GENERAL FUND TAXES

1. GENERAL FUND TAX CHANGES

The following table shows the estimated fiscal effects of the general fund tax changes included in Act 19 during the 2023-25 biennium. The table does not include changes to refundable tax credits, because they are paid from appropriations.

2023-25 General Fund Tax Changes -- Act 19

	2023-24	2024-25	2023-25 Biennium
Income and Franchise Taxes			
Income Tax Rate Reductions	-$86,800,000	-$87,800,000	-$174,600,000
Income Exclusion for Banks	-35,900,000	-29,300,000	-65,200,000
Financial Institution Apportionment	-3,500,000	-3,500,000	-7,000,000
Sales and Use Taxes			
Increase Sales Tax Retailer's Discount	-15,500,000	-21,100,000	-36,600,000
Excise Taxes and Other Taxes			
Increase Cigarette Tax Discount	-1,400,000	-1,800,000	-3,200,000
Tax Enforcement Provisions			
Advanced Technology System	0	7,600,000	7,600,000
Total General Fund Tax Changes	-$143,100,000	-$135,900,000	-$279,000,000

Income and Franchise Taxes

1. INDIVIDUAL INCOME TAX RATE REDUCTION [LFB Paper 366]

GPR-Tax	- $174,600,000

Reduce the tax rate in the second individual income tax bracket from 4.65% to 4.40%, and reduce the rate in the bottom bracket from 3.54% to 3.50%, beginning in tax year 2023. Estimate reduced individual income tax collections of $86,800,000 in 2023-24 and $87,800,000 in 2024-25. The following tables display the income tax rate and bracket structure under prior law and under Act 19, respectively.

Individual Income Tax Rate and Bracket Schedule under Prior Law, Tax Year 2023

	Income Tax Brackets by Filing Status		
Tax Rate	Single and Head-of-Household	Married-Joint	Married-Separate
3.54%	$0 to $13,810	$0 to $18,420	$0 to $9,210
4.65%	13,810 to 27,630	18,420 to 36,840	9,210 to 18,420
5.30%	27,630 to 304,170	36,840 to 405,550	18,420 to 202,780
7.65%	304,170 and over	405,550 and over	202,780 and over

Tax Rate and Bracket Schedule under Act 19, Tax Year 2023

	Income Tax Brackets by Filing Status		
Tax Rate	Single and Head-of-Household	Married-Joint	Married-Separate
3.50%	$0 to $13,810	$0 to $18,420	$0 to $9,210
4.40%	13,810 to 27,630	18,420 to 36,840	9,210 to 18,420
5.30%	27,630 to 304,170	36,840 to 405,550	18,420 to 202,780
7.65%	304,170 and over	405,550 and over	202,780 and over

[Act 19 Sections: 326, 327, 330, 331, 334, and 335]

2. INCOME EXCLUSION ON COMMERCIAL LOANS

GPR-Tax	- $65,200,000
SEG-Rev	- $130,000

Create an income and franchise tax deduction, beginning in tax year 2023, for the income of a financial institution derived from a commercial loan of $5 million or less provided to a person residing or located in this state and used primarily for a business or agricultural purpose. Decrease income and franchise tax collections by an estimated $35,900,000 in 2023-24 and $29,300,000 in 2024-25. Estimate surcharge revenues paid by banks into the economic development fund to decrease by $130,000 SEG-Rev annually, beginning in 2024-25. Decreased amounts appropriated from the economic development fund to the Wisconsin Economic Development Corporation (WEDC) are reflected under "Wisconsin Economic Development Corporation."

[Act 19 Sections: 325, 341, and 9337(2)]

3. APPORTIONMENT OF GROSS RECEIPTS FROM TRADING ASSETS

GPR-Tax	- $7,000,000

Specify in the administrative code that the Department of Revenue's (DOR) authority to substitute net gains (net of commissions) from the sales of trading assets, for purposes of apportionment, does not apply to any taxpayer who, before January 1, 2023, elected to use the customer billing address method and has not revoked that election, and who, for any taxable year beginning on or after January 1, 2022, determines its receipts factor by using the average of the receipts factors determined using gross receipts, net of commissions, and net gain, net of commissions, from sales of trading assets for the taxable year, with all other components of the receipts factor remaining the same, and any such taxpayer may compute its receipts factor using that averaging method. Specify that DOR may not require any taxpayer who elected before January 1, 2023, to use the customer billing address method, and who has not revoked that election, to use any other method of determining its receipts factor.

This provision applies retroactively to taxable years beginning on January 1, 2022, and will decrease income and franchise tax collections by an estimated $3,500,000 annually, beginning in 2023-24.

[Act 19 Sections: 477, 478, 9337(3), and 9436(2)]

General Sales and Use Taxes

1. SALES TAX RETAILER'S DISCOUNT

GPR-Tax - $36,600,000

Increase the sales tax retailer's discount rate from 0.5% to 0.75%, and increase the maximum discount a retailer may claim per reporting period from $1,000 to $8,000. Specify that these changes first apply to sales and use taxes payable on October 1, 2023. Estimate a reduction in sales tax collections of $15,500,000 in 2023-24 and $21,100,000 in 2024-25.

[Act 19 Sections: 350 and 9337(4)]

2. SALES TAX EXEMPTION FOR WEDC CERTIFIED DATA CENTERS

Create a sales and use tax exemption for certain property and items used at a qualified data center, as certified by WEDC, including the sales price from:

a. the sale of and the storage, use, or other consumption of tangible personal property, regardless of whether the property is affixed to or incorporated into real property, and property, used exclusively for the development, construction, renovation, expansion, replacement, repair, or operation of a qualified data center and used solely at the qualified data center, including computer server equipment and the chassis for such equipment; networking equipment; switches; racks; fiber-optic cabling, copper cabling, and other cabling, including cabling used to connect one or more qualified data centers; trays; conduits; substations; uninterruptible energy equipment; supplies; fuel piping and storage; duct banks; switches; switchboards; batteries; testing equipment; backup generation equipment; modular data centers and preassembled components; monitoring equipment; security systems; and electricity.

b. the sales of and the storage, use, or other consumption of tangible personal property or property used in the development, construction, renovation, expansion, replacement, or repair of a water cooling or conservation system used exclusively to cool or conserve water for one or more qualified data centers, including chillers, mechanical equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting, and filters; and

c. the sale of and the storage, use, or other consumption of tangible personal property or property affixed to real property sold to a construction contractor that, in fulfillment of a real property construction activity, transfers the tangible personal property or property to a qualified data center, if such tangible personal property or property affixed to real property becomes a component of the qualified data center.

Define "eligible data center costs" to mean expenditures made after October 1, 2023, for the development, acquisition, construction, renovation, expansion, replacement, or repair and the operation of a qualified data center in this state, including costs of tangible personal property and leased property affixed to real property, land, buildings, site improvements, modular data centers, computer data center equipment acquisition and permitting, lease payments, site characterization and assessment, engineering, and design used at a qualified data center in this state.

Define "qualified data center" to mean one or more buildings or an array of connected buildings owned, leased, or operated by the same business entity (or its affiliate) and for which all of the following apply:

a. the buildings are rehabilitated or constructed to house a group of networked server computers in one physical location or multiple locations in order to centralize the processing, storage, management, retrieval, communication, or dissemination of data and information; and

b. the buildings create a minimum qualified investment in this state of any of the following amounts within five years from the certification date: (i) $150,000,000 for buildings located in a county having a population greater than 100,000; (ii) $100,000,000 for buildings located in a county having a population greater than 50,000 and not more than 100,000; (iii) $50,000,000 for buildings located in a county having a population of not more than 50,000; or (iv) for buildings located in more than one county, the minimum qualified investment provided for the most populous county in which the buildings are located.

Define "qualified investment" to mean the aggregate, non-duplicative eligible data center costs expended at a qualified data center by an owner, operator, or tenant, or an affiliate of an owner, operator, or tenant, of the qualified data center.

Require WEDC to certify a qualified data center for purposes of the sales and use tax exemption. Require the certification to include a description of the geographic location or locations and buildings of the qualified data center and an identification of the business entity. Require WEDC to contract with that business entity and, upon request, to amend the certification and contract to include one or more additional locations and buildings of the qualified data center. If WEDC certifies a qualified data center for purposes of the sales and use tax exemption and the data center fails to satisfy the minimum qualified investment requirements described above, require WEDC to revoke the certification. Require the contract to include recapture provisions if the certification is revoked. WEDC may grant an extension of time within which the qualified data center may avoid revocation by satisfying the applicable qualified investment requirement. This provision takes effect October 1, 2023.

DOR indicates that, based on typical capital expenditures for the construction of a data center ($215.5 million) and adjusting for items that would otherwise be subject to sales tax, the exemption would decrease sales and use tax collections by $8,500,000 for the initial construction of facilities, with an annual sales tax reduction of $735,000 related to ongoing operating expenses of such a facility. Although there are no known facilities in the state meeting the minimum qualified investment amounts specified above, it is assumed that the provision is intended to apply to the proposed Microsoft facility, which is locating in the electronics and information technology manufacturing (EITM) zone (Foxconn). The estimated amount of foregone sales tax revenue as a result of this provision is unknown. Further, it is unknown whether WEDC would certify any new qualified data centers to be constructed during the 2023-25 biennium.

[Act 19 Sections: 349, 437, and 9437(3)]

Excise Taxes

1. CIGARETTE TAX STAMP DISCOUNT RATE

GPR-Tax	- $3,200,000

Increase the discount rate that cigarette manufacturers and distributors receive on total cigarette tax stamp purchases as compensation for their administrative costs from 0.8% to 1.25%. Specify that this increase first applies to cigarette tax stamps purchased on October 1, 2023. Estimate a decrease in cigarette tax revenues of $1,400,000 in 2023-24 and $1,800,000 in 2024-25.

[Act 19 Sections: 409 and 9337(5)]

Refundable Tax Credits and Other Payments

[Fiscal effects of items in this section are also displayed under "Shared Revenue and Tax Relief" or "Miscellaneous Appropriations."]

1. ENTERPRISE ZONE CREDIT REESTIMATE [LFB Papers 106 and 396]

GPR	- $64,875,000

Decrease funding by $23,400,000 in 2023-24 and $41,475,000 in 2024-25 for the sum sufficient appropriation for refundable enterprise zone tax credits to estimate anticipated claims during the 2023-25 biennium. The estimate reflects projections of credit claims for major economic development projects for which WEDC has, to date, contracted and amended tax credit awards. With the adjustments, estimated total funding would decrease from base funding of $77,500,000 to $54,100,000 in 2023-24 and $36,025,000 in 2024-25. Businesses that operate in enterprise zones established by WEDC can claim tax credits for jobs created and retained, training costs, capital expenditures, and purchases from Wisconsin vendors.

2. ILLINOIS-WISCONSIN RECIPROCITY REESTIMATE [LFB Paper 106]

GPR	$33,400,000

Increase the estimated payment under the Illinois-Wisconsin individual income tax reciprocity agreement by $13,400,000 in 2023-24 and $20,000,000 in 2024-25 to reflect anticipated payments to Illinois in the 2023-25 biennium. Compared to base funding of $118,000,000, total funding is estimated at $131,400,000 in 2023-24 and $138,000,000 in 2024-25.

3. HOMESTEAD CREDIT REESTIMATE [LFB Paper 106]

GPR	- $14,700,000

Decrease estimated expenditures under the homestead tax credit program by $5,100,000 in 2023-24 and $9,600,000 in 2024-25. Compared to base funding of $47,300,000, estimated expenditures are $42,200,000 in 2023-24 and $37,700,000 in 2024-25.

Under current law, the homestead credit is provided as a property tax relief mechanism for lower-income homeowners and renters. The credit is refundable, such that if the amount of the credit exceeds a claimant's tax liability, a check is issued to the claimant for the difference.

4. VETERANS PROPERTY TAX CREDIT REESTIMATE [LFB Paper 106]

GPR	$14,300,000

Increase funding for the veterans and surviving spouses property tax credit by $4,600,000 in 2023-24 and $9,700,000 in 2024-25. Compared to base funding of $50,000,000, total funding for the credit is estimated at $54,600,000 in 2023-24 and $59,700,000 in 2024-25.

Under current law, the credit is equal to 100% of real and personal property taxes paid on a principal dwelling by eligible veterans and surviving spouses. The credit is refundable, such that if the amount of the credit exceeds the claimant's tax liability, the balance is paid to the claimant by check via a sum sufficient GPR appropriation. A claimant cannot claim the credit if they also file a claim for the property tax/rent credit (nonrefundable), homestead credit (refundable), or farmland preservation credit (refundable) in the same tax year.

5. BUSINESS DEVELOPMENT CREDIT REESTIMATE [LFB Paper 106]

GPR	$8,800,000

Increase funding by $4,000,000 in 2023-24 and $4,800,000 in 2024-25 for the sum sufficient appropriation for business development tax credits to estimate anticipated claims during the 2023-25 biennium. The estimate reflects projections of credit claims for economic development projects for which WEDC has entered into contracts, and is expected to enter into future contracts, to award tax credits. With the adjustments, estimated total funding would increase from base funding of $11,700,000 to $15,700,000 in 2023-24 and $16,500,000 in 2024-25.

Businesses certified by WEDC can earn credits for a portion of wages paid to employees, training costs for employees, personal property investments, real property investments, and wages paid to employees performing corporate headquarters functions in Wisconsin.

6. JOBS CREDIT REESTIMATE [LFB Paper 106]

GPR	- $400,000

Reduce funding by $400,000 in 2024-25 for the sum sufficient appropriation for jobs tax credits to estimate claims during the 2023-25 biennium. The estimate reflects projections for credit claims for economic development projects for which WEDC has awarded tax credits. With the adjustments, estimated total funding would decrease from base funding of $1,000,000 to $600,000 in 2024-25.

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

7. CIGARETTE AND TOBACCO PRODUCTS TAX REFUNDS REESTIMATE [LFB Paper 106]

GPR	- $5,900,000

Decrease funding for cigarette and tobacco products tax refunds by $2,600,000 in 2023-24 and $3,300,000 in 2024-25 to reflect lower estimates of the sum sufficient appropriation amounts required to reimburse Native American tribes under present law. With these adjustments, estimated total funding in the cigarette and tobacco products tax refunds appropriation is decreased from base funding of $29,700,000 to $27,100,000 in 2023-24 and $26,400,000 in 2024-25.

Under current law, for sales that occur on reservations or trust lands, the tribes receive a refund of 100% of the excise tax on cigarettes sold to eligible tribal members and 70% of the tax on sales to non-Native Americans under an agreement entered into between DOR and each tribe. For tobacco products or vapor products sold on reservations or trust lands, the tribes receive a refund of 100% of the tax on products sold to eligible tribal members and 50% of the tax on products sold to non-Native Americans under these agreements. Eligible tribal members must reside on the reservation or trust land of the tribe where the sale took place and be an enrolled member of the tribe.

8. OIL PIPELINE TERMINAL TAX DISTRIBUTION REESTIMATE [LFB Paper 106]

GPR	$4,200,000

Increase estimated payments by $2,300,000 in 2023-24 and $1,900,000 in 2024-25. With these increases, oil pipeline terminal tax payments are estimated at $8,300,000 in 2023-24 and $7,900,000 in 2024-25, relative to base level funding of $6,000,000. The oil pipeline terminal tax distribution provides payments to municipalities where oil pipeline terminal facilities are located. At present, the state has two oil pipeline terminal facilities, which are located in the City of Superior and the Village of Kronenwetter. The payment equals a proportionate share of the pipeline company's state tax payment based on the terminal facility's cost as a percentage of the gross book value of the pipeline company in Wisconsin.

9. REFUNDABLE RESEARCH CREDIT REESTIMATE [LFB Paper 106]

GPR	$800,000

Increase funding for refundable research tax credit claims under current law by $300,000 in 2023-24 and $500,000 in 2024-25. With the adjustments, estimated total funding would increase from base funding of $21,000,000 to $21,300,000 in 2023-24 and $21,500,000 in 2024-25.

The state provides research credits to businesses equal to a percentage of the increase in a business's qualified research expenses, as defined under the Internal Revenue Code, for research conducted in Wisconsin. For taxable years beginning on or after January 1, 2020, up to 15% of the amount of new credits computed may be claimed as a refundable credit. The remaining portion of the credit is nonrefundable. The amounts shown above reflect only the estimated cost of the refundable portion of research credit claims.

10. INCREASE REFUNDABLE PORTION OF RESEARCH CREDIT [LFB Paper 395]

GPR	$3,500,000

Modify the partially refundable research tax credit (including the engine and energy efficiency credits), as computed under current law, to increase the refundable portion from up to 15% of the credit amount to up to 25% of the credit amount for taxable years beginning after December 31, 2023. Increase estimated expenditures for refundable research credit claims by $3,500,000 GPR in 2024-25 and $13,800,000 GPR in 2025-26.

[Act 19 Sections: 338 thru 340 and 342 thru 345]

11. EARNED INCOME CREDIT REESTIMATE [LFB Paper 106]

GPR	$3,400,000
PR	- 6,473,000
Total	- $3,073,000

Increase estimated GPR expenditures for the state earned income tax credit (EITC) by $1,000,000 in 2023-24 and $2,400,000 in 2024-25.

Decrease PR expenditures for the EITC by $4,875,000 in 2023-24 and $1,598,000 in 2024-25. Compared to base funding for the EITC of $25,500,000 GPR and $66,600,000 PR, total GPR funding for the EITC is estimated at $26,500,000 in 2023-24 and $27,900,000 in 2024-25, and total PR funding is estimated at $61,725,000 in 2023-24 and $65,002,000 in 2024-25.

Under current law, the state EITC is paid from two sources: (a) a sum sufficient GPR appropriation; and (b) federal funding from the Temporary Assistance to Needy Families (TANF) program. TANF funding may be used under current law to finance the refundable portion of the state EITC and is recorded as PR funding, while GPR is used to finance the nonrefundable portion.

12. EITM ZONE CREDIT REESTIMATE [LFB Paper 106]

GPR	- $2,484,400

Reduce funding by $245,700 in 2023-24 and $2,238,700 in 2024-25 for the sum sufficient appropriation for refundable EITM zone tax credits (Foxconn). Total funding will decrease from base funding of $8,570,700 to $8,325,000 in 2023-24 and $6,332,000 in 2024-25.

The EITM zone tax credit program provides a refundable payroll tax credit based upon 17% of the EITM zone payroll of full-time employees employed by the claimant. In addition, if WEDC determines that a certified business makes a significant capital expenditure in the EITM zone, it can certify the business to receive additional tax benefits in an amount to be determined by WEDC, but not exceeding 15% of the business's capital expenditures in the EITM zone in the taxable year. The estimate reflects the Administration's review of the jobs, payroll, and capital expenditure targets established under the amended contract dated April 20, 2021, that WEDC entered into with certain Wisconsin corporations that are affiliated with Foxconn.

13. CLAIM OF RIGHT CREDIT REESTIMATE [LFB Paper 106]

GPR	- $56,000

Decrease funding for the claim of right (repayment) credit by $28,000 in 2023-24 and 2024-25. Compared to base funding of $150,000, total funding for the credit is estimated at $122,000 in 2023-24 and 2024-25.