



2009 SENATE BILL 62

February 17, 2009 – Introduced by JOINT COMMITTEE ON FINANCE, by request of Governor James E. Doyle. Referred to Joint Committee on Finance.

- 1 **AN ACT relating to:** state finances and appropriations and making diverse other
2 changes in the statutes.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
ECONOMIC DEVELOPMENT

Under current law, the Department of Commerce (Commerce) may designate a portion of the state as a development zone, a development opportunity zone, an enterprise development zone, an agricultural development zone, an enterprise zone, an airport development zone, or a technology zone. Commerce may also certify persons who agree to undertake certain eligible activities in one of the designated zones. Eligible activities include job creation, environmental remediation, and capital investment. Persons who obtain certification are eligible for tax benefits.

This bill consolidates the development zones, enterprise development zones, agricultural development zones, technology zones, and airport development zones (five development zone programs) into a program that provides tax benefits to persons who enter into a contract with Commerce to undertake eligible activities anywhere in the state. Eligible activities under the bill include all of the following:

1. Projects that result in the creation and maintenance of jobs paying wages and providing benefits at a level approved by Commerce.
2. Projects that involve a significant investment of capital in new equipment, machinery, real property, or depreciable personal property.

SENATE BILL 62

3. Projects that involve significant investments in the training or reeducation of employees for the purpose of improving the productivity or competitiveness of the business of the person.

4. Projects that will result in the location or retention of a person's corporate headquarters in Wisconsin or that will result in the retention of employees if the person's corporate headquarters are located in Wisconsin.

Commerce may allocate tax benefits under the consolidated program up to the total amount remaining to be allocated under the five development zone programs on the effective date of this bill. Tax benefits are allocated under the bill only after the person has verified to Commerce that the person has met the performance obligations established under the contract.

The value of tax benefits for which a person is eligible under the new tax credit program depends on the number of jobs created, the amount of the capital investment made, the amount of training or reeducation provided to employees, or the number of jobs retained by having corporate headquarters located in Wisconsin.

Under the bill, Commerce may award additional tax benefits to a person that conducts eligible activities in an economically distressed area or if the eligible activities benefit members of a targeted group. The bill requires Commerce to develop a methodology for designating an area as an economically distressed area. The bill defines targeted groups to include persons who reside in an area designated by the federal government as an economic revitalization area, persons who are eligible for child care assistance, persons who are food stamp recipients, or persons who are economically disadvantaged.

The bill requires the Legislative Audit Bureau, by no later than July 1, 2014, to prepare a financial and program evaluation audit of the consolidated economic development tax benefit program created by the bill.

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance certain projects of health or educational institutions, to refinance outstanding debt of health or educational institutions, and to finance a purchase of the state's right to receive any of the payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998. Projects of health or educational institutions that may be financed include, among others, the acquisition of a hospital, the construction or operation of an ambulatory surgery center or home health agency, and the construction, remodeling, furnishing, or equipping of a health or educational facility or related structure.

This bill authorizes WHEFA to issue bonds to finance any project undertaken by a research institution for a research facility, or to refinance outstanding debt of a research institution. A research institution is defined in the bill as an entity that provides or operates a research facility. A research facility is defined in the bill as a building, institution, place, or agency of a nonprofit entity that is or will be used in whole or in part for the advancement of scientific, medical, or technological knowledge and that does not have a specific commercial objective. Project activities for which WHEFA may issue bonds include construction, acquisition, remodeling, furnishing, and equipping of research facilities, related structures, and structures or items that are useful for the operation of research facilities.

SENATE BILL 62

This bill provides a total of \$2,630,000 in grant moneys to certain organizations in the building trades to provide job training and retraining programs, including training in green building and the installation of alternative energy systems. The following organizations receive funds under this bill: 1) the Wisconsin Regional Training Partnership/Building Industry Group Skilled Trades Employment Program; 2) Painters and Allied Trades, District Council 7; 3) Wisconsin State Council of Carpenters; 4) Wisconsin Pipe Trades Association, Local 75; 5) Wisconsin Laborers' District Council; 6) Wisconsin Operating Engineers; and 7) International Brotherhood of Electrical Workers. As a condition of receiving the grant moneys, each organization must enter into a contract with Commerce that specifies permissible uses of the grant moneys and requires the organization to comply with reporting and accountability measures.

BUSINESS ORGANIZATIONS AND FINANCIAL INSTITUTIONS

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) establishes certain nationwide standards for mortgage loan originators. If a state does not meet a certain level of compliance with the federal standards established under the SAFE Act, the federal Department of Housing and Urban Development must undertake the licensing and registration of mortgage loan originators operating within that state. One required component under the SAFE Act is that states must license and register mortgage loan originators through the Nationwide Mortgage Licensing System and Registry (NMLSR).

This bill makes numerous changes, both substantive and stylistic, in the statutes relating to the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers (mortgage regulatory provisions). The bill requires the division of banking (division) in the Department of Financial Institutions (DFI) to participate in NMLSR and authorizes the division to process and maintain mortgage loan originator licenses through, and register mortgage loan originators with, NMLSR.

The bill modifies various definitions applicable to all mortgage regulatory provisions, thereby changing the scope of regulation. Under the bill, a "residential mortgage loan" is any loan primarily for personal, family, or household use that is secured by a lien or mortgage, or equivalent security interest, on a dwelling or residential real property located in this state. With certain exceptions, a "mortgage loan originator" under the bill is an individual who, for compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. However, certain persons are exempt from all mortgage regulatory provisions, including a mortgage loan originator who is an employee of a depository institution or its regulated subsidiary and who is registered with NMLSR. A "depository institution" is a federally chartered or state-chartered bank, savings association, or credit union. The bill essentially maintains the current law definitions of "mortgage banker" and "mortgage broker," but eliminates the exceptions under current law to these definitions and replaces them with new exceptions. Among the exceptions under the bill to the definitions of "mortgage banker" and "mortgage broker" are depository institutions and regulated subsidiaries of depository institutions.

SENATE BILL 62

The bill includes a number of changes to current law with respect to the regulation of mortgage loan originators, including the following:

1. The bill requires that the division's licensing of mortgage loan originators be processed through NMLSR and that all mortgage loan originator licensees be registered with NMLSR.

2. The bill requires each applicant for a mortgage loan originator license to furnish to NMLSR specified information concerning the applicant's identity, including the applicant's fingerprints, personal history, and authorization for credit and criminal history checks.

3. The bill specifies certain disqualifying factors preventing the issuance of a mortgage loan originator license, including that the applicant has had a mortgage loan originator license revoked or has been convicted of a felony within a specified period. As derived from the SAFE Act, an applicant may be issued a mortgage loan originator license only if the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently under applicable law.

4. The bill modifies current law requirements related to professional education and testing for mortgage loan originators. The bill modifies education and testing requirements, requires each education course to be reviewed and approved by NMLSR, and requires each test to be developed by NMLSR and administered by a test provider approved by NMLSR.

5. The bill requires each mortgage loan originator to be covered by a surety bond in an amount, as determined by the division, reflecting the dollar amount of residential mortgage loans originated by the mortgage loan originator.

6. The bill requires each mortgage loan originator to submit to NMLSR an annual report of condition.

7. Under the bill, each mortgage loan originator must be issued a unique number or other identifier (unique identifier). The bill requires any person originating a residential mortgage loan to place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements.

8. The bill contains provisions relating to confidentiality of information provided by the division to NMLSR, but allows NMLSR to provide public access to information relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators. The division must regularly report to NMLSR violations and enforcement actions involving mortgage loan originators.

The bill also includes some changes to current law relating to the regulation of mortgage bankers and mortgage brokers, including requiring mortgage bankers and mortgage brokers to annually submit call reports to NMLSR and to maintain surety bonds in the amount of \$300,000 and \$120,000, respectively, and a minimum net worth of \$250,000 and \$100,000, respectively.

The bill creates a number of violations, and modifies certain current-law violations, relating to prohibited acts and practices of mortgage bankers, mortgage

SENATE BILL 62

brokers, mortgage loan originators, and officers and directors of corporate mortgage bankers and mortgage brokers, including the following:

1. The bill modifies and expands current law provisions to prohibit materially false or deceptive statements or representations or knowing omissions of material facts.

2. The bill prohibits mortgage bankers and mortgage brokers from paying commissions to unassociated or unlicensed mortgage loan originators.

3. The bill prohibits mortgage bankers and mortgage brokers from conducting business at an unlicensed office.

4. The bill prohibits the impeding of an investigation or examination or the denial of access to or destruction of books, records, or other information that the division is authorized to obtain.

5. The bill prohibits contracts with borrowers that provide in substance that the mortgage banker, mortgage broker, or mortgage loan originator may earn a fee through "best efforts" to obtain a residential mortgage loan even if no loan is actually obtained for the borrower.

6. The bill prohibits the solicitation or advertisement of interest rates, points, or other financing terms unless the terms are actually available at the time of the solicitation or advertisement.

7. The bill prohibits assisting, aiding, or abetting any person in unlawfully conducting mortgage-related business without a valid license.

8. The bill prohibits withholding payments or making payments, threats, or promises for the purpose of influencing a person's independent judgment in connection with a residential mortgage loan or withholding payments or making payments, threats, or promises to a property appraiser for the purpose of influencing the appraiser's independent judgment with respect to the value of the property.

9. The bill prohibits requiring a borrower to obtain property insurance coverage in an amount exceeding the replacement cost of improvements on the property.

The bill increases the penalty for violations from a maximum of \$2,000 to a maximum of \$25,000. This increase applies both to civil forfeitures imposed by the division as administrative assessments and to criminal fines imposed by a court. The bill does not change any term of incarceration for a violation. The bill expands the number of violations for which these penalties are applicable. Under current law, these penalties apply only to specified violations. Under the bill, these penalties may be applied to any violation of a mortgage regulatory provision or of any rule promulgated by the division under a mortgage regulatory provision. The bill allows the division to order restitution in connection with a violation in the same manner in which the division may impose an administrative assessment for the violation. The bill expands the number of violations for which a civil cause of action may be brought to correspond to the expansion of violations for which penalties are applicable. The bill increases the maximum limit for recovery of certain damages in civil actions from \$2,000 to \$25,000.

HOUSING

Under current law, Commerce awards grants and loans to low income persons or families to defray housing costs and to community based organizations to provide

SENATE BILL 62

housing opportunities to low income persons and families. The grants and loans are funded by general purpose revenue.

This bill directs Commerce to make a one-time grant of not more than \$200,000 to the Tenant Resource Center in Madison, from the appropriation that funds the grants and loans described above, to provide foreclosure education and assistance to tenants. The bill increases the appropriation for fiscal year 2008–09 by \$200,000.

COURTS AND PROCEDURE

Under current law, if the owner of real property that is subject to a mortgage defaults in making payments, the mortgagee, which is usually a financial institution, may commence a foreclosure action. If the mortgagee prevails and obtains a foreclosure judgment, the property owner (mortgagor) may redeem the property before a sheriff's sale by paying the amount of the judgment to the clerk of court. If the mortgagor does not redeem the property, it will be sold at a sheriff's sale after six months to one year, depending on the type of property and whether the mortgagor will owe a deficiency, which is the amount by which the judgment exceeds the amount obtained at the sale.

This bill addresses foreclosure reconveyances. A foreclosure reconveyance is defined as a transaction under which the mortgagor transfers title to residential real property in foreclosure to a third party, called a foreclosure purchaser in the bill. The foreclosure purchaser redeems the property and subsequently conveys, or promises to subsequently convey, to the mortgagor (foreclosed homeowner) an interest in the property that allows the foreclosed homeowner to remain in possession of the property, such as an interest in a land contract, a purchase agreement, an option to purchase, or a lease.

Under the bill, if a foreclosure purchaser enters into a foreclosure reconveyance, it must be by a written contract. The bill specifies the information that the contract must contain and requires that duplicate copies of a completed notice of cancellation be attached to the contract. The foreclosed homeowner may cancel the foreclosure reconveyance contract by delivering personally or by certified mail a signed and dated notice of cancellation to the foreclosure purchaser within five business days after the foreclosed homeowner signs the contract. The bill prohibits any waiver of any of the foreclosure reconveyance provisions, except for the five-day right to cancel the contract if the property is to be sold at sheriff's sale within those five days and the foreclosed homeowner waives his or her right to cancel in a handwritten statement.

The bill contains various prohibitions and requirements that apply generally to foreclosure purchasers, including:

1. Prohibiting a foreclosure purchaser from entering into a foreclosure reconveyance unless, among other things, the foreclosure purchaser verifies that the foreclosed homeowner has the ability to pay for the subsequent conveyance of the interest back to the foreclosed homeowner.

2. Requiring a foreclosure purchaser either to ensure that title to the dwelling has been reconveyed to the foreclosed homeowner or to pay to the foreclosed homeowner consideration of at least 82 percent of the fair market value of the property within 150 days of either the eviction from the property of, or the voluntary

SENATE BILL 62

relinquishment of possession of the property by, the foreclosed homeowner. If the foreclosure purchaser pays the foreclosed homeowner, the foreclosure purchaser must provide a detailed accounting of the basis for the payment amount on a form prescribed by the attorney general, in consultation with the secretary of agriculture, trade and consumer protection.

3. Prohibiting a foreclosure purchaser from entering into repurchase or lease terms, as part of the subsequent conveyance, that are unfair or commercially unreasonable and from engaging in any other unfair conduct.

4. Prohibiting a foreclosure purchaser from acting as an advisor or consultant or in any other manner representing that the foreclosure purchaser is acting on behalf of the foreclosed homeowner.

5. Prohibiting a foreclosure purchaser from taking certain actions, such as accepting from the foreclosed homeowner any instrument of conveyance of any interest in the residence in foreclosure or transferring any interest in the residence to a third party, before the time for the foreclosed homeowner to cancel the transaction has fully elapsed.

The bill specifies penalties that apply if a foreclosure purchaser violates any of the provisions, authorizes a court to order punitive damages for a violation, and specifies that a violation shall be considered a fraud and that a foreclosed homeowner may bring an action for damages. The bill also provides that a court must grant a 90-day stay in an eviction action if the property was the subject of a foreclosure reconveyance and the defendant was the owner of the property, has continuously occupied the property since it was conveyed to a third party, and has either commenced an action concerning the foreclosure reconveyance or asserts fraud or other deceptive practices in connection with the foreclosure reconveyance.

The bill also addresses foreclosure consultants. With numerous specified exceptions, a foreclosure consultant is defined as a person who offers to a foreclosed homeowner to perform for compensation any of various services that will assist the foreclosed homeowner with the loan default or foreclosure, such as stopping the foreclosure sale, assisting the foreclosed homeowner to obtain a loan, or saving the property from foreclosure.

The bill provides that any agreement (contract) between a foreclosure consultant and a foreclosed homeowner for the rendition of services must be in writing, and that a foreclosed homeowner who enters into a contract for services with a foreclosure consultant has the right to cancel the contract without penalty within three days by delivering, personally or by certified mail, a notice of cancellation to the foreclosure consultant. The bill specifies the information that the contract must contain and requires that duplicate copies of a notice of cancellation be attached to the contract.

The bill sets out actions by a foreclosure consultant that are violations and provides that the Department of Agriculture, Trade and Consumer Protection (DATCP) may investigate violations of the requirements under the bill and may commence an action to restrain a violation or to recover a forfeiture for a violation. The Department of Justice is required to furnish legal services to DATCP. The bill

SENATE BILL 62

also provides that any person suffering pecuniary loss because of a violation of the requirements under the bill may commence an action against the violator.

Under current law, if property that is subject to a mortgage is leased after the lien of the mortgage attaches, the lease is subject to termination if the interest of the mortgagor terminates. Thus, the lease of a tenant to property that is subject to a mortgage terminates and the tenant may be evicted, if the landlord loses the property in a foreclosure action.

This bill requires the plaintiff in a foreclosure action against residential rental property to provide the tenants of the property with notice that a foreclosure action has been filed, notice that the plaintiff has been granted judgment, along with notice of the date on which the redemption period ends, and notice of the date and time of the hearing to confirm the sale of the property. The bill also requires a landlord to notify any prospective tenant in writing that a foreclosure action has been commenced and, if judgment has been entered, the date on which the redemption period ends. In addition, the bill provides that a tenant may retain possession of the rental unit for up to two months after the end of the month in which the sale of the property is confirmed, and may withhold rent in the amount of the security deposit for the last period during which the tenant actually retains possession of the rental unit.

Under current law, the director of state courts has established a consolidated electronic system that contains information about cases filed in the circuit courts in the state, including both civil cases and criminal cases. This system, known as the Consolidated Court Automation Programs (CCAP), contains a variety of information about circuit court cases. The information regarding case data contained on the CCAP system is available in the court's Internet Web site called the Wisconsin Circuit Court Access (WCCA). This bill prohibits the placing of any information on a civil action concerning the removal of a tenant from a residential rental property in the WCCA Internet Web site if that removal was the result of a mortgage foreclosure of the residential rental property.

EDUCATION

This bill directs the Wisconsin Technical College System Board to award to technical college district boards at least \$1,000,000 annually in training program grants for training in advanced manufacturing skills, with priority given to welding.

HEALTH AND HUMAN SERVICES**HOSPITAL ASSESSMENT AND MEDICAL ASSISTANCE**

Under current law, the state assesses hospitals a total of \$1,500,000 each year. The amount each hospital pays is allocated in proportion to the hospital's gross private pay revenues. The hospital assessment revenue is used to support the Medical Assistance (MA) Program, long-term care programs, and community-based mental health services.

This bill increases the amount of the hospital assessment to \$275,445,110 for state fiscal year (SFY) 2008–09. The bill provides that the amount of the assessment in future years shall be established in the biennial budget act. The bill charges the total assessment amount against eligible hospitals in proportion to their gross patient revenues. Under the bill, all hospitals in the state other than critical access

SENATE BILL 62

hospitals, institutions for mental diseases, and certain psychiatric hospitals that are not a satellite of an acute care hospital from the assessment are eligible hospitals.

The bill provides that a specified portion of the assessment revenue shall be used to pay hospitals for services provided under MA and transfers the remaining amount of assessment revenue to the MA trust fund. Under the bill, the amount allocated to hospitals for MA services in SFY 2008-09, including both the state and federal share under MA, is the amount of the hospital assessment revenue divided by 57.75 percent, which is \$476,961,200. In SFY 2008-09, \$79,604,800 in assessment revenue is transferred to the MA trust fund. Of the amount transferred to the MA trust fund, 0.5 percent (\$398,000) is appropriated to the Department of Health Services (DHS) for the administrative costs associated with the hospital assessment and the other \$79,206,800 is appropriated for MA. For SFY 2008-09, the bill also appropriates general purpose revenue in the amount of \$750,000 for supplemental payments to certain rural hospitals in counties that border another state. Finally, in SFY 2008-09, the bill reduces the amount of general purpose revenues appropriated for MA by \$78,456,800.

Beginning in SFY 2009-10, the amount of payments to hospitals for MA services from hospital assessment revenue plus the federal share of MA is equal to the amount of the total assessment revenue divided by 61.68 percent. The remainder of the hospital assessment revenue is transferred to the MA trust fund. One-half of one percent of the transferred amount is appropriated to DHS for administrative costs associated with the hospital assessment. Also beginning in SFY 2009-10, the bill requires DHS to pay the University of Wisconsin Hospitals and Clinics \$3,000,000 annually from the MA trust fund for the costs of providing uncompensated care.

The bill provides that DHS shall spend the portion of the hospital assessment revenue that is allocated to pay for hospital services under MA on the following: increased reimbursement for eligible hospitals that are reimbursed on a fee-for-service basis; payments to health maintenance organizations (HMOs) that the HMOs must use to increase reimbursement to eligible hospitals; an increase of \$2,744,000 in supplemental payments to certain rural hospitals; \$8,000,000 in supplemental payments to hospitals that satisfy criteria established by the American College of Surgeons for classification as a Level I adult trauma center; and supplemental payments to hospitals based on performance, under a methodology developed by DHS.

The bill provides that if the federal government does not pay the federal share under MA for any payment made with hospital assessment revenue, DHS must refund to hospitals the amount of the hospital assessment revenue used to make the payment. DHS must make refunds to hospitals in proportion to the percent of the assessment that the hospitals paid. In addition, DHS must recoup any payments that are made with hospital assessment revenue and for which the federal government does not pay the federal share under MA.

In addition to the decrease in general purpose revenue appropriated for MA in association with the hospital assessment, the bill increases the amount of general purpose revenue appropriated for MA for SFY 2008-09 by \$50,000,000.

SENATE BILL 62

Under current law, a hospital must be approved by DHS to operate in this state. Upon approval, DHS issues a hospital a certificate of approval. This bill provides that DHS must issue a single hospital certificate of approval for the University of Wisconsin Hospitals and Clinics Authority (UWHCA) that applies to all of UWHCA's inpatient and outpatient facilities that satisfy DHS's requirements for a hospital and for which UWHCA requests approval. The bill also provides that all facilities listed on the hospital certificate of approval for UWHCA are a hospital for purposes of reimbursement under MA.

PUBLIC ASSISTANCE

Under current law, \$365,197,900 in federal block grant aids is appropriated to the Department of Children and Families (DCF) in fiscal year 2008–09 for aids to individuals and organizations. Of that amount, \$355,352,000 is allocated for child care services for persons participating in the Wisconsin Works (W-2) program. This bill increases that appropriation by \$47,175,000 and that allocation by \$20,384,400. The bill also increases allocations for fiscal year 2008–09 of federal child care development funds and federal moneys received under the Temporary Assistance for Needy Families block grant program for emergency assistance and child care administration.

Under current law, \$121,021,700 in general purpose revenue is appropriated to DCF in fiscal year 2008–09 for administration and benefits payment under the W-2 program and other Temporary Assistance to Needy Families programs. This bill decreases that appropriation by \$22,529,000.

STATE GOVERNMENT

This bill requires the secretary of administration to lapse or transfer to the general fund from the unencumbered balances of appropriations to executive state agencies, other than sum sufficient appropriations and appropriations of federal revenues, an amount equal to \$125,000,000 before July 1, 2011. Under the bill, all executive branch state agencies, except for the Investment Board and the Department of Employee Trust Funds, are subject to the lapse and transfer provisions. The bill also requires the cochairpersons of the Joint Committee on Legislative Organization to take actions before July 1, 2011, to ensure that from general purpose revenue appropriations to the legislature an amount equal to \$500,000 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both. The lapse from appropriations to the legislature is included as part of the \$125,000,000 lapse and transfer requirement.

Current statutes contain a rule of proceeding that provides that no bill may be adopted by the legislature if the bill would cause in any fiscal year the amount of moneys designated as "Total Expenditures" in the general fund summary for that fiscal year, less any amounts transferred to the budget stabilization fund in that fiscal year, to exceed the sum of the amount of moneys designated as "Taxes" and "Departmental Revenues" in the general fund summary for that fiscal year. This bill provides that this requirement does not apply to the 2008–09 fiscal year.

This bill increases the legislature's role in approving the expenditure of federal economic stimulus funds during the 2008–09 fiscal year and the 2009–11 fiscal

SENATE BILL 62

biennium. Under the bill, “federal economic stimulus funds” are defined to mean federal moneys received by the state beginning on the bill’s effective date and ending on June 30, 2011, pursuant to federal legislation enacted during the 111th Congress for the purpose of reviving the economy of the United States. The bill involves the legislature in approving the expenditure of federal economic stimulus funds in two general ways.

First, the bill provides that, as soon as practical after the receipt of any federal economic stimulus funds by the state, the governor must submit to the Joint Committee on Finance (JCF) a plan or plans for the expenditure of the federal economic stimulus funds. After receiving the plan or plans, the cochairpersons of JCF may direct the governor to implement the plan or plans. In lieu of directing the governor to implement the plan or plans, the cochairpersons must convene a meeting of JCF within 14 days after the plan or plans are submitted to either approve or modify and approve the plan or plans. The governor shall then implement the plan or plans as approved by JCF. The bill requires that a separate plan be submitted for transportation expenditures. This process, however, does not apply to federal economic stimulus funds the expenditure of which is contained in any bill introduced in either house of the legislature at the request of the governor. If for any reason a project specified in a plan cannot be completed on a timely basis, or if federal economic stimulus funds cannot be expended as proposed in the plan, the governor must submit a revised plan to the cochairpersons of JCF. The revised plan may only be implemented if approved by JCF using the procedures specified in this paragraph.

Second, the bill creates a new procedure for review of the use of federal economic stimulus funds for state building projects. Currently, with certain exceptions, the Building Commission is prohibited from authorizing the design, construction, repair, remodeling, or improvement, or the acquisition of land by the state for the construction, repair, remodeling, or improvement of any state building, structure, or facility for any project costing more than \$500,000, regardless of funding source, unless the project is enumerated by law in the Authorized State Building Program.

This bill provides that, if a state building, structure, or facility is proposed to be designed or constructed, if an existing state building, structure, or facility is proposed to be repaired, remodeled, or improved, or if land is proposed to be acquired by the state for any such purpose, and the design, construction, repair, remodeling, improvement, or acquisition is proposed to be financed solely with federal economic stimulus funds, the project, if approved by JCF as part of a plan, is not subject to an enumeration requirement.

Current statutes contain a rule of proceeding governing legislative action on certain bills. Generally, the rule provides that no bill directly or indirectly affecting general purpose revenues may be adopted if the bill would cause the estimated general fund balance on June 30 of any fiscal year to be less than a certain amount of the total general purpose revenue appropriations for that fiscal year. For fiscal year 2008-09, the amount is \$65,000,000. This bill provides that this requirement does not apply to the 2008-09 fiscal year.

The bill makes the following changes to the loan program administered by the Board of Commissioners of Public Lands (BCPL):

SENATE BILL 62

1. Provides that any borrower, after January 1 and before September 1 in any year, may prepay one or more installments of a state trust fund loan in advance of the due date and that all interest upon the advance payment terminates. Currently, a borrower may do this only after March 15 and before August 1 in any year.

2. Requires that borrowers repay loans directly to BCPL and not to the secretary of administration.

3. With respect to loans to counties, provides that a county must demonstrate to BCPL that the loan is for the purpose of acquiring or installing energy efficient equipment. Currently, counties must demonstrate to BCPL that the loan is for one of a number of enumerated purposes, or satisfies certain conditions, which do not specifically include the acquisition or installation of energy efficient equipment.

4. Clarifies the conditions under which school districts may receive short-term loans of ten years or less from BCPL without the approval of the electors of the school districts. These conditions are currently specified in chapter 67 of the Wisconsin Statutes, by cross-reference, and this bill recreates these conditions in chapter 24 of the Wisconsin Statutes.

TAXATION**INCOME TAXATION**

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

This bill requires that all related corporations file a combined report for state income and franchise tax purposes and calculate their state tax liability based on the business activity of all the related corporations.

This bill provides an income and franchise tax credit for 10 percent of the amount that a person pays in the taxable year for meat processing modernization or expansion related to the person's meat processing operation.

Under current law, a person may claim as credit against the person's income or franchise tax liability, in each of two consecutive taxable years, 12.5 percent of the person's investment in a qualified new business venture, as determined by Commerce. The maximum amount of a person's investment that can be used as the basis for the credit is \$2,000,000 and a business may receive no more than \$1,000,000 in investments that qualify for the credit.

Under this bill, a person may claim an income and franchise tax credit equal to 25 percent of the person's investment in a qualified new business venture. The bill

SENATE BILL 62

allows a person to use more than \$2,000,000 in investments as the basis for the credit and to transfer the amount of any unused credit to another taxpayer.

Under current law, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses and rental expenses paid to a related entity, unless the expenses are paid primarily for business purposes and not in order to avoid taxes. Under this bill, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses, rental expenses, intangible expenses, and management fees paid to a related entity, unless the expenses or fees are paid primarily for business purposes and not in order to avoid taxes.

OTHER TAXATION

This bill adopts the substantive provisions of the Main Street Equity Act for purposes of administering and collecting state, county, and stadium district sales and use taxes. The act is intended to modernize sales and use tax administration for the states that adopt the act and to encourage out-of-state retailers to collect the state, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells tangible personal property or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S. Ct. 1904 (1992).

This bill also imposes sales and use taxes on specified digital goods and additional digital goods. "Specified digital goods" are digital audio works, digital audiovisual works, and digital books. "Additional digital goods" means greeting cards, finished artwork, periodicals, and video or electronic games, if all such items are transferred electronically. Under the bill, the sale of specified digital goods or additional digital goods that are transferred electronically to the purchaser are exempt from the sales and use taxes, if the sale of the goods in tangible form is exempt from the sales and use taxes.

TRANSPORTATION

Under current law, the Department of Transportation (DOT) must annually submit to the Joint Committee on Finance (JCF) a plan for adjusting DOT's federal funds appropriations if the most recent federal funds estimates vary from DOT's federal funds appropriations by more than 5 percent.

This bill specifies that this requirement does not apply with respect to the first \$300,000,000 of federal economic stimulus funds, intended to be used for transportation purposes, resulting from federal legislation enacted between January 2009 and January 2011 (stimulus funds). The bill also requires DOT, with one exception, to encumber or expend the first \$300,000,000 of stimulus funds only for specified projects.

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

Under current law, the Wisconsin Housing and Economic Development Authority (WHEDA) makes, participates in making, and issues bonds or notes to fund homeownership mortgage loans on behalf of qualified, low-income applicants. Homeownership mortgage loans include loans to finance the construction or long-term financing of a residential structure or dwelling unit that is the principle

SENATE BILL 62

residence of the applicant. Homeownership mortgage loans may not be made to finance the acquisition or replacement of an applicant's existing mortgage.

This bill authorizes WHEDA to issue bonds for and to make and participate in the making of loans for the refinancing of qualified subprime loans if WHEDA determines that the applicant will suffer financial hardship if the loan is not refinanced. A qualified subprime loan is defined as an adjustable rate single-family residential mortgage loan made after December 31, 2001 and before January 1, 2008. The bill directs the secretary of administration to determine the date after which no bonds or notes may be issued by WHEDA to refinance subprime loans.

This bill establishes a Homeowner Eviction and Lien Protection program under the authority of WHEDA. Under the program, WHEDA may enter into agreements with lenders to encourage the lenders to refinance mortgage loans of persons or families who are not able to obtain refinancing in the absence of an agreement. WHEDA may also make and participate in making loans to refinance mortgage loans. A mortgage loan is defined as a loan secured by a first lien real estate mortgage on a single-family dwelling that is used as the principal residence of the applicant. The bill appropriates a total of \$4,000,000 in GPR in the 2008-09 and 2009-10 fiscal years to WHEDA to operate the program. The bill requires WHEDA to make quarterly reports to the Joint Committee on Finance, and authorizes the cochairpersons of the Joint Committee on Finance to convene a meeting at any time to review or dissolve the program.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

Because this bill directly or substantially affects the development, construction, cost or availability of housing in this state, the Department of Administration, as required by law, will prepare a report to be printed as an appendix to this bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 13.94 (1) (ms) of the statutes is created to read:
- 2 13.94 (1) (ms) No later than July 1, 2014, prepare a financial and performance
- 3 evaluation audit of the economic development tax benefit program under ss. 560.701

SENATE BILL 62

1 to 560.706. The legislative audit bureau shall file a copy of the report of the audit
2 under this paragraph with the distributees specified in par. (b).

3 **SECTION 2.** 13.94 (4) (a) 1. of the statutes is amended to read:

4 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
5 credentialing board, commission, independent agency, council or office in the
6 executive branch of state government; all bodies created by the legislature in the
7 legislative or judicial branch of state government; any public body corporate and
8 politic created by the legislature including specifically the Fox River Navigational
9 System Authority, the Lower Fox River Remediation Authority, and the Wisconsin
10 Aerospace Authority, a professional baseball park district, a local professional
11 football stadium district, a local cultural arts district and a long-term care district
12 under s. 46.2895; every Wisconsin works agency under subch. III of ch. 49; every
13 provider of medical assistance under subch. IV of ch. 49; technical college district
14 boards; ~~development zones designated under s. 560.71;~~ every county department
15 under s. 51.42 or 51.437; every nonprofit corporation or cooperative or
16 unincorporated cooperative association to which moneys are specifically
17 appropriated by state law; and every corporation, institution, association or other
18 organization which receives more than 50% of its annual budget from appropriations
19 made by state law, including subgrantee or subcontractor recipients of such funds.

20 **SECTION 3.** 15.09 (6) of the statutes is amended to read:

21 15.09 (6) REIMBURSEMENT FOR EXPENSES. Members of a council shall not be
22 compensated for their services, but, except as otherwise provided in this subsection,
23 members of councils created by statute shall be reimbursed for their actual and
24 necessary expenses incurred in the performance of their duties, such reimbursement
25 in the case of an elective or appointive officer or employee of this state who represents

SENATE BILL 62**SECTION 3**

1 an agency as a member of a council to be paid by the agency which pays his or her
2 salary. Members of the mortgage loan originator council under s. 15.187 (1) may not
3 be reimbursed for their actual and necessary expenses incurred in the performance
4 of their duties. Members of the agricultural education and workforce development
5 council may not be reimbursed for their actual and necessary expenses incurred in
6 the performance of their duties.

7 **SECTION 4.** 15.187 (1) (intro.), (a), (b) and (c) of the statutes are amended to
8 read:

9 15.187 (1) ~~LOAN~~ MORTGAGE LOAN ORIGINATOR ~~REVIEW~~ COUNCIL. (intro.) There is
10 created in the department of financial institutions a mortgage loan originator
11 council. The council shall consist of the following members, appointed by the
12 secretary of financial institutions for 4-year terms:

13 (a) ~~Three~~ Four persons who are mortgage loan originators ~~registered~~ licensed
14 under s. ~~224.72 (1m)~~ 224.725.

15 (b) One person who is an agent of a mortgage broker ~~registered~~ licensed under
16 s. 224.72 (1m).

17 (c) One person who is an agent of a mortgage banker ~~registered~~ licensed under
18 s. 224.72 (1m).

19 **SECTION 5.** 15.187 (1) (d) of the statutes is repealed.

20 **SECTION 6.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
21 the following amounts for the purposes indicated:

SENATE BILL 62

1 **2007-08** **2008-09**

2 **20.435 Health services, department of**

3 (4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH
4 CARE FIN; OTHER SUPPORT PGMS

5 (xc) Hospital assessment fund; hospi-
6 tal payments SEG A -0- 275,445,100

7 **SECTION 7.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
8 the following amounts for the purposes indicated:

9 **2007-08** **2008-09**

10 **20.490 Wisconsin Housing and Economic**
11 **Development Authority**

12 (3) HOMEOWNERSHIP MORTGAGE ASSISTANCE

13 (a) Homeowner eviction and lien
14 protection program GPR C -0- 4,000,000

15 **SECTION 8.** 20.143 (1) (c) of the statutes is amended to read:

16 20.143 (1) (c) *Wisconsin development fund; grants, loans, reimbursements, and*
17 *assistance.* Biennially, the amounts in the schedule for grants and loans under s.
18 560.275 (2) and subch. V of ch. 560; for reimbursements under s. 560.167; for
19 providing assistance under s. 560.06; for the costs specified in s. 560.607; for the loan
20 under 1999 Wisconsin Act 9, section 9110 (4); for the grants under 1995 Wisconsin
21 Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997 Wisconsin Act
22 27, section 9110 (6g), 1999 Wisconsin Act 9, section 9110 (5), 2003 Wisconsin Act 33,
23 section 9109 (1d) and (2q), and 2007 Wisconsin Act 20, section 9108 (4u), (6c), (7c),
24 (7f), (8c), (8i), (9i), and (10q), and 2009 Wisconsin Act (this act), section 9110 (2)

SENATE BILL 62**SECTION 8**

1 and (3); and for providing up to \$100,000 annually for the continued development of
2 a manufacturing and advanced technology training center in Racine. Of the
3 amounts in the schedule, \$50,000 shall be allocated in each of fiscal years 1997–98
4 and 1998–99 for providing the assistance under s. 560.06 (1).

5 **SECTION 9.** 20.143 (1) (gm) of the statutes is amended to read:

6 20.143 (1) (gm) *Wisconsin development fund, administration of grants and*
7 *loans.* All moneys received from origination fees under s. 560.68 (3), and from
8 transfer fees under s. 560.205 (3) (e), for administering the programs under subch.
9 V of ch. 560 and for the costs of underwriting grants and loans awarded under subch.
10 V of ch. 560.

11 **SECTION 10.** 20.143 (2) (b) of the statutes is amended to read:

12 20.143 (2) (b) *Housing grants and loans; general purpose revenue.* Biennially,
13 the amounts in the schedule for grants and loans under s. 560.9803 and for grants
14 under s. 560.9805 and for the grant under 2009 Wisconsin Act (this act), section
15 9110 (1).

16 **SECTION 11.** 20.435 (4) (gp) of the statutes is repealed.

17 **SECTION 12.** 20.435 (4) (jw) of the statutes is amended to read:

18 20.435 (4) (jw) *BadgerCare Plus and hospital assessment administrative costs.*
19 Biennially, the amounts in the schedule to provide a portion of the state share of
20 administrative costs for the BadgerCare Plus Medical Assistance program under s.
21 49.471. ~~Ten~~ and for administration of the hospital assessment under s. 50.38. All
22 moneys transferred under s. 50.38 (9) and 10 percent of all moneys received from
23 penalty assessments under s. 49.471 (9) (c) shall be credited to this appropriation
24 account.

25 **SECTION 13.** 20.435 (4) (w) of the statutes is amended to read:

SENATE BILL 62

1 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance
2 trust fund, biennially, the amounts in the schedule for meeting costs of medical
3 assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),
4 49.45, and 49.472 (6), for refunds under s. 50.38 (6) (a), and for administrative costs
5 associated with augmenting the amount of federal moneys received under 42 CFR
6 433.51.

7 **SECTION 14.** 20.435 (4) (xc) of the statutes is created to read:

8 20.435 (4) (xc) *Hospital assessment fund; hospital payments.* From the hospital
9 assessment fund, the amounts in the schedule to reimburse eligible hospitals for
10 services provided under the Medical Assistance Program under subch. IV of ch. 49,
11 make payments to health maintenance organizations under s. 49.45 (59), provide
12 supplemental funds to rural hospitals under s. 49.45 (5m) (am), make supplemental
13 payments to Level I adult trauma centers under s. 49.45 (6y) (ap), make
14 supplemental payments to hospitals based on performance under s. 49.45 (6y) (ar),
15 make refunds under s. 50.38 (6), and make the transfer under s. 50.38 (8).

16 **SECTION 15.** 20.490 (3) of the statutes is created to read:

17 20.490 (3) HOMEOWNERSHIP MORTGAGE ASSISTANCE. (a) *Homeowner eviction lien*
18 *protection program.* As a continuing appropriation, the amounts in the schedule to
19 operate the homeowner eviction and lien protection program under s. 234.605.
20 Notwithstanding s. 20.001 (3) (c), at the close of fiscal year 2009-10, the
21 unencumbered balance of this appropriation account shall lapse to the general fund.

22 **SECTION 16.** 20.566 (1) (ho) of the statutes is created to read:

23 20.566 (1) (ho) *Collections under multistate streamlined sales tax project.* From
24 moneys collected under the multistate streamlined sales tax project as provided

SENATE BILL 62**SECTION 16**

1 under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the
2 governing board of the multistate streamlined sales tax project.

3 **SECTION 17.** 20.835 (2) (bd) of the statutes is created to read:

4 20.835 (2) (bd) *Meat processing facility investment credit.* A sum sufficient to
5 make the payments under ss. 71.07 (3r), 71.28 (3r), and 71.47 (3r).

6 **SECTION 18.** 20.835 (2) (bn) of the statutes is amended to read:

7 20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts
8 in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and
9 71.47 (3p) (d) 2.

10 **SECTION 19.** 20.835 (2) (bp) of the statutes is created to read:

11 20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*
12 *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28
13 (3p) (d) 3., and 71.47 (3p) (d) 3.

14 **SECTION 20.** 24.61 (4) of the statutes is amended to read:

15 24.61 (4) LOAN LIMITATIONS. Notwithstanding sub. (3), the board may not loan
16 moneys to a county unless the governing body of the county demonstrates to the
17 board's satisfaction that s. 67.045 (1) (a), (b), (c), (d), (e) ~~or~~, (f), (g), or (h) applies.

18 **SECTION 21.** 24.63 (4) of the statutes is amended to read:

19 24.63 (4) REPAYMENT BEFORE DUE DATE PERMITTED. Any borrower after ~~March 15~~
20 January 1 and prior to ~~August~~ September 1 of any year may repay one or more
21 installments of a state trust fund loan in advance of the due date, and all interest
22 upon such advance payment shall thereupon terminate. The board may charge a
23 borrower who repays one or more installments of a loan a fee to cover any
24 administrative costs incurred by the board in originating and servicing the loan.

25 **SECTION 22.** 24.66 (3) (am) of the statutes is amended to read:

SENATE BILL 62

1 24.66 (3) (am) *For short-term loans by common, union high and 1st class city*
2 *school districts.* Every application for a loan, the required repayment of which is 10
3 years or less, shall be approved and authorized for a common, union high or 1st class
4 city school district under par. (a) or ~~under the procedure in s. 67.12 (12) (c)~~, to the
5 extent applicable.

6 **SECTION 23.** 24.66 (3) (bm) of the statutes is amended to read:

7 24.66 (3) (bm) *For short-term loans by unified school districts.* Every
8 application for a loan, the required repayment of which is 10 years or less, shall be
9 approved and authorized for a unified school district under par. (b) or ~~under the~~
10 ~~procedure in s. 67.12 (12) (c)~~, to the extent applicable.

11 **SECTION 24.** 24.66 (3) (c) of the statutes is created to read:

12 24.66 (3) (c) *Alternative short-term loan process for all school districts.* 1. If
13 the procedure in par. (a) or (b) is not used for the approval of a school district loan,
14 the required repayment of which is 10 years or less, the governing body of the school
15 district, before any certificate of indebtedness is issued, shall adopt and record a
16 resolution specifying the purposes and the maximum amount of the certificate of
17 indebtedness issued.

18 2. Unless the purpose and amount of the borrowing have been approved by the
19 electors under s. 67.05 (6a) or considered approved by the electors under s. 67.05 (7)
20 (d) 3., the purpose is to refund any outstanding obligation, the purpose is to pay
21 unfunded prior service liability contributions under the Wisconsin Retirement
22 System if all of the proceeds of the note will be used for that purpose, or the borrowing
23 would not be subject to a referendum as a bond issue under s. 67.05 (7) (cc), (h), or
24 (i), or s. 67.12 (12) (e) 2g., (f), or (h) applies, the school district clerk shall, within 10
25 days after a governing body of a school district adopts a resolution as described above

SENATE BILL 62**SECTION 24**

1 to issue a certificate of indebtedness, publish notice of such adoption as a class 1
2 notice, under ch. 985. Alternatively, the notice may be posted as provided under s.
3 10.05. The notice need not set forth the full contents of the resolution, but shall state
4 the maximum amount proposed to be borrowed, the purpose thereof, that the
5 resolution was adopted under this subsection, and the place where, and the hours
6 during which, the resolution may be inspected. If, within 30 days after publication
7 or posting, a petition conforming to the requirements of s. 8.40 is filed with the school
8 district clerk for a referendum on the resolution signed by at least 7,500 electors of
9 the district or at least 20 percent of the number of district electors voting for governor
10 at the last general election, as determined under s. 115.01 (13), whichever is the
11 lesser, then the resolution shall not be effective unless adopted by a majority of the
12 district electors voting at the referendum. The referendum shall be called in the
13 manner provided under s. 67.05 (6a), except that the question which appears on the
14 ballot shall be “Shall (name of district) borrow the sum of \$.... for (state purpose)
15 by issuing its general obligation promissory note (or notes) under section 24.66 (3)
16 of the Wisconsin Statutes?”. If a governing body of a school district adopts a
17 resolution to borrow a sum of money under this subsection and a sufficient petition
18 for referendum is not filed within the time permitted, then the power of the governing
19 body of a school district to borrow the sum and expend the sum for the purpose stated
20 shall be deemed approved by the school district electors upon the expiration of the
21 time for filing the petition.

22 3. If the governing body of a school district adopts a resolution to borrow a sum
23 of money under this subsection, and if subd. 2. does not apply, the governing body of
24 a school district has the power to borrow and spend the sum for the purpose stated
25 without the approval of the electors of the school district.

SENATE BILL 62

1 **SECTION 25.** 24.70 (4) of the statutes is amended to read:

2 24.70 (4) ~~PAYMENT TO SECRETARY OF ADMINISTRATION~~ BOARD. The treasurer of each
3 municipality shall transmit to the ~~secretary of administration on his or her~~ board on
4 its order the full amount levied for state trust fund loans within 15 days after March
5 15. Each cooperative educational service agency shall similarly transmit the annual
6 amount owed on any state trust fund loan made to the agency by that date. ~~The~~
7 ~~secretary of administration shall notify the board when he or she receives payment.~~
8 Any payment not made by March 30 is delinquent and is subject to a penalty of one
9 percent per month to be paid to the ~~secretary of administration~~ board with the
10 delinquent payment.

11 **SECTION 26.** 24.71 (4) of the statutes is amended to read:

12 24.71 (4) ~~PAYMENT TO SECRETARY OF ADMINISTRATION~~ BOARD. The school district
13 treasurer shall transmit to the ~~secretary of administration~~ board the full amount
14 levied for state trust fund loans within 15 days after March 15. ~~The secretary of~~
15 ~~administration shall notify the board when he or she receives payment.~~ Any
16 payment not made by March 30 is delinquent and is subject to a penalty of one
17 percent per month or fraction thereof, to be paid to the ~~secretary of administration~~
18 board with the delinquent payment.

19 **SECTION 27.** 24.715 (3) of the statutes is amended to read:

20 24.715 (3) ~~PAYMENT TO STATE TREASURER~~ BOARD. The system board shall transmit
21 to the ~~state treasurer~~ board on its own order the full amount levied for state trust
22 fund loans within 15 days after March 15. ~~The state treasurer shall notify the board~~
23 ~~when he or she receives payment.~~ Any payment not made by March 30 is delinquent
24 and is subject to a penalty of one percent per month or fraction thereof, to be paid to
25 the ~~state treasurer~~ board with the delinquent payment.

SENATE BILL 62**SECTION 28**

1 **SECTION 28.** 24.716 (3) of the statutes is amended to read:

2 24.716 (3) ~~PAYMENT TO SECRETARY OF ADMINISTRATION BOARD.~~ The district board
3 shall transmit to the ~~secretary of administration~~ board on its own order the full
4 amount levied for state trust fund loans within 15 days after March 15. ~~The secretary~~
5 ~~of administration shall notify the board when he or she receives payment.~~ Any
6 payment not made by March 30 is delinquent and is subject to a penalty of 1 percent
7 per month or fraction thereof, to be paid to the ~~secretary of administration~~ board with
8 the delinquent payment.

9 **SECTION 29.** 25.17 (1) (gs) of the statutes is created to read:

10 25.17 (1) (gs) Hospital assessment fund (s. 25.772);

11 **SECTION 30.** 25.77 (11) of the statutes is created to read:

12 25.77 (11) All moneys transferred under s. 50.38 (8).

13 **SECTION 31.** 25.77 (12) of the statutes is created to read:

14 25.77 (12) All moneys recouped and deposited under s. 50.38 (6) (a) 4.

15 **SECTION 32.** 25.772 of the statutes is created to read:

16 **25.772 Hospital assessment fund.** There is established a separate
17 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
18 moneys received under s. 50.38 (2) from assessments on hospitals and all moneys
19 recouped and deposited under s. 50.38 (6) (a) 3.

20 **SECTION 33.** 38.41 (3) (d) of the statutes is created to read:

21 38.41 (3) (d) Beginning in the 2008-09 school year, the board shall award at
22 least \$1,000,000 annually under sub. (1) for training in advanced manufacturing
23 skills, with priority given to welding.

24 **SECTION 34.** 46.27 (9) (a) of the statutes is amended to read:

SENATE BILL 62

1 46.27 (9) (a) The department may select up to 5 counties that volunteer to
2 participate in a pilot project under which they will receive certain funds allocated for
3 long-term care. The department shall allocate a level of funds to these counties
4 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w)
5 to nursing homes for providing care because of increased utilization of nursing home
6 services, as estimated by the department. In estimating these levels, the department
7 shall exclude any increased utilization of services provided by state centers for the
8 developmentally disabled. The department shall calculate these amounts on a
9 calendar year basis under sub. (10).

10 **SECTION 35.** 46.27 (10) (a) 1. of the statutes is amended to read:

11 46.27 (10) (a) 1. The department shall determine for each county participating
12 in the pilot project under sub. (9) a funding level of state medical assistance
13 expenditures to be received by the county. This level shall equal the amount that the
14 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w)
15 because of increased utilization of nursing home services, as estimated by the
16 department.

17 **SECTION 36.** 46.275 (5) (a) of the statutes is amended to read:

18 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
19 department under sub. (3r), provides under this program is available from the
20 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w). If 2 or more counties
21 jointly contract to provide services under this program and the department approves
22 the contract, Medical Assistance reimbursement is also available for services
23 provided jointly by these counties.

24 **SECTION 37.** 46.275 (5) (c) of the statutes is amended to read:

SENATE BILL 62**SECTION 37**

1 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (~~gp~~), (o), and (w) to
2 counties and to the department under sub. (3r) for services provided under this
3 section may not exceed the amount approved by the federal department of health and
4 human services. A county may use funds received under this section only to provide
5 services to persons who meet the requirements under sub. (4) and may not use
6 unexpended funds received under this section to serve other developmentally
7 disabled persons residing in the county.

8 **SECTION 38.** 46.283 (5) of the statutes is amended to read:

9 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
10 (bm), (~~gp~~), (pa), and (w) and (7) (b), (bd), and (md), the department may contract with
11 organizations that meet standards under sub. (3) for performance of the duties under
12 sub. (4) and shall distribute funds for services provided by resource centers.

13 **SECTION 39.** 46.284 (5) (a) of the statutes is amended to read:

14 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
15 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on
16 a capitated payment basis for the provision of services under this section.
17 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
18 under contract with the department may expend the funds, consistent with this
19 section, including providing payment, on a capitated basis, to providers of services
20 under the family care benefit.

21 **SECTION 40.** 46.485 (2g) (intro.) of the statutes is amended to read:

22 46.485 (2g) (intro.) From the appropriation accounts account under s. 20.435
23 (4) (b) and (~~gp~~), the department may in each fiscal year transfer funds to the
24 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
25 appropriation account under s. 20.435 (7) (mb) the department may not distribute

SENATE BILL 62

1 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
2 all of the following requirements, as determined by the department:

3 **SECTION 41.** 46.513 of the statutes is repealed.

4 **SECTION 42.** 49.149 (4) of the statutes is repealed.

5 **SECTION 43.** 49.175 (1) (i) of the statutes is amended to read:

6 49.175 (1) (i) *Emergency assistance.* For emergency assistance under s. 49.138,
7 \$6,000,000 in each fiscal year 2007-08 and \$7,000,000 in fiscal year 2008-09.

8 **SECTION 44.** 49.175 (1) (p) of the statutes is amended to read:

9 49.175 (1) (p) *Direct child care services.* For direct child care services under s.
10 49.155, \$359,201,800 in fiscal year 2007-08 and ~~\$355,352,000~~ \$375,736,400 in fiscal
11 year 2008-09.

12 **SECTION 45.** 49.175 (1) (q) of the statutes is amended to read:

13 49.175 (1) (q) *Child care state administration.* For administration of child care
14 services under s. 49.155 (1g) (b), \$1,765,600 in fiscal year 2007-08 and ~~\$1,600,300~~
15 \$2,437,800 in fiscal year 2008-09.

16 **SECTION 46.** 49.45 (2) (a) 17. of the statutes is repealed.

17 **SECTION 47.** 49.45 (3) (e) 8. of the statutes is repealed.

18 **SECTION 48.** 49.45 (3) (e) 10m. of the statutes is created to read:

19 49.45 (3) (e) 10m. All facilities listed in a certificate of approval issued to the
20 University of Wisconsin Hospitals and Clinics Authority under s. 50.35 are a hospital
21 for purposes of reimbursement under this section.

22 **SECTION 49.** 49.45 (3) (e) 11. of the statutes is created to read:

23 49.45 (3) (e) 11. The department shall use a portion of the moneys collected
24 under s. 50.38 to pay for services provided by eligible hospitals, as defined in s. 50.38
25 (1), under the Medical Assistance Program under this subchapter, including services

SENATE BILL 62**SECTION 49**

1 reimbursed on a fee-for-service basis and services provided under a managed care
2 system. For state fiscal year 2008–09, total payments under this subdivision,
3 including both the federal and state share of Medical Assistance, shall equal the
4 amount collected under s. 50.38 (2) for fiscal year 2008–09 divided by 57.75 percent.
5 For each state fiscal year after state fiscal year 2008–09, total payments under this
6 subdivision, including both the federal and state share of Medical Assistance, shall
7 equal the amount collected under s. 50.38 (2) for the fiscal year divided by 61.68
8 percent.

9 **SECTION 50.** 49.45 (5m) (am) of the statutes is amended to read:

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

19 **SECTION 51.** 49.45 (5r) of the statutes is created to read:

20 49.45 **(5r)** SUPPLEMENTAL FUNDING FOR UNCOMPENSATED CARE. Notwithstanding
21 sub. (3) (e), from the appropriation account under s. 20.435 (4) (w), the department
22 shall distribute \$3,000,000 in each fiscal year to the University of Wisconsin Hospital
23 and Clinics for care that is not otherwise compensated, except that the department
24 may not make payments that exceed limitations based on customary charges under
25 42 USC 1396b (i) (3).

SENATE BILL 62

1 **SECTION 52.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

2 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
3 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), or (w) shall, except as provided
4 in pars. (bg), (bm), and (br), be determined according to a prospective payment
5 system updated annually by the department. The payment system shall implement
6 standards that are necessary and proper for providing patient care and that meet
7 quality and safety standards established under subch. II of ch. 50 and ch. 150. The
8 payment system shall reflect all of the following:

9 **SECTION 53.** 49.45 (6v) (b) of the statutes is amended to read:

10 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
11 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
12 provides information on the utilization of beds by recipients of medical assistance in
13 facilities and a discussion and detailed projection of the likely balances,
14 expenditures, encumbrances and carry over of currently appropriated amounts in
15 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o).

16 **SECTION 54.** 49.45 (6x) (a) of the statutes is amended to read:

17 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
18 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall distribute not more
19 than \$4,748,000 in each fiscal year, to provide funds to an essential access city
20 hospital, except that the department may not allocate funds to an essential access
21 city hospital to the extent that the allocation would exceed any limitation under 42
22 USC 1396b (i) (3).

23 **SECTION 55.** 49.45 (6y) (a) of the statutes is amended to read:

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

SENATE BILL 62**SECTION 55**

1 in each fiscal year to provide supplemental payment to hospitals that enter into a
2 contract under s. 49.02 (2) to provide health care services funded by a relief block
3 grant, as determined by the department, for hospital services that are not in excess
4 of the hospitals' customary charges for the services, as limited under 42 USC 1396b
5 (i) (3). If no relief block grant is awarded under this chapter or if the allocation of
6 funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
7 department may distribute funds to hospitals that have not entered into a contract
8 under s. 49.02 (2).

9 **SECTION 56.** 49.45 (6y) (am) of the statutes is amended to read:

10 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
11 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), and (w), the department shall distribute funding
12 in each fiscal year to provide supplemental payments to hospitals that enter into
13 contracts under s. 49.02 (2) with a county having a population of 500,000 or more to
14 provide health care services funded by a relief block grant, as determined by the
15 department, for hospital services that are not in excess of the hospitals' customary
16 charges for the services, as limited under 42 USC 1396b (i) (3).

17 **SECTION 57.** 49.45 (6y) (ap) of the statutes is created to read:

18 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts
19 under s. 20.435 (4) (o) and (xc), the department shall distribute not more than
20 \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the
21 criteria established by the American College of Surgeons for classification as a Level
22 I adult trauma center, except that the department may not make payments that
23 exceed limitations based on customary charges under 42 USC 1396b (i) (3).

24 **SECTION 58.** 49.45 (6y) (ar) of the statutes is created to read:

SENATE BILL 62

1 49.45 (6y) (ar) Notwithstanding sub. (3) (e), the department may, from the
2 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
3 hospitals based on hospital performance, in accordance with a payment methodology
4 developed by the department, except that the department may not make payments
5 that exceed limitations based on customary charges under 42 USC 1396b (i) (3).

6 **SECTION 59.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

7 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
8 accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department may distribute
9 funding in each fiscal year to supplement payment for services to hospitals that enter
10 into indigent care agreements, in accordance with the approved state plan for
11 services under 42 USC 1396a, with relief agencies that administer the medical relief
12 block grant under this chapter, if the department determines that the hospitals serve
13 a disproportionate number of low-income patients with special needs. If no medical
14 relief block grant under this chapter is awarded or if the allocation of funds to such
15 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
16 may distribute funds to hospitals that have not entered into indigent care
17 agreements. The department may not distribute funds under this subsection to the
18 extent that the distribution would do any of the following:

19 **SECTION 60.** 49.45 (8) (b) of the statutes is amended to read:

20 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (~~gp~~), (o), and (w) for home
21 health services provided by a certified home health agency or independent nurse
22 shall be made at the home health agency's or nurse's usual and customary fee per
23 patient care visit, subject to a maximum allowable fee per patient care visit that is
24 established under par. (c).

25 **SECTION 61.** 49.45 (24m) (intro.) of the statutes is amended to read:

SENATE BILL 62**SECTION 61**

1 49.45 **(24m)** (intro.) From the appropriation accounts under s. 20.435 (4) (b),
2 ~~(gp)~~, (o), and (w), in order to test the feasibility of instituting a system of
3 reimbursement for providers of home health care and personal care services for
4 medical assistance recipients that is based on competitive bidding, the department
5 shall:

6 **SECTION 62.** 49.45 (52) of the statutes is amended to read:

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

17 **SECTION 63.** 49.45 (59) of the statutes is created to read:

18 49.45 **(59)** HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
19 department shall, from the appropriation account under s. 20.435 (4) (xc), pay each
20 health maintenance organization with which it contracts to provide medical
21 assistance a monthly amount that the health maintenance organization shall use to
22 make payments to hospitals under par. (b).

23 (b) Health maintenance organizations shall pay all of the moneys they receive
24 under par. (a) to eligible hospitals, as defined in s. 50.38 (1), within 15 days after
25 receiving the moneys. The department shall specify in contracts with health

SENATE BILL 62

1 maintenance organizations to provide medical assistance a method that health
2 maintenance organizations shall use to allocate the amounts received under par. (a)
3 among eligible hospitals based on the number of discharges from inpatient stays and
4 the number of outpatient visits for which the health maintenance organization paid
5 such a hospital in the previous month for enrollees who are recipients of medical
6 assistance, except enrollees who receive medical assistance under s. 49.45 (23).
7 Payments under this paragraph shall be in addition to any amount that a health
8 maintenance organization is required by agreement between the health
9 maintenance organization and a hospital to pay the hospital for providing services
10 to the health maintenance organization's enrollees.

11 (c) Each health maintenance organization that provides medical assistance
12 shall report to the department each month the amount it paid each hospital under
13 par. (b) and the percentage of the total payments it made under par. (b) that it paid
14 to each hospital.

15 (d) Each health maintenance organization that provides medical assistance
16 shall report monthly to each hospital to which the health maintenance organization
17 makes payments under par. (b) such information regarding the payments that the
18 department specifies in its contract with the health maintenance organization to
19 provide medical assistance.

20 (e) 1. If the department determines that a health maintenance organization
21 has not complied with a requirement under pars. (b) to (d), the department shall
22 order the health maintenance organization to comply with the requirement within
23 15 days after the department's determination of noncompliance.

SENATE BILL 62**SECTION 63**

1 2. The department may terminate a contract with a health maintenance
2 organization to provide medical assistance if the health maintenance organization
3 fails to comply with a requirement under pars. (b) to (d).

4 3. The department may audit a health maintenance organization to determine
5 whether the health maintenance organization has complied with the requirements
6 under pars. (b) to (d).

7 (f) The department shall specify in contracts with health maintenance
8 organizations to provide medical assistance the method for adjusting payments
9 under par. (b) to correct a health maintenance organization's inaccurate counting of
10 inpatient discharges or outpatient visits in calculating a monthly payment to a
11 hospital under par. (b).

12 (g) If a health maintenance organization and hospital do not agree on the
13 amount of a monthly payment that the health maintenance organization is required
14 to pay the hospital under par. (b), either the health maintenance organization or the
15 hospital, within 6 months after the first day of the month in which the payment is
16 due, may request that the department determine the amount of the payment. The
17 department shall determine the amount of the payment within 60 days after the
18 request for a determination is made. The health maintenance organization or
19 hospital is, upon request, entitled to a contested case hearing under ch. 227 on the
20 department's determination.

21 **SECTION 64.** 49.472 (6) (a) of the statutes is amended to read:

22 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
23 under s. 20.435 (4) (b), ~~(g)~~, or (w), the department shall, on the part of an individual
24 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
25 individual coverage offered by the individual's employer if the department

SENATE BILL 62

1 determines that paying the premiums for or purchasing the coverage will not be more
2 costly than providing medical assistance.

3 **SECTION 65.** 49.472 (6) (b) of the statutes is amended to read:

4 49.472 (6) (b) If federal financial participation is available, from the
5 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
6 medicare Part A and Part B premiums for individuals who are eligible for medicare
7 and for medical assistance under sub. (3).

8 **SECTION 66.** 49.473 (5) of the statutes is amended to read:

9 49.473 (5) The department shall audit and pay, from the appropriation
10 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), allowable charges to a provider who is
11 certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who
12 meets the requirements under sub. (2) for all benefits and services specified under
13 s. 49.46 (2).

14 **SECTION 67.** 49.857 (1) (d) 12. of the statutes is amended to read:

15 49.857 (1) (d) 12. A license or certificate of registration issued under ss. 138.09,
16 138.12, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725,
17 224.93 or subch. IV of ch. 551.

18 **SECTION 68.** 50.35 of the statutes is amended to read:

19 **50.35 Application and approval.** Application for approval to maintain a
20 hospital shall be made to the department on forms provided by the department. On
21 receipt of an application, the department shall, except as provided in s. 50.498, issue
22 a certificate of approval if the applicant and hospital facilities meet the requirements
23 established by the department. The department shall issue a single certificate of
24 approval for the University of Wisconsin Hospitals and Clinics Authority that
25 applies to all of the Authority's inpatient and outpatient hospital facilities that meet

SENATE BILL 62**SECTION 68**

1 the requirements established by the department and for which the Authority
2 requests approval. Except as provided in s. 50.498, this approval shall be in effect
3 until, for just cause and in the manner herein prescribed, it is suspended or revoked.
4 The certificate of approval may be issued only for the premises and persons or
5 governmental unit named in the application and is not transferable or assignable.
6 The department shall withhold, suspend or revoke approval for a failure to comply
7 with s. 165.40 (6) (a) 1. or 2., but, except as provided in s. 50.498, otherwise may not
8 withhold, suspend or revoke approval unless for a substantial failure to comply with
9 ss. 50.32 to 50.39 or the rules and standards adopted by the department after giving
10 a reasonable notice, a fair hearing and a reasonable opportunity to comply. Failure
11 by a hospital to comply with s. 50.36 (3m) shall be considered to be a substantial
12 failure to comply under this section.

13 **SECTION 69.** 50.38 of the statutes is created to read:

14 **50.38 Hospital assessment. (1)** In this section “eligible hospital” means a
15 hospital that is not any of the following:

16 (a) A critical access hospital.

17 (b) An institution for mental diseases, as defined in s. 46.011 (1m).

18 (c) A general psychiatric hospital for which the department has issued a
19 certificate of approval under s. 50.35 that applies only to the psychiatric hospital, and
20 that is not a satellite of an acute care hospital.

21 **(2)** For the privilege of doing business in this state, there is imposed on each
22 eligible hospital an assessment each state fiscal year that is equal to a uniform
23 percentage, determined under sub. (3), of the hospital’s gross patient revenues, as
24 reported under s. 153.46 (5) and determined by the department. The assessments
25 shall be deposited in the hospital assessment fund.

SENATE BILL 62

1 **(3)** The department shall establish the percentage under sub. (2) so that the
2 total amount of assessments collected under this section in a state fiscal year is equal
3 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
4 20.435 (4) (xc) for that fiscal year.

5 **(4)** Except as provided in sub. (5), each eligible hospital shall pay the annual
6 assessment under sub. (2) in 4 equal amounts that are due by September 30,
7 December 31, March 31, and June 30 of each year.

8 **(5)** At the discretion of the department, a hospital that is unable timely to make
9 a payment by a date specified under sub. (4) may be allowed to make a delayed
10 payment. A determination by the department that a hospital may not make a
11 delayed payment under this subsection is final and is not subject to review under ch.
12 227.

13 **(6)** (a) 1. If the federal government does not provide federal financial
14 participation under the federal Medicaid program for amounts collected under this
15 section that are used to make payments under s. 49.45 (3) (e) 11. or (5r), that are
16 transferred under sub. (8) and used to make payments from the Medical Assistance
17 trust fund, or that are transferred under sub. (9) and expended under under s. 20.435
18 (4) (jw), the department shall, from the fund from which the payment or expenditure
19 was made, refund hospitals the amount for which the federal government does not
20 provide federal financial participation.

21 2. If the department makes a refund under subd. 1. as result of failure to obtain
22 federal financial participation under the federal Medicaid program for a payment
23 under s. 49.45 (3) (e) 11. or (5r) or a payment from the Medical Assistance trust fund,
24 the department shall recoup the part of the payment for which the federal
25 government does not provide federal financial participation.

SENATE BILL 62**SECTION 69**

1 3. Moneys recouped under subd. 2. for payments made from the hospital
2 assessment fund shall be deposited in the hospital assessment fund.

3 4. Moneys recouped under subd. 2. for payments made from the Medical
4 Assistance trust fund shall be deposited in the Medical Assistance trust fund.

5 (b) On June 30 of each state fiscal year, the department shall, from the
6 appropriation account under s. 20.435 (4) (xc), refund to hospitals the difference
7 between the amount in the schedule under s. 20.005 (3) for that appropriation and
8 the amount expended or encumbered from that appropriation in the fiscal year.

9 (c) The department shall allocate any refund under this subsection to hospitals
10 in proportion to the percentage of the total assessments collected under sub. (2) that
11 each hospital paid.

12 **(7)** By January 1 of each year the department shall report to the joint
13 committee on finance all of the following information for the state fiscal year ending
14 the previous June 30:

15 (a) The amount each eligible hospital paid under sub. (2).

16 (b) The amounts the department paid each health maintenance organization
17 under s. 49.45 (59) (a).

18 (c) The total amounts that each eligible hospital received from health
19 maintenance organizations under s. 49.45 (59) (b).

20 (d) The total amount of payment increases the department made, in connection
21 with implementation of the hospital assessment under sub. (2), for inpatient and
22 outpatient hospital services that are reimbursed on a fee-for-service basis.

23 (e) The total amount of payments that the department made to each hospital
24 under the Medical Assistance Program under subch. IV of ch. 49.

SENATE BILL 62

1 (f) The portion of capitated payments that the department made to each health
2 maintenance organization under the Medical Assistance Program under subch. IV
3 of ch. 49 from appropriation accounts of general purpose revenues that is for
4 inpatient and outpatient hospital services.

5 (g) The results of any audits conducted by the department under s. 49.45 (59)
6 (e) 3. and any actions taken by the department as a result of the audits.

7 **(8)** In each state fiscal year, the secretary of administration shall transfer from
8 the hospital assessment fund to the Medical Assistance trust fund an amount equal
9 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
10 20.435 (4) (xc) for that fiscal year minus the state share of payments to hospitals
11 under s. 49.45 (3) (e) 11., and minus any refunds paid to hospitals from the hospital
12 assessment fund under sub. (6) (a) in that fiscal year.

13 **(9)** On June 30 of each state fiscal year, the secretary of administration shall
14 transfer from the Medical Assistance trust fund to the appropriation account under
15 s. 20.435 (4) (jw), an amount equal to 0.5 percent of the amount transferred under
16 sub. (8).

17 **SECTION 70.** 50.389 of the statutes is renumbered 50.377.

18 **SECTION 71.** 66.0615 (1m) (f) 2. of the statutes is amended to read:

19 66.0615 **(1m)** (f) 2. Sections 77.51 (12m), (14) (~~e~~), (~~f~~) and (~~j~~) and, (14g), (15a),
20 and (15b), 77.52 (3), (4), (~~6~~) and (13), (14), (18), and (19), 77.522, 77.58 (1) to (5), (6m),
21 and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (~~14~~) (15), and
22 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax described
23 under subd. 1.

24 **SECTION 72.** 67.045 (1) (h) of the statutes is created to read:

SENATE BILL 62**SECTION 72**

1 67.045 (1) (h) The debt is issued for the purpose of acquiring or installing
2 energy efficient equipment.

3 **SECTION 73.** 70.111 (23) of the statutes is amended to read:

4 70.111 (23) VENDING MACHINES. All machines that automatically dispense soda
5 ~~water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage~~
6 ~~under s. 77.54 (20) (a) and (b) food and food ingredient, as defined in s. 77.51 (3t),~~
7 upon the deposit in the machines of specified coins or currency, or insertion of a credit
8 card, in payment for the ~~soda water beverages, food or beverages~~ food and food
9 ingredient, as defined in s. 77.51 (3t).

10 **SECTION 74.** 71.01 (1b) of the statutes is amended to read:

11 71.01 (1b) For purposes of s. 71.04 (7) (df) ~~and, (dh), (dj), and (dk),~~ “commercial
12 domicile” means the location from which a trade or business is principally managed
13 and directed, based on any factors the department determines are appropriate,
14 including the location where the greatest number of employees of the trade or
15 business work, have their office or base of operations, or from which the employees
16 are directed or controlled.

17 **SECTION 75.** 71.01 (1n) of the statutes is amended to read:

18 71.01 (1n) For purposes of s. 71.04 (7) (df) ~~and, (dh), (dj), and (dk),~~ “domicile”
19 means an individual’s true, fixed, and permanent home where the individual intends
20 to remain permanently and indefinitely and to which, whenever absent, the
21 individual intends to return, except that no individual may have more than one
22 domicile at any time.

23 **SECTION 76.** 71.01 (5n) of the statutes is created to read:

SENATE BILL 62

1 71.01 (5n) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “intangible expenses”
2 include the following, to the extent that the amounts would otherwise be deductible
3 in computing Wisconsin adjusted gross income:

4 (a) Expenses, losses, and costs for, related to, or directly or indirectly in
5 connection with the acquisition, use, maintenance, management, ownership, sale,
6 exchange, or any other disposition of intangible property.

7 (b) Losses related to, or incurred in connection directly or indirectly with,
8 factoring transactions or discounting transactions.

9 (c) Royalty, patent, technical, and copyright fees.

10 (d) Licensing fees.

11 (e) Other similar expenses, losses, and costs.

12 **SECTION 77.** 71.01 (5p) of the statutes is created to read:

13 71.01 (5p) “Intangible property” includes stocks, bonds, financial instruments,
14 patents, patent applications, trade names, trademarks, service marks, copyrights,
15 mask works, trade secrets, and similar types of intangible assets.

16 **SECTION 78.** 71.01 (7v) of the statutes is created to read:

17 71.01 (7v) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “management fees”
18 include expenses and costs, not including interest expenses, pertaining to accounts
19 receivable, accounts payable, employee benefit plans, insurance, legal matters,
20 payroll, data processing, purchasing, taxation, financial matters, securities,
21 accounting, or reporting and compliance matters or similar activities, to the extent
22 that the amounts would otherwise be deductible in the computation of Wisconsin
23 adjusted gross income.

24 **SECTION 79.** 71.01 (10g) of the statutes is amended to read:

SENATE BILL 62**SECTION 79**

1 71.01 **(10g)** For purposes of s. 71.04 (7) (df) and, (dh), (dj), and (dk), “state”
2 means a state of the United States, the District of Columbia, the commonwealth of
3 Puerto Rico, or any territory or possession of the United States, unless the context
4 requires that “state” means only the state of Wisconsin.

5 **SECTION 80.** 71.04 (7) (d) of the statutes is repealed.

6 **SECTION 81.** 71.04 (7) (dj) of the statutes is created to read:

7 71.04 **(7)** (dj) 1. Except as provided in par. (df), gross royalties and other gross
8 receipts received for the use or license of intangible property, including patents,
9 copyrights, trademarks, trade names, service names, franchises, licenses, plans,
10 specifications, blueprints, processes, techniques, formulas, designs, layouts,
11 patterns, drawings, manuals, technical know-how, contracts, and customer lists, are
12 sales in this state if any of the following applies:

13 a. The purchaser or licensee uses the intangible property in the operation of a
14 trade or business at a location in this state. If the purchaser or licensee uses the
15 intangible property in the operation of a trade or business in more than one state,
16 the gross royalties and other gross receipts from the use of the intangible property
17 shall be divided between those states having jurisdiction to impose an income tax on
18 the taxpayer in proportion to the use of the intangible property in those states.

19 b. The purchaser or licensee is billed for the purchase or license of the use of
20 the intangible property at a location in this state.

21 c. The purchaser or licensee of the use of the intangible property has its
22 commercial domicile in this state.

23 2. If the taxpayer is not within the jurisdiction, for income or franchise tax
24 purposes, in the state in which the gross royalties or other gross receipts are
25 apportioned under this paragraph, but the taxpayer’s commercial domicile is in this

SENATE BILL 62

1 state, 50 percent of those gross royalties or other gross receipts shall be included in
2 the numerator of the sales factor.

3 **SECTION 82.** 71.04 (7) (dk) of the statutes is created to read:

4 71.04 (7) (dk) 1. Sales of intangible property, excluding securities, are sales in
5 this state if any of the following applies:

6 a. The purchaser uses the intangible property in the regular course of business
7 operations in this state or for personal use in this state. If the purchaser uses the
8 intangible property in more than one state, the sales shall be divided between those
9 states having jurisdiction to impose an income tax on the taxpayer in proportion to
10 the use of the intangible property in those states.

11 b. The purchaser is billed for the purchase of the intangible property at a
12 location in this state.

13 c. The purchaser of the intangible property has its commercial domicile in this
14 state.

15 2. If the taxpayer is not within the jurisdiction, for income or franchise tax
16 purposes, in the state in which the sales of intangible property are apportioned under
17 this paragraph, but the taxpayer's commercial domicile is in this state, 50 percent
18 of those gross receipts shall be included in the numerator of the sales factor.

19 **SECTION 83.** 71.04 (8) (a) of the statutes is renumbered 71.04 (8) (a) 1.

20 **SECTION 84.** 71.04 (8) (a) 2. of the statutes is created to read:

21 71.04 (8) (a) 2. As used in this section, "financial organization" includes any
22 subsidiary of an entity described in subd. 1., if a significant purpose for the
23 subsidiary is to hold investments or if the subsidiary primarily functions to hold
24 investments.

25 **SECTION 85.** 71.05 (6) (a) 15. of the statutes is amended to read:

SENATE BILL 62**SECTION 85**

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t),
3 (3w), (5e), (5f), (5h), (5i), (5j), and (5k) and not passed through by a partnership,
4 limited liability company, or tax-option corporation that has added that amount to
5 the partnership's, company's, or tax-option corporation's income under s. 71.21 (4)
6 or 71.34 (1k) (g).

7 **SECTION 86.** 71.05 (6) (a) 24. of the statutes is amended to read:

8 71.05 (6) (a) 24. The amount deducted or excluded under the Internal Revenue
9 Code for interest expenses ~~and~~, rental expenses, intangible expenses, and
10 management fees that are directly or indirectly paid, accrued, or incurred to, or in
11 connection directly or indirectly with one or more direct or indirect transactions with,
12 one or more related entities.

13 **SECTION 87.** 71.05 (6) (b) 46. of the statutes is amended to read:

14 71.05 (6) (b) 46. An amount added, pursuant to par. (a) 24. or s. 71.26 (2) (a) 7.,
15 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid
16 interest expenses ~~or~~, rental expenses, intangible expenses, or management fees to
17 the individual or fiduciary, to the extent that the related entity could not offset such
18 amount with the deduction allowable under subd. 45. or s. 71.26 (2) (a) 8., 71.34 (1k)
19 (k), or 71.45 (2) (a) 17.

20 **SECTION 88.** 71.07 (2dr) (a) of the statutes is amended to read:

21 71.07 (2dr) (a) *Credit.* Any person may credit against taxes otherwise due
22 under this chapter an amount equal to 5% of the amount obtained by subtracting
23 from the person's qualified research expenses, as defined in section 41 of the internal
24 revenue code, except that "qualified research expenses" include only expenses
25 incurred by the claimant in a development zone under subch. VI of ch. 560, except

SENATE BILL 62

1 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
2 Internal Revenue Code and that election applies until the department permits its
3 revocation and except that “qualified research expenses” do not include
4 compensation used in computing the credit under sub. (2dj) nor research expenses
5 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
6 person’s base amount, as defined in section 41 (c) of the internal revenue code, in a
7 development zone, except that gross receipts used in calculating the base amount
8 means gross receipts from sales attributable to Wisconsin under s. 71.04 (7) (b) 1. and
9 2., ~~(d)~~, (df) 1. and 2., and (dh) 1., 2., and 3., (dj) 1. and (dk) 1. and research expenses
10 used in calculating the base amount include research expenses incurred before the
11 claimant is certified for tax benefits under s. 560.765 (3), in a development zone, if
12 the claimant submits with the claimant’s return a copy of the claimant’s certification
13 for tax benefits under s. 560.765 (3) and a statement from the department of
14 commerce verifying the claimant’s qualified research expenses for research
15 conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to
16 the credit under this paragraph. The rules under sub. (2di) (f) and (g), as they apply
17 to the credit under that subsection, apply to claims under this paragraph. Section
18 41 (h) of the internal revenue code does not apply to the credit under this paragraph.

19 **SECTION 89.** 71.07 (2dy) of the statutes is created to read:

20 71.07 **(2dy)** ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this
21 subsection, “claimant” means a person who files a claim under this subsection and
22 is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

23 (b) *Filing claims.* Subject to the limitations under this subsection and ss.
24 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant

SENATE BILL 62**SECTION 89**

1 may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the
2 amount of the tax, the amount authorized for the claimant under s. 560.703.

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

7 2. Partnerships, limited liability companies, and tax-option corporations may
8 not claim the credit under this subsection, but the eligibility for, and the amount of,
9 the credit are based on their authorization to claim tax benefits under s. 560.703.
10 A partnership, limited liability company, or tax-option corporation shall compute
11 the amount of credit that each of its partners, members, or shareholders may claim
12 and shall provide that information to each of them. Partners, members of limited
13 liability companies, and shareholders of tax-option corporations may claim the
14 credit in proportion to their ownership interests.

15 (d) *Administration.* 1. Except as provided in subd. 2., s. 71.28 (4) (e) and (f),
16 as it applies to the credit under s. 71.28 (4), applies to the credit under this
17 subsection.

18 2. If a claimant's certification is revoked under s. 560.705, or if a claimant
19 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim
20 credits under this subsection for the taxable year that includes the day on which the
21 certification is revoked; the taxable year that includes the day on which the claimant
22 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may
23 not carry over unused credits from previous years to offset the tax imposed under s.
24 71.02 or 71.08 for the taxable year that includes the day on which certification is

SENATE BILL 62

1 revoked; the taxable year that includes the day on which the claimant becomes
2 ineligible for tax benefits; or succeeding taxable years.

3 3. Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
4 applies to the credit under this subsection.

5 **SECTION 90.** 71.07 (3p) (a) 1m. of the statutes is created to read:

6 71.07 (3p) (a) 1m. “Dairy cooperative” means a business organized under ch.
7 185 or 193 for the purpose of obtaining or processing milk.

8 **SECTION 91.** 71.07 (3p) (a) 3. (intro.) of the statutes is amended to read:

9 71.07 (3p) (a) 3. (intro.) “Dairy manufacturing modernization or expansion”
10 means constructing, improving, or acquiring buildings or facilities, or acquiring
11 equipment, for dairy manufacturing, including the following, if used exclusively for
12 dairy manufacturing and if acquired and placed in service in this state during
13 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
14 the case of dairy cooperatives, if acquired and placed in service in this state during
15 taxable years that begin after December 31, 2008, and before January 1, 2017:

16 **SECTION 92.** 71.07 (3p) (b) of the statutes is amended to read:

17 71.07 (3p) (b) *Filing claims.* Subject to the limitations provided in this
18 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
19 beginning after December 31, 2006, and before January 1, 2015, a claimant may
20 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount
21 of the tax, an amount equal to 10 percent of the amount the claimant paid in the
22 taxable year for dairy manufacturing modernization or expansion related to the
23 claimant’s dairy manufacturing operation.

24 **SECTION 93.** 71.07 (3p) (c) 2m. b. of the statutes is amended to read:

SENATE BILL 62**SECTION 93**

1 71.07 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
2 by all claimants, other than members of dairy cooperatives, under this subsection
3 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year
4 thereafter, is \$700,000, as allocated under s. 560.207.

5 **SECTION 94.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

6 71.07 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
7 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47
8 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the
9 maximum amount of the credits that may be claimed by members of dairy
10 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year
11 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
12 560.207.

13 **SECTION 95.** 71.07 (3p) (c) 3. of the statutes is amended to read:

14 71.07 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option
15 corporations, and dairy cooperatives may not claim the credit under this subsection,
16 but the eligibility for, and the amount of, the credit are based on their payment of
17 expenses under par. (b), except that the aggregate amount of credits that the entity
18 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
19 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or
20 dairy cooperative shall compute the amount of credit that each of its partners,
21 members, or shareholders may claim and shall provide that information to each of
22 them. Partners, members of limited liability companies, and shareholders of
23 tax-option corporations may claim the credit in proportion to their ownership
24 interest. Members of a dairy cooperative may claim the credit in proportion to the

SENATE BILL 62

1 amount of milk that each member delivers to the dairy cooperative, as determined
2 by the dairy cooperative.

3 **SECTION 96.** 71.07 (3p) (c) 5. of the statutes is created to read:

4 71.07 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
5 the credit, based on amounts described under par. (b) that are paid by the dairy
6 cooperative, for taxable years beginning after December 31, 2008, and before
7 January 1, 2017.

8 **SECTION 97.** 71.07 (3p) (c) 6. of the statutes is created to read:

9 71.07 (3p) (c) 6. No credit may be allowed under this subsection unless the
10 claimant submits with the claimant's return a copy of the claimant's credit
11 certification and allocation under s. 560.207.

12 **SECTION 98.** 71.07 (3p) (d) 2. of the statutes is amended to read:

13 71.07 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
14 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~
15 ~~tax is due under s. 71.02 or 71.08,~~ the amount of the claim not used to offset the tax
16 due shall be certified by the department of revenue to the department of
17 administration for payment by check, share draft, or other draft drawn from the
18 appropriation account under s. 20.835 (2) (bn).

19 **SECTION 99.** 71.07 (3p) (d) 3. of the statutes is created to read:

20 71.07 (3p) (d) 3. With regard to claims that are based on amounts described
21 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
22 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the
23 amount of the claim not used to offset the tax due shall be certified by the department
24 of revenue to the department of administration for payment by check, share draft,
25 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

SENATE BILL 62**SECTION 100**

1 **SECTION 100.** 71.07 (3r) of the statutes is created to read:

2 71.07 (3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this
3 subsection:

4 1. “Claimant” means a person who files a claim under this subsection.

5 2. “Meat processing” means processing livestock into meat products or
6 processing meat products for sale commercially.

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

12 a. Building construction, including livestock handling, product intake, storage,
13 and warehouse facilities.

14 b. Building additions.

15 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
16 and waste facilities.

17 d. Livestock intake and storage equipment.

18 e. Processing and manufacturing equipment, including cutting equipment,
19 mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking
20 equipment, pipes, motors, pumps, and valves.

21 f. Packaging and handling equipment, including sealing, bagging, boxing,
22 labeling, conveying, and product movement equipment.

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

SENATE BILL 62**SECTION 100**

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

4 i. Computer software and hardware used for managing the claimant's meat
5 processing operation, including software and hardware related to logistics,
6 inventory management, production plant controls, and temperature monitoring
7 controls.

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

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
11 560.208, for taxable years beginning after December 31, 2008, and before January
12 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.02
13 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount
14 the claimant paid in the taxable year for meat processing modernization or
15 expansion related to the claimant's meat processing operation.

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

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

21 3. a. The maximum amount of the credits that may be allocated under this
22 subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2009-10 is \$300,000, as
23 allocated under s. 560.208.

SENATE BILL 62**SECTION 100**

1 b. The maximum amount of the credits that may be allocated under this
2 subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2010–11, and in each fiscal
3 year thereafter, is \$700,000, as allocated under s. 560.208.

4 4. Partnerships, limited liability companies, and tax–option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of expenses under par. (b), except that the
7 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
8 A partnership, limited liability company, or tax–option corporation shall compute
9 the amount of credit that each of its partners, members, or shareholders may claim
10 and shall provide that information to each of them. Partners, members of limited
11 liability companies, and shareholders of tax–option corporations may claim the
12 credit in proportion to their ownership interest.

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

17 6. No credit may be allowed under this subsection unless the claimant submits
18 with the claimant’s return a copy of the claimant’s credit certification and allocation
19 under s. 560.208.

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

22 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
23 due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due
24 shall be certified by the department of revenue to the department of administration

SENATE BILL 62**SECTION 100**

1 for payment by check, share draft, or other draft drawn from the appropriation
2 account under s. 20.835 (2) (bd).

3 **SECTION 101.** 71.07 (5b) (c) 1. of the statutes is repealed.

4 **SECTION 102.** 71.07 (5b) (c) 2. of the statutes is renumbered 71.07 (5b) (c).

5 **SECTION 103.** 71.07 (5d) (b) of the statutes is renumbered 71.07 (5d) (b) (intro.)
6 and amended to read:

7 71.07 (5d) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
8 subsection and in s. 560.205, a claimant may claim as a credit against the tax
9 imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

10 1. For taxable years beginning before January 1, 2008, in each taxable year for
11 2 consecutive years, beginning with the taxable year as certified by the department
12 of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel
13 investment made directly in a qualified new business venture.

14 **SECTION 104.** 71.07 (5d) (b) 2. of the statutes is created to read:

15 71.07 (5d) (b) 2. For taxable years beginning after December 31, 2007, for the
16 taxable year certified by the department of commerce, an amount equal to 25 percent
17 of the claimant's bona fide angel investment made directly in a qualified new
18 business venture.

19 **SECTION 105.** 71.07 (5d) (c) 2. of the statutes is amended to read:

20 71.07 (5d) (c) 2. ~~The~~ For taxable years beginning before January 1, 2008, the
21 maximum amount of a claimant's investment that may be used as the basis for a
22 credit under this subsection is \$2,000,000 for each investment made directly in a
23 business certified under s. 560.205 (1).

24 **SECTION 106.** 71.07 (5e) (b) of the statutes is amended to read:

SENATE BILL 62**SECTION 106**

1 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
3 taxable year following the taxable year in which the claimant claims ~~an exemption~~
4 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
5 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
6 taxable year for 2 years, the amount of sales and use tax certified by the department
7 of commerce that resulted from the claimant ~~elaimed as an exemption~~ claiming a
8 deduction under s. ~~77.54 (48)~~ 77.585 (9).

9 **SECTION 107.** 71.07 (5e) (c) 1. of the statutes is amended to read:

10 71.07 (5e) (c) 1. No credit may be allowed under this subsection unless the
11 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

12 **SECTION 108.** 71.07 (5e) (c) 3. of the statutes is amended to read:

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

17 **SECTION 109.** 71.08 (1) (intro.) of the statutes is amended to read:

18 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
19 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
20 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (2fd), (3m), (3n),
21 (3p), (3r), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de),
22 (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47
23 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and (3w),
24 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
25 the tax under this section, there is imposed on that natural person, married couple

SENATE BILL 62**SECTION 109**

1 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
2 minimum tax computed as follows:

3 **SECTION 110.** 71.10 (1) of the statutes is amended to read:

4 71.10 (1) ALLOCATION OF GROSS INCOME, DEDUCTIONS, CREDITS BETWEEN 2 OR MORE
5 BUSINESSES. In any case of 2 or more organizations, trades or businesses (whether or
6 not incorporated, whether or not organized in the United States and, whether or not
7 affiliated, and whether or not unitary) owned or controlled directly or indirectly by
8 the same interests, the secretary or the secretary's delegate may distribute,
9 apportion or allocate gross income, deductions, credits or allowances between or
10 among such organizations, trades or businesses, if the secretary determines that
11 such distribution, apportionment or allocation is necessary in order to prevent
12 evasion of taxes or clearly to reflect the income of any of such organizations, trades
13 or businesses. The authority granted under this subsection is in addition to, and not
14 a limitation of or dependent on, the provisions of ss. 71.05 (6) (a) 24. and (b) 45., 71.26
15 (2) (a) 7. and 8., 71.34 (1k) (j) and (k), 71.45 (2) (a) 16. and 17., and 71.80 (23).

16 **SECTION 111.** 71.10 (1m) of the statutes is created to read:

17 71.10 (1m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person,
18 directly or indirectly, engages in a transaction or series of transactions without
19 economic substance to create a loss or to reduce taxable income or to increase credits
20 allowed in determining Wisconsin tax, the department shall determine the amount
21 of a taxpayer's taxable income or tax so as to reflect what would have been the
22 taxpayer's taxable income or tax if not for the transaction or transactions without
23 economic substance causing the reduction in taxable income or tax.

24 (b) A transaction has economic substance only if the taxpayer shows all of the
25 following:

SENATE BILL 62**SECTION 111**

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

3 2. The taxpayer has a substantial nontax purpose for entering into the
4 transaction and the transaction is a reasonable means of accomplishing the
5 substantial nontax purpose. A transaction has a substantial nontax purpose if it has
6 substantial potential for profit, disregarding any tax effects.

7 (c) With respect to transactions between members of a controlled group as
8 defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall
9 be presumed to lack economic substance and the taxpayer shall bear the burden of
10 establishing by clear and convincing evidence that a transaction or a series of
11 transactions between the taxpayer and one or more members of the controlled group
12 has economic substance.

13 **SECTION 112.** 71.10 (4) (gv) of the statutes is created to read:

14 71.10 (4) (gv) Economic development tax credit under s. 71.07 (2dy).

15 **SECTION 113.** 71.10 (4) (i) of the statutes is amended to read:

16 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
17 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
18 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
19 71.07 (2fd), dairy manufacturing facility investment credit under s. 71.07 (3p), meat
20 processing facility investment credit under s. 71.07 (3r), film production services
21 credit under s. 71.07 (5f) (b) 2., veterans and surviving spouses property tax credit
22 under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), earned income tax
23 credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld
24 under subch. X.

25 **SECTION 114.** 71.21 (4) of the statutes is amended to read:

SENATE BILL 62**SECTION 114**

1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t), (3w), (5e),
3 (5f), (5g), (5h), (5i), (5j), and (5k) and passed through to partners shall be added to
4 the partnership's income.

5 **SECTION 115.** 71.22 (1g) of the statutes is amended to read:

6 71.22 (1g) For purposes of s. 71.25 (9) (df) and, (dh), (dj), and (dk), "commercial
7 domicile" means the location from which a trade or business is principally managed
8 and directed, based on any factors the department determines are appropriate,
9 including the location where the greatest number of employees of the trade or
10 business work, have their office or base of operations, or from which the employees
11 are directed or controlled.

12 **SECTION 116.** 71.22 (1r) of the statutes is amended to read:

13 71.22 (1r) "Doing business in this state" includes issuing credit, debit, or travel
14 and entertainment cards to customers in this state; regularly selling products or
15 services of any kind or nature to customers in this state that receive the product or
16 service in this state; regularly soliciting business from potential customers in this
17 state; regularly performing services outside this state for which the benefits are
18 received in this state; regularly engaging in transactions with customers in this state
19 that involve intangible property and result in receipts flowing to the taxpayer from
20 within this state; holding loans secured by real or tangible personal property located
21 in this state; owning, directly or indirectly, a general or limited partnership interest
22 in a partnership that does business in this state, regardless of the percentage of
23 ownership; and owning, directly or indirectly, an interest in a limited liability
24 company that does business in this state, regardless of the percentage of ownership,

SENATE BILL 62**SECTION 116**

1 if the limited liability company is treated as a partnership for federal income tax
2 purposes.

3 **SECTION 117.** 71.22 (1t) of the statutes is amended to read:

4 71.22 (1t) For purposes of s. 71.25 (9) (df) ~~and~~, (dh), (dj), and (dk), “domicile”
5 means an individual’s true, fixed, and permanent home where the individual intends
6 to remain permanently and indefinitely and to which, whenever absent, the
7 individual intends to return, except that no individual may have more than one
8 domicile at any time.

9 **SECTION 118.** 71.22 (3g) of the statutes is created to read:

10 71.22 (3g) For purposes of ss. 71.26 (2) (a) 7. and 9. and 71.255 (2) (d) 1.,
11 “intangible expenses” include the following, to the extent that the amounts would
12 otherwise be deductible in determining net income under the Internal Revenue Code
13 as modified under s. 71.26 (3):

14 (a) Expenses, losses, and costs for, related to, or directly or indirectly in
15 connection with the acquisition, use, maintenance, management, ownership, sale,
16 exchange, or any other disposition of intangible property.

17 (b) Losses related to, or incurred in connection directly or indirectly with,
18 factoring transactions or discounting transactions.

19 (c) Royalty, patent, technical, and copyright fees.

20 (d) Licensing fees.

21 (e) Other similar expenses, losses, and costs.

22 **SECTION 119.** 71.22 (3h) of the statutes is created to read:

23 71.22 (3h) “Intangible property” includes stocks, bonds, financial instruments,
24 patents, patent applications, trade names, trademarks, service marks, copyrights,
25 mask works, trade secrets, and similar types of intangible assets.

SENATE BILL 62

1 **SECTION 120.** 71.22 (3m) of the statutes is amended to read:

2 71.22 **(3m)** For purposes of s. ~~ss.~~ 71.26 (2) (a) 7. and 9. and 71.255 (2) (d) 1.,
3 “interest expenses” means interest that would otherwise be deductible under section
4 163 of the Internal Revenue Code, as modified under s. 71.26 (3).

5 **SECTION 121.** 71.22 (6d) of the statutes is created to read:

6 71.22 **(6d)** For purposes of s. 71.26 (2) (a) 7. and 9., “management fees” include
7 expenses and costs, not including interest expenses, pertaining to accounts
8 receivable, accounts payable, employee benefit plans, insurance, legal matters,
9 payroll, data processing, purchasing, taxation, financial matters, securities,
10 accounting, or reporting and compliance matters or similar activities, to the extent
11 that the amounts would otherwise be deductible in determining net income under
12 the Internal Revenue Code as modified by s. 71.26 (3).

13 **SECTION 122.** 71.22 (9g) of the statutes is amended to read:

14 71.22 **(9g)** For purposes of s. 71.25 (9) (df) ~~and~~, (dh), (dj), and (dk), “state” means
15 a state of the United States, the District of Columbia, the commonwealth of Puerto
16 Rico, or any territory or possession of the United States, unless the context requires
17 that “state” means only the state of Wisconsin.

18 **SECTION 123.** 71.25 (intro.) of the statutes is amended to read:

19 **71.25 Situs of income; allocation and apportionment.** (intro.) For
20 purposes of determining the situs of income under this section and s. 71.255 (5) (a)
21 1. and 2.:

22 **SECTION 124.** 71.25 (5) (b) 1. of the statutes is renumbered 71.25 (5) (b).

23 **SECTION 125.** 71.25 (5) (b) 2. of the statutes is repealed.

24 **SECTION 126.** 71.25 (9) (d) of the statutes is repealed.

25 **SECTION 127.** 71.25 (9) (dj) of the statutes is created to read:

SENATE BILL 62**SECTION 127**

1 71.25 (9) (dj) 1. Except as provided in par. (df), gross royalties and other gross
2 receipts received for the use or license of intangible property, including patents,
3 copyrights, trademarks, trade names, service names, franchises, licenses, plans,
4 specifications, blueprints, processes, techniques, formulas, designs, layouts,
5 patterns, drawings, manuals, technical know-how, contracts, and customer lists, are
6 sales in this state if any of the following applies:

7 a. The purchaser or licensee uses the intangible property in the operation of a
8 trade or business at a location in this state. If the purchaser or licensee uses the
9 intangible property in the operation of a trade or business in more than one state,
10 the gross royalties and other gross receipts from the use of the intangible property
11 shall be divided between those states having jurisdiction to impose an income tax on
12 the taxpayer in proportion to the use of the intangible property in those states.

13 b. The purchaser or licensee is billed for the purchase or license of the use of
14 the intangible property at a location in this state.

15 c. The purchaser or licensee of the use of the intangible property has its
16 commercial domicile in this state.

17 2. If the taxpayer is not within the jurisdiction, for income or franchise tax
18 purposes, in the state in which the gross royalties or other gross receipts are
19 apportioned under this paragraph, but the taxpayer's commercial domicile is in this
20 state, 50 percent of those gross royalties or other gross receipts shall be included in
21 the numerator of the sales factor.

22 **SECTION 128.** 71.25 (9) (dk) of the statutes is created to read:

23 71.25 (9) (dk) 1. Sales of intangible property, excluding securities, are sales in
24 this state if any of the following applies:

SENATE BILL 62

1 a. The purchaser uses the intangible property in the regular course of business
2 operations in this state or for personal use in this state. If the purchaser uses the
3 intangible property in more than one state, the sales shall be divided between those
4 states having jurisdiction to impose an income tax on the taxpayer in proportion to
5 the use of the intangible property in those states.

6 b. The purchaser is billed for the purchase of the intangible property at a
7 location in this state.

8 c. The purchaser of the intangible property has its commercial domicile in this
9 state.

10 2. If the taxpayer is not within the jurisdiction, for income or franchise tax
11 purposes, in the state in which the sales of intangible property are apportioned under
12 this paragraph, but the taxpayer's commercial domicile is in this state, 50 percent
13 of those gross receipts shall be included in the numerator of the sales factor.

14 **SECTION 129.** 71.25 (10) (a) of the statutes is renumbered 71.25 (10) (a) 1.

15 **SECTION 130.** 71.25 (10) (a) 2. of the statutes is created to read:

16 71.25 (10) (a) 2. As used in this section, "financial organization" includes any
17 subsidiary of an entity described in subd. 1., if a significant purpose for the
18 subsidiary is to hold investments or if the subsidiary primarily functions to hold
19 investments.

20 **SECTION 131.** 71.255 of the statutes is created to read:

21 **71.255 Combined Reporting. (1) DEFINITIONS.** In this section:

22 (a) "Combined group" means the group of all persons whose income and
23 apportionment factors are required to be taken into account under sub. (2) to
24 determine a member's share of the net business income or loss apportionable to this
25 state that is attributable to a unitary business.

SENATE BILL 62**SECTION 131**

1 (b) “Combined report” means a report in the form and manner prescribed by
2 the department that specifies a combined group’s income from the unitary business,
3 apportionment factors attributable to the unitary business, and any other tax return
4 information prescribed by the department.

5 (c) “Commonly controlled group” means any of the following:

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

13 2. Any 2 or more corporations if a common owner, regardless of whether the
14 owner is a corporate entity, directly or indirectly owns stock representing more than
15 50 percent of the voting power of the corporations or connected corporations.

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

18 4. Any 2 or more corporations if stock representing more than 50 percent of the
19 voting power in each corporation is directly owned by, or for the benefit of, family
20 members. In this subdivision, “family member” means an individual related by
21 blood, marriage, or adoption within the 3rd degree of kinship, as computed under s.
22 990.001 (16), or the spouse of such individual.

23 (d) “Consolidated foreign operating corporation” means a corporation that, for
24 the taxable year, satisfies all of the following conditions:

25 1. It is a member of a unitary business.

SENATE BILL 62

1 2. It is included in the same federal consolidated return as at least one other
2 corporation in that unitary business.

3 3. It has active foreign business income, as defined in section 861 (c) (1) B of
4 the Internal Revenue Code, in an amount that is 80 percent or more of the
5 corporation's worldwide income.

6 (e) "Corporation" means any corporation, as defined in s. 71.22 (1k), wherever
7 located, which if it were doing business in this state would be subject to this chapter.
8 "Corporation" does not include a tax-option corporation.

9 (f) "Department" means the department of revenue.

10 (g) "Doing business in this state" has the meaning given in s. 71.22 (1r).

11 (h) "Domestic" means incorporated, organized, or created in the United States
12 or under the laws of the United States or any state.

13 (i) "File" has the meaning given in s. 71.22 (2m).

14 (j) "Foreign" means not incorporated, organized, or created in the United States
15 or under the laws of the United States or any state.

16 (k) "Intangible expenses" has the meaning given in s. 71.22 (3g) for corporations
17 taxable under this subchapter and the meaning given in s. 71.42 (1sg) for
18 corporations taxable under subch. VII.

19 (L) "Interest expenses" has the meaning given in s. 71.22 (3m) for corporations
20 taxable under this subchapter and the meaning given in s. 71.42 (1t) for corporations
21 taxable under subch. VII.

22 (m) "Pass-through entity" means a general or limited partnership, an
23 organization of any kind treated as a partnership for tax purposes under this
24 chapter, a tax-option corporation, a real estate investment trust, a regulated

SENATE BILL 62**SECTION 131**

1 investment company, a real estate mortgage investment conduit, a financial asset
2 securitization investment trust, a trust, or an estate.

3 (n) “Unitary business” means a single economic enterprise that is made up
4 either of separate parts of a single business entity, of multiple business entities that
5 are related under section 267 or 1563 of the Internal Revenue Code, or of a commonly
6 controlled group of business entities that are sufficiently interdependent,
7 integrated, and interrelated through their activities so as to provide a synergy and
8 mutual benefit that produces a sharing or exchange of value among them and a
9 significant flow of value to the separate parts. Two or more business entities are
10 presumed to be a unitary business if the businesses have unity of ownership,
11 operation, and use as indicated by a centralized management or a centralized
12 executive force; centralized purchasing, advertising, or accounting; intercorporate
13 sales or leases; intercorporate services, including administrative, employee benefits,
14 human resources, legal, financial, and cash management services; intercorporate
15 debts; intercorporate use of proprietary materials; interlocking directorates; or
16 interlocking corporate officers. In no event and under no circumstances shall the
17 preceding sentence be construed as exclusive of any and all other factors indicative
18 of a unitary business. For purposes of this section, the term “unitary business” shall
19 be broadly construed, to the extent permitted by the U.S. Constitution. The members
20 of a combined group shall be jointly and severally liable for costs, penalties, interests,
21 and taxes associated with the combined report. Any business conducted by a
22 pass-through entity that is owned directly or indirectly by a corporation shall be
23 treated as conducted by the corporation, to the extent of the corporation’s distributive
24 share of the pass-through entity’s income, regardless of the percentage of the
25 corporation’s ownership interest. A business conducted directly or indirectly by one

SENATE BILL 62

1 corporation is unitary with that portion of a business conducted by another
2 corporation through its direct or indirect interest in a pass-through entity if there
3 is a synergy and exchange and flow of value between the 2 parts of the business and
4 the 2 corporations are members of the same commonly controlled group.

5 (2) CORPORATIONS REQUIRED TO USE COMBINED REPORTING. (a) A corporation, not
6 including a corporation of which all its income is exempt from taxation under s. 71.26
7 (1), engaged in a unitary business with one or more other corporations shall report
8 its share of income from that unitary business in the amount determined by a
9 combined report filed by a designated agent of the unitary business, as determined
10 under sub. (7). The combined report shall include the income, determined under sub.
11 (3), and apportionment factor or factors determined under sub. (5), of every
12 corporation engaged in the unitary business, except as provided in pars. (b) to (f).

13 (b) A foreign corporation that is a combined group member shall include in the
14 combined report income that is derived only from sources within the United States
15 as provided in sections 861 to 865 of the Internal Revenue Code. The foreign
16 corporation shall include in the combined report its apportionment factor or factors
17 related only to that income.

18 (c) Except as provided in par. (d), if 80 percent or more of a corporation's
19 worldwide income is active foreign business income, as defined in section 861 (c) (1)
20 (B) of the Internal Revenue Code, the income and apportionment factor or factors of
21 the corporation shall not be included in the combined report, but the corporation
22 shall compute and allocate or apportion its income from the unitary business
23 separately.

24 (d) The combined report of the unitary business of which a consolidated foreign
25 operating corporation is a member shall include, and the separate return filed by the

SENATE BILL 62**SECTION 131**

1 consolidated foreign operating corporation shall exclude, the following amounts, to
2 the extent that they are attributable to the unitary business:

3 1. An income amount equal to the interest expenses and intangible expenses
4 that are paid, accrued, or incurred by any combined group member to or for the
5 benefit of the consolidated foreign operating corporation, except to the extent such
6 amounts constitute income to the consolidated foreign operating corporation from
7 sources outside the United States under sections 861 to 865 of the Internal Revenue
8 Code.

9 2. To the extent that the amounts were not included under subd. 1., interest
10 income and income generated from intangible property received or accrued by the
11 consolidated foreign operating corporation, except to the extent such amounts
12 constitute income from sources outside the United States under sections 861 to 865
13 of the Internal Revenue Code. For purposes of this subdivision, income generated
14 from intangible property includes income related to the direct or indirect acquisition,
15 use, maintenance, management, ownership, sale, exchange, or any other disposition
16 of intangible property; income from factoring transactions or discounting
17 transactions; royalty, patent, technical, and copyright fees; licensing fees; and other
18 similar income.

19 3. Dividends paid or accrued by a real estate investment trust to the
20 consolidated foreign operating corporation, if the real estate investment trust is not
21 a qualified real estate investment trust as defined in s. 71.22 (9ad) and the dividend
22 income is from sources within the United States under sections 861 to 865 of the
23 Internal Revenue Code.

24 4. Income of the consolidated foreign operating corporation that is equal to
25 gains derived from the sale of real or personal property located in the United States.

SENATE BILL 62**SECTION 131**

1 5. The apportionment factor or factors attributable to the income described in
2 subds 1. to 4.

3 (e) Except for the amounts in par. (d), a consolidated foreign operating
4 corporation shall compute and allocate or apportion its income from the unitary
5 business separately.

6 (f) 1. The department may require that a combined report include the income
7 and associated apportionment factor or factors of any person who is not otherwise
8 included in a combined group under this subsection, but who is a member of a unitary
9 business, in order to reflect proper apportionment of income of the entire unitary
10 business. The department may require that a combined report include the income
11 and associated apportionment factor or factors of persons that are not corporations.

12 2. If the department determines that the reported income or loss of a member
13 of a combined group engaged in a unitary business with any person not otherwise
14 included in the combined group under this subsection represents an avoidance or
15 evasion of tax by the person or the combined group member, the department may
16 require all or any part of the income or loss and associated apportionment factor or
17 factors of the person be included in or excluded from the combined report for the
18 unitary business or may require the use of a different apportionment factor or
19 factors. The department may require that a combined report include or exclude the
20 income or loss and associated apportionment factor or factors of persons that are not
21 corporations.

22 3. The authority granted under this paragraph is in addition to, and not a
23 limitation of or dependent on, the provisions in this chapter enacted to prevent tax
24 avoidance or evasion or to clearly reflect the income of any person. Any
25 determination by the department under this paragraph is presumed correct and the

SENATE BILL 62**SECTION 131**

1 person challenging the determination has the burden of proving by clear and
2 convincing evidence that the determination is incorrect.

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

5 (a) Its share of any business income apportionable to this state of each of the
6 combined groups of which it is a member, as determined under subs. (4) and (5). For
7 financial organizations, as defined in ss. 71.04 (8) (a) and 71.25 (10) (a), business
8 income includes interest, dividends, and receipts from investments of any kind. For
9 purposes of this section, a financial organization shall treat the expenses associated
10 with an investment as business expenses.

11 (b) Its share of any business income apportionable to this state of a distinct
12 business activity conducted within and outside the state wholly by the member, as
13 determined under s. 71.25 or 71.45.

14 (c) Its income from a business conducted wholly by the member entirely within
15 the state.

16 (d) Its income sourced to this state from the sale or exchange of capital assets,
17 and from involuntary conversions, as determined under sub. (4) (i).

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

19 (f) Its income that is realized from the purchase and subsequent sale or
20 redemption of lottery prizes, if the winning tickets were originally bought in this
21 state.

22 (g) Its income or loss allocated or apportioned in an earlier year, required to be
23 taken into account as state source income or loss during the taxable year, other than
24 a net business loss carry-forward.

25 (h) Its net business loss carry-forward, as determined under sub. (6).

SENATE BILL 62**SECTION 131**

1 **(4) BUSINESS INCOME OF THE COMBINED GROUP.** (a) The business income of a
2 combined group is the sum of the income of each member of the combined group as
3 determined under the Internal Revenue Code, as modified under s. 71.26 or 71.45,
4 and except as provided under pars. (b) to (j). If a unitary business includes income
5 from a pass-through entity, the pass-through entity income to be included in the
6 total income of the combined group shall be the member of the combined group's
7 direct and indirect distributive share of the pass-through entity's unitary business
8 income.

9 (b) 1. Subtract any apportionable income of a distinct business activity
10 conducted within and outside the state wholly by the member, income from a
11 business conducted wholly by the member entirely within this state, the member's
12 nonbusiness income, the member's income realized from the purchase and
13 subsequent sale or redemption of lottery prizes if the winning tickets were originally
14 bought in this state, and its income allocated or apportioned in an earlier year
15 required to be taken into account as state source income during the taxable year.

16 2. Add any apportionable expense or loss of a distinct business activity
17 conducted within and outside the state wholly by the member, expense or loss from
18 a business conducted wholly by the member entirely within this state, the member's
19 nonbusiness expense or loss, its loss allocated or apportioned in an earlier year
20 required to be taken into account as state source loss during the taxable year, and
21 its net business loss carry-forward, except as provided in par. (e).

22 (c) For combined group members that are consolidated foreign operating
23 corporations, include only the income described in sub. (2) (d) 2. to 4. A combined
24 group may deduct expenses properly attributable to a consolidated foreign operating

SENATE BILL 62**SECTION 131**

1 corporation's income described in sub. (2) (d) 2. to 4., subject to ss. 71.30 (2) and (2m)
2 and 71.80 (1) (b) and (1m).

3 (d) The modifications provided under ss. 71.26 (2) (a) 7., 8., and 9. and 71.45
4 (2) (a) 16., 17., and 18. shall not apply with respect to interest expenses or intangible
5 expenses paid, accrued, or incurred by a combined group member to or for the benefit
6 of a consolidated foreign operating corporation.

7 (e) Subtract any pre-apportionment net business loss carry-forward
8 deduction, as provided in sub. (6) (b).

9 (f) Except as provided in sub. (2) (d) 3. and except if the modification under s.
10 71.26 (3) (j) applies, dividends paid by one combined group member to another shall
11 be, to the extent that the dividends are paid out of the earnings and profits of the
12 unitary business included in the combined report, whether in the current taxable
13 year or in a prior taxable year, subtracted from the income of the recipient. This
14 paragraph does not apply to dividends received from members of the unitary
15 business that were not part of the combined group during the calendar year
16 preceding the receipt of the dividends.

17 (g) Except as otherwise provided by rule, business income or loss from an
18 intercompany transaction between members of the same combined group shall be
19 deferred as provided under U.S. Treasury Regulation 1.1502-13. Upon the
20 occurrence of any of the following events, deferred business income or loss resulting
21 from an intercompany transaction between members of a combined group shall be
22 included in the income of the seller and shall be apportioned as business income or
23 loss recognized immediately before the event:

24 1. The object of the deferred intercompany transaction is resold by the buyer
25 to an entity that is not a member of the combined group.

SENATE BILL 62**SECTION 131**

1 2. The object of the deferred intercompany transaction is resold by the buyer
2 to an entity that is a member of the combined group for use outside the unitary
3 business in which the buyer and seller are engaged.

4 3. The object of the deferred intercompany transaction is converted by the
5 buyer or is otherwise transferred to a use outside the unitary business in which the
6 buyer and seller are engaged.

7 4. The buyer and seller are no longer members of the same combined group,
8 regardless of whether the members are in the same unitary business.

9 (h) A charitable expense incurred by a member of a combined group shall, to
10 the extent allowable as a deduction under section 170 of the Internal Revenue Code,
11 be subtracted first from the business income of the combined group, subject to the
12 income limitations of that section as applied to the entire business income of the
13 combined group, and any remaining amount shall then be treated as a nonbusiness
14 expense allocable to the member that incurred the expense, subject to the income
15 limitations of that section applied to the nonbusiness income of that specific member.
16 Any charitable deduction disallowed under this paragraph, but allowed as a
17 carryover deduction in a subsequent year, shall be treated as originally incurred in
18 the subsequent year by the same member and this paragraph shall apply in the
19 subsequent year in determining the allowable deduction in that year.

20 (i) Gain or loss from the sale or exchange of capital assets, property described
21 by section 1231 (a) (3) of the Internal Revenue Code, and property subject to an
22 involuntary conversion, shall be removed from the total separate net income of each
23 member of a combined group and shall be apportioned and allocated as follows:

24 1. For short-term capital gains or losses, long-term capital gains or losses,
25 gains or losses under section 1231 of the Internal Revenue Code, and involuntary

SENATE BILL 62**SECTION 131**

1 conversions, all combined group members' business gains and losses shall be
2 combined within each class, and each class of net business gain or loss separately
3 apportioned to each member using the member's apportionment factor or factors
4 determined under sub. (5).

5 2. Each member shall then net its apportioned business gain or loss for all
6 classes, including any such apportioned business gain and loss from other combined
7 groups, against the member's nonbusiness gain and loss for all classes allocated to
8 this state, as provided under sections 1222 and 1231 of the Internal Revenue Code,
9 without regard to any of the member's gains or losses from the sale or exchange of
10 capital assets, property described under section 1231 of the Internal Revenue Code,
11 and involuntary conversions that are nonbusiness items allocated to another state.

12 3. Any state source income or loss, if the loss is not subject to the limitations
13 of section 1211 of the Internal Revenue Code, of a member that results from the
14 application of subds. 1. and 2. shall then be applied to all other state source income
15 or loss of that member.

16 4. Any state source loss of a member that is subject to the limitations of section
17 1211 of the Internal Revenue Code shall be carried forward or carried back by that
18 member and shall be treated as state source short-term capital loss incurred by that
19 member for the year for which the carry-forward or carry-back applies.

20 (j) Any expense of one member of the combined group that is directly or
21 indirectly attributable to the nonbusiness or exempt income of another member of
22 the unitary business shall be allocated to that other member of the unitary business
23 as corresponding nonbusiness or exempt expense, as appropriate.

24 **(5) MEMBER'S SHARE OF BUSINESS INCOME OF THE COMBINED GROUP.** (a) For
25 purposes of this subsection, each member of a combined group is doing business in

SENATE BILL 62**SECTION 131**

1 this state if any member of the combined group is doing business in this state and
2 that business relates to the combined group's unitary business. Except as provided
3 in par. (b), a taxpayer's share of the business income apportionable to this state of
4 each combined group of which it is a member shall be the product of the business
5 income of the combined group as determined under sub. (4) and the taxpayer's
6 modified sales factor from the combined group, determined as follows:

7 1. For a member that is subject to apportionment under s. 71.25 (9), the
8 numerator of the modified sales factor includes the member's sales associated with
9 the combined group's unitary business in this state. Sales under s. 71.25 (9) (b) 2m.
10 and 3. and (c) shall be included in the numerator of the modified sales factor if no
11 member of the combined group is within the jurisdiction of the destination state for
12 income or franchise tax purposes.

13 2. For a member that is subject to apportionment using a receipts factor under
14 the department's rules pursuant to s. 71.25 (10), the numerator of the modified sales
15 factor includes the member's Wisconsin receipts associated with the combined
16 group's unitary business in this state, as provided by such rules.

17 3. For a member that is subject to apportionment under s. 71.45 (3), the
18 numerator of the modified sales factor includes the member's premiums that are
19 associated with the combined group's unitary business in this state.

20 4. The denominator of the modified sales factor shall include the denominator
21 of the sales factor for each combined group member described in subd. 1., the
22 denominator of the receipts factor for each combined group member described in
23 subd. 2., and the denominator of the premiums factor for each combined group
24 member described in subd. 3.

SENATE BILL 62**SECTION 131**

1 5. For a member that is required under the department's rules to use an
2 apportionment factor or factors other than the sales factor, receipts factor, or
3 premiums factor, the numerator of the modified sales factor for such member is its
4 Wisconsin apportionment percentage on a separate entity basis based on the rules
5 prescribed by the department, multiplied by the member's total sales, as defined in
6 s. 71.25 (9) (e) and (f). The denominator of the modified sales factor for such member
7 is the member's total sales as defined in s. 71.25 (9) (e) and (f).

8 6. The numerator and denominator, described in subds. 1. to 5., shall include
9 the sales, receipts, or premiums of pass-through entities that are owned directly or
10 indirectly by a corporation in proportion to a ratio the numerator of which is the
11 amount of the corporation's distributive share of the pass-through entity's unitary
12 business income included in the income of the combined group under sub. (4) and the
13 denominator of which is the amount of the pass-through entity's total unitary
14 business income.

15 7. The modified sales factor shall exclude transactions between members of the
16 same combined group.

17 8. For purposes of determining the numerator of the modified sales factor or
18 any apportionment factor or factors determined under par. (b), a taxpayer is
19 considered to be within the jurisdiction for income or franchise tax purposes of any
20 state in which any member of its combined group is within the jurisdiction for income
21 or franchise tax purposes.

22 (b) If 2 or more members of a combined group would in the absence of this
23 section be required to use differing apportionment formulas from one another, and
24 if the business income of the combined group derived from business transacted in
25 this state of that combined group cannot be ascertained with reasonable certainty

SENATE BILL 62**SECTION 131**

1 by use of the modified sales factor as provided in par. (a), the combined group may
2 petition the department to use a different apportionment computation for the
3 combined report. This paragraph does not apply if less than 30 percent of the
4 business income of the combined group would in the absence of this section be
5 required to be apportioned using a factor or factors other than a single sales factor,
6 a single receipts factor, or a single premiums factor. The department shall deny the
7 petition if the taxpayer cannot show, by clear and convincing evidence, that the
8 apportionment methods described in this subsection do not clearly reflect the income
9 of the unitary business attributable to this state.

10 **(6) CREDITS, NET BUSINESS LOSSES, AND POST-APPORTIONMENT DEDUCTIONS.** (a)
11 Except as provided in par. (b), no tax credit, Wisconsin net business loss
12 carry-forward, or other post-apportionment deduction earned by one member of the
13 combined group, but not fully used by or allowed to that member, may be used in
14 whole or in part by another member of the combined group or applied in whole or in
15 part against the total income of the combined group. A member of a combined group
16 may use a carry-forward of a credit, Wisconsin net business loss carry-forward, or
17 other post-apportionment deduction otherwise allowable under s. 71.26 or 71.45,
18 that was incurred by that same member in a taxable year beginning before the
19 effective date of this paragraph [LRB inserts date].

20 (b) A combined group member's share of a Wisconsin net business loss
21 computed on a combined report for a taxable year beginning on or after the effective
22 date of this paragraph [LRB inserts date], is subject to the carry-forward period
23 and limitations provided in s. 71.26 (4), if the member is subject to tax under this
24 subchapter, or s. 71.45 (4), if the member is subject to tax under subchapter VII. A

SENATE BILL 62**SECTION 131**

1 member may use such Wisconsin net business loss, or share it among the members
2 of the unitary business filing the combined report, as follows:

3 1. For the taxable year in which the Wisconsin net business loss from the
4 unitary business is generated, such loss shall first be offset by the member against
5 its Wisconsin income for that same taxable year from sources other than the unitary
6 business. In subsequent years, the member shall offset such loss first against income
7 from that same unitary business in the manner described in subd. 2. and then from
8 sources other than the unitary business.

9 2. If the member is included in the combined report of the same unitary
10 business for the taxable year for which the member will offset the loss, the member
11 shall convert its Wisconsin net business loss carry-forward attributable to the
12 unitary business to a pre-apportionment net business loss carry-forward in the
13 manner described in subd. 3. and offset it against the combined group's business
14 income computed under sub. (4). Any amount of pre-apportionment net business
15 loss carry-forward not offset by the combined group's business income shall be
16 converted back to a Wisconsin net business loss carry-forward in the manner
17 described in subd. 4. and offset against the member's income, if any, from sources
18 other than the unitary business. The carry-forward period and limitations set forth
19 in ss. 71.26 (4) and 71.45 (4) shall apply in the same manner as if the loss was not
20 converted to a pre-apportionment net business loss carry-forward before used.

21 3. For purposes of subd. 2, the pre-apportionment net business loss
22 carry-forward for each year for which a combined group member has available
23 Wisconsin net business loss is the member's apportioned share of the Wisconsin net
24 business loss computed on the combined report for the year in which the loss was

SENATE BILL 62

1 generated, divided by the member's Wisconsin apportionment percentage computed
2 on that same combined report.

3 4. A combined group member's pre-apportionment net business loss
4 carry-forward computed under subd. 3, but not used, shall be converted back to a
5 Wisconsin net business loss carry-forward by multiplying the member's apportioned
6 share of the remaining Wisconsin net business loss computed on the combined report
7 for the year in which the loss was generated by the member's Wisconsin
8 apportionment percentage computed on that same combined report.

9 5. Except as provided by the department by rule, if a corporation may no longer
10 be included in the combined report, as determined under this section, that
11 corporation's share of Wisconsin net business loss carry-forward from the combined
12 group may not be shared among or transferred to any other members of the combined
13 group or members of other combined groups, but the corporation may claim the loss
14 carry-forward against its own income attributable to other unitary businesses or
15 other sources of income, subject to the limitations under ss. 71.26 (4) or 71.45 (4).

16 **(7) DESIGNATED AGENT.** (a) Each combined group shall have one designated
17 agent. The designated agent is the parent corporation of the combined group. If
18 there is no such parent corporation, the designated agent may be appointed by the
19 members. If there is no such parent corporation and no member is appointed, the
20 designated agent is the member that has the most significant operations in this state
21 on a recurring basis, as determined by the department. The designated agent may
22 change only when the designated agent is no longer a member of the combined group,
23 in which case the succeeding designated agent shall notify the department of the
24 change in the manner prescribed by the department.

SENATE BILL 62**SECTION 131**

1 (b) Only the designated agent may act on behalf of the members of the combined
2 group for matters relating to the combined report. The designated agent's
3 responsibilities include:

4 1. Filing a combined report under sub. (2) (a).

5 2. Filing any extension under s. 71.24 or 71.44.

6 3. Filing any amended combined reports or claims for refunds or credits.

7 4. Sending and receiving all correspondence with the department regarding the
8 combined report.

9 5. Remitting all taxes, including estimated taxes, to the department. For
10 purposes of computing interest on late payments, all payments remitted are deemed
11 to be made on a pro rata basis by all members of the combined group, unless
12 otherwise specified by the designated agent.

13 6. Participating on behalf of the combined group members in any investigation
14 or hearing requested by the department regarding a combined report, producing all
15 information requested by the department regarding the combined report, and filing
16 any appeal related to the combined report, investigation, or hearing. Any appeal
17 filed by the designated agent shall be considered to be filed by all members of the
18 combined group.

19 7. Executing waivers, closing agreements, powers of attorney, and other
20 documents as necessary or required regarding the combined report filed under sub.
21 (2) (a). Any waiver, agreement, power of attorney, or document executed by the
22 designated agent shall be considered as executed by all members of the combined
23 group.

SENATE BILL 62**SECTION 131**

1 8. Receiving notices regarding the combined report. Any such notice the
2 designated agent receives is considered received by all members of the combined
3 group.

4 9. Receiving refunds relating to the combined report. Any such refund shall
5 be paid to and in the name of the designated agent and shall discharge any liability
6 of the state to any member of the combined group regarding the refund.

7 10. Other responsibilities as determined by rule by the department.

8 (c) Acts contrary to those described in par. (b) are unauthorized acts that do not
9 bind the department in any manner. The department may choose to receive the
10 benefits or assume the obligations of any such unauthorized acts. The department
11 is bound by acts contrary to those described in par. (b) only if the department takes
12 affirmative steps to expressly manifest its intent to receive the benefits or assume
13 the obligations of any such acts. If the department takes such affirmative steps to
14 ratify an unauthorized act, the unauthorized act relates back to the time of the
15 unauthorized act.

16 (d) The department may relieve the designated agent from any of the duties
17 described in par. (b). Unless the department provides for such relief by rule, a
18 designated agent shall obtain written approval from the department to be relieved
19 of the duties described in par. (b).

20 **(8) TAXABLE YEAR OF COMBINED GROUP.** The combined group's taxable year is
21 determined as follows:

22 (a) If 2 or more members of a combined group file a federal consolidated return,
23 the combined group's taxable year is the taxable year of the federal consolidated
24 group. In all other cases, the taxable year is the taxable year of the designated agent
25 under sub. (7).

SENATE BILL 62**SECTION 131**

1 (b) If a taxable year of a member of a combined group differs from the taxable
2 year of the combined group, the designated agent shall elect to determine the portion
3 of that member's income to be included in one of the following ways:

4 1. A separate income statement prepared from the books and records for the
5 months included in the combined group's taxable year.

6 2. Including all of the income for the year that ends during the combined group's
7 taxable year.

8 (c) For corporations that are subject to an election under par. (b), the same
9 election shall be made for each member of the combined group subject to the election,
10 the same election shall be made in each succeeding year, and the election is
11 irrevocable except upon written approval by the department.

12 **(9) PART-YEAR MEMBERS OF A COMBINED GROUP.** If a corporation becomes a
13 member of a combined group or ceases to be a member of a combined group after the
14 beginning of the taxable year of the combined group, the corporation's income shall
15 be determined as provided under subs. (3), (4), and (5) for the portion of the year in
16 which the corporation was a member of the combined group and that income shall
17 be included in the combined report. The income for the remaining short period shall
18 be reported on a separate return or separate combined report.

19 **(10) TRANSITION.** The department shall deem timely paid the estimated tax
20 payments attributable to income includable in the combined report for installments
21 that become due during the period beginning on January 1, 2009, and ending on the
22 effective date of this subsection ... [LRB inserts date], provided that such estimated
23 tax payments are paid by the next installment due date that follows in sequence
24 following the effective date of this subsection ... [LRB inserts date]. However, if the
25 next installment due date that follows in sequence following the effective date of this

SENATE BILL 62**SECTION 131**

1 subsection [LRB inserts date], is less than 45 days after the effective date of this
2 subsection [LRB inserts date], such estimated tax payments, in addition to the
3 payment due less than 45 days after the effective date of this subsection [LRB
4 inserts date], shall be deemed timely paid if paid by the next subsequent installment
5 due date.

6 **SECTION 132.** 71.26 (2) (a) 4. of the statutes is amended to read:

7 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
8 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), ~~(1dy)~~, (3g), (3h), (3n), (3p), ~~(3r)~~, (3t), (3w),
9 (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and not passed through by a partnership,
10 limited liability company, or tax-option corporation that has added that amount to
11 the partnership's, limited liability company's, or tax-option corporation's income
12 under s. 71.21 (4) or 71.34 (1k) (g).

13 **SECTION 133.** 71.26 (2) (a) 7. of the statutes is amended to read:

14 71.26 (2) (a) 7. Plus the amount deducted or excluded under the Internal
15 Revenue Code for interest expenses and, rental expenses, intangible expenses, and
16 management fees that are directly or indirectly paid, accrued, or incurred to, or in
17 connection directly or indirectly with one or more direct or indirect transactions with,
18 one or more related entities.

19 **SECTION 134.** 71.26 (2) (a) 9. of the statutes is amended to read:

20 71.26 (2) (a) 9. Minus the amount added, pursuant to subd. 7. or s. 71.05 (6) (a)
21 24., 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that
22 paid interest expenses ~~or~~, rental expenses, intangible expenses, or management fees
23 to the corporation, to the extent that the related entity could not offset such amount
24 with the deduction allowable under subd. 8. or s. 71.05 (6) (b) 45., 71.34 (1k) (k), or
25 71.45 (2) (a) 17.

SENATE BILL 62**SECTION 135**

1 **SECTION 135.** 71.26 (3) (x) of the statutes is amended to read:

2 71.26 (3) (x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to
3 consolidated returns) are excluded, except that U.S. Treasury Regulation 1.1502-13,
4 relating to deferred gain or loss from an intercompany transaction, applies to
5 transactions between combined group members under s. 71.255 (4) (g).

6 **SECTION 136.** 71.28 (1dy) of the statutes is created to read:

7 71.28 (1dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this
8 subsection, “claimant” means a person who files a claim under this subsection and
9 is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

10 (b) *Filing claims.* Subject to the limitations under this subsection and ss.
11 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant
12 may claim as a credit against the tax imposed under s. 71.23, up to the amount of the
13 tax, the amount authorized for the claimant under s. 560.703.

14 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
15 claimant includes with the claimant’s return a copy of the claimant’s certification
16 under s. 560.701 (2) and a copy of the claimant’s notice of eligibility to receive tax
17 benefits under s. 560.703 (3).

18 2. Partnerships, limited liability companies, and tax-option corporations may
19 not claim the credit under this subsection, but the eligibility for, and the amount of,
20 the credit are based on their authorization to claim tax benefits under s. 560.703.
21 A partnership, limited liability company, or tax-option corporation shall compute
22 the amount of credit that each of its partners, members, or shareholders may claim
23 and shall provide that information to each of them. Partners, members of limited
24 liability companies, and shareholders of tax-option corporations may claim the
25 credit in proportion to their ownership interests.

SENATE BILL 62**SECTION 136**

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

3 2. If a claimant's certification is revoked under s. 560.705, or if a claimant
4 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim
5 credits under this subsection for the taxable year that includes the day on which the
6 certification is revoked; the taxable year that includes the day on which the claimant
7 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may
8 not carry over unused credits from previous years to offset the tax imposed under s.
9 71.23 for the taxable year that includes the day on which certification is revoked; the
10 taxable year that includes the day on which the claimant becomes ineligible for tax
11 benefits; or succeeding taxable years.

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

14 **SECTION 137.** 71.28 (3p) (a) 1m. of the statutes is created to read:

15 71.28 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.
16 185 or 193 for the purpose of obtaining or processing milk.

17 **SECTION 138.** 71.28 (3p) (a) 3. (intro.) of the statutes is amended to read:

18 71.28 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"
19 means constructing, improving, or acquiring buildings or facilities, or acquiring
20 equipment, for dairy manufacturing, including the following, if used exclusively for
21 dairy manufacturing and if acquired and placed in service in this state during
22 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
23 the case of dairy cooperatives, if acquired and placed in service in this state during
24 taxable years that begin after December 31, 2008, and before January 1, 2017:

25 **SECTION 139.** 71.28 (3p) (b) of the statutes is amended to read:

SENATE BILL 62**SECTION 139**

1 71.28 (3p) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
3 beginning after December 31, 2006, and before January 1, 2015, a claimant may
4 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the
5 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
6 year for dairy manufacturing modernization or expansion related to the claimant's
7 dairy manufacturing operation.

8 **SECTION 140.** 71.28 (3p) (c) 2m. b. of the statutes is amended to read:

9 71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
10 by all claimants, other than members of dairy cooperatives, under this subsection
11 and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year
12 thereafter, is \$700,000, as allocated under s. 560.207.

13 **SECTION 141.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

14 71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
15 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47
16 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the
17 maximum amount of the credits that may be claimed by members of dairy
18 cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year
19 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
20 560.207.

21 **SECTION 142.** 71.28 (3p) (c) 3. of the statutes is amended to read:

22 71.28 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option
23 corporations, and dairy cooperatives may not claim the credit under this subsection,
24 but the eligibility for, and the amount of, the credit are based on their payment of
25 expenses under par. (b), except that the aggregate amount of credits that the entity

SENATE BILL 62**SECTION 142**

1 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing
2 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or
3 dairy cooperative shall compute the amount of credit that each of its partners,
4 members, or shareholders may claim and shall provide that information to each of
5 them. Partners, members of limited liability companies, and shareholders of
6 tax-option corporations may claim the credit in proportion to their ownership
7 interest. Members of a dairy cooperative may claim the credit in proportion to the
8 amount of milk that each member delivers to the dairy cooperative, as determined
9 by the dairy cooperative.

10 **SECTION 143.** 71.28 (3p) (c) 5. of the statutes is created to read:

11 71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
12 the credit, based on amounts described under par. (b) that are paid by the dairy
13 cooperative, for taxable years beginning after December 31, 2008, and before
14 January 1, 2017.

15 **SECTION 144.** 71.28 (3p) (c) 6. of the statutes is created to read:

16 71.28 (3p) (c) 6. No credit may be allowed under this subsection unless the
17 claimant submits with the claimant's return a copy of the claimant's credit
18 certification and allocation under s. 560.207.

19 **SECTION 145.** 71.28 (3p) (d) 2. of the statutes is amended to read:

20 71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
21 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~
22 ~~under s. 71.23~~, the amount of the claim not used to offset the tax due shall be certified
23 by the department of revenue to the department of administration for payment by
24 check, share draft, or other draft drawn from the appropriation account under s.
25 20.835 (2) (bn).

SENATE BILL 62**SECTION 146**

1 **SECTION 146.** 71.28 (3p) (d) 3. of the statutes is created to read:

2 71.28 **(3p)** (d) 3. With regard to claims that are based on amounts described
3 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
4 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the
5 claim not used to offset the tax due shall be certified by the department of revenue
6 to the department of administration for payment by check, share draft, or other draft
7 drawn from the appropriation account under s. 20.835 (2) (bp).

8 **SECTION 147.** 71.28 (3r) of the statutes is created to read:

9 71.28 **(3r)** MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this
10 subsection:

11 1. “Claimant” means a person who files a claim under this subsection.

12 2. “Meat processing” means processing livestock into meat products or
13 processing meat products for sale commercially.

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

19 a. Building construction, including livestock handling, product intake, storage,
20 and warehouse facilities.

21 b. Building additions.

22 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
23 and waste facilities.

24 d. Livestock intake and storage equipment.

SENATE BILL 62

1 e. Processing and manufacturing equipment, including cutting equipment,
2 mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking
3 equipment, pipes, motors, pumps, and valves.

4 f. Packaging and handling equipment, including sealing, bagging, boxing,
5 labeling, conveying, and product movement equipment.

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

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

10 i. Computer software and hardware used for managing the claimant's meat
11 processing operation, including software and hardware related to logistics,
12 inventory management, production plant controls, and temperature monitoring
13 controls.

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

16 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
17 560.208, for taxable years beginning after December 31, 2008, and before January
18 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.23,
19 up to the amount of the tax, an amount equal to 10 percent of the amount the
20 claimant paid in the taxable year for meat processing modernization or expansion
21 related to the claimant's meat processing operation.

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

SENATE BILL 62**SECTION 147**

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

3 3. a. The maximum amount of the credits that may be allocated under this
4 subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2009–10 is \$300,000, as
5 allocated under s. 560.208.

6 b. The maximum amount of the credits that may be allocated under this
7 subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2010–11, and in each fiscal
8 year thereafter, is \$700,000, as allocated under s. 560.208.

9 4. Partnerships, limited liability companies, and tax–option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their payment of expenses under par. (b), except that the
12 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
13 A partnership, limited liability company, or tax–option corporation shall compute
14 the amount of credit that each of its partners, members, or shareholders may claim
15 and shall provide that information to each of them. Partners, members of limited
16 liability companies, and shareholders of tax–option corporations may claim the
17 credit in proportion to their ownership interest.

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

22 6. No credit may be allowed under this subsection unless the claimant submits
23 with the claimant’s return a copy of the claimant’s credit certification and allocation
24 under s. 560.208.

SENATE BILL 62

1 (d) *Administration*. 1. Subsection (4) (e), (g), and (h), as it applies to the credit
2 under sub. (4), applies to the credit under this subsection.

3 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
4 due under s. 71.23, the amount of the claim not used to offset the tax due shall be
5 certified by the department of revenue to the department of administration for
6 payment by check, share draft, or other draft drawn from the appropriation account
7 under s. 20.835 (2) (bd).

8 **SECTION 148.** 71.28 (4) (ad) 1. of the statutes is amended to read:

9 71.28 (4) (ad) 1. Except as provided in subds. 2. and 3., any corporation may
10 credit against taxes otherwise due under this chapter an amount equal to 5 percent
11 of the amount obtained by subtracting from the corporation's qualified research
12 expenses, as defined in section 41 of the Internal Revenue Code, except that
13 "qualified research expenses" includes only expenses incurred by the claimant,
14 incurred for research conducted in this state for the taxable year, except that a
15 taxpayer may elect the alternative computation under section 41 (c) (4) of the
16 Internal Revenue Code and that election applies until the department permits its
17 revocation, except as provided in par. (af), and except that "qualified research
18 expenses" does not include compensation used in computing the credit under subs.
19 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
20 Internal Revenue Code, except that gross receipts used in calculating the base
21 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
22 (b) 1. and 2., ~~(d), (df) 1. and 2., and (dh) 1., 2., and 3., (dj) 1., and (dk) 1.~~ Section 41
23 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

24 **SECTION 149.** 71.28 (4) (ad) 2. of the statutes is amended to read:

SENATE BILL 62**SECTION 149**

1 71.28 (4) (ad) 2. For taxable years beginning after June 30, 2007, any
2 corporation may credit against taxes otherwise due under this chapter an amount
3 equal to 10 percent of the amount obtained by subtracting from the corporation's
4 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
5 except that "qualified research expenses" includes only expenses incurred by the
6 claimant for research related to designing internal combustion engines for vehicles,
7 including expenses related to designing vehicles that are powered by such engines
8 and improving production processes for such engines and vehicles, incurred for
9 research conducted in this state for the taxable year, except that a taxpayer may elect
10 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
11 and that election applies until the department permits its revocation, except as
12 provided in par. (af), and except that "qualified research expenses" does not include
13 compensation used in computing the credit under subs. (1dj) and (1dx), the
14 corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code,
15 except that gross receipts used in calculating the base amount means gross receipts
16 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (df) 1. and~~
17 2., (dh) 1., 2., and 3., (dj) 1., and (dk) 1. Section 41 (h) of the Internal Revenue Code
18 does not apply to the credit under this paragraph.

19 **SECTION 150.** 71.28 (4) (ad) 3. of the statutes is amended to read:

20 71.28 (4) (ad) 3. For taxable years beginning after June 30, 2007, any
21 corporation may credit against taxes otherwise due under this chapter an amount
22 equal to 10 percent of the amount obtained by subtracting from the corporation's
23 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
24 except that "qualified research expenses" includes only expenses incurred by the
25 claimant for research related to the design and manufacturing of energy efficient

SENATE BILL 62**SECTION 150**

1 lighting systems, building automation and control systems, or automotive batteries
2 for use in hybrid-electric vehicles, that reduce the demand for natural gas or
3 electricity or improve the efficiency of its use, incurred for research conducted in this
4 state for the taxable year, except that a taxpayer may elect the alternative
5 computation under section 41 (c) (4) of the Internal Revenue Code and that election
6 applies until the department permits its revocation, except as provided in par. (af),
7 and except that “qualified research expenses” does not include compensation used
8 in computing the credit under subs. (1dj) and (1dx), the corporation’s base amount,
9 as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts
10 used in calculating the base amount means gross receipts from sales attributable to
11 Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (df), 1. and 2., (dh) 1., 2., and 3., (dj)~~
12 1., and (dk) 1. Section 41 (h) of the Internal Revenue Code does not apply to the credit
13 under this paragraph.

14 **SECTION 151.** 71.28 (4) (am) 1. of the statutes is amended to read:

15 71.28 (4) (am) 1. In addition to the credit under par. (ad), any corporation may
16 credit against taxes otherwise due under this chapter an amount equal to 5 percent
17 of the amount obtained by subtracting from the corporation’s qualified research
18 expenses, as defined in section 41 of the Internal Revenue Code, except that
19 “qualified research expenses” include only expenses incurred by the claimant in a
20 development zone under subch. VI of ch. 560, except that a taxpayer may elect the
21 alternative computation under section 41 (c) (4) of the Internal Revenue Code and
22 that election applies until the department permits its revocation and except that
23 “qualified research expenses” do not include compensation used in computing the
24 credit under sub. (1dj) nor research expenses incurred before the claimant is certified
25 for tax benefits under s. 560.765 (3), the corporation’s base amount, as defined in

SENATE BILL 62**SECTION 151**

1 section 41 (c) of the Internal Revenue Code, in a development zone, except that gross
2 receipts used in calculating the base amount means gross receipts from sales
3 attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., ~~(d)~~, (df) 1. and 2., and (dh)
4 1., 2., and 3., (dj) 1., and (dk) 1. and research expenses used in calculating the base
5 amount include research expenses incurred before the claimant is certified for tax
6 benefits under s. 560.765 (3), in a development zone, if the claimant submits with the
7 claimant's return a copy of the claimant's certification for tax benefits under s.
8 560.765 (3) and a statement from the department of commerce verifying the
9 claimant's qualified research expenses for research conducted exclusively in a
10 development zone. The rules under s. 73.03 (35) apply to the credit under this
11 subdivision. The rules under sub. (1di) (f) and (g) as they apply to the credit under
12 that subsection apply to claims under this subdivision. Section 41 (h) of the Internal
13 Revenue Code does not apply to the credit under this subdivision.

14 **SECTION 152.** 71.28 (5b) (c) 1. of the statutes is repealed.

15 **SECTION 153.** 71.28 (5b) (c) 2. of the statutes is renumbered 71.28 (5b) (c).

16 **SECTION 154.** 71.28 (5e) (b) of the statutes is amended to read:

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

25 **SECTION 155.** 71.28 (5e) (c) 1. of the statutes is amended to read:

SENATE BILL 62**SECTION 155**

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

3 **SECTION 156.** 71.28 (5e) (c) 3. of the statutes is amended to read:

4 71.28 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
5 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
6 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
7 77.585 (9) is \$7,500,000, as determined by the department of commerce.

8 **SECTION 157.** 71.30 (2) of the statutes is amended to read:

9 71.30 (2) ALLOCATION OF GROSS INCOME, DEDUCTIONS, CREDITS BETWEEN 2 OR MORE
10 BUSINESSES. In any case of 2 or more organizations, trades or businesses (whether or
11 not incorporated, whether or not organized in the United States ~~and~~, whether or not
12 affiliated, and whether or not unitary) owned or controlled directly or indirectly by
13 the same interests, the secretary or his or her delegate may distribute, apportion or
14 allocate gross income, deductions, credits or allowances between or among such
15 organizations, trades or businesses, if he or she determines that such distribution,
16 apportionment or allocation is necessary in order to prevent evasion of taxes or
17 clearly to reflect the income of any of such organizations, trades or businesses. The
18 authority granted under this subsection is in addition to, and not a limitation of or
19 dependent on, the provisions of ss. 71.05 (6) (a) 24. and (b) 45., 71.26 (2) (a) 7. and 8.,
20 71.34 (1k) (j) and (k), 71.45 (2) (a) 16. and 17., and 71.80 (23).

21 **SECTION 158.** 71.30 (2m) of the statutes is created to read:

22 71.30 (2m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person,
23 directly or indirectly, engages in a transaction or series of transactions without
24 economic substance to create a loss or to reduce taxable income or to increase credits
25 allowed in determining Wisconsin tax, the department shall determine the amount

SENATE BILL 62**SECTION 158**

1 of a taxpayer's taxable income or tax so as to reflect what would have been the
2 taxpayer's taxable income or tax if not for the transaction or transactions without
3 economic substance causing the reduction in taxable income or tax.

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

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

8 2. The taxpayer has a substantial nontax purpose for entering into the
9 transaction and the transaction is a reasonable means of accomplishing the
10 substantial nontax purpose. A transaction has a substantial nontax purpose if it has
11 substantial potential for profit, disregarding any tax effects.

12 (c) With respect to transactions between members of a controlled group as
13 defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall
14 be presumed to lack economic substance and the taxpayer shall bear the burden of
15 establishing by clear and convincing evidence that a transaction or a series of
16 transactions between the taxpayer and one or more members of the controlled group
17 has economic substance.

18 **SECTION 159.** 71.30 (3) (em) of the statutes is renumbered 71.30 (3) (eh).

19 **SECTION 160.** 71.30 (3) (ema) of the statutes is created to read:

20 71.30 (3) (ema) Economic development tax credit under s. 71.28 (1dy).

21 **SECTION 161.** 71.30 (3) (emb) of the statutes is renumbered 71.30 (3) (ei).

22 **SECTION 162.** 71.30 (3) (en) of the statutes is renumbered 71.30 (3) (ej).

23 **SECTION 163.** 71.30 (3) (eo) of the statutes is renumbered 71.30 (3) (ek).

24 **SECTION 164.** 71.30 (3) (eom) of the statutes is renumbered 71.30 (3) (eL).

25 **SECTION 165.** 71.30 (3) (f) of the statutes is amended to read:

SENATE BILL 62**SECTION 165**

1 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
2 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
3 s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p),
4 meat processing facility investment credit under s. 71.28 (3r), enterprise zone jobs
5 credit under s. 71.28 (3w), film production services credit under s. 71.28 (5f) (b) 2.,
6 and estimated tax payments under s. 71.29.

7 **SECTION 166.** 71.34 (1c) of the statutes is created to read:

8 71.34 (1c) For purposes of sub. (1k) (j) and (L), "intangible expenses" include
9 the following, to the extent that the amounts would otherwise be deductible in
10 computing Wisconsin adjusted gross income:

11 (a) Expenses, losses, and costs for, related to, or directly or indirectly in
12 connection with the acquisition, use, maintenance, management, ownership, sale,
13 exchange, or any other disposition of intangible property.

14 (b) Losses related to, or incurred in connection directly or indirectly with,
15 factoring transactions or discounting transactions.

16 (c) Royalty, patent, technical, and copyright fees.

17 (d) Licensing fees.

18 (e) Other similar expenses, losses, and costs.

19 **SECTION 167.** 71.34 (1d) of the statutes is created to read:

20 71.34 (1d) "Intangible property" includes stocks, bonds, financial instruments,
21 patents, patent applications, trade names, trademarks, service marks, copyrights,
22 mask works, trade secrets, and similar types of intangible assets.

23 **SECTION 168.** 71.34 (1h) of the statutes is created to read:

24 71.34 (1h) For purposes of sub. (1k) (j) and (L), "management fees" include
25 expenses and costs, not including interest expenses, pertaining to accounts

SENATE BILL 62**SECTION 168**

1 receivable, accounts payable, employee benefit plans, insurance, legal matters,
2 payroll, data processing, purchasing, taxation, financial matters, securities,
3 accounting, or reporting and compliance matters or similar activities, to the extent
4 that the amounts would otherwise be deductible in the computation of Wisconsin
5 adjusted gross income.

6 **SECTION 169.** 71.34 (1k) (g) of the statutes is amended to read:

7 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
9 (3), (3g), (3h), (3n), (3p), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and
10 passed through to shareholders.

11 **SECTION 170.** 71.34 (1k) (j) of the statutes is amended to read:

12 71.34 (1k) (j) An addition shall be made for any amount deducted or excluded
13 under the Internal Revenue Code for interest expenses ~~and~~, rental expenses,
14 intangible expenses, and management fees that are directly or indirectly paid,
15 accrued, or incurred to, or in connection directly or indirectly with one or more direct
16 or indirect transactions with, one or more related entities.

17 **SECTION 171.** 71.34 (1k) (L) of the statutes is amended to read:

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

24 **SECTION 172.** 71.42 (1sg) of the statutes is created to read:

SENATE BILL 62

1 71.42 **(1sg)** For purposes of ss. 71.45 (2) (a) 16. and 18. and 71.255 (2) (d) 1.,
2 “intangible expenses” include the following, to the extent that the amounts would
3 otherwise be deductible in computing net income under the Internal Revenue Code,
4 as adjusted under s. 71.45 (2):

5 (a) Expenses, losses, and costs for, related to, or directly or indirectly in
6 connection with the acquisition, use, maintenance, management, ownership, sale,
7 exchange, or any other disposition of intangible property.

8 (b) Losses related to, or incurred in connection directly or indirectly with,
9 factoring transactions or discounting transactions.

10 (c) Royalty, patent, technical, and copyright fees.

11 (d) Licensing fees.

12 (e) Other similar expenses, losses, and costs.

13 **SECTION 173.** 71.42 (1sh) of the statutes is created to read:

14 71.42 **(1sh)** “Intangible property” includes stocks, bonds, financial
15 instruments, patents, patent applications, trade names, trademarks, service marks,
16 copyrights, mask works, trade secrets, and similar types of intangible assets.

17 **SECTION 174.** 71.42 (1t) of the statutes is amended to read:

18 71.42 **(1t)** For purposes of s. ss. 71.45 (2) (a) 16. and 18. and 71.255 (2) (d) 1.,
19 “interest expenses” means interest that would otherwise be deductible under section
20 163 of the Internal Revenue Code, as adjusted under s. 71.45 (2).

21 **SECTION 175.** 71.42 (3c) of the statutes is created to read:

22 71.42 **(3c)** For purposes of s. 71.45 (2) (a) 16. and 18., “management fees”
23 include expenses and costs, not including interest expenses, pertaining to accounts
24 receivable, accounts payable, employee benefit plans, insurance, legal matters,
25 payroll, data processing, purchasing, taxation, financial matters, securities,

SENATE BILL 62**SECTION 175**

1 accounting, or reporting and compliance matters or similar activities, to the extent
2 that the amounts would otherwise be deductible in determining net income under
3 the Internal Revenue Code as adjusted under s. 71.45 (2).

4 **SECTION 176.** 71.43 (2) of the statutes is amended to read:

5 71.43 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its
6 franchise, buying or selling lottery prizes if the winning tickets were originally
7 bought in this state or doing business in this state in a corporate capacity, except as
8 provided under s. 71.23 (3), every domestic or foreign corporation, except
9 corporations specified in ss. 71.26 (1) and 71.45 (1) (a), shall annually pay a franchise
10 tax according to or measured by its entire Wisconsin net income of the preceding
11 taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in
12 ss. 71.23 (3), 71.26 (1) and 71.45 (1) (a), a corporation that ceases doing business in
13 this state shall pay a special franchise tax according to or measured by its entire
14 Wisconsin net income for the taxable year during which the corporation ceases doing
15 business in this state at the rate under s. 71.46 (2). Every corporation organized
16 under the laws of this state shall be deemed to be residing within this state for the
17 purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to
18 income taxation of corporations shall apply to franchise taxes imposed under this
19 subsection, unless the context requires otherwise. The tax imposed by this
20 subsection on insurance companies subject to taxation under this chapter shall be
21 based on Wisconsin net income computed under s. 71.45, and no other provision of
22 this chapter relating to computation of taxable income for other corporations shall
23 apply to such insurance companies, except for s. 71.255. All other provisions of this
24 chapter shall apply to insurance companies subject to taxation under this chapter
25 unless the context clearly requires otherwise.

SENATE BILL 62

1 **SECTION 177.** 71.45 (2) (a) 10. of the statutes is amended to read:

2 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
3 computed under s. 71.47 (1dd) to ~~(1dx)~~ (1dy), (3h), (3n), (3p), (3r), (3w), (5e), (5f), (5g),
4 (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited liability
5 company, or tax-option corporation that has added that amount to the partnership's,
6 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
7 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
8 (5).

9 **SECTION 178.** 71.45 (2) (a) 16. of the statutes is amended to read:

10 71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or
11 excluded under the Internal Revenue Code for interest expenses ~~and~~, rental
12 expenses, intangible expenses, and management fees that are directly or indirectly
13 paid, accrued, or incurred to, or in connection directly or indirectly with one or more
14 direct or indirect transactions with, one or more related entities.

15 **SECTION 179.** 71.45 (2) (a) 18. of the statutes is amended to read:

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

22 **SECTION 180.** 71.47 (1dy) of the statutes is created to read:

23 71.47 (1dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this
24 subsection, "claimant" means a person who files a claim under this subsection and
25 is certified under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

SENATE BILL 62**SECTION 180**

1 (b) *Filing claims.* Subject to the limitations under this subsection and ss.
2 560.701 to 560.706, for taxable years beginning after December 31, 2008, a claimant
3 may claim as a credit against the tax imposed under s. 71.43, up to the amount of the
4 tax, the amount authorized for the claimant under s. 560.703.

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

9 2. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their authorization to claim tax benefits under s. 560.703.
12 A partnership, limited liability company, or tax-option corporation shall compute
13 the amount of credit that each of its partners, members, or shareholders may claim
14 and shall provide that information to each of them. Partners, members of limited
15 liability companies, and shareholders of tax-option corporations may claim the
16 credit in proportion to their ownership interests.

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

19 2. If a claimant's certification is revoked under s. 560.705, or if a claimant
20 becomes ineligible for tax benefits under s. 560.702, the claimant may not claim
21 credits under this subsection for the taxable year that includes the day on which the
22 certification is revoked; the taxable year that includes the day on which the claimant
23 becomes ineligible for tax benefits; or succeeding taxable years and the claimant may
24 not carry over unused credits from previous years to offset the tax imposed under s.
25 71.43 for the taxable year that includes the day on which certification is revoked; the

SENATE BILL 62**SECTION 180**

1 taxable year that includes the day on which the claimant becomes ineligible for tax
2 benefits; or succeeding taxable years.

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

5 **SECTION 181.** 71.47 (3p) (a) 1m. of the statutes is created to read:

6 71.47 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.
7 185 or 193 for the purpose of obtaining or processing milk.

8 **SECTION 182.** 71.47 (3p) (a) 3. (intro.) of the statutes is amended to read:

9 71.47 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"
10 means constructing, improving, or acquiring buildings or facilities, or acquiring
11 equipment, for dairy manufacturing, including the following, if used exclusively for
12 dairy manufacturing and if acquired and placed in service in this state during
13 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in
14 the case of dairy cooperatives, if acquired and placed in service in this state during
15 taxable years that begin after December 31, 2008, and before January 1, 2017:

16 **SECTION 183.** 71.47 (3p) (b) of the statutes is amended to read:

17 71.47 (3p) (b) *Filing claims.* Subject to the limitations provided in this
18 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years
19 beginning after December 31, 2006, and before January 1, 2015, a claimant may
20 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the
21 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable
22 year for dairy manufacturing modernization or expansion related to the claimant's
23 dairy manufacturing operation.

24 **SECTION 184.** 71.47 (3p) (c) 2m. b. of the statutes is amended to read:

SENATE BILL 62**SECTION 184**

1 71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
2 by all claimants, other than members of dairy cooperatives, under this subsection
3 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008–09, and in each fiscal year
4 thereafter, is \$700,000, as allocated under s. 560.207.

5 **SECTION 185.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

6 71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
7 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28
8 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the
9 maximum amount of the credits that may be claimed by members of dairy
10 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year
11 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.
12 560.207.

13 **SECTION 186.** 71.47 (3p) (c) 3. of the statutes is amended to read:

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

SENATE BILL 62**SECTION 186**

1 amount of milk that each member delivers to the dairy cooperative, as determined
2 by the dairy cooperative.

3 **SECTION 187.** 71.47 (3p) (c) 5. of the statutes is created to read:

4 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim
5 the credit, based on amounts described under par. (b) that are paid by the dairy
6 cooperative, for taxable years beginning after December 31, 2008, and before
7 January 1, 2017.

8 **SECTION 188.** 71.47 (3p) (c) 6. of the statutes is created to read:

9 71.47 (3p) (c) 6. No credit may be allowed under this subsection unless the
10 claimant submits with the claimant's return a copy of the claimant's credit
11 certification and allocation under s. 560.207.

12 **SECTION 189.** 71.47 (3p) (d) 2. of the statutes is amended to read:

13 71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of
14 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~
15 ~~under s. 71.43~~, the amount of the claim not used to offset the tax due shall be certified
16 by the department of revenue to the department of administration for payment by
17 check, share draft, or other draft drawn from the appropriation account under s.
18 20.835 (2) (bn).

19 **SECTION 190.** 71.47 (3p) (d) 3. of the statutes is created to read:

20 71.47 (3p) (d) 3. With regard to claims that are based on amounts described
21 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the
22 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the
23 claim not used to offset the tax due shall be certified by the department of revenue
24 to the department of administration for payment by check, share draft, or other draft
25 drawn from the appropriation account under s. 20.835 (2) (bp).

SENATE BILL 62**SECTION 191**

1 **SECTION 191.** 71.47 (3r) of the statutes is created to read:

2 71.47 (3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this
3 subsection:

4 1. “Claimant” means a person who files a claim under this subsection.

5 2. “Meat processing” means processing livestock into meat products or
6 processing meat products for sale commercially.

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

12 a. Building construction, including livestock handling, product intake, storage,
13 and warehouse facilities.

14 b. Building additions.

15 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
16 and waste facilities.

17 d. Livestock intake and storage equipment.

18 e. Processing and manufacturing equipment, including cutting equipment,
19 mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking
20 equipment, pipes, motors, pumps, and valves.

21 f. Packaging and handling equipment, including sealing, bagging, boxing,
22 labeling, conveying, and product movement equipment.

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

SENATE BILL 62**SECTION 191**

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

4 i. Computer software and hardware used for managing the claimant's meat
5 processing operation, including software and hardware related to logistics,
6 inventory management, production plant controls, and temperature monitoring
7 controls.

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

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
11 560.208, for taxable years beginning after December 31, 2008, and before January
12 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.43,
13 up to the amount of the tax, an amount equal to 10 percent of the amount the
14 claimant paid in the taxable year for meat processing modernization or expansion
15 related to the claimant's meat processing operation.

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

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

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

SENATE BILL 62**SECTION 191**

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

4 4. Partnerships, limited liability companies, and tax–option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of expenses under par. (b), except that the
7 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
8 A partnership, limited liability company, or tax–option corporation shall compute
9 the amount of credit that each of its partners, members, or shareholders may claim
10 and shall provide that information to each of them. Partners, members of limited
11 liability companies, and shareholders of tax–option corporations may claim the
12 credit in proportion to their ownership interest.

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

17 6. No credit may be allowed under this subsection unless the claimant submits
18 with the claimant’s return a copy of the claimant’s credit certification and allocation
19 under s. 560.208.

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

22 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
23 due under s. 71.43, the amount of the claim not used to offset the tax due shall be
24 certified by the department of revenue to the department of administration for

SENATE BILL 62**SECTION 191**

1 payment by check, share draft, or other draft drawn from the appropriation account
2 under s. 20.835 (2) (bd).

3 **SECTION 192.** 71.47 (4) (ad) 1. of the statutes is amended to read:

4 71.47 (4) (ad) 1. Except as provided in subds. 2. and 3., any corporation may
5 credit against taxes otherwise due under this chapter an amount equal to 5 percent
6 of the amount obtained by subtracting from the corporation's qualified research
7 expenses, as defined in section 41 of the Internal Revenue Code, except that
8 "qualified research expenses" includes only expenses incurred by the claimant,
9 incurred for research conducted in this state for the taxable year, except that a
10 taxpayer may elect the alternative computation under section 41 (c) (4) of the
11 Internal Revenue Code and that election applies until the department permits its
12 revocation, except as provided in par. (af), and except that "qualified research
13 expenses" does not include compensation used in computing the credit under subs.
14 (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the
15 Internal Revenue Code, except that gross receipts used in calculating the base
16 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
17 (b) 1. and 2., ~~(d), (df), and 1. and 2.,~~ (dh) 1., 2., and 3., (dj) 1., and (dk) 1. Section 41
18 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

19 **SECTION 193.** 71.47 (4) (ad) 2. of the statutes is amended to read:

20 71.47 (4) (ad) 2. For taxable years beginning after June 30, 2007, any
21 corporation may credit against taxes otherwise due under this chapter an amount
22 equal to 10 percent of the amount obtained by subtracting from the corporation's
23 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
24 except that "qualified research expenses" includes only expenses incurred by the
25 claimant for research related to designing internal combustion engines for vehicles,

SENATE BILL 62**SECTION 193**

1 including expenses related to designing vehicles that are powered by such engines
2 and improving production processes for such engines and vehicles, incurred for
3 research conducted in this state for the taxable year, except that a taxpayer may elect
4 the alternative computation under section 41 (c) (4) of the Internal Revenue Code
5 and that election applies until the department permits its revocation, except as
6 provided in par. (af), and except that “qualified research expenses” does not include
7 compensation used in computing the credit under subs. (1dj) and (1dx), the
8 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
9 except that gross receipts used in calculating the base amount means gross receipts
10 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (df) 1. and~~
11 2., (dh) 1., 2., and 3., (dj) 1., and (dk) 1. Section 41 (h) of the Internal Revenue Code
12 does not apply to the credit under this paragraph.

13 **SECTION 194.** 71.47 (4) (ad) 3. of the statutes is amended to read:

14 71.47 (4) (ad) 3. For taxable years beginning after June 30, 2007, any
15 corporation may credit against taxes otherwise due under this chapter an amount
16 equal to 10 percent of the amount obtained by subtracting from the corporation’s
17 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
18 except that “qualified research expenses” includes only expenses incurred by the
19 claimant for research related to the design and manufacturing of energy efficient
20 lighting systems, building automation and control systems, or automotive batteries
21 for use in hybrid–electric vehicles, that reduce the demand for natural gas or
22 electricity or improve the efficiency of its use, incurred for research conducted in this
23 state for the taxable year, except that a taxpayer may elect the alternative
24 computation under section 41 (c) (4) of the Internal Revenue Code and that election
25 applies until the department permits its revocation, except as provided in par. (af),

SENATE BILL 62**SECTION 194**

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

8 **SECTION 195.** 71.47 (4) (am) of the statutes is amended to read:

9 71.47 (4) (am) *Development zone additional research credit.* In addition to the
10 credit under par. (ad), any corporation may credit against taxes otherwise due under
11 this chapter an amount equal to 5 percent of the amount obtained by subtracting
12 from the corporation’s qualified research expenses, as defined in section 41 of the
13 Internal Revenue Code, except that “qualified research expenses” include only
14 expenses incurred by the claimant in a development zone under subch. VI of ch. 560,
15 except that a taxpayer may elect the alternative computation under section 41 (c) (4)
16 of the Internal Revenue Code and that election applies until the department permits
17 its revocation and except that “qualified research expenses” do not include
18 compensation used in computing the credit under sub. (1dj) nor research expenses
19 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
20 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
21 in a development zone, except that gross receipts used in calculating the base amount
22 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and
23 2., ~~(d), (df), and~~ 1. and 2., (dh) 1., 2., and 3., (dj) 1., and (dk) 1. and research expenses
24 used in calculating the base amount include research expenses incurred before the
25 claimant is certified for tax benefits under s. 560.765 (3), in a development zone, if

SENATE BILL 62**SECTION 195**

1 the claimant submits with the claimant's return a copy of the claimant's certification
2 for tax benefits under s. 560.765 (3) and a statement from the department of
3 commerce verifying the claimant's qualified research expenses for research
4 conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to
5 the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they apply
6 to the credit under that subsection apply to claims under this paragraph. Section 41
7 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.
8 No credit may be claimed under this paragraph for taxable years that begin on
9 January 1, 1998, or thereafter. Credits under this paragraph for taxable years that
10 begin before January 1, 1998, may be carried forward to taxable years that begin on
11 January 1, 1998, or thereafter.

12 **SECTION 196.** 71.47 (5b) (c) 1. of the statutes is repealed.

13 **SECTION 197.** 71.47 (5b) (c) 2. of the statutes is renumbered 71.47 (5b) (c).

14 **SECTION 198.** 71.47 (5e) (b) of the statutes is amended to read:

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

23 **SECTION 199.** 71.47 (5e) (c) 1. of the statutes is amended to read:

24 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
25 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

SENATE BILL 62

1 **SECTION 200.** 71.47 (5e) (c) 3. of the statutes is amended to read:

2 71.47 (5e) (c) 3. The total amount of the credits and exemptions the sales and
3 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
4 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
5 77.585 (9) is \$7,500,000, as determined by the department of commerce.

6 **SECTION 201.** 71.49 (1) (em) of the statutes is renumbered 71.49 (1) (eh).

7 **SECTION 202.** 71.49 (1) (ema) of the statutes is created to read:

8 71.49 (1) (ema) Economic development tax credit under s. 71.47 (1dy).

9 **SECTION 203.** 71.49 (1) (emb) of the statutes is renumbered 71.49 (1) (ei).

10 **SECTION 204.** 71.49 (1) (en) of the statutes is renumbered 71.49 (1) (ej).

11 **SECTION 205.** 71.49 (1) (eo) of the statutes is renumbered 71.49 (1) (ek).

12 **SECTION 206.** 71.49 (1) (eom) of the statutes is renumbered 71.49 (1) (eL).

13 **SECTION 207.** 71.49 (1) (f) of the statutes is amended to read:

14 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
15 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
16 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),
17 meat processing facility investment credit under s. 71.47 (3r), enterprise zone jobs
18 credit under s. 71.47 (3w), film production services credit under s. 71.47 (5f) (b) 2.,
19 and estimated tax payments under s. 71.48.

20 **SECTION 208.** 71.80 (1) (b) of the statutes is amended to read:

21 71.80 (1) (b) In any case of 2 or more organizations, trades or businesses
22 (whether or not incorporated, whether or not organized in the United States and,
23 whether or not affiliated, and whether or not unitary) owned or controlled directly
24 or indirectly by the same interests, the secretary or the secretary's delegate may
25 distribute, apportion or allocate gross income, deductions, credits or allowances

SENATE BILL 62**SECTION 208**

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

8 **SECTION 209.** 71.80 (1m) of the statutes is created to read:

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

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

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

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

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

SENATE BILL 62**SECTION 209**

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

5 **SECTION 210.** 71.80 (23) (a) (intro.) of the statutes is amended to read:

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

12 **SECTION 211.** 71.80 (23) (a) 1. of the statutes is amended to read:

13 71.80 (23) (a) 1. The related entity to which the taxpayer paid, accrued, or
14 incurred the interest expenses ~~or~~, rental expenses, intangible expenses, or
15 management fees during the taxable year directly or indirectly paid, accrued, or
16 incurred such amounts in the same taxable year to a person who is not a related
17 entity or the related entity to which the taxpayer paid, accrued, or incurred such
18 expenses or fees is a holding company or a direct or indirect subsidiary of a holding
19 company, as defined in 12 USC 1841 (a) or (l) or 12 USC 1467a (a) (1) (D), not
20 including any entity that is organized under the laws of another jurisdiction and that
21 primarily holds and manages investments of a bank, subsidiary, or affiliate. For
22 purposes of this subdivision, "interest" does not include interest that is paid in
23 connection with any debt that is incurred to acquire the taxpayer's assets or stock
24 under section 368 of the Internal Revenue Code. If a portion of such an interest
25 expense ~~or~~, rental expense, intangible expense, or management fee is paid, accrued,

SENATE BILL 62**SECTION 211**

1 or incurred in the same taxable year to a person who is not a related entity, that
2 portion shall be allowed as a deduction to the taxpayer.

3 **SECTION 212.** 71.80 (23) (a) 2. of the statutes is amended to read:

4 71.80 (23) (a) 2. The related entity was subject to tax on, or measured by, its
5 net income or receipts in this state or any state, U.S. possession, or foreign country;
6 the related entity's tax base in such state, U.S. possession, or foreign country
7 included the income received from the taxpayer for the interest expenses ~~or~~, rental
8 expenses, intangible expenses, or management fees; the related entity's aggregate
9 effective tax rate applied to such income or receipts was at least 80 percent of the
10 taxpayer's aggregate effective tax rate; and the related entity is not a real estate
11 investment trust under section 856 of the Internal Revenue Code, other than a
12 qualified real estate investment trust. For purposes of this subdivision, "any state,
13 U.S. possession, or foreign country" does not include any state, U.S. possession, or
14 foreign country under the laws of which the taxpayer files with the related entity, or
15 the related entity files with another entity, a combined income tax report or return,
16 a consolidated income tax report or return, or any other report or return that is due
17 because of the imposition of a tax that is measured on or by income or receipts, if the
18 report or return results in eliminating the tax effects of transactions, directly or
19 indirectly, between either the taxpayer and the related entity or between the related
20 entity and another entity.

21 **SECTION 213.** 71.80 (23) (a) 3. of the statutes is amended to read:

22 71.80 (23) (a) 3. The taxpayer establishes that the transaction satisfies any
23 other conditions that the department considers relevant, based on the facts and
24 circumstances, to determine that the primary motivation for the transaction was one
25 or more business purposes other than the avoidance or reduction of state income or

SENATE BILL 62**SECTION 213**

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

5 **SECTION 214.** 71.80 (23) (b) of the statutes is amended to read:

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

14 **SECTION 215.** 73.03 (28e) of the statutes is created to read:

15 73.03 **(28e)** To participate as a member state of the streamlined sales tax
16 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and
17 includes having the governing board enter into contracts that are necessary to
18 implement the agreement on behalf of the member states, and to allocate a portion
19 of the amount collected under ch. 77 through the agreement to the appropriation
20 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
21 board. The department shall allocate the remainder of such collections to the general
22 fund.

23 **SECTION 216.** 73.03 (50) (d) of the statutes is amended to read:

24 73.03 **(50)** (d) In the case of a sole proprietor, signs the form or, in the case of
25 other persons, has an individual who is authorized to act on behalf of the person sign

SENATE BILL 62**SECTION 216**

1 the form, or, in the case of a single-owner entity that is disregarded as a separate
2 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
3 person who may register under this subsection may designate an agent, as defined
4 in s. 77.524 (1) (ag), to register with the department under this subsection in the
5 manner prescribed by the department. In this paragraph, “sign” has the meaning
6 given in s. 77.51 (17r).

7 **SECTION 217.** 73.03 (50b) of the statutes is created to read:

8 73.03 **(50b)** To waive the fee established under sub. (50) for applying for and
9 renewing the business tax registration certificate, if the person who is applying for
10 or renewing the certificate is not required for purposes of ch. 77 to hold such a
11 certificate.

12 **SECTION 218.** 73.03 (61) of the statutes is created to read:

13 73.03 **(61)** To do all of the following related to the Uniform Sales and Use Tax
14 Administration Act:

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

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

19 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
20 performance standards and eligibility criteria for a seller that sells tangible personal
21 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable
22 services in at least 5 states that are signatories to the agreement, as defined in s.
23 77.65 (2) (a); that has total annual sales revenue of at least \$500,000,000; that has
24 a proprietary system that calculates the amount of tax owed to each taxing
25 jurisdiction in which the seller sells tangible personal property, or items, property,

SENATE BILL 62**SECTION 218**

1 or goods under s. 77.52 (1) (b), (c), or (d) or taxable services; and that has entered into
2 a performance agreement with the states that are signatories to the agreement, as
3 defined in s. 77.65 (2) (a). For purposes of this paragraph, “seller” includes an
4 affiliated group of sellers using the same proprietary system to calculate the amount
5 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
6 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable
7 services.

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

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

16 (f) Maintain a database that is accessible to sellers and certified service
17 providers, as defined in s. 77.51 (1g), and available in a downloadable format
18 approved by the governing board of the agreement, as defined in s. 77.65 (2) (a), that
19 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
20 assignments related to the administration of taxes imposed under subchs. III and V
21 of ch. 77. The database shall be provided at no cost and be available to sellers and
22 certified service providers, as defined in s. 77.51 (1g), no later than the first day of
23 the month prior to the first day of the calendar quarter.

SENATE BILL 62**SECTION 218**

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

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

8 **SECTION 219.** 73.03 (63) of the statutes is amended to read:

9 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07
10 ~~(5b) (e) 1. and (5d) (c) 1., 71.28 (5b) (e) 1., 71.47 (5b) (e) 1., and 560.205 (3) (d), in~~
11 consultation with the department of commerce, to carry forward to subsequent
12 taxable years unclaimed credit amounts of the early stage seed investment credits
13 under ss. 71.07 (5b), 71.28 (5b), ~~and 71.47 (5b), and 76.638~~ and the angel investment
14 credit under s. 71.07 (5d). Annually, no later than July 1, the department of
15 commerce shall submit to the department of revenue its recommendations for the
16 carry forward of credit amounts as provided under this subsection.

17 **SECTION 220.** 73.0301 (1) (d) 6. of the statutes is amended to read:

18 73.0301 (1) (d) 6. A license or certificate of registration issued by the
19 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
20 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, 224.93 or
21 under subch. IV of ch. 551.

22 **SECTION 221.** 76.07 (4g) (b) 8. of the statutes is amended to read:

23 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
24 revenue allocated to this state on the basis of routes for which the company is
25 authorized to receive subsidy payments, mutual aid allocated to this state on the

SENATE BILL 62

1 basis of the ratio of transport revenues allocated to this state to transport revenues
2 everywhere in the previous year, in-flight sales allocated to this state as they are
3 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
4 sales made in this state.

5 **SECTION 222.** 76.637 of the statutes is created to read:

6 **76.637 Economic development credit. (1) DEFINITION.** In this section,
7 “claimant” means an insurer who files a claim under this section and is certified
8 under s. 560.701 (2) and authorized to claim tax benefits under s. 560.703.

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

13 **(3) LIMITATIONS.** No credit may be allowed under this section unless the insurer
14 includes with the insurer’s annual return under s. 76.64 a copy of the claimant’s
15 certification under s. 560.701 (2) and a copy of the claimant’s notice of eligibility to
16 receive tax benefits under s. 560.703 (3).

17 **(4) ADMINISTRATION.** If an insurer’s certification is revoked under s. 560.705,
18 or if an insurer becomes ineligible for tax benefits under s. 560.702, the insurer may
19 not claim credits under this section for the taxable year that includes the day on
20 which the certification is revoked; the taxable year that includes the day on which
21 the insurer becomes ineligible for tax benefits; or succeeding taxable years and the
22 insurer may not carry over unused credits from previous years to offset the fees
23 imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year that
24 includes the day on which certification is revoked; the taxable year that includes the

SENATE BILL 62**SECTION 222**

1 day on which the insurer becomes ineligible for tax benefits; or succeeding taxable
2 years.

3 **SECTION 223.** 76.638 of the statutes is created to read:

4 **76.638 Early stage seed investment credit. (1) DEFINITIONS.** In this
5 section, “fund manager” means an investment fund manager certified under s.
6 560.205 (2).

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

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

15 **(4) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
16 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
17 may be carried forward and credited against those fees for the following 15 years to
18 the extent that it is not offset by those fees otherwise due in all the years between
19 the year in which the expense was made and the year in which the carry-forward
20 credit is claimed.

21 **SECTION 224.** 76.67 (2) of the statutes is amended to read:

22 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
23 another state, this state may not require similar insurers domiciled in that other
24 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
25 a domestic insurer is required to pay to that other state for the same year less the

SENATE BILL 62

1 credits under ss. 76.635, 76.636, and 76.655, except that the amount imposed shall
2 not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if
3 the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under
4 s. 76.62, less offsets allowed under s. 646.51 (7) or under ss. 76.635, 76.636, 76.637,
5 76.638, and 76.655 against that total, and except that the amount imposed shall not
6 be less than the amount due under s. 601.93.

7 **SECTION 225.** 77.51 (1) of the statutes is renumbered 77.51 (1fd) and amended
8 to read:

9 77.51 (1fd) "Business" includes any activity engaged in by any person or caused
10 to be engaged in by any person with the object of gain, benefit or advantage, either
11 direct or indirect, and includes also the furnishing and distributing of tangible
12 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
13 taxable services for a consideration by social clubs and fraternal organizations to
14 their members or others.

15 **SECTION 226.** 77.51 (1a) of the statutes is created to read:

16 77.51 (1a) (a) "Additional digital goods" means all of the following, if they are
17 transferred electronically:

- 18 1. Greeting cards.
- 19 2. Finished artwork.
- 20 3. Periodicals.
- 21 4. Video or electronic games.

22 (b) For purposes of this subchapter, the sale of or the storage, use, or other
23 consumption of a digital code is treated the same as the sale of or the storage, use,
24 or other consumption of any additional digital goods for which the digital code
25 relates.

SENATE BILL 62**SECTION 227**

1 **SECTION 227.** 77.51 (1b) of the statutes is created to read:

2 77.51 (1b) “Alcoholic beverage” means a beverage that is suitable for human
3 consumption and that contains 0.5 percent or more of alcohol by volume.

4 **SECTION 228.** 77.51 (1ba) of the statutes is created to read:

5 77.51 (1ba) “Ancillary services” means services that are associated with or
6 incidental to providing telecommunications services, including detailed
7 telecommunications billing, directory assistance, vertical service, and voice mail
8 services.

9 **SECTION 229.** 77.51 (1f) of the statutes is created to read:

10 77.51 (1f) “Bundled transaction” means the retail sale of 2 or more products,
11 not including real property and services to real property, if the products are distinct
12 and identifiable products and sold for one nonitemized price. “Bundled transaction”
13 does not include any of the following:

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

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

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

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

SENATE BILL 62**SECTION 229**

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

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

19 **SECTION 230.** 77.51 (1fm) of the statutes is created to read:

20 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or
21 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
22 flavorings in the form of bars, drops, or pieces. "Candy" does not include a
23 preparation that contains flour or that requires refrigeration.

24 **SECTION 231.** 77.51 (1n) of the statutes is created to read:

SENATE BILL 62**SECTION 231**

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

4 **SECTION 232.** 77.51 (1p) of the statutes is created to read:

5 77.51 (1p) “Computer software” means a set of coded instructions designed to
6 cause a computer or automatic data processing equipment to perform a task.

7 **SECTION 233.** 77.51 (1pd) of the statutes is created to read:

8 77.51 (1pd) “Computer software maintenance contract” means a contract that
9 obligates a vendor of computer software to provide a customer with future updates
10 or upgrades to computer software, computer software support services, or both.

11 **SECTION 234.** 77.51 (1r) of the statutes is created to read:

12 77.51 (1r) “Conference bridging service” means an ancillary service that links
13 2 or more participants of an audio or video conference call and may include providing
14 a telephone number, but does not include the telecommunications services used to
15 reach the conference bridge.

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

17 77.51 (2) “Contractors” and “subcontractors” are the consumers of tangible
18 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) used
19 by them in real property construction activities and the sales and use tax applies to
20 the sale of tangible personal property or items, property, or goods under s. 77.52 (1)
21 (b), (c), or (d) to them. A contractor engaged primarily in real property construction
22 activities may use resale certificates only with respect to purchases of tangible
23 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which
24 the contractor has sound reason to believe the contractor will sell to customers for
25 whom the contractor will not perform real property construction activities involving

SENATE BILL 62

1 the use of such tangible personal property or items, property, or goods under s. 77.52
2 (1) (b), (c), or (d). In this subsection, “real property construction activities” means
3 activities that occur at a site where tangible personal property or items, property, or
4 goods under s. 77.52 (1) (b), (c), or (d) that is are applied or adapted to the use or
5 purpose to which real property is devoted is are affixed to that real property, if the
6 intent of the person who affixes that property is to make a permanent accession to
7 the real property. In this subsection, “real property construction activities” ~~do~~ does
8 not include affixing to real property tangible personal property or items, property,
9 or goods under s. 77.52 (1) (b), (c), or (d) that ~~remains~~ remain tangible personal
10 property after it is they are affixed.

11 **SECTION 236.** 77.51 (2k) of the statutes is created to read:

12 77.51 (2k) “Delivered electronically” means delivered to a purchaser by means
13 other than by tangible storage media.

14 **SECTION 237.** 77.51 (2m) of the statutes is created to read:

15 77.51 (2m) “Delivery charges” means charges by a seller to prepare and deliver
16 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
17 (d), or services to a location designated by the purchaser of the tangible personal
18 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services,
19 including charges for transportation, shipping, postage, handling, crating, and
20 packing.

21 **SECTION 238.** 77.51 (3c) of the statutes is created to read:

22 77.51 (3c) “Detailed telecommunications billing service” means an ancillary
23 service that separately indicates information pertaining to individual calls on a
24 customer’s billing statement.

25 **SECTION 239.** 77.51 (3n) of the statutes is created to read:

SENATE BILL 62**SECTION 239**

1 77.51 (3n) “Dietary supplement” means a product, other than tobacco, that is
2 intended to supplement a person’s diet, if all of the following apply:

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

5 1. A vitamin.

6 2. A mineral.

7 3. An herb or other botanical.

8 4. An amino acid.

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

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

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

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

18 **SECTION 240.** 77.51 (3p) of the statutes is created to read:

19 77.51 (3p) “Digital audiovisual works” means a series of related images that,
20 when shown in succession, impart an impression of motion, along with
21 accompanying sounds, if any, and that are transferred electronically. “Digital
22 audiovisual works” includes motion pictures, musical videos, news and
23 entertainment programs, and live events, but does not include video greeting cards
24 or video or electronic games.

25 **SECTION 241.** 77.51 (3pa) of the statutes is created to read:

SENATE BILL 62**SECTION 241**

1 77.51 (3pa) “Digital audio works” means works that result from the fixation
2 of a series of musical, spoken, or other sounds that are transferred electronically,
3 including prerecorded or live music, prerecorded or live readings of books or other
4 written materials, prerecorded or live speeches, ringtones, or other sound recordings
5 but not including audio greeting cards sent by electronic mail.

6 **SECTION 242.** 77.51 (3pb) of the statutes is created to read:

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

15 **SECTION 243.** 77.51 (3pc) of the statutes is created to read:

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

SENATE BILL 62**SECTION 243**

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

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

6 **SECTION 244.** 77.51 (3pd) of the statutes is created to read:

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

19 **SECTION 245.** 77.51 (3pe) of the statutes is created to read:

20 77.51 (3pe) “Directory assistance” means an ancillary service that provides
21 telephone numbers or addresses.

22 **SECTION 246.** 77.51 (3pf) of the statutes is created to read:

23 77.51 (3pf) “Distinct and identifiable product” does not include any of the
24 following:

SENATE BILL 62**SECTION 246**

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

4 (b) A product that is provided free of charge to the consumer in conjunction with
5 the required purchase of another product, if the sales price of the other product does
6 not vary depending on whether the product provided free of charge is included in the
7 transaction.

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

9 **SECTION 247.** 77.51 (3pj) of the statutes is created to read:

10 77.51 (3pj) “Drug” means a compound, substance, or preparation, or any
11 component of them, other than food and food ingredients, dietary supplements, or
12 alcoholic beverages, to which any of the following applies:

13 (a) It is listed in the United States Pharmacopoeia, Homeopathic
14 Pharmacopoeia of the United States, or National Formulary, or any supplement to
15 any of them.

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

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

19 **SECTION 248.** 77.51 (3pm) of the statutes is created to read:

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

SENATE BILL 62**SECTION 249**

1 **SECTION 249.** 77.51 (3pn) of the statutes is created to read:

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

6 **SECTION 250.** 77.51 (3po) of the statutes is created to read:

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

9 **SECTION 251.** 77.51 (3rm) of the statutes is created to read:

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

14 (a) Drawings.

15 (b) Paintings.

16 (c) Designs.

17 (d) Photographs.

18 (e) Lettering.

19 (f) Paste-ups.

20 (g) Mechanicals.

21 (h) Assemblies.

22 (i) Charts.

23 (j) Graphs.

24 (k) Illustrative materials.

25 **SECTION 252.** 77.51 (3rn) of the statutes is created to read:

SENATE BILL 62

1 77.51 (3rn) “Fixed wireless service” means a telecommunications service that
2 provides radio communication between fixed points.

3 **SECTION 253.** 77.51 (3t) of the statutes is created to read:

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

8 **SECTION 254.** 77.51 (4) of the statutes is repealed.

9 **SECTION 255.** 77.51 (5) of the statutes is amended to read:

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

19 **SECTION 256.** 77.51 (5d) of the statutes is created to read:

20 77.51 (5d) “International telecommunications services” means
21 telecommunications services that originate or terminate in the United States,
22 including the District of Columbia and any U.S. territory or possession and originate
23 or terminate outside of the United States, including the District of Columbia and any
24 U.S. territory or possession.

25 **SECTION 257.** 77.51 (5n) of the statutes is created to read:

SENATE BILL 62**SECTION 257**

1 77.51 (5n) “Interstate telecommunications services” means
2 telecommunications services that originate in one state or U.S. territory or
3 possession and terminate in a different state or U.S. territory or possession.

4 **SECTION 258.** 77.51 (5r) of the statutes is created to read:

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

8 **SECTION 259.** 77.51 (6m) of the statutes is renumbered 77.51 (5m) and
9 amended to read:

10 77.51 (5m) For purposes of s. ~~77.54 (48)~~ 77.585 (9), “Internet equipment used
11 in the broadband market” means equipment that is capable of transmitting data
12 packets or Internet signals at speeds of at least 200 kilobits per second in either
13 direction.

14 **SECTION 260.** 77.51 (7) of the statutes is repealed and recreated to read:

15 77.51 (7) (a) “Lease or rental” means any transfer of possession or control of
16 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or
17 (d) for a fixed or indeterminate term and for consideration and includes:

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

23 (b) “Lease or rental” does not include any of the following:

- 24 1. A transfer of possession or control of tangible personal property or items,
25 property, or goods under s. 77.52 (1) (b), (c), or (d) under a security agreement or

SENATE BILL 62

1 deferred payment plan, if such agreement or plan requires transferring title to the
2 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or
3 (d) after making all required payments.

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

10 3. Providing tangible personal property or items, property, or goods under s.
11 77.52 (1) (b), (c), or (d) along with an operator, if the operator is necessary for the
12 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or
13 (d) to perform in the manner for which it is designed and if the operator does more
14 than maintain, inspect, or set up the tangible personal property or items, property,
15 or goods under s. 77.52 (1) (b), (c), or (d).

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

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

24 **SECTION 261.** 77.51 (7g) of the statutes is created to read:

SENATE BILL 62**SECTION 261**

1 77.51 (7g) “Load-and-leave” means delivery to a purchaser by using a tangible
2 storage media that is not physically transferred to the purchaser.

3 **SECTION 262.** 77.51 (7k) of the statutes is created to read:

4 77.51 (7k) “Mobile wireless service” means a telecommunications service for
5 which the origination or termination points of the service’s transmission,
6 conveyance, or routing are not fixed, regardless of the technology used to transmit,
7 convey, or route the service. “Mobile wireless service” includes a telecommunications
8 service provided by a commercial mobile radio service provider.

9 **SECTION 263.** 77.51 (7m) of the statutes is created to read:

10 77.51 (7m) “Mobility-enhancing equipment” means equipment, including the
11 repair parts and replacement parts for the equipment, that is primarily and
12 customarily used to provide or increase the ability of a person to move from one place
13 to another; that may be used in a home or motor vehicle; and that is generally not
14 used by a person who has normal mobility. “Mobility-enhancing equipment” does
15 not include a motor vehicle or any equipment on a motor vehicle that is generally
16 provided by a motor vehicle manufacturer. “Mobility-enhancing equipment” does
17 not include durable medical equipment.

18 **SECTION 264.** 77.51 (8m) of the statutes is created to read:

19 77.51 (8m) “Nine hundred service” means an inbound toll telecommunications
20 service purchased by a subscriber that allows the subscriber’s customers to call the
21 subscriber’s prerecorded announcement or live service. “Nine hundred service” does
22 not include any charge for collection services provided by the seller of the
23 telecommunications services to the subscriber or for any product or service the
24 subscriber sells to the subscriber’s customers. A “nine hundred service” is

SENATE BILL 62**SECTION 264**

1 designated with the “900” number or any other number designated by the federal
2 communications commission.

3 **SECTION 265.** 77.51 (9) (a) of the statutes is amended to read:

4 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, or items,
5 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services where the
6 infrequency, in relation to the other circumstances, including the sales price and the
7 gross profit, support the inference that the seller is not pursuing a vocation,
8 occupation or business or a partial vocation or occupation or part-time business as
9 a vendor of personal property, or items, property, or goods under s. 77.52 (1) (b), (c),
10 or (d), or taxable services. No sale of any tangible personal property, or items,
11 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable service may be deemed
12 an occasional sale if at the time of such sale the seller holds or is required to hold a
13 seller’s permit, except that this provision does not apply to an organization required
14 to hold a seller’s permit solely for the purpose of conducting bingo games and except
15 as provided in par. (am).

16 **SECTION 266.** 77.51 (9) (am) of the statutes is amended to read:

17 77.51 (9) (am) The sale of personal property or items, property, or goods under
18 s. 77.52 (1) (b), (c), or (d), other than inventory held for sale, previously used by a
19 seller to conduct its trade or business at a location after that person has ceased
20 actively operating in the regular course of business as a seller of tangible personal
21 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable
22 services at that location, even though the seller holds a seller’s permit for one or more
23 other locations.

24 **SECTION 267.** 77.51 (9p) of the statutes is created to read:

SENATE BILL 62**SECTION 267**

1 77.51 (9p) “One nonitemized price” does not include a price that is separately
2 identified by product on a binding sales document, or other sales-related document,
3 that is made available to the customer in paper or electronic form, including an
4 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
5 a periodic notice of rates and services, a rate card, or a price list.

6 **SECTION 268.** 77.51 (9s) of the statutes is created to read:

7 77.51 (9s) “Paging service” means a telecommunications service that transmits
8 coded radio signals to activate specific pagers and may include messages or sounds.

9 **SECTION 269.** 77.51 (10) of the statutes is amended to read:

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

19 **SECTION 270.** 77.51 (10d) of the statutes is created to read:

20 77.51 (10d) “Prepaid calling service” means the right to exclusively access
21 telecommunications services, if that right is paid for in advance of providing such
22 services, requires using an access number or authorization code to originate calls,
23 and is sold in predetermined units or dollars that decrease with use in a known
24 amount.

25 **SECTION 271.** 77.51 (10f) of the statutes is created to read:

SENATE BILL 62**SECTION 271**

1 77.51 (10f) “Prepaid wireless calling service” means a telecommunications
2 service that provides the right to utilize mobile wireless service as well as other
3 nontelecommunications services, including the download of digital products
4 delivered electronically, content, and ancillary services, and that is paid for prior to
5 use and sold in predetermined dollar units whereby the number of units declines
6 with use in a known amount.

7 **SECTION 272.** 77.51 (10m) of the statutes is created to read:

8 77.51 (10m) (a) “Prepared food” means:

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

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

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

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

SENATE BILL 62**SECTION 272**

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

3 (b) “Prepared food” does not include:

4 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
5 combined by a retailer for sale as a single item, if the retailer’s primary classification
6 in the North American Industry Classification System, 2002 edition, published by
7 the federal office of management and budget, is manufacturing under subsector 311,
8 not including bakeries and tortilla manufacturing under industry group number
9 3118.

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

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

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

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

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

SENATE BILL 62

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

4 b. A denominator that includes all food and food ingredients, including
5 prepared food, candy, dietary supplements, and soft drinks, but not including
6 alcoholic beverages.

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

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

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

SENATE BILL 62**SECTION 272**

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

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

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

22 **SECTION 273.** 77.51 (10n) of the statutes is created to read:

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

SENATE BILL 62

1 **SECTION 274.** 77.51 (10r) of the statutes is created to read:

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

19 **SECTION 275.** 77.51 (10s) of the statutes is created to read:

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

SENATE BILL 62**SECTION 276**

1 **SECTION 276.** 77.51 (11d) of the statutes is created to read:

2 77.51 (11d) For purposes of subs. (1f), (3pf), and (9p) and ss. 77.52 (20) and (21),
3 77.522, and 77.54 (51) and (52), “product” includes tangible personal property, and
4 items, property, and goods under s. 77.52 (1) (b), (c), and (d), and services.

5 **SECTION 277.** 77.51 (11m) of the statutes is created to read:

6 77.51 (11m) “Prosthetic device” means a device, including the repair parts and
7 replacement parts for the device, that is placed in or worn on the body to artificially
8 replace a missing portion of the body; to prevent or correct a physical deformity or
9 malfunction; or to support a weak or deformed portion of the body.

10 **SECTION 278.** 77.51 (12) (a) of the statutes is repealed and recreated to read:

11 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
12 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
13 otherwise, in any manner or by any means whatever of tangible personal property
14 or items, property, or goods under s. 77.52 (1) (b), (c), or (d) for a consideration,
15 including any transaction for which a person’s books and records show the
16 transaction created, with regard to the transferee, an obligation to pay a certain
17 amount of money or an increase in accounts payable or, with regard to the transferor,
18 a right to receive a certain amount of money or an increase in accounts receivable.

19 **SECTION 279.** 77.51 (12) (b) of the statutes is amended to read:

20 77.51 (12) (b) A transaction whereby the possession of property, or items,
21 property, or goods under s. 77.52 (1) (b), (c), or (d) is transferred but the seller retains
22 the title as security for the payment of the price.

23 **SECTION 280.** 77.51 (12m) of the statutes is created to read:

24 77.51 (12m) (a) “Purchase price” means the total amount of consideration,
25 including cash, credit, property, and services, for which tangible personal property,

SENATE BILL 62

1 or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services are sold,
2 licensed, leased, or rented, valued in money, whether paid in money or otherwise,
3 without any deduction for the following:

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

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

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

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

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

22 5. Installation charges.

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

SENATE BILL 62**SECTION 280**

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

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

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

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

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

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

SENATE BILL 62

1 vehicle. This subdivision applies only to the first motor vehicle purchased by a
2 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

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

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

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

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

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

17 3. The amount of the consideration that is attributable to the sale is a fixed
18 amount and the seller is able to determine that amount at the time of the sale to the
19 purchaser.

20 4. One of the following also applies:

21 a. The purchaser presents a coupon, certificate, or other documentation to the
22 seller to claim the price reduction or discount, if the coupon, certificate, or other
23 documentation is authorized, distributed, or granted by the 3rd party with the
24 understanding that the 3rd party will reimburse the seller for the amount of the price
25 reduction or discount.

SENATE BILL 62**SECTION 280**

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

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

6 **SECTION 281.** 77.51 (12p) of the statutes is created to read:

7 77.51 (12p) “Purchaser” means a person to whom a sale of tangible personal
8 property is made or to whom a service is furnished.

9 **SECTION 282.** 77.51 (13) (a) of the statutes is amended to read:

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

13 **SECTION 283.** 77.51 (13) (b) of the statutes is amended to read:

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

19 **SECTION 284.** 77.51 (13) (c) of the statutes is amended to read:

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

SENATE BILL 62**SECTION 284**

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

4 **SECTION 285.** 77.51 (13) (d) of the statutes is amended to read:

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

10 **SECTION 286.** 77.51 (13) (e) of the statutes is amended to read:

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

17 **SECTION 287.** 77.51 (13) (f) of the statutes is amended to read:

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

23 **SECTION 288.** 77.51 (13) (i) of the statutes is amended to read:

SENATE BILL 62**SECTION 288**

1 77.51 (13) (i) A person selling items, property, or goods under s. 77.52 (1) (b),
2 (c), or (d), materials, or supplies to barbers, beauty shop operators, or bootblacks for
3 use by them in the performance of their services.

4 **SECTION 289.** 77.51 (13) (j) of the statutes is amended to read:

5 77.51 (13) (j) A person selling items, property, and goods under s. 77.52 (1) (b),
6 (c), and (d), materials, and supplies to producers of X-ray films.

7 **SECTION 290.** 77.51 (13) (k) of the statutes is amended to read:

8 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
9 from a lease of tangible personal property or items, property, or goods under s. 77.52
10 (1) (b), (c), or (d) situated in this state.

11 **SECTION 291.** 77.51 (13) (m) of the statutes is amended to read:

12 77.51 (13) (m) A person selling tangible personal property or items, property,
13 or goods under s. 77.52 (1) (b), (c), or (d) to a veterinarian to be used or furnished by
14 the veterinarian in the performance of services in some manner related to domestic
15 animals, including pets or poultry.

16 **SECTION 292.** 77.51 (13) (n) of the statutes is amended to read:

17 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
18 appliances or other items of tangible personal property or items, property, or goods
19 under s. 77.52 (1) (b), (c), or (d) to a landlord for use by tenants in leased or rented
20 living quarters.

21 **SECTION 293.** 77.51 (13) (o) of the statutes is amended to read:

22 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
23 As used in this paragraph, “animal” includes livestock, pets and poultry.

24 **SECTION 294.** 77.51 (13g) (intro.) of the statutes is amended to read:

SENATE BILL 62

1 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
2 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of
3 the use tax, means any of the following:

4 **SECTION 295.** 77.51 (13g) (a) of the statutes is amended to read:

5 77.51 (13g) (a) Any retailer owning any real property in this state or leasing
6 or renting out any tangible personal property, or items, property, or goods under s.
7 77.52 (1) (b), (c), or (d), located in this state or maintaining, occupying or using,
8 permanently or temporarily, directly or indirectly, or through a subsidiary, or agent,
9 by whatever name called, an office, place of distribution, sales or sample room or
10 place, warehouse or storage place or other place of business in this state.

11 **SECTION 296.** 77.51 (13g) (b) of the statutes is amended to read:

12 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,
13 canvasser or solicitor operating in this state under the authority of the retailer or its
14 subsidiary for the purpose of selling, delivering or the taking of orders for any
15 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
16 (d), or taxable services.

17 **SECTION 297.** 77.51 (13g) (c) of the statutes is created to read:

18 77.51 (13g) (c) Any retailer selling tangible personal property, or items,
19 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use,
20 or other consumption in this state, unless otherwise limited by federal law.

21 **SECTION 298.** 77.51 (13r) of the statutes is amended to read:

22 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
23 be deemed the consumer of the tangible personal property, or items, property, or
24 goods under s. 77.52 (1) (b), (c), or (d), or services purchased.

25 **SECTION 299.** 77.51 (13rm) of the statutes is created to read:

SENATE BILL 62**SECTION 299**

1 77.51 (13rm) “Retail sale” or “sale at retail” means any sale, lease, or rental
2 for any purpose other than resale, sublease, or subrent.

3 **SECTION 300.** 77.51 (13rn) of the statutes is created to read:

4 77.51 (13rm) “Ringtones” means digitized sound files that are downloaded onto
5 a device and that may be used to alert the customer regarding a communication, but
6 not including ringback tones or other digital audio files that are not stored on the
7 purchaser’s communication device.

8 **SECTION 301.** 77.51 (14) (intro.) of the statutes is amended to read:

9 77.51 (14) (intro.) “Sale”, ~~“sale, lease or rental”, “retail sale”, “sale at retail”, or~~
10 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the
11 ownership of, title to, possession of, or enjoyment of tangible personal property, or
12 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services for use or
13 consumption but not for resale as tangible personal property, or items, property, or
14 goods under s. 77.52 (1) (b), (c), or (d), or services and includes:

15 **SECTION 302.** 77.51 (14) (a) of the statutes is amended to read:

16 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
17 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which ~~is~~ are sold
18 to a successful bidder. ~~The proceeds from, except the sale of~~ tangible personal
19 property, items, or goods sold at auction which ~~is~~ are bid in by the seller and on which
20 title does not pass to a new purchaser ~~shall be deducted from the gross proceeds of~~
21 ~~the sale and the tax paid only on the net proceeds.~~

22 **SECTION 303.** 77.51 (14) (b) of the statutes is amended to read:

23 77.51 (14) (b) The furnishing or distributing of tangible personal property, or
24 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for a
25 consideration by social clubs and fraternal organizations to their members or others.

SENATE BILL 62

1 **SECTION 304.** 77.51 (14) (c) of the statutes is amended to read:

2 77.51 (14) (c) A transaction whereby the possession of tangible personal
3 property is or items, property, or goods under s. 77.52 (1) (b), (c), or (d) are transferred
4 but the seller retains the title as security for the payment of the price.

5 **SECTION 305.** 77.51 (14) (d) of the statutes is repealed.

6 **SECTION 306.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4. and
7 amended to read:

8 77.51 (15a) (b) 4. A sale of tangible personal property or items, property, or
9 goods under s. 77.52 (1) (b), (c), or (d) to a contractor or subcontractor for use in the
10 performance of contracts with the United States or its instrumentalities for the
11 construction of improvements on or to real property.

12 **SECTION 307.** 77.51 (14) (h) of the statutes is amended to read:

13 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
14 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which
15 has have been produced, fabricated, or printed to the special order of the customer
16 or of any publication.

17 **SECTION 308.** 77.51 (14) (i) of the statutes is repealed.

18 **SECTION 309.** 77.51 (14) (j) of the statutes is amended to read:

19 77.51 (14) (j) The granting of possession of tangible personal property or items,
20 property, or goods under s. 77.52 (1) (b), (c), or (d) by a lessor to a lessee, or to another
21 person at the direction of the lessee. Such a transaction involving tangible personal
22 property is deemed a continuing sale in this state ~~by the lessor for the duration of the~~
23 ~~lease as respects any period of time the leased property is situated in this state,~~
24 ~~irrespective of the time or place of delivery of the property to the lessee or such other~~
25 ~~person.~~

SENATE BILL 62**SECTION 310**

1 **SECTION 310.** 77.51 (14) (k) of the statutes is repealed.

2 **SECTION 311.** 77.51 (14) (L) of the statutes is repealed.

3 **SECTION 312.** 77.51 (14g) (a) of the statutes is amended to read:

4 77.51 (14g) (a) The transfer of property or items, property, or goods under s.
5 77.52 (1) (b), (c), or (d) to a corporation upon its organization solely in consideration
6 for the issuance of its stock;

7 **SECTION 313.** 77.51 (14g) (b) of the statutes is amended to read:

8 77.51 (14g) (b) The contribution of property or items, property, or goods under
9 s. 77.52 (1) (b), (c), or (d) to a newly formed partnership solely in consideration for a
10 partnership interest therein;

11 **SECTION 314.** 77.51 (14g) (bm) of the statutes is amended to read:

12 77.51 (14g) (bm) The contribution of property or items, property, or goods under
13 s. 77.52 (1) (b), (c), or (d) to a limited liability company upon its organization solely
14 in consideration for a membership interest;

15 **SECTION 315.** 77.51 (14g) (c) of the statutes is amended to read:

16 77.51 (14g) (c) The transfer of property or items, property, or goods under s.
17 77.52 (1) (b), (c), or (d) to a corporation, solely in consideration for the issuance of its
18 stock, pursuant to a merger or consolidation;

19 **SECTION 316.** 77.51 (14g) (cm) of the statutes is amended to read:

20 77.51 (14g) (cm) The transfer of property or items, property, or goods under s.
21 77.52 (1) (b), (c), or (d) to a limited liability company, solely in consideration for a
22 membership interest, pursuant to a merger;

23 **SECTION 317.** 77.51 (14g) (d) of the statutes is amended to read:

SENATE BILL 62**SECTION 317**

1 77.51 (14g) (d) The distribution of property or items, property, or goods under
2 s. 77.52 (1) (b), (c), or (d) by a corporation to its stockholders as a dividend or in whole
3 or partial liquidation;

4 **SECTION 318.** 77.51 (14g) (e) of the statutes is amended to read:

5 77.51 (14g) (e) The distribution of property or items, property, or goods under
6 s. 77.52 (1) (b), (c), or (d) by a partnership to its partners in whole or partial
7 liquidation;

8 **SECTION 319.** 77.51 (14g) (em) of the statutes is amended to read:

9 77.51 (14g) (em) The distribution of property or items, property, or goods under
10 s. 77.52 (1) (b), (c), or (d) by a limited liability company to its members in whole or
11 partial liquidation;

12 **SECTION 320.** 77.51 (14g) (f) of the statutes is amended to read:

13 77.51 (14g) (f) Repossession of property or items, property, or goods under s.
14 77.52 (1) (b), (c), or (d) by the seller from the purchaser when the only consideration
15 is cancellation of the purchaser's obligation to pay the remaining balance of the
16 purchase price;

17 **SECTION 321.** 77.51 (14g) (g) of the statutes is amended to read:

18 77.51 (14g) (g) The transfer of property or items, property, or goods under s.
19 77.52 (1) (b), (c), or (d) in a reorganization as defined in section 368 of the internal
20 revenue code in which no gain or loss is recognized for franchise or income tax
21 purposes; or

22 **SECTION 322.** 77.51 (14g) (h) of the statutes is amended to read:

23 77.51 (14g) (h) Any transfer of all or substantially all the property or items,
24 property, or goods under s. 77.52 (1) (b), (c), or (d) held or used by a person in the
25 course of an activity requiring the holding of a seller's permit, if after the transfer

SENATE BILL 62**SECTION 322**

1 the real or ultimate ownership of the property, items, or goods is substantially similar
2 to that which existed before the transfer. For the purposes of this section,
3 stockholders, bondholders, partners, members or other persons holding an interest
4 in a corporation or other entity are regarded as having the real or ultimate ownership
5 of the property, items, or goods of the corporation or other entity. In this paragraph,
6 “substantially similar” means 80% or more of ownership.

7 **SECTION 323.** 77.51 (14r) of the statutes is repealed.

8 **SECTION 324.** 77.51 (15) of the statutes is repealed.

9 **SECTION 325.** 77.51 (15a) of the statutes is created to read:

10 77.51 (15a) (a) “Sales, lease, or rental for resale, sublease, or subrent” includes
11 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)
12 (b), (c), or (d) to a service provider that the service provider transfers in conjunction
13 with but not incidental to the selling, performing, or furnishing of any service, and
14 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)
15 (b), (c), or (d) to a service provider that the service provider physically transfers in
16 conjunction with the selling, performing, or furnishing services under s. 77.52 (2) (a)
17 7., 10., 11., or 20. This paragraph does not apply to sub. (2).

18 (b) “Sales, lease, or rental for resale, sublease, or subrent” does not include any
19 of the following:

20 1. The sale of building materials, supplies, and equipment to owners,
21 contractors, subcontractors, or builders for use in real property construction
22 activities or the alteration, repair, or improvement of real property, regardless of the
23 quantity of such materials, supplies, and equipment sold.

24 2. Any sale of tangible personal property or items, property, or goods under s.
25 77.52 (1) (b), (c), or (d) to a purchaser even though such property, items, or goods may

SENATE BILL 62**SECTION 325**

1 be used or consumed by some other person to whom such purchaser transfers the
2 property, items, or goods without valuable consideration, such as gifts, and
3 advertising specialties distributed at no charge and apart from the sale of other
4 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
5 (d) or service.

6 3. Transfers of tangible personal property or items, property, or goods under s.
7 77.52 (1) (b), (c), or (d) to a service provider that the service provider transfers in
8 conjunction with the selling, performing, or furnishing of any service, if the tangible
9 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) are
10 incidental to the service, unless the service provider is selling, performing, or
11 furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.

12 **SECTION 326.** 77.51 (15b) of the statutes is created to read:

13 77.51 (15b) (a) "Sales price" means the total amount of consideration, including
14 cash, credit, property, and services, for which tangible personal property, or items,
15 property, or goods under s. 77.52 (1) (b), (c), or (d) or services are sold, licensed, leased,
16 or rented, valued in money, whether received in money or otherwise, without any
17 deduction for the following:

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

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

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

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

SENATE BILL 62**SECTION 326**

1 b. If a shipment includes property or items that are subject to tax under this
2 subchapter and property or items that are not subject to tax under this subchapter,
3 the amount of the delivery charge that the seller allocates to the property and items
4 that are subject to tax under this subchapter is based either on the total sales price
5 of the property and items that are subject to tax under this subchapter as compared
6 to the total sales price of all the property and items or on the total weight of the
7 property and items that are subject to tax under this subchapter as compared to the
8 total weight of all the property and items.

9 5. Installation charges.

10 (b) “Sales price” does not include:

11 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
12 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
13 taken by a purchaser on a sale.

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

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

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

SENATE BILL 62

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

7 6. If a person who purchases a motor vehicle presents a statement issued under
8 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
9 statement to the seller within 60 days from the date of receiving a refund under s.
10 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
11 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.
12 This subdivision applies only to the first motor vehicle purchased by a person after
13 receiving a refund under s. 218.0171 (2) (b) 2. b.

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

17 8. At the retailer's option; except that after the retailer chooses an option the
18 retailer may not use the other option for other sales without the department's written
19 approval; either 35 percent of the sales price of a modular home, as defined in s.
20 101.71 (6), or an amount equal to the sales price of the home minus the cost of
21 materials that become an ingredient or component part of the home.

22 (c) "Sales price" includes consideration received by the seller from a 3rd party,
23 if:

SENATE BILL 62**SECTION 326**

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

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

5 3. The amount of the consideration that is attributable to the sale is a fixed
6 amount and the seller is able to determine that amount at the time of the sale to the
7 purchaser.

8 4. One of the following also applies:

9 a. The purchaser presents a coupon, certificate, or other documentation to the
10 seller to claim the price reduction or discount, if the coupon, certificate, or other
11 documentation is authorized, distributed, or granted by the 3rd party with the
12 understanding that the 3rd party will reimburse the seller for the amount of the price
13 reduction or discount.

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

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

19 **SECTION 327.** 77.51 (17) (intro.) of the statutes is amended to read:

20 77.51 (17) (intro.) “Seller” includes every person selling, licensing, leasing, or
21 renting tangible personal property or items, property, or goods under s. 77.52 (1) (b),
22 (c), or (d) or selling, performing, or furnishing services of a kind the ~~gross receipts~~
23 sales price from the sale, license, lease, rental, performance, or furnishing of which
24 are is required to be included in the measure of the sales tax, regardless of all of the
25 following:

SENATE BILL 62**SECTION 328**

1 **SECTION 328.** 77.51 (17m) of the statutes is repealed and recreated to read:

2 77.51 (17m) “Service address” means any of the following:

3 (a) The location of the telecommunications equipment to which a customer’s
4 telecommunications service is charged and from which the telecommunications
5 service originates or terminates, regardless of where the telecommunications service
6 is billed or paid.

7 (b) If the location described under par. (a) is not known by the seller who sells
8 the telecommunications service, the location where the signal of the
9 telecommunications service originates, as identified by the seller’s
10 telecommunications system or, if the signal is not transmitted by the seller’s
11 telecommunications system, by information that the seller received from the seller’s
12 service provider.

13 (c) If the locations described under pars. (a) and (b) are not known by the seller
14 who sells the telecommunications service, the customer’s place of primary use.

15 **SECTION 329.** 77.51 (17w) of the statutes is created to read:

16 77.51 (17w) “Soft drink” means a beverage that contains less than 0.5 percent
17 of alcohol and that contains natural or artificial sweeteners. “Soft drink” does not
18 include a beverage that contains milk or milk products; soy, rice, or similar milk
19 substitutes; or more than 50 percent vegetable or fruit juice by volume.

20 **SECTION 330.** 77.51 (17x) of the statutes is created to read:

21 77.51 (17x) “Specified digital goods” means digital audio works, digital
22 audiovisual works, and digital books. For purposes of this subchapter, the sale of or
23 the storage, use, or other consumption of a digital code is treated the same as the sale
24 of or the storage, use, or other consumption of any specified digital goods for which
25 the digital code relates.

SENATE BILL 62**SECTION 331**

1 **SECTION 331.** 77.51 (18) of the statutes is amended to read:

2 77.51 (18) “Storage” includes any keeping or retention in this state of tangible
3 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d)
4 purchased from a retailer for any purpose except sale in the regular course of
5 business.

6 **SECTION 332.** 77.51 (20) of the statutes is amended to read:

7 77.51 (20) “Tangible personal property” means all tangible personal property
8 of every kind and description and includes electricity, natural gas, steam and water
9 and also leased property affixed to realty if the lessor has the right to remove the
10 property upon breach or termination of the lease agreement, unless the lessor of the
11 property is also the lessor of the realty to which the property is affixed. “Tangible
12 personal property” also includes coins and stamps of the United States sold or traded
13 as collectors’ items above their face value and ~~computer programs except custom~~
14 ~~computer programs~~ prewritten computer software, regardless of how it is delivered
15 to the purchaser.

16 **SECTION 333.** 77.51 (20) of the statutes, as affected by 2009 Wisconsin Act ...
17 (this act), is repealed and recreated to read:

18 77.51 (20) “Tangible personal property” means personal property that can be
19 seen, weighed, measured, felt, or touched, or that is in any other manner perceptible
20 to the senses, and includes electricity, gas, steam, water, and prewritten computer
21 software.

22 **SECTION 334.** 77.51 (21) of the statutes is amended to read:

23 77.51 (21) “Taxpayer” means the person who is required to pay, collect, or
24 account for or who is otherwise directly interested in the taxes imposed by this
25 subchapter, including a certified service provider.

SENATE BILL 62**SECTION 335**

1 **SECTION 335.** 77.51 (21m) of the statutes is amended to read:

2 77.51 (21m) “Telecommunications and Internet access services” means
3 sending messages and information transmitted through the use of local, toll and
4 wide-area telephone service; channel services; telegraph services; teletypewriter;
5 computer exchange services; cellular mobile telecommunications service; specialized
6 mobile radio; stationary two-way radio; paging service; or any other form of mobile
7 and portable one-way or two-way communications; or any other transmission of
8 messages or information by electronic or similar means between or among points by
9 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
10 “Telecommunications and Internet access services” does not include sending collect
11 telecommunications that are received outside of the state.

12 **SECTION 336.** 77.51 (21m) of the statutes, as affected by 2009 Wisconsin Act
13 (this act), is renumbered 77.51 (5f) and amended to read:

14 77.51 (5f) “~~Telecommunications and Internet access~~ services” means sending
15 messages and information transmitted through the use of local, toll and wide-area
16 telephone service; channel services; telegraph services; teletypewriter; computer
17 exchange services; cellular mobile telecommunications service; specialized mobile
18 radio; stationary two-way radio; paging service; or any other form of mobile and
19 portable one-way or two-way communications; or any other transmission of
20 messages or information by electronic or similar means between or among points by
21 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
22 “~~Telecommunications and Internet access~~ services” does not include sending collect
23 ~~telecommunications that are received outside of the state~~ telecommunications
24 services to the extent that such services are taxable under s. 77.52 (2) (a) 5. am.

25 **SECTION 337.** 77.51 (21n) of the statutes is created to read:

SENATE BILL 62**SECTION 337**

1 77.51 (21n) “Telecommunications services” means electronically transmitting,
2 conveying, or routing voice, data, audio, video, or other information or signals to a
3 point or between or among points. “Telecommunications services” includes the
4 transmission, conveyance, or routing of such information or signals in which
5 computer processing applications are used to act on the content’s form, code, or
6 protocol for transmission, conveyance, or routing purposes, regardless of whether
7 the service is referred to as a voice over Internet protocol service or classified by the
8 federal communications commission as an enhanced or value-added nonvoice data
9 service. “Telecommunications services” does not include any of the following:

10 (a) Data processing and information services that allow data to be generated,
11 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic
12 transmission, if the purchaser’s primary purpose for the underlying transaction is
13 the processed data.

14 (b) Installing or maintaining wiring or equipment on a customer’s premises.

15 (c) Tangible personal property.

16 (d) Advertising, including directory advertising.

17 (e) Billing and collection services provided to 3rd parties.

18 (f) Internet access services.

19 (g) Radio and television audio and video programming services, regardless of
20 the medium in which the services are provided, including cable service, as defined
21 in 47 USC 522 (6), audio and video programming services delivered by commercial
22 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,
23 conveying, or routing of such services by the programming service provider.

24 (h) Ancillary services.

SENATE BILL 62

1 (i) Digital products delivered electronically, including software, music, video,
2 reading materials, or ringtones.

3 **SECTION 338.** 77.51 (21p) of the statutes is created to read:

4 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
5 and any other item that contains tobacco.

6 **SECTION 339.** 77.51 (21q) of the statutes is created to read:

7 77.51 (21q) "Transferred electronically" means accessed or obtained by the
8 purchaser by means other than tangible storage media.

9 **SECTION 340.** 77.51 (22) (a) of the statutes is amended to read:

10 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible
11 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
12 taxable services incident to the ownership, possession or enjoyment of the property,
13 items, goods, or services, or the results produced by the services, including
14 installation or affixation to real property and including the possession of, or the
15 exercise of any right or power over tangible personal property, or items, property, or
16 goods under s. 77.52 (1) (b), (c), or (d), by a lessee under a lease, except that "use" does
17 not include the activities under sub. (18).

18 **SECTION 341.** 77.51 (22) (b) of the statutes is amended to read:

19 77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to
20 direct the disposition of property or items, property, or goods under s. 77.52 (1) (b),
21 (c), or (d), whether or not the purchaser has possession of the property, items, or
22 goods. "Enjoyment" also includes, but is not limited to, having shipped into this state
23 by an out-of-state supplier printed material which is designed to promote the sale
24 of property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services,

SENATE BILL 62**SECTION 341**

1 or which is otherwise related to the business activities, of the purchaser of the
2 printed material or printing service.

3 **SECTION 342.** 77.51 (22) (bm) of the statutes is created to read:

4 77.51 (22) (bm) In this subsection, “exercise of any right or power over tangible
5 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
6 taxable services” includes distributing, selecting recipients, determining mailing
7 schedules, or otherwise directing the distribution, dissemination, or disposal of
8 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
9 (d), or taxable services, regardless of whether the purchaser of such property, items,
10 goods, or services owns or physically possesses, in this state, the property, items,
11 goods, or services.

12 **SECTION 343.** 77.51 (24) of the statutes is created to read:

13 77.51 (24) “Value-added nonvoice data service” means a service in which
14 computer processing applications are used to act on the form, content, code, or
15 protocol of the data provided by the service and are used primarily for a purpose other
16 than for transmitting, conveying, or routing data.

17 **SECTION 344.** 77.51 (25) of the statutes is created to read:

18 77.51 (25) “Vertical service” means an ancillary service that is provided with
19 one or more telecommunications services and allows customers to identify callers
20 and to manage multiple calls and call connections, including conference bridging
21 services.

22 **SECTION 345.** 77.51 (26) of the statutes is created to read:

23 77.51 (26) “Voice mail service” means an ancillary service that allows a
24 customer to store, send, or receive recorded messages, not including any vertical
25 service that the customer must have to use the voice mail service.

SENATE BILL 62**SECTION 346**

1 **SECTION 346.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
2 to read:

3 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
4 personal property, including accessories, components, attachments, parts, supplies
5 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
6 ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal
7 property, including accessories, components, attachments, parts, supplies and
8 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

9 **SECTION 347.** 77.52 (1) (b) of the statutes is created to read:

10 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United
11 States that are sold or traded as collectors' items above their face value, a tax is
12 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such
13 coins and stamps.

14 **SECTION 348.** 77.52 (1) (c) of the statutes is created to read:

15 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
16 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease
17 of such property, if the lessor has the right to remove the leased property upon breach
18 or termination of the lease agreement, unless the lessor of the leased property is also
19 the lessor of the real property to which the leased property is affixed.

20 **SECTION 349.** 77.52 (1) (d) of the statutes is created to read:

21 77.52 (1) (d) A tax is imposed on all retailers at the rate of 5 percent of the sales
22 price from the sale, lease, license, or rental of specified digital goods and additional
23 digital goods at retail for the right to use the specified digital goods or additional
24 digital goods on a permanent or less than permanent basis and regardless of whether
25 the purchaser is required to make continued payments for such right.

SENATE BILL 62**SECTION 350**

1 **SECTION 350.** 77.52 (1b) of the statutes is repealed and recreated to read:

2 77.52 (1b) All sales, licenses, leases, or rentals of tangible personal property
3 or items, property, or goods under sub. (1) (b), (c), or (d) at retail in this state are
4 subject to the tax imposed under sub. (1) unless an exemption in this subchapter
5 applies.

6 **SECTION 351.** 77.52 (2) (intro.) of the statutes is amended to read:

7 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
8 the services described under par. (a) at retail in this state, as determined under s.
9 77.522, to consumers or users, regardless of whether the consumer or user has the
10 right of permanent use or less than the right of permanent use and regardless of
11 whether the service is conditioned on continued payment from the purchaser, a tax
12 is imposed upon all persons selling, licensing, performing or furnishing the services
13 at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license, performance
14 or furnishing of the services.

15 **SECTION 352.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

16 77.52 (2) (a) 5. a. The sale of telecommunications and Internet access services,
17 except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either
18 originate or terminate in this state; except services that are obtained by means of a
19 toll-free number, that originate outside this state and that terminate in this state;
20 and are charged to a service address in this state, regardless of the location where
21 that charge is billed or paid; and the sale of the rights to purchase
22 telecommunications services, including purchasing reauthorization numbers, by
23 paying in advance and by using an access number and authorization code, except
24 sales that are subject to subd. 5. b.

SENATE BILL 62**SECTION 353**

1 **SECTION 353.** 77.52 (2) (a) 5. a. of the statutes, as affected by 2009 Wisconsin
2 Act (this act), is amended to read:

3 77.52 (2) (a) 5. a. The sale of ~~telecommunications and Internet access services,~~
4 ~~except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either~~
5 ~~originate or terminate in this state; except services that are obtained by means of a~~
6 ~~toll-free number, that originate outside this state and that terminate in this state;~~
7 ~~and are charged to a service address in this state, regardless of the location where~~
8 ~~that charge is billed or paid; and the sale of the rights to purchase~~
9 ~~telecommunications services, including purchasing reauthorization numbers, by~~
10 ~~paying in advance and by using an access number and authorization code, except~~
11 ~~sales that are subject to subd. 5. b.~~

12 **SECTION 354.** 77.52 (2) (a) 5. am. of the statutes is created to read:

13 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
14 telecommunications services, except interstate 800 services.

15 **SECTION 355.** 77.52 (2) (a) 5. b. of the statutes is repealed.

16 **SECTION 356.** 77.52 (2) (a) 5. c. of the statutes is created to read:

17 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed
18 telecommunications billing services.

19 **SECTION 357.** 77.52 (2) (a) 5m. of the statutes is amended to read:

20 77.52 (2) (a) 5m. The sale of services that consist of recording
21 telecommunications messages and transmitting them to the purchaser of the service
22 or at that purchaser's direction, but not including those services ~~if they are merely~~
23 ~~an~~ that are taxable under subd. 5. or services that are incidental, as defined in s.
24 77.51 (5), element of to another service that is not taxable under this subchapter and

SENATE BILL 62**SECTION 357**

1 sold to ~~that~~ the purchaser of the incidental service and is not taxable under this
2 subchapter.

3 **SECTION 358.** 77.52 (2) (a) 10. of the statutes is amended to read:

4 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
5 installing or applying tangible personal property that, subject to par. (ag), when
6 installed or applied, will constitute an addition or capital improvement of real
7 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
8 inspection, and maintenance of all items of tangible personal property or items,
9 property, or goods under s. 77.52 (1) (b), (c), or (d), unless, at the time of that repair,
10 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or
11 maintenance, a sale in this state of the type of property, item, or good repaired,
12 serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or maintained
13 would have been exempt to the customer from sales taxation under this subchapter,
14 other than the exempt sale of a motor vehicle or truck body to a nonresident under
15 s. 77.54 (5) (a) and other than nontaxable sales under s. ~~77.51 (14r)~~ 77.522 or unless
16 the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection,
17 or maintenance is provided under a contract that is subject to tax under subd. 13m.
18 The tax imposed under this subsection applies to the repair, service, alteration,
19 fitting, cleaning, painting, coating, towing, inspection, or maintenance of items listed
20 in par. (ag), regardless of whether the installation or application of tangible personal
21 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) related to the
22 items is an addition to or a capital improvement of real property, except that the tax
23 imposed under this subsection does not apply to the original installation or the
24 complete replacement of an item listed in par. (ag), if that installation or replacement
25 is a real property construction activity under s. 77.51 (2).

SENATE BILL 62

1 **SECTION 359.** 77.52 (2) (a) 11. of the statutes, as affected by 2007 Wisconsin Act
2 20, is amended to read:

3 77.52 (2) (a) 11. The producing, fabricating, processing, printing, or imprinting
4 of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c),
5 or (d) for a consideration for consumers who furnish directly or indirectly the
6 materials used in the producing, fabricating, processing, printing, or imprinting.
7 This subdivision does not apply to the printing or imprinting of tangible personal
8 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) that results in
9 printed material, catalogs, or envelopes that are exempt under s. 77.54 (25) or (25m).

10 **SECTION 360.** 77.52 (2) (a) 13m. of the statutes is created to read:

11 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
12 maintenance agreements, computer software maintenance contracts for prewritten
13 computer software, and warranties, that provide, in whole or in part, for the future
14 performance of or payment for the repair, service, alteration, fitting, cleaning,
15 painting, coating, towing, inspection, or maintenance of tangible personal property
16 or items, property, or goods under s. 77.52 (1) (b), (c), or (d), unless the sale, license,
17 lease, or rental in this state of the property, items, or goods to which the contract
18 relates is or was exempt, to the purchaser of the contract, from taxation under this
19 subchapter.

20 **SECTION 361.** 77.52 (2m) (a) of the statutes is amended to read:

21 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
22 of the charge for the service may be deemed a sale or rental of tangible personal
23 property or items, property, or goods under sub. (1) (b), (c), or (d) if the property, items,
24 or goods transferred by the service provider is are incidental to the selling,
25 performing or furnishing of the service, except as provided in par. (b).

SENATE BILL 62**SECTION 362**

1 **SECTION 362.** 77.52 (2m) (b) of the statutes is amended to read:

2 77.52 **(2m)** (b) With respect to the services subject to tax under sub. (2) (a) 7.,
3 10., 11. and 20., all property or items, property, or goods under s. 77.52 (1) (b), (c), or
4 (d) physically transferred, or transferred electronically, to the customer in
5 conjunction with the selling, performing or furnishing of the service is a sale of
6 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or
7 (d) separate from the selling, performing or furnishing of the service.

8 **SECTION 363.** 77.52 (2n) of the statutes is repealed and recreated to read:

9 77.52 **(2n)** The selling, licensing, performing, or furnishing of the services
10 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is
11 subject to the tax imposed under sub. (2) unless an exemption in this subchapter
12 applies.

13 **SECTION 364.** 77.52 (3m) of the statutes is repealed.

14 **SECTION 365.** 77.52 (3n) of the statutes is repealed.

15 **SECTION 366.** 77.52 (4) of the statutes is amended to read:

16 77.52 **(4)** It is unlawful for any retailer to advertise or hold out or state to the
17 public or to any customer, directly or indirectly, that the tax or any part thereof will
18 be assumed or absorbed by the retailer or that it will not be added to the selling price
19 of the property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) sold or that
20 if added it, or any part thereof, will be refunded. Any person who violates this
21 subsection is guilty of a misdemeanor.

22 **SECTION 367.** 77.52 (6) of the statutes is repealed.

23 **SECTION 368.** 77.52 (7) of the statutes is amended to read:

24 77.52 **(7)** Every person desiring to operate as a seller within this state who
25 holds a valid certificate under s. 73.03 (50) shall file with the department an

SENATE BILL 62**SECTION 368**

1 application for a permit for each place of operations. Every application for a permit
2 shall be made upon a form prescribed by the department and shall set forth the name
3 under which the applicant intends to operate, the location of the applicant's place of
4 operations, and the other information that the department requires. ~~The~~ Except as
5 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
6 in the case of sellers other than sole proprietors, the application shall be signed by
7 the person authorized to act on behalf of such sellers. A nonprofit organization that
8 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
9 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
10 received after it is required to obtain that permit. If that organization becomes
11 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
12 seller's permit, it may surrender that permit.

13 **SECTION 369.** 77.52 (7b) of the statutes is created to read:

14 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
15 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
16 manner prescribed by the department.

17 **SECTION 370.** 77.52 (12) of the statutes is amended to read:

18 77.52 (12) A person who operates as a seller in this state without a permit or
19 after a permit has been suspended or revoked or has expired, unless the person has
20 a temporary permit under sub. (11), and each officer of any corporation, partnership
21 member, limited liability company member, or other person authorized to act on
22 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
23 only by persons actively operating as sellers of tangible personal property, or items,
24 property, or goods under sub. (1) (b), (c), or (d), or taxable services. Any person not
25 so operating shall forthwith surrender that person's permit to the department for

SENATE BILL 62**SECTION 370**

1 cancellation. The department may revoke the permit of a person found not to be
2 actively operating as a seller of tangible personal property, or items, property, or
3 goods under sub. (1) (b), (c), or (d), or taxable services.

4 **SECTION 371.** 77.52 (13) of the statutes is amended to read:

5 77.52 (13) For the purpose of the proper administration of this section and to
6 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
7 the tax until the contrary is established. The burden of proving that a sale of tangible
8 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
9 is not a taxable sale at retail is upon the person who makes the sale unless that
10 person takes from the purchaser ~~a~~ an electronic or a paper certificate, in a manner
11 prescribed by the department, to the effect that the property, item, good, or service
12 is purchased for resale or is otherwise exempt; ~~except that no certificate is required~~
13 ~~for sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined~~
14 ~~in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined~~
15 ~~in 7 USC 2, that are consigned for sale in a warehouse in or from which the~~
16 ~~commodity is deliverable on a contract for future delivery subject to the rules of a~~
17 ~~commodity market regulated by the U.S. commodity futures trading commission if~~
18 ~~upon the sale the commodity is not removed from the warehouse~~ the sale of tangible
19 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
20 that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21),
21 (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), and (52).

22 **SECTION 372.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are
23 consolidated, renumbered 77.52 (14) (a) and amended to read:

24 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller ~~from the~~
25 ~~burden of proof of the tax otherwise applicable~~ only if any of the following is true:

SENATE BILL 62**SECTION 372**

1 ~~1. The certificate is taken in good faith the seller obtains a fully completed exemption~~
2 ~~certificate, or the information required to prove the exemption, from a person who~~
3 ~~is engaged as a seller of tangible personal property or taxable services and who holds~~
4 ~~the permit provided for in sub. (9) and who, at the time of purchasing purchaser no~~
5 ~~later than 90 days after the date of the sale of the tangible personal property, or items,~~
6 ~~property, or goods under sub. (1) (b), (c), or (d), or services, intends to sell it in the~~
7 ~~regular course of operations or is unable to ascertain at the time of purchase whether~~
8 ~~the property or service will be sold or will be used for some other purpose. (b) except~~
9 ~~as provided in par. (am). The certificate under sub. (13) shall not relieve the seller~~
10 ~~of the tax otherwise applicable if the seller fraudulently fails to collect sales tax,~~
11 ~~solicits the purchaser to claim an unlawful exemption, or accepts an exemption~~
12 ~~certificate from a purchaser who claims to be an entity that is not subject to the taxes~~
13 ~~imposed under this subchapter, if the subject of the transaction sought to be covered~~
14 ~~by the exemption certificate is received by the purchaser at a location operated by the~~
15 ~~seller in this state and the exemption certificate clearly and affirmatively indicates~~
16 ~~that the claimed exemption is not available in this state. The certificate referred to~~
17 ~~in sub. (13) shall be signed by and bear the name and address of provide information~~
18 ~~that identifies the purchaser, and shall indicate the general character of the tangible~~
19 ~~personal property or service sold by the purchaser and the basis for the claimed~~
20 ~~exemption and a paper certificate shall be signed by the purchaser. The certificate~~
21 ~~shall be in such form as the department prescribes by rule.~~

22 **SECTION 373.** 77.52 (14) (a) 2. of the statutes is repealed.

23 **SECTION 374.** 77.52 (14) (am) of the statutes is created to read:

24 77.52 (14) (am) If the seller has not obtained a fully completed exemption
25 certificate or the information required to prove the exemption, as provided in par. (a),

SENATE BILL 62**SECTION 374**

1 the seller may, no later than 120 days after the department requests that the seller
2 substantiate the exemption, either provide proof of the exemption to the department
3 by other means or obtain, in good faith, a fully completed exemption certificate from
4 the purchaser.

5 **SECTION 375.** 77.52 (14) (bm) of the statutes is created to read:

6 77.52 (14) (bm) A certified service provider is relieved from liability for the tax
7 otherwise applicable to the same extent as the seller, who is the certified service
8 provider's client, is relieved from liability for the tax otherwise applicable under par.
9 (a) or (am).

10 **SECTION 376.** 77.52 (15) of the statutes is amended to read:

11 77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible
12 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
13 taxable services without paying a sales tax or use tax on such purchase because such
14 property, items, goods, or services were for resale makes any use of the property,
15 items, goods, or services other than retention, demonstration or display while
16 holding it the property, items, goods, or services for sale, lease or rental in the regular
17 course of the purchaser's operations, the use shall be taxable to the purchaser under
18 s. 77.53 as of the time that the property is, items, goods, or services are first used by
19 the purchaser, and the sales purchase price of the property, items, goods, or services
20 to the purchaser shall be the measure of the tax. ~~Only when there is an unsatisfied~~
21 ~~use tax liability on this basis because the seller has provided incorrect information~~
22 ~~about that transaction to the department shall the seller be liable for sales tax with~~
23 ~~respect to the sale of the property to the purchaser.~~

24 **SECTION 377.** 77.52 (16) of the statutes is amended to read:

SENATE BILL 62**SECTION 377**

1 77.52 (16) Any person who gives a resale certificate for property, or items,
2 property, or goods under sub. (1) (b), (c), or (d), or services which that person knows
3 at the time of purchase is not to be resold by that person in the regular course of that
4 person's operations as a seller for the purpose of evading payment to the seller of the
5 amount of the tax applicable to the transaction is guilty of a misdemeanor. Any
6 person certifying to the seller that the sale of property, or items, property, or goods
7 under sub. (1) (b), (c), or (d), or taxable service is exempt, knowing at the time of
8 purchase that it is not exempt, for the purpose of evading payment to the seller of the
9 amount of the tax applicable to the transaction, is guilty of a misdemeanor.

10 **SECTION 378.** 77.52 (17m) (b) 6. of the statutes is amended to read:

11 77.52 (17m) (b) 6. The applicant purchases enough tangible personal property
12 or items, property, or goods under s. 77.52 (1) (b), (c), or (d) under circumstances that
13 make it difficult to determine whether the property, items, or goods will be subject
14 to a tax under this subchapter.

15 **SECTION 379.** 77.52 (19) of the statutes is amended to read:

16 77.52 (19) The department shall by rule provide for the efficient collection of
17 the taxes imposed by this subchapter on sales of tangible personal property, or items,
18 property, or goods under sub. (1) (b), (c), or (d), or services by persons not regularly
19 engaged in selling at retail in this state or not having a permanent place of business,
20 but who are temporarily engaged in selling from trucks, portable roadside stands,
21 concessions at fairs and carnivals, and the like. The department may authorize such
22 persons to sell property or items, property or goods under sub. (1) (b), (c), or (d) or sell,
23 perform, or furnish services on a permit or nonpermit basis as the department by rule
24 prescribes and failure of any person to comply with such rules constitutes a
25 misdemeanor.

SENATE BILL 62**SECTION 380**

1 **SECTION 380.** 77.52 (20) of the statutes is created to read:

2 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
3 transaction is subject to the tax imposed under this subchapter.

4 (b) At the retailer's option, if the retailer can identify, by reasonable and
5 verifiable standards from the retailer's books and records that are kept in the
6 ordinary course of its business for other purposes, including purposes unrelated to
7 taxes, the portion of the price that is attributable to products that are not subject to
8 the tax imposed under this subchapter, that portion of the sales price is not taxable
9 under this subchapter. This paragraph does not apply to a bundled transaction that
10 contains food and food ingredients, drugs, durable medical equipment, mobility
11 enhancing equipment, prosthetic devices, or medical supplies.

12 **SECTION 381.** 77.52 (21) of the statutes is created to read:

13 77.52 (21) A person who provides a product that is not a distinct and
14 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)
15 (b), is the consumer of that product and shall pay the tax imposed under this
16 subchapter on the purchase price of that product.

17 **SECTION 382.** 77.52 (22) of the statutes is created to read:

18 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
19 provider is the consumer of the tangible personal property or items, property, or
20 goods under sub. (1) (b), (c), or (d) and shall pay the tax imposed under this
21 subchapter on the purchase price of the property, items, or goods.

22 **SECTION 383.** 77.52 (23) of the statutes is created to read:

23 77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service
24 provider is the consumer of the service that is essential to the use or receipt of the

SENATE BILL 62**SECTION 383**

1 other service and shall pay the tax imposed under this subchapter on the purchase
2 price of the service that is essential to the use or receipt of the other service.

3 **SECTION 384.** 77.522 of the statutes is created to read:

4 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

5 1. "Receive" means taking possession of tangible personal property or items or
6 property under s. 77.52 (1) (b) or (c); making first use of services; or taking possession
7 or making first use of digital goods under s. 77.52 (1) (d), whichever comes first.
8 "Receive" does not include a shipping company taking possession of tangible
9 personal property or items or property under s. 77.52 (1) (b) or (c) on a purchaser's
10 behalf.

11 2. "Transportation equipment" means any of the following:

12 a. Locomotives and railcars that are used to carry persons or property in
13 interstate commerce.

14 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
15 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
16 registered under the international registration plan under s. 341.405 and operated
17 under the authority of a carrier that is authorized by the federal government to carry
18 persons or property in interstate commerce.

19 c. Aircraft that is operated by air carriers that are authorized by the federal
20 government or a foreign authority to carry persons or property in interstate or
21 foreign commerce.

22 d. Containers that are designed for use on the vehicles described in subd. 2. a.
23 to c. and component parts attached to or secured on such vehicles.

24 (b) Except as provided in par. (c) and subs. (2), (3), (4), and (5), the location of
25 a sale is determined as follows:

SENATE BILL 62**SECTION 384**

1 1. If a purchaser receives the product at a seller's business location, the sale
2 is sourced to that business location.

3 2. If a purchaser does not receive the product at a seller's business location, the
4 sale is sourced to the location where the purchaser, or the purchaser's designated
5 donee, receives the product, including the location indicated by the instructions
6 known to the seller for delivery to the purchaser or the purchaser's designated donee.

7 3. If the location of a sale of a product cannot be determined under subds. 1. and
8 2., the sale is sourced to the purchaser's address as indicated by the seller's business
9 records, if the records are maintained in the ordinary course of the seller's business
10 and if using that address to establish the location of a sale is not in bad faith.

11 4. If the location of a sale of a product cannot be determined under subds. 1. to
12 3., the sale is sourced to the purchaser's address as obtained during the
13 consummation of the sale, including the address indicated on the purchaser's
14 payment instrument, if no other address is available and if using that address is not
15 in bad faith.

16 5. If the location of a sale of a product cannot be determined under subds. 1. to
17 4., including the circumstance in which the seller has insufficient information to
18 determine the locations under subds. 1. to 4., the location of the sale is determined
19 as follows:

20 a. If the item sold is tangible personal property or an item or property under
21 s. 77.52 (1) (b) or (c), the sale is sourced to the location from which the tangible
22 personal property or item or property under s. 77.52 (1) (b) or (c) is shipped.

23 b. If the item sold is a digital good or computer software delivered electronically,
24 the sale is sourced to the location from which the computer software was first

SENATE BILL 62

1 available for transmission by the seller, not including any location that merely
2 provided the digital transfer of the product sold.

3 c. If a service is sold, the sale is sourced to the location from which the service
4 was provided.

5 (c) The sale of direct mail is sourced to the location from which the direct mail
6 is shipped, if the purchaser does not provide to the seller a direct pay permit, an
7 exemption certificate claiming direct mail, or other information that indicates the
8 appropriate taxing jurisdiction to which the direct mail is delivered to the ultimate
9 recipients. If the purchaser provides an exemption certificate claiming direct mail
10 or direct pay permit to the seller, the purchaser shall pay or remit, as appropriate,
11 to the department the tax imposed under s. 77.53 on all purchases for which the tax
12 is due and the seller is relieved from liability for collecting such tax. If the purchaser
13 provides delivery information indicating the jurisdictions to which the direct mail is
14 delivered to the recipients, the seller shall collect the tax according to the delivery
15 information provided by the purchaser and, in the absence of bad faith, the seller
16 shall be relieved of any further obligation to collect tax on any transaction for which
17 the seller has collected tax pursuant to the delivery information provided by the
18 purchaser. An exemption certificate claiming direct mail provided to a seller under
19 this paragraph shall remain effective for all sales by the seller who received the
20 exemption certificate to the purchaser who provided the exemption certificate,
21 unless the purchaser revokes the exemption certificate in writing and provides such
22 revocation to the seller.

23 **(2) DIGITAL GOODS.** (a) If the location of a sale of the digital good under s. 77.52
24 (1) (d) cannot be determined under sub. (1) (b), including the circumstance in which
25 the seller has insufficient information to determine the location under sub. (1) (b),

SENATE BILL 62**SECTION 384**

1 the sale is sourced to the location from which the digital good was first available for
2 transmission by the seller, not including any location from which the digital good was
3 merely transferred electronically.

4 (b) The location of a license of a digital good under s. 77.52 (1) (d) is determined
5 as follows:

6 1. With regard to the first or only payment on the license of the digital good,
7 the license is sourced to the location determined under par. (a).

8 2. If the digital good is moved from the place where the digital good was initially
9 delivered, the subsequent periodic payments on the license are sourced to the digital
10 good's primary location as indicated by an address for the digital good that is
11 provided by the licensee and that is available to the licensor in records that the
12 licensor maintains in the ordinary course of the licensor's business, if the use of such
13 an address does not constitute bad faith. The location of a license as determined
14 under this paragraph shall not be altered by any intermittent use of the digital good
15 at different locations.

16 **(3) LEASE OR RENTAL.** (a) Except as provided in pars. (b) and (c), with regard
17 to the first or only payment on the lease or rental, the lease or rental of tangible
18 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) is
19 sourced to the location determined under sub. (1) (b). If the property, item, or good
20 is moved from the place where the property, item, or good was initially delivered, the
21 subsequent periodic payments on the lease or rental are sourced to the property's,
22 item's, or good's primary location as indicated by an address for the property, item,
23 or good that is provided by the lessee and that is available to the lessor in records that
24 the lessor maintains in the ordinary course of the lessor's business, if the use of such
25 an address does not constitute bad faith. The location of a lease or rental as

SENATE BILL 62

1 determined under this paragraph shall not be altered by any intermittent use of the
2 property, item, or good at different locations.

3 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
4 that are not transportation equipment, is sourced to the primary location of such
5 motor vehicles, trailers, semitrailers, or aircraft as indicated by an address for the
6 property that is provided by the lessee and that is available to the lessor in records
7 that the lessor maintains in the ordinary course of the lessor's business, if the use
8 of such an address does not constitute bad faith, except that a lease or rental under
9 this paragraph that requires only one payment is sourced to the location determined
10 under sub. (1) (b). The location of a lease or rental as determined under this
11 paragraph shall not be altered by any intermittent use of the property at different
12 locations.

13 (c) The lease or rental of transportation equipment is sourced to the location
14 determined under sub. (1) (b).

15 (d) A license of tangible personal property or items or property under s. 77.52
16 (1) (b), or (c) shall be treated as a lease or rental of tangible personal property under
17 this subsection.

18 **(4) TELECOMMUNICATIONS.** (a) In this subsection:

19 1. "Air-to-ground radiotelephone service" means a radio service in which
20 common carriers are authorized to offer and provide radio telecommunications
21 service for hire to subscribers in aircraft.

22 2. "Call-by-call basis" means any method of charging for telecommunications
23 services by which the price of such services is measured by individual calls.

SENATE BILL 62**SECTION 384**

1 3. “Communications channel” means a physical or virtual path of
2 communications over which signals are transmitted between or among customer
3 channel termination points.

4 4. “Customer” means a person who enters into a contract with a seller of
5 telecommunications services or, in any transaction for which the end user is not the
6 person who entered into a contract with the seller of telecommunications services,
7 the end user of the telecommunications services. “Customer” does not include a
8 person who resells telecommunications services or, for mobile telecommunications
9 services, a serving carrier under an agreement to serve a customer outside the home
10 service provider’s licensed service area.

11 5. “Customer channel termination point” means the location where a customer
12 inputs or receives communications.

13 6. “End user” means the person who uses a telecommunications service. In the
14 case of an entity, “end user” means the individual who uses the telecommunications
15 service on the entity’s behalf.

16 7. “Home service provider” means a home service provider under section 124
17 (5) of P.L. 106–252.

18 8. “Mobile telecommunications service” means a mobile telecommunications
19 service under 4 USC 116 to 126, as amended by P.L. 106–252.

20 9. “Place of primary use” means place of primary use, as determined under 4
21 USC 116 to 126, as amended by P.L. 106–252.

22 10. “Postpaid calling service” means a telecommunications service that is
23 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit
24 card, debit card, or similar method, or by charging it to a telephone number that is
25 not associated with the location where the telecommunications service originates or

SENATE BILL 62

1 terminates. "Postpaid calling service" includes a telecommunications service, not
2 including a prepaid wireless calling service, that would otherwise be a prepaid
3 calling service except that the service provided to the customer is not exclusively a
4 telecommunications service.

5 14. "Radio service" means a communication service provided by the use of radio,
6 including radiotelephone, radiotelegraph, paging, and facsimile service.

7 15. "Radiotelegraph service" means transmitting messages from one place to
8 another by means of radio.

9 16. "Radiotelephone service" means transmitting sound from one place to
10 another by means of radio.

11 (b) Except as provided in pars. (d) to (j), the sale of a telecommunications service
12 that is sold on a call-by-call basis is sourced to the taxing jurisdiction for sales and
13 use tax purposes where the call originates and terminates, in the case of a call that
14 originates and terminates in the same such jurisdiction, or the taxing jurisdiction for
15 sales and use tax purposes where the call originates or terminates and where the
16 service address is located.

17 (c) Except as provided in pars. (d) to (j), the sale of a telecommunications service
18 that is sold on a basis other than a call-by-call basis is sourced to the customer's
19 place of primary use.

20 (d) The sale of a mobile telecommunications service, except an air-to-ground
21 radiotelephone service and a prepaid calling service, is sourced to the customer's
22 place of primary use.

23 (e) The sale of a postpaid calling service is sourced to the location where the
24 signal of the telecommunications service originates, as first identified by the seller's
25 telecommunications system or, if the signal is not transmitted by the seller's

SENATE BILL 62**SECTION 384**

1 telecommunications system, by information that the seller received from the seller's
2 service provider.

3 (f) The sale of a prepaid calling service or a prepaid wireless calling service is
4 sourced to the location determined under sub. (1) (b), except that, if the service is a
5 prepaid wireless calling service and the location cannot be determined under sub. (1)
6 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined
7 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,
8 as determined by the seller.

9 (g) 1. The sale of a private communication service for a separate charge related
10 to a customer channel termination point is sourced to the location of the customer
11 channel termination point.

12 2. The sale of a private communication service in which all customer channel
13 termination points are located entirely in one taxing jurisdiction for sales and use
14 tax purposes is sourced to the taxing jurisdiction in which the customer channel
15 termination points are located.

16 3. If the segments are charged separately, the sale of a private communication
17 service that represents segments of a communications channel between 2 customer
18 channel termination points that are located in different taxing jurisdictions for sales
19 and use tax purposes is sourced to an equal percentage in both such jurisdictions.

20 4. If the segments are not charged separately, the sale of a private
21 communication service for segments of a communications channel that is located in
22 more than one taxing jurisdiction for sales and use tax purposes is sourced to each
23 such jurisdiction in a percentage determined by dividing the number of customer
24 channel termination points in that jurisdiction by the number of customer channel

SENATE BILL 62

1 termination points in all jurisdictions where segments of the communications
2 channel are located.

3 (h) The sale of an Internet access service is sourced to the customer's place of
4 primary use.

5 (i) The sale of an ancillary service is sourced to the customer's place of primary
6 use.

7 (j) If the location of the customer's service address, channel termination point,
8 or place of primary use is not known, the location where the seller receives or hands
9 off the signal shall be considered, for purposes of this section, the customer's service
10 address, channel termination point, or place of primary use.

11 **(5) FLOLISTS.** (a) For purposes of this subsection, "retail florist" means a person
12 engaged in the business of selling cut flowers, floral arrangements, and potted plants
13 and who prepares such flowers, floral arrangements, and potted plants. "Retail
14 florist" does not include a person who sells cut flowers, floral arrangements, and
15 potted plants primarily by mail or via the Internet.

16 (b) Sales by a retail florist are sourced to the location determined by rule by the
17 department.

18 **SECTION 385.** 77.523 (title) of the statutes is repealed.

19 **SECTION 386.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
20 to read:

21 **77.59 (9p) (a)** If a customer purchases a service that is subject to 4 USC 116
22 to 126, as amended by P.L. 106-252, and if the customer believes that the amount
23 of the tax assessed for the service under this subchapter or the place of primary use
24 or taxing jurisdiction assigned to the service is erroneous, the customer may request
25 that the service provider correct the alleged error by sending a written notice to the

SENATE BILL 62**SECTION 386**

1 service provider. The notice shall include a description of the alleged error, the street
2 address for the customer’s place of primary use of the service, the account name and
3 number of the service for which the customer seeks a correction, and any other
4 information that the service provider reasonably requires to process the request.
5 Within 60 days from the date that a service provider receives a request under this
6 ~~section paragraph~~, the service provider shall review its records to determine the
7 customer’s taxing jurisdiction. If the review indicates that there is no error as
8 alleged, the service provider shall explain the findings of the review in writing to the
9 customer. If the review indicates that there is an error as alleged, the service
10 provider shall correct the error and shall refund or credit the amount of any tax
11 collected erroneously, along with the related interest, as a result of the error from the
12 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
13 take no other action against the service provider, or commence any action, to correct
14 an alleged error in the amount of the tax assessed under this subchapter on a service
15 that is subject to 4 USC 116 to 126, as amended by P.L. 106–252, or to correct an
16 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
17 customer has exhausted his or her remedies under this ~~section paragraph~~.

18 **SECTION 387.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

19 **SECTION 388.** 77.524 (1) (ag) of the statutes is created to read:

20 77.524 (1) (ag) “Agent” means a person appointed by a seller to represent the
21 seller before the states that are signatories to the agreement, as defined in s. 77.65
22 (2) (a).

23 **SECTION 389.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g) and
24 amended to read:

SENATE BILL 62**SECTION 389**

1 77.51 (1g) “Certified service provider” means an agent that is certified jointly
2 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
3 that performs all of a seller’s sales tax and use tax functions related to the seller’s
4 retail sales, except that a certified service provider is not responsible for a retailer’s
5 obligation to remit tax on the retailer’s own purchases.

6 **SECTION 390.** 77.525 of the statutes is amended to read:

7 **77.525 Reduction to prevent double taxation.** Any person who is subject
8 to the tax under s. 77.52 (2) (a) 5. ~~a.~~ on telecommunications services that terminate
9 in this state and who has paid a similar tax on the same services to another state may
10 reduce the amount of the tax remitted to this state by an amount equal to the similar
11 tax properly paid to another state on those services or by the amount due this state
12 on those services, whichever is less. That person shall refund proportionally to the
13 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a.~~ was passed on an amount equal
14 to the amounts not remitted.

15 **SECTION 391.** 77.53 (1) of the statutes is amended to read:

16 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
17 on the use or consumption in this state of taxable services under s. 77.52 purchased
18 from any retailer, at the rate of 5% of the sales purchase price of those services; on
19 the storage, use or other consumption in this state of tangible personal property and
20 items or property under s. 77.52 (1) (b) or (c) purchased from any retailer, at the rate
21 of 5% of the sales purchase price of that the property or items; on the storage, use,
22 or other consumption of goods under s. 77.52 (1) (d) purchased from any retailer, if
23 the purchaser has the right to use the goods on a permanent or less than permanent
24 basis and regardless of whether the purchaser is required to make continued
25 payments for such right, at the rate of 5 percent of the sales price of the goods; and

SENATE BILL 62**SECTION 391**

1 on the storage, use or other consumption of tangible personal property or items,
2 property, or goods under s. 77.52 (1) (b), (c), or (d) manufactured, processed or
3 otherwise altered, in or outside this state, by the person who stores, uses or consumes
4 it, from material purchased from any retailer, at the rate of 5% of the sales purchase
5 price of that material.

6 **SECTION 392.** 77.53 (1b) of the statutes is repealed and recreated to read:

7 77.53 (1b) The storage, use, or other consumption in this state of tangible
8 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), and
9 the use or other consumption in this state of a taxable service, purchased from any
10 retailer is subject to the tax imposed in this section unless an exemption in this
11 subchapter applies.

12 **SECTION 393.** 77.53 (2) of the statutes is amended to read:

13 77.53 (2) Every person storing, using, or otherwise consuming in this state
14 tangible personal property, or items, property, or goods specified under s. 77.52 (1)
15 (b), (c), or (d), or taxable services purchased from a retailer is liable for the tax
16 imposed by this section. The person's liability is not extinguished until the tax has
17 been paid to this state, but a receipt with the tax separately stated from a retailer
18 engaged in business in this state or from a retailer who is authorized by the
19 department, under such rules as it prescribes, to collect the tax and who is regarded
20 as a retailer engaged in business in this state for purposes of the tax imposed by this
21 section given to the purchaser under sub. (3) relieves the purchaser from further
22 liability for the tax to which the receipt refers.

23 **SECTION 394.** 77.53 (3) of the statutes is amended to read:

24 77.53 (3) Every retailer engaged in business in this state and making sales of
25 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or

SENATE BILL 62**SECTION 394**

1 ~~(d), or taxable services for delivery into this state or with knowledge directly or~~
2 ~~indirectly that the property or service is intended for storage, use or other~~
3 ~~consumption in that are sourced to this state under s. 77.522, shall, at the time of~~
4 ~~making the sales or, if the storage, use or other consumption of the tangible personal~~
5 ~~property or taxable service is not then taxable under this section, at the time the~~
6 ~~storage, use or other consumption becomes taxable, collect the tax from the~~
7 ~~purchaser and give to the purchaser a receipt in the manner and form prescribed by~~
8 ~~the department.~~

9 **SECTION 395.** 77.53 (4) of the statutes is repealed.

10 **SECTION 396.** 77.53 (9) of the statutes is amended to read:

11 77.53 (9) Every retailer selling tangible personal property, ~~or items, property,~~
12 ~~or goods under s. 77.52 (1) (b), (c), or (d),~~ or taxable services for storage, use or other
13 consumption in this state shall register with the department and obtain a certificate
14 under s. 73.03 (50) and give the name and address of all agents operating in this
15 state, the location of all distribution or sales houses or offices or other places of
16 business in this state, the standard industrial code classification of each place of
17 business in this state and the other information that the department requires. Any
18 person who may register under this subsection may designate an agent, as defined
19 in s. 77.524 (1) (ag), to register with the department under this subsection, in the
20 manner prescribed by the department.

21 **SECTION 397.** 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a) and
22 amended to read:

23 77.53 (9m) (a) Any person who is not otherwise required to collect any tax
24 imposed by this subchapter and who makes sales to persons within this state of
25 tangible personal property, ~~or items, property, or goods under s. 77.52 (1) (b), (c), or~~

SENATE BILL 62**SECTION 397**

1 (d), or taxable services the use of which is subject to tax under this subchapter may
2 register with the department under the terms and conditions that the department
3 imposes and shall obtain a valid certificate under s. 73.03 (50) and thereby be
4 authorized and required to collect, report, and remit to the department the use tax
5 imposed by this subchapter.

6 **SECTION 398.** 77.53 (9m) (b) of the statutes is created to read:

7 77.53 **(9m)** (b) Any person who may register under par. (a) may designate an
8 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
9 in the manner prescribed by the department.

10 **SECTION 399.** 77.53 (9m) (c) of the statutes is created to read:

11 77.53 **(9m)** (c) The registration under par. (a) by a person who is not otherwise
12 required to collect any tax imposed by this subchapter shall not be used as a factor
13 in determining whether the seller has nexus with this state for any tax at any time.

14 **SECTION 400.** 77.53 (10) of the statutes is amended to read:

15 77.53 **(10)** For the purpose of the proper administration of this section and to
16 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
17 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
18 (d), or taxable services sold by any person for delivery in this state is sold for storage,
19 use, or other consumption in this state until the contrary is established. The burden
20 of proving the contrary is upon the person who makes the sale unless that person
21 takes from the purchaser ~~-a- an electronic or paper certificate, in a manner prescribed~~
22 by department, to the effect that the property, or items, property, or goods under s.
23 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise exempt
24 from the tax, except that no certificate is required for sales of cattle, sheep, goats,
25 and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and no

SENATE BILL 62**SECTION 400**

1 ~~certificate is required for sales of commodities, as defined in 7 USC 2, that are~~
2 ~~consigned for sale in a warehouse in or from which the commodity is deliverable on~~
3 ~~a contract for future delivery subject to the rules of a commodity market regulated~~
4 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~
5 ~~is not removed from the warehouse~~ the sale of tangible personal property, or items,
6 property, or goods under s. 77.52 (1) (b), (c), or (d), or services that are exempt under
7 s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36),
8 (37), (42), (44), (45), (46), (51), and (52).

9 **SECTION 401.** 77.53 (11) of the statutes is renumbered 77.53 (11) (a) and
10 amended to read:

11 77.53 (11) (a) ~~The certificate referred to in~~ under sub. (10) relieves the person
12 ~~selling the property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or~~
13 ~~service from the burden of proof of the tax otherwise applicable only if taken in good~~
14 ~~faith~~ the seller obtains a fully completed exemption certificate, or the information
15 required to prove the exemption, ~~from a person who is engaged as a seller of tangible~~
16 ~~personal property or taxable services and who holds the permit provided for by s.~~
17 ~~77.52 (9) and who, at the time of purchasing~~ the purchaser no later than 90 days after
18 the date of the sale of the tangible personal property, or items, property, or goods
19 under s. 77.52 (1) (b), (c), or (d), or taxable service, intends to sell it in the regular
20 ~~course of operations or is unable to ascertain at the time of purchase whether the~~
21 ~~property or service will be sold or will be used for some other purpose, or if taken in~~
22 ~~good faith from a person claiming exemption, except as provided in par. (b). The~~
23 certificate under sub. (10) shall not relieve the seller of the tax otherwise applicable
24 if the seller fraudulently fails to collect sales tax or solicits the purchaser to claim an
25 unlawful exemption, or accepts an exemption certificate from a purchaser who

SENATE BILL 62**SECTION 401**

1 claims to be an entity that is not subject to the taxes imposed under this subchapter,
2 if the subject of the transaction sought to be covered by the exemption certificate is
3 received by the purchaser at a location operated by the seller in this state and the
4 exemption certificate clearly and affirmatively indicates that the claimed exemption
5 is not available in this state. The certificate shall be signed by and bear the name
6 and address of provide information that identifies the purchaser and shall indicate
7 the number of the permit issued to the purchaser, the general character of tangible
8 personal property or taxable service sold by the purchaser and the basis for the
9 claimed exemption and a paper certificate shall be signed by the purchaser. The
10 certificate shall be substantially in the form that the department prescribes by rule.

11 **SECTION 402.** 77.53 (11) (b) of the statutes is created to read:

12 77.53 (11) (b) If the seller has not obtained a fully completed exemption
13 certificate or the information required to prove the exemption, as provided in par. (a),
14 the seller may, no later than 120 days after the department requests that the seller
15 substantiate the exemption, either provide proof of the exemption to the department
16 by other means or obtain, in good faith, a fully completed exemption certificate from
17 the purchaser.

18 **SECTION 403.** 77.53 (12) of the statutes is amended to read:

19 77.53 (12) If a purchaser who gives a certificate makes any storage or use of
20 the property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or service
21 other than retention, demonstration, or display while holding it for sale in the
22 regular course of operations as a seller, the storage or use is taxable as of the time
23 the property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or service
24 is first so stored or used.

25 **SECTION 404.** 77.53 (14) of the statutes is amended to read:

SENATE BILL 62**SECTION 404**

1 77.53 (14) It is presumed that tangible personal property, or items, property,
2 or goods under s. 77.52 (1) (b), (c), or (d), or taxable services shipped or brought to this
3 state by the purchaser were purchased from or serviced by a retailer.

4 **SECTION 405.** 77.53 (15) of the statutes is repealed.

5 **SECTION 406.** 77.53 (16) of the statutes is amended to read:

6 77.53 (16) If the purchase, rental or lease of tangible personal property, or
7 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or service subject to the tax
8 imposed by this section was subject to a sales tax by another state in which the
9 purchase was made, the amount of sales tax paid the other state shall be applied as
10 a credit against and deducted from the tax, to the extent thereof, imposed by this
11 section, except no credit may be applied against and deducted from a sales tax paid
12 on the purchase of direct mail, if the direct mail purchaser did not provide to the
13 seller a direct pay permit, an exemption certificate claiming direct mail, or other
14 information that indicates the appropriate taxing jurisdiction to which the direct
15 mail is delivered to the ultimate recipients. In this subsection “sales tax” includes
16 a use or excise tax imposed on the use of tangible personal property, or items,
17 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable service by the state in
18 to which the sale occurred was sourced and “state” includes the District of Columbia
19 ~~but does not include~~ and the commonwealth of Puerto Rico ~~or~~ but does not include
20 the several territories organized by congress.

21 **SECTION 407.** 77.53 (17) of the statutes is amended to read:

22 77.53 (17) This section does not apply to tangible personal property or items,
23 property, or goods under s. 77.52 (1) (b), (c), or (d) purchased outside this state, as
24 determined under s. 77.522, other than motor vehicles, boats, snowmobiles,
25 recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain

SENATE BILL 62**SECTION 407**

1 vehicles and airplanes registered or titled or required to be registered or titled in this
2 state, which is brought into this state by a nondomiciliary for the person's own
3 storage, use or other consumption while temporarily within this state when such
4 property, item, or good is not stored, used or otherwise consumed in this state in the
5 conduct of a trade, occupation, business or profession or in the performance of
6 personal services for wages or fees.

7 **SECTION 408.** 77.53 (17m) of the statutes is amended to read:

8 77.53 (17m) This section does not apply to a boat purchased in a state
9 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
10 state if the boat is berthed in this state's boundary waters adjacent to the state of the
11 domicile of the purchaser and if the transaction was an exempt occasional sale under
12 the laws of the state in which the purchase was made.

13 **SECTION 409.** 77.53 (17r) (a) of the statutes is amended to read:

14 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

15 **SECTION 410.** 77.53 (18) of the statutes is amended to read:

16 77.53 (18) This section does not apply to the storage, use or other consumption
17 in this state of household goods or items, property, or goods under s. 77.52 (1) (b), (c),
18 or (d) for personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile
19 homes, manufactured homes, as defined in s. 101.91 (2), recreational vehicles, as
20 defined in s. 340.01 (48r), trailers, semitrailers and all-terrain vehicles, for personal
21 use, purchased by a nondomiciliary of this state outside this state, as determined
22 under s. 77.522, 90 days or more before bringing the goods, items, goods, or property
23 into this state in connection with a change of domicile to this state.

24 **SECTION 411.** 77.54 (1) of the statutes is amended to read:

SENATE BILL 62**SECTION 411**

1 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
2 other consumption in this state of tangible personal property, ~~and items, property,~~
3 and goods under s. 77.52 (1) (b), (c), and (d), and services the ~~gross receipts~~ sales price
4 from the sale of which, or the storage, use or other consumption of which, this state
5 is prohibited from taxing under the constitution or laws of the United States or under
6 the constitution of this state.

7 **SECTION 412.** 77.54 (2) of the statutes is amended to read:

8 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
9 other consumption of tangible personal property becoming an ingredient or
10 component part of an article of tangible personal property or which is consumed or
11 destroyed or loses its identity in the manufacture of tangible personal property in
12 any form destined for sale, except as provided in sub. (30) (a) 6.

13 **SECTION 413.** 77.54 (2m) of the statutes is amended to read:

14 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
15 or other consumption of tangible personal property or services that become an
16 ingredient or component of shoppers guides, newspapers or periodicals or that are
17 consumed or lose their identity in the manufacture of shoppers guides, newspapers
18 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
19 transferred without charge to the recipient. In this subsection, “shoppers guides”,
20 “newspapers” and “periodicals” have the meanings under sub. (15). The exemption
21 under this subdivision does not apply to advertising supplements that are not
22 newspapers.

23 **SECTION 414.** 77.54 (3) (a) of the statutes is amended to read:

24 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
25 or other consumption of tractors and machines, including accessories, attachments,

SENATE BILL 62**SECTION 414**

1 and parts, lubricants, nonpowered equipment, and other tangible personal property
2 that are used exclusively and directly, or are consumed or lose their identities, in the
3 business of farming, including dairy farming, agriculture, horticulture, floriculture,
4 silviculture, and custom farming services, but excluding automobiles, trucks, and
5 other motor vehicles for highway use; excluding personal property that is attached
6 to, fastened to, connected to, or built into real property or that becomes an addition
7 to, component of, or capital improvement of real property; and excluding tangible
8 personal property used or consumed in the erection of buildings or in the alteration,
9 repair, or improvement of real property, regardless of any contribution that that
10 personal property makes to the production process in that building or real property
11 and regardless of the extent to which that personal property functions as a machine,
12 except as provided in par. (c).

13 **SECTION 415.** 77.54 (3m) (intro.) of the statutes is amended to read:

14 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
15 storage, use or other consumption of the following items if they are used exclusively
16 by the purchaser or user in the business of farming; including dairy farming,
17 agriculture, horticulture, floriculture, silviculture, and custom farming services:

18 **SECTION 416.** 77.54 (4) of the statutes is amended to read:

19 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
20 property and items, property, and goods under s. 77.52 (1) (b), (c), and (d) and the
21 storage, use or other consumption in this state of tangible personal property and
22 items, property, and goods under s. 77.52 (1) (b), (c), and (d), which is the subject of
23 any such sale, by any elementary school or secondary school, exempted as such from
24 payment of income or franchise tax under ch. 71, whether public or private.

25 **SECTION 417.** 77.54 (5) (intro.) of the statutes is amended to read:

SENATE BILL 62**SECTION 417**

1 77.54 (5) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
2 use or other consumption of:

3 **SECTION 418.** 77.54 (6) (intro.) of the statutes is amended to read:

4 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
5 use or other consumption of:

6 **SECTION 419.** 77.54 (7m) of the statutes is amended to read:

7 77.54 (7m) Occasional sales of tangible personal property, or items, property,
8 or goods under s. 77.52 (1) (b), (c), and (d), or services, including admissions or tickets
9 to an event; by a neighborhood association, church, civic group, garden club, social
10 club or similar nonprofit organization; not involving entertainment for which
11 payment in the aggregate exceeds \$500 for performing or as reimbursement of
12 expenses unless access to the event may be obtained without payment of a direct or
13 indirect admission fee; conducted by the organization if the organization is not
14 engaged in a trade or business and is not required to have a seller's permit. For
15 purposes of this subsection, an organization is engaged in a trade or business and is
16 required to have a seller's permit if its sales of tangible personal property, and items,
17 property, and goods under s. 77.52 (1) (b), (c), and (d), and services, not including sales
18 of tickets to events, and its events occur on more than 20 days during the year, unless
19 its receipts do not exceed \$25,000 during the year. The exemption under this
20 subsection does not apply to ~~gross receipts~~ the sales price from the sale of bingo
21 supplies to players or to the sale, rental or use of regular bingo cards, extra regular
22 cards and special bingo cards.

23 **SECTION 420.** 77.54 (8) of the statutes is amended to read:

SENATE BILL 62**SECTION 420**

1 77.54 (8) Charges for ~~interest, financing or insurance, not including contracts~~
2 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
3 invoice given by the seller to the purchaser.

4 **SECTION 421.** 77.54 (9) of the statutes is amended to read:

5 77.54 (9) The ~~gross receipts~~ sales price from sales of tickets or admissions to
6 public and private elementary and secondary school activities, where the entire net
7 proceeds therefrom are expended for educational, religious or charitable purposes.

8 **SECTION 422.** 77.54 (9a) (intro.) of the statutes is amended to read:

9 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
10 by, use by or other consumption of tangible personal property, and items, property,
11 and goods under s. 77.52 (1) (b), (c), and (d), and taxable services by:

12 **SECTION 423.** 77.54 (10) of the statutes is amended to read:

13 77.54 (10) The ~~gross receipts~~ sales price from the sale of all admission fees,
14 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees
15 to any museum operated by a nonprofit corporation under a lease agreement with
16 the state historical society.

17 **SECTION 424.** 77.54 (11) of the statutes is amended to read:

18 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
19 or other consumption in this state of motor vehicle fuel, general aviation fuel or
20 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
21 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
22 in operating a motor vehicle upon the public highways.

23 **SECTION 425.** 77.54 (12) of the statutes is amended to read:

24 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
25 or other consumption in this state of rail freight or passenger cars, locomotives or

SENATE BILL 62

1 other rolling stock used in railroad operations, or accessories, attachments, parts,
2 lubricants or fuel therefor.

3 **SECTION 426.** 77.54 (13) of the statutes is amended to read:

4 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption in this state of commercial vessels and barges of 50-ton burden
6 or over primarily engaged in interstate or foreign commerce or commercial fishing,
7 and the accessories, attachments, parts and fuel therefor.

8 **SECTION 427.** 77.54 (14) (intro.) of the statutes is amended to read:

9 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
10 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
11 the following:

12 **SECTION 428.** 77.54 (14) (a) of the statutes is amended to read:

13 77.54 (14) (a) Prescribed for the treatment of a human being by a person
14 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
15 a registered pharmacist in accordance with law.

16 **SECTION 429.** 77.54 (14) (b) of the statutes is amended to read:

17 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
18 to a patient who is a human being for treatment of the patient.

19 **SECTION 430.** 77.54 (14) (f) (intro.) of the statutes is amended to read:

20 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the
21 ~~medieine~~ drug may not be dispensed without a prescription:

22 **SECTION 431.** 77.54 (14g) of the statutes is repealed.

23 **SECTION 432.** 77.54 (14s) of the statutes is repealed.

24 **SECTION 433.** 77.54 (15) of the statutes is amended to read:

SENATE BILL 62**SECTION 433**

1 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
2 or other consumption of all newspapers, of periodicals sold by subscription and
3 regularly issued at average intervals not exceeding 3 months, or issued at average
4 intervals not exceeding 6 months by an educational association or corporation sales
5 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
6 commercial publishers for distribution without charge or mainly without charge or
7 regularly distributed by or on behalf of publishers without charge or mainly without
8 charge to the recipient and of shoppers guides which distribute no less than 48 issues
9 in a 12-month period. In this subsection, “shoppers guide” means a community
10 publication delivered, or attempted to be delivered, to most of the households in its
11 coverage area without a required subscription fee, which advertises a broad range
12 of products and services offered by several types of businesses and individuals. In
13 this subsection, “controlled circulation publication” means a publication that has at
14 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
15 not more than 75% of its pages to advertising and that is not conducted as an
16 auxiliary to, and essentially for the advancement of, the main business or calling of
17 the person that owns and controls it.

18 **SECTION 434.** 77.54 (16) of the statutes is amended to read:

19 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
20 or other consumption of fire trucks and fire fighting equipment, including
21 accessories, attachments, parts and supplies therefor, sold to volunteer fire
22 departments.

23 **SECTION 435.** 77.54 (17) of the statutes is amended to read:

SENATE BILL 62**SECTION 435**

1 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption of water, that is not food and food ingredient, when delivered
3 through mains.

4 **SECTION 436.** 77.54 (18) of the statutes is amended to read:

5 77.54 (18) When the sale, license, lease, or rental of a service or property,
6 including items, property, and goods under s. 77.52 (1) (b), (c), and (d), that was
7 previously exempt or not taxable under this subchapter becomes taxable, and the
8 service or property is furnished under a written contract by which the seller is
9 unconditionally obligated to provide the service or property for the amount fixed
10 under the contract, the seller is exempt from sales or use tax on the ~~gross receipts~~
11 sales price for services or property provided until the contract is terminated,
12 extended, renewed or modified. However, from the time the service or property
13 becomes taxable until the contract is terminated, extended, renewed or modified the
14 user is subject to use tax, measured by the sales purchase price, on the service or
15 property purchased under the contract.

16 **SECTION 437.** 77.54 (20) of the statutes is repealed.

17 **SECTION 438.** 77.54 (20m) of the statutes is repealed.

18 **SECTION 439.** 77.54 (20n) of the statutes is created to read:

19 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other
20 consumption of food and food ingredients, except candy, soft drinks, dietary
21 supplements, and prepared food.

22 (b) The sales price from the sale of and the storage, use, or other consumption
23 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,
24 nursing homes, retirement homes, community-based residential facilities, as
25 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including

SENATE BILL 62**SECTION 439**

1 prepared food that is sold to the elderly or handicapped by persons providing mobile
2 meals on wheels. In this paragraph, “retirement home” means a nonprofit
3 residential facility where 3 or more unrelated adults or their spouses have their
4 principal residence and where support services, including meals from a common
5 kitchen, are available to residents.

6 (c) The sales price from the sale of and the storage, use, or other consumption
7 of food and food ingredients, furnished in accordance with any contract or agreement
8 or paid for to such institution through the use of an account of such institution, by
9 a public or private institution of higher education to any of the following:

10 1. An undergraduate student, a graduate student, or a student enrolled in a
11 professional school if the student is enrolled for credit at the public or private
12 institution of higher education and if the food and food ingredients are consumed by
13 the student.

14 2. A national football league team.

15 **SECTION 440.** 77.54 (20r) of the statutes is created to read:

16 77.54 (20r) The sales price from the sales of and the storage, use, or other
17 consumption of candy, soft drinks, dietary supplements, and prepared foods, and
18 disposable products that are transferred with such items, furnished for no
19 consideration by a restaurant to the restaurant’s employee during the employee’s
20 work hours.

21 **SECTION 441.** 77.54 (21) of the statutes is amended to read:

22 77.54 (21) The ~~gross receipts~~ sales price from the sales of and the storage, use
23 or other consumption of caskets and burial vaults for human remains.

24 **SECTION 442.** 77.54 (22) of the statutes is repealed.

25 **SECTION 443.** 77.54 (22b) of the statutes is created to read:

SENATE BILL 62**SECTION 443**

1 77.54 (22b) The sales price from the sale of and the storage, use, or other
2 consumption of durable medical equipment that is for use in a person's home,
3 mobility-enhancing equipment, and prosthetic devices, and accessories for such
4 equipment or devices, if the equipment or devices are used for a human being.

5 **SECTION 444.** 77.54 (23m) of the statutes is amended to read:

6 77.54 (23m) The ~~gross receipts~~ sales price from the sale, license, lease or rental
7 of or the storage, use or other consumption of motion picture film or tape, and motion
8 pictures or radio or television programs for listening, viewing, or broadcast, and
9 advertising materials related thereto, sold, licensed, leased or rented to a motion
10 picture theater or radio or television station.

11 **SECTION 445.** 77.54 (25) of the statutes, as affected by 2007 Wisconsin Act 20,
12 is amended to read:

13 77.54 (25) The ~~gross receipts~~ sales price from the sale of and the storage of
14 printed material which is designed to advertise and promote the sale of merchandise,
15 or to advertise the services of individual business firms, which printed material is
16 purchased and stored for the purpose of subsequently transporting it outside the
17 state by the purchaser for use thereafter solely outside the state. This subsection
18 does not apply to catalogs and the envelopes in which the catalogs are mailed.

19 **SECTION 446.** 77.54 (25m) of the statutes, as created by 2007 Wisconsin Act 20,
20 is amended to read:

21 77.54 (25m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
22 or other consumption of catalogs, and the envelopes in which the catalogs are mailed,
23 that are designed to advertise and promote the sale of merchandise or to advertise
24 the services of individual business firms.

25 **SECTION 447.** 77.54 (26) of the statutes is amended to read:

SENATE BILL 62**SECTION 447**

1 77.54 (26) The ~~gross receipts~~ sales price from the sales of and the storage, use,
2 or other consumption of tangible personal property and items and property under s.
3 77.52 (1) (b) and (c) which becomes a component part of an industrial waste
4 treatment facility that is exempt under s. 70.11 (21) or that would be exempt under
5 s. 70.11 (21) if the property were taxable under ch. 70, or tangible personal property
6 and items and property under s. 77.52 (1) (b) and (c) which becomes a component part
7 of a waste treatment facility of this state or any agency thereof, or any political
8 subdivision of the state or agency thereof as provided in s. 40.02 (28). The exemption
9 includes replacement parts therefor, and also applies to chemicals and supplies used
10 or consumed in operating a waste treatment facility and to purchases of tangible
11 personal property and items and property under s. 77.52 (1) (b) and (c) made by
12 construction contractors who transfer such property to their customers in fulfillment
13 of a real property construction activity. This exemption does not apply to tangible
14 personal property and items and property under s. 77.52 (1) (b) and (c) installed in
15 fulfillment of a written construction contract entered into, or a formal written bid
16 made, prior to July 31, 1975.

17 **SECTION 448.** 77.54 (26m) of the statutes is amended to read:

18 77.54 (26m) The ~~gross receipts~~ sales price from the sale of and the storage, use
19 or other consumption of waste reduction or recycling machinery and equipment,
20 including parts therefor, exclusively and directly used for waste reduction or
21 recycling activities which reduce the amount of solid waste generated, reuse solid
22 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
23 The exemption applies even though an economically useful end product results from
24 the use of the machinery and equipment. For the purposes of this subsection, “solid
25 waste” means garbage, refuse, sludge or other materials or articles, whether these

SENATE BILL 62

1 materials or articles are discarded or purchased, including solid, semisolid, liquid or
2 contained gaseous materials or articles resulting from industrial, commercial,
3 mining or agricultural operations or from domestic use or from public service
4 activities.

5 **SECTION 449.** 77.54 (27) of the statutes is amended to read:

6 77.54 (27) The ~~gross receipts~~ sales price from the sale of semen used for
7 artificial insemination of livestock.

8 **SECTION 450.** 77.54 (28) of the statutes is amended to read:

9 77.54 (28) The ~~gross receipts~~ sales price from the sale of and the storage, use
10 or other consumption to or by the ultimate consumer of ~~apparatus or equipment for~~
11 ~~the injection of insulin or the treatment of diabetes and~~ supplies used to determine
12 blood sugar level.

13 **SECTION 451.** 77.54 (29) of the statutes is amended to read:

14 77.54 (29) The ~~gross receipts~~ sales price from the sales of and the storage, use
15 or other consumption of equipment used in the production of maple syrup.

16 **SECTION 452.** 77.54 (30) (a) (intro.) of the statutes is amended to read:

17 77.54 (30) (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

18 **SECTION 453.** 77.54 (30) (c) of the statutes is amended to read:

19 77.54 (30) (c) If fuel or electricity is sold partly for a use exempt under this
20 subsection and partly for a use which is not exempt under this subsection, no tax
21 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
22 percentage of the fuel or electricity which is used for an exempt use, as specified in
23 an exemption certificate provided by the purchaser to the seller.

24 **SECTION 454.** 77.54 (31) of the statutes is amended to read:

SENATE BILL 62**SECTION 454**

1 77.54 (31) The ~~gross receipts~~ sales price from the sale of and the storage, use
2 or other consumption in this state, but not the lease or rental, of used mobile homes,
3 as defined in s. 101.91 (10), and used manufactured homes, as defined in s. 101.91
4 (12).

5 **SECTION 455.** 77.54 (32) of the statutes is amended to read:

6 77.54 (32) The ~~gross receipts~~ sales price from charges, including charges for a
7 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
8 that a person may examine and use under s. 16.61 (12) or for copies of a record under
9 s. 19.35 (1).

10 **SECTION 456.** 77.54 (33) of the statutes is amended to read:

11 77.54 (33) The ~~gross receipts~~ sales price from sales of and the storage, use or
12 other consumption of ~~medieines~~ drugs used on farm livestock, not including
13 workstock.

14 **SECTION 457.** 77.54 (35) of the statutes is amended to read:

15 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
16 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), tickets, or
17 admissions by any baseball team affiliated with the Wisconsin Department of
18 American Legion baseball.

19 **SECTION 458.** 77.54 (36) of the statutes is amended to read:

20 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
21 of one month or more of a mobile home, as defined in s. 101.91 (10), or a manufactured
22 home, as defined in s. 101.91 (2), that is used as a residence. In this subsection, “one
23 month” means a calendar month or 30 days, whichever is less, counting the first day
24 of the rental and not counting the last day of the rental.

25 **SECTION 459.** 77.54 (37) of the statutes is amended to read:

SENATE BILL 62**SECTION 459**

1 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
2 256.35 (3) and the surcharge established by rule by the public service commission
3 under s. 256.35 (3m) (f) for customers of wireless providers, as defined in s. 256.35
4 (3m) (a) 6.

5 **SECTION 460.** 77.54 (38) of the statutes is amended to read:

6 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
7 or other consumption of snowmobile trail groomers and attachments for them that
8 are purchased, stored, used or consumed by a snowmobile club that meets at least
9 3 times a year, that has at least 10 members, that promotes snowmobiling and that
10 participates in the department of natural resources' snowmobile program under s.
11 350.12 (4) (b).

12 **SECTION 461.** 77.54 (39) of the statutes is amended to read:

13 77.54 (39) The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption of off-highway, heavy mechanical equipment such as feller
15 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
16 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
17 directly in the harvesting or processing of raw timber products in the field by a person
18 in the logging business. In this subsection, "heavy mechanical equipment" does not
19 include hand tools such as axes, chains, chain saws and wedges.

20 **SECTION 462.** 77.54 (40) of the statutes is repealed.

21 **SECTION 463.** 77.54 (41) of the statutes is amended to read:

22 77.54 (41) The ~~gross receipts~~ sales price from the sale of building materials,
23 supplies and equipment to; and the storage, use or other consumption of those kinds
24 of property by; owners, contractors, subcontractors or builders if that property is

SENATE BILL 62**SECTION 463**

1 acquired solely for or used solely in, the construction, renovation or development of
2 property that would be exempt under s. 70.11 (36).

3 **SECTION 464.** 77.54 (42) of the statutes is amended to read:

4 77.54 (42) The ~~gross receipts~~ sales price from the sale of and the storage, use
5 or other consumption of animal identification tags provided under s. 93.06 (1h) and
6 standard samples provided under s. 93.06 (1s).

7 **SECTION 465.** 77.54 (43) of the statutes is amended to read:

8 77.54 (43) The ~~gross receipts~~ sales price from the sale of and the storage, use
9 or other consumption of raw materials used for the processing, fabricating or
10 manufacturing of, or the attaching to or incorporating into, printed materials that
11 are transported and used solely outside this state.

12 **SECTION 466.** 77.54 (44) of the statutes is amended to read:

13 77.54 (44) The ~~gross receipts~~ sales price from the collection of low-income
14 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

15 **SECTION 467.** 77.54 (45) of the statutes is amended to read:

16 77.54 (45) The ~~gross receipts~~ sales price from the sale of and the use or other
17 consumption of a onetime license or similar right to purchase admission to
18 professional football games at a football stadium, as defined in s. 229.821 (6), that
19 is granted by a municipality; a local professional football stadium district; or a
20 professional football team or related party, as defined in s. 229.821 (12); if the person
21 who buys the license or right is entitled, at the time the license or right is transferred
22 to the person, to purchase admission to at least 3 professional football games in this
23 state during one football season.

24 **SECTION 468.** 77.54 (46) of the statutes is amended to read:

SENATE BILL 62**SECTION 468**

1 77.54 (46) The ~~gross receipts~~ sales price from the sale of and the storage, use,
2 or other consumption of the U.S. flag or the state flag. This subsection does not apply
3 to a representation of the U.S. flag or the state flag.

4 **SECTION 469.** 77.54 (46m) of the statutes is amended to read:

5 77.54 (46m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
6 or other consumption of telecommunications services, if the telecommunications
7 services are obtained by using the rights to purchase telecommunications services,
8 including purchasing reauthorization numbers, by paying in advance and by using
9 an access number and authorization code; and if the tax imposed under s. 77.52 or
10 77.53 was previously paid on the sale or purchase of such rights.

11 **SECTION 470.** 77.54 (47) (intro.) of the statutes is amended to read:

12 77.54 (47) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
13 use, or other consumption of all of the following:

14 **SECTION 471.** 77.54 (47) (b) 1. of the statutes is amended to read:

15 77.54 (47) (b) 1. The shooting facility is required to pay the tax imposed under
16 s. 77.52 on its ~~gross receipts~~ the sales price from charges for shooting at the facility.

17 **SECTION 472.** 77.54 (47) (b) 2. of the statutes is amended to read:

18 77.54 (47) (b) 2. The shooting facility is a nonprofit organization that charges
19 for shooting at the facility, but is not required to pay the tax imposed under s. 77.52
20 on its ~~gross receipts~~ sales price from such charges because the charges are for
21 occasional sales, as provided under sub. (7m), or because the charges satisfy the
22 exemption under s. 77.52 (2) (a) 2. b.

23 **SECTION 473.** 77.54 (48) (a) of the statutes is renumbered 77.585 (9) (a) and
24 amended to read:

SENATE BILL 62**SECTION 473**

1 77.585 (9) (a) Subject to 2005 Wisconsin Act 479, section 17, ~~the gross receipts~~
2 ~~from the sale of and the storage, use, or other consumption~~ a purchaser may claim
3 as a deduction that portion of its purchase price of Internet equipment used in the
4 broadband market for which the tax was imposed under this subchapter, if the
5 purchaser certifies to the department of commerce, in the manner prescribed by the
6 department of commerce, that the purchaser will, within 24 months after July 1,
7 2007, make an investment that is reasonably calculated to increase broadband
8 Internet availability in this state. The purchaser shall claim the deduction in the
9 same reporting period as the purchaser paid the tax imposed under this subchapter.

10 **SECTION 474.** 77.54 (48) (b) of the statutes is renumbered 77.585 (9) (b).

11 **SECTION 475.** 77.54 (49) of the statutes is amended to read:

12 77.54 (49) The ~~gross receipts~~ sales price from the sale of and the storage, use,
13 or other consumption of taxable services and tangible personal property or items,
14 property, or goods under s. 77.52 (1) (b), (c), or (d), that is are physically transferred
15 to the purchaser as a necessary part of services that are subject to the taxes imposed
16 under s. 77.52 (2) (a) 7., 10., 11., and 20., if the seller and the purchaser of such
17 services and property, item, or good are members of the same affiliated group under
18 section 1504 of the Internal Revenue Code and are eligible to file a single
19 consolidated return for federal income tax purposes. For purposes of this subsection,
20 if a seller purchases a taxable service, or item, property, or goods under s. 77.52 (1)
21 (b), (c), or (d), or tangible personal property, as described in the this subsection, that
22 is subsequently sold to a member of the seller's affiliated group and the sale is exempt
23 under this subsection from the taxes imposed under this subchapter, the original
24 purchase of the taxable service, or item, property, or goods under s. 77.52 (1) (b), (c),

SENATE BILL 62**SECTION 475**

1 or (d), or tangible personal property by the seller is not considered a sale for resale
2 or exempt under this subsection.

3 **SECTION 476.** 77.54 (50) of the statutes is created to read:

4 77.54 (50) The sales price from the sale, license, lease, or rental of and the
5 storage, use, or other consumption of specified digital goods or additional digital
6 goods, if the sale, license, lease, or rental of and the storage, use, or other
7 consumption of such goods sold in a tangible form is exempt from taxation under this
8 subchapter.

9 **SECTION 477.** 77.54 (51) of the statutes is created to read:

10 77.54 (51) The sales price from the sales of and the storage, use, or other
11 consumption of products sold in a transaction that would be a bundled transaction,
12 except that it contains taxable and nontaxable products as described in s. 77.51 (1f)
13 (d), and except that the first person combining the products shall pay the tax imposed
14 under this subchapter on the person's purchase price of the taxable items.

15 **SECTION 478.** 77.54 (52) of the statutes is created to read:

16 77.54 (52) The sales price from the sales of and the storage, use, or other
17 consumption of products sold in a transaction that would be a bundled transaction,
18 except that the transaction meets the conditions described in s. 77.51 (1f) (e).

19 **SECTION 479.** 77.54 (54) of the statutes is amended to read:

20 77.54 (54) The ~~gross receipts~~ sales price from the sale of and the storage, use,
21 or other consumption of tangible personal property, and items, property, and goods
22 under s. 77.52 (1) (b), (c), and (d), and taxable services that are sold by a home
23 exchange service that receives moneys from the appropriation account under s.
24 20.485 (1) (g) and is operated by the department of veterans affairs.

SENATE BILL 62**SECTION 480**

1 **SECTION 480.** 77.54 (56) of the statutes, as created by 2007 Wisconsin Act 20,
2 is amended to read:

3 77.54 **(56)** (a) The ~~gross receipts~~ sales price from the sale of and the storage,
4 use, or other consumption of a product whose power source is wind energy, direct
5 radiant energy received from the sun, or gas generated from anaerobic digestion of
6 animal manure and other agricultural waste, if the product produces at least 200
7 watts of alternating current or 600 British thermal units per day, except that the
8 exemption under this subsection does not apply to an uninterruptible power source
9 that is designed primarily for computers.

10 (b) Except for the sale of electricity or energy that is exempt from taxation
11 under sub. (30), the ~~gross receipts~~ sales price from the sale of and the storage, use,
12 or other consumption of electricity or energy produced by a product described under
13 par. (a).

14 **SECTION 481.** 77.55 (1) (intro.) of the statutes is amended to read:

15 77.55 **(1)** (intro.) There ~~are~~ is exempted from the computation of the amount
16 of the sales tax the ~~gross receipts~~ sales price from the sale of any tangible personal
17 property, ~~or items, property, or goods under s. 77.52 (1) (b), (c), and (d),~~ or services to:

18 **SECTION 482.** 77.55 (2) of the statutes is amended to read:

19 77.55 **(2)** There ~~are~~ is exempted from the computation of the amount of the sales
20 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items,
21 property, and goods under s. 77.52 (1) (b), (c), and (d), to a common or contract carrier,
22 shipped by the seller via the purchasing carrier under a bill of lading whether the
23 freight is paid in advance, or the shipment is made freight charges collect, to a point
24 outside this state and the property, item, or good is actually transported to the

SENATE BILL 62**SECTION 482**

1 out-of-state destination for use by the carrier in the conduct of its business as a
2 carrier.

3 **SECTION 483.** 77.55 (2m) of the statutes is amended to read:

4 77.55 (2m) There ~~are~~ is exempted from the computation of the amount of sales
5 tax the ~~gross receipts~~ sales price from sales of railroad crossties to a common or
6 contract carrier, shipped wholly or in part by way of the purchasing carrier under a
7 bill of lading, whether the freight is paid in advance or the shipment is made freight
8 charges collect, to a point outside this state if the property is transported to the
9 out-of-state destination for use by the carrier in the conduct of its business as a
10 carrier. Interruption of the shipment for storage, drying, processing or creosoting of
11 the railroad crossties in this state does not invalidate the exemption under this
12 subsection.

13 **SECTION 484.** 77.55 (3) of the statutes is amended to read:

14 77.55 (3) There ~~are~~ is exempted from the computation of the amount of the sales
15 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items,
16 property, and goods under s. 77.52 (1) (b), (c), and (d), purchased for use solely outside
17 this state and delivered to a forwarding agent, export packer, or other person
18 engaged in the business of preparing goods for export or arranging for their
19 exportation, and actually delivered to a port outside the continental limits of the
20 United States prior to making any use thereof.

21 **SECTION 485.** 77.56 (1) of the statutes is amended to read:

22 77.56 (1) The storage, use or other consumption in this state of property,
23 including items, property, and goods under s. 77.52 (1) (b), (c), and (d), the ~~gross~~
24 ~~receipts~~ sales price from the sale of which ~~are~~ is reported to the department in the
25 measure of the sales tax, is exempted from the use tax.

SENATE BILL 62**SECTION 486**

1 **SECTION 486.** 77.57 of the statutes is amended to read:

2 **77.57 Liability of purchaser.** If a purchaser certifies in writing to a seller
3 that the tangible personal property or items, property, or goods under s. 77.52 (1) (b),
4 (c), or (d) purchased will be used in a manner or for a purpose entitling the seller to
5 regard the ~~gross receipts~~ sales price from the sale as exempted by this subchapter
6 from the computation of the amount of the sales tax and uses the property or items,
7 property, or goods under s. 77.52 (1) (b), (c), or (d) in some other manner or for some
8 other purpose, the purchaser is liable for payment of the sales tax. The tax shall be
9 measured by the sales price of the property or items, property, or goods under s. 77.52
10 (1) (b), (c), or (d) to the purchaser, ~~but if the taxable use first occurs more than 6~~
11 ~~months after the sale to the purchaser, the purchaser may use as the measure of the~~
12 ~~tax either that sales price or the fair market value of the property at the time the~~
13 ~~taxable use first occurs.~~

14 **SECTION 487.** 77.58 (3) (a) of the statutes is amended to read:

15 **77.58 (3) (a)** For purposes of the sales tax a return shall be filed by every seller.
16 For purposes of the use tax a return shall be filed by every retailer engaged in
17 business in this state and by every person purchasing tangible personal property, or
18 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services, the storage, use,
19 or other consumption of which is subject to the use tax, who has not paid the use tax
20 due to a retailer required to collect the tax. If a qualified subchapter S subsidiary
21 is not regarded as a separate entity under ch. 71, the owner of that subsidiary shall
22 include the information for that subsidiary on the owner's return. Returns shall be
23 signed by the person required to file the return or by a duly authorized agent but need
24 not be verified by oath. If a single-owner entity is disregarded as a separate entity

SENATE BILL 62

1 under ch. 71, the owner shall include the information from the entity on the owner's
2 return.

3 **SECTION 488.** 77.58 (3) (b) of the statutes is amended to read:

4 77.58 (3) (b) ~~For purposes of the sales tax the return shall show the gross~~
5 ~~receipts of the seller during the preceding reporting period. For purposes of the use~~
6 ~~tax, in case of a return filed by a retailer, the return shall show the total sales price~~
7 ~~of the property or taxable services sold, the storage, use or consumption of which~~
8 ~~became subject to the use tax during the preceding reporting period. In case of a sales~~
9 ~~or use tax return filed by a purchaser, the return shall show the total sales price of~~
10 ~~the property and taxable services purchased, the storage, use or consumption of~~
11 ~~which became subject to the use tax during the preceding reporting period. The~~
12 return shall also show the amount of the taxes for the period covered by the return
13 and such other information as the department deems necessary for the proper
14 administration of this subchapter.

15 **SECTION 489.** 77.58 (6) of the statutes is amended to read:

16 77.58 (6) For the purposes of the sales tax ~~gross receipts, the sales price~~ from
17 rentals or leases of tangible personal property or items, property, or goods under s.
18 77.52 (1) (b), (c), or (d) shall be reported and the tax paid in accordance with such rules
19 as the department prescribes.

20 **SECTION 490.** 77.58 (6m) of the statutes is created to read:

21 77.58 (6m) (a) The department may, in cases where it is satisfied that an undue
22 hardship would otherwise result, permit the reporting of a sales price or purchase
23 price on some basis other than the accrual basis.

24 (b) The entire sales price of credit transactions shall be reported in the period
25 in which the sale is made without reduction in the amount of tax payable by the

SENATE BILL 62**SECTION 490**

1 retailer by reason of the retailer's transfer at a discount of any open account, note,
2 conditional sales contract, lease contract, or other evidence of indebtedness.

3 **SECTION 491.** 77.58 (9a) of the statutes is created to read:

4 77.58 (9a) In addition to filing a return as provided in this section, a person
5 described under s. 77.524 (3), (4), or (5) shall provide to the department any
6 information that the department considers necessary for the administration of this
7 subchapter, in the manner prescribed by the department, except that the
8 department may not require that the person provide such information to the
9 department more than once every 180 days.

10 **SECTION 492.** 77.585 of the statutes is created to read:

11 **77.585 Return adjustments.** (1) (a) In this subsection, "bad debt" means the
12 portion of the sales price or purchase price that the seller has reported as taxable
13 under this subchapter and that the seller may claim as a deduction under section 166
14 of the Internal Revenue Code. "Bad debt" does not include financing charges or
15 interest, sales or use taxes imposed on the sales price or purchase price, uncollectible
16 amounts on tangible personal property or items, property, or goods under s. 77.52 (1)
17 (b), (c), or (d) that remain in the seller's possession until the full sales price or
18 purchase price is paid, expenses incurred in attempting to collect any debt, debts sold
19 or assigned to 3rd parties for collection, and repossessed property or items.

20 (b) A seller may claim as a deduction on a return under s. 77.58 the amount of
21 any bad debt that the seller writes off as uncollectible in the seller's books and records
22 and that is eligible to be deducted as a bad debt for federal income tax purposes,
23 regardless of whether the seller is required to file a federal income tax return. A
24 seller who claims a deduction under this paragraph shall claim the deduction on the
25 return under s. 77.58 that is submitted for the period in which the seller writes off

SENATE BILL 62

1 the amount of the deduction as uncollectible in the seller's books and records and in
2 which such amount is eligible to be deducted as bad debt for federal income tax
3 purposes. If the seller subsequently collects in whole or in part any bad debt for
4 which a deduction is claimed under this paragraph, the seller shall include the
5 amount collected in the return filed for the period in which the amount is collected
6 and shall pay the tax with the return.

7 (c) For purposes of computing a bad debt deduction or reporting a payment
8 received on a previously claimed bad debt, any payment made on a debt or on an
9 account is applied first to the price of the tangible personal property, or items,
10 property, or goods under s. 77.52 (1) (b), (c), or (d), or service sold, and the
11 proportionate share of the sales tax on that property, or items, property, or goods
12 under s. 77.52 (1) (b), (c), or (d), or service, and then to interest, service charges, and
13 other charges related to the sale.

14 (d) A seller may obtain a refund of the tax collected on any bad debt amount
15 deducted under par. (b) that exceeds the amount of the seller's taxable sales as
16 provided under s. 77.59 (4), except that the period for making a claim as determined
17 under s. 77.59 (4) begins on the date on which the return on which the bad debt could
18 be claimed would have been required to be submitted to the department under s.
19 77.58.

20 (e) If a seller is using a certified service provider, the certified service provider
21 may claim a bad debt deduction under this subsection on the seller's behalf if the
22 seller has not claimed and will not claim the same deduction. A certified service
23 provider who receives a bad debt deduction under this subsection shall credit that
24 deduction to the seller and a certified service provider who receives a refund under
25 this subsection shall submit that refund to the seller.

SENATE BILL 62**SECTION 492**

1 (f) If a bad debt relates to the retail sales of tangible personal property, or items,
2 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services that were
3 sourced to this state and to one or more other states, as determined under s. 77.522,
4 the total amount of such bad debt shall be apportioned among the states to which the
5 underlying sales were sourced in a manner prescribed by the department to arrive
6 at the amount of the deduction under par. (b).

7 **(2)** If a lessor of tangible personal property or items, property, or goods under
8 s. 77.52 (1) (b), (c), or (d) has reimbursed the vendor for the sales tax on the sale of
9 the property, items, or goods by the vendor to the lessor, the tax due from the lessor
10 on the rental receipts may be offset by a credit equal to the tax otherwise due on the
11 rental receipts from the property, items, or goods for the reporting period. The credit
12 shall expire when the cumulative rental receipts equal the sales price upon which
13 the vendor paid sales taxes to this state.

14 **(3)** If a purchaser of tangible personal property or items, property, or goods
15 under s. 77.52 (1) (b), (c), or (d) has reimbursed the vendor of the property, items, or
16 goods for the sales tax on the sale and subsequently, before making any use of the
17 property, items, or goods other than retention, demonstration, or display while
18 holding it for sale or rental, makes a taxable sale of the property, items, or goods the
19 tax due on the taxable sale may be offset by the tax reimbursed.

20 **(4)** A seller may claim a deduction on any part of the sales price or purchase
21 price that the seller refunds in cash or credit as a result of returned tangible personal
22 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) or adjustments
23 in the sales price or purchase price after the sale has been completed, if the seller has
24 included the refunded price in a prior return made by the seller and has paid the tax
25 on such price, and if the seller has returned to the purchaser in cash or in credit all

SENATE BILL 62

1 tax previously paid by the purchaser on the amount of the refund at the time of the
2 purchase. A deduction under this subsection shall be claimed on the return for the
3 period in which the refund is paid.

4 (5) No reduction in the amount of tax payable by the retailer is allowable in the
5 event that tangible personal property or items, property, or goods under s. 77.52 (1)
6 (b), (c), or (d) sold on credit are repossessed except where the entire consideration
7 paid by the purchaser is refunded to the purchaser or where a credit for a worthless
8 account is allowable under sub. (1).

9 (6) A purchaser who is subject to the use tax on the storage, use, or other
10 consumption of fuel may claim a deduction from the purchase price that is subject
11 to the use tax for fuel taxes refunded by this state or the United States to the
12 purchaser that is included in the purchase price of the fuel.

13 (7) For sales tax purposes, if a retailer establishes to the department's
14 satisfaction that the sales tax has been added to the total amount of the sales price
15 and has not been absorbed by the retailer, the total amount of the sales price shall
16 be the amount received exclusive of the sales tax imposed.

17 (8) A sale or purchase involving transfer of ownership of tangible personal
18 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) is completed at
19 the time when possession is transferred by the seller or the seller's agent to the
20 purchaser or the purchaser's agent, except that for purposes of sub. (1) a common
21 carrier or the U.S. postal service shall be considered the agent of the seller, regardless
22 of any f.o.b. point and regardless of the method by which freight or postage is paid.

23 **SECTION 493.** 77.59 (2m) of the statutes is created to read:

SENATE BILL 62**SECTION 493**

1 77.59 (2m) The department may audit, or may authorize others to audit, sellers
2 and certified service providers who are registered with the department pursuant to
3 the agreement, as defined in s. 77.65 (2) (a).

4 **SECTION 494.** 77.59 (5m) of the statutes is amended to read:

5 77.59 (5m) A seller who receives a refund under sub. (4) (a) or (b) of taxes that
6 the seller has collected from buyers, who collects amounts as taxes erroneously from
7 buyers, but who does not remit such amounts to the state, or who is entitled to a
8 refund under sub. (4) (a) or (b) that is offset under sub. (5), shall submit the taxes and
9 related interest to the buyers from whom the taxes were collected, or to the
10 department if the seller cannot locate the buyers, within 90 days after the date of the
11 refund, after the date of the offset, or after discovering that the seller has collected
12 taxes erroneously from the buyers. If the seller does not submit the taxes and related
13 interest to the department or the buyers within that period, the seller shall submit
14 to the department any part of a refund or taxes that the seller does not submit to a
15 buyer or to the department along with a penalty of 25% of the amount not submitted
16 or, in the case of fraud, a penalty equal to the amount not submitted. A person who
17 collects amounts as taxes erroneously from buyers for a real property construction
18 activity or nontaxable service may reduce the taxes and interest that he or she is
19 required to submit to the buyer or to the department under this subsection for that
20 activity or service by the amount of tax and interest subsequently due and paid on
21 the sale of or the storage, use, or other consumption of tangible personal property, or
22 items, property, or goods under s. 77.52 (1) (b), (c), or (d) that is are used by the person
23 in that activity or service and transferred to the buyer.

24 **SECTION 495.** 77.59 (9) of the statutes is amended to read:

SENATE BILL 62

1 77.59 (9) If any person fails to file a return, the department shall make an
2 estimate of the amount of the ~~gross receipts~~ sales price of the ~~person~~ person's sales,
3 or, as the case may be, of the amount of the total ~~sales~~ purchase price of tangible
4 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
5 taxable service sold or purchased by the person, the sale by or the storage, use, or
6 other consumption of which in this state is subject to sales or use tax. The estimate
7 shall be made for the period in respect to which the person failed to make a return
8 and shall be based upon any information which is in the department's possession or
9 may come into its possession. Upon the basis of this estimate the department shall
10 compute and determine the amount required to be paid to the state, adding to the
11 sum thus arrived at a penalty equal to 25% thereof. One or more such determinations
12 may be made for one or for more than one period. When a business is discontinued
13 a determination may be made at any time thereafter, within the periods specified in
14 sub. (3), as to liability arising out of that business.

15 **SECTION 496.** 77.59 (9n) of the statutes is created to read:

16 77.59 (9n) (a) Notwithstanding s. 73.03 (47), and except as provided in par. (b),
17 no seller or certified service provider is liable for tax, interest, or penalties imposed
18 on a transaction under this subchapter if the seller or certified service provider
19 charged and collected the incorrect amount of the sales or use tax as a result of
20 relying on erroneous data provided in the databases under s. 73.03 (61) (e) and (f).

21 (b) Notwithstanding s. 73.03 (47), no seller or certified service provider is liable
22 for the tax, interest, or penalties imposed on a transaction under this subchapter if
23 the seller or certified service provider failed to collect the sales and use taxes due on
24 an item or transaction because the seller or certified service provider relied on the
25 certification under s. 73.03 (61) (b). This paragraph does not apply to a seller or

SENATE BILL 62**SECTION 496**

1 certified service provider who has incorrectly classified an item or transaction into
2 a specific product category, unless such classification was approved by the states that
3 are signatories to the agreement, as defined in s. 77.65 (2) (a). If the state determines
4 that it has incorrectly classified an item or transaction, sellers and certified service
5 providers that do not revise the classification of the item or transaction within 10
6 days after receiving notice from the department that an item or transaction was
7 incorrectly classified are liable for the tax, interest, or penalties imposed on the item
8 or transaction for the incorrect classification after the 10-day period.

9 (c) A purchaser is not liable for the tax, interest, or penalties imposed on a
10 transaction under this subchapter if the seller or certified service provider from
11 whom the purchaser made the purchase relied on erroneous data provided in the
12 databases under s. 73.03 (61) (e) and (f) or if the purchaser relied on erroneous data
13 provided in the databases under s. 73.03 (61) (e) and (f). With respect to reliance on
14 the database provided under s. 73.03 (61) (e), the relief provided under this
15 paragraph is limited to the erroneous classification in the database of terms defined
16 in this subchapter and specifically identified in the database as being “taxable,”
17 “exempt,” “included in sales price” or “excluded from sales price,” or “included in the
18 definition” or “excluded from the definition.”

19 **SECTION 497.** 77.59 (9p) (b) of the statutes is created to read:

20 77.59 (9p) (b) If a customer purchases a service that is not subject to 4 USC 116
21 to 126, as amended by P.L. 106–252, tangible personal property, or items, property,
22 or goods under s. 77.52 (1) (b), (c), or (d), and if the customer believes that the amount
23 of the tax assessed for the sale of the service, property, items, or goods under this
24 subchapter is erroneous, the customer may request that the seller correct the alleged
25 error by sending a written notice to the seller. The notice shall include a description

SENATE BILL 62

1 of the alleged error and any other information that the seller reasonably requires to
2 process the request. Within 60 days from the date that a seller receives a request
3 under this paragraph, the seller shall review its records to determine the validity of
4 the customer's claim. If the review indicates that there is no error as alleged, the
5 seller shall explain the findings of the review in writing to the customer. If the review
6 indicates that there is an error as alleged, the seller shall correct the error and shall
7 refund the amount of any tax collected erroneously, along with the related interest,
8 as a result of the error from the customer, consistent with s. 77.59 (4). A customer
9 may take no other action against the seller, or commence any action against the
10 seller, to correct an alleged error in the amount of the tax assessed under this
11 subchapter on a service that is not subject to 4 USC 116 to 126, as amended by P.L.
12 106-252, tangible personal property, or items, property, or goods under s. 77.52 (1)
13 (b), (c), or (d) unless the customer has exhausted his or her remedies under this
14 paragraph.

15 **SECTION 498.** 77.59 (9r) of the statutes is created to read:

16 77.59 (9r) With regard to a purchaser's request for a refund under this section,
17 a seller is presumed to have reasonable business practices if the seller uses a certified
18 service provider, a certified automated system, as defined in s. 77.524 (1) (am), or a
19 proprietary system certified by the department to collect the taxes imposed under
20 this subchapter and if the seller has remitted to the department all taxes collected
21 under this subchapter, less any deductions, credits, or allowances.

22 **SECTION 499.** 77.60 (13) of the statutes is created to read:

23 77.60 (13) A person who uses any of the following documents in a manner that
24 is prohibited by or inconsistent with this subchapter, or provides incorrect
25 information to a seller or certified service provider related to the use of such

SENATE BILL 62**SECTION 499**

1 documents or regarding an exemption to the taxes imposed under this subchapter,
2 shall pay a penalty of \$250 for each invoice or bill of sale related to the prohibited or
3 inconsistent use or incorrect information:

4 (a) An exemption certificate described under ss. 77.52 (13) and 77.53 (10).

5 (b) A direct pay permit under s. 77.52 (17m).

6 (c) An exemption certificate claiming direct mail.

7 **SECTION 500.** 77.61 (1) (b) of the statutes is amended to read:

8 77.61 (1) (b) In the case of ~~a motor vehicle~~ motor vehicles, boats, snowmobiles,
9 recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain
10 vehicles, or aircraft purchased from a ~~licensed Wisconsin motor vehicle dealer~~
11 ~~retailer~~, the registrant shall present proof that the tax has been paid to such ~~dealer~~
12 retailer.

13 **SECTION 501.** 77.61 (1) (c) of the statutes is amended to read:

14 77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, recreational
15 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, or
16 aircraft registered or titled, or required to be registered or titled, in this state
17 purchased from persons who are not ~~Wisconsin boat, trailer, or semitrailer dealers,~~
18 ~~licensed Wisconsin aircraft, motor vehicle, or recreational vehicle, as defined in s.~~
19 ~~340.01 (48r), dealers or registered Wisconsin snowmobile or all-terrain vehicle~~
20 ~~dealers~~ retailers, the purchaser shall file a sales tax return and pay the tax prior to
21 registering or titling the motor vehicle, boat, snowmobile, recreational vehicle, as
22 defined in s. 340.01 (48r), semitrailer, all-terrain vehicle, or aircraft in this state.

23 **SECTION 502.** 77.61 (2) of the statutes is renumbered 77.61 (2) (intro.) and
24 amended to read:

25 77.61 (2) (intro.) In order to protect the revenue of the state:

SENATE BILL 62**SECTION 502**

1 (a) Except as provided in par. (b), the department may require any person who
2 is or will be liable to it for the tax imposed by this subchapter to place with it, before
3 or after a permit is issued, the security, not in excess of \$15,000, that the department
4 determines. In determining the amount of security to require under this subsection,
5 the department may consider the person's payment of other taxes administered by
6 the department and any other relevant facts. If any taxpayer fails or refuses to place
7 that security, the department may refuse or revoke the permit. If any taxpayer is
8 delinquent in the payment of the taxes imposed by this subchapter, the department
9 may, upon 10 days' notice, recover the taxes, interest, costs and penalties from the
10 security placed with the department by the taxpayer in the following order: costs,
11 penalties, delinquent interest, delinquent tax. No interest may be paid or allowed
12 by the state to any person for the deposit of security. Any security deposited under
13 this subsection shall be returned to the taxpayer if the taxpayer has, for 24
14 consecutive months, complied with all the requirements of this subchapter.

15 **SECTION 503.** 77.61 (2) (b) of the statutes is created to read:

16 77.61 (2) (b) A certified service provider who has contracted with a seller, and
17 filed an application, to collect and remit sales and use taxes imposed under this
18 subchapter on behalf of the seller shall submit a surety bond to the department to
19 guarantee the payment of sales and use taxes, including any penalty and interest on
20 such payment. The department shall approve the form and contents of a bond
21 submitted under this paragraph and shall determine the amount of such bond. The
22 surety bond shall be submitted to the department within 60 days after the date on
23 which the department notifies the certified service provider that the certified service
24 provider is registered to collect sales and use taxes imposed under this subchapter.
25 If the department determines, with regards to any one certified service provider, that

SENATE BILL 62**SECTION 503**

1 no bond is necessary to protect the tax revenues of this state, the secretary of revenue
2 or the secretary's designee may waive the requirements under this paragraph with
3 regard to that certified service provider. Any bond submitted under this paragraph
4 shall remain in force until the secretary of revenue or the secretary's designee
5 releases the liability under the bond.

6 **SECTION 504.** 77.61 (3) of the statutes is repealed.

7 **SECTION 505.** 77.61 (3m) of the statutes is created to read:

8 77.61 **(3m)** A retailer shall use a straight mathematical computation to
9 determine the amount of the tax that the retailer may collect from the retailer's
10 customers. The retailer shall calculate the tax amount by combining the applicable
11 tax rates under this subchapter and subch. V and multiplying the combined tax rate
12 by the sales price or purchase price of each item or invoice, as appropriate. The
13 retailer shall calculate the tax amount to the 3rd decimal place, disregard tax
14 amounts of less than 0.5 cent, and consider tax amounts of at least 0.5 cent but less
15 than 1 cent to be an additional cent. The use of a straight mathematical computation,
16 as provided in this subsection, shall not relieve the retailer from liability for payment
17 of the full amount of the tax levied under this subchapter.

18 **SECTION 506.** 77.61 (4) (a) of the statutes is amended to read:

19 77.61 **(4)** (a) Every seller and retailer and every person storing, using or
20 otherwise consuming in this state tangible personal property, or items, property, or
21 goods under s. 77.52 (1) (b), (c), or (d), or taxable services purchased from a retailer
22 shall keep such records, receipts, invoices, and other pertinent papers and records,
23 including machine-readable records, in such form as the department requires. The
24 department may, after giving notice, require any person to keep whatever records are
25 needed for the department to compute the sales or use taxes the person should pay.

SENATE BILL 62**SECTION 506**

1 Thereafter, the department shall add to any taxes assessed on the basis of
2 information not contained in the records required a penalty of 25% of the amount of
3 the tax so assessed in addition to all other penalties under this chapter.

4 **SECTION 507.** 77.61 (4) (c) of the statutes is amended to read:

5 77.61 (4) (c) For reporting the sales tax and collecting and reporting the use tax
6 imposed on the retailer under s. 77.53 (3) and the accounting connected with it,
7 retailers, not including certified service providers that receive compensation under
8 s. 73.03 (61) (h), may deduct 0.5% of those taxes payable or \$10 for that reporting
9 period required under s. 77.58 (1), whichever is greater, but not more than the
10 amount of the sales taxes or use taxes that is payable under ss. 77.52 (1) and 77.53
11 (3) for that reporting period required under s. 77.58 (1), as administration expenses
12 if the payment of the taxes is not delinquent. For purposes of calculating the
13 retailer's discount under this paragraph, the taxes on retail sales reported by
14 retailers under subch. V, including taxes collected and remitted as required under
15 s. 77.785, shall be included if the payment of those taxes is not delinquent.

16 **SECTION 508.** 77.61 (5m) of the statutes is created to read:

17 77.61 (5m) (a) In this subsection, "personally identifiable information" means
18 any information that identifies a person.

19 (b) A certified service provider may use personally identifiable information as
20 necessary only for the administration of its system to perform a seller's sales and use
21 tax functions and shall provide consumers clear and conspicuous notice of its practice
22 regarding such information, including what information it collects, how it collects
23 the information, how it uses the information, how long, if at all, it retains the
24 information, and under what circumstances it discloses the information to states
25 participating in the agreement, as defined in 77.65 (2) (a).

SENATE BILL 62**SECTION 508**

1 (c) A certified service provider may collect, use, and retain personally
2 identifiable information only to verify exemption claims, to document the correct
3 assignment of taxing jurisdictions, to investigate fraud, and to ensure its system's
4 reliability.

5 (d) A certified service provider shall provide sufficient technical, physical, and
6 administrative safeguards to protect personally identifiable information from
7 unauthorized access and disclosure.

8 (e) For purposes of this subchapter, the state shall provide to consumers public
9 notice of the state's practices related to collecting, using, and retaining personally
10 identifiable information.

11 (f) The state shall not retain personally identifiable information obtained for
12 purposes of administering this subchapter unless the state is otherwise required to
13 retain the information by law or as provided under the agreement, as defined in s.
14 77.65 (2) (a).

15 (g) For purposes of this subchapter, the state shall provide an individual
16 reasonable access to that individual's personally identifiable information and the
17 right to correct any inaccurately recorded information.

18 (h) If any person, other than another state that is a signatory to the agreement,
19 as defined in s. 77.65 (2) (a), or a person authorized under state law to access the
20 information, requests access to an individual's personally identifiable information,
21 the state shall make a reasonable and timely effort to notify the individual of the
22 request.

23 **SECTION 509.** 77.61 (11) of the statutes is amended to read:

24 77.61 (11) Any city, village or town clerk or other official whose duty it is to issue
25 licenses or permits to engage in a business involving the sale at retail of tangible

SENATE BILL 62**SECTION 509**

1 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) subject
2 to tax under this subchapter, or the furnishing of services so subject to tax, shall,
3 before issuing such license or permit, require proof that the person to whom such
4 license or permit is to be issued is the holder of a seller's permit as required by or is
5 registered to collect, report, and remit use tax under this subchapter or has been
6 informed by an employee of the department that the department will issue a seller's
7 permit to that person or register that person to collect, report, and remit use tax.

8 **SECTION 510.** 77.61 (16) of the statutes is created to read:

9 77.61 (16) Any person who remits taxes and files returns under this subchapter
10 may designate an agent, as defined in s. 77.524 (1) (ag), to remit such taxes and file
11 such returns with the department in a manner prescribed by the department.

12 **SECTION 511.** 77.61 (17) of the statutes is created to read:

13 77.61 (17) With regard to services subject to the tax under s. 77.52 (2) or the
14 lease, rental, or license of tangible personal property and property, items, and goods
15 specified under s. 77.52 (1) (b), (c), and (d), an increase in the tax rate applies to the
16 first billing period beginning on or after the rate increase's effective date and a
17 decrease in the tax rate applies to bills that are rendered on or after the rate
18 decrease's effective date.

19 **SECTION 512.** 77.61 (18) of the statutes is created to read:

20 77.61 (18) The department shall notify sellers with respect to any change in
21 the rate of the taxes imposed under this subchapter at least 30 days prior to the
22 change's effective date and any such change shall take effect on January 1, April 1,
23 July 1, or October 1.

24 **SECTION 513.** 77.63 of the statutes is repealed and recreated to read:

SENATE BILL 62**SECTION 513**

1 **77.63 Collection compensation.** The following persons may retain a portion
2 of sales and use taxes collected on retail sales under this subchapter and subch. V
3 in an amount determined by the department and by contracts that the department
4 enters into jointly with other states as a member state of the streamlined sales tax
5 governing board pursuant to the agreement, as defined in s. 77.65 (2) (a):

6 **(1)** A certified service provider.

7 **(2)** A seller that uses a certified automated system, as defined in s. 77.524 (1)
8 (am).

9 **(3)** A seller that sells tangible personal property, or items, property, or goods
10 under s. 77.52 (1) (b), (c), or (d), or taxable services in at least 5 states that are
11 signatories to the agreement, as defined in s. 77.65 (2) (a); that has total annual sales
12 revenue of at least \$500,000,000; that has a proprietary system that calculates the
13 amount of tax owed to each taxing jurisdiction in which the seller sells tangible
14 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
15 taxable services; and that has entered into a performance agreement with the states
16 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of
17 this subsection, “seller” includes an affiliated group of sellers using the same
18 proprietary system to calculate the amount of tax owed in each taxing jurisdiction
19 in which the sellers sell tangible personal property, or items, property, or goods under
20 s. 77.52 (1) (b), (c), or (d), or taxable services.

21 **SECTION 514.** 77.65 (2) (a) of the statutes is amended to read:

22 77.65 (2) (a) “Agreement” means the streamlined sales and use tax agreement,
23 including amendments to the agreement.

24 **SECTION 515.** 77.65 (2) (c) of the statutes is repealed.

25 **SECTION 516.** 77.65 (2) (e) of the statutes is amended to read:

SENATE BILL 62**SECTION 516**

1 77.65 (2) (e) "Seller" means any person who sells, licenses, leases, or rents
2 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
3 (d), or services.

4 **SECTION 517.** 77.65 (2) (f) of the statutes is amended to read:

5 77.65 (2) (f) "State" means any state of the United States and, the District of
6 Columbia, and the Commonwealth of Puerto Rico.

7 **SECTION 518.** 77.65 (4) (fm) of the statutes is created to read:

8 77.65 (4) (fm) Provide that a seller who registers with the central electronic
9 registration system under par. (f) may cancel the registration at any time, as
10 provided under uniform procedures adopted by the governing board of the states that
11 are signatories to the agreement, but is required to remit any Wisconsin taxes
12 collected pursuant to the agreement to the department.

13 **SECTION 519.** 77.66 of the statutes is amended to read:

14 **77.66 Certification for collection of sales and use tax.** The secretary of
15 revenue shall determine and periodically certify to the secretary of administration
16 the names of persons, and affiliates, as defined in s. 16.70 (1b), of persons, who make
17 sales of tangible personal property, or items, property, or goods under s. 77.52 (1) (b),
18 (c), or (d), and taxable services that are subject to the taxes imposed under this
19 subchapter but who are not registered to collect and remit such taxes to the
20 department or, if registered, do not collect and remit such taxes.

21 **SECTION 520.** 77.67 of the statutes is created to read:

22 **77.67 Amnesty for new registrants. (1)** A seller is not liable for uncollected
23 and unpaid taxes, including penalties and interest, imposed under this subchapter
24 and subch. V on sales made to purchasers in this state before the seller registers
25 under par. (a), if all of the following apply:

SENATE BILL 62**SECTION 520**

1 (a) The seller registers with the department, in a manner that the department
2 prescribes, to collect and remit the taxes imposed under this subchapter and subch.
3 V on sales to purchasers in this state in accordance with the agreement, as defined
4 in s. 77.65 (2) (a).

5 (b) The seller registers under par. (a) no later than 365 days after the effective
6 date of this state's participation in the agreement under s. 77.65 (2) (a), as
7 determined by the department.

8 (c) The seller was not registered to collect and remit the taxes imposed under
9 this subchapter and subch. V during the 365 consecutive days immediately before
10 the effective date of this state's participation in the agreement under s. 77.65 (2) (a),
11 as determined by the department.

12 (d) The seller has not received a notice of the commencement of an audit from
13 the department or, if the seller has received a notice of the commencement of an audit
14 from the department, the audit has been fully resolved, including any related
15 administrative and judicial processes, at the time that the seller registers under par.
16 (a).

17 (e) The seller has not committed or been involved in a fraud or an intentional
18 misrepresentation of a material fact.

19 (f) The seller collects and remits the taxes imposed under this subchapter and
20 subch. V on sales to purchasers in this state for at least 3 consecutive years after the
21 date on which the seller's collection obligation begins.

22 **(2)** Subsection (1) does not apply to taxes imposed under this subchapter and
23 subch. V that are due from the seller for purchases made by the seller.

24 **SECTION 521.** 77.70 of the statutes is amended to read:

SENATE BILL 62**SECTION 521**

1 **77.70 Adoption by county ordinance.** Any county desiring to impose county
2 sales and use taxes under this subchapter may do so by the adoption of an ordinance,
3 stating its purpose and referring to this subchapter. The county sales and use taxes
4 may be imposed only for the purpose of directly reducing the property tax levy and
5 only in their entirety as provided in this subchapter. That ordinance shall be
6 effective on the first day of January, the first day of April, the first day of July or the
7 first day of October. A certified copy of that ordinance shall be delivered to the
8 secretary of revenue at least 120 days prior to its effective date. The repeal of any
9 such ordinance shall be effective on December 31. A certified copy of a repeal
10 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before
11 the effective date of the repeal.

12 **SECTION 522.** 77.705 of the statutes is amended to read:

13 **77.705 Adoption by resolution; baseball park district.** A local
14 professional baseball park district created under subch. III of ch. 229, by resolution
15 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at
16 a rate of no more than 0.1% of the ~~gross receipts or sales price~~ or purchase price.
17 Those taxes may be imposed only in their entirety. The resolution shall be effective
18 on the first day of the first month January 1, April 1, July 1, or October 1 that begins
19 at least ~~30~~ 120 days after the adoption of the resolution. Any moneys transferred
20 from the appropriation account under s. 20.566 (1) (gd) to the appropriation account
21 under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt.

22 **SECTION 523.** 77.706 of the statutes is amended to read:

23 **77.706 Adoption by resolution; football stadium district.** A local
24 professional football stadium district created under subch. IV of ch. 229, by
25 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this

SENATE BILL 62**SECTION 523**

1 subchapter at a rate of 0.5% of the ~~gross receipts or~~ sales price or purchase price.
2 Those taxes may be imposed only in their entirety. The imposition of the taxes under
3 this section shall be effective on the first day of the first month January 1, April 1,
4 July 1, or October 1 that begins at least ~~30~~ 120 days after the certification of the
5 approval of the resolution by the electors in the district's jurisdiction under s. 229.824
6 (15). Any moneys transferred from the appropriation account under s. 20.566 (1) (ge)
7 to the appropriation account under s. 20.835 (4) (ge) shall be used exclusively to retire
8 the district's debt.

9 **SECTION 524.** 77.707 (1) of the statutes is amended to read:

10 77.707 (1) Retailers and the department of revenue may not collect a tax under
11 s. 77.705 for any local professional baseball park district created under subch. III of
12 ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days from
13 the date on which the local professional baseball park district board makes a
14 certification to the department of revenue under s. 229.685 (2), except that the
15 department of revenue may collect from retailers taxes that accrued before the day
16 after the last day of that calendar quarter and fees, interest and penalties that relate
17 to those taxes.

18 **SECTION 525.** 77.707 (2) of the statutes is amended to read:

19 77.707 (2) Retailers and the department of revenue may not collect a tax under
20 s. 77.706 for any local professional football stadium district created under subch. IV
21 of ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days
22 from the date on which the local professional football stadium district board makes
23 all of the certifications to the department of revenue under s. 229.825 (3), except that
24 the department of revenue may collect from retailers taxes that accrued before the

SENATE BILL 62**SECTION 525**

1 day after the last day of that calendar quarter and fees, interest and penalties that
2 relate to those taxes.

3 **SECTION 526.** 77.71 (1) of the statutes is amended to read:

4 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
5 personal property and the items, property, and goods specified under s. 77.52 (1) (b),
6 (c), and (d), and for the privilege of selling, licensing, performing or furnishing
7 services a sales tax is imposed upon retailers at the rate of 0.5% in the case of a county
8 tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the
9 gross receipts sales price from the sale, license, lease or rental of tangible personal
10 property and the items, property, and goods specified under s. 77.52 (1) (b), (c), and
11 (d), except property taxed under sub. (4), sold, licensed, leased or rented at retail in
12 the county or special district or from selling, licensing, performing or furnishing
13 services described under s. 77.52 (2) in the county or special district.

14 **SECTION 527.** 77.71 (2) of the statutes is amended to read:

15 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
16 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales
17 purchase price upon every person storing, using or otherwise consuming in the
18 county or special district tangible personal property, or items, property, or goods
19 specified under s. 77.52 (1) (b), (c), or (d), or services if the tangible personal property,
20 item, property, good, or service is subject to the state use tax under s. 77.53, except
21 that a receipt indicating that the tax under sub. (1), (3) or (4) has been paid relieves
22 the buyer of liability for the tax under this subsection and except that if the buyer
23 has paid a similar local tax in another state on a purchase of the same tangible
24 personal property, item, property, good, or services that tax shall be credited against
25 the tax under this subsection and except that for motor vehicles that are used for a

SENATE BILL 62**SECTION 527**

1 purpose in addition to retention, demonstration or display while held for sale in the
2 regular course of business by a dealer the tax under this subsection is imposed not
3 on the sales purchase price but on the amount under s. 77.53 (1m).

4 **SECTION 528.** 77.71 (3) of the statutes is amended to read:

5 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
6 activities within the county or special district, at the rate of 0.5% in the case of a
7 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
8 of the sales purchase price of tangible personal property or items, property, or goods
9 under s. 77.52 (1) (b), (c), or (d) that is are used in constructing, altering, repairing
10 or improving real property and that ~~becomes~~ became a component part of real
11 property in that county or special district, except that if the contractor has paid the
12 sales tax of a county in the case of a county tax or of a special district in the case of
13 a special district tax in this state on that tangible personal property, item, property,
14 or good, or has paid a similar local sales tax in another state on a purchase of the same
15 tangible personal property, item, property, or good, that tax shall be credited against
16 the tax under this subsection.

17 **SECTION 529.** 77.71 (4) of the statutes is amended to read:

18 77.71 (4) An excise tax is imposed at the rate of 0.5 percent in the case of a
19 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
20 of the sales purchase price upon every person storing, using or otherwise consuming
21 a motor vehicle, boat, ~~snowmobile~~, recreational vehicle, as defined in s. 340.01 (48r),
22 ~~trailer, semitrailer, all-terrain vehicle~~ or aircraft, if that property must be registered
23 or titled with this state and if that property is to be customarily kept in a county that
24 has in effect an ordinance under s. 77.70 or in a special district that has in effect a
25 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local

SENATE BILL 62

1 sales tax in another state on a purchase of the same property that tax shall be
2 credited against the tax under this subsection.

3 **SECTION 530.** 77.72 (title) of the statutes is repealed.

4 **SECTION 531.** 77.72 (1) of the statutes is renumbered 77.72 and amended to
5 read:

6 **77.72 General rule for property.** For the purposes of this subchapter, all
7 retail sales of tangible personal property ~~are completed at the time when, and the~~
8 ~~place where, the seller or the seller's agent transfers possession to the buyer or the~~
9 ~~buyer's agent. In this subsection, a common carrier or the U.S. postal service is the~~
10 ~~agent of the seller, regardless of any f.o.b. point and regardless of the method by~~
11 ~~which freight or postage is paid. Rentals and leases of property, except property~~
12 ~~under sub. (2), have a situs at the location of that property, and items, property, and~~
13 ~~goods specified under s. 77.52 (1) (b), (c), and (d), and taxable services are sourced as~~
14 ~~provided in s. 77.522.~~

15 **SECTION 532.** 77.72 (2) and (3) of the statutes are repealed.

16 **SECTION 533.** 77.73 (2) of the statutes is amended to read:

17 77.73 (2) Counties and special districts do not have jurisdiction to impose the
18 tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b),
19 (c), and (d), and tangible personal property, except snowmobiles, trailers,
20 semitrailers, and all-terrain vehicles, purchased in a sale that is consummated in
21 another county or special district in this state that does not have in effect an
22 ordinance or resolution imposing the taxes under this subchapter and later brought
23 by the buyer into the county or special district that has imposed a tax under s. 77.71
24 (2).

25 **SECTION 534.** 77.73 (3) of the statutes is created to read:

SENATE BILL 62**SECTION 534**

1 77.73 (3) Counties and special districts have jurisdiction to impose the taxes
2 under this subchapter on retailers who file an application under s. 77.52 (7) or who
3 register under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged
4 in business in the county or special district, as provided in s. 77.51 (13g). A retailer
5 who files an application under s. 77.52 (7) or who registers under s. 77.53 (9) or (9m)
6 shall collect, report, and remit to the department the taxes imposed under this
7 subchapter for all counties and special districts that have an ordinance or resolution
8 imposing the taxes under this subchapter.

9 **SECTION 535.** 77.75 of the statutes is amended to read:

10 **77.75 Reports.** Every person subject to county or special district sales and use
11 taxes shall, for each reporting period, record that person's sales made in the county
12 or special district that has imposed those taxes separately from sales made
13 elsewhere in this state and file a report of the measure of the county or special district
14 sales and use taxes and the tax due thereon separately as prescribed by the
15 department of revenue.

16 **SECTION 536.** 77.77 (1) of the statutes is renumbered 77.77 (1) (a) and amended
17 to read:

18 77.77 (1) (a) The gross receipts sales price from services subject to the tax under
19 s. 77.52 (2) are not or the lease, rental, or license of tangible personal property and
20 property, items, and goods specified under s. 77.52 (1) (b), (c), and (d), is subject to
21 the taxes under this subchapter, and the incremental amount of tax caused by a rate
22 increase applicable to those services, leases, rentals, or licenses is not due, if those
23 services are billed to the customer and paid for before beginning with the first billing
24 period starting on or after the effective date of the county ordinance, special district
25 resolution, or rate increase, regardless of whether the service is furnished or the

SENATE BILL 62**SECTION 536**

1 property, item, or good is leased, rented, or licensed to the customer before or after
2 that date.

3 **SECTION 537.** 77.77 (1) (b) of the statutes is created to read:

4 77.77 (1) (b) The sales price from services subject to the tax under s. 77.52 (2)
5 or the lease, rental, or license of tangible personal property and property, items, and
6 goods specified under s. 77.52 (1) (b), (c), and (d), is not subject to the taxes under this
7 subchapter, and a decrease in the tax rate imposed under this subchapter on those
8 services first applies, beginning with bills rendered on or after the effective date of
9 the repeal or sunset of a county ordinance or special district resolution imposing the
10 tax or other rate decrease, regardless of whether the service is furnished or the
11 property, item, or good is leased, rented, or licensed to the customer before or after
12 that date.

13 **SECTION 538.** 77.77 (2) of the statutes is repealed.

14 **SECTION 539.** 77.785 (1) of the statutes is amended to read:

15 77.785 (1) All retailers shall collect and report the taxes under this subchapter
16 on the ~~gross receipts~~ sales price from leases and rentals of property or items,
17 property, and goods under s. 77.52 (1) (b), (c), and (d) under s. 77.71 (4).

18 **SECTION 540.** 77.785 (2) of the statutes is amended to read:

19 77.785 (2) Prior to registration or titling, a retailer of a boat, ~~all-terrain vehicle,~~
20 ~~trailer and semi-trailer dealers and licensed aircraft, motor vehicle, manufactured~~
21 ~~home, as defined in s. 101.91 (2), or recreational vehicle, as defined in s. 340.01 (48r),~~
22 ~~and snowmobile dealers~~ shall collect the taxes under this subchapter on sales of
23 items under s. 77.71 (4). The ~~dealer~~ retailer shall remit those taxes to the
24 department of revenue along with payments of the taxes under subch. III.

25 **SECTION 541.** 77.92 (4) of the statutes is amended to read:

SENATE BILL 62**SECTION 541**

1 77.92 (4) “Net business income,” with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), ~~(3s)~~, (3n), (3p), (3r), ~~(3s)~~,
10 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k); and plus or minus, as appropriate,
11 transitional adjustments, depreciation differences, and basis differences under s.
12 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions
13 from farming. “Net business income,” with respect to a natural person, estate, or
14 trust, means profit from a trade or business for federal income tax purposes and
15 includes net income derived as an employee as defined in section 3121 (d) (3) of the
16 Internal Revenue Code.

17 **SECTION 542.** 77.98 of the statutes is amended to read:

18 **77.98 Imposition.** A local exposition district under subch. II of ch. 229 may
19 impose a tax on the retail sale, except sales for resale, within the district’s
20 jurisdiction under s. 229.43 of products that are subject to a tax under s. 77.54 (20)
21 (e) 1. to 3. and not candy, as defined in s. 77.51 (1fm), prepared food, as defined in s.
22 77.51 (10m), and soft drinks, as defined in s. 77.51 (17w), unless exempt from the
23 sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), (9a) or ~~(20) (e) 5., (20n) (b) and (c),~~
24 and (20r).

25 **SECTION 543.** 77.981 of the statutes is amended to read:

SENATE BILL 62**SECTION 543**

1 **77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products
2 at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote
3 of a majority of the authorized members of its board of directors, may impose the tax
4 at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized
5 members of the district's board may vote that, if the balance in a special debt service
6 reserve fund of the district is less than the requirement under s. 229.50 (5), the tax
7 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next
8 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued
9 by the district and secured by the special debt service reserve fund are outstanding.

10 **SECTION 544.** 77.982 (2) of the statutes is repealed and recreated to read:

11 77.982 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
12 (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2),
13 (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch.
14 III, apply to the tax under this subchapter. Section 77.73, as it applies to the taxes
15 under subch. V, applies to the tax under this subchapter.

16 **SECTION 545.** 77.99 of the statutes is amended to read:

17 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
18 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not
19 for rental and not for rental as a service or repair replacement vehicle, within the
20 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
21 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
22 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
23 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
24 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
25 authorized board of directors may vote to increase the tax rate under this subchapter

SENATE BILL 62**SECTION 545**

1 to 4%. A resolution to adopt the taxes imposed under this section, or an increase in
2 the tax rate, shall be effective on the first January 1, April 1, July 1, or October 1
3 following the adoption of the resolution or tax increase.

4 **SECTION 546.** 77.991 (2) of the statutes is repealed and recreated to read:

5 77.991 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
6 (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2),
7 (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch.
8 III, apply to the tax under this subchapter. Section 77.73, as it applies to the taxes
9 under subch. V, applies to the tax under this subchapter. The renter shall collect the
10 tax under this subchapter from the person to whom the passenger car is rented.

11 **SECTION 547.** 77.994 (1) (intro.) of the statutes is amended to read:

12 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all
13 of which is included in a premier resort area under s. 66.1113 may, by ordinance,
14 impose a tax at a rate of 0.5% of the ~~gross receipts~~ sales price from the sale, license,
15 lease, or rental in the municipality or county of goods or services that are taxable
16 under subch. III made by businesses that are classified in the standard industrial
17 classification manual, 1987 edition, published by the U.S. office of management and
18 budget, under the following industry numbers:

19 **SECTION 548.** 77.9941 (4) of the statutes is amended to read:

20 77.9941 (4) Sections 77.72 (1), ~~(2) (a) and (3) (a)~~, 77.73, 77.74, 77.75, 77.76 (1),
21 (2), and (4), 77.77 (1) ~~and (2)~~, 77.785 (1), and 77.79, as they apply to the taxes under
22 subch. V, apply to the tax under this subchapter.

23 **SECTION 549.** 77.995 (2) of the statutes is amended to read:

24 77.995 (2) There is imposed a fee at the rate of 5 percent of the ~~gross receipts~~
25 sales price on the rental, but not for rere rental and not for rental as a service or repair

SENATE BILL 62

1 replacement vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of
2 recreational vehicles, as defined in s. 340.01 (48r); of motor homes, as defined in s.
3 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by establishments
4 primarily engaged in short-term rental of vehicles without drivers, for a period of 30
5 days or less, unless the sale is exempt from the sales tax under s. 77.54 (1), (4), (7)
6 (a), (7m) or (9a). There is also imposed a fee at the rate of 5 percent of the gross
7 receipts sales price on the rental of limousines.

8 **SECTION 550.** 77.9951 (2) of the statutes is repealed and recreated to read:

9 77.9951 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
10 (4), (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61
11 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
12 subch. III, apply to the fee under this subchapter. The renter shall collect the fee
13 under this subchapter from the person to whom the vehicle is rented.

14 **SECTION 551.** 77.996 (6) of the statutes is amended to read:

15 77.996 (6) “Gross receipts” has the meaning given in s. 77.51 (4) (a), (b) 1. and
16 ~~5., (e) 1. to 4., and (d)~~ means the sales price, as defined in s. 77.51 (15b), of tangible
17 personal property and taxable services sold by a dry cleaning facility. “Gross
18 receipts” does not include the license fee imposed under s. 77.9961 (1m) that is passed
19 on to customers.

20 **SECTION 552.** 77.9972 (2) of the statutes is repealed and recreated to read:

21 77.9972 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
22 (4), (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61
23 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
24 subch. III, apply to the fee under this subchapter. Section 77.73, as it applies to the
25 taxes under subch. V, applies to the fee under this subchapter. The renter shall

SENATE BILL 62**SECTION 552**

1 collect the fee under this subchapter from the person to whom the passenger car is
2 rented.

3 **SECTION 553.** 84.03 (2) (a) 1. of the statutes is amended to read:

4 84.03 (2) (a) 1. “Amount of federal funds” means the sum of federal revenues
5 received under the federal Intermodal Surface Transportation Efficiency Act of 1991,
6 as amended, or under a substantially similar federal legislative act. “Amount of
7 federal funds” does not include the first \$300,000,000 of federal moneys received by
8 the state, pursuant to federal legislation enacted during the 111th Congress, for the
9 purpose of reviving the economy of the United States, which moneys are intended to
10 be used for transportation purposes.

11 **SECTION 554.** 86.195 (3) (b) 3. of the statutes is amended to read:

12 86.195 (3) (b) 3. Fifty percent of the gross receipts sales price, as defined in s.
13 77.51 (15b), of the business are is from meal, food, the sale of food product and
14 beverage sales and food ingredients, as defined in s. 77.51 (3t), that are taxable under
15 s. 77.54 (20) (e) subch. III of ch. 77; and

16 **SECTION 555.** 100.55 (1) (d) 3. of the statutes is amended to read:

17 100.55 (1) (d) 3. A mortgage banker, ~~loan originator,~~ or mortgage broker
18 registered licensed under s. 224.72 or a mortgage loan originator licensed under s.
19 224.725.

20 **SECTION 556.** 146.99 of the statutes is repealed.

21 **SECTION 557.** 149.10 (3m) (intro.) of the statutes is amended to read:

22 149.10 (3m) (intro.) “Health care coverage revenue” means any of the
23 following, but does not include payments to health maintenance organizations under
24 s. 49.45 (59) (a):

25 **SECTION 558.** 165.25 (4) (ar) of the statutes is amended to read:

SENATE BILL 62

1 165.25 (4) (ar) The department of justice shall furnish all legal services
2 required by the department of agriculture, trade and consumer protection relating
3 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
4 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,
5 100.50, and 100.51, and 100.55, and 846.45 and chs. 126, 136, 344, 704, 707, and 779,
6 together with any other services as are necessarily connected to the legal services.

7 **SECTION 559.** 218.0171 (2) (cq) of the statutes is amended to read:

8 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
9 the manufacturer shall provide to the consumer a written statement that specifies
10 the trade-in amount previously applied under s. 77.51 (4) (b) ~~3. or 3m. or (15) (b) 4.~~
11 ~~or 4m. (12m) (b) 5. or 6. or (15b) (b) 5. or 6.~~ toward the sales price of the motor vehicle
12 having the nonconformity and the date on which the manufacturer provided the
13 refund.

14 **SECTION 560.** 220.02 (2) (g) of the statutes is amended to read:

15 220.02 (2) (g) Mortgage bankers, mortgage loan originators, and mortgage
16 brokers under subch. III of ch. 224.

17 **SECTION 561.** 220.02 (3) of the statutes is amended to read:

18 220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce
19 and carry out all laws relating to banks or banking in this state, including those
20 relating to state banks, savings banks, savings and loan associations, and trust
21 company banks, and also all laws relating to small loan companies or other loan
22 companies or agencies, finance companies, insurance premium finance companies,
23 motor vehicle dealers, adjustment service companies, community currency
24 exchanges, mortgage bankers, mortgage loan originators, mortgage brokers, and
25 collection agencies and those relating to sellers of checks under ch. 217, whether

SENATE BILL 62**SECTION 561**

1 doing business as corporations, individuals, or otherwise, but to exclude laws
2 relating to credit unions.

3 **SECTION 562.** 220.06 (1) of the statutes is amended to read:

4 220.06 (1) In this section, “licensee” means a person licensed by the division
5 under ch. 138, 217 or 218 or under s. 224.72, 224.725, or 224.92 ~~or registered by the~~
6 ~~division under s. 224.72.~~

7 **SECTION 563.** 220.285 (1) of the statutes is amended to read:

8 220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,
9 138.12, 218.0101 to 218.0163, 218.02, 218.04 ~~or~~, 218.05, 224.72, or 224.725 or ch. 217,
10 ~~or person registered under s. 224.72~~ may cause any or all records kept by such bank,
11 licensee, or registered person to be recorded, copied or reproduced by any photostatic,
12 photographic or miniature photographic process or by optical imaging if the process
13 employed correctly, accurately and permanently copies, reproduces or forms a
14 medium for copying, reproducing or recording the original record on a film or other
15 durable material. A bank, licensee, or registered person may thereafter dispose of
16 the original record after first obtaining the written consent of the division. This
17 section, excepting that part of it which requires written consent of the division, is
18 applicable to national banking associations insofar as it does not contravene federal
19 law.

20 **SECTION 564.** 221.0402 (2) (b) of the statutes is amended to read:

21 221.0402 (2) (b) Mortgage bankers ~~registered~~ licensed under s. 224.72 may use
22 the designation “mortgage banker”.

23 **SECTION 565.** 224.71 (1ag) of the statutes is repealed.

24 **SECTION 566.** 224.71 (1b) of the statutes is repealed.

25 **SECTION 567.** 224.71 (1bm) of the statutes is created to read:

SENATE BILL 62**SECTION 567**

1 224.71 (1bm) “Another state” means any state of the United States other than
2 Wisconsin; the District of Columbia; any territory of the United States; Puerto Rico;
3 Guam; American Samoa; the Trust Territory of the Pacific Islands; the Virgin
4 Islands; or the Northern Mariana Islands.

5 **SECTION 568.** 224.71 (1c) of the statutes is created to read:

6 224.71 (1c) “Branch office” means an office or place of business, other than the
7 principal office, located in this state or another state, where a mortgage banker or
8 mortgage broker conducts business with residents of this state.

9 **SECTION 569.** 224.71 (1d) of the statutes is repealed.

10 **SECTION 570.** 224.71 (1dm) of the statutes is created to read:

11 224.71 (1dm) “Depository institution” has the meaning given in 12 USC 1813
12 (c) (1), but also includes any state or federal credit union.

13 **SECTION 571.** 224.71 (1f) of the statutes is created to read:

14 224.71 (1f) “Dwelling” has the meaning given in 15 USC 1602 (v).

15 **SECTION 572.** 224.71 (1g) of the statutes is renumbered 224.71 (14) and
16 amended to read:

17 224.71 (14) “Loan Residential mortgage loan” means ~~a~~ any loan primarily for
18 personal, family, or household purposes use that is secured by a lien or mortgage, or
19 equivalent security interest, on a dwelling or residential real property located in this
20 state. ~~For purposes of this subsection, a loan secured by real property consisting of~~
21 ~~1 to 4 dwelling units, including individual condominium units, is a loan for household~~
22 ~~purposes, but a loan made by a landlord to a tenant as described in sub. (3) (b) 4. is~~
23 ~~not a loan for household purposes.~~

24 **SECTION 573.** 224.71 (1h) of the statutes is created to read:

SENATE BILL 62**SECTION 573**

1 224.71 (1h) “Federal banking agency” means the board of governors of the
2 federal reserve system, the U.S. office of the comptroller of the currency, the U.S.
3 office of thrift supervision, the national credit union administration, or the federal
4 deposit insurance corporation.

5 **SECTION 574.** 224.71 (1m) of the statutes is created to read:

6 224.71 (1m) “Finds,” with respect to a residential mortgage loan, means to
7 assist a residential mortgage loan applicant in locating a lender for the purpose of
8 obtaining a residential mortgage loan and to make arrangements for a residential
9 mortgage loan applicant to obtain a residential mortgage loan, including collecting
10 information on behalf of an applicant and preparing a loan package.

11 **SECTION 575.** 224.71 (1r) of the statutes is renumbered 224.71 (6) (a) (intro.)
12 and amended to read:

13 224.71 (6) (a) (intro.) “Loan Mortgage loan originator” means ~~a person who, on~~
14 ~~behalf of a mortgage banker or mortgage broker, finds a loan or negotiates a land~~
15 ~~contract, loan or commitment for a loan. an individual who is not excluded by par.~~
16 ~~(b) and who, for compensation or gain or in the expectation of compensation or gain,~~
17 does any of the following:

18 **SECTION 576.** 224.71 (1u) of the statutes is repealed.

19 **SECTION 577.** 224.71 (2) of the statutes is created to read:

20 224.71 (2) “Loan processor or underwriter” means an individual who, as an
21 employee, performs clerical or support duties at the direction of and subject to the
22 supervision and instruction of a mortgage loan originator licensed under s. 224.725
23 or exempt from licensing under s. 224.726 (1), which clerical or support duties may
24 include any of the following occurring subsequent to the receipt of a residential
25 mortgage loan application:

SENATE BILL 62

1 (a) The receipt, collection, distribution, and analysis of information common for
2 the processing or underwriting of a residential mortgage loan.

3 (b) Communicating with a residential mortgage loan applicant to obtain the
4 information necessary for the processing or underwriting of a residential mortgage
5 loan, to the extent that the communication does not include offering or negotiating
6 loan rates or terms or providing counseling related to loan rates or terms.

7 **SECTION 578.** 224.71 (3) (a) 1. to 3. of the statutes are amended to read:

8 224.71 (3) (a) 1. Originates residential mortgage loans for itself, as payee on
9 the note evidencing the residential mortgage loan, or for another person.

10 2. Sells residential mortgage loans or interests in residential mortgage loans
11 to another person.

12 3. Services residential mortgage loans ~~or land contracts~~ or provides escrow
13 services.

14 **SECTION 579.** 224.71 (3) (b) 1. to 7. of the statutes are repealed.

15 **SECTION 580.** 224.71 (3) (b) 8., 9., 10., 11. and 12. of the statutes are created to
16 read:

17 224.71 (3) (b) 8. A depository institution.

18 9. A subsidiary that is owned and controlled by a depository institution and
19 regulated by a federal banking agency.

20 10. An institution regulated by the farm credit administration.

21 11. A person that only performs real estate brokerage activities and is licensed
22 under s. 452.03, unless the person is compensated by a lender, mortgage broker, or
23 mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage
24 loan originator.

SENATE BILL 62**SECTION 580**

1 12. A person solely involved in extensions of credit relating to time-share
2 plans, as defined in 11 USC 101 (53D).

3 **SECTION 581.** 224.71 (4) (a) of the statutes is amended to read:

4 224.71 (4) (a) “Mortgage broker” means a person who is not excluded by par.
5 (b) and who, on behalf of a residential mortgage loan applicant or an investor and for
6 commission, money, or other thing of value, finds a residential mortgage loan or
7 negotiates a ~~land contract~~, residential mortgage loan or commitment for a
8 residential mortgage loan or engages in table funding.

9 **SECTION 582.** 224.71 (4) (b) 1. to 3. of the statutes are repealed.

10 **SECTION 583.** 224.71 (4) (b) 4., 5., 6., 7. and 8. of the statutes are created to read:

11 224.71 (4) (b) 4. A depository institution.

12 5. A subsidiary that is owned and controlled by a depository institution and
13 regulated by a federal banking agency.

14 6. An institution regulated by the farm credit administration.

15 7. A person that performs real estate brokerage activities only and is licensed
16 under s. 452.03, unless the person is compensated by a lender, mortgage broker, or
17 mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage
18 loan originator.

19 8. A person solely involved in extensions of credit relating to time-share plans,
20 as defined in 11 USC 101 (53D).

21 **SECTION 584.** 224.71 (5) of the statutes is renumbered 224.71 (17) and amended
22 to read:

23 224.71 (17) “Table funding” means a transaction in which a person conducts
24 a residential mortgage loan closing in the person’s name with funds provided by a 3rd

SENATE BILL 62

1 party and the person assigns the residential mortgage loan to the 3rd party within
2 24 hours of the residential mortgage loan closing.

3 **SECTION 585.** 224.71 (6) (a) 1. and 2. and (b) of the statutes are created to read:

4 224.71 (6) (a) 1. Takes a residential mortgage loan application.

5 2. Offers or negotiates terms of a residential mortgage loan.

6 (b) "Mortgage loan originator" does not include any of the following:

7 1. An individual engaged solely as a loan processor or underwriter, unless the
8 individual represents to the public, through advertising or another means of
9 communication such as the use of business cards, stationery, brochures, signs, rate
10 lists, or other promotional items, that the individual can or will perform any of the
11 activities of a mortgage loan originator.

12 2. An individual who performs real estate brokerage activities only and is
13 licensed under s. 452.03, unless the individual is compensated by a lender, mortgage
14 broker, or another mortgage loan originator or by any agent of a lender, mortgage
15 broker, or another mortgage loan originator.

16 3. An individual solely involved in extensions of credit relating to time-share
17 plans, as defined in 11 USC 101 (53D).

18 **SECTION 586.** 224.71 (7) of the statutes is created to read:

19 224.71 (7) "Nationwide mortgage licensing system and registry" means the
20 licensing and registration system developed and maintained by the Conference of
21 State Bank Supervisors and the American Association of Residential Mortgage
22 Regulators for licensed mortgage loan originators and mortgage loan originators
23 exempt from licensing under s. 224.726 (1) or, if this system is no longer maintained,
24 any system established by the secretary of the federal department of housing and
25 urban development under P.L. 110-289, Title V, section 1509.

SENATE BILL 62**SECTION 587**

1 **SECTION 587.** 224.71 (8) of the statutes is created to read:

2 224.71 (8) “Negotiate,” with respect to a residential mortgage loan, means to
3 discuss, explain, or present the terms and conditions, including rates, fees, and other
4 costs, of a residential mortgage loan with or to a residential mortgage loan applicant,
5 but does not include making an underwriting decision on a residential mortgage loan
6 or closing a residential mortgage loan.

7 **SECTION 588.** 224.71 (10) of the statutes is created to read:

8 224.71 (10) “Nontraditional mortgage product” means any mortgage product
9 other than a 30-year fixed rate mortgage.

10 **SECTION 589.** 224.71 (11) of the statutes is created to read:

11 224.71 (11) “Originate,” with respect to a residential mortgage loan, means to
12 make an underwriting decision on the residential mortgage loan and close the loan.

13 **SECTION 590.** 224.71 (12) of the statutes is created to read:

14 224.71 (12) “Principal office,” with respect to a mortgage banker or mortgage
15 broker, means the place of business designated by the mortgage banker or mortgage
16 broker as its principal place of business, as identified in the records of the division.

17 **SECTION 591.** 224.71 (13) of the statutes is created to read:

18 224.71 (13) “Real estate brokerage activity” means any activity that involves
19 offering or providing to the public real estate brokerage services involving
20 residential real property in this state, including all of the following:

21 (a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor,
22 or lessee of real property.

23 (b) Bringing together parties interested in the sale, purchase, lease, rental, or
24 exchange of real property.

SENATE BILL 62**SECTION 591**

1 (c) Negotiating, on behalf of any party, any portion of a contract relating to the
2 sale, purchase, lease, rental, or exchange of real property, other than in connection
3 with providing financing for the transaction.

4 (d) Engaging in any activity for which a person engaged in the activity is
5 required to be licensed under s. 452.03.

6 (e) Offering to engage in any activity, or act in any capacity, described in pars.
7 (a) to (d).

8 **SECTION 592.** 224.71 (15) of the statutes is created to read:

9 224.71 (15) "Residential real property" means real property on which a
10 dwelling is constructed or intended to be constructed.

11 **SECTION 593.** 224.71 (16) of the statutes is created to read:

12 224.71 (16) "Services," with respect to a residential mortgage loan, means to
13 receive payments on a note from the borrower and distribute these payments in
14 accordance with the terms of the note or servicing agreement.

15 **SECTION 594.** 224.71 (18) of the statutes is created to read:

16 224.71 (18) "Unique identifier" means a number or other identifier assigned
17 by protocols established by the nationwide mortgage licensing system and registry.

18 **SECTION 595.** 224.72 (title) of the statutes is amended to read:

19 **224.72 (title) Registration Licensing of mortgage bankers, loan**
20 **originators and mortgage brokers.**

21 **SECTION 596.** 224.72 (1) (intro.) of the statutes is repealed.

22 **SECTION 597.** 224.72 (1) (a) of the statutes is renumbered 224.71 (9) and
23 amended to read:

24 224.71 (9) "Net worth" means total tangible assets less total liabilities of a
25 person, or, if the person is ~~a natural person~~ an individual, total tangible assets less

SENATE BILL 62**SECTION 597**

1 total liabilities exclusive of the person's principal residence and its furnishings and
2 personal use vehicles.

3 **SECTION 598.** 224.72 (1) (b) of the statutes is repealed.

4 **SECTION 599.** 224.72 (1m) of the statutes is amended to read:

5 224.72 (1m) REGISTRATION LICENSE REQUIRED. A person may not conduct
6 business or act as a mortgage banker, ~~loan originator~~ or mortgage broker, use the title
7 "mortgage banker", "~~loan originator~~" or "mortgage broker", or advertise or
8 otherwise portray himself or herself, or itself as a mortgage banker, ~~loan originator~~
9 or mortgage broker, unless the person has been issued a ~~certificate of registration~~
10 from mortgage banker or mortgage broker license by the division.

11 **SECTION 600.** 224.72 (2) (title) of the statutes is repealed and recreated to read:

12 224.72 (2) (title) LICENSE APPLICATIONS.

13 **SECTION 601.** 224.72 (2) (intro.) of the statutes is renumbered 224.72 (2) (am)
14 and amended to read:

15 224.72 (2) (am) ~~A person desiring to act as~~ Applicants for a mortgage banker,
16 ~~loan originator~~ or mortgage broker license shall apply for a ~~certificate of registration~~
17 to the division, on forms and in the manner prescribed by the division, and shall pay
18 the fee specified in rules promulgated under sub. (8). ~~An application shall satisfy all~~
19 ~~of the following:~~ Forms prescribed by the division under this paragraph may contain
20 any content or requirement that the division, in its discretion, determines necessary
21 and these forms may be modified or updated as necessary by the division to carry out
22 the purposes of this subchapter.

23 **SECTION 602.** 224.72 (2) (a) and (b) of the statutes are repealed.

24 **SECTION 603.** 224.72 (2) (c) (title) of the statutes is repealed.

25 **SECTION 604.** 224.72 (2) (d) of the statutes is amended to read:

SENATE BILL 62**SECTION 604**

1 224.72 (2) (d) ~~Social security number exceptions.~~ 1. If an applicant who is an
2 individual does not have a social security number, the applicant, as a condition of
3 applying for or applying to renew a ~~registration~~ license under this section, shall
4 submit a statement made or subscribed under oath or affirmation to the division that
5 the applicant does not have a social security number. The form of the statement shall
6 be prescribed by the department of children and families.

7 2. Any ~~certificate of registration~~ license issued or renewed in reliance upon a
8 false statement submitted by an applicant under subd. 1. is invalid.

9 **SECTION 605.** 224.72 (2m) of the statutes is created to read:

10 224.72 (2m) LICENSED OFFICES. Each mortgage banker or mortgage broker shall
11 obtain and maintain a license for its principal office and a separate license for each
12 branch office.

13 **SECTION 606.** 224.72 (3) (title) of the statutes is repealed.

14 **SECTION 607.** 224.72 (3) (a) of the statutes is renumbered 224.725 (2) (d) and
15 amended to read:

16 224.725 (2) (d) ~~In addition to the requirements of sub. (2), an~~ Any applicant for
17 ~~registration as a residential mortgage loan originator~~ license shall include in the
18 application the name of the mortgage banker or mortgage broker who will employ
19 the residential mortgage loan originator.

20 **SECTION 608.** 224.72 (3) (b) and (c) of the statutes are repealed.

21 **SECTION 609.** 224.72 (4) (title) of the statutes is amended to read:

22 224.72 (4) (title) ~~ADDITIONAL REQUIREMENT FOR MORTGAGE BANKER APPLICANT~~
23 REQUIREMENTS.

24 **SECTION 610.** 224.72 (4) (a) (intro.) of the statutes is amended to read:

SENATE BILL 62**SECTION 610**

1 224.72 (4) (a) ~~With a bona fide office.~~ (intro.) In addition to the requirements
2 of sub. (2), an applicant for registration as a mortgage banker who maintains a bona
3 fide office or mortgage broker license shall do at least one all of the following:

4 **SECTION 611.** 224.72 (4) (a) 1. of the statutes is repealed.

5 **SECTION 612.** 224.72 (4) (a) 2. of the statutes is amended to read:

6 224.72 (4) (a) 2. ~~File a bond.~~ File with the division a commercial surety bond
7 which is in the amount of ~~\$25,000~~ \$300,000 for a mortgage banker or \$120,000 for
8 a mortgage broker, is issued by a surety company authorized to do business in this
9 state, secures the applicant's faithful performance of all duties and obligations of a
10 mortgage banker or mortgage broker, is payable to the division for the benefit of
11 persons to whom the mortgage banker or mortgage broker provided services as a
12 mortgage banker or mortgage broker, is issued on a form that is acceptable to the
13 division and provides that the bond may not be terminated without at least 30 days'
14 written notice to the division.

15 **SECTION 613.** 224.72 (4) (a) 3. of the statutes is repealed.

16 **SECTION 614.** 224.72 (4) (a) 4. of the statutes is amended to read:

17 224.72 (4) (a) 4. ~~Minimum net worth.~~ Submit evidence that establishes, to the
18 division's satisfaction, a minimum net worth of ~~\$25,000 and a warehouse line of~~
19 ~~credit of not less than \$250,000 or a minimum net worth of \$100,000~~ \$250,000 for a
20 mortgage banker or \$100,000 for a mortgage broker. Evidence of net worth shall
21 include the submission of a ~~balance sheet that is~~ recent financial statements
22 accompanied by a written statement by an independent certified public accountant
23 attesting that he or she has reviewed the ~~balance sheet~~ financial statements in
24 accordance with generally accepted accounting principles.

25 **SECTION 615.** 224.72 (4) (d) of the statutes is repealed.

SENATE BILL 62**SECTION 616**

1 **SECTION 616.** 224.72 (4m) of the statutes is repealed.

2 **SECTION 617.** 224.72 (4n) (intro.) of the statutes is amended to read:

3 224.72 (**4n**) SECURITY HELD BY THE DIVISION; RELEASE. (intro.) The division or its
4 agent shall hold security filed under subs. (4) (a) 3. and (4m) (a) 2. s. 224.72 (4) (a)
5 3., 2007 stats., and s. 224.72 (4m) (a) 2., 2007 stats. The security shall remain in
6 effect, and the division may not release it, until all of the following conditions are met:

7 **SECTION 618.** 224.72 (4n) (a) 2. of the statutes is amended to read:

8 224.72 (**4n**) (a) 2. The date on which the mortgage banker's or mortgage
9 broker's registration license expires or is revoked.

10 **SECTION 619.** 224.72 (4r) of the statutes is repealed.

11 **SECTION 620.** 224.72 (5) (title) of the statutes is renumbered 224.72 (5m) (title)
12 and amended to read:

13 224.72 (**5m**) (title) COMPLETION OF REGISTRATION LICENSING PROCESS.

14 **SECTION 621.** 224.72 (5) (a) of the statutes is renumbered 224.725 (3) (intro.)
15 and amended to read:

16 224.725 (**3**) ~~LOAN ORIGINATOR~~ ISSUANCE OF LICENSE. (intro.) Except as provided
17 in sub. (7m) (6), upon receiving a properly completed the filing of an application for
18 ~~registration as a~~ mortgage loan originator and license and the payment of the fee
19 specified in rules promulgated under sub. (8) and ~~upon an applicant's compliance~~
20 ~~with sub. (3) (a) and, if required, sub. (3) (b),~~ the division may issue to the applicant
21 a ~~certificate of registration as a~~ mortgage loan originator. license if the division finds
22 that all of the following apply:

23 **SECTION 622.** 224.72 (5) (b) of the statutes is renumbered 224.72 (5m) and
24 amended to read:

SENATE BILL 62**SECTION 622**

1 224.72 (5m) *Mortgage banker and mortgage broker.* Except as provided in sub.
2 (7m), upon receiving a properly completed the filing of an application for registration
3 as a mortgage banker or ~~a~~ mortgage broker, license and the payment of the fee
4 specified in rules promulgated under sub. (8) and satisfactory evidence of compliance
5 with subs. (4) and (4m), the division may shall make an investigation of the applicant
6 including, if the applicant is a partnership, limited liability company, association, or
7 corporation, the members or officers and directors, respectively, of the applicant. If
8 the division finds that the character, general fitness, and financial responsibility of
9 the applicant, including its members or officers and directors if the applicant is a
10 partnership, limited liability company, association, or corporation, warrant the
11 belief that the business will be operated in compliance with this subchapter, the
12 division shall issue to the applicant a ~~certificate of registration as a mortgage banker~~
13 ~~or mortgage broker~~ license. A mortgage banker or mortgage broker license is not
14 assignable or transferable.

15 **SECTION 623.** 224.72 (7) (title) of the statutes is repealed and recreated to read:

16 224.72 (7) (title) LICENSE RENEWAL.

17 **SECTION 624.** 224.72 (7) (a) of the statutes is renumbered 224.72 (7) (am) and
18 amended to read:

19 224.72 (7) (am) A ~~loan originator,~~ mortgage broker or mortgage banker shall
20 may apply to renew a certificate of registration license issued under this section by
21 timely submitting to, on forms and in the manner prescribed by the division, a
22 completed renewal application and the all required renewal fee specified in rules
23 ~~promulgated under sub. (8) on or before the renewal date specified in rules~~
24 ~~promulgated under sub. (8) fees. The division may not renew a license issued under~~

SENATE BILL 62

1 this section unless the division finds that the mortgage broker or mortgage banker
2 continues to meet the minimum standards for license issuance under this section.

3 **SECTION 625.** 224.72 (7) (b) of the statutes is repealed.

4 **SECTION 626.** 224.72 (7) (bm) of the statutes is created to read:

5 224.72 (7) (bm) The license of a mortgage broker or mortgage banker who fails
6 to satisfy the minimum standards for license renewal shall expire. The division may,
7 by rule, provide for the reinstatement of expired licenses consistent with the
8 standards established by the nationwide mortgage licensing system and registry.

9 **SECTION 627.** 224.72 (7) (c), (d) and (e) of the statutes are repealed.

10 **SECTION 628.** 224.72 (7m) (intro.) of the statutes is amended to read:

11 224.72 (7m) DENIAL OF APPLICATION FOR ISSUANCE OR RENEWAL OF REGISTRATION
12 CERTAIN REASONS. (intro.) The division may not issue or renew a ~~certificate of~~
13 ~~registration~~ license under this section if any of the following applies:

14 **SECTION 629.** 224.72 (7m) (am) of the statutes is repealed.

15 **SECTION 630.** 224.72 (7m) (b) of the statutes is amended to read:

16 224.72 (7m) (b) The department of revenue has certified under s. 73.0301 that
17 the applicant is liable for delinquent taxes. An applicant whose application for
18 issuance or renewal of a ~~certificate of registration~~ license is denied under this
19 paragraph for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and
20 hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing
21 under this section.

22 **SECTION 631.** 224.72 (7m) (c) of the statutes is amended to read:

23 224.72 (7m) (c) The applicant for the issuance or renewal is an individual who
24 fails to comply, after appropriate notice, with a subpoena or warrant issued by the
25 department of children and families or a county child support agency under s. 59.53

SENATE BILL 62**SECTION 631**

1 (5) and related to paternity or child support proceedings or who is delinquent in
2 making court-ordered payments of child or family support, maintenance, birth
3 expenses, medical expenses or other expenses related to the support of a child or
4 former spouse, as provided in a memorandum of understanding entered into under
5 s. 49.857. An applicant whose ~~registration~~ license is not issued or renewed under this
6 paragraph for delinquent payments is entitled to a notice and hearing under s.
7 49.857 but is not entitled to any other notice or hearing under this section.

8 **SECTION 632.** 224.72 (7p) of the statutes is repealed.

9 **SECTION 633.** 224.72 (8) of the statutes is amended to read:

10 224.72 (8) ~~REGISTRATION~~ LICENSE PERIOD; FEES. The division shall promulgate
11 rules establishing the ~~registration~~ license period and the ~~registration~~ license fees for
12 loan originators, mortgage bankers and mortgage brokers.

13 **SECTION 634.** 224.725 of the statutes is created to read:

14 **224.725 Licensing of mortgage loan originators.** (1) LICENSE REQUIRED.
15 Except as provided in s. 224.726, an individual may not engage in the business of a
16 mortgage loan originator with respect to a residential mortgage loan, or use the title
17 “mortgage loan originator,” advertise, or otherwise portray himself or herself as a
18 mortgage loan originator in this state, unless the individual has been issued by the
19 division, and thereafter maintains, a license under this section. Each licensed
20 mortgage loan originator shall register with, and maintain a valid unique identifier
21 issued by, the nationwide mortgage licensing system and registry.

22 (2) LICENSE APPLICATIONS. (a) Applicants for a mortgage loan originator license
23 shall apply to the division, on forms and in the manner prescribed by the division,
24 and shall pay the fee specified in rules promulgated under sub. (8). The division shall
25 require mortgage loan originators to be licensed and registered through the

SENATE BILL 62

1 nationwide mortgage licensing system and registry. Forms prescribed by the
2 division under this paragraph may contain any content or requirement that the
3 division, in its discretion, determines necessary and these forms may be modified or
4 updated as necessary by the division to carry out the purposes of this subchapter.

5 (b) 1. Except as provided in subd. 2., an application shall include the
6 individual's social security number. The division may not disclose the individual's
7 social security number to any person except as follows:

8 a. The division may disclose the social security number to the department of
9 revenue for the sole purpose of requesting certifications under s. 73.0301.

10 b. The division may disclose the social security number to the department of
11 children and families in accordance with a memorandum of understanding under s.
12 49.857.

13 2. If an individual does not have a social security number, the individual, as a
14 condition of applying for, or applying to renew, a license under this section, shall
15 submit a statement made or subscribed under oath or affirmation to the division that
16 the individual does not have a social security number. The form of the statement
17 shall be prescribed by the department of children and families. Any license issued
18 or renewed in reliance upon a false statement submitted by an applicant under this
19 subdivision is invalid.

20 (c) Any applicant for a license under this section shall furnish to the nationwide
21 mortgage licensing system and registry information concerning the applicant's
22 identity, including all of the following:

23 1. Fingerprints for submission to the federal bureau of investigation and to any
24 governmental agency or entity authorized to receive this information, for purposes
25 of a state, national, and international criminal history background check.

SENATE BILL 62**SECTION 634**

1 2. Personal history and experience in a form prescribed by the nationwide
2 mortgage licensing system and registry, including the submission of authorization
3 for the nationwide mortgage licensing system and registry and the division to obtain
4 all of the following:

5 a. An independent credit report from a consumer reporting agency, as defined
6 in s. 100.54 (1) (c).

7 b. Any information related to any administrative, civil, or criminal findings by
8 any governmental jurisdiction.

9 **(3)** (a) The applicant has never had a mortgage loan originator license revoked
10 in any governmental jurisdiction, unless the revocation was subsequently and
11 formally vacated.

12 (b) The applicant has not been convicted of, or pled guilty or no contest to, a
13 felony in a domestic, foreign, or military court during the 7-year period preceding the
14 date of the application or, for a felony involving an act of fraud, dishonesty, breach
15 of trust, or money laundering, at any time preceding the date of the application. This
16 paragraph does not apply with respect to any conviction for which the applicant has
17 received a pardon.

18 (c) The applicant has demonstrated financial responsibility, character, and
19 general fitness such as to command the confidence of the community and to warrant
20 a determination that the mortgage loan originator will operate honestly, fairly, and
21 efficiently within the purposes of this subchapter. For purposes of this paragraph,
22 an individual has shown that he or she is not financially responsible if he or she has
23 shown a disregard in the management of his or her own financial condition, including
24 having current outstanding judgments other than those resulting from medical
25 expenses, having current outstanding tax liens or other government liens and

SENATE BILL 62

1 filings, or having, within the past 3 years, foreclosures or any pattern of seriously
2 delinquent accounts.

3 (d) The applicant has satisfied the education requirements under s. 224.755 (1).

4 (e) The applicant has passed a written test that meets the requirements under
5 s. 224.755 (4).

6 (f) The applicant has met the surety bond requirement under sub. (4).

7 **(4) SURETY BOND.** (a) Each mortgage loan originator shall be covered by a surety
8 bond in accordance with this subsection. A surety bond of a mortgage banker or
9 mortgage broker meeting the requirements of par. (b) and s. 224.72 (4) (a) 2. may
10 satisfy the requirement under this paragraph for a mortgage loan originator who,
11 under sub. (2) (d), identifies himself or herself as employed by the mortgage banker
12 or mortgage broker.

13 (b) The penal sum of the surety bond shall provide coverage for each mortgage
14 loan originator in an amount that reflects the dollar amount of residential mortgage
15 loans originated by the mortgage loan originator, as determined by the division.

16 (c) The surety bond shall be in a form prescribed, and satisfy all requirements
17 established, by rule of the division.

18 (d) When an action is commenced on a mortgage loan originator's surety bond,
19 the division may require the filing of a new surety bond. If an action results in
20 recovery on a mortgage loan originator's surety bond, the mortgage loan originator
21 shall immediately file a new surety bond.

22 **(5) LICENSE RENEWAL.** (a) A mortgage loan originator may apply to renew a
23 license issued under this section by timely submitting, on forms and in the manner
24 prescribed by the division, a completed renewal application and all required renewal

SENATE BILL 62**SECTION 634**

1 fees. The division may not renew a license issued under this section unless the
2 division finds that all of the following apply:

3 1. The mortgage loan originator continues to meet the minimum standards for
4 license issuance under sub. (3).

5 2. The mortgage loan originator has satisfied the annual continuing education
6 requirements under s. 224.755 (2).

7 (b) The license of a mortgage loan originator who fails to satisfy the minimum
8 standards for license renewal shall expire. The division may, by rule, provide for the
9 reinstatement of expired licenses consistent with the standards established by the
10 nationwide mortgage licensing system and registry.

11 **(6) DENIAL OF APPLICATION FOR CERTAIN REASONS.** The division may not issue or
12 renew a license under this section if any of the following applies:

13 (a) The applicant for the issuance or renewal has failed to provide the
14 information required under sub. (2) (b).

15 (b) The department of revenue has certified under s. 73.0301 that the applicant
16 is liable for delinquent taxes. An applicant whose application for issuance or renewal
17 of a license is denied under this paragraph for delinquent taxes is entitled to a notice
18 under s. 73.0301 (2) (b) 1. b. and hearing under s. 73.0301 (5) (a) but is not entitled
19 to any other notice or hearing under this section.

20 (c) The applicant for the issuance or renewal has failed to comply, after
21 appropriate notice, with a subpoena or warrant issued by the department of children
22 and families or a county child support agency under s. 59.53 (5) and related to
23 paternity or child support proceedings or who is delinquent in making court-ordered
24 payments of child or family support, maintenance, birth expenses, medical expenses
25 or other expenses related to the support of a child or former spouse, as provided in

SENATE BILL 62

1 a memorandum of understanding entered into under s. 49.857. An applicant whose
2 license is not issued or renewed under this paragraph for delinquent payments is
3 entitled to a notice and hearing under s. 49.857 but is not entitled to any other notice
4 or hearing under this section.

5 (8) LICENSE PERIOD; FEES. The division shall promulgate rules establishing the
6 license period and the license fees for mortgage loan originators. The fees shall be
7 no less than \$250 annually.

8 **SECTION 635.** 224.726 of the statutes is created to read:

9 **224.726 Persons exempt from mortgage loan originator provisions.**

10 The provisions of this subchapter relating to mortgage loan originators do not apply
11 to any of the following:

12 (1) Any individual who meets the definition of mortgage loan originator and
13 who is all of the following:

14 (a) An employee of, and acting for, a depository institution, a subsidiary owned
15 and controlled by a depository institution and regulated by a federal banking agency,
16 or an institution regulated by the farm credit administration.

17 (b) Registered with, and who maintains a unique identifier through, the
18 nationwide mortgage licensing system and registry.

19 (2) Any individual who offers or negotiates terms of a residential mortgage loan
20 with or on behalf of the individual's spouse, child, sibling, parent, grandparent, or
21 grandchild, including any stepparent, stepchild, stepsibling, or adoptive
22 relationship.

23 (3) Any person who offers or negotiates terms of a residential mortgage loan
24 secured by a dwelling that served as the individual's residence.

SENATE BILL 62**SECTION 635**

1 (4) A licensed attorney who negotiates the terms of a residential mortgage loan
2 on behalf of a client as an ancillary matter to the attorney's representation of the
3 client, unless the attorney is compensated by a lender, mortgage broker, or mortgage
4 loan originator or by any agent of a lender, mortgage broker, or mortgage loan
5 originator.

6 **SECTION 636.** 224.728 of the statutes is created to read:

7 **224.728 Nationwide mortgage licensing system and registry and**
8 **cooperative arrangements. (1) PARTICIPATION.** (a) The division shall participate
9 in the nationwide mortgage licensing system and registry. The division may
10 establish relationships or contracts with the nationwide mortgage licensing system
11 and registry or other entities designated by the nationwide mortgage licensing
12 system and registry to collect and maintain records and process transaction fees or
13 other fees related to licensees under this subchapter. With respect to any form, fee,
14 or other information related to the initial issuance or renewal of a mortgage loan
15 originator license under this subchapter, the division may require that any applicant
16 submit such form, fee, or other information directly to the nationwide mortgage
17 licensing system and registry and may authorize the nationwide mortgage licensing
18 system and registry to perform any function under this subchapter related to the
19 licensing of mortgage loan originators in this state.

20 (b) The division may provide to the nationwide mortgage licensing system and
21 registry any information relating to an applicant for initial issuance or renewal of a
22 mortgage loan originator license that the division and the nationwide mortgage
23 licensing system and registry determine to be relevant to the application or to any
24 mortgage loan originator responsibility administered or conducted through the
25 nationwide mortgage licensing system and registry.

SENATE BILL 62**SECTION 636**

1 (c) The division may rely on the nationwide mortgage licensing system and
2 registry to establish any dates relating to application or reporting deadlines for
3 mortgage loan originators, to establish requirements for amending or surrendering
4 mortgage loan originator licenses, or to establish any other requirements applicable
5 to mortgage loan originators licensed under this subchapter to the extent the
6 requirements are a condition of the state's participation in the nationwide mortgage
7 licensing system and registry.

8 **(2) CHANNELING INFORMATION.** To reduce the points of contact that the division
9 may have to maintain, and to facilitate compliance with the requirements under s.
10 224.725 (2) (c), the division may use the nationwide mortgage licensing system and
11 registry as a channeling agent for requesting and distributing information to and
12 from any source so directed by the division, including the federal bureau of
13 investigation, any state or federal department of justice, or any other governmental
14 agency.

15 **(3) CHALLENGE PROCESS.** The division shall establish a process whereby
16 mortgage loan originators may challenge information maintained by the nationwide
17 mortgage licensing system and registry on behalf of the division.

18 **(4) CONFIDENTIAL INFORMATION.** (a) If any information or material is considered
19 confidential or privileged under federal or state law before it is provided or disclosed
20 to the nationwide mortgage licensing system and registry, it shall continue to be
21 confidential or privileged after it is provided or disclosed to, and while maintained
22 by, the nationwide mortgage licensing system and registry, except to the extent
23 federal or state law expressly provides otherwise and except as provided in par. (c).
24 Confidential or privileged information or material under this paragraph is not
25 subject to any of the following:

SENATE BILL 62**SECTION 636**

1 1. Disclosure under any federal or state law governing the disclosure to the
2 public of information held by an officer or an agency of federal or state government.

3 2. Subpoena or discovery, or admission into evidence, in any private civil action
4 or administrative proceeding, unless the person to whom the information or material
5 pertains waives any right or protection of confidentiality or privilege in the
6 information or material.

7 (b) Confidential or privileged information or material under par. (a) may be
8 shared with any state or federal regulatory agency having supervisory authority
9 over mortgage lending without losing any right or protection of confidentiality or
10 privilege under federal or state law.

11 (c) This subsection does not prohibit the nationwide mortgage licensing system
12 and registry from providing public access to information or material relating to the
13 employment history of, and publicly adjudicated disciplinary and enforcement
14 actions against, mortgage loan originators.

15 **(5) COOPERATIVE ARRANGEMENTS.** The division may enter into cooperative,
16 coordinating, or information-sharing arrangements or agreements with other
17 governmental agencies or with associations representing other governmental
18 agencies, including the Conference of State Bank Supervisors and the American
19 Association of Residential Mortgage Regulators.

20 **SECTION 637.** 224.73 (title) of the statutes is amended to read:

21 **224.73 (title) Relationship between mortgage loan originator and**
22 **either a mortgage banker or a mortgage broker.**

23 **SECTION 638.** 224.73 (1) of the statutes is amended to read:

24 **224.73 (1) RESPONSIBILITY FOR MORTGAGE LOAN ORIGINATOR.** ~~A mortgage banker~~
25 ~~or a mortgage broker is responsible for, and shall supervise the acts of, a loan~~

SENATE BILL 62**SECTION 638**

1 ~~originator who registers under s. 224.72 (3) as an employee of the mortgage banker~~
2 ~~or mortgage broker. A mortgage banker or mortgage broker is also responsible for,~~
3 ~~and shall supervise the acts of, a mortgage loan originator or any other person who~~
4 ~~otherwise acts on behalf of the mortgage banker or the mortgage broker.~~

5 **SECTION 639.** 224.73 (2) (title) of the statutes is amended to read:

6 224.73 (2) (title) RESTRICTION ON MORTGAGE LOAN ORIGINATOR.

7 **SECTION 640.** 224.73 (2) of the statutes is renumbered 224.73 (2) (a) and
8 amended to read:

9 224.73 (2) (a) If the division suspends or revokes a mortgage banker's or ~~a~~
10 ~~mortgage broker's certificate of registration license,~~ a mortgage loan originator may
11 not act on behalf of that mortgage banker or mortgage broker during the period of
12 suspension or revocation.

13 **SECTION 641.** 224.73 (2) (b) of the statutes is created to read:

14 224.73 (2) (b) A mortgage loan originator may act on behalf of only the
15 mortgage banker or mortgage broker with which that mortgage loan originator's
16 license is associated in the records of the division, as designated under s. 224.725 (2)
17 (d). A mortgage loan originator's license may only be associated with one mortgage
18 banker or mortgage broker at a time.

19 **SECTION 642.** 224.73 (3) (title) of the statutes is amended to read:

20 224.73 (3) (title) TRANSFER BY MORTGAGE LOAN ORIGINATOR.

21 **SECTION 643.** 224.73 (3) of the statutes is renumbered 224.73 (3) (a) and
22 amended to read:

23 224.73 (3) (a) A ~~registered~~ licensed mortgage loan originator may ~~at any time~~
24 ~~apply, on forms~~ and in the manner prescribed ~~and provided~~ by the division, to
25 ~~transfer employment~~ association to another registered licensed mortgage banker or

SENATE BILL 62**SECTION 643**

1 mortgage broker. The division shall promulgate rules establishing a fee for a
2 transfer application under this subsection.

3 **SECTION 644.** 224.73 (3) (b) of the statutes is created to read:

4 224.73 (3) (b) A mortgage loan originator may not act on behalf of a mortgage
5 banker or mortgage broker until the mortgage loan originator's license association
6 has been transferred to that mortgage banker or mortgage broker in the records of
7 the division.

8 **SECTION 645.** 224.73 (4) (title) of the statutes is amended to read:

9 224.73 (4) (title) ~~SIGNATURE BY~~ MORTGAGE LOAN ORIGINATOR SIGNATURES AND
10 UNIQUE IDENTIFIERS.

11 **SECTION 646.** 224.73 (4) of the statutes is renumbered 224.73 (4) (a) and
12 amended to read:

13 224.73 (4) (a) Every residential mortgage loan application shall be signed by
14 a registered licensed mortgage loan originator or by a mortgage loan originator
15 exempt from licensing under s. 224.726 (1).

16 **SECTION 647.** 224.73 (4) (b) of the statutes is created to read:

17 224.73 (4) (b) Any person originating a residential mortgage loan shall clearly
18 place the person's unique identifier on all residential mortgage loan application
19 forms, solicitations, and advertisements, including business cards or Web sites, and
20 on all other documents specified by rule of the division.

21 **SECTION 648.** 224.74 (title) of the statutes is amended to read:

22 **224.74 (title) Division's review of the operations of a mortgage loan**
23 **originator, mortgage broker, or mortgage banker.**

24 **SECTION 649.** 224.74 (1) of the statutes is amended to read:

SENATE BILL 62

1 224.74 (1) ANNUAL CALL REPORTS; AUDITS. (a) *Annual call report.* ~~Except as~~
2 provided in par. (b), each ~~Each~~ year, on a ~~by the~~ date specified by the division and in
3 ~~a~~ the form required by the division, ~~a~~ nationwide mortgage licensing system and
4 registry, each mortgage banker ~~or~~, mortgage broker, and mortgage loan originator
5 licensed under this subchapter shall submit to the division nationwide mortgage
6 licensing system and registry an annual report relating to the mortgage banker's or
7 mortgage broker's operations during its most recently completed fiscal year of
8 condition, which shall contain such information as the nationwide mortgage
9 licensing system and registry may require.

10 (b) *Audit requirement.* Each year, no later than 6 months following the end of
11 its most recently completed fiscal year, ~~a~~ each mortgage banker or mortgage broker
12 that qualified for registration under s. 224.72 (4) (a) 4. or (d) or (4m) (a) 3. or (b), shall
13 submit a copy of an audit of the mortgage banker's or mortgage broker's operations
14 during that fiscal year. An audit under this paragraph shall be conducted by an
15 independent certified public accountant in accordance with generally accepted
16 auditing standards. The financial statements in the audit report shall be prepared
17 in accordance with generally accepted accounting principles.

18 (c) *Audits requested by the division.* The division may request that a mortgage
19 banker or mortgage broker obtain an audit of the mortgage banker's or mortgage
20 broker's operations if the division has reason to believe that the mortgage banker or
21 mortgage broker may not have sufficient financial resources to meet its obligations
22 to its clients or investors or to other persons directly affected by the activities
23 conducted by the mortgage banker or mortgage broker under the ~~certificate of~~
24 registration granted license issued by the division. If the division requests an audit
25 under this paragraph, the mortgage banker or mortgage broker shall have the audit

SENATE BILL 62**SECTION 649**

1 completed no later than 90 days after the date of the division's request. The mortgage
2 banker or mortgage broker shall submit the audit report to the division no later than
3 5 days after the date on which the audit is completed. An audit under this paragraph
4 shall be conducted by an independent certified public accountant in accordance with
5 generally accepted auditing standards. The financial statements in the audit report
6 shall be prepared in accordance with generally accepted accounting principles.

7 **SECTION 650.** 224.74 (2) (title) of the statutes is amended to read:

8 224.74 (2) (title) EXAMINATION AND INVESTIGATION.

9 **SECTION 651.** 224.74 (2) (a) (title) of the statutes is repealed.

10 **SECTION 652.** 224.74 (2) (a) of the statutes is renumbered 224.74 (2) (ag) (intro.)

11 and amended to read:

12 224.74 (2) (ag) (intro.) The division may at any time, on its own motion or upon
13 complaint, ~~examine the~~ conduct inquiries, investigations, and examinations of
14 licensees under this subchapter, or of persons required to be licensed under or
15 otherwise subject to the provisions of this subchapter, including doing any of the
16 following:

17 1. Examining, accessing, receiving, or using any books of account, accounts,
18 records, files, documents, or other information relating to the condition and or affairs
19 of a mortgage banker, mortgage loan originator, or mortgage broker registered under
20 this subchapter. The division shall prepare a report of each examination conducted
21 under this section. As part of the examination or preparation of the report, the
22 division may examine.

23 2. Interviewing or examining under oath any mortgage banker, mortgage loan
24 originator, or mortgage broker, any of the members, officers, directors, agents,
25 employees, contractors, or customers of the mortgage banker, mortgage loan

SENATE BILL 62**SECTION 652**

1 originator, or mortgage broker. ~~The division may require a mortgage banker, loan~~
2 ~~originator or mortgage broker who is examined under this paragraph to pay to the~~
3 ~~division a reasonable fee for the costs of conducting the examination, or any other~~
4 ~~person whose testimony the division deems to be relevant. The division may direct,~~
5 ~~subpoena, or order the attendance of a person to provide testimony under this~~
6 ~~subdivision and may direct, subpoena, or order the person to produce books,~~
7 ~~accounts, records, files, and any other document the division deems relevant to the~~
8 ~~inquiry, investigation, or examination.~~

9 **SECTION 653.** 224.74 (2) (ag) 3. and 4. of the statutes are created to read:

10 224.74 (2) (ag) 3. Direct or order any licensee under this subchapter to make
11 or compile reports or other information, in a format directed by the division, that the
12 division considers necessary to carry out any investigation or examination under this
13 subchapter, including any accounting compilation or other loan transaction data,
14 list, or information.

15 4. Examine, access, receive, and use any other records, documents, or other
16 information that the division deems relevant to the inquiry, investigation, or
17 examination, regardless of the location, possession, control, or custody of the records,
18 documents, or information, including any of the following:

19 a. Criminal, civil, and administrative history information, including conviction
20 information and nonconviction information to the extent permitted by law.

21 b. Personal history and experience information, including credit reports
22 obtained from a consumer reporting agency, as defined in s. 100.54 (1) (c).

23 **SECTION 654.** 224.74 (2) (ar) of the statutes is created to read:

24 224.74 (2) (ar) In making any investigation or examination authorized under
25 this subchapter, the division may control access to any documents and records of the

SENATE BILL 62**SECTION 654**

1 licensee or of any other person under investigation or examination. The division may
2 take possession of the documents and records or place a person in exclusive charge
3 of the documents and records in the place where they are usually kept. During the
4 period of control, no person may remove or attempt to remove any of the documents
5 and records except with the consent of the division or by court order. Unless the
6 division has reasonable grounds to believe the documents and records have been or
7 are at risk of being altered or destroyed for purposes of concealing a violation of this
8 subchapter, the licensee or owner or custodian of the documents and records shall
9 have access to the documents and records as necessary to conduct its ordinary
10 business affairs.

11 **SECTION 655.** 224.74 (2) (b) of the statutes is amended to read:

12 224.74 (2) (b) *Confidentiality.* ~~Examination~~ The division shall prepare a report
13 for each investigation or examination conducted under this subsection. These
14 reports, and correspondence regarding the these reports, are confidential, except
15 that the division may release examination these reports and correspondence in
16 connection with a disciplinary proceeding conducted by the division, a liquidation
17 proceeding, or a criminal investigation or proceeding. In addition, any information
18 from these reports or correspondence may be provided to the nationwide mortgage
19 licensing system and registry and is not confidential to the extent specified in s.
20 224.728 (4) (b) and (c).

21 **SECTION 656.** 224.74 (2) (c) of the statutes is created to read:

22 224.74 (2) (c) The division may require a mortgage banker, mortgage loan
23 originator, or mortgage broker who is investigated or examined under this subsection
24 to pay to the division a reasonable fee for the costs of conducting the investigation
25 or examination. A mortgage banker, mortgage loan originator, or mortgage broker

SENATE BILL 62

1 shall pay these costs to the division within 30 days after the division demands
2 payment of these costs.

3 **SECTION 657.** 224.74 (3) of the statutes is created to read:

4 224.74 (3) ADDITIONAL DIVISION AUTHORITY. To carry out the purposes of this
5 section, the division may do any of the following:

6 (a) Retain attorneys, accountants, and other professionals and specialists as
7 examiners, auditors, or investigators to conduct or assist in the conduct of
8 investigations or examinations.

9 (b) Enter into agreements or relationships with other government officials or
10 regulatory associations to improve efficiencies and reduce regulatory burden by
11 sharing resources, standardized or uniform methods or procedures, and documents,
12 records, or information obtained under this section.

13 (c) Use, hire, contract, or employ public or privately available analytical
14 systems, methods, or software to examine or investigate any licensee or other person
15 subject to investigation or examination.

16 (d) Accept and rely on investigation or examination reports made by other
17 government officials, in this state or elsewhere.

18 (e) Accept audit reports made by an independent certified public accountant for
19 the licensee or another person relevant to the investigation or examination and
20 incorporate any such audit report into any report of the division.

21 **SECTION 658.** 224.75 (title) of the statutes is amended to read:

22 **224.75 (title) Record-keeping requirements for mortgage bankers and**
23 **mortgage brokers licensees.**

24 **SECTION 659.** 224.75 (1) (a) of the statutes is amended to read:

SENATE BILL 62**SECTION 659**

1 224.75 (1) (a) *Fee record system.* A mortgage banker or mortgage broker shall
2 establish and maintain a record system which shows all fees which a mortgage
3 banker or mortgage broker charged a residential mortgage loan applicant or a
4 mortgagor in connection with a residential mortgage loan. The record shall show the
5 application or disposition of those fees.

6 **SECTION 660.** 224.75 (1) (b) (intro.) of the statutes is amended to read:

7 224.75 (1) (b) *Loan application record system.* (intro.) A mortgage banker or
8 mortgage broker shall establish and maintain a record system containing all of the
9 following information for each residential mortgage loan application:

10 **SECTION 661.** 224.75 (1) (b) 6. and 7. of the statutes are created to read:

11 224.75 (1) (b) 6. The name of the mortgage loan originator.

12 7. The loan amount.

13 **SECTION 662.** 224.75 (1) (c) (intro.) of the statutes is amended to read:

14 224.75 (1) (c) *Loan application documents.* (intro.) A mortgage banker or
15 mortgage broker shall maintain for each residential mortgage loan application all of
16 the following documents, if used by the mortgage banker or mortgage broker in
17 connection with the residential mortgage loan application file:

18 **SECTION 663.** 224.75 (1) (d) of the statutes is renumbered 224.75 (1) (d) (intro.)
19 and amended to read:

20 224.75 (1) (d) *Loan servicing records and documents.* (intro.) A mortgage
21 banker shall maintain for each residential mortgage loan serviced by the mortgage
22 banker a copy of or a record of all of the following:

23 1. All correspondence relating to the loan.

24 **SECTION 664.** 224.75 (1) (d) 2., 3., 4. and 5. of the statutes are created to read:

25 224.75 (1) (d) 2. All payments received from the borrower.

SENATE BILL 62**SECTION 664**

1 3. All charges assessed to the borrower's account.

2 4. All payments made by the mortgage banker on behalf of the borrower.

3 5. The unpaid balance on the borrower's account.

4 **SECTION 665.** 224.75 (2) of the statutes is amended to read:

5 224.75 (2) PERIOD OF RECORD RETENTION. A mortgage banker or mortgage broker
6 shall keep for at least ~~25~~ 36 months, in an office of the mortgage banker or mortgage
7 broker licensed under this subchapter, all books and records that, in the opinion of
8 the division, will enable the division to determine whether the mortgage banker or
9 mortgage broker is in compliance with the provisions of this subchapter. These books
10 and records include copies of all deposit receipts, canceled checks, trust account
11 records, the records which a mortgage banker or mortgage broker maintains under
12 sub. (1) (c) or (d), and other relevant documents or correspondence received or
13 prepared by the mortgage banker or mortgage broker in connection with a
14 residential mortgage loan or residential mortgage loan application. The retention
15 period begins on the date the residential mortgage loan is closed or, if the loan is not
16 closed, the date of loan application. If the residential mortgage loan is serviced by
17 a mortgage banker, the retention period commences on the date that the loan is paid
18 in full. The mortgage banker or mortgage broker shall make the records available
19 for inspection and copying by the division. If the records are not kept within this
20 state, the mortgage banker or mortgage broker shall, upon request of the division,
21 promptly send exact and complete copies of requested records to the division.

22 **SECTION 666.** 224.75 (3) of the statutes is amended to read:

23 224.75 (3) CONTENTS OF CREDIT AND APPRAISAL REPORTS. (a) *Credit report.* If a
24 mortgage banker or mortgage broker charges a residential mortgage loan applicant
25 a separate fee for a credit report, the credit report shall consist, at a minimum, of a

SENATE BILL 62**SECTION 666**

1 written statement indicating the name of the credit reporting agency which
2 investigated the credit history of the applicant.

3 (b) *Appraisal report.* If a mortgage banker or mortgage broker charges a
4 residential mortgage loan applicant a separate fee for an appraisal report, the
5 appraisal report shall consist, at a minimum, of a written statement indicating the
6 appraiser's opinion of the value of the property appraised for residential mortgage
7 loan purposes, the basis for that opinion and the name of the person who conducted
8 the appraisal. If requested by a residential mortgage loan applicant, a mortgage
9 banker or mortgage broker shall provide the loan applicant with a copy of any written
10 appraisal report held by the mortgage banker or mortgage broker, if the loan
11 applicant paid a fee for the report.

12 **SECTION 667.** 224.75 (4) of the statutes is amended to read:

13 224.75 (4) RESPONSIBILITY FOR FORMS. A mortgage banker or mortgage broker
14 is responsible for the preparation and correctness of all entries on forms, documents
15 and records which are under the mortgage banker's or mortgage broker's control and
16 which are not dependent on information provided by the residential mortgage loan
17 applicant or a 3rd party.

18 **SECTION 668.** 224.75 (6) of the statutes is created to read:

19 224.75 (6) FURNISHING BOOKS AND RECORDS. Upon request by the division, any
20 licensee under this subchapter, and any other person whom the division has
21 authority to investigate and examine under s. 224.74 (2), shall make any books and
22 records requested by the division available for inspection and copying by the division.
23 If any records are kept at a licensed office not located within this state, the mortgage
24 banker or mortgage broker shall, upon request of the division, promptly deliver such
25 documents to any location within this state specified by the division.

SENATE BILL 62**SECTION 669**

1 **SECTION 669.** 224.755 (title) of the statutes is repealed and recreated to read:

2 **224.755 (title) Education and testing requirements for mortgage loan**
3 **originators.**

4 **SECTION 670.** 224.755 of the statutes is renumbered 224.755 (5) and amended
5 to read:

6 224.755 (5) COMPLIANCE RECORDS. A mortgage loan originator shall keep
7 records documenting compliance with s. 224.72 (7) (d) this section for at least 4 years.
8 ~~The technical college system board and any professional trade association or other~~
9 ~~person that administers examinations or provides education under s. 224.72 (7) (d)~~
10 ~~shall maintain records documenting attendance and examination performance for~~
11 ~~at least 4 years.~~

12 **SECTION 671.** 224.755 (1), (2), (3) and (4) of the statutes are created to read:

13 **224.755 (1) EDUCATION REQUIREMENTS APPLICABLE PRIOR TO LICENSE ISSUANCE.**
14 Subject to sub. (3) (a) and (c), an applicant for a license under s. 224.725 (1), prior to
15 the division's issuance of the license, shall complete at least 20 hours of education,
16 including a minimum of all of the following:

17 (a) Three hours of federal law and regulations.

18 (b) Three hours of ethics, including instruction on fraud, consumer protection,
19 and fair lending issues.

20 (c) Two hours of training related to lending standards for the nontraditional
21 mortgage product marketplace.

22 **(2) CONTINUING EDUCATION REQUIREMENTS.** Subject to subs. (3) (a), (c), (d), and
23 (f), an applicant for renewal of a license under s. 224.725 (5), prior to the division's
24 renewal of the license, shall annually complete at least 8 hours of education,
25 including a minimum of all of the following:

SENATE BILL 62**SECTION 671**

1 (a) Three hours of federal law and regulations.

2 (b) Two hours of ethics, including instruction on fraud, consumer protection,
3 and fair lending issues.

4 (c) Two hours of training related to lending standards for the nontraditional
5 mortgage product marketplace.

6 **(3) EDUCATION APPROVAL.** (a) No education course may count toward the
7 requirement under sub. (1) or (2) unless the course has been reviewed and approved
8 by the nationwide mortgage licensing system and registry based upon reasonable
9 standards, including review and approval of the course provider.

10 (b) An education course meeting the standard under par. (a) may count toward
11 the requirements under subs. (1) and (2) even if the course is any of the following:

12 1. Provided by the applicant's or licensee's employer, by an entity affiliated with
13 the applicant or licensee by an agency contract, or by any subsidiary or affiliate of
14 such an employer or affiliated entity.

15 2. Offered through the Internet or another online or electronic medium.

16 3. Taken in another state.

17 (c) Subject to any rule promulgated under s. 224.72 (7) (bm) or 224.725 (5) (b),
18 if an individual was previously registered as a loan originator under s. 224.72, 2007
19 stats., or previously licensed as a mortgage loan originator under s. 224.725, the
20 division may not issue or renew a mortgage loan originator license for the individual
21 under s. 224.725 unless the individual satisfies the requirements under sub. (1) or
22 (2) or demonstrates to the division's satisfaction that the individual has completed
23 all education requirements applicable to the individual in the last year in which the
24 individual's license or registration was valid.

SENATE BILL 62**SECTION 671**

1 (d) Except as provided in any rule promulgated under s. 224.72 (7) (bm), a
2 licensed mortgage loan originator may receive credit for a continuing education
3 course only in the year in which the course is taken and may not take the same
4 approved course in the same or successive years to meet the requirements under sub.
5 (2).

6 (e) A licensed mortgage loan originator who is an approved instructor of an
7 approved continuing education course may receive credit for the licensed mortgage
8 loan originator's own annual continuing education requirement at the rate of 2 hours
9 of credit for every one hour taught.

10 (f) The division may, by rule, allow an applicant for renewal of a license under
11 s. 224.725 (5) to make up any deficiency in meeting the requirements specified in sub.
12 (2).

13 **(4) TESTING REQUIREMENTS.** (a) An applicant for a license under s. 224.725 (1),
14 prior to the division's issuance of the license, shall pass a written test meeting the
15 standards under par. (b). An individual shall answer at least 75 percent of the test
16 questions correctly to achieve a passing test score.

17 (b) 1. No test may satisfy the requirement under par. (a) unless the test is
18 developed by the nationwide mortgage licensing system and registry and
19 administered by a test provider approved by the nationwide mortgage licensing
20 system and registry based upon reasonable standards.

21 2. A test does not meet the standard under subd. 1. unless the test adequately
22 measures the applicant's knowledge and comprehension in appropriate subject
23 areas, including all of the following:

24 a. Ethics.

SENATE BILL 62**SECTION 671**

1 b. Federal and state law, regulations, and rules pertaining to mortgage
2 origination.

3 c. Federal and state law, regulations, and rules relating to residential mortgage
4 transactions, including instruction on fraud, consumer protection, the
5 nontraditional mortgage product marketplace, and fair lending issues.

6 (c) A written test meeting the standards under par. (b) may satisfy the
7 requirement under par. (a) even if the test is provided at the location of the
8 applicant's employer, any subsidiary or affiliate of the applicant's employer, or any
9 entity with which the applicant holds an exclusive arrangement to conduct the
10 business of a mortgage loan originator.

11 (d) An individual may retake a test 3 consecutive times, with each test retaken
12 no less than 30 days after the preceding test. If the individual fails 3 consecutive
13 tests, the individual may not retake a test again for at least 6 months.

14 (e) If an individual previously licensed as a mortgage loan originator fails to
15 maintain a valid license for a period of 5 years or longer, the individual shall retake
16 the test under par. (a). For purposes of determining the 5-year period, the division
17 shall not consider any period during which the individual is exempt from licensing
18 under s. 224.726 (1).

19 **SECTION 672.** 224.76 of the statutes is amended to read:

20 **224.76 Mortgage banker, mortgage loan originator, and mortgage**
21 **broker trust accounts.** A mortgage banker, mortgage loan originator, or mortgage
22 broker shall deposit in one or more trust accounts all funds other than nonrefundable
23 fees which it receives on behalf of any person, pending disbursement of the funds in
24 accordance with instructions from the person on whose behalf the funds are
25 deposited. A mortgage banker or mortgage broker shall maintain trust accounts in

SENATE BILL 62**SECTION 672**

1 a bank, savings bank, savings and loan association or credit union which is
2 authorized to do business in this state or whose accounts are insured by the Federal
3 Deposit Insurance Corporation or the National Credit Union Administration
4 depository institution. The mortgage banker or mortgage broker shall notify the
5 division of the location of its trust accounts.

6 **SECTION 673.** 224.77 (title) of the statutes is amended to read:

7 **224.77 (title) Discipline Prohibited acts and practices, and discipline,**
8 **of mortgage bankers, mortgage loan originators, and mortgage brokers.**

9 **SECTION 674.** 224.77 (1) (intro.) of the statutes is amended to read:

10 224.77 (1) PROHIBITED CONDUCT ACTS AND PRACTICES. (intro.) ~~The division may~~
11 ~~deny an application submitted to it under s. 224.72, or may revoke, suspend or limit~~
12 ~~the certificate of registration of a mortgage banker, loan originator or mortgage~~
13 ~~broker, or may reprimand a mortgage banker, loan originator or mortgage broker, if~~
14 ~~it finds that the No mortgage banker, mortgage loan originator, or mortgage broker~~
15 ~~did, and no member, officer, director, principal, partner, trustee, or other agent of a~~
16 ~~mortgage banker or mortgage broker, may do any of the following:~~

17 **SECTION 675.** 224.77 (1) (a) of the statutes is amended to read:

18 224.77 (1) (a) Made Make a material misstatement, or knowingly omit a
19 material fact, in ~~an a license application for registration,~~ or in other information or
20 reports furnished to the division, to the nationwide mortgage licensing system and
21 registry, or to any other governmental agency, including failing to disclose a criminal
22 conviction or any disciplinary action taken by a state or federal regulatory agency.

23 **SECTION 676.** 224.77 (1) (b) of the statutes is repealed and recreated to read:

24 224.77 (1) (b) Make, in any manner, any materially false or deceptive
25 statement or representation, including engaging in bait and switch advertising or

SENATE BILL 62**SECTION 676**

1 falsely representing residential mortgage loan rates, points, or other financing terms
2 or conditions.

3 **SECTION 677.** 224.77 (1) (c) and (d) of the statutes are amended to read:

4 224.77 (1) (c) ~~Made~~ Make a false, deceptive, or misleading promise relating to
5 the services being offered or that influences, persuades, or induces a client to act to
6 his or her injury or damage detriment.

7 (d) ~~Pursued~~ Pursue a continued and flagrant course of misrepresentation, or
8 ~~made~~ make false promises, whether directly or through agents or advertising.

9 **SECTION 678.** 224.77 (1) (e) and (f) of the statutes are amended to read:

10 224.77 (1) (e) ~~Acted~~ Act for more than one party in a transaction without the
11 knowledge and consent of all parties on whose behalf the mortgage banker, mortgage
12 loan originator, or mortgage broker is acting.

13 (f) ~~Accepted~~ Accept a commission, money, or other thing of value for performing
14 an act as a mortgage loan originator unless the payment is from a mortgage banker
15 or mortgage broker ~~who is registered under s. 224.72 (3) as employing the loan~~
16 ~~originator~~ with whom the mortgage loan originator's license is associated, as
17 identified in the records of the division at the time the act is performed.

18 **SECTION 679.** 224.77 (1) (fg) of the statutes is created to read:

19 224.77 (1) (fg) As a mortgage banker or mortgage broker, pay a commission,
20 money, or other thing of value to any person for performing an act as a mortgage loan
21 originator unless the mortgage loan originator's license is associated with the
22 mortgage banker or mortgage broker in the records of the division at the time the act
23 is performed.

24 **SECTION 680.** 224.77 (1) (g) of the statutes is amended to read:

SENATE BILL 62**SECTION 680**

1 224.77 (1) (g) As a mortgage loan originator, ~~represented or attempted~~
2 ~~represent or attempt~~ to represent a mortgage banker or mortgage broker other than
3 the mortgage banker who is ~~registered under s. 224.72 (3) as employing the loan~~
4 ~~originator~~ or mortgage broker with whom the mortgage loan originator's license was
5 associated, as identified in the records of the division at the time the representation
6 or attempted representation occurs.

7 **SECTION 681.** 224.77 (1) (gd), (gh) and (gp) of the statutes are created to read:

8 224.77 (1) (gd) As a mortgage banker or mortgage broker, permit a person who
9 is not licensed under this subchapter to act as a mortgage loan originator on behalf
10 of the mortgage banker or mortgage broker.

11 (gg) As a mortgage banker or mortgage broker, permit a person whose
12 mortgage loan originator license is not associated in the records of the division with
13 the mortgage banker or mortgage broker to act as a mortgage loan originator on
14 behalf of the mortgage banker or mortgage broker.

15 (gp) As a mortgage banker or mortgage broker, conduct business at or from a
16 principal office or branch office that is not licensed under this subchapter.

17 **SECTION 682.** 224.77 (1) (h) to (L) of the statutes are amended to read:

18 224.77 (1) (h) ~~Failed~~ Fail, within a reasonable time, to account for or remit any
19 moneys coming into the mortgage banker's, mortgage loan originator's, or mortgage
20 broker's possession ~~which~~ that belong to another person.

21 (i) ~~Demonstrated~~ Demonstrate a lack of competency to act as a mortgage
22 banker, mortgage loan originator, or mortgage broker in a way ~~which~~ that safeguards
23 the interests of the public.

24 (j) ~~Paid or offered~~ Pay or offer to pay a commission, money, or other thing of
25 value to any person for acts or services in violation of this subchapter.

SENATE BILL 62**SECTION 682**

1 (k) ~~Violated~~ Violate any provision of this subchapter, ch. 138, or any federal or
2 state statute, rule, or regulation ~~which~~ that relates to practice as a mortgage banker,
3 mortgage loan originator, or mortgage broker.

4 (L) ~~Engaged~~ Engage in conduct ~~which~~ that violates a standard of professional
5 behavior which, through professional experience, has become established for
6 mortgage bankers, mortgage loan originators, or mortgage brokers.

7 **SECTION 683.** 224.77 (1) (m) of the statutes is amended to read:

8 224.77 (1) (m) ~~Engaged~~ Engage in conduct, whether of the same or a different
9 character than specified elsewhere in this section, ~~which~~ that constitutes improper,
10 fraudulent, or dishonest dealing.

11 **SECTION 684.** 224.77 (1) (o) of the statutes is amended to read:

12 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan
13 originator, or mortgage broker, except in relation to housing designed to meet the
14 needs of elderly individuals, ~~treated~~ treat a person unequally solely because of sex,
15 race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion,
16 national origin, age, or ancestry, the person's lawful source of income, or the sex or
17 marital status of the person maintaining a household.

18 **SECTION 685.** 224.77 (1) (p) of the statutes is amended to read:

19 224.77 (1) (p) ~~Intentionally encouraged or discouraged~~ encourage or discourage
20 any person from purchasing or renting real estate on the basis of race.

21 **SECTION 686.** 224.77 (1) (q) of the statutes is amended to read:

22 224.77 (1) (q) Because of the age or location of the property or the race of the
23 residential mortgage loan applicant, rather than because of the credit worthiness of
24 the applicant and the condition of the property securing the loan:

SENATE BILL 62**SECTION 686**

1 1. ~~Refused~~ Refuse to negotiate, to offer, or to attempt to negotiate a land
2 contract, residential mortgage loan or commitment for a residential mortgage loan,
3 or ~~refused~~ refuse to find a residential mortgage loan.

4 2. ~~Found a~~ Find a residential mortgage loan or ~~negotiated a~~ negotiate a
5 residential mortgage loan on terms less favorable than are usually offered.

6 **SECTION 687.** 224.77 (1) (r) of the statutes is repealed.

7 **SECTION 688.** 224.77 (1) (s), (t), (tm), (u), (um), (v), (w), (x) and (y) of the statutes
8 are created to read:

9 224.77 (1) (s) Violate, or fail to comply with, any lawful order of the division.

10 (t) Impede an investigation or examination of the division or deny the division
11 access to any books, records, or other information which the division is authorized
12 to obtain under s. 224.74 (2), 224.75 (6), or any other provision of this subchapter.

13 (tm) Make a material misstatement, or knowingly omit a material fact, or
14 knowingly mutilate, destroy, or secrete any books, records, or other information
15 requested by the division, in connection with any investigation or examination
16 conducted by the division or another governmental agency.

17 (u) Solicit or enter into a contract with a borrower that provides in substance
18 that the mortgage banker, mortgage broker, or mortgage loan originator may earn
19 a fee or commission through "best efforts" to obtain a residential mortgage loan even
20 though no residential mortgage loan is actually obtained for the borrower.

21 (um) Solicit, advertise, or enter into a contract for specific interest rates, points,
22 or other financing terms unless the terms are actually available at the time of
23 soliciting, advertising, or contracting.

24 (v) Assist, aid, or abet any person in unlawfully conducting business under this
25 subchapter without a valid license.

SENATE BILL 62**SECTION 688**

1 (w) Fail to make disclosures required under this subchapter or required under
2 any other applicable state or federal law, rule, or regulation.

3 (x) Withhold any payment or make any payment, threat, or promise, directly
4 or indirectly, to any person for the purpose of influencing the independent judgment
5 of the person in connection with a residential mortgage loan, or withhold any
6 payment or make any payment, threat, or promise, directly or indirectly, to any
7 appraiser of a property for the purpose of influencing the independent judgment of
8 the appraiser with respect to the value of the property.

9 (y) Cause or require a borrower to obtain property insurance coverage in an
10 amount exceeding the replacement cost of improvements on the property, as
11 determined by the property insurer.

12 **SECTION 689.** 224.77 (1m) (a) of the statutes is amended to read:

13 224.77 (1m) (a) The division may assess against ~~a person who is registered~~
14 ~~under this chapter~~ any person who violates this subchapter a forfeiture of not more
15 than \$2,000 \$25,000 for each violation enumerated under sub. (1) (a) to (o) or (r) and
16 may further order restitution to any person suffering loss as a result of the violation.

17 **SECTION 690.** 224.77 (1m) (b) of the statutes is amended to read:

18 224.77 (1m) (b) A person may contest an assessment of forfeiture, or a
19 restitution order, under par. (a) by sending, within 10 days after receipt of notice of
20 the assessment or order under par. (a), a written request for hearing under s. 227.44
21 to the division of hearings and appeals created under s. 15.103 (1). The
22 administrator of the division of hearings and appeals may designate a hearing
23 examiner to preside over the case and recommend a decision to the administrator
24 under s. 227.46. The decision of the administrator of the division of hearings and
25 appeals shall be the final administrative decision. The division of hearings and

SENATE BILL 62**SECTION 690**

1 appeals shall commence the hearing within 30 days after receipt of the request for
2 hearing and shall issue a final decision within 15 days after the close of the hearing.
3 Proceedings before the division of hearings and appeals are governed by ch. 227. In
4 any petition for judicial review of a decision by the division of hearings and appeals,
5 the party, other than the petitioner, who was in the proceeding before the division of
6 hearings and appeals shall be the named respondent.

7 **SECTION 691.** 224.77 (1m) (c) of the statutes is renumbered 224.77 (1m) (c) 1.

8 **SECTION 692.** 224.77 (1m) (c) 2. of the statutes is created to read:

9 224.77 (1m) (c) 2. All amounts ordered as restitution shall be paid to the person
10 suffering loss within 10 days after receipt of notice of the order or, if the restitution
11 order is contested under par. (b), within 10 days after receipt of the final decision
12 after exhaustion of administrative review.

13 **SECTION 693.** 224.77 (1m) (d) of the statutes is amended to read:

14 224.77 (1m) (d) The attorney general may bring an action in the name of the
15 state to collect any forfeiture imposed, or amount ordered as restitution, under this
16 subsection if the forfeiture or restitution amount has not been paid following the
17 exhaustion of all administrative and judicial reviews. The only issue to be contested
18 in any such action shall be whether the forfeiture or restitution amount has been
19 paid.

20 **SECTION 694.** 224.77 (2) (title) of the statutes is repealed.

21 **SECTION 695.** 224.77 (2) of the statutes is renumbered 224.77 (2m) (a) 2. and
22 amended to read:

23 224.77 (2m) (a) 2. The division may ~~revoke, suspend or limit a certificate of~~
24 ~~registration issued under this subchapter or reprimand~~ take any action specified in
25 subd. 1. against a mortgage banker or mortgage broker ~~registered under this~~

SENATE BILL 62**SECTION 695**

1 ~~subchapter, if based upon any act or omission described in subd. 1. of a director,~~
2 ~~officer, trustee, partner, or member of the mortgage banker or mortgage broker or a~~
3 ~~person who has a financial interest in or is in any way connected with the operation~~
4 ~~of the mortgage banker's or mortgage broker's business is guilty of an act or omission~~
5 ~~which would be cause for refusing to issue a certificate of registration to that~~
6 ~~individual.~~

7 **SECTION 696.** 224.77 (2m) of the statutes is created to read:

8 **224.77 (2m) DIVISION ACTION ON LICENSE.** (a) 1. In addition to any other
9 authority provided to the division under this subchapter, if the division finds that a
10 mortgage banker, mortgage loan originator, or mortgage broker has violated any
11 provision of this subchapter or any rule promulgated by the division under this
12 subchapter, the division may do any of the following:

- 13 a. Deny any application for initial issuance or renewal of a license.
14 b. Revoke, suspend, limit, or condition any license of the mortgage banker,
15 mortgage loan originator, or mortgage broker.
16 c. Reprimand the mortgage banker, mortgage loan originator, or mortgage
17 broker.

18 (b) In addition to any other authority provided to the division under this
19 subchapter, if the division finds that an applicant for initial issuance or renewal of
20 a license under this subchapter made any material misstatement in the application
21 or withheld material information, or that the applicant no longer satisfies the
22 requirements under s. 224.72 or 224.725 for issuance or renewal of the license, the
23 division may deny the application or, if the license has already been issued, suspend
24 or revoke the license.

SENATE BILL 62

1 **SECTION 697.** 224.77 (3) (a) and (b) of the statutes are consolidated,
2 renumbered 224.77 (3) (a) (intro.) and amended to read:

3 224.77 **(3)** (a) *Orders to prevent or correct actions.* (intro.) The division may
4 issue general and special orders ~~necessary, including temporary orders that become~~
5 immediately effective, to prevent or correct actions by a mortgage banker, mortgage
6 loan originator, or mortgage broker that constitute cause under this section for
7 ~~revoking, suspending or limiting a certificate of registration.~~ (b) *Types of special*
8 ~~orders.~~ Special a violation of any provision of this subchapter or of any rule
9 promulgated under this subchapter, including special orders may direct that do any
10 of the following:

11 1. Direct a mortgage banker, mortgage loan originator, or mortgage broker to
12 cease and desist from engaging in a particular activity or may direct the, from
13 conducting business, or from otherwise violating any provision of this subchapter or
14 any rule promulgated under this subchapter.

15 2. Direct a mortgage banker, mortgage loan originator, or mortgage broker to
16 refund or remit to a residential mortgage loan applicant or borrower amounts that
17 the mortgage banker, mortgage loan originator, or mortgage broker got from actions
18 which that constitute cause under this section for revoking, suspending or limiting
19 a certificate of registration a violation of any provision of this subchapter or of any
20 rule promulgated under this subchapter.

21 **SECTION 698.** 224.77 (3) (a) 3. and 4. of the statutes are created to read:

22 224.77 **(3)** (a) 3. Direct a mortgage banker, mortgage loan originator, or
23 mortgage broker to cease business under a license issued under this subchapter if
24 the division determines that the license was erroneously issued or the licensee is

SENATE BILL 62**SECTION 698**

1 currently in violation of any provision of this subchapter or of any rule promulgated
2 under this subchapter.

3 4. Direct a mortgage banker, mortgage loan originator, or mortgage broker to
4 undertake any affirmative action, consistent with the provisions of this subchapter,
5 that the division deems necessary.

6 **SECTION 699.** 224.77 (3m) of the statutes is amended to read:

7 224.77 (3m) HEARING RIGHTS FOR REGISTRATION LICENSE DENIAL, REVOCATION, OR
8 SUSPENSION. A person whose ~~certificate of registration license~~ has been denied,
9 ~~revoked or, suspended, limited, or conditioned~~ under this section may request a
10 hearing under s. 227.44 within 30 days after the date of denial, revocation ~~or,~~
11 ~~suspension, limitation, or conditioning~~ of the ~~certificate of registration license~~. The
12 division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

13 **SECTION 700.** 224.77 (4) of the statutes is amended to read:

14 224.77 (4) PERIOD OF DISCIPLINARY ACTION; LICENSE INELIGIBILITY FOR
15 REGISTRATION. (a) *Period.* Except as provided in par. (b), the division shall determine
16 in each case the period that a revocation, suspension ~~or, limitation, or condition~~ of
17 a ~~certificate of registration license~~ is effective.

18 (b) *Ineligibility.* 1. Except as provided in subd. 2., if the division denies or
19 revokes a ~~certificate of registration license~~ under sub. (1) (2m) (a), the person is not
20 eligible for a ~~certificate of registration license~~ until the expiration of a period
21 determined in each case by the division.

22 2. If the division revokes a ~~certificate of registration license~~ under sub. (1) (p)
23 or (q), the person is not eligible for a ~~certificate of registration license~~ until 5 years
24 after the effective date of the revocation.

25 **SECTION 701.** 224.77 (5) (a) of the statutes is amended to read:

SENATE BILL 62**SECTION 701**

1 224.77 (5) (a) *Mandatory revocation or suspension.* Notwithstanding sub. (1)
2 (~~intro.~~) subs. (2m) (a) and (4), if the division finds that a mortgage banker, mortgage
3 loan originator, or mortgage broker has violated sub. (1) (p) or (q), the division shall:

4 1. For the first offense, suspend the registration license of the mortgage banker,
5 mortgage loan originator, or mortgage broker for not less than 90 days.

6 2. For the 2nd offense, revoke the registration license of the mortgage banker,
7 mortgage loan originator, or mortgage broker.

8 **SECTION 702.** 224.77 (6) (title) of the statutes is repealed.

9 **SECTION 703.** 224.77 (6) of the statutes is renumbered 224.77 (2m) (c) and
10 amended to read:

11 224.77 (2m) (c) The ~~department~~ division shall restrict or suspend the
12 registration license of a mortgage banker, mortgage loan originator, or mortgage
13 broker if the registrant licensee is an individual who fails to comply, after
14 appropriate notice, with a subpoena or warrant issued by the department of children
15 and families or a county child support agency under s. 59.53 (5) and related to
16 paternity or child support proceedings or who is delinquent in making court-ordered
17 payments of child or family support, maintenance, birth expenses, medical expenses,
18 or other expenses related to the support of a child or former spouse, as provided in
19 a memorandum of understanding entered into under s. 49.857. ~~A registrant~~ An
20 individual whose registration license is restricted or suspended under this
21 subsection is entitled to a notice and hearing only as provided in a memorandum of
22 understanding entered into under s. 49.857 and is not entitled to any other notice or
23 hearing under this section.

24 **SECTION 704.** 224.77 (7) (title) of the statutes is repealed.

SENATE BILL 62**SECTION 705**

1 **SECTION 705.** 224.77 (7) of the statutes is renumbered 224.77 (2m) (d) and
2 amended to read:

3 224.77 **(2m)** (d) The department division shall revoke the certificate of
4 registration license of a mortgage banker, mortgage loan originator, or mortgage
5 broker if the department of revenue certifies under s. 73.0301 that the registrant
6 licensee is liable for delinquent taxes. A registrant licensee whose certificate of
7 registration license is revoked under this subsection for delinquent taxes is entitled
8 to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is
9 not entitled to any other notice, hearing or review under this section.

10 **SECTION 706.** 224.77 (8) of the statutes is amended to read:

11 224.77 **(8)** VOLUNTARY SURRENDER. A mortgage banker, mortgage loan
12 originator, or mortgage broker may voluntarily surrender a registration license to
13 the division, but the division may refuse to accept the surrender if the division has
14 an open investigation or examination or received allegations of unprofessional
15 conduct against the mortgage banker, mortgage loan originator, or mortgage broker.
16 The division may negotiate stipulations in consideration for accepting the surrender
17 of registration the license.

18 **SECTION 707.** 224.77 (9) of the statutes is created to read:

19 224.77 **(9)** REPORTING VIOLATIONS. The division shall report regularly violations
20 of this subchapter or of rules promulgated under this subchapter, as well as
21 enforcement actions and other relevant information, to the nationwide mortgage
22 licensing system and registry. Except as provided in s. 224.728 (4) (b) and (c), these
23 reports shall be confidential.

24 **SECTION 708.** 224.78 (title) of the statutes is repealed.

SENATE BILL 62**SECTION 709**

1 **SECTION 709.** 224.78 of the statutes is renumbered 224.77 (1) (jm) and amended
2 to read:

3 224.77 (1) (jm) ~~A mortgage banker, loan originator, or mortgage broker may~~
4 ~~not pay~~ Pay a person who is not registered licensed under this subchapter a
5 commission, money, or other thing of value for performing an act as a mortgage
6 banker, mortgage loan originator, or mortgage broker.

7 **SECTION 710.** 224.79 of the statutes is amended to read:

8 **224.79 Consumer mortgage Mortgage brokerage agreements and**
9 **consumer disclosures. (1)** FORM AND CONTENT OF CONSUMER MORTGAGE BROKERAGE
10 AGREEMENTS. Every contract between a mortgage broker and ~~a consumer~~ an
11 individual under which the mortgage broker agrees to provide brokerage services to
12 the consumer individual relating to a residential mortgage loan shall be in writing,
13 in the form prescribed by rule of the division, and shall contain all information
14 required by rule of the division. The division shall promulgate rules to administer
15 this subsection in consultation with the mortgage loan originator council under s.
16 15.187 (1). The division shall design these rules to facilitate the comparison of
17 similar charges and total charges assessed by different mortgage brokers.

18 **(2)** CONSUMER DISCLOSURE DISCLOSURE STATEMENT. Before entering into a
19 contract with ~~a consumer~~ an individual to provide brokerage services relating to a
20 residential mortgage loan, a mortgage broker shall give the consumer individual a
21 copy of a consumer disclosure statement, explain the content of the statement, and
22 ensure that the consumer individual initials or signs the statement, acknowledging
23 that the consumer individual has read and understands the statement. The
24 consumer disclosure statement shall contain a brief explanation of the relationship
25 between the consumer individual and the mortgage broker under the proposed

SENATE BILL 62**SECTION 710**

1 contract, a brief explanation of the manner in which the mortgage broker may be
2 compensated under the proposed contract, and any additional information required
3 by rule of the division. The division shall promulgate rules to administer this
4 subsection in consultation with the mortgage loan originator council under s. 15.187
5 (1) and, by rule, shall specify the form and content of the ~~consumer~~ disclosure
6 statement required under this subsection.

7 **SECTION 711.** 224.80 (1) of the statutes is amended to read:

8 224.80 (1) PENALTIES. A person who violates s. ~~224.72 (1m)~~ any provision of this
9 subchapter or any rule promulgated under this subchapter may be fined not more
10 than ~~\$2,000~~ \$25,000 or imprisoned for not more than 9 months or both. The district
11 attorney of the county where the violation occurs shall enforce the penalty under this
12 subsection on behalf of the state.

13 **SECTION 712.** 224.80 (2) (intro.) of the statutes is amended to read:

14 224.80 (2) PRIVATE CAUSE OF ACTION. (intro.) A person who is aggrieved by an
15 act which is committed by a mortgage banker, mortgage loan originator, or mortgage
16 broker ~~and which is described in s. 224.77 (1)~~ in violation of any provision of this
17 subchapter or of any rule promulgated under this subchapter may recover all of the
18 following in a private action:

19 **SECTION 713.** 224.80 (2) (a) 1. of the statutes is amended to read:

20 224.80 (2) (a) 1. Twice the amount of the cost of loan origination connected with
21 the transaction, except that the liability under this subdivision may not be less than
22 \$100 nor greater than ~~\$2,000~~ \$25,000 for each violation.

23 **SECTION 714.** 224.81 of the statutes is amended to read:

24 **224.81 Limitation on actions for commissions and other**
25 **compensation.** A person who is engaged in the business or acting in the capacity

SENATE BILL 62**SECTION 714**

1 of a mortgage banker, mortgage loan originator, or mortgage broker in this state may
2 not bring or maintain an action in this state to collect a commission, money, or other
3 thing of value for performing an act as a mortgage banker, mortgage loan originator,
4 or mortgage broker without alleging and proving that the person was registered
5 licensed under this subchapter as a mortgage banker, mortgage loan originator, or
6 mortgage broker when the alleged cause of action arose.

7 **SECTION 715.** 224.82 of the statutes is amended to read:

8 **224.82 Compensation presumed.** In a prosecution arising from a violation
9 of this subchapter, proof that a person acted as a mortgage banker, mortgage loan
10 originator, or mortgage broker is sufficient, unless rebutted, to establish that
11 compensation was received by, or promised to, that person.

12 **SECTION 716.** 224.83 of the statutes is created to read:

13 **224.83 Loan processors and underwriters.** An individual engaging solely
14 in loan processor or underwriter activities may not represent to the public, through
15 advertising or another means of communication such as the use of business cards,
16 stationery, brochures, signs, rate lists, or other promotional items, that the
17 individual can or will perform any of the activities of a mortgage loan originator.

18 **SECTION 717.** 227.01 (13) (rm) of the statutes is created to read:

19 227.01 (13) (rm) Is a form prescribed by the attorney general for an accounting
20 under s. 846.40 (8) (b) 2.

21 **SECTION 718.** 227.01 (13) (zy) of the statutes is created to read:

22 227.01 (13) (zy) Relates to any form prescribed by the division of banking in
23 the department of financial institutions in connection with the licensing of mortgage
24 bankers or mortgage brokers under s. 224.72 or the licensing of mortgage loan
25 originators under s. 224.725.

SENATE BILL 62**SECTION 719**

1 **SECTION 719.** 229.68 (15) of the statutes is amended to read:

2 229.68 (15) Impose, by the adoption of a resolution, the taxes under subch. V
3 of ch. 77. A district may not levy any taxes that are not expressly authorized under
4 subch. V of ch. 77 and that do not receive the affirmative vote of a supermajority of
5 the district board. If a district adopts a resolution which imposes taxes, it shall
6 deliver a certified copy of the resolution to the secretary of revenue at least ~~30~~ 120
7 days before its effective date.

8 **SECTION 720.** 229.824 (15) of the statutes is amended to read:

9 229.824 (15) Impose, by the adoption of a resolution, the taxes under subch. V
10 of ch. 77, except that the taxes imposed by the resolution may not take effect until
11 the resolution is approved by a majority of the electors in the district's jurisdiction
12 voting on the resolution at a referendum, to be held at the first spring primary or
13 September primary following by at least 45 days the date of adoption of the
14 resolution. Two questions shall appear on the ballot. The first question shall be:
15 "Shall a sales tax and a use tax be imposed at the rate of 0.5% in ... County for
16 purposes related to football stadium facilities in the ... Professional Football
17 Stadium District?" The 2nd question shall be: "Shall excess revenues from the 0.5%
18 sales tax and use tax be permitted to be used for property tax relief purposes in ...
19 County?" Approval of the first question constitutes approval of the resolution of the
20 district board. Approval of the 2nd question is not effective unless the first question
21 is approved. The clerk of the district shall publish the notices required under s. 10.06
22 (4) (c), (f) and (i) for any referendum held under this subsection. Notwithstanding
23 s. 10.06 (4) (c), the type A notice under s. 10.01 (2) (a) relating to the referendum is
24 valid even if given and published late as long as it is given and published prior to the
25 election as early as practicable. A district may not levy any taxes that are not

SENATE BILL 62

1 expressly authorized under subch. V of ch. 77. The district may not levy any taxes
2 until the professional football team and the governing body of the municipality in
3 which the football stadium facilities are located agree on how to fund the
4 maintenance of the football stadium facilities. The district may not levy any taxes
5 until the professional football team and the governing body of the municipality in
6 which the football stadium facilities are located agree on how to distribute the
7 proceeds, if any, from the sale of naming rights related to the football stadium
8 facilities. If a district board adopts a resolution that imposes taxes and the resolution
9 is approved by the electors, the district shall deliver a certified copy of the resolution
10 to the secretary of revenue at least ~~30~~ 120 days before its effective date. If a district
11 board adopts a resolution that imposes taxes and the resolution is not approved by
12 the electors, the district is dissolved.

13 **SECTION 721.** 231.01 (4) (a) of the statutes is amended to read:

14 231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating
15 health institution, participating educational institution, participating research
16 institution, or participating child care provider, as approved by the authority, as are
17 reasonable and necessary to accomplish the project, exclusive of any private or
18 federal, state, or local financial assistance received by the participating health
19 institution, participating educational institution, participating research institution,
20 or participating child care provider for the payment of the project cost.

21 **SECTION 722.** 231.01 (4) (b) 1. of the statutes is amended to read:

22 231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health
23 institution, participating educational institution, participating research institution,
24 or participating child care provider of all necessary developmental, planning, and
25 feasibility studies, surveys, plans, and specifications, architectural, engineering,

SENATE BILL 62**SECTION 722**

1 legal, or other special services, the cost of acquisition of land and any buildings and
2 improvements on the land, site preparation, and development including demolition
3 or removal of existing structures, construction, reconstruction, and equipment,
4 including machinery, fixed equipment, and personal property.

5 **SECTION 723.** 231.01 (4) (b) 2. of the statutes is amended to read:

6 231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating
7 health institution, participating educational institution, participating research
8 institution, or participating child care provider in the course of the development of
9 the project to the occupancy date.

10 **SECTION 724.** 231.01 (4) (c) of the statutes is amended to read:

11 231.01 (4) (c) All rents and other net revenues from the operation of the real
12 property, improvements, or personal property on the project site by a participating
13 health institution, participating educational institution, participating research
14 institution, or participating child care provider on and after the date on which the
15 contract between a participating health institution, participating educational
16 institution, participating research institution, or participating child care provider
17 and the authority was entered into, but prior to the occupancy date, shall reduce the
18 sum of all costs in this subsection.

19 **SECTION 725.** 231.01 (6t) of the statutes is created to read:

20 231.01 (6t) “Participating research institution” means an entity that provides
21 or operates a research facility and that undertakes the financing and construction
22 or acquisition of a project or undertakes the refunding or refinancing of obligations
23 or of a mortgage or of advances as provided in this chapter.

24 **SECTION 726.** 231.01 (7) (a) 1. of the statutes is amended to read:

SENATE BILL 62**SECTION 726**

1 231.01 (7) (a) 1. A specific health facility, educational facility, research facility,
2 or child care center work or improvement to be refinanced, acquired, constructed,
3 enlarged, remodeled, renovated, improved, furnished, or equipped by the authority
4 with funds provided in whole or in part under this chapter.

5 **SECTION 727.** 231.01 (7) (a) 2. of the statutes is amended to read:

6 231.01 (7) (a) 2. One or more structures suitable for use as a child care center,
7 research facility, health facility, laboratory, laundry, nurses' or interns' residence or
8 other multi-unit housing facility for staff, employees, patients or relatives of
9 patients admitted for treatment or care in a health facility, physician's facility,
10 administration building, research facility, maintenance, storage, or utility facility.

11 **SECTION 728.** 231.01 (7) (a) 4. of the statutes is amended to read:

12 231.01 (7) (a) 4. Any structure useful for the operation of a health facility,
13 educational facility, research facility, or child care center, including facilities or
14 supporting service structures essential or convenient for the orderly conduct of the
15 health facility, educational facility, research facility, or child care center.

16 **SECTION 729.** 231.01 (7) (c) of the statutes is amended to read:

17 231.01 (7) (c) "Project" may include any combination of projects undertaken
18 jointly by any participating health institution, participating educational institution,
19 participating research institution, or participating child care provider with one or
20 more other participating health institutions, participating educational institutions,
21 participating research institutions, or participating child care providers.

22 **SECTION 730.** 231.01 (8c) of the statutes is created to read:

23 231.01 (8c) "Research facility" means an institution, place, building, or agency
24 that satisfies all of the following:

SENATE BILL 62**SECTION 730**

1 (a) Is owned by an entity that is described in section 501 (c) (3) of the Internal
2 Revenue Code and that is exempt from federal income tax under section 501 (a) of
3 the Internal Revenue Code.

4 (b) Is or will be used in whole or in part for basic research for the advancement
5 of scientific, medical, or technological knowledge and that does not have a specific
6 commercial objective.

7 **SECTION 731.** 231.02 (6) (b) of the statutes is amended to read:

8 231.02 (6) (b) Notwithstanding any other provision of law, it is not a conflict
9 of interest or violation of this section or of any other law for a trustee, director, officer,
10 or employee of a participating health institution, participating educational
11 institution, participating research institution, or participating child care provider or
12 for a person having the required favorable reputation for skill, knowledge, and
13 experience in state and municipal finance or for a person having the required
14 favorable reputation for skill, knowledge, and experience in the field of health
15 facility, educational facility, research facility, or child care center architecture to
16 serve as a member of the authority; if in each case to which par. (a) is applicable, the
17 trustee, director, officer, or employee of the participating health institution,
18 participating educational institution, participating research institution, or
19 participating child care provider abstains from discussion, deliberation, action, and
20 vote by the authority in specific respect to any undertaking pursuant to this chapter
21 in which his or her participating health institution, participating educational
22 institution, participating research institution, or participating child care provider
23 has an interest, or the person having the required favorable reputation for skill,
24 knowledge, and experience in state and municipal finance abstains from discussion,
25 deliberation, action, and vote by the authority in specific respect to any sale,

SENATE BILL 62**SECTION 731**

1 purchase, or ownership of bonds of the authority in which any business of which such
2 person is a participant, owner, officer, or employee has a past, current, or future
3 interest, or such person having the required favorable reputation for skill,
4 knowledge, and experience in the field of health facility, educational facility, research
5 facility, or child care center architecture abstains from discussion, deliberation,
6 action, and vote by the authority in specific respect to construction or acquisition of
7 any project of the authority in which any business of which such person is a
8 participant, owner, officer, or employee has a past, current, or future interest.

9 **SECTION 732.** 231.03 (5) of the statutes is amended to read:

10 231.03 (5) Determine the location and character of any project to be financed
11 under this chapter, and construct, reconstruct, remodel, maintain, enlarge, alter, add
12 to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any
13 such purpose, enter into contracts for the management and operation of a project or
14 other health facilities, educational facilities, research facilities, or child care centers
15 owned by the authority, and designate a participating health institution,
16 participating educational institution, participating research institution, or
17 participating child care provider as its agent to determine the location and character
18 of a project undertaken by the participating health institution, participating
19 educational institution, participating research institution, or participating child
20 care provider under this chapter and as the agent of the authority, to construct,
21 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease
22 as lessee or lessor and regulate the same, and as the agent of the authority, to enter
23 into contracts for any such purpose, including contracts for the management and
24 operation of such project or other health facilities, educational facilities, research
25 facilities, or child care centers owned by the authority.

SENATE BILL 62**SECTION 733**

1 **SECTION 733.** 231.03 (6) (h) of the statutes is created to read:

2 231.03 (6) (h) Finance any project undertaken for a research facility by a
3 participating research institution.

4 **SECTION 734.** 231.03 (6) (i) of the statutes is created to read:

5 231.03 (6) (i) Refinance outstanding debt of any participating research
6 institution.

7 **SECTION 735.** 231.03 (7) of the statutes is amended to read:

8 231.03 (7) Fix and revise from time to time and charge and collect rates, rents,
9 fees, and charges for the use of and for the services furnished or to be furnished by
10 a project or other health facilities, educational facilities, research facilities, or child
11 care centers owned by the authority or any portion thereof, contract with any person
12 in respect thereto and coordinate its policies and procedures, and cooperate with
13 recognized health facility, educational facility, research facility, or child care center
14 rate setting mechanisms.

15 **SECTION 736.** 231.03 (8) of the statutes is amended to read:

16 231.03 (8) Adopt rules for the use of a project or other health facility,
17 educational facility, research facility, or child care center or any portion of the project
18 or facility owned, financed, or refinanced in whole or in part by the authority,
19 including any property used as security for a loan secured through, from, or with the
20 assistance of the authority. The authority may designate a participating health
21 institution, participating educational institution, participating research institution,
22 or participating child care provider as its agent to establish rules for the use of a
23 project or other health facilities, educational facilities, research facilities, or child
24 care centers undertaken for that participating health institution, participating
25 educational institution, participating research institution, or participating child

SENATE BILL 62**SECTION 736**

1 care provider. The rules shall ensure that a project, health facility, educational
2 facility, research facility, child care center, or property may not be used primarily for
3 sectarian instruction or study or as a place for devotional activities or religious
4 worship.

5 **SECTION 737.** 231.03 (11) of the statutes is amended to read:

6 231.03 (11) Establish or contract with others to carry out on its behalf a health
7 facility, educational facility, research facility, or child care center project cost
8 estimating service, and make this service available on all projects to provide expert
9 cost estimates and guidance to the participating health institution, participating
10 educational institution, participating research institution, or participating child
11 care provider and to the authority. To implement this service and, through it, to
12 contribute to cost containment, the authority may require such reasonable reports
13 and documents from health facility, educational facility, research facility, or child
14 care center projects as are required for this service and for the development of cost
15 reports and guidelines. The authority shall appoint a technical committee on health
16 facility, educational facility, research facility, or child care center project costs and
17 cost containment.

18 **SECTION 738.** 231.03 (13) of the statutes is amended to read:

19 231.03 (13) Make loans to any participating health institution, participating
20 educational institution, participating research institution, or, before May 1, 2000,
21 participating child care provider for the cost of a project in accordance with an
22 agreement between the authority and the participating health institution,
23 participating educational institution, participating research institution, or
24 participating child care provider. The authority may secure the loan by a mortgage
25 or other security arrangement on the health facility, educational facility, research

SENATE BILL 62**SECTION 738**

1 facility, or child care center granted by the participating health institution,
2 participating educational institution, participating research institution, or
3 participating child care provider to the authority. The loan may not exceed the total
4 cost of the project as determined by the participating health institution,
5 participating educational institution, participating research institution, or
6 participating child care provider and approved by the authority.

7 **SECTION 739.** 231.03 (14) of the statutes is amended to read:

8 231.03 (14) Make loans to a health facility, educational facility, research
9 facility, or, before May 1, 2000, child care center for which bonds may be issued under
10 sub. (6) (b) or (d) or under s. 231.03 (6) (f), 1999 stats., to refinance the health
11 facility's, educational facility's, research facility's, or child care center's outstanding
12 debt. The authority may secure the loan or bond by a mortgage or other security
13 arrangement on the health facility, educational facility, research facility, or child care
14 center granted by the participating health institution, participating educational
15 institution, participating research institution, or participating child care provider to
16 the authority.

17 **SECTION 740.** 231.03 (15) of the statutes is amended to read:

18 231.03 (15) Mortgage all or any portion of a project and other health facilities,
19 educational facilities, research facilities, or child care centers and the site thereof,
20 whether owned or thereafter acquired, for the benefit of the holders of bonds issued
21 to finance the project, health facilities, educational facilities, research facilities, or
22 child care centers or any portion thereof or issued to refund or refinance outstanding
23 indebtedness of participating health institutions, educational institutions, research
24 institutions, or child care providers as permitted by this chapter.

25 **SECTION 741.** 231.03 (16) of the statutes is amended to read:

SENATE BILL 62**SECTION 741**

1 231.03 (16) Lease to a participating health institution, participating
2 educational institution, participating research institution, or participating child
3 care provider the project being financed or other health facilities, educational
4 facilities, research facilities, or child care centers conveyed to the authority in
5 connection with such financing, upon such terms and conditions as the authority
6 deems proper, and charge and collect rents therefor, and terminate any such lease
7 upon the failure of the lessee to comply with any of the obligations thereof; and
8 include in any such lease, if desired, provisions that the lessee thereof shall have
9 options to renew the term of the lease for such periods and at such rent as the
10 authority determines or to purchase all or any part of the health facilities,
11 educational facilities, research facilities, or child care centers or that, upon payment
12 of all of the indebtedness incurred by the authority for the financing of such project
13 or health facilities, educational facilities, research facilities, or child care centers or
14 for refunding outstanding indebtedness of a participating health institution,
15 participating educational institution, participating research institution, or
16 participating child care provider, the authority may convey all or any part of the
17 project or such other health facilities, educational facilities, research facilities, or
18 child care centers to the lessees thereof with or without consideration.

19 **SECTION 742.** 231.03 (17) of the statutes is amended to read:

20 231.03 (17) Charge to and apportion among participating health institutions,
21 participating educational institutions, participating research institutions, and
22 participating child care providers its administrative costs and expenses incurred in
23 the exercise of the powers and duties conferred by this chapter.

24 **SECTION 743.** 231.03 (18) of the statutes is amended to read:

SENATE BILL 62**SECTION 743**

1 231.03 (18) Make studies of needed health facilities, educational facilities,
2 research facilities, and child care centers that could not sustain a loan were it made
3 under this chapter and recommend remedial action to the legislature; and do the
4 same with regard to any laws or rules that prevent health facilities, educational
5 facilities, research facilities, and child care centers from benefiting from this chapter.

6 **SECTION 744.** 231.03 (19) of the statutes is amended to read:

7 231.03 (19) Obtain, or aid in obtaining, from any department or agency of the
8 United States or of this state or any private company, any insurance or guaranty
9 concerning the payment or repayment of, interest or principal, or both, or any part
10 thereof, on any loan, lease, or obligation or any instrument evidencing or securing
11 the same, made or entered into under the provisions of this chapter; and
12 notwithstanding any other provisions of this chapter, to enter into any agreement,
13 contract, or any other instrument with respect to that insurance or guaranty, to
14 accept payment in the manner and form provided therein in the event of default by
15 a participating health institution, participating educational institution,
16 participating research institution, or participating child care provider, and to assign
17 the insurance or guaranty as security for the authority's bonds.

18 **SECTION 745.** 231.04 of the statutes is amended to read:

19 **231.04 Expenses.** All expenses of the authority incurred in carrying out this
20 chapter shall be payable solely from funds provided under the authority of this
21 chapter, and no liability may be incurred by the authority beyond the extent to which
22 moneys have been provided under this chapter except that, for the purposes of
23 meeting the necessary expenses of initial organization and operation of the authority
24 for the period commencing on June 19, 1974 and continuing until such date as the
25 authority derives moneys from funds provided to it under the authority of this

SENATE BILL 62

1 chapter, the authority may borrow such moneys as it requires to supplement the
2 funds provided under s. 20.440. Such moneys borrowed by the authority shall
3 subsequently be charged to and apportioned among participating health
4 institutions, participating educational institutions, participating research
5 institutions, and participating child care providers in an equitable manner, and
6 repaid with appropriate interest over a reasonable period of time.

7 **SECTION 746.** 231.05 (1) of the statutes is amended to read:

8 231.05 (1) By means of this chapter, it is the intent of the legislature to provide
9 assistance and alternative methods of financing to nonprofit health institutions to
10 aid them in providing needed health services consistent with the state's health plan,
11 to nonprofit educational institutions to aid them in providing needed educational
12 services, to nonprofit research institutions to aid them in providing needed research
13 facilities, and to nonprofit child care providers to aid them in providing needed child
14 care services.

15 **SECTION 747.** 231.06 of the statutes is amended to read:

16 **231.06 Property acquisition.** The authority may acquire, directly or by and
17 through a participating health institution, participating educational institution,
18 participating research institution, or participating child care provider as its agent,
19 by purchase or by gift or devise, such lands, structures, property, rights,
20 rights-of-way, franchises, easements, and other interests in lands, including lands
21 lying under water and riparian rights, which are located within this state as it deems
22 necessary or convenient for the construction or operation of a project, upon such
23 terms and at such prices as it considers reasonable and can be agreed upon between
24 it and the owner thereof, and take title thereto in the name of the authority or in the

SENATE BILL 62**SECTION 747**

1 name of a health facility, educational facility, research facility, or child care center
2 as its agent.

3 **SECTION 748.** 231.07 (1) (b) of the statutes is amended to read:

4 231.07 (1) (b) Convey to the participating health institution, participating
5 educational institution, participating research institution, or participating child
6 care provider the authority's interest in the project and in any other health facility,
7 educational facility, research facility, or child care center leased, mortgaged, or
8 subject to a deed of trust or any other form of security arrangement to secure the
9 bond.

10 **SECTION 749.** 231.07 (2) (a) of the statutes is amended to read:

11 231.07 (2) (a) The principal of and interest on any bond issued by the authority
12 to finance a project or to refinance or refund outstanding indebtedness of one or more
13 participating health institutions, participating educational institutions,
14 participating research institutions, or participating child care providers, including
15 any refunding bonds issued to refund and refinance the bond, have been fully paid
16 and the bonds retired or if the adequate provision has been made to pay fully and
17 retire the bond; and

18 **SECTION 750.** 231.08 (5) of the statutes is amended to read:

19 231.08 (5) In addition to the other authorizations under this section, bonds of
20 the authority may be secured by a pooling of leases whereby the authority may assign
21 its rights, as lessor, and pledge rents under 2 or more leases of health facilities,
22 educational facilities, research facilities, or child care centers with 2 or more health
23 institutions, educational institutions, research institutions, or child care providers,
24 as lessees respectively, upon such terms as may be provided for in bond resolutions
25 of the authority.

SENATE BILL 62**SECTION 751**

1 **SECTION 751.** 231.10 (1) of the statutes is amended to read:

2 231.10 (1) The state is not liable on notes or bonds of the authority and the notes
3 and bonds are not a debt of the state. All notes and bonds of the authority shall
4 contain on the face thereof a statement to this effect. The issuance of bonds under
5 this chapter shall not, directly or indirectly or contingently, obligate the state or any
6 political subdivision thereof to levy any form of taxation therefor or to make any
7 appropriation for their payment. Nothing in this section prevents the authority from
8 pledging its full faith and credit or the full faith and credit of a health institution,
9 educational institution, research institution, or child care provider to the payment
10 of bonds authorized under this chapter.

11 **SECTION 752.** 231.12 of the statutes is amended to read:

12 **231.12 Studies and recommendations.** It is the intent and purpose of this
13 chapter that the exercise by the authority of the powers granted to it shall be in all
14 respects for the benefit of the people of this state to assist them to provide needed
15 health facilities, educational facilities, research facilities, and child care centers of
16 the number, size, type, distribution, and operation that will assure admission and
17 health care, education, research opportunities, or child care of high quality to all who
18 need it. The authority shall identify and study all projects which are determined by
19 health planning agencies to be needed, but which could not sustain a loan were such
20 to be made to it under this chapter. The authority shall formulate and recommend
21 to the legislature such amendments to this and other laws, and such other specific
22 measures as grants, loan guarantees, interest subsidies, or other actions the state
23 may provide which would render the construction and operation of needed health
24 facilities, educational facilities, research facilities, and child care centers feasible
25 and in the public interest. The authority also shall identify and study any laws or

SENATE BILL 62**SECTION 752**

1 rules which it finds handicaps or bars a needed health facility, educational facility,
2 research facility, or child care center from participating in the benefits of this chapter,
3 and recommend to the legislature such actions as will remedy such situation.

4 **SECTION 753.** 231.13 (1) (intro.) of the statutes is amended to read:

5 231.13 (1) (intro.) The authority shall collect rents for the use of, or other
6 revenues relating to the financing of, each project. The authority shall contract with
7 a participating health institution, participating educational institution,
8 participating research institution, or participating child care provider for each
9 issuance of bonds. The contract shall provide that the rents or other revenues
10 payable by the health facility, educational facility, research facility, or child care
11 center shall be sufficient at all times to:

12 **SECTION 754.** 231.13 (2) of the statutes is amended to read:

13 231.13 (2) The authority shall pledge the revenues derived and to be derived
14 from a project and other related health facilities, educational facilities, research
15 facilities, or child care centers for the purposes specified in sub. (1), and additional
16 bonds may be issued which may rank on a parity with other bonds relating to the
17 project to the extent and on the terms and conditions provided in the bond resolution.
18 Such pledge shall be valid and binding from the time when the pledge is made, the
19 revenues so pledged by the authority shall immediately be subject to the lien of such
20 pledge without any physical delivery thereof or further act and the lien of any such
21 pledge shall be valid and binding as against all parties having claims of any kind in
22 tort, contract, or otherwise against the authority, irrespective of whether such
23 parties have notice thereof. Neither the bond resolution nor any financing
24 statement, continuation statement, or other instrument by which a pledge is created
25 or by which the authority's interest in revenues is assigned need be filed or recorded

SENATE BILL 62**SECTION 754**

1 in any public records in order to perfect the lien thereof as against 3rd parties, except
2 that a copy thereof shall be filed in the records of the authority and with the
3 department of financial institutions.

4 **SECTION 755.** 231.16 (1) of the statutes is amended to read:

5 231.16 (1) The authority may issue bonds to refund any outstanding bond of
6 the authority or indebtedness that a participating health institution, participating
7 educational institution, participating research institution, or participating child
8 care provider may have incurred for the construction or acquisition of a project prior
9 to or after April 30, 1980, including the payment of any redemption premium on the
10 outstanding bond or indebtedness and any interest accrued or to accrue to the
11 earliest or any subsequent date of redemption, purchase, or maturity, or to pay all
12 or any part of the cost of constructing and acquiring additions, improvements,
13 extensions, or enlargements of a project or any portion of a project. Except for bonds
14 to refund bonds issued under s. 231.03 (6) (g), no bonds may be issued under this
15 section unless the authority has first entered into a new or amended agreement with
16 a participating health institution, participating educational institution,
17 participating research institution, or participating child care provider to provide
18 sufficient revenues to pay the costs and other items described in s. 231.13.

19 **SECTION 756.** 231.20 of the statutes is amended to read:

20 **231.20 Waiver of construction and bidding requirements.** In exercising
21 its powers under s. 101.12, the department of commerce or any city, village, town, or
22 county may, within its discretion for proper cause shown, waive any particular
23 requirements relating to public buildings, structures, grounds, works, and
24 improvements imposed by law upon projects under this chapter; the requirements
25 of s. 101.13 may not be waived, however. If, however, the prospective lessee so

SENATE BILL 62**SECTION 756**

1 requests in writing, the authority shall, through the participating health institution,
2 participating educational institution, participating research institution, or
3 participating child care provider as its agent, call for construction bids in such
4 manner as is determined by the authority with the approval of the lessee.

5 **SECTION 757.** 231.23 of the statutes is amended to read:

6 **231.23 Nonprofit institutions.** It is intended that all nonprofit health and
7 institutions, educational institutions, research institutions, and child care providers
8 in this state be enabled to benefit from and participate in this chapter. To this end,
9 all nonprofit health and institutions, educational institutions, research institutions,
10 and child care providers operating, or authorized to be operated, under any law of
11 this state may undertake projects and utilize the capital financing sources and
12 methods of repayment provided by this chapter, the provisions of any other laws to
13 the contrary notwithstanding.

14 **SECTION 758.** 234.01 (4n) (a) 3m. e. of the statutes is amended to read:

15 234.01 (4n) (a) 3m. e. The facility is located in a targeted area, as determined
16 by the authority after considering the factors set out in s. 560.605 (2m) (c), 2005
17 stats., s. 560.605 (2m) (d), 2005 stats., s. 560.605 (2m) (e), 2005 stats., s. 560.605 (2m)
18 (g), 2007 stats., and s. 560.605 (2m) (a), (b), and (f) to, and (h).

19 **SECTION 759.** 234.01 (5k) of the statutes is amended to read:

20 234.01 (5k) “Financial institution” means a bank, savings bank, savings and
21 loan association, credit union, insurance company, finance company, mortgage
22 banker ~~registered~~ licensed under s. 224.72, community development corporation,
23 small business investment corporation, pension fund or other lender which provides
24 commercial loans in this state.

25 **SECTION 760.** 234.03 (2m) of the statutes is amended to read:

SENATE BILL 62**SECTION 760**

1 234.03 **(2m)** To issue notes and bonds in accordance with ss. 234.08, 234.40,
2 234.50, 234.60, 234.61, 234.626, ~~234.63~~, and 234.65.

3 **SECTION 761.** 234.03 (11) of the statutes is amended to read:

4 234.03 **(11)** To collect fees and charges on mortgage loans and economic
5 development loans and airport development loans under s. 234.63 (3), 2007 stats.,
6 for the purpose of paying all or a portion of authority costs as the authority
7 determines are reasonable and as approved by the authority.

8 **SECTION 762.** 234.03 (13g) of the statutes is created to read:

9 234.03 **(13g)** To make or participate in the making and enter into commitments
10 for the making of loans for the refinancing of mortgage loans under s. 234.605 and
11 to enter into agreements with any banking institution, savings bank, savings and
12 loan association, or credit union organized under the laws of this or any other state
13 or of the United States having an office in this state regarding the refinancing of
14 mortgage loans under s. 234.605.

15 **SECTION 763.** 234.04 (2) of the statutes is amended to read:

16 234.04 **(2)** The authority may make or participate in the making and enter into
17 commitments for the making of long-term mortgage loans to eligible sponsors of
18 housing projects for occupancy by persons and families of low and moderate income,
19 or for the making of homeownership mortgage loans or housing rehabilitation loans
20 or loans for the refinancing of qualified subprime loans under s. 234.592 to persons
21 and families of low and moderate income, an applicant under s. 234.59 or 234.592,
22 or other eligible beneficiaries as defined in s. 234.49. The loans may be made only
23 upon the determination by the authority that they are not otherwise available from
24 private lenders upon reasonably equivalent terms and conditions. The authority
25 may not make a loan to a person whose name appears on the statewide support lien

SENATE BILL 62**SECTION 763**

1 docket under s. 49.854 (2) (b), unless the person provides to the authority a payment
2 agreement that has been approved by the county child support agency under s. 59.53
3 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a). The
4 authority may employ, for such compensation as it determines, the services of any
5 financial institution in connection with any loan.

6 **SECTION 764.** 234.08 (1) of the statutes is amended to read:

7 234.08 (1) The authority may issue its negotiable notes and bonds in such
8 principal amount, as, in the opinion of the authority, is necessary to provide sufficient
9 funds for achieving its corporate purposes, including the purchase of certain
10 mortgages and securities and the making of secured loans for low- and
11 moderate-income housing, for the rehabilitation of existing structures and for the
12 construction of facilities appurtenant thereto as provided in this chapter; for the
13 making of secured loans to assist eligible elderly homeowners in paying property
14 taxes and special assessments; for the payment of interest on notes and bonds of the
15 authority during construction; for the awarding of airport development loans under
16 s. ~~234.63~~ (3); for the establishment of reserves to secure such notes and bonds; for the
17 provision of moneys for the housing development fund in order to make temporary
18 loans to sponsors of housing projects as provided in this chapter; and for all other
19 expenditures of the authority incident to and necessary or convenient to carry out its
20 corporate purposes and powers.

21 **SECTION 765.** 234.265 (2) of the statutes is amended to read:

22 234.265 (2) Records or portions of records consisting of personal or financial
23 information provided by a person seeking a grant or loan under s. 234.63, 2007 stats.,
24 or s. 234.04, 234.08, 234.49, 234.59, 234.592, 234.605, 234.61, 234.63, 234.65, 234.67,
25 234.83, 234.84, 234.90, 234.905, 234.907, or 234.91, seeking a loan under ss. 234.621

SENATE BILL 62**SECTION 765**

1 to 234.626, seeking financial assistance under s. 234.66, 2005 stats., seeking
2 mortgage loan refinancing from a lender under s. 234.605, seeking investment of
3 funds under s. 234.03 (18m), or in which the authority has invested funds under s.
4 234.03 (18m), unless the person consents to disclosure of the information.

5 **SECTION 766.** 234.40 (4) of the statutes is amended to read:

6 234.40 (4) The limitations established in ss. 234.18, 234.50, 234.60, 234.61,
7 ~~234.63~~, and 234.65 are not applicable to bonds issued under the authority of this
8 section. The authority may not have outstanding at any one time bonds for veterans
9 housing loans in an aggregate principal amount exceeding \$61,945,000, excluding
10 bonds being issued to refund outstanding bonds.

11 **SECTION 767.** 234.49 (2) (a) 4. of the statutes is amended to read:

12 234.49 (2) (a) 4. To designate as an authorized lender the authority or any local
13 government agency, housing authority under s. 59.53 (22), 61.73, 66.1201 or 66.1213,
14 bank, savings bank, savings and loan institution, mortgage banker ~~registered~~
15 licensed under s. 224.72 or credit union, if the designee has a demonstrated history
16 or potential of ability to adequately make and service housing rehabilitation loans.

17 **SECTION 768.** 234.50 (4) of the statutes is amended to read:

18 234.50 (4) The limitations established in ss. 234.18, 234.40, 234.60, 234.61,
19 ~~234.63~~, and 234.65 are not applicable to bonds issued under the authority of this
20 section. The authority may not have outstanding at any one time bonds for housing
21 rehabilitation loans in an aggregate principal amount exceeding \$100,000,000,
22 excluding bonds being issued to refund outstanding bonds. The authority shall
23 consult with and coordinate the issuance of bonds with the building commission prior
24 to the issuance of bonds.

25 **SECTION 769.** 234.59 (1) (h) of the statutes is amended to read:

SENATE BILL 62**SECTION 769**

1 234.59 (1) (h) “Mortgage banker” means a mortgage banker ~~registered~~ licensed
2 under s. 224.72, but does not include a person licensed under s. 138.09.

3 **SECTION 770.** 234.59 (1) (j) of the statutes is amended to read:

4 234.59 (1) (j) “Principal residence” means ~~an eligible~~ residential real property
5 in this state ~~which~~ that an applicant maintains as a full-time residence, but does not
6 use as a vacation home or for trade or business purposes.

7 **SECTION 771.** 234.59 (2) (intro.) of the statutes is amended to read:

8 234.59 (2) POWERS AND DUTIES OF THE AUTHORITY. (intro.) The authority shall
9 establish and administer a homeownership mortgage loan program to encourage
10 homeownership and to facilitate the acquisition or rehabilitation of eligible property
11 by applicants. To implement the program, the authority:

12 **SECTION 772.** 234.59 (3) (c) of the statutes is amended to read:

13 234.59 (3) (c) The authority shall notify an ~~eligible~~ authorized lender if a
14 person’s name appears on the statewide support lien docket under s. 49.854 (2) (b).
15 An ~~eligible~~ authorized lender may not make a loan to an applicant if it receives
16 notification under this paragraph concerning the applicant, unless the applicant
17 provides to the lender a payment agreement that has been approved by the county
18 child support agency under s. 59.53 (5) and that is consistent with rules promulgated
19 under s. 49.858 (2) (a).

20 **SECTION 773.** 234.592 of the statutes is created to read:

21 **234.592 Qualified subprime loan refinancing.** (1) DEFINITIONS. In this
22 section:

23 (a) “Authorized lender” has the meaning given in s. 234.59 (1) (a).

24 (b) “Eligible property” has the meaning given in s. 234.59 (1) (d) 1.

25 (c) “Principal residence” has the meaning given in. s. 234.59 (1) (j).

SENATE BILL 62

1 (d) "Qualified subprime loan" means an adjustable rate single-family
2 residential mortgage loan made after December 31, 2001, and before January 1,
3 2008.

4 **(2) POWERS AND DUTIES OF THE AUTHORITY.** The authority shall establish and
5 administer a qualified subprime loan refinancing program to encourage
6 homeownership and to facilitate the retention of eligible property by applicants. To
7 implement the program, the authority:

8 (a) May finance the acquisition or replacement of a qualified subprime loan and
9 may enter into contracts permitting an authorized lender to finance the acquisition
10 or replacement of a qualified subprime loan or both.

11 (b) Shall maintain a current list of authorized lenders.

12 (c) May enter into agreements to insure or provide additional security for loans
13 or bonds or notes issued under s. 234.60.

14 **(3) LOAN CONDITIONS.** (a) Except as provided in par. (b), the authority may
15 finance the acquisition or replacement of or enter into contracts permitting an
16 authorized lender to finance the acquisition or replacement of an existing mortgage
17 given by an applicant on an eligible property only if all of the following conditions are
18 satisfied:

19 1. The eligible property is and will remain the principal residence of the
20 applicant.

21 2. The existing mortgage was originally financed through a qualified subprime
22 loan and has not subsequently been refinanced.

23 3. The authority makes a determination that the mortgage described in subd.
24 2. will be reasonably likely to cause financial hardship to the applicant if not
25 refinanced.

SENATE BILL 62**SECTION 773**

1 4. The term of any refinancing agreement entered into under this paragraph
2 does not exceed 30 years.

3 5. The monthly payments to be made by an applicant under an agreement
4 entered into under this paragraph include principal, interest, property taxes, and
5 insurance. In this subdivision, “insurance” includes mortgage insurance,
6 homeowner’s insurance, and, if applicable, flood insurance.

7 6. The authority complies with special rules for subprime refinancing
8 established under 26 USC 143 (k) (12).

9 (b) The authority may not enter into an agreement under this subsection if the
10 applicant’s name appears on the statewide support lien docket under s. 49.854 (2) (b),
11 unless the applicant provides to the authority a payment agreement that has been
12 approved by the county child support agency under s. 59.53 (5) and that is consistent
13 with rules promulgated under s. 49.858 (2) (a).

14 **SECTION 774.** 234.60 (title) of the statutes is amended to read:

15 **234.60 (title) Bonds for homeownership mortgage loans and qualified**
16 **subprime loan refinancing.**

17 **SECTION 775.** 234.60 (1) of the statutes is amended to read:

18 234.60 (1) The authority may issue its bonds or notes to fund homeownership
19 mortgage loans or the refinancing of qualified subprime loans under s. 234.592.

20 **SECTION 776.** 234.60 (2) of the statutes is amended to read:

21 234.60 (2) The limitations in ss. 234.18, 234.40, 234.50, 234.61, ~~234.63~~, and
22 234.65 do not apply to bonds or notes issued under this section.

23 **SECTION 777.** 234.60 (5) (c) of the statutes is created to read:

SENATE BILL 62

1 234.60 (5) (c) The secretary of administration shall determine the date after
2 which no bond or note may be issued under this section for the purpose of financing
3 the acquisition or replacement of an existing mortgage under s. 234.592.

4 **SECTION 778.** 234.60 (9) of the statutes is amended to read:

5 234.60 (9) The executive director of the authority shall make every effort to
6 encourage participation in the homeownership mortgage loan program and the
7 qualified subprime loan refinancing program by women and minorities.

8 **SECTION 779.** 234.605 of the statutes is created to read:

9 **234.605 Homeowner eviction and lien protection program.** (1) In this
10 section:

11 (a) "Eligible property" has the meaning given in s. 234.59 (1) (d) 1.

12 (b) "Lender" means any banking institution, savings bank, savings and loan
13 association, or credit union organized under the laws of this or any other state or of
14 the United States having an office in this state.

15 (c) "Mortgage loan" means a loan secured by a first lien real estate mortgage
16 on the eligible property of an applicant.

17 (2) Subject to the approval of all members of the authority, the authority may
18 establish and administer a homeowner eviction and lien protection program to
19 encourage the refinancing of mortgage loans by lenders in order to facilitate the
20 retention of eligible property by persons and families.

21 (3) (a) Except as provided in par. (b), to implement the program, the authority
22 may enter into agreements with lenders regarding the refinancing of a mortgage
23 loan and may make or participate in the making and enter into commitments for the
24 making of loans to refinance a mortgage loan if the authority first determines all of
25 the following:

SENATE BILL 62**SECTION 779**

1 1. The applicant has made a reasonable effort to refinance the mortgage loan
2 with the existing lender or loan servicer or with an organization approved by the
3 authority, but the applicant has been unsuccessful in his or her effort. The authority
4 shall designate and maintain a current list of organizations approved under this
5 subdivision.

6 2. The lender will not refinance the mortgage loan in the absence of an
7 agreement with the authority.

8 (b) The authority may not enter into an agreement with a lender under this
9 section if the applicant's name appears on the statewide support lien docket under
10 s. 49.854 (2) (b), unless the applicant provides to the authority a payment agreement
11 that has been approved by the county child support agency under s. 59.53 (5) and that
12 is consistent with rules promulgated under s. 49.858 (2) (a).

13 (4) The authority shall submit a quarterly report to the joint committee on
14 finance. The report shall summarize the progress and performance of the program
15 established under this section. The cochairpersons of the joint committee on finance
16 may convene a meeting of the committee at any time to review or dissolve the
17 program established under this section.

18 **SECTION 780.** 234.61 (1) of the statutes is amended to read:

19 234.61 (1) Upon the authorization of the department of health services, the
20 authority may issue bonds or notes and make loans for the financing of housing
21 projects which are residential facilities as defined in s. 46.28 (1) (d) and the
22 development costs of those housing projects, if the department of health services has
23 approved the residential facilities for financing under s. 46.28 (2). The limitations
24 in ss. 234.18, 234.40, 234.50, 234.60, ~~234.63~~, and 234.65 do not apply to bonds or

SENATE BILL 62

1 notes issued under this section. The definition of “nonprofit corporation” in s. 234.01
2 (9) does not apply to this section.

3 **SECTION 781.** 234.63 of the statutes is repealed.

4 **SECTION 782.** 321.60 (1) (a) 12. of the statutes is amended to read:

5 321.60 (1) (a) 12. A license or certificate of registration issued by the
6 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
7 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, or 224.93 or
8 subch. IV of ch. 551.

9 **SECTION 783.** 422.501 (2) (b) 8. of the statutes is amended to read:

10 422.501 (2) (b) 8. A person ~~registered~~ licensed as a mortgage banker, mortgage
11 loan originator, or mortgage broker under s. 224.72 or 224.725 if the person is acting
12 within the course and scope of ~~that registration~~ the license.

13 **SECTION 784.** 428.202 (6) of the statutes is renumbered 428.202 (9) and
14 amended to read:

15 428.202 (9) “Loan Mortgage loan originator” has the meaning given in s. 224.71
16 ~~(1r)~~ (6).

17 **SECTION 785.** 428.203 (9) (title) of the statutes is amended to read:

18 428.203 (9) (title) ~~UNREGISTERED~~ UNLICENSED MORTGAGE BANKERS AND BROKERS.

19 **SECTION 786.** 428.204 of the statutes is amended to read:

20 **428.204 False statements.** No lender, licensed lender, mortgage loan
21 originator, mortgage banker, or mortgage broker may knowingly make, propose, or
22 solicit fraudulent, false, or misleading statements on any document relating to a
23 covered loan.

24 **SECTION 787.** 428.206 of the statutes is amended to read:

SENATE BILL 62**SECTION 787**

1 **428.206 Recommending default.** No lender, licensed lender, mortgage loan
2 originator, mortgage banker, or mortgage broker may recommend or encourage an
3 individual to default on an existing loan or other obligation before and in connection
4 with the making of a covered loan that refinances all or any portion of that existing
5 loan or obligation.

6 **SECTION 788.** 452.01 (3) (g) of the statutes is amended to read:

7 452.01 (3) (g) A person ~~registered~~ licensed as a mortgage banker under s.
8 224.72 who does not engage in activities described under sub. (2).

9 **SECTION 789.** 560.205 (1) (intro.) of the statutes is amended to read:

10 560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall
11 implement a program to certify businesses for purposes of s. 71.07 (5d). A business
12 desiring certification shall submit an application to the department in each taxable
13 year for which the business desires certification. The business shall specify in its
14 application the investment amount it wishes to raise and the department may certify
15 the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

16 Unless otherwise provided under the rules of the department, a business may be
17 certified under this subsection, and may maintain such certification, only if the
18 business satisfies all of the following conditions:

19 **SECTION 790.** 560.205 (1) (f) of the statutes is repealed and recreated to read:

20 560.205 (1) (f) It has the potential for increasing jobs in this state, increasing
21 capital investment in this state, or both, and any of the following apply:

22 1. It is engaged in, or has committed to engage in, innovation in any of the
23 following:

24 a. Manufacturing, biotechnology, nanotechnology, communications,
25 agriculture, or clean energy creation or storage technology.

SENATE BILL 62**SECTION 790**

1 b. Processing or assembling products, including medical devices,
2 pharmaceuticals, computer software, computer hardware, semiconductors, any
3 other innovative technology products, or other products that are produced using
4 manufacturing methods that are enabled by applying proprietary technology.

5 c. Services that are enabled by applying proprietary technology.

6 2. It is undertaking pre-commercialization activity related to proprietary
7 technology that includes conducting research, developing a new product or business
8 process, or developing a service that is principally reliant on applying proprietary
9 technology.

10 **SECTION 791.** 560.205 (1) (g) of the statutes is amended to read:

11 560.205 (1) (g) It is not primarily engaged in real estate development,
12 insurance, banking, lending, lobbying, political consulting, professional services
13 provided by attorneys, accountants, business consultants, physicians, or health care
14 consultants, wholesale or retail trade, leisure, hospitality, transportation, or
15 construction, except construction of power production plants that derive energy from
16 a renewable resource, as defined in s. 196.378 (1) (h).

17 **SECTION 792.** 560.205 (1) (k) of the statutes is amended to read:

18 560.205 (1) (k) It For taxable years beginning before January 1, 2008, it has
19 not received more than \$1,000,000 in investments that have qualified for tax credits
20 under s. 71.07 (5d).

21 **SECTION 793.** 560.205 (1) (kn) of the statutes is created to read:

22 560.205 (1) (kn) For taxable years beginning after December 31, 2007 and
23 before January 1, 2011, it has not received more than \$4,000,000 in investments that
24 have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and
25 76.638.

SENATE BILL 62**SECTION 794**

1 **SECTION 794.** 560.205 (1) (L) of the statutes is created to read:

2 560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not
3 received more than \$8,000,000 in investments that have qualified for tax credits
4 under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

5 **SECTION 795.** 560.205 (2) of the statutes is amended to read:

6 560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall
7 implement a program to certify investment fund managers for purposes of ss. 71.07
8 (5b), 71.28 (5b), ~~and, 71.47 (5b), and 76.638.~~ An investment fund manager desiring
9 certification shall submit an application to the department. The investment fund
10 manager shall specify in the application the investment amount that the manager
11 wishes to raise and the department may certify the manager and determine the
12 amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638.
13 In determining whether to certify an investment fund manager, the department
14 shall consider the investment fund manager’s experience in managing venture
15 capital funds, the past performance of investment funds managed by the applicant,
16 the expected level of investment in the investment fund to be managed by the
17 applicant, and any other relevant factors. The department may certify only
18 investment fund managers that commit to consider placing investments in
19 businesses certified under sub. (1).

20 **SECTION 796.** 560.205 (3) (d) of the statutes is amended to read:

21 560.205 (3) (d) *Rules.* The department of commerce, in consultation with the
22 department of revenue, shall promulgate rules to administer this section. The rules
23 shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1.
24 The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may
25 be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per

SENATE BILL 62

1 calendar year for calendar years beginning after December 31, 2004, and before
2 January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after
3 December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year
4 for calendar years beginning after December 31, 2010, plus, for taxable years
5 beginning after December 31, 2010, an additional \$250,000 for tax credits that may
6 be claimed for investments in nanotechnology businesses certified under sub. (1).
7 The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b),
8 71.28 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to
9 fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar
10 years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per
11 calendar year for calendar years beginning after December 31, 2007, and before
12 January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning
13 after December 31, 2010, plus, for taxable years beginning after December 31, 2010,
14 an additional \$250,000 for tax credits that may be claimed for investments in
15 nanotechnology businesses certified under sub. (1). The rules shall also provide that,
16 for calendar years beginning after December 31, 2007, no person may receive a credit
17 under ss. 71.07 (5b) and (5d), 71.28 (5b), ~~or~~ 71.47 (5b), or 76.638 unless the person's
18 investment is kept in a certified business, or with a certified fund manager, for no less
19 than 3 years.

20 **SECTION 797.** 560.205 (3) (e) of the statutes is created to read:

21 560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07
22 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to
23 another person who is subject to the taxes or fees imposed under s. 71.02, 71.23,
24 71.47, or subch. III of ch. 76, if the person receives prior authorization from the
25 investment fund manager and the manager then notifies the department of

SENATE BILL 62**SECTION 797**

1 commerce and the department of revenue of the transfer and submits with the
2 notification a copy of the transfer documents. No person may sell or otherwise
3 transfer a credit as provided in this paragraph more than once in a 12-month period.
4 The department may charge any person selling or otherwise transferring a credit
5 under this paragraph a fee equal to 1 percent of the credit amount sold or transferred.
6 The department shall deposit all fees collected under this paragraph in the
7 appropriation account under s. 20.143 (1) (gm).

8 **SECTION 798.** 560.207 (1) of the statutes is amended to read:

9 560.207 (1) The department of commerce shall implement a program to certify
10 taxpayers, including taxpayers who are members of dairy cooperatives, as eligible
11 for the dairy manufacturing facility investment credit under ss. 71.07 (3p), 71.28
12 (3p), and 71.47 (3p).

13 **SECTION 799.** 560.207 (2) of the statutes is amended to read:

14 560.207 (2) If the department of commerce certifies a taxpayer under sub. (1),
15 the department of commerce shall determine the amount of credits to allocate to that
16 taxpayer. The total amount of dairy manufacturing facility investment credits
17 allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total
18 amount of dairy manufacturing facility investment credits allocated to taxpayers
19 who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal
20 year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing
21 facility investment credits allocated to taxpayers who are members of dairy
22 cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount
23 of dairy manufacturing facility investment credits allocated to taxpayers who are
24 members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year
25 thereafter, may not exceed \$700,000.

SENATE BILL 62**SECTION 805**

1 **SECTION 805.** 560.70 (2m) of the statutes is renumbered 560.70 (2m) (a) and
2 amended to read:

3 560.70 **(2m)** (a) “Full Except as provided in par. (b), “full-time job” means a
4 regular, nonseasonal full-time position in which an individual, as a condition of
5 employment, is required to work at least 2,080 hours per year, including paid leave
6 and holidays, and for which the individual receives pay that is equal to at least 150%
7 of the federal minimum wage and benefits that are not required by federal or state
8 law. “Full-time job” does not include initial training before an employment position
9 begins.

10 **SECTION 806.** 560.70 (2m) (b) of the statutes is created to read:

11 560.70 **(2m)** (b) The department may by rule specify circumstances under
12 which the department may grant exceptions to the requirement under par. (a) that
13 a full-time job means a job in which an individual, as a condition of employment, is
14 required to work at least 2,080 hours per year, but under no circumstances may a
15 full-time job mean a job in which an individual, as a condition of employment, is
16 required to work less than 37.5 hours per week.

17 **SECTION 807.** 560.70 (4m) of the statutes is created to read:

18 560.70 **(4m)** “Member of a targeted group” means a person who resides in an
19 area designated by the federal government as an economic revitalization area, a
20 person who is employed in an unsubsidized job but meets the eligibility requirements
21 under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who
22 is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay
23 project position under s. 49.147 (3m), a person who is eligible for child care assistance
24 under s. 49.155, a person who is a vocational rehabilitation referral, an economically
25 disadvantaged youth, an economically disadvantaged veteran, a supplemental

SENATE BILL 62

1 security income recipient, a general assistance recipient, an economically
2 disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a
3 food stamp recipient, if the person has been certified in the manner under 26 USC
4 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

5 **SECTION 808.** 560.70 (7) (a) of the statutes is amended to read:

6 560.70 (7) (a) Except as provided in pars. (b) ~~and~~, (c), and (d), “tax benefits”
7 means the development zones credit under ss. 71.07 (2dx), 71.28 (1dx), 71.47 (1dx),
8 and 76.636.

9 **SECTION 809.** 560.70 (7) (d) of the statutes is created to read:

10 560.70 (7) (d) In ss. 560.701 to 560.706, “tax benefits” means the economic
11 development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637.

12 **SECTION 810.** 560.701 of the statutes is created to read:

13 **560.701 Certification for tax benefits. (1) APPLICATION.** Any person may
14 apply to the department on a form prepared by the department for certification under
15 this section. The application shall include all of the following:

16 (a) The name and address of the person.

17 (b) The federal tax identification number of the person.

18 (c) The names and addresses of the locations where the person conducts
19 business and a description of the business activities conducted at those locations.

20 (d) A description of each eligible activity conducted or proposed to be conducted
21 by the person.

22 (e) Other information required by the department or the department of
23 revenue.

24 **(2) CERTIFICATION.** (a) The department may certify a person who submits an
25 application under sub. (1) if, after conducting an investigation, the department

SENATE BILL 62**SECTION 810**

1 determines that the person is conducting or intends to conduct at least one eligible
2 activity.

3 (b) The department shall provide a person certified under this section and the
4 department of revenue with a copy of the certification.

5 **(3) CONTRACT.** A person certified under this section shall enter into a written
6 contract with the department. The contract shall include provisions that detail all
7 of the following:

8 (a) A description of each eligible activity being conducted or proposed to be
9 conducted by the person.

10 (b) Whether any of the eligible activities will occur in an economically
11 distressed area, as designated by the department under s. 560.704 (1).

12 (c) Whether any of the eligible activities will benefit members of a targeted
13 group, as determined by the department under s. 560.704 (2).

14 (d) A compliance schedule that includes a sequence of anticipated actions to be
15 taken or goals to be achieved by the person before the person may receive tax benefits
16 under s. 560.703.

17 (e) The reporting requirements with which the person must comply.

18 (f) If feasible, a determination of the tax benefits the person will be authorized
19 to claim under s. 560.703 (2) if the person fulfills the terms of the contract.

20 **SECTION 811.** 560.702 of the statutes is created to read:

21 **560.702 Eligible activities.** A person who conducts or proposes to conduct
22 any of the following may be certified under s. 560.701 (2):

23 **(1) JOB CREATION PROJECT.** A project that creates and maintains for a period of
24 time established by the department by rule full-time jobs in addition to any existing
25 full-time jobs provided by the person.

SENATE BILL 62

1 **(2) CAPITAL INVESTMENT PROJECT.** A project that involves a significant
2 investment of capital, as defined by the department by rule under s. 560.706 (2) (b),
3 by the person in new equipment, machinery, real property, or depreciable personal
4 property.

5 **(3) EMPLOYEE TRAINING PROJECT.** A project that involves significant investments
6 in the training or reeducation of employees, as defined by the department by rule
7 under s. 560.706 (2) (c), by the person for the purpose of improving the productivity
8 or competitiveness of the business of the person.

9 **(4) PROJECT RELATED TO PERSONS WITH CORPORATE HEADQUARTERS IN WISCONSIN.**
10 A project that will result in the location or retention of a person's corporate
11 headquarters in Wisconsin or that will result in the retention of employees holding
12 full-time jobs in Wisconsin if the person's corporate headquarters are located in
13 Wisconsin.

14 **SECTION 812.** 560.703 of the statutes is created to read:

15 **560.703 Limits on tax benefits and claiming tax benefits. (1) LIMITS.** (a)
16 Except as provided in par. (b), the total tax benefits available to be allocated by the
17 department under ss. 560.701 to 560.706 may not exceed the sum of the tax benefits
18 remaining to be allocated under ss. 560.71 to 560.785, 560.797, 560.798, 560.7995,
19 and 560.96 on the effective date of this paragraph [LRB inserts date].

20 (b) The department may submit to the joint committee on finance a request in
21 writing to exceed the total tax benefits specified in par. (a). The department shall
22 submit with its request a justification for seeking an increase under this paragraph.
23 The joint committee on finance, following its review, may approve or disapprove an
24 increase in the total tax benefits available to be allocated under ss. 560.701 to
25 560.706.

SENATE BILL 62**SECTION 812**

1 **(2) AUTHORITY TO CLAIM TAX BENEFITS.** The department may authorize a person
2 certified under s. 560.701 (2) to claim tax benefits only after the person has submitted
3 a report to the department that documents to the satisfaction of the department that
4 the person has complied with the terms of the contract under s. 560.701 (3) and the
5 requirements of any applicable rules promulgated under s. 560.706 (2).

6 **(3) NOTICE OF ELIGIBILITY.** The department shall provide to the person and to
7 the department of revenue a notice of eligibility to receive tax benefits that reports
8 the amount of tax benefits for which the person is eligible.

9 **SECTION 813.** 560.704 of the statutes is created to read:

10 **560.704 Eligible activities in economically distressed areas and**
11 **benefiting members of targeted groups.** The department may authorize a
12 person certified under s. 560.701 (2) to claim additional tax benefits under s. 560.703
13 if, after conducting an investigation, the department determines any of the
14 following:

15 **(1)** The person conducts at least one eligible activity in an area designated by
16 the department as economically distressed. In designating an area as economically
17 distressed under this subsection, the department shall follow the methodology
18 established by rule under s. 560.706 (2) (e).

19 **(2)** The person conducts at least one eligible activity that benefits, creates,
20 retains, or significantly upgrades full-time jobs for, that trains, or that reeducates,
21 members of a targeted group.

22 **SECTION 814.** 560.705 of the statutes is created to read:

23 **560.705 Revocation of certification.** The department shall revoke the
24 certification of a person who does any of the following:

SENATE BILL 62**SECTION 814**

1 (1) Supplies false or misleading information to obtain certification under s.
2 560.701 (2).

3 (2) Supplies false or misleading information to obtain tax benefits under s.
4 560.703.

5 (3) Leaves the state to conduct substantially the same business outside of the
6 state.

7 (4) Ceases operations in the state and does not renew operation of the business
8 or a similar business within 12 months.

9 **SECTION 815.** 560.706 of the statutes is created to read:

10 **560.706 Responsibilities of the department.** The department shall do all
11 of the following:

12 (1) **ACCOUNTABILITY.** (a) Annually verify information submitted to the
13 department of revenue under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by
14 persons certified under s. 560.701 (2) and eligible to receive tax benefits under s.
15 560.703.

16 (b) Notify and obtain written approval from the secretary for any certification
17 under sub. (2) (j).

18 (2) **RULES.** Establish by rule all of the following:

19 (a) A schedule of hourly wage ranges to be paid, and health insurance benefits
20 to be provided, to an employee by a person certified under s. 560.701 (2) and the
21 corresponding per employee tax benefit for which a person certified under s. 560.701
22 (2) may be eligible.

23 (b) A definition of “significant investment of capital” for purposes of s. 560.702
24 (2), together with a corresponding schedule of tax benefits for which a person who is
25 certified under s. 560.701 (2) and who conducts a project described in s. 560.702 (2)

SENATE BILL 62**SECTION 815**

1 may be eligible. The department shall include in the definition required under this
2 paragraph a schedule of investments that takes into consideration the size or nature
3 of the business.

4 (c) A definition of “significant investments in the training or reeducation of
5 employees” for purposes of s. 560.702 (3), together with a corresponding schedule of
6 tax benefits for which a person who is certified under s. 560.701 (2) and who conducts
7 a project under s. 560.702 (3) may be eligible.

8 (d) A schedule of tax benefits for which a person who is certified under s.
9 560.701 (2) and who conducts a project that will result in the location or retention
10 of a person’s corporate headquarters in Wisconsin may be eligible.

11 (e) The methodology for designating an area as economically distressed under
12 s. 560.704 (1). The methodology under this paragraph shall require the department
13 to consider the most current data available for the area and for the state on the
14 following indicators:

- 15 1. Unemployment rate.
- 16 2. Percentage of families with incomes below the poverty line established under
17 42 USC 9902 (2).
- 18 3. Median family income.
- 19 4. Median per capita income.
- 20 5. Average annual wage.
- 21 6. Real property values.
- 22 7. Other significant or irregular indicators of economic distress, such as a
23 natural disaster.

SENATE BILL 62**SECTION 815**

1 (f) A schedule of additional tax benefits for which a person who is certified
2 under s. 560.701 (2) and who conducts an eligible activity described under s. 560.704
3 may be eligible.

4 (g) Reporting requirements, minimum benchmarks, and outcomes expected of
5 a person certified under s. 560.701 (2) before that person may receive tax benefits
6 under s. 560.703.

7 (h) Policies, criteria, and methodology for allocating a portion of the tax benefits
8 available under s. 560.703 to rural areas.

9 (i) Policies, criteria, and methodology for allocating a portion of the tax benefits
10 available under s. 560.703 to small businesses.

11 (j) Policies and criteria for certifying a person who may be eligible for tax
12 benefits greater than or equal to \$3,000,000.

13 (k) Procedures for implementing ss. 560.701 to 560.706.

14 **(3) REPORTING.** Annually, 6 months after the report has been submitted under
15 s. 560.01 (2) (am), submit to the joint legislative audit committee and to the
16 appropriate standing committees of the legislature under s. 13.172 (3) a
17 comprehensive report assessing the program under ss. 560.701 to 560.706. The
18 report under this subsection shall update the applicable information provided in the
19 report under s. 560.01 (2) (am).

20 **SECTION 816.** 560.71 (4) of the statutes is created to read:

21 560.71 (4) No development zone may be designated under this section after the
22 effective date of this subsection [LRB inserts date].

23 **SECTION 817.** 560.737 (4) of the statutes is created to read:

SENATE BILL 62**SECTION 817**

1 560.737 (4) No premises of a business incubator may be designated as part of
2 a development zone under this section after the effective date of this subsection
3 [LRB inserts date].

4 **SECTION 818.** 560.74 (1) of the statutes is amended to read:

5 560.74 (1) ~~At~~ Except as provided under sub. (6), at any time after a
6 development zone is designated by the department, a local governing body may
7 submit an application to change the boundaries of the development zone. If the
8 boundary change reduces the size of a development zone, the local governing body
9 shall explain why the area excluded should no longer be in a development zone. The
10 department may require the local governing body to submit additional information.

11 **SECTION 819.** 560.74 (6) of the statutes is created to read:

12 560.74 (6) The department may not accept any applications under sub. (1) to
13 change the boundaries of a development zone designated under s. 560.71 on or after
14 the effective date of this subsection [LRB inserts date].

15 **SECTION 820.** 560.745 (1) (b) of the statutes is amended to read:

16 560.745 (1) (b) The local governing body may apply to the department for one
17 60-month extension of the designation. The department shall promulgate rules
18 establishing criteria for approving an extension of a designation of an area as a
19 development zone under this subsection. No applications may be accepted by the
20 department under this paragraph on or after the effective date of this paragraph
21 [LRB inserts date].

22 **SECTION 821.** 560.745 (2) (am) of the statutes is amended to read:

23 560.745 (2) (am) Notwithstanding par. (a), the department may increase the
24 established limit for tax benefits for a development zone. The department may not

SENATE BILL 62**SECTION 821**

1 increase the limit for tax benefits established for any development zone designated
2 under s. 560.71 on or after the effective date of this paragraph [LRB inserts date].

3 **SECTION 822.** 560.78 (1m) of the statutes is created to read:

4 560.78 (1m) No person may be certified under s. 560.765 (3) on or after the
5 effective date of this subsection [LRB inserts date].

6 **SECTION 823.** 560.78 (3) (a) of the statutes is amended to read:

7 560.78 (3) (a) Except as provided in ~~par.~~ pars. (b) and (c), if the economic activity
8 for which a person is seeking certification under s. 560.765 (3) is the relocation of a
9 business into a development zone from a location that is outside the development
10 zone but within the limits of a city, village, town or federally recognized American
11 Indian reservation in which that development zone is located, the local governing
12 body that nominated that area as a development zone under s. 560.72 shall
13 determine whether sub. (2) (a) or (b) applies.

14 **SECTION 824.** 560.78 (3) (c) of the statutes is created to read:

15 560.78 (3) (c) No local governing body may make any determination under this
16 subsection on or after the effective date of this paragraph [LRB inserts date].

17 **SECTION 825.** 560.785 (1) (intro.) of the statutes is amended to read:

18 560.785 (1) (intro.) For the development zone program under ss. 560.70 and
19 560.71 to 560.78, the development opportunity zone program under s. 560.795 and
20 the enterprise development zone program under s. 560.797, the department shall
21 promulgate rules that further define a person's eligibility for tax benefits. The rules
22 shall do at least all of the following:

23 **SECTION 826.** 560.797 (2) (a) (intro.) of the statutes is amended to read:

SENATE BILL 62**SECTION 826**

1 560.797 (2) (a) (intro.) Subject to pars. (c) ~~and~~, (d), and (e), the department may
2 designate an area as an enterprise development zone for a project if the department
3 determines all of the following:

4 **SECTION 827.** 560.797 (2) (bg) (intro.) of the statutes is amended to read:

5 560.797 (2) (bg) (intro.) Notwithstanding par. (a) and subject to pars. (c) ~~and~~,
6 (d), and (e), the department may designate an area as an enterprise development
7 zone for a project if the department determines all of the following:

8 **SECTION 828.** 560.797 (2) (e) of the statutes is created to read:

9 560.797 (2) (e) The department may not designate any area as an enterprise
10 development zone on or after the effective date of this paragraph [LRB inserts
11 date].

12 **SECTION 829.** 560.797 (3) (c) of the statutes is created to read:

13 560.797 (3) (c) The department may not accept or approve any applications or
14 project plans submitted under par. (a) on or after the effective date of this paragraph
15 [LRB inserts date].

16 **SECTION 830.** 560.797 (4) (a) of the statutes is amended to read:

17 560.797 (4) (a) If Except as provided in par. (h), if the department approves a
18 project plan under sub. (3) and designates the area in which the person submitting
19 the project plan conducts or intends to conduct the project as an enterprise
20 development zone under the criteria under sub. (2), the department shall certify the
21 person as eligible for tax benefits.

22 **SECTION 831.** 560.797 (4) (h) of the statutes is created to read:

23 560.797 (4) (h) No person may be certified under this subsection on or after the
24 effective date of this paragraph [LRB inserts date].

25 **SECTION 832.** 560.798 (2) (a) of the statutes is amended to read:

SENATE BILL 62**SECTION 832**

1 560.798 (2) (a) The Except as provided under par. (c), the department may
2 designate one area in the state as an agricultural development zone. The area must
3 be located in a rural municipality. An agricultural business that is located in an
4 agricultural development zone and that is certified by the department under sub. (3)
5 is eligible for tax benefits as provided in sub. (3).

6 **SECTION 833.** 560.798 (2) (c) of the statutes is created to read:

7 560.798 (2) (c) No area may be designated as an agricultural development zone
8 on or after the effective date of this paragraph [LRB inserts date].

9 **SECTION 834.** 560.798 (3) (a) of the statutes is amended to read:

10 560.798 (3) (a) The Except as provided under par. (c), the department may
11 certify for tax benefits in an agricultural development zone a new or expanding
12 agricultural business that is located in the agricultural development zone. In
13 determining whether to certify a business under this subsection, the department
14 shall consider, among other things, the number of jobs that will be created or retained
15 by the business.

16 **SECTION 835.** 560.798 (3) (c) of the statutes is created to read:

17 560.798 (3) (c) No business may be certified under this subsection on or after
18 the effective date of this paragraph [LRB inserts date].

19 **SECTION 836.** 560.7995 (2) (a) (intro.) of the statutes is amended to read:

20 560.7995 (2) (a) (intro.) Subject to ~~par.~~ pars. (c) and (e), the department may
21 designate an area as an airport development zone if the department determines all
22 of the following:

23 **SECTION 837.** 560.7995 (2) (d) of the statutes is amended to read:

24 560.7995 (2) (d) Notwithstanding pars. (a) to (c), and except as provided in par.
25 (e), the department shall designate as an airport development zone the area within

SENATE BILL 62**SECTION 837**

1 the boundaries of Adams, Fond du Lac, Green Lake, Juneau, Langlade, Lincoln,
2 Marathon, Marquette, Menominee, Oneida, Portage, Price, Shawano, Taylor,
3 Waupaca, Waushara, Winnebago, Wood, and Vilas counties.

4 **SECTION 838.** 560.7995 (2) (e) of the statutes is created to read:

5 560.7995 (2) (e) No area may be designated as an airport development zone
6 under this subsection on or after the effective date of this paragraph [LRB inserts
7 date].

8 **SECTION 839.** 560.7995 (4) (ar) of the statutes is created to read:

9 560.7995 (4) (ar) The department may not accept or approve any applications
10 or business plans submitted under par. (a) on or after the effective date of this
11 paragraph [LRB inserts date].

12 **SECTION 840.** 560.7995 (4) (b) of the statutes is renumbered 560.7995 (4) (b) 1.
13 and amended to read:

14 560.7995 (4) (b) 1. If Except as provided in subd. 2., if the department approves
15 a business plan under par. (a) or (am), the department shall certify the person as
16 eligible for tax benefits. The department shall notify the department of revenue
17 within 30 days of certifying a person under this paragraph.

18 **SECTION 841.** 560.7995 (4) (b) 2. of the statutes is created to read:

19 560.7995 (4) (b) 2. No person may be certified under this paragraph on or after
20 the effective date of this subdivision [LRB inserts date].

21 **SECTION 842.** 560.84 (2) (c) 2. of the statutes is amended to read:

22 560.84 (2) (c) 2. ~~A development zone designated under s. 560.71, a development~~
23 ~~opportunity zone designated under s. 560.795 or an enterprise development zone~~
24 ~~designated under s. 560.797.~~

25 **SECTION 843.** 560.96 (2) (a) of the statutes is amended to read:

SENATE BILL 62

1 560.96 (2) (a) ~~The Except as provided in par. (c)~~, the department may designate
2 up to 8 areas in the state as technology zones. A business that is located in a
3 technology zone and that is certified by the department under sub. (3) is eligible for
4 a tax credit as provided in sub. (3).

5 **SECTION 844.** 560.96 (2) (c) of the statutes is created to read:

6 560.96 (2) (c) No area may be designated as a technology zone under this
7 subsection on or after the effective date of this paragraph [LRB inserts date].

8 **SECTION 845.** 560.96 (3) (a) (intro.) of the statutes is amended to read:

9 560.96 (3) (a) (intro.) ~~The Except as provided in par. (e)~~, the department may
10 certify for tax credits in a technology zone a business that satisfies all of the following
11 requirements:

12 **SECTION 846.** 560.96 (3) (e) of the statutes is created to read:

13 560.96 (3) (e) No business may be certified under this subsection on or after the
14 effective date of this paragraph [LRB inserts date].

15 **SECTION 847.** 704.35 of the statutes is created to read:

16 **704.35 Residential rental property in foreclosure. (1) DUTY OF LANDLORD**
17 **TO PROVIDE NOTICE OF FORECLOSURE.** If a foreclosure action has been commenced
18 against residential rental property, during the pendency of the action and before the
19 expiration of the redemption period, the owner of the property shall notify any
20 prospective tenant in writing of all of the following:

21 (a) That a foreclosure action has been commenced against the rental property.

22 (b) If judgment has been entered, the date on which the redemption period
23 expires.

24 **(2) RENTAL AGREEMENT MUST VERIFY NOTICE OR IS VOIDABLE.** Any rental
25 agreement entered into between the property owner and a tenant during the

SENATE BILL 62**SECTION 847**

1 pendency of the foreclosure action and before the expiration of the redemption period
2 shall include a separate written statement, signed by the tenant, that the owner has
3 provided written notice as required under sub. (1). A rental agreement that does not
4 include the statement signed by the tenant is voidable at the option of the tenant.

5 **(3) TENANT PROTECTIONS.** The protections under s. 846.35 apply to a residential
6 tenant if a foreclosure action is or has been commenced against the real property
7 containing the dwelling unit occupied by the tenant.

8 **SECTION 848.** 799.40 (4) of the statutes is renumbered 799.40 (4) (a).

9 **SECTION 849.** 799.40 (4) (b) of the statutes is created to read:

10 799.40 (4) (b) The court shall stay the proceedings in a civil action of eviction
11 against a foreclosed homeowner, as defined in s. 846.40 (1) (b), under the
12 circumstances and as provided in s. 846.40 (9).

13 **SECTION 850.** 846.35 of the statutes is created to read:

14 **846.35 Protections for tenants in foreclosure actions. (1) NOTICES FROM**
15 **PLAINTIFF.** (a) If residential rental property is the subject of a foreclosure action, the
16 plaintiff shall provide the following notices at the following times to the tenants who
17 are in possession of each rental unit when a notice is given:

18 1. No later than 5 days after the foreclosure action is filed, notice that the
19 plaintiff has commenced a foreclosure action with respect to the rental property.

20 2. No later than 5 days after the judgment of foreclosure is entered, notice that
21 the plaintiff has been granted a judgment of foreclosure with respect to the rental
22 property and notice of the date on which the redemption period ends.

23 3. When the confirmation of sale hearing has been scheduled, notice of the date
24 and time of the hearing.

25 (b) The notices under par. (a) may be given in any of the following ways:

SENATE BILL 62

1 1. By personal service as provided in s. 801.11 (1).

2 2. By certified mail with return receipt requested. Notice given under this
3 subdivision is considered completed when it is mailed, unless the envelope enclosing
4 the notice is returned unopened to the plaintiff. All notices mailed under this
5 subdivision shall be mailed in envelopes upon which the plaintiff's, or the plaintiff's
6 attorney's, return address appears, with a request to return to that address.

7 (c) If a plaintiff fails to provide a notice under par. (a) in accordance with pars.
8 (a) and (b), the court shall award the tenant to whom the notice should have been
9 given \$250 in damages, plus reasonable attorney fees. A tenant may not recover
10 under this paragraph for more than one notice violation.

11 **(2) EXTENDED POSSESSION OF PREMISES; WITHHOLDING LAST MONTH'S RENT.** (a)
12 Notwithstanding ch. 704, all of the following apply to a tenant whose tenancy is
13 terminated as a result of a foreclosure judgment and sale with respect to the rental
14 property:

15 1. Subject to subd. 3., the tenant may retain possession of the tenant's rental
16 unit for up to 2 months after the end of the month in which the sale of the property
17 is confirmed.

18 2. The tenant may withhold rent in an amount equal to the security deposit
19 during the last period the tenant actually retains possession of the rental unit,
20 regardless of whether the tenant retains possession after the sale of the property is
21 confirmed, as authorized under subd. 1.

22 3. The tenant's right to retain possession of the rental unit expires at the end
23 of the month for which the tenant withholds rent, as authorized under subd. 2.

24 (b) Subject to par. (a) 2., a tenant who retains possession of the rental unit after
25 the sale of the property is confirmed shall pay rent for the period during which the

SENATE BILL 62**SECTION 850**

1 tenant retains possession at the same rate that applied immediately before the
2 confirmation of the sale of the property.

3 (3) EXECUTION OF WRIT OF ASSISTANCE OR RESTITUTION. No writ of assistance or
4 writ of restitution for the removal of a tenant whose tenancy is terminated as a result
5 of a foreclosure judgment and sale may be executed before the end of the 2nd month
6 beginning after the month in which the sale of the property is confirmed, unless the
7 tenant has waived in writing the right under sub. (2) (a) 1. to retain possession of the
8 rental unit.

9 (4) EXCLUSION OF INFORMATION FROM THE CONSOLIDATED COURT AUTOMATION
10 PROGRAMS. No information in a civil action, including a writ of assistance, writ of
11 restitution, or entry of judgment of eviction, concerning the removal of a tenant from
12 residential rental property may be included in the consolidated court automation
13 programs that are accessible to the public through the circuit court public access Web
14 site if that removal is the result of a mortgage foreclosure of that residential rental
15 property.

16 **SECTION 851.** 846.40 of the statutes is created to read:

17 **846.40 Regulation of foreclosure reconveyances. (1) DEFINITIONS.** In this
18 section:

19 (a) “Closing” means an in-person meeting to complete final documents incident
20 to the sale of real property or the creation of a mortgage on real property that is
21 conducted by a closing agent who is not employed by, an affiliate of, or employed by
22 an affiliate of, any foreclosure purchaser involved in the closing, and who does not
23 have a business or personal relationship with any foreclosure purchaser involved in
24 the closing other than the provision of real estate settlement services.

25 (b) “Foreclosed homeowner” means an owner of a residence in foreclosure.

SENATE BILL 62**SECTION 851**

1 (c) "Foreclosure purchaser" means a person that has acted as the acquirer in
2 a foreclosure reconveyance. "Foreclosure purchaser" also includes a person that has
3 acted in joint venture or joint enterprise with one or more acquirers in a foreclosure
4 reconveyance. "Foreclosure purchaser" does not include any of the following:

5 1. A natural person who shows that he or she is not in the business of
6 foreclosure purchasing and who has a prior personal relationship with the foreclosed
7 homeowner.

8 2. A federal or state chartered bank, savings bank, savings and loan
9 association, or credit union.

10 (d) "Foreclosure reconveyance" means a transaction involving all of the
11 following:

12 1. The transfer of title to real property by a foreclosed homeowner during a
13 foreclosure proceeding, either by a transfer of interest from the foreclosed
14 homeowner or by the creation of a mortgage or other lien or encumbrance during the
15 foreclosure process.

16 2. The subsequent conveyance, or promise of a subsequent conveyance, of an
17 interest back to the foreclosed homeowner by the acquirer or a person acting in
18 participation with the acquirer that allows the foreclosed homeowner to possess
19 either the residence in foreclosure or other real property, which interest includes an
20 interest in a land contract, purchase agreement, option to purchase, or lease.

21 (e) "Primary housing expenses" means the sum of payments for regular
22 principal, interest, rent, utilities, fire and casualty insurance, real estate taxes, and
23 association dues.

24 (f) "Resale" means a bona fide market sale of the property subject to the
25 foreclosure reconveyance by the foreclosure purchaser to an unaffiliated 3rd party.

SENATE BILL 62**SECTION 851**

1 (g) “Resale price” means the gross sale price of the property on resale.

2 (h) “Residence in foreclosure” means residential real property located in this
3 state that consists of one to 4 family dwelling units and with respect to which real
4 property there is a delinquency or default on any loan payment or debt secured by
5 or attached to the residential real property, including land contract payments. The
6 owner of the residential real property may, but is not required to, occupy the
7 residential real property as the owner’s principal place of residence.

8 **(2) CONTRACT REQUIREMENT; FORM AND LANGUAGE.** A foreclosure purchaser that
9 enters into any foreclosure reconveyance shall do so by a written contract. Every
10 contract must be written in letters of not less than 12-point boldface type, both in
11 English and in the same language principally used by the foreclosure purchaser and
12 foreclosed homeowner to negotiate the sale of the residence in foreclosure if other
13 than English, and must be fully completed, signed, and dated by the foreclosed
14 homeowner and foreclosure purchaser before the execution of any instrument of
15 conveyance of the residence in foreclosure.

16 **(3) CONTRACT TERMS.** (a) Every contract required by sub. (2) must contain the
17 entire agreement of the parties and must include all of the following terms:

18 1. The name, business address, and telephone number of the foreclosure
19 purchaser.

20 2. The address of the residence in foreclosure.

21 3. The total consideration to be given by the foreclosure purchaser in connection
22 with or incident to the sale.

23 4. A complete description of the terms of payment or other consideration,
24 including any services of any nature that the foreclosure purchaser represents he or
25 she will perform for the foreclosed homeowner before or after the sale.

SENATE BILL 62**SECTION 851**

1 5. The time at which possession is to be transferred to the foreclosure
2 purchaser.

3 6. A complete description of the terms of any related agreement designed to
4 allow the foreclosed homeowner to remain in possession of the home, such as a rental
5 agreement, repurchase agreement, land contract, or lease with option to purchase.

6 7. The time for determining the fair market value of the property, as provided
7 under sub. (8) (b) 2. b.

8 8. A notice of cancellation as provided in sub. (5) (b).

9 9. Immediately above the statement required by sub. (5) (a), in not less than
10 14-point boldface type if the contract is printed or in capital letters if the contract
11 is typed, and completed with the name of the foreclosure purchaser, the following
12 notice:

13 **NOTICE REQUIRED BY WISCONSIN LAW**

14 Until your right to cancel this contract has ended, (Name of foreclosure
15 purchaser) or anyone working for (Name of foreclosure purchaser) CANNOT ask
16 you to sign or have you sign any deed or any other document.

17 (b) The contract required by this subsection survives delivery of any
18 instrument of conveyance of the residence in foreclosure and has no effect on persons
19 other than the parties to the contract.

20 **(4) CONTRACT CANCELLATION.** (a) In addition to any other right of rescission, the
21 foreclosed homeowner has the right to cancel any contract with a foreclosure
22 purchaser until midnight of the 5th business day following the day on which the
23 foreclosed homeowner signs a contract that complies with subs. (2) to (6) or until 8:00
24 a.m. on the last day of the period during which the foreclosed homeowner has a right
25 of redemption, whichever occurs first.

SENATE BILL 62**SECTION 851**

1 (b) Cancellation occurs when the foreclosed homeowner delivers to the
2 foreclosure purchaser, personally or by certified mail, a signed and dated written
3 notice of cancellation. The contract and notice of cancellation form under sub. (5) (b)
4 must contain a street or physical address to which notice of cancellation may be
5 mailed by certified mail or personally delivered. A post office box may be designated
6 for delivery by certified mail only if it is accompanied by a street or physical address
7 at which the notice may be personally delivered. If the notice of cancellation is
8 personally delivered, the foreclosure purchaser must provide a receipt to the
9 foreclosed homeowner. If cancellation is mailed by certified mail, delivery is effective
10 when the notice of cancellation is deposited in the U.S. mail. If cancellation is
11 personally delivered, delivery is effective when the notice of cancellation is handed
12 to the foreclosure purchaser.

13 (c) A notice of cancellation given by the foreclosed homeowner need not take the
14 particular form provided under sub. (5) (b).

15 (d) Within 10 days following receipt of a notice of cancellation given in
16 accordance with this subsection, the foreclosure purchaser shall return without
17 condition any original contract and any other documents signed by the foreclosed
18 homeowner.

19 **(5) NOTICE OF CANCELLATION.** (a) 1. The contract must contain conspicuously
20 and in immediate proximity to the space reserved for the foreclosed homeowner’s
21 signature, in not less than 14–point boldface type if the contract is printed or in
22 capital letters if the contract is typed, the following statement: “You may cancel this
23 contract for the sale of your house without any penalty or obligation at any time
24 before (date and time of day). See the attached notice of cancellation form for an
25 explanation of this right.”

SENATE BILL 62**SECTION 851**

1 2. The foreclosure purchaser shall accurately enter the date and time of day on
2 which the cancellation right ends.

3 (b) The contract must be accompanied by a completed form in duplicate,
4 captioned "NOTICE OF CANCELLATION" in 12-point boldface type if the contract is
5 printed or in capital letters if the contract is typed, followed by a space in which the
6 foreclosure purchaser shall enter the date on which the foreclosed homeowner
7 executes the contract. This form must be attached to the contract, must be easily
8 detachable, and must contain, in not less than 10-point type if the contract is printed
9 or in capital letters if the contract is typed, the following statement:

10 NOTICE OF CANCELLATION

11 (Enter date contract signed)

12 1. You may cancel this contract for the sale of your house, without any penalty
13 or obligation, at any time before (date and time of day).

14 2. To cancel this transaction, you may mail by certified mail or personally
15 deliver a signed and dated copy of this notice of cancellation to (name of purchaser)
16 at (street or physical address of purchaser's place of business) NOT LATER THAN
17 (date and time of day). If you personally deliver this notice of cancellation,
18 (name of purchaser) must give you a receipt.

19 3. I hereby cancel this transaction.

20 (Date)

21 (Seller's signature)

22 (c) The foreclosure purchaser shall provide the foreclosed homeowner with a
23 copy of the contract and the attached notice of cancellation form at the time the
24 contract is executed by all parties.

SENATE BILL 62**SECTION 851**

1 (d) The 5-day period under sub. (4) (a) during which the foreclosed homeowner
2 may cancel the contract does not begin to run until all parties to the contract have
3 executed the contract and the foreclosure purchaser has complied with this
4 subsection.

5 **(6) WAIVER.** Any waiver of the provisions of this section is void and
6 unenforceable as contrary to public policy, except that a foreclosed homeowner may
7 waive the 5-day right to cancel under sub. (4) (a) if the property is subject to a
8 foreclosure sale within the 5 business days and the foreclosed homeowner agrees to
9 waive his or her right to cancel in a handwritten statement signed by all parties
10 holding title to the foreclosed property.

11 **(7) LIABILITY.** Any provision in a contract entered into on or after the effective
12 date of this subsection [LRB inserts date], that attempts or purports to require
13 arbitration of any dispute arising under this section is void at the option of the
14 foreclosed homeowner.

15 **(8) GENERAL PROHIBITIONS AND REQUIREMENTS.** (a) A foreclosure purchaser may
16 not enter into, or attempt to enter into, a foreclosure reconveyance with a foreclosed
17 homeowner unless all of the following are satisfied:

18 1. The foreclosure purchaser verifies and can demonstrate that the foreclosed
19 homeowner has a reasonable ability to pay for the subsequent conveyance of an
20 interest back to the foreclosed homeowner. In the case of a lease with an option to
21 purchase, payment ability also includes the reasonable ability to make the lease
22 payments and purchase the property within the term of the option to purchase.
23 There is a rebuttable presumption that a foreclosed homeowner is reasonably able
24 to pay for the subsequent conveyance if the foreclosed homeowner's payments for
25 primary housing expenses and regular principal and interest payments on other

SENATE BILL 62**SECTION 851**

1 personal debt, on a monthly basis, do not exceed 60 percent of the foreclosed
2 homeowner's monthly gross income. There is a rebuttable presumption that the
3 foreclosure purchaser has not verified reasonable payment ability if the foreclosure
4 purchaser has not obtained documents other than a statement by the foreclosed
5 homeowner of assets, liabilities, and income.

6 2. The foreclosure purchaser and the foreclosed homeowner complete a closing
7 for any foreclosure reconveyance in which the foreclosure purchaser obtains a deed
8 or mortgage from a foreclosed homeowner.

9 3. The foreclosure purchaser obtains the written consent of the foreclosed
10 homeowner to a grant by the foreclosure purchaser of any interest in the property
11 during such times as the foreclosed homeowner maintains any interest in the
12 property.

13 (b) A foreclosure purchaser shall do either of the following:

14 1. Ensure that title to the subject dwelling has been reconveyed to the
15 foreclosed homeowner.

16 2. Make a payment to the foreclosed homeowner such that the foreclosed
17 homeowner has received consideration in an amount of at least 82 percent of the fair
18 market value of the property within 150 days after either the eviction of, or voluntary
19 relinquishment of possession of the dwelling by, the foreclosed homeowner. The
20 foreclosure purchaser shall make a detailed accounting of the basis for the payment
21 amount, or a detailed accounting of the reasons for failure to make a payment,
22 including providing written documentation of expenses, within this 150-day period.
23 The accounting shall be on a form prescribed by the attorney general, in consultation
24 with the secretary of agriculture, trade and consumer protection. For purposes of
25 this subdivision, all of the following apply:

SENATE BILL 62**SECTION 851**

1 a. There is a rebuttable presumption that an appraisal by a person licensed or
2 certified by an agency of the federal government or this state to appraise real estate
3 constitutes the fair market value of the property.

4 b. The time for determining the fair market value amount shall be specified in
5 the foreclosure reconveyance contract as either at the time of the execution of the
6 foreclosure reconveyance contract or at resale. If the contract states that the fair
7 market value shall be determined at the time of resale, the fair market value shall
8 be the resale price if it is sold within 120 days after the eviction of, or voluntary
9 relinquishment of the property by, the foreclosed homeowner. If the contract states
10 that the fair market value shall be determined at the time of resale, and the resale
11 is not completed within 120 days after the eviction of, or voluntary relinquishment
12 of the property by, the foreclosed homeowner, the fair market value shall be
13 determined by an appraisal conducted during this 120-day period and payment, if
14 required, shall be made to the foreclosed homeowner, but the fair market value shall
15 be recalculated as the resale price on resale and an additional payment amount, if
16 appropriate based on the resale price, shall be made to the foreclosed homeowner
17 within 15 days after resale, and a detailed accounting of the basis for the payment
18 amount, or a detailed accounting of the reasons for failure to make additional
19 payment, shall be made within 15 days after resale, including providing written
20 documentation of expenses. The accounting shall be on a form prescribed by the
21 attorney general, in consultation with the secretary of agriculture, trade and
22 consumer protection.

23 c. “Consideration” means any payment or thing of value provided to the
24 foreclosed homeowner, including unpaid rent or land contract payments owed by the
25 foreclosed homeowner prior to the date of eviction or voluntary relinquishment of the

SENATE BILL 62**SECTION 851**

1 property, reasonable costs paid to 3rd parties necessary to complete the foreclosure
2 reconveyance transaction, payment of money to satisfy a debt or legal obligation of
3 the foreclosed homeowner, the reasonable cost of repairs for damage to the dwelling
4 caused by the foreclosed homeowner, or a penalty imposed by a court for the filing
5 of a frivolous claim in an eviction action under sub. (9). "Consideration" does not
6 include amounts imputed as a down payment or fee to the foreclosure purchaser, or
7 a person acting in participation with the foreclosure purchaser, incident to a land
8 contract, lease, or option to purchase entered into as part of the foreclosure
9 reconveyance, except for reasonable costs paid to 3rd parties necessary to complete
10 the foreclosure reconveyance.

11 (c) A foreclosure purchaser may not enter into repurchase or lease terms as part
12 of the subsequent conveyance that are unfair or commercially unreasonable, or
13 engage in any other unfair conduct.

14 (d) A foreclosure purchaser may not represent, directly or indirectly, any of the
15 following:

16 1. That the foreclosure purchaser is acting as an advisor or consultant, or in any
17 other manner represent that the foreclosure purchaser is acting on behalf of the
18 foreclosed homeowner.

19 2. That the foreclosure purchaser has certification or licensure that the
20 foreclosure purchaser does not have, or that the foreclosure purchaser is not a
21 member of a licensed profession if that is untrue.

22 3. That the foreclosure purchaser is assisting the foreclosed homeowner to save
23 the house, or a substantially similar phrase.

SENATE BILL 62**SECTION 851**

1 4. That the foreclosure purchaser is assisting the foreclosed homeowner in
2 preventing a completed foreclosure if the result of the transaction is that the
3 foreclosed homeowner will not complete a redemption of the property.

4 (e) A foreclosure purchaser may not make any other statements, directly or by
5 implication, or engage in any other conduct that is false, deceptive, or misleading,
6 or that has the likelihood to cause confusion or misunderstanding, including
7 statements regarding the value of the residence in foreclosure, the amount of
8 proceeds the foreclosed homeowner will receive after a foreclosure sale, any contract
9 term, or the foreclosed homeowner's rights or obligations incident to or arising out
10 of the foreclosure reconveyance.

11 (f) Until the time during which the foreclosed homeowner may cancel the
12 transaction has fully elapsed, a foreclosure purchaser may not do any of the
13 following:

14 1. Accept from the foreclosed homeowner an execution of, or induce the
15 foreclosed homeowner to execute, any instrument of conveyance of any interest in the
16 residence in foreclosure.

17 2. Record or file with the register of deeds any document, including any
18 instrument of conveyance, signed by the foreclosed homeowner.

19 3. Transfer or encumber or purport to transfer or encumber any interest in the
20 residence in foreclosure to any 3rd party, provided no grant of any interest or
21 encumbrance is defeated or affected as against a bona fide purchaser or
22 encumbrance for value and without notice of a violation of this subdivision.
23 Knowledge on the part of any such person or entity that the property was residential
24 real property in foreclosure does not constitute notice of a violation of this

SENATE BILL 62**SECTION 851**

1 subdivision. This subdivision does not abrogate any duty of inquiry that exists as to
2 rights or interests of persons in possession of the residence in foreclosure.

3 4. Pay the foreclosed homeowner any consideration.

4 (g) If a foreclosure purchaser extends credit to, or arranges for credit to be
5 extended to, the foreclosed homeowner, the foreclosure purchaser or other person
6 with whom the foreclosure purchaser has arranged for the extension of credit shall
7 comply with all requirements specified in Regulation Z under the federal Truth in
8 Lending Act, 12 CFR 226, that apply to a creditor, as defined in 12 CFR 226.2 (a) (17)
9 (i), in a residential mortgage transaction, as defined in 12 CFR 226.2 (24), regardless
10 of whether the foreclosure purchaser or other person extending credit actually meets
11 the definition of a creditor under 12 CFR 226.2 (a) (17) (i).

12 **(9) STAY OF PROCEEDINGS IN EVICTION ACTIONS.** (a) A court hearing an eviction
13 action against a foreclosed homeowner shall stay the proceedings, without the
14 imposition of a bond, if a defendant makes a prima facie showing of all of the
15 following:

16 1. That any of the following applies to the defendant:

17 a. The defendant has commenced an action concerning a foreclosure
18 reconveyance with respect to the property that is the subject of the eviction action.

19 b. The defendant asserts, in connection with a foreclosure reconveyance, any
20 violation of this section or a claim or affirmative defense of fraud, false pretense, false
21 promise, misrepresentation, misleading statement, or deceptive practice.

22 2. That the defendant owned the foreclosed residence.

23 3. That the defendant conveyed title to the foreclosed residence to a 3rd party
24 upon a promise that the defendant would be allowed to occupy the foreclosed
25 residence or other real property in which the foreclosure purchaser or a person acting

SENATE BILL 62**SECTION 851**

1 in participation with the foreclosure purchaser has an interest and that the
2 foreclosed residence or other real property would be the subject of a foreclosure
3 reconveyance.

4 4. That since the conveyance to the 3rd party, the defendant has continuously
5 occupied the foreclosed residence or other real property in which the foreclosure
6 purchaser or a person acting in participation with the foreclosure purchaser has an
7 interest.

8 (b) For purposes of par. (a), notarized affidavits are acceptable means of proof
9 for meeting the defendant's burden of proof. A defendant may request, and upon a
10 showing of good cause the court may grant, up to an additional 2 weeks to produce
11 evidence to make the prima facie showing required under par. (a).

12 (c) The stay under this subsection shall remain in effect for 90 days if the
13 defendant has not yet commenced and does not commence, within 90 days from the
14 issuance of the stay, an action in connection with a foreclosure reconveyance
15 transaction. If the defendant has commenced, or commences within 90 days from the
16 issuance of the stay, an action in connection with a foreclosure reconveyance
17 transaction, the stay shall remain in effect until the court hearing the action related
18 to the foreclosure reconveyance renders a final decision in the matter.

19 **(10) ENFORCEMENT.** (a) A violation of this section shall be considered a fraud.

20 (b) A foreclosed homeowner against whom a violation of this section is
21 committed may bring an action for damages.

22 (c) A court may order punitive damages under s. 895.043 for a violation of this
23 section.

24 (d) 1. A foreclosure purchaser who violates this section by engaging in any
25 practice that would operate as a fraud or deceit upon a foreclosed homeowner may

SENATE BILL 62**SECTION 851**

1 be fined not more than \$50,000 or imprisoned for not more than one year in the
2 county jail or both.

3 2. In the absence of additional misconduct, a failure of the parties to complete
4 a foreclosure reconveyance transaction shall not subject a foreclosure purchaser to
5 the criminal penalties under subd. 1.

6 **SECTION 852.** 846.45 of the statutes is created to read:

7 **846.45 Regulation of foreclosure consultants. (1) DEFINITIONS.** In this
8 section, unless the context requires otherwise:

9 (a) "Contract" means an agreement, or any term in an agreement, between a
10 foreclosure consultant and a foreclosed homeowner for the rendition of any service.

11 (b) "Foreclosed homeowner" has the meaning given in s. 846.40 (1) (b).

12 (c) 1. Except as provided in subd. 2., "foreclosure consultant" means a person
13 who, directly or indirectly, makes a solicitation, representation, or offer to a
14 foreclosed homeowner to perform for compensation, or who for compensation
15 performs, any service that the person in any manner represents will in any manner
16 do any of the following:

17 a. Stop or postpone the foreclosure sale.

18 b. Obtain any forbearance from a beneficiary or mortgagee.

19 c. Obtain a waiver of an acceleration clause contained in a promissory note or
20 contract secured by a mortgage on the residence in foreclosure or contained in the
21 mortgage.

22 d. Assist the foreclosed homeowner to obtain a loan or advance of funds.

23 e. Avoid or ameliorate the impairment of the foreclosed homeowner's credit
24 resulting from the recording of a lis pendens or the conduct of a foreclosure sale.

25 f. Save the residence in foreclosure from foreclosure.

SENATE BILL 62**SECTION 852**

1 2. “Foreclosure consultant” does not include any of the following:

2 a. A person licensed to practice law in this state when the person renders
3 service in the course of his or her practice as an attorney at law.

4 b. A person licensed as a real estate broker or salesperson under ch. 452 when
5 the person engages in acts for which licensure under that chapter is required, unless
6 the person is engaged in offering services designed to, or purportedly designed to,
7 enable the foreclosed homeowner to retain possession of the residence in foreclosure.

8 c. A person certified or licensed to practice as a certified public accountant
9 under ch. 442 when the person is acting in any capacity for which the person is
10 certified or licensed under that chapter.

11 d. A person, or the person’s authorized agent, acting under the express
12 authority or written approval of the department of housing and urban development
13 or other department or agency of the United States or this state to provide services.

14 e. A person who holds or is owed an obligation secured by a lien on any residence
15 in foreclosure when the person performs services in connection with this obligation
16 or lien if the obligation or lien did not arise as the result of or as part of a proposed
17 foreclosure reconveyance.

18 f. A person or entity doing business under any law of this state, or of the United
19 States, relating to a financial institution, as defined in s. 214.01 (1) (jn), to a lender
20 licensed under s. 138.09, to an insurance company, or to a mortgagee that is a federal
21 department of housing and urban development approved mortgagee; a subsidiary or
22 affiliate of any of these persons or entities; or an agent or employee of any of these
23 persons or entities while engaged in the business of these persons or entities.

24 g. A person registered under s. 224.72 as a mortgage banker, loan originator,
25 or mortgage broker, when acting under the authority of that registration.

SENATE BILL 62

1 h. A judgment creditor of the foreclosed homeowner, to the extent that the
2 judgment creditor's claim accrued prior to the recording of the lis pendens in the
3 foreclosure action.

4 i. A foreclosure purchaser.

5 j. An adjustment service company licensed under s. 218.02, but only when
6 engaged in business unrelated to real estate.

7 (d) "Foreclosure purchaser" has the meaning given in s. 846.40 (1) (c).

8 (e) "Foreclosure reconveyance" has the meaning given in s. 846.40 (1) (d).

9 (f) "Person" means any individual, partnership, corporation, limited liability
10 company, association, or other group, however organized.

11 (g) "Residence in foreclosure" has the meaning given in s. 846.40 (1) (h).

12 (h) "Service" includes any of the following:

13 1. Debt, budget, or financial counseling of any type.

14 2. Receiving money for the purpose of distributing it to creditors in payment
15 or partial payment of any obligation secured by a lien on a residence in foreclosure.

16 3. Contacting creditors on behalf of a foreclosed homeowner.

17 4. Arranging or attempting to arrange for a delay or postponement of the time
18 of sale of the residence in foreclosure.

19 5. Advising the filing of any document, or assisting in any manner in the
20 preparation of any document for filing, with a bankruptcy court.

21 6. Giving any advice, explanation, or instruction to a foreclosed homeowner
22 that in any manner relates to curing a default in or reinstating an obligation secured
23 by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the
24 postponement or avoidance of a sale of a residence in foreclosure, under a power of
25 sale contained in any mortgage.

SENATE BILL 62**SECTION 852**

1 **(2) CANCELLATION OF FORECLOSURE CONSULTANT CONTRACT.** (a) In addition to any
2 other right under law to rescind a contract, a foreclosed homeowner has the right to
3 cancel a contract until midnight of the 3rd business day after the day on which the
4 foreclosed homeowner signs a contract that complies with sub. (3).

5 (b) 1. Cancellation occurs when the foreclosed homeowner delivers, personally
6 or by certified mail, written notice of cancellation to the foreclosure consultant at the
7 foreclosure consultant's address specified in the contract.

8 2. If notice of cancellation is given by certified mail, cancellation is effective
9 when the notice is deposited in the U.S. mail, properly addressed with postage
10 prepaid. If notice of cancellation is personally delivered, the foreclosure consultant
11 must give the foreclosed homeowner a receipt. Cancellation, if personally delivered,
12 is effective when the foreclosed homeowner hands the notice to the foreclosure
13 consultant.

14 (c) Notice of cancellation given by the foreclosed homeowner need not take the
15 particular form provided with the contract under sub. (3) (e). However expressed,
16 notice is effective if it indicates the intention of the foreclosed homeowner not to be
17 bound by the contract.

18 **(3) CONTRACT.** (a) Every contract must be in writing and must fully disclose
19 the exact nature of the foreclosure consultant's services and the total amount and
20 terms of compensation.

21 (b) The following notice, printed in not less than 14-point boldface type and
22 completed with the name of the foreclosure consultant, must be printed immediately
23 above the statement required by par. (c):

24 **NOTICE REQUIRED BY WISCONSIN LAW**

SENATE BILL 62

1 (name of foreclosure consultant) or anyone working for him or her CANNOT
2 do any of the following:

3 1. Take any money from you or ask you for money until (name of foreclosure
4 consultant) has completely finished doing everything he or she said he or she would
5 do.

6 2. Ask you to sign or have you sign any lien, mortgage, or deed.

7 (c) The contract must be written both in English and in the same language as
8 principally used by the foreclosure consultant to describe his or her services or to
9 negotiate the contract if other than English, must be dated and signed by the
10 foreclosed homeowner, and must contain in immediate proximity to the space
11 reserved for the foreclosed homeowner's signature, in not less than 10-point boldface
12 type, the following statement: "You, the owner, may cancel this transaction at any
13 time prior to midnight of the 3rd business day after the date of this transaction. See
14 the attached notice of cancellation form for an explanation of this right."

15 (d) The notice of cancellation form under par. (e) must contain, and the contract
16 must contain on the first page, in a type size that is no smaller than that generally
17 used in the body of the document, both of the following:

18 1. The name and street or physical address of the foreclosure consultant to
19 which the notice of cancellation is to be mailed by certified mail or personally
20 delivered. A post office box does not constitute a physical address. A post office box
21 may be designated for delivery by certified mail only if it is accompanied by a street
22 or physical address at which the notice may be personally delivered.

23 2. The date the foreclosed homeowner signed the contract.

24 (e) The contract must be accompanied by a completed form in duplicate,
25 captioned "NOTICE OF CANCELLATION." This form must be attached to the contract,

SENATE BILL 62**SECTION 852**

1 must be easily detachable, and must contain, in not less than 10-point type and
2 written in the same language or languages as used in the contract, the following
3 statement:

4 NOTICE OF CANCELLATION

5 (Enter date of transaction)

6 1. You may cancel this transaction, without any penalty or obligation, within
7 3 business days from the above date.

8 2. To cancel this transaction, you may either mail by certified mail or personally
9 deliver a signed and dated copy of this notice of cancellation, or any other written
10 notice of cancellation, to (name of foreclosure consultant) at (street or physical
11 address of foreclosure consultant's place of business) NOT LATER THAN
12 MIDNIGHT OF (date). If you personally deliver a notice of cancellation, (name
13 of foreclosure consultant) must give you a receipt.

14 3. I hereby cancel this transaction.

15 (Date)

16 (Owner's signature)

17 (f) The foreclosure consultant shall provide the foreclosed homeowner with a
18 copy of the contract and the attached notice of cancellation immediately upon
19 execution of the contract.

20 (g) The 3 business days during which the foreclosed homeowner may cancel the
21 contract shall not begin to run until the foreclosure consultant has complied with this
22 subsection.

23 **(4) VIOLATIONS.** It is a violation of this section for a foreclosure consultant to
24 do any of the following:

SENATE BILL 62

1 (a) Claim, demand, charge, collect, or receive any compensation until after the
2 foreclosure consultant has fully performed each and every service the foreclosure
3 consultant contracted to perform or represented that he or she would perform.

4 (b) Claim, demand, charge, collect, or receive any fee, interest, or any other
5 compensation for any reason that exceeds 8 percent per year of the amount of any
6 loan that the foreclosure consultant may make to the foreclosed homeowner. Any
7 loan may not, as provided in par. (c), be secured by the residence in foreclosure or any
8 other real or personal property.

9 (c) Take a wage assignment, a lien of any type on real or personal property, or
10 any other security to secure the payment of compensation. Any security taken to
11 secure the payment of compensation is void and unenforceable.

12 (d) Receive any consideration from any 3rd party in connection with services
13 rendered to a foreclosed homeowner unless the consideration is first fully disclosed
14 to the foreclosed homeowner.

15 (e) Acquire any interest, directly or indirectly or by means of a subsidiary or
16 affiliate, in a residence in foreclosure from a foreclosed homeowner with whom the
17 foreclosure consultant has contracted.

18 (f) Except as otherwise provided by law, take any power of attorney from a
19 foreclosed homeowner for any purpose.

20 (g) Induce or attempt to induce any foreclosed homeowner to enter into a
21 contract that does not comply in all respects with subs. (2) and (3).

22 (h) Fail to give a receipt to a foreclosed homeowner if the foreclosed homeowner
23 personally delivers timely written notice of cancellation of a contract under sub. (2)

24 (b).

SENATE BILL 62**SECTION 852**

1 **(5) WAIVER NOT ALLOWED.** Any waiver by a foreclosed homeowner of this section
2 or of a foreclosed homeowner’s rights under this section is void and unenforceable as
3 contrary to public policy. Any attempt by a foreclosure consultant to induce a
4 foreclosed homeowner to waive the foreclosed homeowner’s rights is a violation of
5 this section.

6 **(6) PENALTIES AND REMEDIES.** (a) The department of agriculture, trade and
7 consumer protection may investigate violations of this section under ss. 93.14 and
8 93.15.

9 (b) Any person suffering a pecuniary loss because of a violation of this section
10 may commence an action against the violator. If the court determines that the person
11 suffered a pecuniary loss because of the violation, the court shall award the person
12 twice the amount of the pecuniary loss or \$200, whichever is greater, for each
13 violation, together with costs and, notwithstanding s. 814.04 (1), reasonable attorney
14 fees.

15 (c) The department of agriculture, trade and consumer protection may
16 commence an action to restrain a violation of this section. In addition to providing
17 any equitable relief, the court may award any person who suffered a pecuniary loss
18 because of the violation twice the amount of the pecuniary loss or \$200, whichever
19 is greater, for each violation.

20 (d) The department of agriculture, trade and consumer protection or the
21 district attorney may commence an action to recover a forfeiture of not less than \$100
22 nor more than \$10,000 for a violation of this section.

23 (e) Whoever violates this section may be fined not less than \$25 nor more than
24 \$10,000 or imprisoned for not more than one year in the county jail, or both.

SENATE BILL 62

1 **(7) CONTRACT PROVISION FOR ARBITRATION VOIDABLE.** Any provision in a contract
2 entered into on or after the effective date of this subsection [LRB inserts date],
3 that attempts or purports to require arbitration of any dispute arising under this
4 section is voidable at the option of the foreclosed homeowner.

5 **(8) STATUTORY CONFLICTS RELATED TO ADJUSTMENT SERVICE COMPANIES.** To the
6 extent that any provision of this section is inconsistent with s. 218.02 with respect
7 to a foreclosure consultant that is licensed under s. 218.02 and engages in
8 adjustment service company business related to real estate, the provisions of this
9 section shall supersede any conflicting provision of s. 218.02.

10 **SECTION 853.** 943.62 (2m) of the statutes is amended to read:

11 943.62 **(2m)** This section does not apply to a savings and loan association,
12 credit union, bank, savings bank, or a mortgage banker, mortgage loan originator,
13 or mortgage broker ~~registered~~ licensed under s. 224.72 or 224.725.

14 **SECTION 9110. Nonstatutory provisions; Commerce.**

15 **(1) TENANT RESOURCE CENTER GRANT.** In fiscal year 2008-09, the department of
16 commerce shall award to the Tenant Resource Center in Madison from the
17 appropriation under section 20.143 (2) (b) of the statutes, as affected by this act, a
18 grant not to exceed \$200,000, for providing foreclosure education and assistance to
19 tenants throughout the state.

20 **(2) WISCONSIN REGIONAL TRAINING PARTNERSHIP/BUILDING INDUSTRY GROUP SKILLED**
21 **TRADES EMPLOYMENT PROGRAM.** In fiscal year 2008-09, from the appropriation account
22 under section 20.143 (1) (c) of the statutes, as affected by this act, the department of
23 commerce shall award \$1,000,000 in grant moneys to expand the Wisconsin Regional
24 Training Partnership/Building Industry Group Skilled Trades Employment
25 Program if, as a condition of receiving the award, the Wisconsin Regional Training

SENATE BILL 62**SECTION 9110**

1 Partnership/Building Industry Group Skilled Trades Employment Program enters
2 into a contract with the department that specifies permissible uses of the grant
3 moneys and that requires the Wisconsin Regional Training Partnership/Building
4 Industry Group Skilled Trades Employment Program to comply with the reporting
5 and accountability measures established by the department by rule under section
6 560.01 (2) (ae) 3., 6., and 7. of the statutes.

7 (3) GRANTS TO ORGANIZATIONS IN SPECIFIC BUILDING TRADES FOR GREEN JOB TRAINING
8 AND RETRAINING.

9 (a) *Grants.* Subject to paragraph (b), in fiscal year 2008–09, from the
10 appropriation account under section 20.143 (1) (c) of the statutes, as affected by this
11 act, the department of commerce shall distribute all of the following grants:

12 1. Painters and Allied Trades, District Council 7; Leadership in Energy and
13 Efficiency Design certification. A grant of \$150,000 to Painters and Allied Trades,
14 District Council 7, to train workers in the construction industry on the Leadership
15 in Energy and Efficiency Design certification process so that the workers will
16 understand green building practices, principles, and certification requirements and
17 be qualified to bid on green building projects.

18 2. Painters and Allied Trades, District Council 7; National Association of
19 Corrosion Engineers, International, and the Society for Protective Coatings
20 certification. A grant of \$175,000 to Painters and Allied Trades, District Council 7,
21 to certify individuals to provide instruction to workers in the construction industry
22 on standards established by the National Association of Corrosion Engineers,
23 International, and by the Society for Protective Coatings so that workers are trained
24 for remediation services such as lead paint abatement on bridges and overpasses.

SENATE BILL 62**SECTION 9110**

1 3. Wisconsin State Council of Carpenters; alternative energy systems
2 installation. A grant of \$175,000 to the Wisconsin State Council of Carpenters to
3 train carpenters in the installation of windmills and other alternative energy
4 systems.

5 4. Wisconsin State Council of Carpenters; sustainable green building practices.
6 A grant of \$72,000 to the Wisconsin State Council of Carpenters to train carpenters
7 in sustainable green building practices.

8 5. Wisconsin Pipe Trades Association, Local 75; mobile worker training facility.
9 A grant of \$248,000 to the Wisconsin Pipe Trades Association, Local 75, to build,
10 using green building practices, a mobile training facility to be used in connection
11 with training programs for workers in the pipe trades. Training programs shall be
12 provided across the state and on new building codes, environmentally sound
13 construction practices, and new initiatives for green construction.

14 6. Wisconsin Laborers' District Council. A grant of \$265,000 to the Wisconsin
15 Laborers' District Council. The grant moneys awarded under this subdivision shall
16 be used as follows:

17 a. A grant of \$132,000 to provide safety instruction under guidelines
18 established by the occupational safety and health administration in the federal
19 department of labor to new workers hired to meet labor demand for incoming federal
20 stimulus or other projects.

21 b. A grant of \$80,000 to provide training to workers on proper handling of
22 hazardous wastes while conducting site reclamation on brownfields.

23 c. A grant of \$53,000 to provide training on proper methods for removing
24 asbestos to workers hired to meet labor demands for incoming federal stimulus or
25 other projects.

SENATE BILL 62**SECTION 9110**

1 7. Wisconsin Operating Engineers; geothermal energy and wind energy
2 technologies. A grant of \$275,000 to the Wisconsin Operating Engineers to train
3 workers in the construction of geothermal energy and wind energy systems.

4 8. International Brotherhood of Electrical Workers; solar electricity
5 installation. A grant of \$210,000 to the International Brotherhood of Electrical
6 Workers to purchase equipment for three laboratories to be established in the state
7 for training workers in the installation of solar electricity systems.

8 9. International Brotherhood of Electrical Workers; solar electricity
9 installation. A grant of \$60,000 to the International Brotherhood of Electrical
10 Workers for instructor training and start-up costs in connection with the
11 laboratories described in subdivision 8.

12 (b) *Conditions for receiving a grant.* The department of commerce may not
13 award a grant to an organization under this subsection unless the organization, as
14 a condition of receiving the grant moneys, enters into a contract with the department
15 that specifies permissible uses of the grant moneys and that requires the
16 organization to comply with the reporting and accountability measures established
17 by the department by rule under section 560.01 (2) (ae) 3., 6., and 7. of the statutes.

18 (4) DEVELOPMENT ZONE TAX BENEFIT CONSOLIDATION; EMERGENCY RULES. The
19 department of commerce may use the procedure under section 227.24 of the statutes
20 to promulgate rules under section 560.706 (2) of the statutes, as created by this act.
21 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
22 promulgated under this subsection remain in effect until July 1, 2010, or the date on
23 which permanent rules take effect, whichever is sooner. Notwithstanding section
24 227.24 (1) (a) and (3) of the statutes, the department is not required to provide
25 evidence that promulgating a rule under this subsection as an emergency rule is

SENATE BILL 62**SECTION 9110**

1 necessary for the preservation of the public peace, health, safety, or welfare and is
2 not required to provide a finding of emergency for a rule promulgated under this
3 subsection.

4 (5) DEVELOPMENT ZONE TAX BENEFIT CONSOLIDATION; ECONOMIC IMPACT REPORT.
5 Notwithstanding sections 227.137 (2) and 227.138 (2) of the statutes, if the secretary
6 of administration requires the department of commerce to prepare an economic
7 impact report for the rules required under section 560.706 (2) of the statutes, as
8 created by this act, the department may submit the proposed rules to the legislature
9 for review under section 227.19 (2) of the statutes before the department completes
10 the economic impact report and before the department receives a copy of the report
11 and approval under section 227.138 (2) of the statutes.

12 **SECTION 9117. Nonstatutory provisions; Financial Institutions.**

13 (1) MORTGAGE LOAN ORIGINATORS, MORTGAGE BROKERS, AND MORTGAGE BANKERS.

14 (a) In this subsection, "division" means the division of banking in the
15 department of financial institutions.

16 (b) Notwithstanding any other provision of subchapter III of chapter 224 of the
17 statutes, as affected by this act, the division shall, by rule, institute any system of
18 initial license issuance or license renewal that it deems advisable for the purpose of
19 implementing an orderly and efficient transition from the registration system under
20 subchapter III of chapter 224, 2007 stats., to the license system under subchapter III
21 of chapter 224 of the statutes, as affected by this act. A transition system adopted
22 under this paragraph may include the requirement that registrants under section
23 224.72, 2007 stats., apply for a license under section 224.72 of the statutes, as
24 affected by this act, or under section 224.725 of the statutes, as created by this act,
25 and pay any applicable fees, before the scheduled expiration of the registration

SENATE BILL 62**SECTION 9117**

1 period under section 224.72, 2007 stats. A transition system adopted under this
2 paragraph may also provide for the initial issuance of licenses under section 224.72
3 of the statutes, as affected by this act, and under section 224.725 of the statutes, as
4 created by this act, that are valid for an initial period that is greater or less than the
5 ordinary valid period of such licenses. If a transition system adopted under this
6 paragraph results in a shorter registration or license period than that which would
7 ordinarily be applicable, the division shall prorate or rebate fees corresponding to the
8 unused or unexpired portion of the ordinarily applicable registration or license
9 period. For previously registered or licensed individuals the division may establish
10 under the transition system expedited review and licensing procedures.

11 (c) The division shall submit in proposed form the rules required under
12 paragraph (b) to the legislative council staff under section 227.15 (1) of the statutes
13 no later than 60 days after the effective date of this paragraph.

14 (d) Using the emergency rules procedure under section 227.24 of the statutes,
15 the division shall promulgate the rules required under paragraph (b) for the period
16 before the effective date of the rules submitted under paragraph (c). The division
17 shall promulgate these emergency rules no later than 60 days after the effective date
18 of this paragraph. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,
19 these emergency rules may remain in effect until July 1, 2011, or the date on which
20 permanent rules take effect, whichever is sooner. Notwithstanding section 227.24
21 (1) (a) and (3) of the statutes, the division is not required to provide evidence that
22 promulgating a rule under this paragraph as an emergency rule is necessary for the
23 preservation of the public peace, health, safety, or welfare and is not required to
24 provide a finding of emergency for a rule promulgated under this paragraph.

SECTION 9122. Nonstatutory provisions; Health Services.

SENATE BILL 62**SECTION 9122**

1 (1) HOSPITAL ASSESSMENT.

2 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (4) of the
3 statutes, as created by this act, hospitals shall pay the assessment for state fiscal
4 year 2008-09 that is required under section 50.38 (2) of the statutes, as created by
5 this act, in 2 equal amounts. Hospitals shall make the first payment by March 31,
6 2009, or 10 days after the effective date of this paragraph, whichever is later.
7 Hospitals shall make the 2nd payment by June 30, 2009. At the discretion of the
8 department of health services, a hospital that is unable timely to make a payment
9 by a date specified under this paragraph may be allowed to make a delayed payment.
10 A determination by the department that a hospital may not make a delayed payment
11 under this paragraph is final and is not subject to review under chapter 227 of the
12 statutes.

13 (b) *Medical Assistance fee-for-service schedule used as basis for managed care*
14 *reimbursement.* The department of health services shall present the inpatient and
15 outpatient hospital diagnosis related groupings rate schedule established by the
16 department for state fiscal year 2007-08 to health maintenance organizations and
17 hospitals as the applicable schedule for reimbursement rates under agreements
18 between health maintenance organizations and hospitals that reference the
19 fee-for-service schedule to establish the rates that health maintenance
20 organizations shall reimburse hospitals for services provided to recipients of the
21 Medical Assistance Program under subchapter IV of chapter 49 of the statutes in
22 state fiscal year 2008-09.

23 (c) *Reconciliation of 2008-09 expenses.*

SENATE BILL 62**SECTION 9122**

1 1. Notwithstanding the deadline under section 50.38 (6) (b) of the statutes, as
2 created by this act, for state fiscal year 2008–09, the department shall make the
3 refunds required under section 50.38 (6) (b), by December 31, 2009.

4 2. Notwithstanding section 20.001 (3) (a) of the statutes, the unencumbered
5 balance in the appropriation under section 20.435 (4) (xc) of the statutes does not
6 revert to the hospital assessment fund at the end of state fiscal year 2008–09; and
7 the department of health services may expend in state fiscal year 2009–10 this
8 amount in addition to the amounts in the schedule under section 20.005 (3) of the
9 statutes for the appropriation under section 20.435 (4) (xc) of the statutes for state
10 fiscal year 2009–10.

11 (d) *Independent rural hospital supplement.* In state fiscal year 2008–09, from
12 the appropriation account under section 20.435 (4) (b) and (o) of the statutes, the
13 department of health services shall pay independent, rural, hospitals that are in
14 counties that border another state and that are not critical access hospitals one of the
15 following amounts:

16 1. If the percentage of the hospital’s gross patient revenue that is attributable
17 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
18 is less than 7 percent, \$250,000.

19 2. If the percentage of the hospital’s gross patient revenue that is attributable
20 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
21 is equal to or greater than 7 percent, \$500,000.

22 (e) *Budgeting practices.* This act does not affect any requirements under
23 section 16.46 of the statutes. The departments of administration and health services
24 shall review, reestimate, and request general purpose revenue for hospital payments

SENATE BILL 62**SECTION 9122**

1 under the Medical Assistance Program under subchapter IV of chapter 49 of the
2 statutes as needed.

3 **SECTION 9131. Nonstatutory provisions; Legislature.**

4 (1) LEGISLATIVE OVERSIGHT OF FEDERAL ECONOMIC STIMULUS FUNDS.

5 (a) *Definition.* In this subsection, “federal economic stimulus funds” means
6 federal moneys received by the state beginning on the effective date of this subsection
7 and ending on June 30, 2011, pursuant to federal legislation enacted during the
8 111th Congress for the purpose of reviving the economy of the United States.

9 (b) *Expenditure of federal economic stimulus funds for purposes other than*
10 *transportation.* As soon as practical after the receipt of any federal economic
11 stimulus funds, the governor shall submit to the joint committee on finance a plan
12 or plans for the expenditure of the federal economic stimulus funds for all purposes,
13 other than transportation purposes. After receiving the plan or plans, the
14 cochairpersons of the joint committee on finance may direct the governor to
15 implement the plan or plans. In lieu of directing the governor to implement the plan
16 or plans, the cochairpersons shall convene a meeting of the joint committee on
17 finance within 14 days after the plan or plans are submitted to either approve or
18 modify and approve the plan or plans. The governor shall then implement the plan
19 or plans as approved by the committee. This paragraph shall not apply to federal
20 economic stimulus funds the expenditure of which is contained in any bill introduced
21 in either house of the legislature at the request of the governor.

22 (c) *Expenditure of federal economic stimulus funds for transportation purposes.*
23 As soon as practical after the receipt of any federal economic stimulus funds, the
24 governor shall submit to the joint committee on finance a plan or plans for the
25 expenditure of the federal economic stimulus funds for transportation purposes.

SENATE BILL 62**SECTION 9131**

1 After receiving the plan or plans, the cochairpersons of the joint committee on
2 finance may direct the governor to implement the plan or plans. In lieu of directing
3 the governor to implement the plan or plans, the cochairpersons shall convene a
4 meeting of the joint committee on finance within 14 days after the plan or plans are
5 submitted to either approve or modify and approve the plan or plans. The governor
6 shall then implement the plan or plans as approved by the committee. This
7 paragraph shall not apply to federal economic stimulus funds the expenditure of
8 which is contained in any bill introduced in either house of the legislature at the
9 request of the governor, including federal economic stimulus funds specified in
10 SECTION 9150 (1) (b) 1.

11 (d) *Revised plan.* If for any reason a project specified in a plan under paragraph
12 (b) or (c) cannot be completed on a timely basis, or if federal economic stimulus funds
13 cannot be expended as proposed in the plan, the governor shall submit a revised plan
14 to the cochairpersons of the joint committee on finance. The revised plan may only
15 be implemented if approved by the joint committee on finance using the procedure
16 under paragraph (b) or (c), whichever is applicable.

17 (e) *State building program enumeration.* If any state building, structure, or
18 facility is proposed to be designed or constructed, if any existing state building,
19 structure, or facility is proposed to be repaired, remodeled, or improved, or if land is
20 proposed to be acquired by the state for any such construction, repair, remodeling,
21 or improvement, and the design, construction, repair, remodeling, improvement, or
22 acquisition is proposed to be financed entirely with federal economic stimulus funds,
23 the project, if approved as part of a plan under paragraph (b), is not subject to
24 enumeration as required by section 20.924 of the statutes.

SENATE BILL 62**SECTION 9131**

1 (2) REQUIRED GENERAL FUND STRUCTURAL BALANCE. Section 20.003 (4) (fv) and
2 (4m) of the statutes shall not apply to the 2008-09 fiscal year.

3 **SECTION 9150. Nonstatutory provisions; Transportation.**

4 (1) PROJECTS ADVANCED BY CERTAIN FEDERAL ECONOMIC STIMULUS FUNDS.

5 (a) *Definition.* In this subsection, “federal economic stimulus funds” means
6 federal moneys received by the state beginning on the effective date of this paragraph
7 and ending on June 30, 2011, pursuant to federal legislation enacted during the
8 111th Congress for the purpose of reviving the economy of the United States, which
9 moneys are intended to be used for transportation purposes.

10 (b) *Projects advanced by federal economic stimulus funds.*

11 1. Except as provided in subdivision 2., the department of transportation may
12 encumber or expend the first \$300,000,000 of federal economic stimulus funds only
13 for one or more of the projects identified in paragraph (c).

14 2. If the department encumbered state funds or federal funds other than
15 federal economic stimulus funds for any project identified in paragraph (c) before
16 receiving the first \$300,000,000 of federal economic stimulus funds, the department
17 may substitute a different project for that project in the list under paragraph (c).

18 (c) *List of projects.* The department of transportation may encumber or expend
19 the first \$300,000,000 of federal economic stimulus funds for the following projects:

- 20 1. The Sun Prairie bypass project on USH 151 in Dane County.
21 2. The Madison-Milwaukee Road project on I 94 in Dane County.
22 3. The Madison-Janesville Road project on I 39 in Dane County.
23 4. The Madison-Janesville Road project on I 90 in Dane County.
24 5. The Maple Street village of Palmyra project on STH 59 in Jefferson County.
25 6. The Whitewater-Palmyra Road project on STH 59 in Jefferson County.

SENATE BILL 62**SECTION 9150**

- 1 7. The LaCrosse–West Salem/Monegan project on STH 16 in La Crosse County.
- 2 8. The Footville–Janesville bypass project on STH 11 in Rock County.
- 3 9. The Lake Delton–I 90 Road project on USH 12 in Sauk County.
- 4 10. The Viroqua–LaFarge project on STH 82 in Vernon County.
- 5 11. The USH 12 project on USH 12 in Walworth County.
- 6 12. The Rock Freeway project on I 43 in Walworth County.
- 7 13. The Kewaskum–Eden project on USH 45 in Washington County.
- 8 14. The Meadow Lane Bridge and approach project on a town road in
- 9 Manitowoc County.
- 10 15. The Suamico–Abrams project on USH 41 in Oconto County.
- 11 16. The Kewaskum–Eden project on USH 45 in Fond du Lac County.
- 12 17. The Mishicot–I 43 project on STH 147 in Manitowoc County.
- 13 18. The Lily–Forest County line project on STH 52 in Langlade County.
- 14 19. The Merrill–Tomahawk project on USH 51 in Lincoln County.
- 15 20. The Mosinee–USH 45 project on STH 153 in Marathon County.
- 16 21. The Eagle River–Land O’ Lakes project on USH 45 in Vilas County.
- 17 22. The Fulton Street and Hillcrest Drive intersection project on STH 49 in
- 18 Waupaca County.
- 19 23. The Winchester–New London project on USH 45 in Waupaca County.
- 20 24. The Pittsville–Marshfield project on STH 13 in Wood County.
- 21 25. The Pittsville–Neillsville project on STH 73 in Wood County.
- 22 26. The Odanah–Saxon project on USH 2 in Ashland County.
- 23 27. The Siren–Spooner project on STH 70 in Burnett County.
- 24 28. The New Richmond–Bloomer Road project on STH 64 in Dunn County.
- 25 29. The Menomonie–Wheeler Road project on STH 25 in Dunn County.

SENATE BILL 62**SECTION 9150**

- 1 30. The Augusta-Fairchild Road project on USH 12 in Eau Claire County.
- 2 31. The St. Croix Falls-Turtle Lake project on USH 8 in Polk County.
- 3 32. The Ghost Lake-Clam Lake Road project on STH 77 in Sawyer County.
- 4 33. The New Richmond-Connorsville project on STH 64 in St. Croix County.
- 5 34. The North-South Freeway-CTH "G" interchange project on I 94 in Racine
- 6 County.
- 7 35. The North-South Freeway-I 94 from STH 50 to CTH "C" project on I 94 in
- 8 Kenosha County.
- 9 36. The North-South Freeway-I 94 from CTH "C" to the state line project on
- 10 I 94 in Kenosha County.
- 11 37. The North-South Freeway-CTH "C" interchange project on I 94 in Kenosha
- 12 County.
- 13 38. The Port Washington-Manitowoc project on I 43 in Sheboygan County.
- 14 39. The Manitowoc-Green Bay project on I 43 in Manitowoc County.
- 15 40. The Milwaukee-Green Bay Road project on I 43 in Sheboygan County.
- 16 41. The Witzel Avenue overpass project on USH 41 in Winnebago County.
- 17 42. The Lake Butte des Morts Causeway project on USH 41 in Winnebago
- 18 County.
- 19 43. The Fountain Avenue-Snell Road overpass project on USH 41 in
- 20 Winnebago County.
- 21 44. The USH 45 and Fernau Avenue-Snell Road project on USH 41 in
- 22 Winnebago County.
- 23 45. The Stevens Point-Wausau project on I 39 in Marathon County.
- 24 46. The Green Bay-Suamico project on USH 41 in Brown County.
- 25 47. The Medford-Goodrich project on STH 64 in Taylor County.

SENATE BILL 62**SECTION 9201****1 SECTION 9201. Fiscal changes; Administration.**

2 (1) LAPSE OR TRANSFER OF UNENCUMBERED MONEYS IN APPROPRIATION ACCOUNTS
3 AND FUNDS.

4 (a) In this subsection, “executive branch state agency” means any office,
5 department, or independent agency in the executive branch of state government, but
6 does not include the investment board or the department of employee trust funds.

7 (b) Notwithstanding section 20.001 (3) (a) to (c) and 25.40 (3) of the statutes,
8 but subject to paragraph (c), the secretary of administration shall lapse or transfer
9 to the general fund from the unencumbered balances of appropriations to executive
10 branch state agencies, other than sum sufficient appropriations and appropriations
11 of federal revenues, an amount equal to \$125,000,000 before July 1, 2011, less the
12 amount lapsed under paragraph (c) 3. The amounts lapsed or transferred under this
13 paragraph shall be in addition to the amounts lapsed or transferred under 2007
14 Wisconsin Act 20, section 9201 (1c) (a) to (c).

15 (c) 1. The secretary of administration may not lapse or transfer moneys under
16 paragraph (b) if the lapse or transfer would violate a condition imposed by the federal
17 government on the expenditure of the moneys or if the lapse or transfer would violate
18 the federal or state constitution.

19 2. The secretary of administration may not lapse or transfer moneys under
20 paragraph (b) from an appropriation to the department of transportation under
21 section 20.395 (3) (bq), (cq), and (cr) of the statutes, other than moneys for
22 department operations and services engaged under section 84.01 (13) of the statutes.

23 3. The cochairpersons of the joint committee on legislative organization shall
24 take actions before July 1, 2011, to ensure that from general purpose revenue
25 appropriations to the legislature under section 20.765 of the statutes an amount

SENATE BILL 62**SECTION 9201**

1 equal to \$500,000 is lapsed from sum certain appropriation accounts or is subtracted
2 from the expenditure estimates for any other types of appropriations, or both.

3 **SECTION 9208. Fiscal changes; Children and Families.**

4 (1) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAMS. In the schedule
5 under section 20.005 (3) of the statutes for the appropriation to the department of
6 children and families under section 20.437 (2) (dz) of the statutes, as affected by the
7 acts of 2009, the dollar amount is decreased by \$22,529,000 for the second fiscal year
8 of the fiscal biennium in which this subsection takes effect for the purposes for which
9 the appropriation is made.

10 (2) FEDERAL BLOCK GRANT AIDS. In the schedule under section 20.005 (3) of the
11 statutes for the appropriation to the department of children and families under
12 section 20.437 (2) (md) of the statutes, as affected by the acts of 2009, the dollar
13 amount is increased by \$47,175,000 for the second fiscal year of the fiscal biennium
14 in which this subsection takes effect for the purposes for which the appropriation is
15 made.

16 **SECTION 9210. Fiscal changes; Commerce.**

17 (1) HOUSING GRANTS AND LOANS; GENERAL PURPOSE REVENUE. In the schedule
18 under section 20.005 (3) of the statutes for the appropriation to the Department of
19 Commerce under section 20.143 (2) (b) of the statutes, as affected by the acts of 2009,
20 the dollar amount is increased by \$200,000 for the second fiscal year of the fiscal
21 biennium in which this subsection takes effect to fund the grant under SECTION 9110
22 (1) of this act.

23 (2) WISCONSIN REGIONAL TRAINING PARTNERSHIP/BUILDING INDUSTRY GROUP SKILLED
24 TRADES EMPLOYMENT PROGRAM. In the schedule under section 20.005 (3) of the statutes
25 for the appropriation to the department of commerce under section 20.143 (1) (c) of

SENATE BILL 62**SECTION 9210**

1 the statutes, as affected by the acts of 2009, the dollar amount is increased by
2 \$1,000,000 for the second fiscal year of the fiscal biennium in which this subsection
3 takes effect for the purpose of expanding the Wisconsin Regional Training
4 Partnership/Building Industry Group Skilled Trades Employment Program.

5 (3) GRANTS TO ORGANIZATIONS IN SPECIFIC BUILDING TRADES FOR GREEN JOB TRAINING
6 AND RETRAINING. In the schedule under section 20.005 (3) of the statutes for the
7 appropriation to the department of commerce under section 20.143 (1) (c) of the
8 statutes, as affected by the acts of 2009, the dollar amount is increased by \$1,630,000
9 for the second fiscal year of the fiscal biennium in which this subsection takes effect
10 for the purpose of providing training and retraining for green jobs in specific building
11 trades.

SECTION 9222. Fiscal changes; Health Services.

12 (1) MEDICAL ASSISTANCE TRUST FUND. In the schedule under section 20.005 (3)
13 of the statutes for the appropriation to the department of health services under
14 section 20.435 (4) (w) of the statutes, as affected by the acts of 2009, the dollar amount
15 is increased by \$79,206,800 for the second fiscal year of the fiscal biennium in which
16 this subsection takes effect for the purpose for which the appropriation is made.

17 (2) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION DECREASE. In
18 the schedule under section 20.005 (3) of the statutes for the appropriation to the
19 department of health services under section 20.435 (4) (b) of the statutes, as affected
20 by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second
21 fiscal year of the fiscal biennium in which this subsection takes effect for the
22 purposes for which the appropriation is made.

23 (3) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION INCREASE. In
24 the schedule under section 20.005 (3) of the statutes for the appropriation to the
25

SENATE BILL 62

1 department of health services under section 20.435 (4) (b) of the statutes, as affected
2 by the acts of 2009, the dollar amount is increased by \$50,000,000 for the second
3 fiscal year of the fiscal biennium in which this subsection takes effect for the
4 purposes for which the appropriation is made.

SECTION 9248. Fiscal changes; Technical College System.

5
6 (1) TRAINING PROGRAM GRANTS. In the schedule under section 20.005 (3) of the
7 statutes for the appropriation to the technical college system under section 20.292
8 (1) (eh) of the statutes, as affected by the acts of 2009, the dollar amount is increased
9 by \$1,000,000 for the 2008-09 fiscal year to increase funding for the purpose for
10 which the appropriation is made.

SECTION 9310. Initial applicability; Commerce.

11
12 (1) EARLY STAGE SEED INVESTMENT CREDIT. The treatment of section 560.205 (1)
13 (f) and (g), (2), and (3) (e) of the statutes first apply to taxable years beginning on
14 January 1, 2009.

SECTION 9322. Initial applicability; Health Services.

15
16 (1) MEDICAL ASSISTANCE FEE-FOR-SERVICE HOSPITAL RATE INCREASES. Payments
17 under section 49.45 (3) (e) 11. of the statutes, as created by this act, for inpatient and
18 outpatient hospital services that are reimbursed on a fee-for-service basis first
19 apply to services provided on July 1, 2008.

**SECTION 9325. Initial applicability; Housing and Economic
20 Development Authority.**

21
22 (1) BONDS FOR QUALIFIED SUBPRIME LOAN REFINANCING. The treatment of section
23 234.60 (1) of the statutes first applies to bonds issued after the effective date of this
24 subsection.

SECTION 9343. Initial applicability; Revenue.

SENATE BILL 62**SECTION 9343**

1 (1) COMBINED REPORTING. The treatment of sections 71.01 (1b), (1n), (5n), (5p),
2 (7v), and (10g), 71.04 (7) (d), (dj), and (dk), 71.05 (6) (a) 24. and (b) 46., 71.07 (2dr)
3 (a), 71.10 (1) and (1m), 71.22 (1g), (1r), (1t), (3g), (3h), (3m), (6d), and (9g), 71.25
4 (intro.), (5) (b) 1. and 2., and (9) (d), (dj), and (dk), 71.255, 71.26 (2) (a) 7. and 9. and
5 (3) (x), 71.28 (4) (ad) 1., 2., and 3. and (am) 1., 71.30 (2) and (2m), 71.34 (1c), (1d), (1h),
6 and (1k) (j) and (L), 71.42 (1sg), (1sh), (1t), and (3c), 71.43 (2), 71.45 (2) (a) 16. and
7 18., 71.47 (4) (ad) 1., 2., and 3. and (am), and 71.80 (1) (b), (1m), and (23) (a) (intro.),
8 1., 2., and 3. and (b) of the statutes, the renumbering of sections 71.04 (8) (a) and
9 71.25 (10) (a) of the statutes, and the creation of sections 71.04 (8) (a) 2. and 71.25
10 (10) (a) 2. of the statutes first apply to taxable years beginning on January 1, 2009.

SECTION 9357. Initial applicability; Other.

11
12 (1) FORECLOSURE RECONVEYANCES. The treatment of sections 227.01 (13) (rm)
13 and 846.40 of the statutes, the renumbering of section 799.40 (4) of the statutes, and
14 the creation of section 799.40 (4) (b) of the statutes first apply to foreclosure
15 reconveyances that are entered into on the effective date of this subsection.

16 (2) FORECLOSURE CONSULTANTS. The treatment of section 846.45 of the statutes
17 first applies to agreements or transactions between foreclosure consultants and
18 owners of residential real property that are entered into on the effective date of this
19 subsection.

20 (3) TENANT PROTECTIONS. The treatment of sections 704.35 (3) and 846.35 of the
21 statutes first applies to foreclosure actions that are commenced on the effective date
22 of this subsection.

23 (4) RENTAL AGREEMENTS. The treatment of section 704.35 (2) of the statutes first
24 applies to rental agreements entered into on the effective date of this subsection.

SENATE BILL 62**SECTION 9400**

1 **SECTION 9400. Effective dates; general.** Except as otherwise provided in
2 SECTIONS 9401 to 9457 of this act, this act takes effect on the day after publication.

3 **SECTION 9417. Effective dates; Financial Institutions.**

4 (1) MORTGAGE LOAN ORIGINATORS, MORTGAGE BROKERS, AND MORTGAGE BANKERS.
5 The treatment of sections 15.09 (6), 15.187 (1) (intro.), (a), (b), (c), and (d), 49.857 (1)
6 (d) 12., 73.0301 (1) (d) 6., 100.55 (1) (d) 3., 220.02 (2) (g) and (3), 220.06 (1), 220.285
7 (1), 221.0402 (2) (b), 224.71 (1ag), (1b), (1bm), (1c), (1d), (1dm), (1f), (1g), (1h), (1m),
8 (1r), (1u), (2), (3) (a) 1. to 3. and (b) 1. to 7., 8., 9., 10., 11. and 12., (4) (a) and (b) 1. to
9 3., 4., 5., 6., 7., and 8., (5), (6) (a) 1. and 2. and (b), (7), (8), (10), (11), (12), (13), (15),
10 (16), and (18), 224.72 (title), (1) (intro.), (a), and (b), (1m), (2) (a), (b), (c) (title), and
11 (d), (2m), (3) (title), (a), (b), and (c), (4) (title), (a) (intro.), 1., 2., 3., and 4. and (d), (4m),
12 (4n) (intro.) and (a) 2., (4r), (5) (title), (a), and (b), (7) (title), (a), and (b), (bm), (c), (d),
13 and (e), (7m) (intro.), (am), (b), and (c), (7p), and (8), 224.725, 224.726, 224.728,
14 224.73 (title), (1), 224.74 (title), (1), (2) (title), (ag) 3. and 4., (ar), (b), and (c), and (3),
15 224.75 (title), (1) (a), (b) (intro.), 6., and 7., and (c) (intro.), (2), (3), (4), and (6), 224.76,
16 224.77 (title), (1) (intro.), (a), (b), (c), (d), (e), (f), (fg), (g), (gd), (gh), (gp), (h) to (L), (m)
17 to (q), (r), (s), (t), (tm), (u), (um), (v), (w), (x), and (y), (1m) (a), (b), and (d), (2m), (3m),
18 (4), (5) (a), (8), and (9), 224.79, 224.80 (1), (2) (intro.) and (a) 1., 224.81, 224.82, 224.83,
19 227.01 (13) (zy), 234.01 (5k), 234.49 (2) (a) 4., 234.59 (1) (h), 321.60 (1) (a) 12., 422.501
20 (2) (b) 8., 428.202 (6), 428.203 (9) (title), 428.204, 428.206, 452.01 (3) (g), and 943.62
21 (2m) of the statutes, the repeal of sections 224.74 (2) (a) (title), 224.77 (2) (title), (6)
22 (title), and (7) (title), and 224.78 (title) of the statutes, the renumbering of section
23 224.77 (1m) (c) of the statutes, the renumbering and amendment of sections 224.71
24 (5), 224.72 (1) (a), and (2) (intro.), 224.73 (2), (3), and (4), 224.74 (2) (a), 224.75 (1) (d),
25 224.755, 224.77 (2), (6), and (7), 224.78, and 428.202 (6) of the statutes, the

SENATE BILL 62**SECTION 9417**

1 consolidation, renumbering, and amendment of section 224.77 (3) (a) and (b) of the
2 statutes, the amendment of section 224.73 (2) (title), (3) (title), and (4) (title) of the
3 statutes, the repeal and recreation of sections 224.72 (2) (title) and (7) (title) and
4 224.755 (title) of the statutes, and the creation of sections 224.73 (2) (b), (3) (b), and
5 (4) (b), 224.75 (1) (d) 2., 3., 4., and 5., 224.755 (1), (2), (3), and (4), 224.77 (1m) (c) 2.,
6 and 224.77 (3) (a) 3. and 4. of the statutes take effect on January 1, 2010, or on the
7 60th day after publication, whichever is later.

SECTION 9422. Effective dates; Health Services.

8
9 (1) HOSPITAL ASSESSMENT. The treatment of sections 20.435 (4) (gp), 46.27 (9)
10 (a) and (10) (a) 1., 46.275 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485 (2g) (intro.),
11 49.45 (5m) (am), (5r), (6m) (ag) (intro.), (6v) (b), (6x) (a), (6y) (a), (am), (ap), and (ar),
12 (6z) (a) (intro.), (8) (b), (24m) (intro.), and (52), 49.472 (6) (a) and (b), 49.473 (5), and
13 146.99 of the statutes takes effect on July 1, 2009.

SECTION 9443. Effective dates; Revenue.

14
15 (1) MAIN STREET EQUITY ACT. The repeal of sections 46.513, 77.51 (4), 77.51 (14)
16 (d), 77.51 (14) (i), 77.51 (14) (k), 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (2) (a)
17 5. b., 77.52 (3m), 77.52 (3n), 77.52 (6), 77.52 (14) (a) 2., 77.523 (title), 77.53 (4), 77.53
18 (15), 77.54 (14g), 77.54 (14s), 77.54 (20), 77.54 (20m), 77.54 (22), 77.54 (40), 77.61 (3),
19 77.65 (2) (c), 77.72 (title), 77.72 (2) and (3) and 77.77 (2) of the statutes; the
20 renumbering of sections 77.524 (1) (a) and 77.54 (48) (b) of the statutes; the
21 renumbering and amendment of sections 77.51 (1), 77.51 (21m) (by SECTION 336),
22 77.51 (6m), 77.51 (14) (g), 77.52 (1), 77.523, 77.524 (1) (b), 77.53 (9m), 77.53 (11),
23 77.54 (48) (a), 77.61 (2), 77.72 (1) and 77.77 (1) of the statutes; the consolidation,
24 renumbering, and amendment of section 77.52 (14) (a) (intro.) and 1. and (b) of the
25 statutes; the amendment of sections 66.0615 (1m) (f) 2., 70.111 (23), 71.07 (5e) (b),

SENATE BILL 62**SECTION 9443**

1 71.07 (5e) (c) 1., 71.07 (5e) (c) 3., 71.28 (5e) (b), 71.28 (5e) (c) 1., 71.28 (5e) (c) 3., 71.47
2 (5e) (b), 71.47 (5e) (c) 1., 71.47 (5e) (c) 3., 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51 (2),
3 77.51 (5), 77.51 (9) (a), 77.51 (9) (am), 77.51 (10), 77.51 (12) (b), 77.51 (13) (a), 77.51
4 (13) (b), 77.51 (13) (c), 77.51 (13) (d), 77.51 (13) (e), 77.51 (13) (f), 77.51 (13) (i), 77.51
5 (13) (j), 77.51 (13) (k), 77.51 (13) (m), 77.51 (13) (n), 77.51 (13) (o), 77.51 (13g) (intro.),
6 77.51 (13g) (a), 77.51 (13g) (b), 77.51 (13r), 77.51 (14) (intro.), 77.51 (14) (a), 77.51 (14)
7 (b), 77.51 (14) (c), 77.51 (14) (h), 77.51 (14) (j), 77.51 (14g) (a), 77.51 (14g) (b), 77.51
8 (14g) (bm), 77.51 (14g) (c), 77.51 (14g) (cm), 77.51 (14g) (d), 77.51 (14g) (e), 77.51 (14g)
9 (em), 77.51 (14g) (f), 77.51 (14g) (g), 77.51 (14g) (h), 77.51 (17) (intro.), 77.51 (18),
10 77.51 (21), 77.51 (22) (a), 77.51 (22) (b), 77.52 (2) (intro.), 77.52 (2) (a) 5. a. (by SECTION
11 353), 77.52 (2) (a) 5m., 77.52 (2) (a) 10., 77.52 (2) (a) 11., 77.52 (2m) (a), 77.52 (2m)
12 (b), 77.52 (4), 77.52 (7), 77.52 (12), 77.52 (13), 77.52 (15), 77.52 (16), 77.52 (17m) (b)
13 6., 77.52 (19), 77.525, 77.53 (1), 77.53 (2), 77.53 (3), 77.53 (9), 77.53 (10), 77.53 (12),
14 77.53 (14), 77.53 (16), 77.53 (17), 77.53 (17m), 77.53 (17r) (a), 77.53 (18), 77.54 (1),
15 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54 (3m) (intro.), 77.54 (4), 77.54 (5) (intro.),
16 77.54 (6) (intro.), 77.54 (7m), 77.54 (8), 77.54 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54
17 (11), 77.54 (12), 77.54 (13), 77.54 (14) (intro.), 77.54 (14) (a), 77.54 (14) (b), 77.54 (14)
18 (f) (intro.), 77.54 (15), 77.54 (16), 77.54 (17), 77.54 (18), 77.54 (21), 77.54 (23m), 77.54
19 (25), 77.54 (25m), 77.54 (26), 77.54 (26m), 77.54 (27), 77.54 (28), 77.54 (29), 77.54 (30)
20 (a) (intro.), 77.54 (30) (c), 77.54 (31), 77.54 (32), 77.54 (33), 77.54 (35), 77.54 (36),
21 77.54 (37), 77.54 (38), 77.54 (39), 77.54 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54
22 (45), 77.54 (46), 77.54 (46m), 77.54 (47) (intro.), 77.54 (47) (b) 1., 77.54 (47) (b) 2.,
23 77.54 (49), 77.54 (54), 77.54 (56), 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3),
24 77.56 (1), 77.57, 77.58 (3) (a), 77.58 (3) (b), 77.58 (6), 77.59 (5m), 77.59 (9), 77.61 (1)
25 (b), 77.61 (1) (c), 77.61 (4) (a), 77.61 (4) (c), 77.61 (11), 77.65 (2) (a), 77.65 (2) (e), 77.65

SENATE BILL 62**SECTION 9443**

1 (2) (f), 77.66, 77.70, 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71 (2), 77.71
2 (3), 77.71 (4), 77.73 (2), 77.75, 77.785 (1), 77.785 (2), 77.98, 77.981, 77.99, 77.994 (1)
3 (intro.), 77.9941 (4), 77.995 (2), 77.996 (6), 86.195 (3) (b) 3., 218.0171 (2) (cq), 229.68
4 (15) and 229.824 (15) of the statutes; the repeal and recreation of sections 77.51 (7),
5 77.51 (12) (a), 77.51 (17m), 77.51 (20), 77.52 (1b), 77.52 (2n), 77.53 (1b), 77.63, 77.982
6 (2), 77.991 (2), 77.9951 (2), and 77.9972 (2) of the statutes; and the creation of sections
7 20.566 (1) (ho), 73.03 (28e), 73.03 (50b), 73.03 (61), 77.51 (1a), 77.51 (1b), 77.51 (1ba),
8 77.51 (1f), 77.51 (1fm), 77.51 (1pd), 77.51 (1r), 77.51 (2k), 77.51 (2m), 77.51 (3c), 77.51
9 (3n), 77.51 (3p), 77.51 (3pa), 77.51 (3pb), 77.51 (3pc), 77.51 (3pd), 77.51 (3pe), 77.51
10 (3pf), 77.51 (3pj), 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm), 77.51 (3rn), 77.51
11 (3t), 77.51 (5d), 77.51 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m),
12 77.51 (9p), 77.51 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10s),
13 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm), 77.51
14 (13rn), 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (17x), 77.51 (21n), 77.51 (21p),
15 77.51 (21q), 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52 (1)
16 (c), 77.52 (1) (d), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52 (7b),
17 77.52 (14) (am), 77.52 (14) (bm), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522,
18 77.524 (1) (ag), 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r),
19 77.54 (22b), 77.54 (50), 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585, 77.59
20 (2m), 77.59 (9n), 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61
21 (5m), 77.61 (16), 77.61 (17), 77.61 (18), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77 (1)
22 (b) of the statutes take effect on October 1, 2009.

