



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4390/1
JK:wlj&amn

2019 ASSEMBLY BILL 754

January 17, 2020 - Introduced by Representatives WITTKE, MACCO, KATSMAN, OHNSTAD and ZIMMERMAN, cosponsored by Senators MARKLEIN, KOYENGA and SMITH. Referred to Committee on Ways and Means.

1 **AN ACT** *to repeal* 71.775 (1) (b), 77.51 (13gm) (a) 1. and 2., 77.51 (13gm) (d) 1.
2 and 77.51 (13gm) (d) 3. and 4.; *to renumber and amend* 77.51 (13gm) (a)
3 (intro.); *to consolidate, renumber and amend* 71.775 (1) (intro.) and (a); *to*
4 **amend** 48.561 (3) (a) 3., 48.561 (3) (b), 59.25 (3) (i), 66.0602 (3) (h) 2. a., 66.0602
5 (6) (a), 66.0602 (6) (b), 66.1105 (6m) (d) 4., 70.46 (4), 70.855 (4) (b), 70.995 (8)
6 (c) 1., 70.995 (8) (d), 70.995 (14) (b), 71.04 (1) (a), 71.04 (1) (b) (intro.), 71.04 (3)
7 (b), 71.04 (4) (intro.), 71.04 (9), 71.05 (6) (b) 4., 71.07 (9m) (h), 71.25 (6) (intro.),
8 71.28 (6) (h), 71.47 (6) (h), 71.55 (10), 71.76, 71.77 (7) (b), 71.78 (1), 71.87,
9 73.0305, 73.09 (4) (c), 73.09 (5), 73.16 (4), 74.315 (1), 74.315 (2), 74.315 (3), 76.04
10 (1), 76.07 (1), 76.075, 76.13 (3), 76.28 (4) (b), 76.28 (11), 76.39 (4) (d), 76.48 (5),
11 77.51 (13gm) (b), 77.51 (13gm) (c), 77.51 (13gm) (d) 2., 77.51 (13gm) (d) 5., 77.52
12 (2m) (b), 77.54 (6) (am) 2., 77.54 (9a) (f), 79.02 (1), 79.02 (2) (b), 79.02 (3) (a),
13 79.02 (3) (e), 79.035 (6), 79.035 (7) (b), 79.05 (1) (am) and 79.05 (2m); and *to*
14 **create** 71.04 (1) (c), 71.04 (9m), 71.52 (1g), 71.738 (3c), 71.738 (3d), 71.738 (3f),

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1 71.738 (3g), 71.738 (5b), 71.745, 71.75 (11), 71.78 (11), 71.80 (26), 71.80 (27),
2 71.83 (1) (a) 12., 74.315 (1m) and 77.61 (5) (b) 8m. of the statutes; **relating to:**
3 various changes to the laws administered and enforced by the Department of
4 Revenue.

Analysis by the Legislative Reference Bureau

This bill makes changes to the laws administered and enforced by the Department of Revenue.

SHARED REVENUE***Reimbursement amounts***

Under current law, the state reduces the shared revenue payments to counties and municipalities for various purposes, including for the collection of penalties and the reimbursement for other amounts. However, current law is not consistent with regard to which components of shared revenue are reduced for these purposes. This bill provides that all such reductions are from the payment of all shared revenue components that the counties and municipalities receive on the fourth Monday in July and the third Monday in November.

Expenditure restraint payments

Under current law, counties and municipalities receive 15 percent of their shared revenue payments on the fourth Monday in July and the remainder on the third Monday in November, except that municipalities receive the entire amount of their payment under the expenditure restraint program on the fourth Monday in July. The bill allows municipalities to receive their entire expenditure restraint before the fourth Monday in July, upon certification by DOR.

Under current law, the inflation factor used to compute a municipality's expenditure restraint payment is a percentage equal to the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on September 30. The bill modifies the consumer price index provision so that it is for the 12 months ending on August 31.

PROPERTY***Omitted property***

Current law requires a taxation district clerk to annually submit to DOR a listing of the taxes on property omitted from assessment in any of the previous two years that are to be included in the next assessment. However, the clerk reports the omitted taxes only if those taxes exceed \$5,000. The bill modifies that \$5,000 threshold so that the clerk reports the omitted taxes that are \$250 or more for any single description of property. The bill also provides that the clerk may not list an omitted tax that was levied on property within a tax incremental district unless the current value of the district is lower than the tax incremental base.

ASSEMBLY BILL 754***Objections***

Current law requires a person who files an objection to the assessment of the person's manufacturing property to pay a \$45 fee. The bill increases the filing fee to \$200.

License fees

Current law imposes license fees instead of property taxes on certain public utilities. The fees are based, generally, on the value of a utility's property. Utilities that are subject to the fees include light, heat, and power companies, pipeline companies, and railroad companies. Each such company, other than a railroad company, must file a report with DOR on or before May 1 of each year. DOR determines the value of the company's property on or before September 15. A railroad company must file its report on or before April 15 and its value is determined on or before August 1. The bill changes the filing and determination dates for a railroad company so that those dates are the same as those for other public utilities.

The bill also decreases the interest rate paid on refunds of license fees paid by public utilities from 9 percent to 3 percent.

Board of review

Current law requires that at least one member of the board of review attend DOR training within the two-year period beginning on the date of the board's first meeting. The bill requires all members of the board of review to complete the training each year, except that only one member needs to attend training in-person each year.

Assessor certification

Current law requires a person applying for an assessor certification examination to submit a \$20 fee with the application. A person applying for a renewal of an assessor certification pays a \$20 recertification fee with the application. The bill allows DOR to determine the amount of the fee for an assessor certification examination on the basis of DOR's estimate of the actual cost to administer and grade the examination, but the fee may not exceed \$75. The bill also allows DOR to determine the recertification fee.

Levy limit; joint fire departments

The property tax levy limit under current law does not apply to the amount that a city, village, or town levies to pay for charges assessed by a joint fire department if the current year increase in such charges is equal to or less than the percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on September 30 of the year of the levy, plus 2 percent. The bill modifies the consumer price index provision so that it is for the 12 months ending on August 31 of the year of the levy.

INCOME TAX***Disability income subtraction***

Current law allows an individual with less than \$20,200 of federal adjusted gross income to claim a disability income subtraction on the individual's state tax

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return, if the individual is at least 65 years of age and retired on disability, and, when the individual retired, was permanently and totally disabled. For a married couple filing a joint return, each spouse may claim the credit if they meet the criteria and their combined income is less than \$25,400. The bill replaces an obsolete reference to the federal Internal Revenue Code with the language used to determine the claimant's eligibility that existed under the obsolete reference.

Homestead credit

Under current law, an individual who is under the age of 62 and who does not have a disability must have earned income in order to claim the homestead credit. However, current law does not define earned income for purposes of claiming the credit. The bill defines "earned income" for purposes of claiming the homestead credit as wages, salaries, tips, and other employee compensation that may be included in federal adjusted gross income for the taxable year, plus the amount of net earnings from self-employment.

Current law also requires individuals who wish to claim the homestead credit to add certain disqualified losses to homestead income in order to determine eligibility to claim the credit. However, the requirement does not apply to an individual whose primary income is from farming and whose farming operation generates less than \$250,000 in the year to which the claim relates. The bill clarifies that an individual's primary income is from farming if the individual's gross income from farming for the year in which the claim relates is greater than 50 percent of the individual's total gross income from all sources for that year.

Pass-through entity audits

Under current law, in order to conduct an audit of a "pass-through" entity, DOR must interact with each member of the entity. A pass-through entity is an entity such as a partnership or limited liability company that passes the income of the entity on to the individual partners or members. The bill requires a pass-through entity to designate a member to act on the entity's behalf so that DOR may conduct an audit without having to interact with each individual member.

Final audit determinations

Under current law, a taxpayer who receives a final audit determination from DOR has 90 days to report to DOR any changes or corrections related to that determination. The bill increases the time for providing that report to 180 days.

Historic rehabilitation credit

The bill modifies the procedure for transferring the historic rehabilitation tax credit so that the person transferring the credit may file a claim for more than one taxable year.

Nonresident income

The bill modifies current law so that nonresidents who derive business income from services performed both in and outside this state determine the amount that is subject to state income or franchise tax by using the same apportionment formula under current law that applies to resident entities.

ASSEMBLY BILL 754**SALES TAX*****Property transferred with services***

Current law provides that persons providing landscaping, printing, fabricating, processing, or photographic services or performing services to tangible personal property may purchase for resale, without paying the sales tax, items that the person will transfer to a customer in conjunction with providing a service that is subject to the sales tax. The bill provides that the exemption applies regardless of whether the service is taxable.

Nonprofit organizations

The bill modifies the sales and use tax exemption for churches, religious organizations, and certain nonprofit organizations to conform with DOR's current practice with regard to the administration of the exemption. The bill provides that the exemption applies to organizations that are exempt from federal taxation under section 501 (c) (3) of the Internal Revenue Code and have received a determination letter for the Internal Revenue Service. The bill also provides that the exemption applies to churches and religious organizations that meet the requirements of section 501 (c) (3) of the Internal Revenue Code, but are not required to apply for or obtain tax-exempt status from the IRS.

Out-of-state retailer

Under current law, an out-of-state retailer that has annual gross sales into this state in excess of \$100,000 or 200 or more annual separate sales transactions into this state must register with DOR and collect the sales tax on those sales and transactions. The determination of the annual gross sales and transactions is based on the retailer's taxable year for federal income tax purposes.

Under the bill, an out-of-state retailer that has annual gross sales into this state in excess of \$100,000 in the previous or current calendar year must register with DOR and collect the sales tax on those sales.

Disclosure to state auditor

The bill allows the state auditor and Legislative Audit Bureau to examine sales and use tax returns and related documents to the extent necessary for the bureau to carry out its duties.

OTHER***Payments from counties to towns***

Under current law, during the period beginning on the third Monday of March and ending ten days after the annual town meeting, a county treasurer may not pay to a town treasurer any money that belongs to the town and that is in the hands of the county treasurer except upon a written order of the town board. The bill eliminates this restriction.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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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.** 48.561 (3) (a) 3. of the statutes is amended to read:

2 48.561 (3) (a) 3. Through a deduction of \$20,101,300 from any state payment
3 due that county under s. ~~79.035, 79.04, or 79.08~~ 79.02 (1), as provided in par. (b).

4 **SECTION 2.** 48.561 (3) (b) of the statutes is amended to read:

5 48.561 (3) (b) The department of administration shall collect the amount
6 specified in par. (a) 3. from a county having a population of 750,000 or more by
7 deducting all or part of that amount from any state payment due that county under
8 s. ~~79.035, 79.04, or 79.08~~ 79.02 (1). The department of administration shall notify
9 the department of revenue, by September 15 of each year, of the amount to be
10 deducted from the state payments due under s. ~~79.035, 79.04, or 79.08~~ 79.02 (1). The
11 department of administration shall credit all amounts collected under this
12 paragraph to the appropriation account under s. 20.437 (1) (kw) and shall notify the
13 county from which those amounts are collected of that collection. The department
14 may not expend any moneys from the appropriation account under s. 20.437 (1) (cx)
15 for providing services to children and families under s. 48.48 (17) until the amounts
16 in the appropriation account under s. 20.437 (1) (kw) are exhausted.

17 **SECTION 3.** 59.25 (3) (i) of the statutes is amended to read:

18 59.25 (3) (i) Make annually, on the 3rd Monday of March, a certified statement,
19 and forward the statement to each municipal clerk in the county, showing the
20 amount of money paid from the county treasury during the year next preceding to
21 each municipal treasurer in the county. The statement shall specify the date of each

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1 payment, the amount thereof and the account upon which the payment was made.
2 ~~It shall be unlawful for any county treasurer to pay to the treasurer of any town any~~
3 ~~money in the hands of the county treasurer belonging to the town from the 3rd~~
4 ~~Monday of March until 10 days after the annual town meeting except upon the~~
5 ~~written order of the town board.~~

6 **SECTION 4.** 66.0602 (3) (h) 2. a. of the statutes is amended to read:

7 66.0602 (3) (h) 2. a. The total charges assessed by the joint fire department for
8 the current year increase, relative to the total charges assessed by the joint fire
9 department for the previous year, by a percentage that is less than or equal to the
10 percentage change in the U.S. consumer price index for all urban consumers, U.S.
11 city average, as determined by the U.S. department of labor, for the 12 months
12 ending on ~~September 30~~ August 31 of the year of the levy, plus 2 percent.

13 **SECTION 5.** 66.0602 (6) (a) of the statutes is amended to read:

14 66.0602 (6) (a) Reduce the amount of ~~county and municipal aid payments~~ the
15 payment to the political subdivision under s. ~~79.035~~ 79.02 (1) in the following year
16 by an amount equal to the amount of the penalized excess.

17 **SECTION 6.** 66.0602 (6) (b) of the statutes is amended to read:

18 66.0602 (6) (b) Ensure that the amount of any reductions in ~~county and~~
19 ~~municipal aid payments~~ under par. (a) lapses to the general fund.

20 **SECTION 7.** 66.1105 (6m) (d) 4. of the statutes is amended to read:

21 66.1105 (6m) (d) 4. If an annual report is not timely filed under par. (c), the
22 department of revenue shall notify the city that the report is past due. If the city does
23 not file the report within 60 days of the date on the notice, except as provided in this
24 subdivision, the department shall charge the city a fee of \$100 per day for each day
25 that the report is past due, up to a maximum penalty of \$6,000 per report. If the city

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1 does not pay within 30 days of issuance, the department of revenue shall reduce and
2 withhold the amount of the shared revenue payments to the city under ~~subch. I of~~
3 ~~ch. 79 s. 79.02 (1)~~, in the following year, by an amount equal to the unpaid penalty.

4 **SECTION 8.** 70.46 (4) of the statutes is amended to read:

5 70.46 (4) No board of review may be constituted unless it includes at least one
6 voting member who, within 2 years of the board's first meeting, has attended all
7 members complete in each year a training session under s. 73.03 (55) and unless that
8 member is the municipality's chief executive officer or that officer's designee. All but
9 one member of the board may satisfy the training requirement under this subsection
10 by participating in the training online. At least one member shall attend training
11 in-person each year. The municipal clerk shall provide an affidavit to the
12 department of revenue stating whether the requirement under this subsection has
13 been fulfilled.

14 **SECTION 9.** 70.855 (4) (b) of the statutes is amended to read:

15 70.855 (4) (b) If the department of revenue does not receive the fee imposed on
16 a municipality under par. (a) by March 31 of the year following the department's
17 determination under sub. (2) (b), the department shall reduce the distribution made
18 to the municipality under s. 79.02 ~~(2) (b)~~ (1) by the amount of the fee and shall
19 transfer that amount to the appropriation under s. 20.566 (2) (ga).

20 **SECTION 10.** 70.995 (8) (c) 1. of the statutes is amended to read:

21 70.995 (8) (c) 1. All objections to the amount, valuation, taxability, or change
22 from assessment under this section to assessment under s. 70.32 (1) of property shall
23 be first made in writing on a form prescribed by the department of revenue that
24 specifies that the objector shall set forth the reasons for the objection, the objector's
25 estimate of the correct assessment, and the basis under s. 70.32 (1) for the objector's

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1 estimate of the correct assessment. An objection shall be filed with the state board
2 of assessors within the time prescribed in par. (b) 1. A ~~\$45~~ \$200 fee shall be paid when
3 the objection is filed unless a fee has been paid in respect to the same piece of property
4 and that appeal has not been finally adjudicated. The objection is not filed until the
5 fee is paid. Neither the state board of assessors nor the tax appeals commission may
6 waive the requirement that objections be in writing. Persons who own land and
7 improvements to that land may object to the aggregate value of that land and
8 improvements to that land, but no person who owns land and improvements to that
9 land may object only to the valuation of that land or only to the valuation of
10 improvements to that land.

11 **SECTION 11.** 70.995 (8) (d) of the statutes is amended to read:

12 70.995 (8) (d) A municipality may file an objection with the state board of
13 assessors to the amount, valuation, or taxability under this section or to the change
14 from assessment under this section to assessment under s. 70.32 (1) of a specific
15 property having a situs in the municipality, whether or not the owner of the specific
16 property in question has filed an objection. Objection shall be made on a form
17 prescribed by the department and filed with the board within the time prescribed in
18 par. (b) 1. If the person assessed files an objection and the municipality affected does
19 not file an objection, the municipality affected may file an appeal to that objection
20 within 15 days after the person's objection is filed. A ~~\$45~~ \$200 filing fee shall be paid
21 when the objection is filed unless a fee has been paid in respect to the same piece of
22 property and that appeal has not been finally adjudicated. The objection is not filed
23 until the fee is paid. The board shall forthwith notify the person assessed of the
24 objection filed by the municipality.

25 **SECTION 12.** 70.995 (14) (b) of the statutes is amended to read:

ASSEMBLY BILL 754**SECTION 12**

1 70.995 (14) (b) If the department of revenue does not receive the fee imposed
2 on a municipality under par. (a) by March 31 of each year, the department shall
3 reduce the distribution made to the municipality under s. 79.02 ~~(2)(b)~~ (1) by the
4 amount of the fee.

5 **SECTION 13.** 71.04 (1) (a) of the statutes is amended to read:

6 71.04 (1) (a) All income or loss of resident individuals and resident estates and
7 trusts shall follow the residence of the individual, estate or trust. ~~Income or loss of~~
8 ~~nonresident individuals and nonresident estates and trusts from business, not~~
9 ~~requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the~~
10 ~~business from which derived, except that all income that is realized from the sale of~~
11 ~~or purchase and subsequent sale or redemption of lottery prizes if the winning tickets~~
12 ~~were originally bought in this state shall be allocated to this state. All items of~~
13 ~~income, loss and deductions of nonresident individuals and nonresident estates and~~
14 ~~trusts derived from a tax-option corporation not requiring apportionment under~~
15 ~~sub. (9) shall follow the situs of the business of the corporation from which derived,~~
16 ~~except that all income that is realized from the sale of or purchase and subsequent~~
17 ~~sale or redemption of lottery prizes if the winning tickets were originally bought in~~
18 ~~this state shall be allocated to this state. Income or loss of nonresident individuals~~
19 ~~and nonresident estates and trusts derived from rentals and royalties from real~~
20 ~~estate or tangible personal property, or from the operation of any farm, mine or~~
21 ~~quarry, or from the sale of real property or tangible personal property shall follow the~~
22 ~~situs of the property from which derived. Income from personal services of~~
23 ~~nonresident individuals, including income from professions, shall follow the situs of~~
24 ~~the services. A nonresident limited partner's distributive share of partnership~~
25 ~~income shall follow the situs of the business, except that all income that is realized~~

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1 ~~from the sale of or purchase and subsequent sale or redemption of lottery prizes if~~
2 ~~the winning tickets were originally bought in this state shall be allocated to this~~
3 ~~state. A nonresident limited liability company member's distributive share of~~
4 ~~limited liability company income shall follow the situs of the business, except that~~
5 ~~all income that is realized from the sale of or purchase and subsequent sale or~~
6 ~~redemption of lottery prizes if the winning tickets were originally bought in this state~~
7 ~~shall be allocated to this state. Income of nonresident individuals, estates and trusts~~
8 ~~from the state lottery under ch. 565 is taxable by this state. Income of nonresident~~
9 ~~individuals, estates and trusts from any multijurisdictional lottery under ch. 565 is~~
10 ~~taxable by this state, but only if the winning lottery ticket or lottery share was~~
11 ~~purchased from a retailer, as defined in s. 565.01 (6), located in this state or from the~~
12 ~~department. Income of nonresident individuals, nonresident trusts and nonresident~~
13 ~~estates from pari-mutuel winnings or purses under ch. 562 is taxable by this state.~~
14 ~~Income of nonresident individuals, estates and trusts from winnings from a casino~~
15 ~~or bingo hall that is located in this state and that is operated by a Native American~~
16 ~~tribe or band shall follow the situs of the casino or bingo hall. Income derived by a~~
17 ~~nonresident individual from a covenant not to compete is taxable by this state to the~~
18 ~~extent that the covenant was based on a Wisconsin-based activity. All other income~~
19 ~~or loss of nonresident individuals and nonresident estates and trusts, including~~
20 ~~income or loss derived from land contracts, mortgages, stocks, bonds and securities~~
21 ~~or from the sale of similar intangible personal property, shall follow the residence of~~
22 ~~such persons, except as provided in par. (b) and sub. (9), except that all income that~~
23 ~~is realized from the sale of or purchase and subsequent sale or redemption of lottery~~
24 ~~prizes if the winning tickets were originally bought in this state shall be allocated~~
25 ~~to this state.~~

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1 **SECTION 14.** 71.04 (1) (b) (intro.) of the statutes is amended to read:

2 71.04 (1) (b) (intro.) ~~For~~ Except as provided in par. (c), for purposes of
3 determining the situs of income under this section:

4 **SECTION 15.** 71.04 (1) (c) of the statutes is created to read:

5 71.04 (1) (c) Except as provided in subs. (4), (9), and (9m), the situs of income
6 or loss of nonresident individuals and nonresident estates and trusts is as follows:

7 1. Except as provided in subds. 3. and 4., income from services performed by
8 nonresident individuals shall follow the situs of the services.

9 2. Income or loss from business, not requiring apportionment under sub. (4),
10 (10), or (11), shall follow the situs of the business from which derived, except that all
11 income that is realized from the sale of or purchase and subsequent sale or
12 redemption of lottery prizes if the winning tickets were originally bought in this state
13 shall be allocated to this state.

14 3. All items of income, loss, and deductions derived from a tax-option
15 corporation not requiring apportionment under sub. (9) shall follow the situs of the
16 business of the corporation from which derived, except that all income that is realized
17 from the sale of or purchase and subsequent sale or redemption of lottery prizes if
18 the winning tickets were originally bought in this state shall be allocated to this
19 state.

20 4. All items of income, loss, and deductions derived from a partnership or
21 limited liability company not requiring apportionment under sub. (9m) shall follow
22 the situs of the business of the partnership or limited liability company from which
23 derived, except that all income that is realized from the sale of or purchase and
24 subsequent sale or redemption of lottery prizes if the winning tickets were originally
25 bought in this state shall be allocated to this state.

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1 5. Income or loss derived from rentals and royalties from real estate or tangible
2 personal property, or from the operation of any farm, mine or quarry, or from the sale
3 of real property or tangible personal property shall follow the situs of the property
4 from which derived.

5 6. Income from the state lottery under ch. 565 is taxable to this state. Income
6 from any multijurisdictional lottery under ch. 565 is taxable by this state, but only
7 if the winning lottery ticket or lottery share was purchased from a retailer, as defined
8 in s. 565.01 (6), located in this state or from the department.

9 7. Income from pari-mutuel winnings or purses under ch. 562 is taxable by this
10 state.

11 8. Income from winnings from a casino or bingo hall that is located in this state
12 and that is operated by a Native American tribe or band shall follow the situs of the
13 casino or bingo hall.

14 9. Income derived by a nonresident individual from a covenant not to compete
15 is taxable by this state to the extent that the covenant was based on a
16 Wisconsin-based activity.

17 10. All other income or loss of nonresident individuals and nonresident estates
18 and trusts, including income or loss derived from land contracts, mortgages, stocks,
19 bonds, and securities or from the sale of similar intangible personal property, shall
20 follow the residence of such persons, except as provided in par. (b) and subs. (9) and
21 (9m), except that all income that is realized from the sale of or purchase and
22 subsequent sale or redemption of lottery prizes if the winning tickets were originally
23 bought in this state shall be allocated to this state.

24 **SECTION 16.** 71.04 (3) (b) of the statutes is amended to read:

ASSEMBLY BILL 754**SECTION 16**

1 71.04 (3) (b) *Part-year residents, nonresidents.* All partners or members who
2 are residents of this state for less than a full taxable year or who are nonresidents
3 shall compute taxes for that year on their share of partnership or limited liability
4 company income or loss under this chapter for the part of the taxable year during
5 which they are nonresidents by recognizing their proportionate share of all items of
6 income, loss or deduction attributable to ~~a business in, services performed in, or~~
7 ~~rental of property in,~~ this state.

8 **SECTION 17.** 71.04 (4) (intro.) of the statutes is amended to read:

9 71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. (intro.)
10 Nonresident individuals and nonresident estates and trusts engaged in business
11 within and without the state shall be taxed only on such income as is derived from
12 business transacted and property located within the state. The amount of such
13 income attributable to Wisconsin may be determined by an allocation and separate
14 accounting thereof, when the business of such nonresident individual or nonresident
15 estate or trust within the state is not an integral part of a unitary business, but the
16 department of revenue may permit an allocation and separate accounting in any case
17 in which it is satisfied that the use of such method will properly reflect the income
18 taxable by this state. In all cases in which allocation and separate accounting is not
19 permissible, the determination shall be made in the following manner: for all
20 businesses except air carriers, financial organizations, telecommunications
21 companies, pipeline companies, public utilities, railroads, and car line companies
22 ~~there shall first be deducted from the total net income of the taxpayer the part thereof~~
23 ~~(less related expenses, if any) that follows the situs of the property or the residence~~
24 ~~of the recipient. The remaining, the~~ net income shall be apportioned to this state by
25 use of the following:

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1 **SECTION 18.** 71.04 (9) of the statutes is amended to read:

2 71.04 (9) NONRESIDENT INCOME FROM MULTISTATE TAX-OPTION CORPORATION.
3 Nonresident individuals and nonresident estates and trusts deriving income from a
4 tax-option corporation which is engaged in business within and without this state
5 shall be taxed only on the income of the corporation derived from business transacted
6 and property located in this state as computed under the apportionment formula
7 under subs. (4) and (4m) and losses and other items of the corporation deductible by
8 such shareholders shall be limited to their proportionate share of the Wisconsin loss
9 or other item as computed under the apportionment formula under subs. (4) and
10 (4m), except that all income that is realized from the sale of or purchase and
11 subsequent sale or redemption of lottery prizes if the winning tickets were originally
12 bought in this state shall be allocated to this state. For purposes of this subsection,
13 all ~~intangible~~ income of tax-option corporations, including intangible income,
14 passed through to shareholders is business income that follows the situs of the
15 business as computed under the apportionment formula under subs. (4) and (4m),
16 except that all income that is realized from the sale of or purchase and subsequent
17 sale or redemption of lottery prizes if the winning tickets were originally bought in
18 this state shall be allocated to this state.

19 **SECTION 19.** 71.04 (9m) of the statutes is created to read:

20 71.04 (9m) NONRESIDENT INCOME FROM MULTISTATE PARTNERSHIP AND LIMITED
21 LIABILITY COMPANY. Nonresident individuals and nonresident estates and trusts
22 deriving income from a partnership or limited liability company which is engaged in
23 business within and without this state shall be taxed only on the income of the
24 partnership or limited liability company derived from business transacted and
25 property located in this state as computed under the apportionment formula under

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1 subs. (4) and (4m) and losses and other items of the partnership or limited liability
2 company deductible by such partners and members shall be limited to their
3 proportionate share of the Wisconsin loss or other item as computed under the
4 apportionment formula under subs. (4) and (4m), except that all income that is
5 realized from the sale of or purchase and subsequent sale or redemption of lottery
6 prizes if the winning tickets were originally bought in this state shall be allocated
7 to this state. For purposes of this subsection, all partnership or limited liability
8 company income, including intangible income, passed through to partners and
9 members is presumed business income that follows the situs of the business as
10 computed under the apportionment formula under subs. (4) and (4m), except that all
11 income that is realized from the sale of or purchase and subsequent sale or
12 redemption of lottery prizes if the winning tickets were originally bought in this state
13 shall be allocated to this state.

14 **SECTION 20.** 71.05 (6) (b) 4. of the statutes is amended to read:

15 71.05 (6) (b) 4. Disability payments other than disability payments that are
16 paid from a retirement plan, the payments from which are exempt under sub. (1) (ae),
17 (am), and (an), if the individual ~~either is single or is married and files a joint return,~~
18 ~~to the extent those payments are excludable under section 105 (d) of the Internal~~
19 ~~Revenue Code as it existed immediately prior to its repeal in 1983 by section 122 (b)~~
20 ~~of P.L. 98-21, except that if is at least 65 years of age before the close of the taxable~~
21 ~~year to which the subtraction relates, retired on disability, and, when the individual~~
22 ~~retired, was permanently and totally disabled.~~ If an individual is divorced during
23 the taxable year that individual may subtract an amount only if that person is
24 disabled and the amount that may be subtracted then is \$100 for each week that
25 payments are received or the amount of disability pay reported as income, whichever

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1 is less. If the exclusion under this subdivision is claimed on a joint return and only
2 one of the spouses is disabled, the maximum exclusion is \$100 for each week that
3 payments are received or the amount of disability pay reported as income, whichever
4 is less. In this subdivision, “permanently and totally disabled” means an individual
5 who is unable to engage in any substantial gainful activity by reason of any medically
6 determinable physical or mental impairment that can be expected to result in death
7 or that has lasted or can be expected to last for a continuous period of not less than
8 12 months. An individual shall not be considered permanently and totally disabled
9 for purposes of this subdivision unless proof is furnished in such form and manner,
10 and at such times, as prescribed by the department.

11 **SECTION 21.** 71.07 (9m) (h) of the statutes is amended to read:

12 71.07 **(9m)** (h) Any person, including a nonprofit entity described in section 501
13 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
14 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
15 imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the
16 transfer, and submits with the notification a copy of the transfer documents, and the
17 department certifies ownership of the credit with each transfer. The transferor may
18 file a claim for more than one taxable year on a form prescribed by the department
19 to compute all years of the credit under par. (a) 2m. or 3., at the time of the transfer
20 request. The transferee may first use the credit to offset tax in the taxable year of
21 the transferor in which the transfer occurs and may use the credit only to offset tax
22 in taxable years otherwise allowed to be claimed and carried forward by the original
23 claimant.

24 **SECTION 22.** 71.25 (6) (intro.) of the statutes is amended to read:

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1 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.

2 (intro.) Corporations engaged in business within and without the state shall be taxed
3 only on such income as is derived from business transacted and property located
4 within the state. The amount of such income attributable to Wisconsin may be
5 determined by an allocation and separate accounting thereof, when the business of
6 such corporation within the state is not an integral part of a unitary business, but
7 the department of revenue may permit an allocation and separate accounting in any
8 case in which it is satisfied that the use of such method will properly reflect the
9 income taxable by this state. In all cases in which allocation and separate accounting
10 is not permissible, the determination shall be made in the following manner: for all
11 businesses except air carriers, financial organizations, telecommunications
12 companies, pipeline companies, public utilities, railroads, car line companies and
13 corporations or associations that are subject to a tax on unrelated business income
14 under s. 71.26 (1) (a) ~~there shall first be deducted from the total net income of the~~
15 ~~taxpayer the part thereof (less related expenses, if any) that follows the situs of the~~
16 ~~property or the residence of the recipient. The remaining, the~~ net income shall be
17 apportioned to this state by use of the following:

18 **SECTION 23.** 71.28 (6) (h) of the statutes is amended to read:

19 71.28 (6) (h) Any person, including a nonprofit entity described in section 501
20 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
21 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
22 imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the
23 transfer, and submits with the notification a copy of the transfer documents, and the
24 department certifies ownership of the credit with each transfer. The transferor may
25 file a claim for more than one taxable year on a form prescribed by the department

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1 to compute all years of the credit under par. (a) 2m. or 3., at the time of the transfer
2 request. The transferee may first use the credit to offset tax in the taxable year of the
3 transferor in which the transfer occurs, and may use the credit only to offset tax in
4 taxable years otherwise allowed to be claimed and carried forward by the original
5 claimant.

6 **SECTION 24.** 71.47 (6) (h) of the statutes is amended to read:

7 71.47 (6) (h) Any person, including a nonprofit entity described in section 501
8 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
9 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
10 imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the
11 transfer, and submits with the notification a copy of the transfer documents, and the
12 department certifies ownership of the credit with each transfer. The transferor may
13 file a claim for more than one taxable year on a form prescribed by the department
14 to compute all years of the credit under par. (a) 2m. or 3., at the time of the transfer
15 request. The transferee may first use the credit to offset tax in the taxable year of the
16 transferor in which the transfer occurs, and may use the credit only to offset tax in
17 taxable years otherwise allowed to be claimed and carried forward by the original
18 claimant.

19 **SECTION 25.** 71.52 (1g) of the statutes is created to read:

20 71.52 (1g) “Earned income” means wages, salaries, tips, and other employee
21 compensation that may be included in federal adjusted gross income for the taxable
22 year, plus the amount of the claimant’s net earnings from self-employment for the
23 taxable year determined with regard to the deduction allowed to the taxpayer by
24 section 164 (f) of the Internal Revenue Code. For purposes of this subsection, a
25 claimant’s earned income is computed without regard to any marital property laws

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1 and a claimant may elect to treat amounts excluded from federal adjusted gross
2 income as earned income, as provided under section 112 of the Internal Revenue
3 Code. “Earned income” does not include the following:

4 (a) Any amount received as a pension or annuity.

5 (b) Any amount to which section 871 (a) of the Internal Revenue Code applies.

6 (c) Any amount received for services provided by an individual while the
7 individual is an inmate at a penal institution.

8 (d) Any amount received for service performed in work activities under
9 paragraphs (4) or (7) of section 407 (d) of the Social Security Act to which the claimant
10 is assigned under any state program under part A of title IV of the Social Security
11 Act. This paragraph applies only to amounts subsidized under any such state
12 program.

13 **SECTION 26.** 71.55 (10) of the statutes is amended to read:

14 71.55 (10) FARMERS. Notwithstanding the provision in s. 71.52 (6) that requires
15 the addition of certain disqualified losses to income, such an addition may not be
16 made by a claimant who is a farmer whose primary income is from farming and
17 whose farming generates less than \$250,000 in gross receipts from the operation of
18 farm premises in the year to which the claim relates. For purposes of this subsection,
19 a claimant’s primary income is from farming if the claimant’s gross income from
20 farming for the year to which the claim relates is greater than 50 percent of the
21 claimant’s total gross income from all sources for the year to which the claim relates.
22 In this subsection, “gross income” has the meaning given in s. 71.03 (1).

23 **SECTION 27.** 71.738 (3c) of the statutes is created to read:

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1 71.738 (3c) “Pass-through entity” means a partnership, a limited liability
2 company, a tax-option corporation, an estate, or a trust that is treated as a
3 pass-through entity for federal income tax purposes.

4 **SECTION 28.** 71.738 (3d) of the statutes is created to read:

5 71.738 (3d) “Pass-through item” means a tax-option item under s. 71.34 (3)
6 or an item of income, gain, loss, deduction, credit, or any other item that originates
7 with a pass-through entity and is required to be reported by one or more
8 pass-through members under this chapter.

9 **SECTION 29.** 71.738 (3f) of the statutes is created to read:

10 71.738 (3f) “Pass-through member” means a person who is a partner in a
11 partnership, shareholder in a tax-option corporation, beneficiary of an estate or a
12 trust, or any other person whose tax liability under this chapter is determined in
13 whole or in part by taking into account the person’s share of pass-through items,
14 directly or indirectly, from a pass-through entity.

15 **SECTION 30.** 71.738 (3g) of the statutes is created to read:

16 71.738 (3g) “Person” includes a pass-through entity,

17 **SECTION 31.** 71.738 (5b) of the statutes is created to read:

18 71.738 (5b) “Taxpayer” includes a pass-through entity,

19 **SECTION 32.** 71.745 of the statutes is created to read:

20 **71.745 Pass-through entity audits, additional assessments and**
21 **refunds at the entity level. (1) AUDIT ASSESSMENTS AND REFUNDS.** Except as
22 provided in s. 71.80 (27), the department may audit and assess tax to a pass-through
23 entity on income otherwise reportable by the pass-through members at the highest
24 tax rate applicable under this chapter. The department may issue a refund to a

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1 pass-through entity when the audit results in an overpayment of tax originally paid
2 by the entity.

3 (2) ADJUSTMENT OF CREDITS. Except as provided in s. 71.80 (27), the department
4 may correct the credit computation of a pass-through entity resulting from a
5 department audit under this subchapter at the pass-through entity level, and may
6 apply the credit adjustment to an assessment or refund issued to the pass-through
7 entity.

8 (3) ADJUSTMENTS TO THE PASS-THROUGH ENTITY ARE ATTRIBUTABLE TO THE
9 MEMBERS. Except when an election under s. 71.21 (6) (a) or 71.365 (4m) (a) is made,
10 any adjustments to income, gain, loss, deduction, or credit made to the pass-through
11 entity under this section are attributable to each pass-through member in a manner
12 that is consistent with the treatment of such income, gain, loss, deduction, or credit
13 to the pass-through entity.

14 (4) LIABILITY MAY BE ASSESSED TO MORE THAN ONE PERSON. If for any reason a
15 pass-through entity fails to timely make any report or payment required under this
16 subchapter, the department may assess the pass-through members for any liability
17 resulting from an audit under this subchapter. If for any reason a pass-through
18 member fails to timely make any report or payment required under this subchapter,
19 the department may assess the pass-through entity for any liability resulting from
20 an audit under this subchapter.

21 **SECTION 33.** 71.75 (11) of the statutes is created to read:

22 71.75 (11) The department shall not issue a refund to a pass-through entity
23 except when the claim is for overpayment of tax originally paid by the entity.

24 **SECTION 34.** 71.76 of the statutes is amended to read:

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1 **71.76 Internal revenue service and other state adjustments.** If for any
2 year the amount of federal net income tax payable, of a credit claimed or carried
3 forward, of a net operating loss carried forward or of a capital loss carried forward
4 of any taxpayer as reported to the internal revenue service is changed or corrected
5 by the internal revenue service or other officer of the United States, such taxpayer
6 shall report such changes or corrections to the department within ~~90~~ 180 days after
7 its final determination and shall concede the accuracy of such determination or state
8 how the determination is erroneous. Such changes or corrections need not be
9 reported unless they affect the amount of net tax payable under this chapter, of a
10 credit calculated under this chapter, of a Wisconsin net operating loss carried
11 forward, of a Wisconsin net business loss carried forward or of a capital loss carried
12 forward under this chapter. Any taxpayer submitting an amended return to the
13 internal revenue service, or to another state if there has been allowed a credit against
14 Wisconsin taxes for taxes paid to that state, shall also file, within ~~90~~ 180 days of such
15 filing date, an amended return if any information contained on the amended return
16 affects the amount of net tax payable under this chapter of a credit calculated under
17 this chapter, of a Wisconsin net operating loss carried forward, of a Wisconsin net
18 business loss carried forward or of a capital loss carried forward under this chapter.

19 **SECTION 35.** 71.77 (7) (b) of the statutes is amended to read:

20 71.77 (7) (b) If notice of assessment or refund is given to the taxpayer within
21 90 180 days of the date on which the department receives a report from the taxpayer
22 under s. 71.76 or within such other period specified in a written agreement entered
23 into prior to the expiration of such 90 180 days by the taxpayer and the department.
24 If the taxpayer does not report to the department as required under s. 71.76, the

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1 department may make an assessment against the taxpayer or refund to the taxpayer
2 within 4 years after discovery by the department.

3 **SECTION 36.** 71.775 (1) (intro.) and (a) of the statutes are consolidated,
4 renumbered 71.775 (1) and amended to read:

5 71.775 (1) DEFINITIONS. In this section: ~~(a) “Nonresident”, “nonresident”~~
6 includes an individual who is not domiciled in this state; a partnership, limited
7 liability company, or corporation whose commercial domicile is outside the state; and
8 an estate or a trust that is a nonresident under s. 71.14 (1) to (3m).

9 **SECTION 37.** 71.775 (1) (b) of the statutes is repealed.

10 **SECTION 38.** 71.78 (1) of the statutes is amended to read:

11 71.78 (1) DIVULGING INFORMATION. Except as provided in subs. (4), (4m) and,
12 (10), and (11), no person may divulge or circulate or offer to obtain, divulge, or
13 circulate any information derived from an income, franchise, withholding, fiduciary,
14 partnership, or limited liability company tax return or tax credit claim, including
15 information which may be furnished by the department as provided in this section.
16 This subsection does not prohibit publication by any newspaper of information
17 lawfully derived from such returns or claims for purposes of argument or prohibit
18 any public speaker from referring to such information in any address. This
19 subsection does not prohibit the department from publishing statistics classified so
20 as not to disclose the identity of particular returns, or claims or reports and the items
21 thereof. This subsection does not prohibit employees or agents of the department of
22 revenue from offering or submitting any return, including joint returns of a spouse
23 or former spouse, separate returns of a spouse, individual returns of a spouse or
24 former spouse, and combined individual income tax returns, or from offering or
25 submitting any claim, schedule, exhibit, writing, or audit report or a copy of, and any

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1 information derived from, any of those documents as evidence into the record of any
2 contested matter involving the department in proceedings or litigation on state tax
3 matters if, in the department's judgment, that evidence has reasonable probative
4 value.

5 **SECTION 39.** 71.78 (11) of the statutes is created to read:

6 71.78 (11) PASS-THROUGH ENTITY AUDITS. If the department audits a
7 pass-through entity for the income or franchise taxes of its pass-through members,
8 including when an election is made under s. 71.21 (6) (a) or 71.365 (4m) (a) to pay tax
9 at the entity level, the department may disclose the following:

10 (a) To a pass-through member that the pass-through entity is under audit or
11 was audited, if the disclosure is necessary to explain any amounts assessed or
12 refunded to the pass-through member or to obtain information necessary to
13 determine the proper amount of adjustment to make at the pass-through entity
14 level.

15 (b) To a pass-through entity, the identities of one or more members who have
16 failed to report pass-through items originating with the entity on their Wisconsin
17 returns, if the disclosure is necessary to explain any amounts assessed or refunded
18 to the pass-through entity or to obtain information about a pass-through member's
19 return in order to determine the proper amount of adjustment to make at the
20 pass-through entity level.

21 **SECTION 40.** 71.80 (26) of the statutes is created to read:

22 71.80 (26) TAX MATTERS MEMBER OF A PASS-THROUGH ENTITY. (a) Each
23 pass-through entity filing a return in this state under this chapter shall designate
24 one pass-through member as the tax matters member on the pass-through entity's
25 return filed in this state for each taxable year. If no tax matters member is

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1 designated on the return or no return is filed, the pass-through entity shall appoint
2 a tax matters member no later than 30 days after a written request by the
3 department. If no member is so appointed, the department may designate the tax
4 matters member and notify the pass-through entity in writing of the designation.
5 The pass-through entity may at any time provide a written statement designating
6 a new tax matters member and the department shall accept it if it is signed by an
7 authorized agent of the pass-through entity. The tax matters member for this state
8 may be different from the entity's federal tax matters member.

9 (b) With regard to a department audit of a pass-through entity for income or
10 franchise taxes, the tax matters member has the power and duty to do all of the
11 following:

12 1. Act as the sole authority on behalf of the pass-through entity with respect
13 to the year under review. The pass-through members are bound by actions of the tax
14 matters member under this subdivision.

15 2. Provide the department sufficient information to identify each pass-through
16 member, and the profits interest of each pass-through member, for each taxable year
17 affected by the audit.

18 3. Represent the pass-through entity and keep all pass-through members
19 informed.

20 4. Enter extension agreements on behalf of the pass-through entity under s.
21 71.77 (5).

22 5. Receive pass-through entity adjustment notices.

23 6. Notify all pass-through members of their share of corrections and
24 adjustments made to the pass-through entity within 90 days after the final
25 determination date of the notice.

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1 7. File appeals of pass-through entity adjustment notices.

2 8. Enter a settlement agreement related to pass-through entity items from the
3 entity that is binding on the pass-through members.

4 (c) The tax matters member may delegate the powers and duties under par. (b)
5 to an authorized agent.

6 **SECTION 41.** 71.80 (27) of the statutes is created to read:

7 71.80 (27) EXCEPTION TO PASS-THROUGH ENTITY LEVEL ASSESSMENT. No later than
8 60 days after receipt of the department's audit determination, in a manner
9 prescribed by the department, a pass-through entity with 5 or fewer members for all
10 years under review may elect an audit assessment to be assessed separately to each
11 pass-through member. This subsection does not apply to a pass-through entity if
12 one or more of its members is a pass-through entity for any year under review or if
13 the pass-through entity has made an election for the taxable year under s. 71.21 (6)
14 (a) or 71.365 (4m) (a). The election under this subsection does not dismiss the duties
15 of a tax matters member provided under sub. (26) (a) and (b) 2., 3., and 6.

16 **SECTION 42.** 71.83 (1) (a) 12. of the statutes is created to read:

17 71.83 (1) (a) 12. 'Incomplete or incorrect pass-through entity return.' If any
18 pass-through entity, as defined in s. 71.738 (3c), required under this chapter to file
19 a return files an incomplete or incorrect return, the department, upon a showing by
20 the department under s. 73.16 (4), shall assess the pass-through entity an amount
21 equal to 25 percent of the amount of tax assessed under s. 71.745. The amount shall
22 be assessed, levied, and collected in the same manner as additional income or
23 franchise taxes.

24 **SECTION 43.** 71.87 of the statutes is amended to read:

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1 **71.87 Definition.** In this subchapter, “person feeling aggrieved” and “person
2 aggrieved” ~~include~~ includes a pass-through entity, as defined in s. 71.738 (3c), and
3 the spouse of a person against whom an additional assessment was made or who was
4 denied a claim for refund for a taxable year for which a separate return was filed and
5 include either spouse for a taxable year for which a joint return was filed or, if no
6 return was filed, a joint return could have been filed.

7 **SECTION 44.** 73.0305 of the statutes is amended to read:

8 **73.0305 Revenue limits calculations.** The department of revenue shall
9 ~~annually~~ determine and certify to the state superintendent of public instruction, ~~no~~
10 ~~later than the 4th Monday in June at the superintendent’s request,~~ the allowable
11 rate of increase under subch. VII of ch. 121. The allowable rate of increase is the
12 percentage change, if not negative, in the consumer price index for all urban
13 consumers, U.S. city average, between the preceding March 31 and the 2nd
14 preceding March 31, as computed by the federal department of labor.

15 **SECTION 45.** 73.09 (4) (c) of the statutes is amended to read:

16 **73.09 (4) (c)** Recertification is contingent upon submission of an application for
17 renewal, at least 60 days before the expiration date of the current certificate,
18 attesting to the completion of the requirements specified in par. (b). Persons
19 applying for renewal on the basis of attendance at the meetings called by the
20 department under s. 73.06 (1) and by meeting continuing education requirements
21 shall submit a ~~\$20~~ recertification fee, in an amount determined by the department
22 not to exceed \$75, with their applications.

23 **SECTION 46.** 73.09 (5) of the statutes is amended to read:

24 **73.09 (5) EXAMINATIONS.** As provided in subs. (1) and (2), the department of
25 revenue shall prepare and administer examinations for each level of certification.

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1 A person applying for an examination under this subsection shall submit ~~a \$20~~ an
2 examination fee with the person's application. If the department administers and
3 grades the examinations, the fee shall be the amount equal to the department's best
4 estimate of the actual cost to administer and grade the examinations, but no greater
5 than \$75. If a test service provider administers and grades the examinations, the fee
6 shall be the amount equal to the department's best estimate of the provider's actual
7 cost to administer and grade the examinations, but no greater than \$75. The
8 department of revenue shall grant certification to each person who passes the
9 examination for that level.

10 **SECTION 47.** 73.16 (4) of the statutes is amended to read:

11 73.16 (4) NEGLIGENCE DETERMINATIONS. The department shall not impose a
12 penalty on a taxpayer under ss. 71.09 (11) (d), 71.83 (1) (a) 1. to 4. and 12. and (3) (a),
13 76.05 (2), 76.14, 76.28 (6) (b), 76.39 (3), 76.645 (2), 77.60 (2) (intro.), (3), and (4), 78.68
14 (3) and (4), and 139.25 (3) and (4), unless the department shows that the taxpayer's
15 action or inaction was due to the taxpayer's willful neglect and not to reasonable
16 cause.

17 **SECTION 48.** 74.315 (1) of the statutes is amended to read:

18 74.315 (1) SUBMISSION. No later than October 1 of each year, the taxation
19 district clerk shall submit to the department of revenue, on a form prescribed by the
20 department, a listing of all the omitted taxes under s. 70.44 to be included on the
21 taxation district's next tax roll, if the ~~total of all such omitted taxes exceeds \$5,000~~
22 for any single description of property are \$250 or more.

23 **SECTION 49.** 74.315 (1m) of the statutes is created to read:

24 74.315 (1m) AMOUNT COLLECTED FROM PROPERTY IN A TAX INCREMENTAL DISTRICT.
25 A tax may not be included on a form submitted under sub. (1) if the tax was levied

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1 on a property within a tax incremental district, as defined in s. 60.85 (1) (n) or 66.1105
2 (2) (k), unless the current value of the tax incremental district is lower than the tax
3 incremental base, as defined in s. 60.85 (1) (m) or 66.1105 (2) (j), in the assessment
4 year for which the tax was collected.

5 **SECTION 50.** 74.315 (2) of the statutes is amended to read:

6 74.315 (2) ~~EQUALIZED VALUATION~~ AMOUNT DETERMINED. After receiving the form
7 under sub. (1), but no later than November 15, the department of revenue shall
8 determine the amount of ~~any change in the taxation district's equalized valuation~~
9 ~~that results from considering the valuation represented by the taxes described under~~
10 ~~sub. (1) taxes to be shared with each taxing jurisdiction for which the taxation district~~
11 ~~collected taxes and determine the amount of taxes collected under s. 70.44 to be~~
12 ~~shared with each taxing jurisdiction for which the taxation district collected taxes.~~
13 The department's determination under this subsection is subject to review only
14 under s. 227.53.

15 **SECTION 51.** 74.315 (3) of the statutes is amended to read:

16 74.315 (3) ~~NOTICE AND DISTRIBUTION.~~ ~~If the department of revenue determines~~
17 ~~under sub. (2) that the taxation district's equalized valuation changed as a result of~~
18 ~~considering the valuation represented by the taxes described under sub. (1), the~~ The
19 department shall notify the taxation district and the taxation district shall distribute
20 the ~~resulting~~ collections under ss. 74.23 (1) (a) 5., 74.25 (1) (a) 4m., and 74.30 (1) (dm)
21 resulting from the determinations made under sub. (2).

22 **SECTION 52.** 76.04 (1) of the statutes is amended to read:

23 76.04 (1) Every company defined in s. 76.02 shall, annually, file a true and
24 accurate statement in such manner and form and setting forth such facts as the
25 department shall deem necessary to enforce ss. 76.01 to 76.26. The annual reports

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1 ~~for railroad companies shall be filed on or before April 15 and for conservation and~~
2 ~~regulation companies, air carriers and pipeline companies on or before May 1.~~

3 **SECTION 53.** 76.07 (1) of the statutes is amended to read:

4 76.07 (1) DUTY OF DEPARTMENT. The department on or before ~~August 1~~
5 September 15 in each year in the case of railroad companies, and on or before
6 ~~September 15 in the case of air carrier companies, conservation and regulation~~
7 ~~companies and pipeline companies,~~ shall, according to its best knowledge and
8 judgment, ascertain and determine the full market value of the property of each
9 company within the state.

10 **SECTION 54.** 76.075 of the statutes is amended to read:

11 **76.075 Adjustments of assessments.** Within 4 years after the due date, or
12 extended due date, of the report under s. 76.04, any person subject to taxation under
13 this subchapter may request the department to make, or the department may make,
14 an adjustment to the data under s. 76.07 (4g) or (4r) submitted by the person. If an
15 adjustment under this section results in an increase in the tax due under this
16 subchapter, the person shall pay the amount of the tax increase plus interest on that
17 amount at the rate of 1 percent per month from the due date or extended due date
18 of the report under s. 76.04 until the date of final determination and interest at the
19 rate of 1.5 percent per month from the date of final determination until the date of
20 payment. If an adjustment under this section results in a decrease in the tax due
21 under this subchapter, the department shall refund the appropriate amount plus
22 interest at the rate of ~~0.75~~ 0.25 percent per month from the due date or extended due
23 date under s. 76.04 until the date of refund. Sections 71.74 (1) and (2) and 71.75 (6)
24 and (7), as they apply to income and franchise tax adjustments, apply to adjustments
25 under this section. Review of the adjustments is as stated in s. 76.08.

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1 **SECTION 55.** 76.13 (3) of the statutes is amended to read:

2 76.13 (3) If the Dane County circuit court, after such roll is delivered to the
3 secretary of administration, increases or decreases the assessment of any company,
4 the department shall immediately redetermine the tax of the company on the basis
5 of the revised assessment, and shall certify and deliver the revised assessment to the
6 secretary of administration as a revision of the tax roll. If the amount of tax upon
7 the assessment as determined by the court is less than the amount paid by the
8 company, the secretary of administration shall refund the excess to the company with
9 interest at the rate of ~~9~~ 3 percent per year. If the amount of the tax upon the
10 assessment as determined by the court is in excess of the amount of the tax as
11 determined by the department, interest shall be paid on the additional amount at the
12 rate of 12 percent per year from the date of entry of judgment to the date the
13 judgment becomes final, and at 1.5 percent per month thereafter until paid.

14 **SECTION 56.** 76.28 (4) (b) of the statutes is amended to read:

15 76.28 (4) (b) In the case of overpayments of license fees by any light, heat and
16 power company under par. (a), the department shall certify the overpayments to the
17 department of administration, which shall audit the amount of the overpayments
18 and the secretary of administration shall pay the amounts determined by means of
19 the audit. All refunds of license fees under this subsection shall bear interest at the
20 annual rate of ~~9~~ 3 percent from the date of the original payment to the date when
21 the refund is made. The time for making additional levies of license fees or claims
22 for refunds of excess license fees paid, in respect to any year, shall be limited to 4
23 years after the time the report for such year was filed.

24 **SECTION 57.** 76.28 (11) of the statutes is amended to read:

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1 76.28 **(11)** PAYMENT BEFORE CONTESTING. No action or proceeding, except a
2 petition for redetermination under sub. (4), may be brought by a light, heat or power
3 company against this state to contest any assessment of a tax under this section
4 unless the taxpayer first pays to this state the amount of tax assessed. If the
5 taxpayer prevails in an action or proceeding, this state shall settle with the taxpayer,
6 including payment of interest at ~~9~~ 3 percent per year on the amount of the money
7 paid from the date of payment until the date of judgment.

8 **SECTION 58.** 76.39 (4) (d) of the statutes is amended to read:

9 76.39 **(4)** (d) All refunds shall be certified by the department to the department
10 of administration which shall audit the amount of the refunds and the secretary of
11 administration shall pay the amount, together with interest at the rate of ~~9~~ 3 percent
12 per year from the date payment was made. All additional taxes shall bear interest
13 at the rate of 12 percent per year from the time they should have been paid to the date
14 upon which the additional taxes shall become delinquent if unpaid.

15 **SECTION 59.** 76.48 (5) of the statutes is amended to read:

16 76.48 **(5)** Additional assessments may be made, if notice of such assessment is
17 given, within 4 years of the date the annual return was filed, but if no return was
18 filed, or if the return filed was incorrect and was filed with intent to defeat or evade
19 the tax, an additional assessment may be made at any time upon the discovery of
20 gross revenues by the department. Refunds may be made if a claim for the refund
21 is filed in writing with the department within 4 years of the date the annual return
22 was filed. Refunds shall bear interest at the rate of ~~9~~ 3 percent per year and shall
23 be certified by the department to the secretary of administration who shall audit the
24 amounts of such overpayments and pay the amount audited. Additional

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1 assessments shall bear interest at the rate of 12 percent per year from the time they
2 should have been paid to the date upon which they shall become delinquent if unpaid.

3 **SECTION 60.** 77.51 (13gm) (a) (intro.) of the statutes is renumbered 77.51
4 (13gm) (a) and amended to read:

5 77.51 (**13gm**) (a) "Retailer engaged in business in this state" does not include
6 a retailer who has no activities as described in sub. (13g), except for activities
7 described in sub. (13g) (c), unless the ~~retailer meets either of the following criteria~~
8 retailer's annual gross sales into this state exceed \$100,000 in the previous year or
9 current calendar year.

10 **SECTION 61.** 77.51 (13gm) (a) 1. and 2. of the statutes are repealed.

11 **SECTION 62.** 77.51 (13gm) (b) of the statutes is amended to read:

12 77.51 (**13gm**) (b) If an out-of-state retailer's annual gross sales into this state
13 exceed \$100,000 in the previous calendar year ~~or the retailer's annual number of~~
14 ~~separate sales transactions into this state is 200 or more in the previous year,~~ the
15 retailer shall register with the department and collect the taxes administered under
16 s. 77.52 or 77.53 on sales sourced to this state under s. 77.522 for the entire current
17 calendar year.

18 **SECTION 63.** 77.51 (13gm) (c) of the statutes is amended to read:

19 77.51 (**13gm**) (c) If an out-of-state retailer's annual gross sales into this state
20 are \$100,000 or less in the previous calendar year ~~and the retailer's annual number~~
21 ~~of separate sales transactions into this state is less than 200 in the previous year,~~ the
22 retailer is not required to register with the department and collect the taxes
23 administered under s. 77.52 or 77.53 on sales sourced to this state under s. 77.522
24 until the retailer's gross sales ~~or transactions meet the criteria in par. (a) 1. or 2.~~
25 exceed \$100,000 for the current calendar year, at which time the retailer shall

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1 register with the department and collect the tax for the remainder of the current
2 calendar year.

3 **SECTION 64.** 77.51 (13gm) (d) 1. of the statutes is repealed.

4 **SECTION 65.** 77.51 (13gm) (d) 2. of the statutes is amended to read:

5 77.51 (**13gm**) (d) 2. ~~The annual amounts described in this subsection include~~
6 “Gross sales” includes both taxable and nontaxable sales.

7 **SECTION 66.** 77.51 (13gm) (d) 3. and 4. of the statutes are repealed.

8 **SECTION 67.** 77.51 (13gm) (d) 5. of the statutes is amended to read:

9 77.51 (**13gm**) (d) 5. An out-of-state retailer’s annual amounts gross sales
10 include all sales into this state by the retailer on behalf of other persons and all sales
11 into this state by another person on the retailer’s behalf.

12 **SECTION 68.** 77.52 (2m) (b) of the statutes is amended to read:

13 77.52 (**2m**) (b) With respect to the type of services ~~subject to tax~~ under sub. (2)
14 (a) 7., 10., 11., and 20. and except as provided in s. 77.54 (60) (b) and (bm) 2., all
15 tangible personal property or items, property, or goods under ~~s. 77.52 sub.~~ (1) (b), (c),
16 or (d) physically transferred, or transferred electronically, to the customer in
17 conjunction with the selling, performing, or furnishing of the service is a sale of
18 tangible personal property or items, property, or goods under ~~s. 77.52 sub.~~ (1) (b), (c),
19 or (d) separate from the selling, performing, or furnishing of the service, regardless
20 of whether the purchaser claims an exemption on its purchase of the service. This
21 paragraph does not apply to services provided by veterinarians.

22 **SECTION 69.** 77.54 (6) (am) 2. of the statutes is amended to read:

23 77.54 (**6**) (am) 2. Containers, labels, sacks, cans, boxes, drums, bags or other
24 packaging and shipping materials for use in packing, packaging or shipping tangible
25 personal property or items or property under s. 77.52 (1) (b) or (c), if the containers,

ASSEMBLY BILL 754**SECTION 69**

1 labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials
2 are used by the purchaser to transfer merchandise to customers or physically
3 transferred to the customer in conjunction with the selling, performing, or
4 furnishing of the type of services under s. 77.52 (2) (a) 7., 10, 11., or 20. that are
5 exempt from or not subject to taxation under this subchapter. This subdivision does
6 not apply to services provided by veterinarians.

7 **SECTION 70.** 77.54 (9a) (f) of the statutes is amended to read:

8 77.54 **(9a)** (f) Any corporation, community chest fund, or foundation or
9 association organized and operated exclusively for religious, charitable, scientific or
10 educational purposes, or for the prevention of cruelty to children or animals, except
11 hospital service insurance corporations under s. 613.80 (2), no part of the net income
12 of which inures to the benefit of any private stockholder, shareholder, member or
13 corporation that is exempt from federal income tax under section 501 (c) (3) of the
14 Internal Revenue Code and has received a determination letter from the internal
15 revenue service. The exemption under this paragraph applies to churches and
16 religious organizations that meet the requirements of section 501 (c) (3) but are not
17 required to apply for and obtain tax-exempt status from the internal revenue
18 service.

19 **SECTION 71.** 77.61 (5) (b) 8m. of the statutes is created to read:

20 77.61 **(5)** (b) 8m. The state auditor and the employees of the legislative audit
21 bureau to the extent necessary for the bureau to carry out its duties under 13.94.

22 **SECTION 72.** 79.02 (1) of the statutes is amended to read:

23 79.02 **(1)** The Except as provided in sub. (2) (b), the department of
24 administration, upon certification by the department of revenue, shall distribute

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1 shared revenue payments to each municipality and county on the 4th Monday in July
2 and the 3rd Monday in November.

3 **SECTION 73.** 79.02 (2) (b) of the statutes is amended to read:

4 79.02 (2) (b) Subject to ss. 59.605 (4) and 70.995 (14) (b), payments in July shall
5 equal 15 percent of the municipality's or county's estimated payments under ss.
6 79.035 and 79.04 and 100 percent of the municipality's estimated payments under
7 s. 79.05. Upon certification by the department of revenue, the estimated payment
8 under s. 79.05 may be distributed before the 4th Monday in July.

9 **SECTION 74.** 79.02 (3) (a) of the statutes is amended to read:

10 79.02 (3) (a) Subject to s. 59.605 (4), payments to each municipality and county
11 in November shall equal that municipality's or county's entitlement under ss. 79.035,
12 79.04, and 79.05 for the current year, minus the amount distributed to the
13 municipality or county ~~in July~~ under sub. (2) (b).

14 **SECTION 75.** 79.02 (3) (e) of the statutes is amended to read:

15 79.02 (3) (e) For the distribution in 2004 and subsequent years, the total
16 amount of the November payments to each county and municipality under ~~s. 79.035~~
17 sub. (1) shall be reduced by an amount equal to the amount of supplements paid from
18 the appropriation accounts under s. 20.435 (4) (b) and (gm) that the county or
19 municipality received for the fiscal year in which a payment is made under this
20 section, as determined under s. 49.45 (51).

21 **SECTION 76.** 79.035 (6) of the statutes is amended to read:

22 79.035 (6) Beginning with the distributions in 2016 and ending with the
23 distributions in 2035, the annual payment under ~~this section~~ s. 79.02 (1) to a county
24 in which a sports and entertainment arena, as defined in s. 229.41 (11e), is located

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1 shall be the amount otherwise determined for the county under this section, minus
2 \$4,000,000.

3 **SECTION 77.** 79.035 (7) (b) of the statutes is amended to read:

4 79.035 (7) (b) Beginning with the first payment due under ~~this section s. 79.02~~
5 (1) after the county or municipality receives a grant under s. 16.047 (4m), the
6 department of administration shall apply the reduction determined under par. (a) for
7 each county and municipality by reducing 10 consecutive annual payments under
8 ~~this section s. 79.02 (1)~~ to the county or municipality by equal amounts. ~~If in any year~~
9 ~~the reduction under this paragraph for a county or municipality exceeds the payment~~
10 ~~under this section for the county or municipality, the department of administration~~
11 ~~shall apply the excess amount of the reduction to the payment to the county or~~
12 ~~municipality under s. 79.04.~~

13 **SECTION 78.** 79.05 (1) (am) of the statutes is amended to read:

14 79.05 (1) (am) "Inflation factor" means a percentage equal to the average
15 annual percentage change in the U.S. consumer price index for all urban consumers,
16 U.S. city average, as determined by the U.S. department of labor, for the 12 months
17 ending on ~~September 30~~ August 31 of the year before the statement under s. 79.015,
18 except that the percentage under this paragraph shall not be less than zero.

19 **SECTION 79.** 79.05 (2m) of the statutes is amended to read:

20 79.05 (2m) Annually, on ~~November~~ October 1, the department of revenue shall
21 certify the appropriate percentage change in the consumer price index that is to be
22 used in the requirement under sub. (1) (am) to the joint committee on finance.

23 **SECTION 80. Initial applicability.**

24 (1) HOMESTEAD CREDIT. The treatment of ss. 71.52 (1g) and 71.55 (10) first
25 applies to claims filed after December 31, 2019.

