.10	6.10
First-Time Home Buyer Account Deduction	0.00	-4.10	-4.10
WHEFA Tax Exclusion	0.00	-0.13	-0.13
Sunset Working Families Credit	0.05	0.05	0.10
Modify Broadcaster Apportionment	16.20	13.30	29.50
Limit Deduction for Moving Expenses	0.50	0.50	1.00
Low-Income Housing Credit Addback	0.14	0.31	0.45
Interactive Effects	4.90	6.90	11.80
Add Auditors	4.75	9.50	14.25
<b>General Sales and Use Tax</b>			
Marketplace Provider Enforcement	26.80	67.10	93.90
Repeal Clay Pigeon Exemption	0.15	0.20	0.35
Repeal Farm-Raised Deer Exemption	0.09	0.12	0.21
Sales Tax on Medical Marijuana	0.25	0.50	0.76
Add Auditors	9.75	19.50	29.25
<b>Excise Taxes and Other Taxes</b>			
Dispensary Surcharge on Medical Marijuana	0.50	1.01	1.51
Tobacco Products Tax on E-Cigarettes	14.90	19.80	34.70
Tax Little Cigars as Cigarettes	2.90	3.90	6.80
Limit Exemption Between Related Entities	<u>0.54</u>	<u>0.72</u>	<u>1.26</u>
<b>Total Tax Changes</b>	<b>\$427.43</b>	<b>\$355.58</b>	<b>\$783.01</b>

**Joint Finance:** The following table shows the general fund tax law changes recommended by the Governor and the Joint Committee on Finance, along with their estimated 2019-21 fiscal effects. The table also shows the fiscal effects of 2019 AB 251, as recommended by the Committee.

**Estimated Biennial Fiscal Effects of Budget Provisions and 2019 AB 251**  
**Governor and Joint Finance**  
(In Millions)

	<u>2019-21</u> <u>Governor</u>	<u>2019-21</u> <u>Jt. Finance</u>	<u>Change to</u> <u>Governor</u>
<b>Income and Franchise Taxes</b>			
Family and Individual Reinvestment Credit	-\$833.60	\$0.00	\$833.60
Income Tax Rate Reduction	0.00	-321.50	-321.50
Limit Capital Gains Exclusion	505.10	0.00	-505.10
Limit MAC for Manufacturers	516.60	0.00	-516.60
IRC Update	362.30	0.00	-362.30
Repeal Private School Tuition Deduction	24.30	0.00	-24.30
Child and Dependent Care Credit	-9.90	0.00	9.90
Modify Medical Insurance Deduction	-9.50	-9.50	0.00
Repeal NOL Carrybacks	6.10	0.00	-6.10
First-Time Home Buyer Account Deduction	-4.10	0.00	4.10
WHEFA Tax Exemption	-0.13	-0.13	0.00
Sunset Working Families Credit	0.10	0.10	0.00
Modify Broadcaster Apportionment	29.50	0.00	-29.50
Limit Deduction for Moving Expenses	1.00	0.00	-1.00
Low-Income Housing Credit Addback	0.45	0.00	-0.45
Interactive Effects	11.80	6.00	-5.80
Add Auditors	14.25	0.00	-14.25
<b>General Sales and Use Tax</b>			
Marketplace Provider Enforcement	93.90	0.00	-93.90
Repeal Clay Pigeon Exemption	0.35	0.00	-0.35
Repeal Farm-Raised Deer Exemption	0.21	0.00	-0.21
Sales Tax on Medical Marijuana	0.76	0.00	-0.76
Add Auditors	29.25	0.00	-29.25
<b>Excise Taxes and Other Taxes</b>			
Dispensary Surcharge on Medical Marijuana	1.51	0.00	-1.51
Tobacco Products Tax on E-Cigarettes	34.70	5.50	-29.20
Tax Little Cigars as Cigarettes	6.80	0.00	-6.80
Limit Exemption Between Related Entities	<u>1.26</u>	<u>1.26</u>	<u>0.00</u>
Tax Changes -- Budget Provisions	\$783.01	-\$318.27	-\$1,101.28
Sales Tax - Marketplace Provider Enforcement	\$0.00	\$117.40	\$117.40
Individual Income Tax - Tax Rate Reduction	<u>0.00</u>	<u>-136.10</u>	<u>-136.10</u>
Tax Changes -- AB 251	\$0.00	-\$18.70	-\$18.70
Total Tax Changes	\$783.01	-\$336.97	-\$1,119.98

## Income and Franchise Taxes

### 1. FAMILY AND INDIVIDUAL REINVESTMENT CREDIT [LFB Paper 315]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR-Tax	-\$833,600,000	\$833,600,000	\$0

**Governor:** Create a nonrefundable individual income tax credit beginning in tax year 2019 called the family and individual reinvestment credit, with the credit equal to a minimum dollar amount or a percentage of the claimant's net tax liability, subject to phaseout based on the claimant's Wisconsin adjusted gross income (AGI) and filing status. Set the credit equal to the greater of 10% of the claimant's net tax liability, defined as the claimant's income tax liability prior to the application of the nonrefundable credit for taxes paid to other states, or (a) \$100 if the claimant's filing status is single or head-of-household and the claimant's AGI is less than \$80,000; (b) \$50 if the claimant's filing status is married joint and the combined AGI of the claimant and the claimant's spouse is less than \$125,000; and (c) \$25 if the claimant's filing status is married separate and the claimant's AGI is less than \$62,500. If the claimant's AGI, or combined AGI in the case of married joint filers, exceeds the preceding income thresholds but is less than \$100,000 for single or head-of-household filers, \$150,000 for married joint filers, and \$75,000 for married separate filers, set the credit equal to the claimant's net tax liability multiplied by a percentage calculated as follows: (a) subtract the applicable income threshold from the claimant's AGI, or combined AGI in the case of married joint filers; (b) divide the difference by \$20,000 if the claimant's filing status is single or head-of-household, \$25,000 if the claimant's filing status is married joint, or \$12,500 if the claimant's filing status is married separate; (c) subtract that fraction from 1.0; and (d) multiply that fraction by 10%. Under this structure, the 10% credit would phase down between \$80,000 and \$100,000 for single and head-of-household filers, \$125,000 and \$150,000 for married joint filers, and \$62,500 and \$75,000 for married separate filers, and the credit would phase out at the higher income thresholds for each filer type. A technical amendment would be needed to accomplish the Governor's intent with regard to married couples filing jointly. Limit the credit to claims filed within four years of the unextended due date for which the tax return was due. Prohibit part-year residents and nonresidents from claiming the credit, and allow only one credit per household per year, except permit married separate filers to each claim the credit, as provided above, and permit married persons living apart and treated as single under the Internal Revenue Code (IRC) to claim the credit as if a single or head-of-household claimant. Define household as a claimant and an individual related to the claimant as husband or wife. Prohibit individuals who may be claimed as a dependent on a return of another taxpayer from claiming the credit. Authorize the Department of Revenue (DOR) to administer the credit under standard general statutory provisions related to the income tax. Decrease individual income tax collections by an estimated \$421,550,000 in 2019-20 and \$412,050,000 in 2020-21 and in each year thereafter.

**Joint Finance:** Delete provision.

## 2. INCOME TAX RATE REDUCTION

GPR-Tax - \$321,500,000

**Joint Finance:** Reduce the marginal tax rate that applies to income that falls within the second income tax bracket from 5.84% to 5.21%, effective with tax years that begin after December 31, 2018. Decrease estimated individual income tax collections by \$168,900,000 in 2019-20 and \$152,600,000 in 2020-21.

## 3. LIMITATION ON EXCLUSION FOR NONFARM CAPITAL GAINS

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$505,100,000	-\$505,100,000	\$0

**Governor:** Modify the current law exclusion for long-term, nonfarm capital gains by limiting the exclusion based on the taxpayer's federal AGI, beginning in tax year 2019. Prohibit taxpayers from claiming the exclusion if the taxpayer's federal AGI exceeds income thresholds based on the taxpayer's filing status, except as follows. If a taxpayer's federal AGI, less 30% of eligible long-term gains from nonfarm assets, is below the income threshold amount, allow the taxpayer to claim an exclusion equal to 30% of the gain reduced by the amount of the taxpayer's federal AGI exceeding the income threshold. Set the income thresholds at \$150,000 for married joint filers, \$100,000 for single and head-of-household filers, and \$75,000 for married separate filers. Increase individual income tax collections by an estimated \$285,100,000 in 2019-20 and \$220,000,000 in 2020-21. Under current law, a capital gains exclusion is provided for 60% of the capital gain from the sale of farm assets and 30% of the capital gain from the sale of other assets, provided those assets are held more than one year or are acquired from a decedent. Gains from assets held one year or less are fully taxed.

**Joint Finance:** Delete provision.

## 4. MANUFACTURING AND AGRICULTURE CREDIT LIMITATION

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$516,600,000	-\$516,600,000	\$0

**Governor:** Limit the amount of qualified production activities income (QPAI) from manufacturing activities a claimant may use as the basis for claiming the manufacturing and agriculture tax credit (MAC), as described below. The limit would not apply to income derived from agricultural activities.

Under current law, for corporate filers, the MAC is equal to 7.5% multiplied by the lesser of a claimant's: (a) eligible QPAI, as defined under the IRC, derived from manufacturing or agricultural property in Wisconsin; (b) income apportioned to Wisconsin for state corporate income/franchise tax purposes; or (c) income determined as taxable under state combined

reporting provisions. For business owners who file under the individual income tax, the credit is equal to 7.5% of the claimant's eligible QPAI, as defined under the IRC, that is derived from manufacturing or agricultural property in Wisconsin. There is no maximum amount of MAC that can be claimed in a tax year. However, the credit may not be used by individual filers to offset taxes on other sources of income. Further, the amount of income on which the MAC is calculated must be reduced by the amount of QPAI that is claimed under the credit for taxes paid to another state.

Pass-through entities, such as partnerships, limited liability companies (LLCs), and tax-option (S) corporations, cannot claim the MAC. Instead, the credit computed by those entities can pass through to the partners, members, or shareholders.

The bill would limit the amount of QPAI from manufacturing activities a claimant may use to compute the MAC to no more than \$300,000. This provision would effectively provide for a maximum MAC claim of \$22,500 for income derived from manufacturing activities. For example, a sole proprietor or a C corporation could only claim a total of \$22,500 on their own manufacturing income. According to DOR, a pass-through entity would be able to compute the credit up to a maximum of \$22,500 and pass through that amount in the aggregate to its partners, members, or shareholders. As a result, an individual would be able to claim a maximum of \$22,500 for each pass-through business in which the individual has an ownership interest such that an individual could claim more than \$22,500 in the aggregate. The administration indicates that a technical amendment will be needed to clarify the Governor's intent.

The provision would first apply for tax year 2019. The administration estimates that the provision would increase state tax revenues by \$279,500,000 in 2019-20 and by \$237,100,000 in 2020-21, and annually thereafter.

**Joint Finance:** Delete provision.

**5. INTERNAL REVENUE CODE UPDATE [LFB Paper 316]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$362,300,000	-\$362,300,000	\$0

**Governor:** Update references to the IRC under the individual and corporate income/franchise taxes. For tax years beginning after December 31, 2013, and before January 1, 2017, create provisions adopting selected IRC provisions in P.L. 115-141, the Consolidated Appropriations Act of 2018, which made technical corrections to the Protecting Americans from Tax Hikes Act of 2015 (P.L. 114-113) and the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 114-41). In addition, adopt P.L. 115-141 provisions making technical corrections to the American Jobs Creation Act of 2004 (P.L. 108-357) for purposes of the IRC definition in the 2013 Wisconsin Statutes for tax years beginning after December 31, 2003, and before January 1, 2005. Limit the current law definition of the IRC for tax years beginning after December 31, 2017 to apply only to tax years beginning before January 1, 2019, but specify that selected provisions of the Disaster Tax Relief and Airport Airway

Extension Act of 2017 (P.L. 115-63) and the Tax Cuts and Jobs Act of 2017 (P.L. 115-97) first apply for Wisconsin purposes for tax years beginning after December 31, 2017, rather than at the same time as for federal purposes. For tax years beginning after December 31, 2018, create provisions adopting IRC provisions in effect as of December 31, 2018, with exceptions. Specify that the provisions of federal public laws that directly or indirectly affect the IRC apply for state tax purposes at the same time as for federal tax purposes, with exceptions, and specify that the definition of the IRC does not include amendments to the IRC enacted after December 31, 2018. Repeal obsolete provisions pertaining to tax years beginning after December 31, 2004, and before January 1, 2006.

Increase individual income and corporate income/franchise taxes by an estimated \$187,850,000 in 2019-20, \$174,450,000 in 2020-21, \$250,675,000 in 2021-22, and \$224,625,000 in 2022-23. Most of the fiscal effect is attributable to provisions in the Tax Cuts and Jobs Act of 2017, which results in tax increases estimated at \$189,650,000 in 2019-20, \$175,350,000 in 2020-21, \$251,575,000 in 2021-22, and \$225,525,000 in 2022-23, due to seven provisions not previously adopted in 2017 Wisconsin Act 231: (a) loss limitation for taxpayers other than corporations; (b) amortization of research and experimental expenditures; (c) accounting rules for accrual method taxpayers; (d) limitation on the deduction for business interest; (e) limitation on the deduction for entertainment, amusement, and recreation expenses; (f) limitation on the deduction of Federal Deposit Insurance Corporation premiums; and (g) modification of the limitation on the deduction for highly paid individuals. The remainder of the fiscal effect is attributable to provisions in the Bipartisan Budget Act of 2018 that would reduce general fund tax revenues by an estimated \$1,800,000 in 2019-20 and \$900,000 in 2020-21 and thereafter.

**Joint Finance:** Delete provision.

**6. ELECTRONICS AND INFORMATION TECHNOLOGY  
MANUFACTURING ZONE SUM SUFFICIENT REESTI-  
MATE [LFB Paper 331]**

GPR	\$211,954,900
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**Governor/Joint Finance:** Provide funding of \$211,954,900 in 2020-21 for the sum sufficient appropriation for the electronics and information technology manufacturing (EITM) zone tax credit program to reestimate anticipated claims during the biennium.

The EITM zone tax credit program provides a refundable payroll tax credit based upon 17% of the EITM zone payroll of full-time employees employed by the claimant. In addition to the payroll tax credit, if the Wisconsin Economic Development Corporation (WEDC) determines that a certified business makes a significant capital expenditure in the EITM zone, it can certify the business to receive additional tax benefits in an amount to be determined by WEDC, but not exceeding 15% of the business's capital expenditures in the EITM zone in the taxable year. WEDC can certify businesses as eligible to claim a payroll tax credit over 15 years for up to an aggregate amount of \$1.50 billion and a capital expenditure credit over seven years for up to an aggregate amount of \$1.35 billion.

On November 10, 2017, WEDC entered into a contract to certify three Wisconsin corporations that are affiliated with Hon Hai Precision Industry Co., Ltd. (Foxconn) as eligible to receive refundable EITM zone tax credits. The administration's sum sufficient reestimate reflects

projections of credit claims under the contract between Foxconn and WEDC. No funding is provided in 2019-20 because Foxconn did not meet the contractual requirement for earning payroll credits in 2018. Under the disbursement schedule in the contract, the maximum amount of EITM zone tax credits that could be earned for eligible activities occurring in calendar year 2019 is \$211,957,143, comprised of \$192,857,143 in capital expenditure credits and \$19,100,000 in payroll credits. The administration estimates that expenditures related to EITM zone tax credits earned through the end of 2019 would not be reviewed and verified by WEDC, and claimed by the entities affiliated with Foxconn from DOR, until 2020-21.

**7. EARNED INCOME TAX CREDIT [LFB Paper 317]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$18,300,000	- \$26,400,000	- \$8,100,000
PR	<u>33,000,000</u>	<u>- 33,000,000</u>	<u>0</u>
Total	\$51,300,000	- \$59,400,000	- \$8,100,000

**Governor:** Increase GPR funding for the earned income tax credit (EITC) by \$8,800,000 in 2019-20 and \$9,500,000 in 2020-21 and increase PR funding by \$16,000,000 in 2019-20 and \$17,000,000 in 2020-21 to reflect the changes described below.

*Current Law Sum Sufficient Reestimate.* Decrease the estimated cost of the program by \$1,600,000 in 2019-20 and \$200,000 in 2020-21. Compared to base year funding of \$100,600,000, the cost of the credit under current law is reestimated at \$99,000,000 in 2019-20 and \$100,400,000 in 2020-21.

*Increase Credit Percentages for Claimants with One Child and Two Children.* Modify the percentages used to calculate the EITC by increasing the percentages from 4% to 11% for claimants with one child and from 11% to 14% for claimants with two children, beginning in tax year 2019. This would increase the cost of the credit by \$26,400,000 in 2019-20 and \$26,700,000 in 2020-21. The credit percentage for claimants with three or more children (34%) would remain unchanged.

*Combined Effect.* The state credit is calculated as a percentage of the federal EITC, and is funded with a combination of GPR and PR funding. The program revenue is federal temporary assistance for needy families (TANF) funding transferred from the Department of Children and Families. The GPR portion is provided through a sum sufficient appropriation and covers the balance of the cost of the credit. Under the bill, total funding for the EITC would increase to \$125,400,000 in 2019-20 and \$127,100,000 in 2020-21, compared to base funding of \$100,600,000. The PR base level funding of \$69,700,000 would increase to \$85,700,000 in 2019-20 and \$86,700,000 in 2020-21. The estimated GPR sum sufficient portion would increase from the base level of \$30,900,000 to \$39,700,000 in 2019-20 and \$40,400,000 in 2020-21. Under the bill, the maximum credit for claimants with one child would increase from \$141 to \$388 in tax year 2019 and from an estimated \$143 to \$395 in tax year 2020. The maximum credit for claimants with two children would increase from \$641 to \$816 in tax year 2019 and from an estimated \$652 to \$830 in tax year 2020. The maximum credit for claimants with three or more children would remain unchanged and would equal \$2,229 in tax year 2019 and an estimated \$2,267 in tax year

2020.

**Joint Finance:** Delete the Governor's recommendation to increase the credit percentages for claimants with one child and with two children. To reflect this action, decrease GPR funding by \$10,400,000 in 2019-20 and \$9,700,000 in 2020-21 and decrease PR funding by \$16,000,000 in 2019-20 and \$17,000,000 in 2020-21. Reestimate total claims for credits under current law provisions at \$95,700,000 in 2019-20 and \$97,400,000 in 2020-21 and decrease the sum sufficient GPR appropriation by \$3,300,000 in 2019-20 and \$3,000,000 in 2020-21.

**8. HOMESTEAD TAX CREDIT -- CURRENT LAW REESTIMATE [LFB Paper 318]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	- \$13,500,000	-\$14,600,000	- \$28,100,000

**Governor:** Decrease funding by \$6,000,000 in 2019-20 and \$7,500,000 in 2020-21 for the sum sufficient appropriation to reflect anticipated costs of the current law credit in the biennium. With these adjustments, estimated total funding for the credit would decrease from an adjusted base level of \$84,900,000 to \$78,900,000 in 2019-20 and \$77,400,000 in 2020-21. The base funding level of \$84,900,000 was reestimated by the Department of Administration (DOA) at \$80,600,000 in November, 2018, after actual 2017-18 funding equaled \$83,465,017.

**Joint Finance:** Decrease funding by \$7,700,000 in 2019-20 and \$6,900,000 in 2020-21 for the sum sufficient appropriation to reflect reduced expenditures. Reestimate total credit expenditures under current law provisions at \$71,200,000 in 2019-20 and \$70,500,000 in 2020-21.

**9. HOMESTEAD TAX CREDIT -- MODIFICATIONS TO FORMULA FACTORS AND INDEXING**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$38,900,000	-\$38,900,000	\$0

**Governor:** Modify the formula for calculating the homestead tax credit as follows: (a) increase the maximum household income amount (the level at which the credit completely phases out) from \$24,680 to \$30,000, effective for claims filed for 2020 and thereafter; (b) for claimants with household income exceeding \$8,060, limit the credit to 80% of the amount by which property taxes, rent constituting property taxes, or both exceeds 6.655%, rather than 8.785%, of the household income exceeding \$8,060, and (c) index the income threshold and maximum property tax formula factors beginning in 2020, for claims filed beginning in 2021, and the maximum household income formula factor beginning in 2021, for claims filed beginning in 2022, to reflect inflation. Beginning with claims filed for 2020, calculate the indexing adjustment in each year as an increase based on the percentage change in the consumer price index (CPI). Calculate the

percentage as the change in the 12-month average of the index for the period ending in July of the previous year, relative to the claim, and beginning with the previous August and the 12-month average of the index for the period for August, 2017, through July, 2018. Prohibit the adjustment from occurring unless the percentage is a positive amount. Define the CPI as the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the federal Department of Labor. Direct DOR to annually adjust the changes in the dollar amounts of the formula factors, incorporate those changes into the income tax forms and instructions, and annually adjust the slope (percentage) used in the credit's calculation so that the credit phases out at the maximum household income amount. Increase funding for the credit by an estimated \$38,900,000 in 2020-21 to reflect these modifications. Including the indexing adjustment, the provision would increase the cost of the credit in future years, and those increases are estimated at \$47,600,000 in 2021-22 and \$55,900,000 in 2022-23 compared to current law. With the sum sufficient reestimate noted above, the cost of the credit is estimated at \$116,300,000 in 2020-21.

**Joint Finance:** Delete provision.

**10. INDIVIDUAL INCOME TAX RATE REDUCTION BASED ON SALES TAXES FROM OUT-OF-STATE RETAILERS [LFB Paper 319]**

**Governor:** Modify the current law provision that requires a reduction in individual income tax rates in tax year 2019 to offset the additional sales and use tax collected from out-of-state retailers during the 12-month period from October 1, 2018, to September 30, 2019, by requiring the rate reduction be made to the lowest individual income tax rate (currently 4.0%), rather than to all four tax rates in proportion to the share of gross tax attributable to each of the four tax brackets established under current law. The reduction procedure was modified by 2017 Wisconsin Act 368 so that DOR determines the amount of sales and use tax reported by out-of-state retailers and the proportional tax rate reductions under the individual income tax and reports those determinations to the Governor, the Secretary of DOA, the Joint Committee on Finance, and the Legislative Audit Bureau (LAB). If the LAB's review of the determinations results in a different calculation of tax rates, the Joint Committee on Finance is required to determine which tax rates apply.

**Joint Finance:** Delete provision from the budget bill. [This provision was addressed by the Finance Committee in 2019 Assembly Bill 251, which would reduce the income tax rates for the two lowest income tax brackets to reflect additional sales tax revenue generated from remote sellers and marketplace providers. In combination with the income tax rate reduction described under Item 2, it is estimated that the rates for the two lowest income tax brackets would decrease from 4.00% and 5.84% under current law, respectively, to: (a) 3.89% and 5.08% in tax year 2019; and (b) 3.76% and 4.93% in tax year 2020.]

**11. SUNSET PRIVATE SCHOOL TUITION DEDUCTION**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$24,300,000	- \$24,300,000	\$0

**Governor:** Sunset the deduction for tuition expenses of up to \$4,000 for each elementary school pupil and up to \$10,000 for each secondary school pupil enrolled at a private school, beginning with tax year 2019. Increase individual income tax collections by an estimated \$12,100,000 in 2019-20 and \$12,200,000 in 2020-21 and annually thereafter.

**Joint Finance:** Delete provision.

**12. CHILD AND DEPENDENT CARE TAX CREDIT [LFB Paper 320]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	-\$9,900,000	\$9,900,000	\$0

**Governor:** Create a nonrefundable individual income tax credit for household and dependent care expenses, beginning with tax year 2020. Set the credit equal to 50% of the amount of the federal household and dependent care expenses credit, authorized under the IRC, that is claimed by a taxpayer on his or her federal income tax return for the same tax year. Limit the credit to claims filed within four years of the unextended due date for which the tax return was due. Prohibit claims for a period of less than 12 months, except by reason of the taxpayer's death, and prohibit part-year residents and nonresidents from claiming the credit. Require couples who are married at the end of a tax year to claim the credit as married joint filers for that tax year, except permit married persons living apart and treated as single under the IRC to claim the credit as if a single or head-of-household claimant. Authorize DOR to administer the credit under general statutory provisions related to the income tax. Sunset the current law deduction for household and dependent care expenses beginning in tax year 2020. Decrease individual income tax collections by an estimated \$9,900,000 in 2020-21.

**Joint Finance:** Delete provision.

**13. MEDICAL CARE INSURANCE DEDUCTION FOR SELF-EMPLOYED PERSONS [LFB Paper 321]**

GPR-Tax	-\$9,500,000
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**Governor/Joint Finance:** Modify the limitation on the deduction under the individual income tax that self-employed persons may claim for medical care insurance for themselves, their spouse, and their dependents. Beginning in tax year 2020, sunset the current law provisions that limit the deduction for all persons to the person's aggregate net earnings from a trade or business that are subject to Wisconsin tax and, instead, limit the deduction to the person's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are subject to Wisconsin tax.

Beginning in tax year 2020, sunset the current law provisions that prorate the deduction for nonresidents and part-year residents based on the percentage of the person's net trade or business earnings that are subject to Wisconsin tax relative to the person's total net trade or business earnings and, instead, prorate the deduction based on the percentage of the person's wages, salary, tips, unearned income, and net trade or business earnings that are subject to Wisconsin tax relative

to the person's wages, salary, tips, unearned income, and total net trade or business earnings. Relative to the proration, specify for married persons filing separately that "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and specify for married persons filing jointly that "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

Repeal obsolete provisions regarding medical care insurance deductions that were sunset in prior tax years (originally, these provisions were sunset, rather than repealed, to allow taxpayers to file amended returns). Remove cross-references to repealed medical care insurance deductions under the itemized deduction credit. Reduce individual income tax collections by an estimated \$9,500,000 in 2020-21. The reduction is estimated at \$9,100,000 annually in subsequent years.

**14. NET OPERATING LOSS CARRYBACKS [LFB Paper 322]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$6,100,000	-\$6,100,000	\$0

**Governor:** Repeal current law provisions under the individual income tax that allow net operating losses to be carried back for two tax years as an adjustment to federal AGI, beginning in tax year 2019. Increase individual income tax collections by an estimated \$2,000,000 in 2019-20, \$4,100,000 in 2020-21, and \$2,000,000 in 2021-22 and 2022-23. Net operating loss carrybacks are not allowed under the state's corporate income/franchise tax, and generally, are not allowed for federal tax purposes. Generally, a net operating loss results when a taxpayer's business deductions exceed the taxpayer's gross income. This provision would not affect current law provisions that allow taxpayers to carry forward net operating losses for up to 20 years. Over time, the revenue gain due to the elimination of loss carrybacks would be offset by the revenue loss due to larger amounts of loss carry forwards.

**Joint Finance:** Delete provision.

**15. FIRST-TIME HOME BUYER SAVINGS ACCOUNTS [LFB Paper 323]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	-\$4,100,000	\$4,100,000	\$0

**Governor:** Create a program administered by DOR allowing an individual to become an account holder by creating an account, either individually or jointly with his or her spouse, to pay or reimburse the eligible costs of a first-time home buyer. Require the accounts to be created at any financial institution, defined as any bank, trust company, savings institution, savings bank, savings and loan association, industrial loan association, consumer finance company, credit union,

or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in Wisconsin. Specify that eligible costs mean the down payment and allowable closing costs, defined as disbursements listed in a settlement statement for the purchase of a single-family residence in Wisconsin by an account owner or beneficiary. Limit the program to individuals who reside in Wisconsin and have not owned or purchased, either individually or jointly, a single-family residence, defined as a residence intended for the occupation by a single family unit that is owned and occupied by a beneficiary as his or her principal residence, including a manufactured home, residential trailer, mobile home, condominium unit, or cooperative, during the 36 month period prior to the purchase of a single-family residence that is located in Wisconsin.

When an account is created, require the account holder to designate a single account beneficiary who is a first-time home buyer and who may be the account holder. Allow the account holder to change the beneficiary at any time. Allow individuals to jointly own accounts with their spouses. Provide that an individual may be the account holder of more than one account, but prohibit the account holder from having more than one account that designates the same beneficiary. Permit an individual to be the beneficiary of more than one account. Limit account contributions to cash and marketable securities and allow persons other than account holders to contribute to accounts.

Authorize account holders to withdraw funds from accounts to pay eligible costs for the benefit of the beneficiary or to reimburse the beneficiary for eligible costs that the beneficiary incurred and paid. Prohibit account holders from using account funds to pay any expenses incurred by the account holder in administering the account, but permit financial institutions to deduct service fees from accounts. Require account holders each year to submit the following information related to the account to DOR on forms prepared by the Department with the account holder's income tax return: (a) a list of account transactions during the tax year, including the account's beginning and ending balances; (b) the 1099 form issued by the financial institution relating to the account; and (c) a list of eligible costs, and other costs, for which account funds were withdrawn during the tax year. Authorize account holders to withdraw and transfer funds to a different financial institution without incurring a withdrawal penalty or affecting the account holder's Wisconsin AGI if the transfer occurs immediately and the funds are deposited in a first-time home buyer savings account at that institution. Require account holders to dissolve an account not later than 120 months (10 years) after its creation, and require financial institutions to distribute any proceeds in dissolved accounts to the account holder. Require proceeds be distributed to the account holder's estate if the account holder dies while funds remain in the account.

Create the following adjustments to federal AGI when calculating Wisconsin AGI under the state individual income tax. Require account holders to increase their AGI to include any distribution of proceeds from a dissolved account, and require account holders' estates to increase the AGI of the estate to include any distribution to an account holder's estate after the death of an account holder. In addition, require account holders to increase their AGI to reflect any amount withdrawn from an account for any reason other than payment or reimbursement of eligible costs, unless the withdrawal is the result of a transfer to an account at a different financial institution, as described above, or unless the disbursement is pursuant to a filing for bankruptcy protection. Impose a penalty of 10% on the amounts added to federal AGI under the preceding provisions. Authorize account holders to subtract from federal AGI the amount of any deposits into their

accounts, as well as any interest, dividends, or other gain accruing in the account if the interest, dividends, or other gain is redeposited into the account. Limit the subtraction for each account holder to \$5,000 per year, or \$10,000 if the account holder is a married joint filer, for each account to which the account holder makes a deposit. Limit the total amount subtracted to \$50,000 of deposits per account for each beneficiary.

For federal tax purposes, no deduction for contributions would be allowed and the interest earnings accruing to accounts would be subject to tax. Since the accounts would be taxable on the "front end," no federal tax would be imposed at the time of withdrawal. Nor would withdrawals trigger a state tax, provided the proceeds would be used for eligible costs.

Require DOR to prepare and distribute any forms that an account holder is required to submit and any other forms that the Department believes are necessary to administer the program and the program's adjustments to income, described above. In addition, require DOR to prepare and distribute informational materials to financial institutions and potential home buyers. Finally, require DOR to impose a penalty on withdrawals from accounts that are additions to income, as described above, and direct the Department to administer the penalty as it assesses, levies, and collects income and franchise taxes.

The preceding provisions would apply beginning in tax year 2020. Reduce individual income tax collections by an estimated \$4,100,000 in 2020-21. The reduction is estimated at \$6,200,000 in 2021-22 and \$7,500,000 in 2022-23.

**Joint Finance:** Delete provision.

**16. EXCLUSION FOR INTEREST ON CERTAIN WHEFA BONDS AND NOTES**

GPR-Tax	- \$130,000
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**Governor/Joint Finance:** Provide an exclusion from income under the individual income tax and the corporate income/franchise tax for interest received on bonds or notes issued by the Wisconsin Health and Educational Facilities Authority (WHEFA) provided the bonds or notes are issued in an amount totaling \$35,000,000 or less, if the interest is not otherwise exempt. Extend the exclusion to tax years beginning on January 1 of the budget act's effective date, except extend the exclusion beginning in the subsequent tax year if the budget act takes effect after July 31. Reduce state tax collections by an estimated \$130,000 in 2020-21, \$260,000 in 2021-22, and \$390,000 in 2022-23.

**17. SUNSET WORKING FAMILIES TAX CREDIT [LFB Paper 315]**

GPR-Tax	\$100,000
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**Governor/Joint Finance:** Sunset the nonrefundable working families tax credit, effective in tax year 2019. DOA indicates that the sunset would increase individual income tax collections by an estimated \$50,000 annually. An additional amount of credits would be offset by credits claimed under the proposed family and individual reinvestment credit. The amount of used working families credits fluctuates from year to year, with 307 filers using credits totaling \$106,878 in tax year 2017, but 259 filers using credits totaling only \$76,692 in tax year 2016.

Under the credit, taxpayers with Wisconsin AGI below \$9,000 (\$18,000 if married joint) may claim a credit equal to their net tax liability. The credit phases out over the next \$1,000 in income until eliminated when Wisconsin AGI exceeds \$10,000 (\$19,000 if married joint).

**18. ILLINOIS-WISCONSIN RECIPROCITY [LFB Paper 324]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$13,838,000	\$5,888,000	\$19,726,000

**Governor:** Increase the estimated payment by \$5,078,000 in 2019-20 and \$8,760,000 in 2020-21 under the Illinois-Wisconsin individual income tax reciprocity agreement. Compared to the base funding level of \$92,987,000, payments are estimated at \$98,065,000 in 2019-20 and \$101,747,000 in 2020-21.

**Joint Finance:** Increase the estimated payments by \$4,735,000 in 2019-20 and \$1,153,000 in 2020-21. Estimate payments under the Illinois-Wisconsin reciprocity agreement at \$102,800,000 in 2019-20 and \$102,900,000 in 2020-21.

**19. VETERANS AND SURVIVING SPOUSES PROPERTY TAX CREDIT**

GPR	\$8,040,000
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**Governor/Joint Finance:** Increase funding by \$3,470,000 in 2019-20 and \$4,570,000 in 2020-21 for the refundable veterans and surviving spouses property tax credit. With these adjustments, base funding of \$30,430,000 would be increased to \$33,900,000 in 2019-20 and \$35,000,000 in 2020-21. The base funding level of \$30,430,000 was reestimated by DOA at \$32,800,000 in November, 2018, after actual 2017-18 funding equaled \$32,513,354.

The credit is equal to real and personal property taxes paid on a principal dwelling by eligible veterans and surviving spouses. An eligible veteran is a person who: (a) served on active duty in the U.S. armed forces; (b) was a resident of this state at the time of entry into that service or had been a Wisconsin resident for any consecutive five-year period after entry; (c) is a resident of the state for purposes of receiving veterans benefits; and (d) has a service-connected disability of 100% or a 100% disability rating based on individual employability. An eligible unremarried surviving spouse includes persons who receive federal dependency and indemnity compensation as a result of the deceased spouse's active duty service or whose spouse died while on active duty in the U.S. armed forces, the National Guard, or the U.S. armed forces reserves or whose deceased spouse had a service-connected disability.

**20. INTEREST ON OVERPAYMENT OF TAXES**

GPR	\$500,000
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**Governor/Joint Finance:** Increase the estimated payments from the sum sufficient appropriation by \$500,000 to reflect payments estimated at \$1,500,000 for interest on tax overpayments in 2019-20. Estimate the payments at \$1,000,000 in 2020-21, the same amount as

the base funding level. The appropriation provides interest on tax overpayments refunded to taxpayers as the result of a settlement or decision by DOR, the Tax Appeals Commission, or a court.

**21. REPAYMENT CREDIT**

GPR	- \$62,000
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**Governor/Joint Finance:** Decrease funding by \$31,000 annually for the sum sufficient appropriation for the repayment (claim of right) credit. With these adjustments, base funding of \$163,000 would be decreased to \$132,000 each year. The credit is extended to taxpayers who must repay income on which taxes were paid in a prior year.

**22. BROADCASTER APPORTIONMENT MODIFICATIONS**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$29,500,000	- \$29,500,000	\$0
SEG-Rev	<u>1,070,000</u>	<u>- 1,070,000</u>	<u>0</u>
Total	\$30,570,000	- \$30,570,000	\$0

**Governor:** Repeal several provisions related to the apportionment of broadcaster income under the individual income tax and corporate income/franchise tax, beginning in tax year 2019, to conform with the law previous to 2017 Act 59. As described below, the current law apportionment for broadcasters would change from using the commercial domicile of the broadcaster's advertisers to using market-based sourcing based on audience share in Wisconsin.

Under Act 59, beginning in tax year 2019, a broadcaster must perform two calculations in order to determine the amount of gross receipts apportioned to the state. Under the first calculation, a broadcaster's gross receipts from advertising revenue are apportioned to Wisconsin if the advertiser's commercial domicile is located in Wisconsin, and a broadcaster's gross royalties and other gross receipts from the use or license of intangible property are apportioned to Wisconsin if the commercial domicile of the purchaser or licensee is in Wisconsin and that purchaser or licensee has a direct contractual relationship under which royalties and receipts are derived. Under the second calculation, a broadcaster must apportion to Wisconsin 1% of its gross receipts nationwide from advertising and royalties and other gross receipts received for the use or license of intangible property. If the second calculation results in a larger amount of gross receipts apportioned to the state than under the first calculation, a broadcaster apportions gross receipts as determined under the second calculation. However, a broadcaster is liable for no more than 40% more than the amount of gross receipts that would have been apportioned to the state if the broadcaster had used the first method of apportionment. If a multi-state broadcaster does not have any gross receipts apportioned to the state under the first calculation, the second calculation does not apply and the broadcaster's tax liability is eliminated.

According to the administration, repealing these provisions would require broadcasters to apportion income under the general state income and franchise tax provisions, under which the income of multi-state broadcasters would be apportioned to Wisconsin based on the ratio of the

broadcaster's sales in Wisconsin during a tax year to its total sales everywhere. Sales of services, such as advertising, would be sourced to the state where the benefit of the services is received. Receipts from licensing intangible property, such as television and radio programming material, would be sourced to the state where the use of the intangible property occurs. Prior to Act 59, DOR determined that multi-state broadcasters had to apportion income based on the portion of a broadcaster's viewing audience located in Wisconsin compared to its viewing audience everywhere because the benefit of the service was received, and the use of the intangible property occurred, at the viewer's location in Wisconsin.

The administration estimates that the provision would increase general fund tax revenues by \$16,200,000 in 2019-20 and by \$13,300,000 in 2020-21 and annually thereafter, and increase segregated revenues from the economic development surcharge by \$590,000 in 2019-20 and by \$480,000 in 2020-21. [The GPR and SEG funding changes for economic development operations and programs resulting from the change in revenue are shown under "Wisconsin Economic Development Corporation."]

**Joint Finance:** Delete provision.

**23. ENTERPRISE ZONE TAX CREDIT SUM SUFFICIENT REESTIMATE** [LFB Papers 326, 327, and 331]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$21,600,000	\$31,000,000	\$9,400,000

**Governor:** Decrease funding by \$4,000,000 in 2019-20 and by \$17,600,000 in 2020-21 for the sum sufficient appropriation for refundable enterprise zone tax credits to reestimate anticipated claims during the biennium. The reestimate reflects projections of credit claims for major economic development projects for which WEDC has, to date, contracted tax credit awards. With the adjustments, estimated total funding would decrease from base funding of \$68,300,000 to \$64,300,000 in 2019-20 and to \$50,700,000 in 2020-21. Businesses that operate in enterprise zones established by WEDC can claim tax credits for jobs created and retained, training costs, capital expenditures, and purchases from Wisconsin vendors.

**Joint Finance:** Reestimate the amount of GPR funding necessary to pay for the enterprise zone tax credit at \$81,700,000 in 2020-21. Compared to the Governor's recommendation, the reestimate is higher by \$31,000,000 in 2020-21.

**24. ENTERPRISE ZONE TAX CREDIT PROGRAM**

**Governor:** Modify the procedure used for designating zones under the enterprise zone tax credit program to generally conform with the law previous to 2017 Act 369, as described below. Under current law, WEDC may designate an unlimited number of enterprise zones, with each designation subject to approval by the Joint Committee on Finance under a 14-day passive review

process.

Repeal the current law requirement for WEDC to notify the Committee in writing of its intent to designate a new enterprise zone, including describing the new zone and the purpose for which WEDC proposes to designate the new zone. Further, the bill would repeal the requirement for the Committee to approve a zone before WEDC may designate a new enterprise zone and repeal provisions allowing WEDC to designate an unlimited number of zones, so long as each zone is so approved by the Committee. Instead, the bill would allow WEDC to designate new zones under the enterprise zone tax credit program without the approval of the Committee, but would specify that no more than 35 zones may be designated in total. Prior to Act 369, the limit had been 30 zones.

The bill would restore the pre-Act 369 provision that, if WEDC revokes all certifications for tax benefits within a previously designated enterprise zone, WEDC may cancel the designation of that enterprise zone. After canceling the designation of an enterprise zone, WEDC may designate a new enterprise zone subject to the proposed 35-zone limit. According to WEDC, there are currently 28 active enterprise zones. The Governor's recommendation did not include any funding for increased expenditures as a result of this provision.

**Joint Finance:** Delete provision.

**25. JOBS TAX CREDIT SUM SUFFICIENT REESTIMATE**

GPR	- \$16,300,000
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**Governor/Joint Finance:** Reduce funding by \$7,100,000 in 2019-20 and by \$9,200,000 in 2020-21 for the sum sufficient appropriation for jobs tax credits to reestimate claims during the biennium. The reestimate reflects projections for credit claims for economic development projects for which WEDC has awarded tax credits. With the adjustments, estimated total funding would decrease from base funding of \$12,100,000 to \$5,000,000 in 2019-20 and to \$2,900,000 in 2020-21.

Pursuant to 2015 Wisconsin Act 55, the refundable jobs tax credit was consolidated with the nonrefundable economic development tax credit into the refundable business development tax credit beginning in 2016. The jobs tax credit was sunset after 2015. However, if WEDC allocated tax benefits in a contract to claimants prior to December 31, 2015, or if WEDC had entered into a letter of intent to enter into a contract before that date, claimants may compute and claim the credit for as long as the contract specifies. WEDC has entered into contracts through tax year 2023 for businesses to earn, compute, and claim the credit.

**26. BUSINESS DEVELOPMENT TAX CREDIT SUM SUFFICIENT REESTIMATE**  
[LFB Papers 326, 328, and 331]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$4,300,000	\$2,300,000	\$6,600,000

**Governor:** Increase funding by \$2,000,000 in 2019-20 and by \$2,300,000 in 2020-21 for the sum sufficient appropriation for business development tax credits to reestimate anticipated claims during the biennium. The reestimate reflects projections of credit claims for economic development projects for which WEDC has entered into contracts, and is expected to enter into future contracts, to award tax credits. With the adjustments, estimated total funding would increase from base funding of \$16,100,000 to \$18,100,000 in 2019-20 and to \$18,400,000 in 2020-21. Businesses certified by WEDC can earn credits for a portion of wages paid to employees, training costs for employees, personal property investments, real property investments, and wages paid to employees performing corporate headquarters functions in Wisconsin.

**Joint Finance:** Reestimate the amount of GPR funding necessary to pay for the business development tax credit at \$18,700,000 in 2019-20 and \$20,100,000 in 2020-21. Compared to the Governor's recommendation, the reestimate is higher by \$600,000 in 2019-20 and \$1,700,000 in 2020-21.

**27. BUSINESS DEVELOPMENT TAX CREDITS FOR ENERGY EFFICIENCY AND USE OF RENEWABLE RESOURCES [LFB Papers 329 and 331]**

**Governor:** Authorize WEDC, for a project that satisfies the current law requirements under the business development tax credit program to earn the 5% capital investment credit for a real property investment, to award an additional tax credit in an amount equal to up to 5% if the investment is made for purposes of energy efficiency or the generation of energy from renewable resources. Thus, the combined total credit would be 10% of the real property investment in that capital investment project. WEDC would be required to include in any contract for the award of such tax benefits a requirement that the recipient provide documentation to WEDC verifying all expenditures and showing the energy efficiency or renewable energy impacts of those expenditures.

Although the proposal would authorize WEDC to enter into contracts for tax credits for energy efficiency and use of renewable resources, the bill does not include a provision that creates such a tax credit under the income or franchise tax statutes. Thus, a technical amendment would be necessary to accomplish the Governor's intent. The Governor's recommendations did not include any funding for increased expenditures as a result of this provision or specify for which tax year the new tax credit would first apply.

**Joint Finance:** Delete provision.

<b>28. REFUNDABLE RESEARCH TAX CREDIT SUM</b>	<b>GPR</b>	<b>\$12,300,000</b>
<b>SUFFICIENT REESTIMATE</b>		

**Governor/Joint Finance:** Increase funding by \$5,400,000 in 2019-20 and by \$6,900,000 in 2020-21 for the sum sufficient appropriation for the refundable portion of the research tax credit to reestimate anticipated claims during the biennium. With the adjustments, the estimated total funding would increase from base funding of \$2,100,000 to \$7,500,000 in 2019-20 and to \$9,000,000 in 2020-21. Under current law, the state provides research credits to businesses equal

to a percentage of the increase in a business's qualified research expenses, as defined under the IRC, for research conducted in Wisconsin. Pursuant to 2017 Act 59, up to 10% of the amount of the research credit computed may be claimed as a refundable credit beginning in tax year 2018. The remaining portion of the credit is nonrefundable.

**29. INCREASE REFUNDABLE PORTION OF THE RESEARCH TAX CREDIT [LFB Paper 325]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$2,250,000	- \$2,250,000	\$0

**Governor:** Modify the partially refundable research tax credit (including the engine and energy efficiency credits), as computed under current law, to increase the refundable portion from up to 10% of the credit amount to up to 20% of the credit amount. The provision would first apply to new research credit claims beginning in tax year 2020. The administration estimates increased expenditures of \$2,250,000 in 2020-21 and \$9,000,000 in 2021-22 and annually thereafter. Together with the cost to continue the refundable portion of the research tax credit under current law, total funding provided under the bill would be \$11,250,000 in 2020-21, and the cost of the refundable portion of the credit is estimated to increase to \$18,000,000 in 2021-22 and annually thereafter.

**Joint Finance:** Delete provision.

**30. ELIGIBILITY FOR REFUNDABLE RESEARCH TAX CREDIT [LFB Paper 325]**

**Governor:** Specify that claimants under the EITM zone tax credit program would not be eligible to receive the refundable portion of the research tax credit. The nonrefundable portion of the research tax credit could still be claimed. The administration indicates that this provision would prevent a claimant from receiving multiple refundable tax benefits under both the refundable research tax credit and the EITM zone tax credit program for the same expenditure.

**Joint Finance:** Delete provision.

**31. DEDUCTION FOR BUSINESS EXPENSES FOR MOVING OUT-OF-STATE**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$1,000,000	- \$1,000,000	\$0

**Governor:** Specify that, for taxable years beginning on January 1, 2019, expenses related to moving business operations outside the state (or the United States) may not be deducted for individual income and corporate income/franchise tax purposes, as described below.

In general, state definitions for income, including deductible expenses, reference the IRC in

effect on December 31, 2017, under current law. As noted, the bill would update such references to the IRC in effect on December 31, 2018. In each of these cases, state law provides a deduction for the expenses a business pays to relocate operations from one location to another.

Taxpayers subject to the individual income tax or corporate income/franchise tax would be required to adjust their Wisconsin AGI or net income to add back the amount deducted for federal income tax purposes under the IRC as moving expenses paid or incurred during the taxable year to move the taxpayer's Wisconsin business operation, in whole or in part, to a location outside the state or to move the taxpayer's business operation outside the United States. As a result, the bill would prohibit a deduction for moving expenses paid or incurred during the taxable year to move any portion of the taxpayer's Wisconsin business operation to a location outside the state.

The bill would define "moving expenses" to mean expenses incurred to move the operation of a business, including: (a) vehicle rentals; (b) storage rentals; (c) moving company expenses for packing, unpacking, and transportation; (d) consulting fees and surveys; (e) brokerage commissions or fees; (f) architecture, design, and remodeling expenses; (g) expenses paid or incurred to sell property in this state; (h) loss on the sale of property in this state; (i) lease cancellation fees; (j) expenses paid or incurred for professional services, including legal services; (k) utility fees; (l) employee wages; (m) reimbursement of an employee's expenses; (n) the cost of meals, lodging, and fuel; and (o) mileage deductions for vehicle use.

The provision would first apply to taxable years beginning on January 1, 2019. The administration estimates that general fund tax revenues would increase by \$500,000 annually.

**Joint Finance:** Delete provision. [This provision was addressed in 2019 Assembly Bill 10.]

### 32. ADDITION FOR LOW-INCOME HOUSING TAX CREDIT

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$450,000	-\$450,000	\$0

**Governor:** Require the low-income housing tax credit to be added back to the taxable income of the person or entity claiming the credit. Current law generally requires state business tax credits to be added to income in the tax year for which they are computed, regardless of whether or not the credit is used. The bill would conform the treatment of the low-income housing tax credit to other business tax credits in this regard. The provision would first apply to taxable years beginning on January 1, 2019. The administration estimates that the provision would increase general fund tax revenues by \$140,000 in 2019-20 and by \$310,000 in 2020-21.

**Joint Finance:** Delete provision.

**33. LIMIT THE HISTORIC REHABILITATION TAX CREDIT [LFB Paper 330]**

**Governor:** Specify that WEDC may not certify anyone to claim more than a total of \$3,500,000 for the state historic rehabilitation tax credit, for any project, regardless of the number of parcels on which the project is undertaken, beginning July 1, 2019. Under current law, the amount of historic tax credits that WEDC can certify a person to receive is no more than \$3,500,000 for all rehabilitation projects undertaken on the same parcel. The bill would sunset the current law limit as of June 30, 2019.

**Joint Finance:** Delete provision.

**34. SUNSET THE STATE SUPPLEMENT TO THE FEDERAL TAX CREDIT FOR NONHISTORIC QUALIFIED REHABILITATED BUILDINGS**

**Governor:** Sunset the state supplement to the federal tax credit for nonhistoric qualified rehabilitated buildings (buildings constructed prior to 1936) for taxable years beginning after December 31, 2018. The state supplement was effectively sunset under the federal Tax Cuts and Jobs Act of 2017, which repealed the federal credit. According to the administration, no tax credit contracts currently in effect with WEDC would be affected.

**Joint Finance:** Delete provision.

**35. REPAYMENT OF TAX CREDITS [LFB Paper 331]**

**Governor:** Require that, no later than seven days after WEDC receives a repayment of tax credits, WEDC must remit the full amount of that payment to the Secretary of DOA for deposit in the general fund. Current law typically requires state agencies to deposit funds received on behalf of the state into the state treasury within one week, but such requirements do not apply to WEDC, which is not a state agency, and the statutes do not set out how frequently WEDC must repay funds to DOA. According to the administration, the provision is intended to conform to a legislative recommendation by the Legislative Audit Bureau as part of its May, 2017, report (LAB 17-9).

**Joint Finance:** Delete provision.

**36. TAX LAW CHANGE INTERACTION EFFECTS**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$11,800,000	- \$5,800,000	\$6,000,000

**Governor:** Increase income and franchise tax collections by an estimated \$4,900,000 in 2019-20 and \$6,900,000 in 2020-21 to account for the interaction effects of proposed changes regarding taxable income, tax rates, and tax credits. Increases of \$7,000,000 annually are estimated in future years.

**Joint Finance:** Reduce the estimated amounts by \$2,900,000 both in 2019-20 and 2020-21 to reflect the interactive effect on nonrefundable tax credits of the income tax rate reductions in the budget and in AB 251. Estimate the interactive effect as an increase in individual income taxes of \$2,000,000 in 2019-20 and \$4,000,000 in 2020-21.

## Sales and Use Taxes

### 1. REQUIRE MARKETPLACE PROVIDERS TO COLLECT SALES TAX [LFB Paper 345]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR-Tax	\$93,900,000	-\$93,900,000	\$0

Prior to the June 21, 2018, U.S. Supreme Court decision in *Wayfair v. South Dakota*, out-of-state sellers that lacked a physical presence in Wisconsin (generally sellers that had no property or employees physically located in the state) were not required to collect sales and use tax. The *Wayfair* decision overturned this physical presence requirement and held that states can require remote sellers to collect and remit sales tax, provided the imposition of the tax meets certain other conditions. In response to *Wayfair*, DOR issued an emergency rule that requires a remote seller to collect and remit sales tax beginning October 1, 2018, if, in the previous or current year, the seller: (a) has annual gross sales into Wisconsin exceeding \$100,000; or (b) makes 200 or more separate sales transactions in Wisconsin. The Legislature codified DOR's emergency rule under 2017 Act 368. The provisions of the bill described below are designed to further address sales tax collection and remittance by remote sellers following *Wayfair*.

**Governor:** Require a marketplace provider to collect and remit state sales or use tax on sales facilitated by the marketplace provider on behalf of a marketplace seller as follows.

*Definition of a Marketplace Provider.* Define a marketplace provider as a person who contracts with a seller to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through a physical or electronic marketplace operated by the person, and who engages, either directly or through one or more affiliated persons, in any of the following:

- a. transmitting or communicating the offer or acceptance between the seller and a buyer.
- b. owning or operating the technology or electronic or physical infrastructure that brings the buyer and seller together.
- c. providing a virtual currency that a buyer is allowed or required to use to purchase a product from the seller.

d. developing software or conducting research and development for activities described in "b" that are directly related to a physical or electronic marketplace operated by the person or an affiliated person.

In addition to meeting one of the conditions described above, to be considered a marketplace provider, the person also would have to engage in any of the following with respect to the seller's products: (a) providing payment processing services; (b) providing fulfillment or storage services; (c) listing products for sale; (d) setting prices; (e) branding sales as those of the marketplace provider; (f) taking orders; (g) advertising or promotion; or (h) accepting or assisting with returns or exchanges or providing other types of customer service.

An affiliated person would mean a person who, with respect to another person: (a) has an ownership interest of more than five percent, whether direct or indirect, in the other person; or (b) is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related person.

*Definition of a Marketplace Seller and Expanded Definition of a Retailer.* Under the bill, a marketplace seller would mean a seller who sells products through a physical or electronic marketplace operated by a marketplace provider, regardless of whether the seller is required to be registered with DOR. In addition, the bill would add to the definition of a retailer a marketplace provider who facilitates, on behalf of a marketplace seller, taxable sales of goods and services that are sourced to Wisconsin. The bill would expand the definition of a retailer for purposes of sales tax collection to mean every seller who makes any sale of tangible personal property or services, regardless of whether the sale is made on the seller's own behalf or on behalf of another person (the bill would similarly modify the definitions of sale and seller under current law to clarify that the definitions apply regardless of whether the sale is made on the seller's own behalf or on behalf of another person). As a result, both marketplace providers and marketplace sellers could be regarded as retailers for purposes of the sales tax.

*Liability of Marketplace Providers and Marketplace Sellers.* The bill would stipulate that a marketplace provider is liable to collect and remit the sales and use tax on sales made on behalf of a marketplace seller. In addition, for each sale facilitated on behalf of a marketplace seller, the marketplace provider would be required to obtain and maintain each exemption certificate provided by a purchaser claiming an exemption from the tax. The sales price subject to tax would include the price charged to a purchaser, including any charges for facilitating the sale on the seller's behalf.

The marketplace provider would be required to notify the marketplace seller that it will collect and remit the sales tax. If the marketplace provider gives such notification, only the marketplace provider could be audited and held liable for the tax. If no such notification is provided, however, both the marketplace provider and the marketplace seller could be audited and held liable for the tax.

*Relief from Liability.* Under the bill, if a marketplace provider is audited by DOR for sales occurring prior to January 1, 2021, the marketplace provider may obtain relief from liability determined in the audit, not to exceed five percent of the total tax due for each sale, if it could

demonstrate to DOR's satisfaction that: (a) the sale was made solely on behalf of a marketplace seller; (b) the marketplace provider properly notified the marketplace seller as described above; and (c) the retail sale was properly sourced to Wisconsin (the sale took place in Wisconsin). This liability relief would not apply to sales in which the marketplace provider improperly determined where the sale takes place.

According to DOR, the purpose of this liability relief would be to acknowledge the administrative burden that marketplace providers would experience to come into compliance with the law, and to incent those providers to collect on behalf of marketplace sellers, with the ultimate goal of relieving marketplace sellers from the burden of collecting and remitting sales tax on their sales in Wisconsin. Nothing in the bill would remove a purchaser's obligation to remit use tax for any transaction on which a marketplace provider or marketplace seller did not collect and remit the tax.

*Deductions.* The bill would specify that a marketplace provider who collects and remits sales or use tax on behalf of a marketplace seller could claim a deduction for bad debts against their sales tax liability if either the marketplace provider or marketplace seller could claim a deduction for bad debt under federal income tax law. A marketplace seller would not be allowed to claim such a deduction for the same transaction.

A marketplace seller could claim a deduction on their sales tax return for the sales price of each sale for which the seller received notification from the marketplace provider that the latter would collect sales tax on the former's behalf.

*Repeal the Distribution Facility Exception.* Under current law, a person is not required to collect and remit sales tax on sales made on behalf of third-party sellers if the person, or the person's affiliate: (a) operates a distribution facility where no retail sales take place; (b) discloses to the customer that the third-party is the seller and the third-party seller owns the goods being sold; and (c) makes no sales of goods for which the customer takes possession of the goods at a location operated by the person or any of the person's affiliates. DOR is not aware of any such persons currently operating in Wisconsin that are eligible for the distribution facility exception under current law. The bill would repeal this exception.

*Other Provisions.* The bill would modify laws governing the room tax, the local rental car tax, the local food and beverage tax, and the state rental vehicle fee to conform to this provision, so that the responsibility for tax collection and remittance is with the same person for each tax or fee. The provision would take effect on the first day of the calendar quarter that is at least three months after publication of the bill, or, for a marketplace provider, the day on which the provider is notified by DOR to collect sales and use tax on sales made on behalf of third-party sellers, whichever is earlier. The administration estimates that the provision would increase state tax revenues by \$26,800,000 in 2019-20 and \$67,100,000 in 2020-21 and annually thereafter. In addition, state tax revenue estimates for the 2019-21 biennium included an annual estimate of \$60 million in increased sales tax collections related to *Wayfair* under current law. Together with this provision, total *Wayfair*-related sales tax collections would be estimated at \$86,800,000 in 2019-20 and \$127,100,000 in 2020-21 and annually thereafter.

**Joint Finance:** Delete provision from the budget bill. [This provision was addressed by the

**2. REPEAL SALES TAX EXEMPTION FOR CLAY PIGEONS AND GAME BIRDS**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$350,000	-\$350,000	\$0

**Governor:** Repeal the exemption from the general sales and use tax for clay pigeons and live game birds sold to licensed bird hunting preserves and for clay pigeons sold to an eligible shooting facility. An eligible shooting facility is one that is: (a) required to collect and remit sales tax on its charges for shooting at the facility; or (b) a nonprofit that charges for shooting at the facility but is otherwise exempt from remitting sales tax on such charges under the current law exemptions for occasional sales or for a nonprofit gun club that provides safety classes to at least 25 individuals annually.

The provision would take effect on the first day of the third month beginning after publication of the bill. The administration estimates the repeal of the exemption would increase state tax revenues by \$150,000 in 2019-20 and \$200,000 in 2020-21 and annually thereafter.

**Joint Finance:** Delete provision.

**3. REPEAL SALES TAX EXEMPTION FOR FARM-RAISED DEER**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$211,800	-\$211,800	\$0

**Governor:** Repeal the exemption from the general sales and use tax for farm-raised deer sold to a person who is operating a hunting preserve or game farm in this state. The provision would take effect on the first day of the third month beginning after publication of the bill. The administration estimates the repeal of the exemption would increase state tax revenues by \$90,800 in 2019-20 and \$121,000 in 2020-21 and annually thereafter.

**Joint Finance:** Delete provision.

**4. IMPOSE SALES TAX ON MEDICAL MARIJUANA**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$756,300	-\$756,300	\$0

**Governor:** Impose the state sales and use tax on retail sales of cannabis and tetrahydrocannabinols procured from a licensed dispensary (medical marijuana).

Under current law, an exemption is provided from the general sales and use tax for retail sales of prescription drugs. The provision would specify that this exemption does not apply for sales of medical marijuana. As a result, such sales would be subject to sales tax. The provision would take effect on the effective date of the bill. The administration estimates the provision would increase state tax revenues by \$252,100 in 2019-20 and \$504,200 in 2020-21 and annually thereafter.

The legalization of the sale of medical marijuana and the creation of a licensed dispensary would be authorized under separate provisions of the bill [for additional information, see the section of this document entitled, "Marijuana -- Related Provisions"].

**Joint Finance:** Delete provision.

## Excise Taxes and Other Taxes

### 1. DISPENSARY SURCHARGE ON SALES OF MEDICAL MARIJUANA

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$1,512,500	-\$1,512,500	\$0

**Governor:** Impose a surcharge at the rate of 10 percent of the total price of medical marijuana sold or otherwise dispensed by a dispensary licensed by the Department of Agriculture, Trade, and Consumer Protection to an unrelated person, including any charge by the dispensary that is necessary to complete the sale (dispensary surcharge). A dispensary would be considered related to another person if the two entities: (a) have significant common purposes and substantial common membership; or (b) directly or indirectly, have substantial common direction or control.

*Determination of Total Price and Sale Restrictions.* Under the bill, the total price subject to the dispensary surcharge could not be reduced by costs or expenses incurred by the dispensary, such as fees, delivery, freight, transportation, packaging, handling, marketing, taxes, and import fees or duties, regardless of whether such costs or expenses are separately stated on the invoice. The total price also could not be reduced by the value or cost of discounts or free promotional or sample products. A dispensary could not state the dispensary surcharge separately on an invoice or other similar document given to the purchaser or recipient of medical marijuana, and could not sell or otherwise dispense medical marijuana without first obtaining a business tax registration certificate from DOR, as prescribed under current law.

The provision would take effect on the effective date of the bill. The administration estimates the dispensary surcharge would increase state tax revenues by \$504,200 in 2019-20 and \$1,008,300 in 2020-21 and annually thereafter.

The legalization of the sale of medical marijuana and the creation of a licensed dispensary would be authorized under separate provisions of the bill [for additional information, see the section of the document entitled "Marijuana -- Related Provisions"].

**Joint Finance:** Delete provision.

**2. IMPOSE TOBACCO PRODUCTS TAX ON VAPOR PRODUCTS [LFB Paper 350]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$34,700,000	-\$29,200,000	\$5,500,000

**Governor:** Impose the tobacco products tax on vapor products at the rate of 71 percent of the manufacturer's list price to distributors and impose an inventory tax on vapor products held in inventory for sale or resale.

*Definition of a Vapor Product.* A vapor product subject to the tobacco products tax would be defined as any noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means that can be used to produce vapor from a solution or other substance, regardless of the product's shape or size or whether the product contains nicotine. A vapor product would include an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and would include any cartridge or other container of a solution or other substance that is intended to be used with such a device, regardless of whether the solution or other substance contains nicotine. In addition, vapor products would be added to the definition of tobacco products under current law. A vapor product would not include certain products regulated as a drug or device under federal law. DOR indicates the intent of this provision is to exempt products approved for smoking cessation by the Food and Drug Administration from the definition of taxable vapor products.

*Inventory Tax Imposed.* The bill would levy an inventory tax at a rate equal to 71 percent of the manufacturer's list price on vapor products that are held in inventory by distributors or retailers for sale or resale. Any person liable for this tax would be required to determine the number of vapor products in their possession on the first day of the third month following publication of the bill and would have to file a return and pay the applicable taxes no later than 30 days thereafter.

*Definition of Manufacturer's List Price.* Current law does not specifically define manufacturer's list price for purposes of the tobacco products tax. The administration indicates an explicit statutory definition is needed to clarify DOR's longstanding treatment of the total price subject to the tobacco products tax. The bill would define manufacturer's list price as the total price of tobacco products charged by the manufacturer or other seller to an unrelated distributor. The total price would include all charges by the manufacturer or other seller that are necessary to

complete the sale, and could not be reduced by any cost or expense incurred by the manufacturer or other seller such as fees, delivery, freight, transportation, packaging, handling, marketing, federal excise taxes, and import fees or duties, regardless of whether such cost or expense is separately stated on an invoice. The total price also could not be reduced by the value or cost of discounts or free promotional or sample products. A manufacturer or other seller would be considered related to a distributor if the two parties have significant common purposes and substantial common membership or, either directly or indirectly, have substantial common direction or control.

The provision would take effect on the first day of the third month beginning after publication of the bill. The administration estimates levying the tobacco products tax on vapor products would increase state tax revenues by \$14,900,000 in 2019-20 and \$19,800,000 in 2020-21 and annually thereafter. The Governor's recommendations did not include any revenues associated with the imposition of the inventory tax.

**Joint Finance:** Delete provision. Instead, define a vapor product to mean a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element to a liquid or other substance that is depleted as the product is used. Include vapor products in the definition of tobacco products, and impose an excise tax on vapor products at the rate of \$0.05 per milliliter on the volume of the liquid or other substance as listed by the manufacturer and a proportionate tax at the like rate on all fractional parts of a milliliter thereof. Require every distributor to file a return showing the quantity and taxable price of milliliters of vapor product brought, shipped, or transported into Wisconsin for sale in the state, or made, manufactured, or fabricated in Wisconsin for sale in the state, during the preceding month. Specify that the provision would take effect on October 1, 2019. Estimate increased excise tax revenues relative to current law of \$2,300,000 in 2019-20 and \$3,200,000 in 2020-21. Compared to the bill, the estimated excise tax revenues are lower by \$12,600,000 in 2019-20 and \$16,600,000 in 2020-21.

**3. IMPOSE CIGARETTE TAX ON LITTLE CIGARS [LFB Paper 351]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR-Tax	\$6,800,000	-\$6,800,000	\$0

**Governor:** Change the tobacco products tax imposed on little cigars to be set at the same rate as the excise tax rate currently imposed on cigarettes. Certain administration and enforcement procedures under current law regarding the cigarette tax would also apply to the administration and enforcement of the tax on little cigars. These would include: (a) the imposition of an inventory tax on little cigars held in inventory for sale or resale; (b) the affixing of stamps to each package of little cigars prior to their first sale in Wisconsin to denote tax paid; (c) discounts for purchasers of tax stamps at 0.8 percent of the tax paid; and (d) penalties for possessing little cigars for which no tax has been paid. The inventory tax in "a" would be calculated by multiplying the number of little cigars and the number of un-affixed stamps held in inventory by the difference between the prior tax rate and the new tax rate.

*Definitions.* Current law makes no distinction between little cigars and other cigars for purposes of the tobacco products tax. The bill would specifically define cigars and little cigars as follows. A little cigar would mean a cigar that has an integrated cellulose acetate filter and is wrapped in a substance containing tobacco. A cigar would mean a roll, of any size or shape, of tobacco for smoking that is made wholly or in part of tobacco, regardless of whether the tobacco is pure, flavored, adulterated, or mixed with an ingredient if the roll has a wrapper made wholly or in part of tobacco. Little cigars would be enumerated in the definition of tobacco products.

*Imposition of Tax.* Under current law, an excise tax is imposed on tobacco products, including cigars and little cigars, at the rate of 71 percent of the manufacturer's established list price to distributors, not to exceed 50 cents per cigar or little cigar. While the tax on cigars would remain at the rate imposed under current law, the bill would impose a tax on little cigars weighing not more than three pounds per thousand at a rate of 126 mills per little cigar (\$1.26 per 10), and on little cigars weighing more than three pounds per thousand at a rate of 252 mills per little cigar. A mill equals one-tenth of one cent. Therefore, a rate of 126 mills per little cigar = \$2.52 per pack of 20. These tax rates are the same as those levied on cigarettes under current law. In addition, the cigar tax limit under current law of 50 cents per cigar or little cigar would not apply to the taxation of little cigars under the bill.

The provision would take effect on the first day of the third month following publication of the bill. The administration estimates that imposing the cigarette tax on little cigars would increase state tax revenues by \$2,900,000 in 2019-20 and \$3,900,000 in 2020-21 and annually thereafter. The Governor's recommendations did not include any revenues associated with the imposition of the inventory tax.

**Joint Finance:** Delete provision.

**4. REESTIMATE CIGARETTE AND TOBACCO PRODUCTS TAX REFUNDS [LFB Paper 352]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Net Change</b>
GPR	- \$1,232,000	- \$2,860,000	- \$4,092,000

**Governor:** Decrease funding for cigarette and tobacco products tax refunds by \$361,000 in 2019-20 and \$871,000 in 2020-21 to reflect lower estimates of the sum sufficient appropriation amounts required under current law to reimburse Native American tribes. Under current law, for sales that occur on reservations or trust lands, the tribes receive a refund of 100% of the excise tax paid on cigarettes sold to eligible tribal members and 70% of the tax on sales to non-Native Americans. For tobacco products sold on reservations or trust lands, the tribes receive a refund of 100% of the tax on products sold to eligible tribal members and 50% of the tax on products sold to non-Native Americans. Eligible tribal members must reside on the reservation or trust land of the tribe where the sale took place and be an enrolled member of that tribe. With these adjustments, the administration estimates total funding in the cigarette and tobacco products tax refunds appropriation would decrease from base funding of \$33,996,000 to \$33,635,000 in 2019-20 and

\$33,125,000 in 2020-21.

**Joint Finance:** Reestimate the amount of GPR funding necessary to pay for cigarette and tobacco products tax refunds at \$32,200,000 in 2019-20 and \$31,700,000 in 2020-21. Compared to the Governor's recommendation, the reestimate would be lower by \$1,435,000 in 2019-20 and \$1,425,000 in 2020-21.

**5. LIMIT REAL ESTATE TRANSFER FEE EXEMPTIONS FOR TRANSFERS BETWEEN RELATED ENTITIES [LFB Paper 353]**

GPR-Tax	\$1,256,500
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**Governor:** Limit certain exemptions from the real estate transfer fee. Under current law, a fee is imposed on the seller of real estate at a rate of \$3.00 per \$1,000 of value. The county where the property is located retains 20% of revenues from the fee and remits the remaining 80% to the state.

Under current law, a conveyance by a subsidiary corporation to its parent for nominal or no consideration, or in sole consideration of cancellation, surrender, or transfer of capital stock between parent and subsidiary corporation, is exempt from the real estate transfer fee. The bill would clarify that, to be eligible for the exemption, both the subsidiary and the parent must be a corporation.

Current law also provides an exemption from the real estate transfer fee for a conveyance made solely in order to provide or release security for a debt or obligation. The bill would stipulate that the exemption would not apply if the debt or obligation was incurred as the result of a conveyance. DOR indicates the intent of this provision is to: (a) specify that the exemption only applies to a conveyance where no transfer of ownership is made; and (b) clarify that, for a conveyance to be eligible for the exemption, the providing or releasing of security for an existing debt or obligation must be the sole purpose of the conveyance.

The provision would first apply to conveyances made on the effective date of the bill (a technical amendment clarifying this initial applicability would be needed to accomplish the Governor's intent). The administration estimates the provision would increase state tax revenues by \$538,500 in 2019-20 and \$718,000 in 2020-21 and annually thereafter. In addition, county revenues would increase by approximately \$135,000 in 2019-20 and \$180,000 in 2020-21 and annually thereafter.

**Joint Finance:** Specify that the provision would first apply to conveyances made on the first day of the third month following publication of the bill.