

WISCONSIN COUNTIES UTILITY TAX ASSOCIATION

May 18, 2018 Board Agenda

Wisconsin Counties Association Board room

22 E Mifflin St #900

Madison WI 53703

NOTE: Same parking ramp as Alice's Ofc – Directions on last page

Time: 10:30 A.M. – 1:00 P.M., WORKING LUNCH

CALL IN INSTRUCTIONS:

CALL IN NUMBER: 515 739 1285 Hit #

PARTICIPANT CODE: 935752 Hit #

LEADER CODE: Alice will open the line

- Call to Order/Introductions – Larry Willkom
- Roll Call – Larry Willkom
- Approval of Minutes of March 16, 2018
 - President's Report – Larry Willkom
 - Annual Meeting –
 - Appoint an audit committee to give a report at fall meeting
 - Welcome guests
- Treasurer's Report – Supervisor Bob Yeomans
 - Treasurer's Report
 - 2018 Dues Update
- Executive Director Report – Alice O'Connor
- Noon: CONFIRMED SPEAKER: Curt Witynski, Legal Counsel - League of Wisconsin Municipalities to discuss impact of failure of dark store legislation to pass on local units of government
- SPEAKER: TBA
- Other business
- Next Board Meeting Date:

Note: if we want to have Mark O'Connell and Kyle Christianson come to the WCUTA Board meeting to discuss the impact of federal tax reform and its impact on Counties. Of concern is the impact on the utility tax formula. Dates will be suggested that work for which of BOARD MEETING
- Adjourn

WCUTA 2018 Officers

President
LAWRENCE WILLKOM
(715) 723-5804
Chippewa County

Vice President
BRAD KARGER
(715) 261-1400
Marathon County

Secretary
WILLIAM GOEHRING
(920) 994-4749
Sheboygan County

Treasurer
BOB YEOMANS
(608) 757-5540
Rock County

Executive Director
ALICE O'CONNOR
Direct (608) 250-4685
aoc@constituencyservices.org

Member Counties

ASHLAND
BUFFALO
CHIPPEWA
COLUMBIA
DOUGLAS
DUNN
FOREST
GRANT
JEFFERSON
KENOSHA
KEWAUNEE
LA CROSSE
MANITOWOC
MARATHON
MARINETTE
OZAUKEE
ROCK
SHEBOYGAN
VERNON
WASHINGTON
WAUSHARA

Directions

NOTE: these are directions to CSI offices which is the same ramp as the Wisconsin Counties Association

Wisconsin Counties Association (WCA) office is located at 22 East Mifflin Street, Suite 900. The building is located on the Capitol Square, two buildings south from the intersection of Mifflin Street, Pickney Street and Webster Street. Our parking ramp is located on the side of the building but a one-way street toward the capitol square means you must enter it from the outside loop on the square or go around the block.

Bring your parking sticker to be validated. You will need your ticket to get out of the ramp. Park in the visitor slots. The ramp has no elevator to the building.

To enter the ramp: Dayton/Pinckney Parking Ramp, 21 E. Dayton Street

From Milwaukee

I-94 W toward Madison

Take WI-30 W toward Madison

Exit for US-151 S/US-151 N/E Washington Avenue Follow US-151 S/E. Washington Avenue

Turn Right onto N. Webster Street; Turn Left onto E. Dayton Street; Parking Ramp is on the Left.

From Janesville/Beloit

I-90 W/I-39 N toward Madison

Take Exit 142A on the left for US-12 W/US-18 W/W Beltline Hwy Take Exit 263 for John Nolen Drive

Follow signs for US-151/S Blair Street

Turn left onto E. Washington Avenue/US-151

Turn Right onto N. Webster Street; Turn Left onto E. Dayton Street;

Parking Ramp is on the Left.

ANNUAL WISCONSIN UTILITY-RELATED LAW UPDATE 2018

Annual Update of Activities at the Public Service Commission

March 6, 2018

Cynthia Smith
Chief Legal Counsel
Public Service Commission of Wisconsin



Agenda

- ▶ What's New
 - ▶ Personnel and Operational News
 - ▶ Legislative Update
 - ▶ Rules Update
 - ▶ Court Case Update
 - ▶ Programmatic Update
- ▶ Hot Topics
 - ▶ Interesting Dockets and Cases to Watch

New Faces

- ▶ Commissioner Lon Roberts appointed to be Chairperson, filling Chairperson vacancy left by the departure of Ellen Nowak
 - ▶ Bill Jordahl, Executive Assistant to Chairperson
- ▶ New Commissioner appointment pending to fill Commissioner vacancy left by departure of Ellen Nowak
 - ▶ Alex Ignatowski, Executive Assistant to new Commissioner

New Faces

- ▶ Division of Energy Regulation
 - ▶ Martin Day, Administrator
 - ▶ Carrie Templeton, Assistant Administrator, Rates and Finance
 - ▶ Candy Spanjar, Assistant Administrator, Audit
 - ▶ Jim Lepinski, Chief Engineer - Electric
 - ▶ Paul Farron, Chief Engineer - Natural Gas

New Faces

- ▶ Division of Water, Telecommunications and Consumer Affairs
 - ▶ Steve Knudson, Administrator
- ▶ Division of Regional Energy Markets
 - ▶ Cindy Torstveit
- ▶ Division of Business and Program Management
 - ▶ Administrator
 - ▶ Kristy Nieto, Deputy Administrator
 - ▶ Jenna Schmidt, Chief Financial Officer
 - ▶ Jeff Thomas, Management Information Manager



New Places

- ▶ The PSC is moving
- ▶ April 16 - April 19 moving days

Transition to Hill Farms



New Places

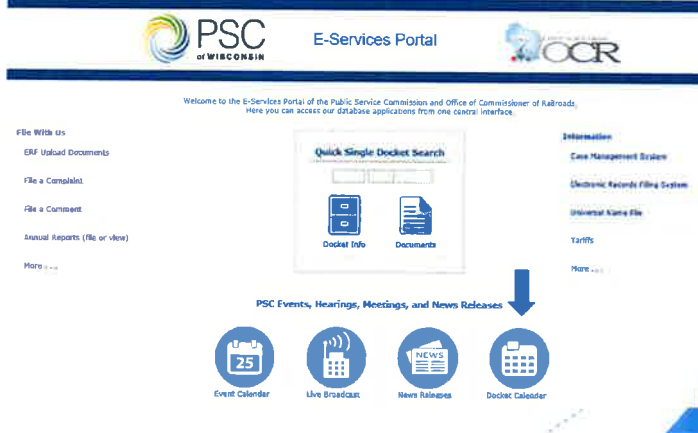
- ▶ New physical address:
 - ▶ Hills Farms State Office Building, 4822 Madison Yards Way, Madison, WI 53705
- ▶ Same P.O. mailing address
- ▶ New Security/Check-in Procedures
 - ▶ Hearing room on first floor-open to public
 - ▶ Commission meeting room, 6th floor
- ▶ Visitor Parking

Operational Update

- ▶ Continued Enhancements to new ERF and CMS
- ▶ New Docket Calendar available on E-Services Portal
- ▶ New Major Construction Case Project Specific Pages
- ▶ Coming soon New Confidential Determination Process



Operational Update - Docket Calendar



Operational Update - Docket Calendar

- ▶ Search for events scheduled in an upcoming contested case
- ▶ Subscribe to a particular case to get updates regarding schedule
 - ▶ Email and then save entries to Outlook or another calendar of users choice
- ▶ Coming soon - addition to NOP and NOH
 - ▶ SCHEDULE: The Commission will maintain the schedule in this docket on the PSC Docket Calendar. To view the calendar: (1) go to the Commission's E-Services Portal at <http://apps.psc.wi.gov>, and (2) select the button labeled "Docket Calendar." From there you may browse or search the calendar, and subscribe to a particular docket schedule

Operational Update - Docket Calendar



Operational Update - Project Pages

- ▶ Major electric construction projects
- ▶ Easy access to key project information
 - ▶ Project Summary
 - ▶ Links to key project documents
 - ▶ Opportunities for Public Participation
 - ▶ Project Maps (including interactive map)

Operational Update - Project Pages

PSC > J88 Public Information Webpage
J88 Public Information Webpage

The J-88, at a glance
In June 2017, ATC submitted an application for a Certificate of Authority to construct the Caldron Falls-Goodman (J-88) Project. The Project consists of upgrading 21.4 miles of 69 kV transmission line to 138 kV between the Caldron Falls Hydro and Goodman Substations in Walworth County, Wisconsin and constructing associated 138/69 kV line.



The J-88 Caldron Falls-Goodman Project Information

Project Summary	
Key Project Documents	
Opportunities for Public Participation	
Project Maps	
Statutory Process	
Project Contacts	

Additional Project Resources:

- ATC Project Page and Fact Sheet

Operational Update - Project pages

PSC > J88 Public Information Webpage
J88 Public Information Webpage

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Map of Wisconsin showing the location of the J-88 project area in Walworth County.

The J-88 Caldron Falls-Goodman Project Information

Project Summary	
Key Project Documents	
Opportunities for Public Participation	
Project Maps	
Statutory Process	
Project Contacts	

As the following documents become available, hyperlinks will be added:

- Application for Certificate of Authority
- Notice of Environmental Assessment Preparation
- Environmental Assessment
- Notice of Investigation
- Preliminary Determination Letter
- Final Decision and Order

Opportunities for Public Participation

Project Maps

- Interactive Web Map of Project (external link)
- Project overview map(pdf)

Statutory Process

Project Contacts

Additional Project Resources

- ATC Project Page and Fact Sheet

Operational Update - Confidential Determinations

► Submitter will receive email response:

- Grant - Your request for confidential handling under Wis. Admin. Code § 2.12 has been granted.
- Deny - Your request for confidential handling under Wis. Admin. Code § 2.12 has been denied because none of the record contains information qualifying for confidential handling under Wis. Admin. Code § 2.12(3). Please re-file only a public version of the record with no redactions. Contact the docket coordinator or division administrator with questions.

Operational Update - Confidential Determinations

- Deny - Your request for confidential handling under Wis. Admin. Code § 2.12 has been denied because you requested confidential handling of the entire record and only a portion of the record qualifies for confidential handling. Pursuant to Wis. Admin. Code § 2.12(4), please re-submit the request with only those *portions* of the record that are confidential identified (shaded in the confidential version/redacted in the public version). You must re-file both a public and confidential version of the record. Contact the docket coordinator or division administrator with questions.

Legislative Update

- ▶ 2017 Wisconsin Act 137, relating to water public utility financial assistance and political subdivision loans for lead-containing customer-side water service laterals
- ▶ 2017 Wisconsin Act 136, PSC Bill
- ▶ 2017 Wisconsin Act 58, providing exemptions for certain utility projects within an electronics and information technology manufacturing zone

Legislative Update - Act 137

- ▶ Creates Wis. Stat. § 197.372
 - ▶ Sub. (2) water public utility may provide financial assistance to the owner of a property for purpose of assisting owner in replacing customer-side LSL
 - ▶ Sub. (3) requires utility seeking approval under sub. (2) to submit an application to the Commission
 - ▶ Investigation
 - ▶ May include hearing
 - ▶ Action with 90 days after complete application if no hearing and 180 days if hearing held
 - ▶ Optional extensions approved by Chairperson
- ▶ New Docket Type - "LS"

Legislative Update - Act 136, Section 39

- ▶ Creates Wis. Stat. § 196.026, Settlements
 - ▶ Encourages settlements when possible
 - ▶ Parties may agree upon some or all of the facts, evidenced by stipulation
 - ▶ Parties may agree upon a resolution of some or all of the issues
 - ▶ submit to the Commission the settlement agreement and any documents, testimony, or exhibits, including record citations if there is a record, and any other matters those parties consider relevant to the proposed settlement and serve a copy of the settlement agreement upon all parties to the docket.

Legislative Update - Act 136, Section 39

- ▶ If settlement is contested, convene at least one conference
- ▶ Within 30 days (or different time set by Commission), respond to settlement with consent or objection
- ▶ No response = non-objection
- ▶ Objector to state all objections with particularity and identify parts of settlement that are objectionable and how it adversely impacts objector

Legislative Update - Act 136, Section 39

- ▶ Commission may approve if all below are met:
 - ▶ Each party has been given a reasonable opportunity to present evidence and arguments in opposition of the settlement
 - ▶ The public interest is adequately represented by the parties who entered into the settlement
 - ▶ Agreement represents a fair and reasonable resolution, supported by substantial interest and complies with applicable law
- ▶ May approve in whole or in part, and impose conditions

Legislative Update - Act 58

- ▶ Created Wis. Stat. § 196.49(5g)(ar)3., exempting from requirement to obtain certificate of authority if the project is “primarily to provide service to a new customer within an electronics and information technology manufacturing zone
- ▶ Amended Wis. Stat. § 196.491(1)(f) providing a limited exception for a CPCN for transmission line relocations that are within the zone
- ▶ Transmission project outside zone to serve customer within zone not exempt

Legislative Update - Act 58

- ▶ Amended Wis. Stat. § 196.192 to require no later than Jan. 1, 2020, electric public utility providing service in the zone to file for approval a market-based rate
 - ▶ Annual nomination of capacity and energy
 - ▶ Term of not less than 10 years
 - ▶ Claw back (fraud, leaves zone, ceases operation)

Rules Update

- ▶ Active Rulemakings
 - ▶ 1-AC-233 - Updates to Water Service Rules, Wis. Admin. Code ch. PSC 185
 - ▶ 1-AC-247, Changes to chs. PSC 113, 134 and 185 to conform to 2013 Wisconsin Act 274 and 2015 Wisconsin Act 176 regarding municipal utility collection practices
 - ▶ 1-AC-250, Revisions to Wis. Admin. Code ch. PSC 114, Wisconsin State Electrical Code, Volume 1

Rules Update

- ▶ Anticipated Future rulemakings
 - ▶ Changes to Wis. Admin. Code ch. PSC 160 to bring the Universal Service Rules into compliance with new FCC Lifeline guidelines
 - ▶ Interim relief, Order (PSC Ref#: 338212)
 - ▶ Changes to Wis. Admin. Code ch. PSC 118, RRCs
 - ▶ Conform to 2017 Wisconsin Act 53 which added heat that is a byproduct of a manufacturing process to lists of renewable resources and if used to provide thermal energy that displaces use of electricity to create a RRC

Court Case Update

- ▶ Pending Wisconsin Court of Appeals Cases
 - ▶ *Town of Holland vs. Public Serv. Comm'n*, 2017-AP-1129
 - ▶ *TMS Investments and Gregory Thompson v. Public Serv. Comm'n*, 2017-AP-001883
 - ▶ *Town of Forest vs. Public Serv. Comm'n*, 14-CV-0018 (consolidated) (St. Croix Cty. Cir. Ct.)

Court Case Update

- ▶ Pending Federal Cases
 - ▶ *Verso Corporation, et al. vs. Federal Energy Regulatory Commission*, Case Nos. 15-1098, 16-1205, 16-1212, 16-1226, 16-1228, 16-1385, 16-1388, 16-1389, 16-1391, 16-1397, 16-1404 (consolidated), United States District Court of Appeals, District of Columbia

Programmatic Update

- ▶ Focus on Energy
 - ▶ Potential Study (PSC REF#: 328645) (June, 2017)
 - ▶ Quadrennial Planning Process III
- ▶ Broadband
 - ▶ Budget provided \$14 million in funding for broadband grant expansion program in FY 2018
 - ▶ Round 1 awarded \$1.5 million
 - ▶ Round 2 update to \$7.5 million, 78 applications

Programmatic Update

- ▶ Clean Energy Manufacturing Revolving Loan Fund (CEMRLF)
 - ▶ Overview of existing program (PSC REF#: 333704)
 - ▶ Commission decided to convert from loan program to a grant program
 - ▶ DOE approval
 - ▶ Scope, budget pending Commission action
 - ▶ Docket 9709-FG-2018

Hot Topics - Acquisitions

- ▶ Sale of Centuria Municipal Electric utility to Northwestern Wisconsin Electric Company, docket 5-BS-218 (PSC REF#: 319748)
- ▶ WEC Energy purchase of Bluewater Natural Gas Holdings and WEPCO/WG/WPSC related agreements, docket 5-DR-112 (PSC REF#: 326817)
- ▶ WP&L sale of share of West Riverside to Coops, docket 6680-BS-101 (PSC REF#: 332288)

Hot Topics - Rates

- ▶ WEPCO/WPSC rate freeze for 2018 and 209, dockets 5-UR-108 and 6690-UR-125 (PSC REF#: 330746)
- ▶ NSPW, docket 4220-UR-123 (PSC REF#: 335158)
- ▶ Stanley water rate case, docket 5670-WR-103 (PSC REF#: 328868)
- ▶ Marshfield water rate case, docket 3420-WR-106 (PSC REF#: 303885)

Hot Topics - Rates

- ▶ Tax Reform, docket 5-AF-101
- ▶ Fuel Reconciliations
 - ▶ X-FR-2017
- ▶ Fuel only cases
 - ▶ X-ER-XXX
- ▶ Rates cases for WP&L, MGE
- ▶ Water rate cases
 - ▶ Madison Water Utility, docket 3280-WR-114
 - ▶ Green Bay, docket 2350-WR-113

Hot Topics - Tariffs

- ▶ MGE Renewable Energy Rider, docket 3270-TE-102 (PSC REF#: 327993)
- ▶ Natural Gas Extension Rules, docket 5-GI-116
 - ▶ Staff Memorandum (PSC REF#: 328768)

Hot Topics - Construction (CPCNs)

- ▶ Mount Pleasant Interconnection Project (MPTIP), docket 137-CE-188
 - ▶ Service to Foxconn
 - ▶ Natural gas, water projects
 - ▶ NOP issued March 1, 2018
- ▶ website: wisconnvalley.wi.gov
- ▶ newsletter sign up (general): wisconnvalley.wi.gov/newsletter

Hot Topics - Construction (CPCNs)

- ▶ Cardinal-Hickory Creek, docket 5-CE-146
- ▶ Highland Wind Farm, docket 2535-CE-100
- ▶ Nemadji Trail combined cycle natural gas plant, docket 5-CE-148
- ▶ IPP Solar Installations?
- ▶ IPP Wind Installations?

Hot Topics - Construction (CAs) and Miscellaneous

- ▶ MGE Saratoga Wind Farm (IA), docket 3270-CE-127 (PSC REF#: 334359)
- ▶ Wisconsin Solar Energy Industries Petition, docket 9300-DR-102 (PSC Ref#: 335245)
- ▶ Oak Creek, docket 4310-CW-109
- ▶ SEA, docket 5-ES-109
- ▶ WP&L/Sun Prairie Boundary Dispute, docket 6680-DR-113
- ▶ Dalton abandonment of water utility, docket 1529-WA-100

WISCONSIN COUNTIES UTILITY TAX ASSOCIATION BY LAWS
Update Approved December 8, 2017

ARTICLE 1 – OFFICES

The initial principal office shall be as stated in the Articles. Thereafter the principal office may be at any location in the State of Wisconsin designated by the Association.

The Association may also establish such other offices in the State as it deems necessary.

ARTICLE 2 – MEMBERSHIP

Membership shall be of one class and shall continue as long as the annual dues are paid.

Any county in Wisconsin having an interest in shared utility tax issues may be considered for membership in this Association. *The amount shall be 1.5% of the annual utility tax revenue determined by the Department of Revenue or as determined by the WCUTA board or a minimum of \$500, whichever is greater.* New members shall be approved by a two-thirds vote of the association.”

The annual dues shall be determined by the vote of the members, on the recommendation of the Executive Committee. Dues may vary according to the shared utility taxes received by each county, and minimum and maximum amounts of dues may be set.

If any member shall be in arrears in payment of dues for three months after they are due and payable, the member shall be deemed delinquent and shall be dropped from the membership. Such member may be reinstated by the payment of dues.

ARTICLE 3 – MEETINGS

There shall be an annual meeting during the month of May unless otherwise ordered by the Executive Committee for the purpose of electing officers, receiving a report from the Auditing Committee and transacting such other business as may come before the Association. Notice of these meetings shall be communicated to each member at least ten days before the time appointed for the meeting or sent electronically at least 10 days before the meeting.

Other meetings shall be held at such time and place as determined by the membership or by the Executive Committee.

Six members of this Association, when present at any meeting, shall constitute a quorum. In case there is less than this number, the presiding officer may adjourn from time to time until a quorum is present.

ARTICLE 4 – VOTING

Each member county shall be entitled to one vote on questions coming before the Association. *Each vote shall be cast by the person designated to represent his county or that person's representative.*

It shall not be necessary that the person designated to vote, or his representative, be a member of the County Board of the County he represents; but such person shall be authorized by such County Board to cast such vote.

ARTICLE 5 – OFFICERS

The elected officers of this Association shall be President, Vice President, Secretary and Treasurer. Their duties shall be as follows:

President – The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the general membership.

Vice President – The Vice President shall act in place of the President in his absence or in the event of his inability to act.

Secretary – The Secretary shall certify such corporate papers as require certification, and shall perform such other duties as may be assigned by the President.

Treasurer – The Treasurer shall be the custodian of the funds of the Association and shall receive and disperse the same. The Treasurer shall keep, or cause to have kept, a full and true account of all receipts and disbursements, and shall render a statement to the membership at each regular meeting.

ARTICLE 6 – EXECUTIVE DIRECTOR

An Executive Director may be hired by the Association. The Executive Director shall have no vote, but shall perform the following duties:

- Record the minutes of the meeting of the membership and the Executive Committee.
- Keep all records of the Association.
- At the direction of the Treasurer, keep a full and true account of all receipts and disbursements.
- Consult with the President and the Executive Committee as to plans for future meetings and the general business of the Association.
- Perform such other duties as the Association shall direct.

ARTICLE 7 – EXECUTIVE COMMITTEE

There shall be an Executive Committee consisting of no less than five voting members elected at each annual meeting, each from a different county. The four officials on the Executive Committee shall be the President, Vice President, Secretary, and Treasurer. A fifth member shall be elected at the annual meeting. Officers of the Association shall be ex officio members of the committee, unless separately elected as voting members.

A majority of the elected members of the Executive Committee shall constitute a quorum at its meetings. The committee shall meet at such times and places as it deems necessary when it is convenient to call a meeting of the full membership.

The Executive Committee shall have the power to act on all matters which would normally come before a regular meeting of the full membership, subject to ratification at the next regular meeting of the membership.

ARTICLE 8 – AUDIT COMMITTEE

Annually, prior to the annual meeting, the President shall designate an Audit Committee of three persons. The Audit Committee shall examine the books and records of the Association since the last previous audit and submit its report at the annual meeting.

ARTICLE 9 – SEAL

The Association shall have no seal.

Notice of any proposed amendment to the bylaws shall be communicated to the members at least ten days before the time appointed for the meeting.

Change approved April 13, 2007.

Proposed changes per BOD meeting Sept 8, 2017 to be shared with full membership at its next board meeting, December 8, 2017.

Chapter Adm 46

HIGH-VOLTAGE TRANSMISSION LINE FEE

Adm 46.01 Authority.
Adm 46.02 Purpose.
Adm 46.03 Definitions.
Adm 46.04 Annual impact fee, invoice and payment.

Adm 46.05 One-time environmental impact fee.
Adm 46.06 Distribution of fees.
Adm 46.07 Late payments.

Adm 46.01 Authority. Sections 16.004 (1) and 16.969 (2), Stats., authorize the department to promulgate rules for payment of annual and one-time environmental impact fees by persons issued a certificate for construction of high-voltage transmission lines.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.02 Purpose. The purpose of this chapter is to establish a process for billing, collecting and distributing annual and one-time environmental impact fees to be paid to the department by persons issued a certificate by the commission for the construction of high voltage transmission lines.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.03 Definitions. In this chapter:

(1) "Certificate" means a certificate of public convenience and necessity issued under s. 196.491 (3) (a), Stats.

(2) "Commission" means the public service commission.

(3) "Department" means the department of administration.

(4) "Eligible municipality" means a county, town, village or city through which a high-voltage transmission line is routed, as identified by the commission under s. 196.491 (3) (gm), Stats.

(5) "High-voltage transmission line" has the meaning given in s. 16.969 (1) (b), Stats.

(6) "Initial year of construction" means the calendar year in which construction of a high-voltage transmission line begins, as determined by the commission.

(7) "Person" includes all individuals, partnerships, associations, limited liability companies and bodies politic or corporate.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.04 Annual impact fee, invoice and payment.

(1) **INITIAL YEAR OF CONSTRUCTION.** In the initial year of construction, no more than 60 days after construction has begun and the commission transmits to the department the determination of the cost of construction for a high-voltage transmission line, identification of eligible municipalities, and allocation of the associated amount of investment, the department shall invoice the person issued a certificate the annual impact fee in an amount equal to 0.3 % of the cost of the high-voltage transmission line as determined by the commission under s. 196.491 (3) (gm), Stats. The department shall prorate the annual impact fee in the initial year of construction based upon the proportion of the year remaining after the date construction begins. Payment of the fee in the initial year of construction shall be due 45 days after the date the invoice is mailed by the department.

(2) **SUBSEQUENT YEAR INVOICE AND PAYMENT.** On or before March 1 in each calendar year after the initial year of construction, the department shall invoice a person issued a certificate in an

amount equal to 0.3 % of the cost of the high-voltage transmission line as determined by the commission under s. 196.491 (3) (gm), Stats. Payment of the fee in subsequent years shall be due on or before May 1 of each year.

(3) **FEE ADJUSTMENT.** The department shall adjust any subsequent annual impact fee as necessary upon receipt from the commission of adjusted costs of construction after completion of the construction of a high-voltage transmission line.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.05 One-time environmental impact fee.

(1) In the calendar year in which construction of a high-voltage transmission line begins, a person issued a certificate shall pay a one-time environmental impact fee in the amount of 5 % of the cost of the high-voltage transmission line, as determined by the commission under s. 196.491 (3) (gm), Stats. The department shall invoice this fee no more than 60 days after the commission transmits the required information to the department under s. Adm 46.04. Payment of the fee shall be due 60 days after receipt of the invoice.

(2) The department shall adjust the one-time environmental impact fee as necessary upon receipt from the commission of adjusted costs of construction after completion of the construction of a high-voltage transmission line if the adjusted costs exceed the initial cost determination made by the commission under s. 196.491 (3) (gm), Stats.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.06 Distribution of fees. (1) **ANNUAL IMPACT FEES.** No more than 60 days after receipt of the fee under s. Adm 46.04, the department shall distribute the fee to each town, village and city that is an eligible municipality in proportion to the amount of investment allocated to each eligible municipality by the commission under s. 196.491 (3) (gm), Stats.

(2) **ONE-TIME ENVIRONMENTAL IMPACT FEE.** No more than 60 days after receipt of the fee under s. Adm 46.05, the department shall distribute 50% of the fee to each county that is an eligible municipality, and 50% of the fee to each town, village and city that is an eligible municipality, in proportion to the amount of investment allocated to each by the commission under s. 196.491 (3) (gm), Stats.

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

Adm 46.07 Late payments. Annual impact fee payments received by the department more than 45 days after the date the invoice is mailed in the initial year of assessment, or after May 1 in subsequent years, shall be assessed interest at a rate, and in the same manner, as required by the commission for customer deposits for residential service as specified in s. PSC 113.0402 (9) (b).

History: CR 01-048: cr. Register January 2002 No. 553, eff. 2-1-02.

WCUTA Board of Directors Meeting

March 16, 2018

The meeting was called to order at 10:35 by Chairman Willkom. A roll call was taken.

PRESENT: William Goehring – Sheboygan County Board, Chuck Hoffman – Manitowoc County, Brad Karger – Marathon County Administrator, Robert Keeney – Grant County Board Chair, John Tramburg – Columbia County Supervisor, Lawrence Willkom – Chippewa County Supervisor, Bob Yeomans, Rock County Supervisor

VIA PHONE: N/A

STAFF: Alice O'Connor - WCUTA

GUESTS: Mark Wadium – Outagamie County Lobbyist; Speaker: Jon Callaway, ATC

Minutes December 8, 2017 were corrected. The minutes as amended were approved on a motion by Supervisor Hoffman, seconded by Supervisor Goehring.

President's report – Supervisor Larry Willkom

Supervisor Willkom acknowledged Supervisor Linda Sinkula from Kewaunee County for her many years of service to WCUTA and wishes her well in future endeavors. Kewaunee County Board Chair, Bob Weidner, will appoint her replacement after the April election.

Reduction of Dues - After discussion with current expenses of approximately \$30,000 per year matching anticipated 2018 revenue from dues (\$40,000), it was decided the Association is in a break-even operation. If additional resources are needed it will be difficult to increase dues to generate revenue if they have been reduced. A motion by Brad Karger, seconded by Supervisor Goehring, postponed this discussion indefinitely.

Bylaws Committee Report – Alice indicated she forgot to share the updated bylaws approved at the December 8, 2017 meeting. She will email, and snail mail them to appropriate parties.

Treasurer's report- Supervisor Bob Yeomans

Supervisor Yeomans indicated he has moved to online checking to pay CSI bills and he says it is a great system. Two errors in the Treasurer's report were corrected. Supervisor Yeomans reported the beginning checkbook balance of \$28,929.70 on November 30, 2017 and a CD balance of \$40,383.80. Dues collected between December 1, 2017 and February 28, 2018 totaled \$18,674.99. Interest collected totaled \$3.98 and CD gains totaled \$20.36. Total expenses were \$7,059.70. Total balance as of February 28, 2018 is \$80,952.50. Counties who have not paid their 2018 dues are: Kenosha County & Ozaukee County.

On a motion by Supervisor Hoffman, seconded by Supervisor Keeney, the March 16, 2018 Treasurer's Report was approved.

Executive Director Report – Alice O'Connor

The two-year session is coming to an end with both houses not really getting along. A question about the status of dark store legislation was asked. The bill is dead for this session. It was stated, Senator Nass wanted to pass something with a sunset clause to be able to measure the impact. This did not occur.

Some are concerned local governments will raise commercial property taxes as a result of the failure of dark store legislation to pass. Mark Wadium, Outagamie County, says the county is doing an advisory referendum. He says the dark stores impact on his county is causing a 30% tax increase in Grand Chute. TIF districts have issues with loan repayments. It was reported WMC is running radio ads to defeat the dark store legislation. Locals see this as a tax avoidance scheme. The League of Municipalities is to be invited to the next meeting to talk about the impact of dark stores on the tax base.

DOR Assessments of Utilities – Alice and Supervisor Yeomans reported meetings with the Department of Revenue (DOR) and Public Service Commission since the last board meeting. They have experienced an unwillingness, by the DOR in particular, to share the assessed value of power plants and substations by which they calculate the utility tax formula for distribution to local units of government. There was discussion about the fact that Wisconsin has among the highest utility rates in the country. It was also noted Excel Energy just stated they made \$38 million in profits in 2018. Separately, it was noted solar energy panels pay back after 25 years.

There was also discussion about what the word “infrastructure” and what it means to utilities. There was no real conclusion. The DOR says information about utility value is proprietary even though they are a monopoly.

Supervisor Yeomans says counties have a right to see the breakdown of what is being assessed for gas, electricity, phones, and pipelines. Are the rates the DOR assesses the same or different? The PSC says they do a straight-line depreciation while the DOR assumes power plants have no residual value, even if they continue to generate energy. Supervisors said this is flawed thinking.

Alice indicated Rep. Kooyenga had several documents prepared to determine how Wisconsin would be impacted as a result of federal law tax code changes. She said she would follow up and obtain information as to the impact on utilities and substations. Supervisors indicated it's possible the tax changes could result in a significant drop in revenue to counties in which case WCUTA should convince the WCA we need to be proactive pursuing hold harmless language next session.

Alice was asked to invite WCA head Mark O'Connell and Kyle Christianson to the next board meeting to discuss this looming issue and see if there is any possibility to increase the rate of reimbursement to counties, either in dollars or as a percent of overall utility assessed value, as a strategy.

Alice shared the WCA session summary update via their slides.

She mentioned Act 136 which was the omnibus PSC legislation that made excavators who are diggers required to call the Diggers Hotline first or face stiffer penalties. Act 136 also gave the PSC new authority related to how advertising costs are calculated by water utilities; clarified the authority of the PSC to accept settlement agreements; gave the PSC funding for the Broadband, an expansion grant program, clarified acceptable construction; site erosion control and storm water management; local zoning ordinance authority.

Speaker Jon Calloway, American Transmission Company

He provided general background about ATC. It is a privately held company with 26 owners from utilities, municipalities, and electric companies formed in 2001. It was the first multi-state high voltage transmission-only utility with 9,600 miles of transmission lines and 554 substations. It has \$4.6 billion in assets. It connects Northeast Iowa and Southwest Wisconsin with supported renewable energy policy and improved electric supply reliability. It can handle geothermal, wind, solar, nuclear. Mr. Calloway provided a review of the Cardinal-Hickory Creek Transmission line proposed project that he believes will be filed with the PSC after three years of analysis; sometime in April or May 2018. He said community outreach started 10 years ago. He stated his company is meeting with all local groups who may be affected by the line and they are participating in many public forums. Per PSC requirements, two possible routes will be submitted to the PSC that are between Dubuque County, Iowa, to Dane County, Wisconsin with a 315 kilovolt line. He explained the routes proposed look to be near highways and already existing key load centers. He said they create plans with 10 year forecast assessments. ATC is regulated by FERC (Federal Energy Regulatory Commission).

Supervisor Yeomans asked if the transmission line rates are calculated by the PSC with a straight line flat rate depreciation or an accelerated depreciation. Supervisor Yeomans explained the PSC and especially the Department of Revenue have not been able to share with WCUTA exactly what value they are assessing to power plants under the PILT (Payment In Lieu of Taxes) program. Supervisor Yeomans also asked if the depreciation formula under changes in the federal tax law from 35% to 21% would affect the utility values assessed by DOR. Mr. Calloway said he would find out.

Alice also mentioned Rep. Dale Kooyenga (R-Brookfield), CPA, had an omnibus tax package deal that was going to address all the changes needed to make Wisconsin tax law conform to the new changes passed by Congress in November 2017. His proposal did not move forward because of concerns about the financial costs that are looming. This suggests Supervisor Yeomans concerns about lost money under the utility tax for local units of government is something we should be concerned about.

Mr. Calloway was asked if FERC directs how ATC denotes how it depreciates its assets. Mr. Calloway responded that the answer was complicated. He said depreciation is affected by the existence of a transmission line, where the energy source is, how much is consumed, if the state has mandated renewable energy levels that cost more per unit, and so on.

Mr. Calloway then continued with details about the Cardinal-Hickory Creek Project. He said the environmental impact statement (EIS) looks at factors like the length of the line, what % is going into existing lines, upgrades, impact on land and water, the total cost, the 5% of total project cost payment of the EIS that goes to county where the project is running through. This is a one-time payment. If a county or municipality feels the payment should be higher (need new snow plow, road repair, new town hall), they can petition the PSC to use the money outside pertinent uses under chapter 46.

Mr. Calloway said he would share a 2015 memo that explains the La Crosse to Holmen area, cost per communities. To use existing lines, highways, railroads corridors and recreational trails we collocate. We pay for new right of way to the property line of the property owners.

Mr. Calloway clarified that there is a depreciation schedule for each local unit of government – smaller and local distribution companies are not covered. ATC only handles large voltage stations. Mr. Calloway

also stated the emergence of the smart grid will better monitor the flow on the grid and deliver energy where and when it is needed.

Questions were asked about the ability of fiber optic cables already on the top of towers to help increase broadband in rural areas. Mr. Calloway said ATC does not lease to phone companies due to danger of being next to live electric wires.

He said the project is designed to improve system reliability and congestion, not increase growth which has flattened. Coal is on its way out. Sun, wind, gas, and hydro are the growth areas. Wisconsin doesn't have sufficient wind to be feasible for widespread consumption.

He stated rates are assessed in a complicated way so costs are spread across states who are assigned a pro-rated share. These are multi-value point folios. Wisconsin imports lots of natural gas and coal. Minnesota is different. Projects must also provide a cost benefit analysis of opponent options, they use models of a future that isn't realistic.

Mr. Calloway indicated he would like to get answers to our questions and come to another meeting.

Alice was directed to invite Mark O'Connell and Kyle Christiansen to the next board meeting to discuss the feasibility of getting the WCA more engaged in a what looks to be a significant loss of revenue to local governments due to changes in federal tax law. Secondly, WCUTA Board Members would like to see if the WCA would join WCUTA and press the Department of Revenue to share the value they are assigning to power plants and how that affects the utility tax payment to counties and towns.

Supervisors believe DOR is keeping too much revenue for the state by saying the utility tax is based on usage, not value.

Alice was also directed to invite the League of Municipalities to the next board meeting to explain the revenue impact of dark stores on local property tax assessments and collections.

By June 2018, ATC will provide the location and value of its equipment and all depreciable assets to DOR. He was asked if ATC could depreciate its equipment down to zero. He is going to get the answer.

Other business

The next meeting date was set for May 18, 2018. Location to be determined.

The meeting adjourned at 1:25pm on a motion by Supervisor Tramburg seconded by Supervisor Goehring.

Minutes Prepared by M. Alice O'Connor



ATC: P.O. BOX 47 ■ WAUKESHA, WI 53187-0047
PHONE: TOLL FREE: 866-899-3204 ■ FAX: 262-506-6124 ■ www.atcllc.com

XCEL ENERGY: 1414 W. HAMILTON AVE ■ P.O. BOX 8 ■ EAU CLAIRE, WI 54702
PHONE: TOLL FREE 800.855.8999 ■ www.xcelenergy.com

June 19, 2015

Ms. Sandra J. Paske
Secretary to the Commission
Public Service Commission of Wisconsin
PO Box 7854
Madison, WI 53707-7854

**Environmental Impact Fee Distribution
Badger Coulee Transmission Line Project
PSCW Docket No. 5-CE-142**

Dear Ms. Paske:

As requested, American Transmission Company LLC and its corporate manager, ATC Management Inc (together ATC), on behalf of the applicants, is providing a revised Environmental Impact Fee distribution table with the mileage and distribution factors calculated to eight decimal places. The table follows the form and content as provided in Appendix L, Table 2 of the application.

Please contact me at 262-506-6948 or tmalanowski@atcllc.com, if you have any questions.

Sincerely

/s/ Tom Malanowski

Tom Malanowski
Regulatory Programs Manager
ATC Management Inc.

Attachment

Badger Coulee High-Voltage Transmission Impact Fees - Northern Route with Segment P-East

Municipality	Miles	Percent of Total Project Miles	One-Time EIF Distribution Factor	Annual EIF Distribution Factor	One-Time EIF Distribution	Annual EIF Distribution
Town of Arlington	6.61933815	3.664%	0.01831931	0.03663862	\$ 376,077	\$ 45,120
Town of Caledonia	9.69815024	5.368%	0.02684006	0.05368012	\$ 551,000	\$ 66,107
Town of Dekorra	4.97582255	2.754%	0.01377081	0.02754162	\$ 282,701	\$ 33,918
Columbia County	21.29331094	11.786%	0.05893018		\$ 1,209,778	
Town of Dane	7.32192438	4.053%	0.02026375	0.04052750	\$ 415,994	\$ 49,910
Town of Middleton	2.10036220	1.163%	0.00581285	0.01162569	\$ 119,332	\$ 14,317
Town of Springfield	6.44377631	3.567%	0.01783344	0.03566687	\$ 366,103	\$ 43,924
Town of Vienna	6.37193402	3.527%	0.01763461	0.03526922	\$ 362,021	\$ 43,434
Village of Dane	0.73000000	0.404%	0.00202031	0.00404061	\$ 41,475	\$ 4,976
Dane County	22.96799691	12.713%	0.06356494		\$ 1,304,925	
City of Black River Falls	0.96841684	0.536%	0.00268014	0.00536027	\$ 55,021	\$ 6,601
Town of Adams	4.59292663	2.542%	0.01271113	0.02542225	\$ 260,947	\$ 31,308
Town of Albion	6.07108972	3.360%	0.01680201	0.03360402	\$ 344,928	\$ 41,383
Town of Brockway	5.52119911	3.056%	0.01528016	0.03056032	\$ 313,686	\$ 37,635
Town of Manchester	4.39684475	2.434%	0.01216846	0.02433692	\$ 249,806	\$ 29,971
Town of Millston	6.19809507	3.431%	0.01715350	0.03430700	\$ 352,144	\$ 42,249
Town of Springfield	6.03170059	3.339%	0.01669300	0.03338599	\$ 342,691	\$ 41,115
Jackson County	33.78027271	18.698%	0.09348839		\$ 1,919,223	
City of Mauston	2.12061121	1.174%	0.00586889	0.01173777	\$ 120,482	\$ 14,455
City of New Lisbon	0.93982142	0.520%	0.00260100	0.00520199	\$ 53,396	\$ 6,406
City of Wisconsin Dells	0.33778298	0.187%	0.00093483	0.00186966	\$ 19,191	\$ 2,302
Town of Clearfield	0.95641552	0.529%	0.00264692	0.00529384	\$ 54,339	\$ 6,519
Town of Kildare	3.37354875	1.867%	0.00933644	0.01867289	\$ 191,668	\$ 22,996
Town of Lemonweir	5.69498402	3.152%	0.01576112	0.03152224	\$ 323,560	\$ 38,820
Town of Lindina	0.23085727	0.128%	0.00063891	0.00127782	\$ 13,116	\$ 1,574
Town of Lisbon	6.36323606	3.522%	0.01761054	0.03522107	\$ 361,527	\$ 43,375
Town of Lyndon	5.05501705	2.798%	0.01398998	0.02797997	\$ 287,200	\$ 34,457
Town of Orange	6.41453495	3.551%	0.01775251	0.03550502	\$ 364,441	\$ 43,724
Village of Lyndon Station	2.12331901	1.175%	0.00587638	0.01175276	\$ 120,636	\$ 14,474
Juneau County	33.61012824	18.604%	0.09301751		\$ 1,909,557	
Town of Holland	6.44467248	3.567%	0.01783592	0.03567183	\$ 366,154	\$ 43,930
Town of Onalaska	0.15197313	0.084%	0.00042059	0.00084118	\$ 8,634	\$ 1,036
Village of Holmen	1.27191401	0.704%	0.00352008	0.00704016	\$ 72,264	\$ 8,670
La Crosse County	7.86855962	4.355%	0.02177659		\$ 447,052	
City of Tomah	1.11080338	0.615%	0.00307420	0.00614839	\$ 63,110	\$ 7,572
Town of Grant	1.01384083	0.561%	0.00280585	0.00561170	\$ 57,601	\$ 6,911
Town of La Grange	6.76170172	3.743%	0.01871331	0.03742662	\$ 384,165	\$ 46,091
Town of Lincoln	5.93941559	3.288%	0.01643759	0.03287519	\$ 337,447	\$ 40,486
Town of Oakdale	7.30897664	4.046%	0.02022792	0.04045583	\$ 415,259	\$ 49,821
Town of Tomah	0.32437138	0.180%	0.00089771	0.00179542	\$ 18,429	\$ 2,211
Village of Oakdale	0.90310393	0.500%	0.00249938	0.00499876	\$ 51,310	\$ 6,156
Monroe County	23.36221346	12.931%	0.06465596		\$ 1,327,322	

Badger Coulee High-Voltage Transmission Impact Fees - Northern Route with Segment P-East

Municipality	Miles	Percent of Total Project Miles	One-Time EIF Distribution Factor	Annual EIF Distribution Factor	One-Time EIF Distribution	Annual EIF Distribution
City of Wisconsin Dells	1.10895153	0.614%	0.00306907	0.00613814	\$ 63,005	\$ 7,559
Town of Delton	6.31261034	3.494%	0.01747043	0.03494085	\$ 358,650	\$ 43,030
Town of Fairfield	6.18193588	3.422%	0.01710878	0.03421756	\$ 351,226	\$ 42,139
Village of Lake Delton	2.38987730	1.323%	0.00661409	0.01322818	\$ 135,781	\$ 16,291
Sauk County	15.99337505	8.852%	0.04426237		\$ 908,662	
Town of Ettrick	6.62407840	3.666%	0.01833243	0.03666486	\$ 376,346	\$ 45,153
Town of Gale	6.69721450	3.707%	0.01853484	0.03706967	\$ 380,502	\$ 45,651
Town of Preston	8.46686427	4.686%	0.02343242	0.04686484	\$ 481,044	\$ 57,714
Village of Ettrick	0.00158039	0.001%	0.00000437	0.00000875	\$ 90	\$ 11
Trempealeau County	21.78973755	12.061%	0.06030406		\$ 1,237,982	
Total Project Miles	180.66559448	100.000%	1.00000000	1.00000000		
Total One-Time EIF					\$ 20,529,000	
Total Annual EIF						\$ 1,231,500

Cardinal- Hickory Creek

TRANSMISSION LINE PROJECT



Overview

American Transmission Co., ITC Midwest LLC and Dairyland Power Cooperative are proposing a high-voltage transmission line connecting northeast Iowa and southwestern Wisconsin that would provide economic savings, support renewable energy policy and improve electric system reliability. Proposed routes from Dubuque County, Iowa, to Dane County, Wisconsin, have been identified for the 345-kilovolt line.

Project provides local, regional benefits

Analysis by the MISO regional transmission organization indicates that the Cardinal-Hickory Creek Transmission Line Project is a multi-benefit project that would deliver benefits to local communities and the Midwest region in three important ways:

Improve electric system reliability locally and regionally

- Improve stability of the regional transmission grid
- Add an additional interstate transmission connection between Wisconsin and Iowa
- Offset the need for lower voltage upgrades

Deliver economic benefits for utilities and electric consumers

- Reduce congestion on the transmission system that will lower energy costs
- Improve efficiency of grid; more efficient grid reduces the cost to deliver energy
- Provide economic impact benefits to local communities during construction

Expand infrastructure to support public policy for greater use of renewables

- Establish another pathway for renewable energy to serve customers with connections to key load centers

Routing and siting

ATC, ITC and Dairyland follow a careful and deliberate process that provides guidance for identifying and analyzing options for routing and siting transmission lines. Through input we receive from government agencies, the public, communities and landowners, we consider options that are appropriate for the location and issues associated with a project.

Follow the Wisconsin regulatory process

1. Visit <https://psc.wi.gov>
2. Click the "Docket Search" magnifying glass icon
3. Enter docket number 5-CE-146



Cardinal- Hickory Creek

Anticipated schedule

Public involvement.....	Began in 2014
Plan to file applications with state regulators.....	2018
Anticipated decision from state regulators on applications.....	2019-2020
Planned project in service.....	2023

PROJECT AT A GLANCE

Areas benefited: Iowa, Wisconsin and the Midwest

Length of proposed routes:

Preferred route: Approximately 102 miles

Alternate route: Approximately 120 miles

Voltage: 345,000 volts

End points: The western end point of the line will be at the Hickory Creek Substation in Dubuque County, Iowa. The eastern end point of the line will be the Cardinal Substation in the Town of Middleton, Wisconsin. There also will be a new substation proposed in the Montfort, Wisconsin, area as part of the project.

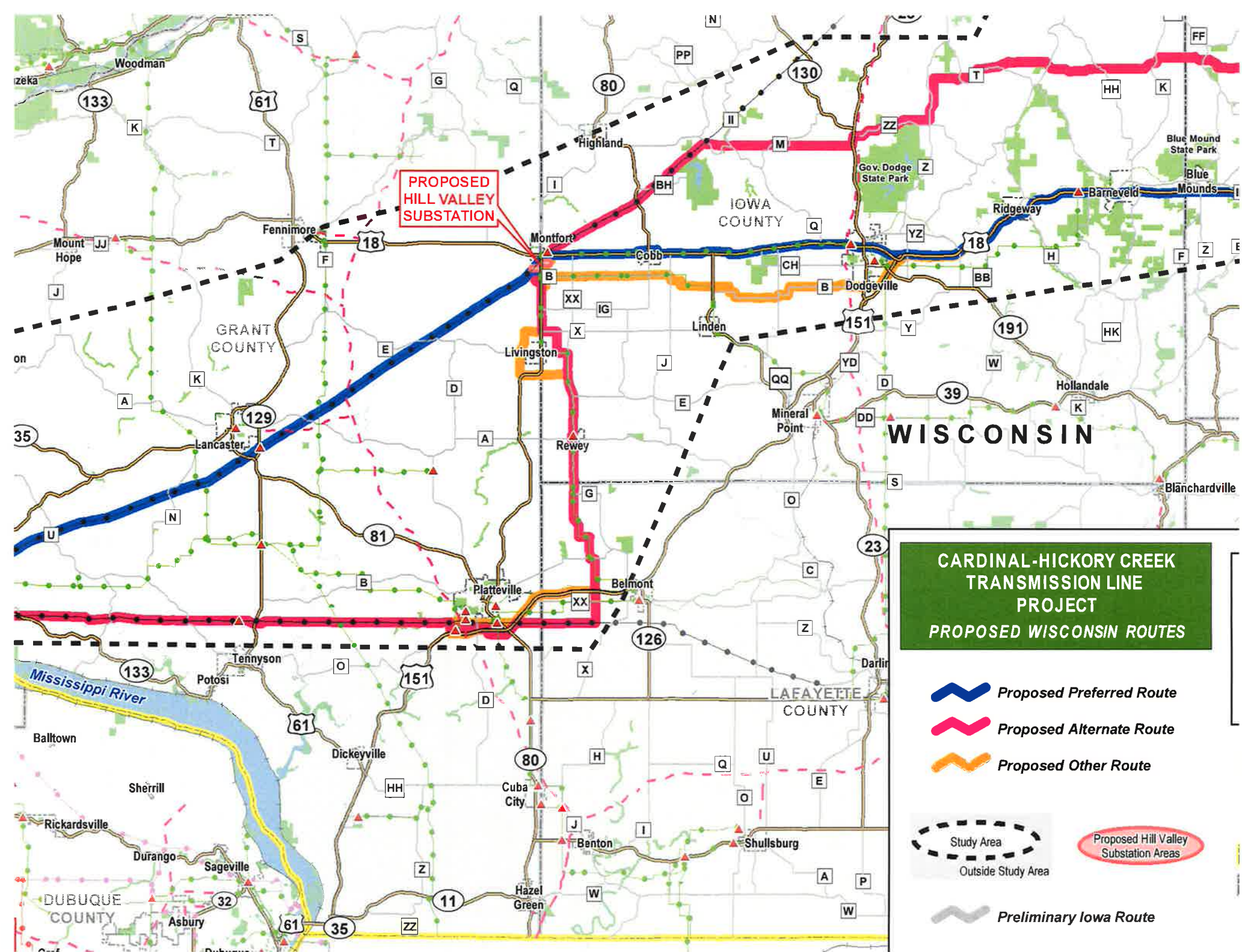
Project contacts

Jon Callaway
American Transmission Co.
Local Relations Consultant
866-899-3204, ext. 3540
jcallaway@atcllc.com

Angela Jordan
ITC Midwest
Area Manager, Local Government & Community Affairs
877-482-4829
ajordan@itctransco.com

Visit www.Cardinal-HickoryCreek.com for more information about the project.





Estimated Effects on State Tax Collections of Adopting Federal Tax Provisions Enacted in 2017
(In Millions)

[illegible][illegible]

* The impacts of the provisions that will automatically be adopted for when the proposals have been incorporated into the revised revenue estimates released by this office on January 17, 2014.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

February 13, 2018

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Federal Tax Law Changes Enacted in 2017

State individual income tax and corporate income/franchise tax provisions regarding the amount of income subject to taxation are generally referenced to definitions under federal law. With limited exceptions, changes to federal law take effect for state tax purposes only after action by the Legislature. The Legislature typically reviews the previous year's federal law changes each year to update state references to the federal Internal Revenue Code (IRC). Under current law, state tax references generally refer to the code in effect on December 31, 2016.

As noted, references to the federal IRC are primarily used in determining the amount of income subject to tax. The state generally does not conform to the federal tax rates and brackets, standard deduction amounts, personal exemption amount, itemized deductions, or tax credits.

On December 22, 2017, President Trump signed the federal Tax Cuts and Jobs Act (the Act), which makes a number of changes to federal tax law. Some of the most prominent changes in the Act will not affect Wisconsin income and franchise tax law. These include corporate and individual income tax rate reductions, an increased standard deduction amount, elimination of personal exemptions, an increased child credit, and limitations on the federal itemized deductions for state and local taxes. Many other provisions of the Act are relevant to Wisconsin's state income and franchise taxes.

A limited number of new provisions in the Act will automatically be adopted for state tax purposes. These include provisions expanding immediate expensing of business equipment purchases under section 179 of the IRC, increasing the exemption amounts for the alternative minimum tax (AMT), repealing statutes regarding technical termination of partnerships, and modifying the historic rehabilitation credit. In order to adopt other relevant provisions of the Act, legislation to update references to the federal IRC is necessary.

The following sections describe each of the relevant provisions in the federal Act, how they relate to Wisconsin tax law, and the estimated fiscal effect of adopting the provision for state tax purposes. More detailed descriptions of each provision can be found in the [Tax Cuts and Jobs Act Conference Report](#), which is available on-line through the U.S. Government Printing Office. Copies of the report are available by request through this office.

One other federal tax act, the Disaster Tax Relief and Airport and Airway Extension Act, was adopted in 2017. The provisions of that legislation are also described at the end of this memorandum.

The entries below include estimated fiscal effects for 2018-19. These amounts, and estimates for later years, are shown in the attachment to this memorandum. The 2018-19 amounts include one-time impacts from anticipated changes to estimated payments. Depending on the date of enactment of any legislation to conform to the federal provisions, some of the one-time fiscal impacts could be realized in 2017-18. Also, the fiscal effect of the provisions that will be automatically updated have been incorporated into the revenue estimates released by this office on January 17, 2018.

PROVISIONS THAT ARE AUTOMATICALLY ADOPTED

Section 179 Expensing

Under state and federal law, qualified property, generally tangible personal property purchased in the active conduct of a trade or business, including off the shelf computer software and qualified real leasehold improvement, restaurant, and retail improvement property, can be immediately expensed under Section 179. For tax year 2017, the maximum amount of qualified property that could be expensed was \$510,000 per taxable year. The maximum expense limit was reduced by a dollar-for-dollar amount for qualified property expensed in excess of \$2.03 million. The expensing limit and threshold amounts were indexed for inflation beginning in tax year 2016. Prior to tax year 2018, for sport utility vehicles (SUVs) expensed under Section 179, the maximum that could be expensed was \$25,000 in any taxable year.

Beginning in tax year 2018, the Act increased the maximum amount a taxpayer may expense under Section 179 to \$1.0 million, and the threshold after which the limit is reduced is increased to \$2.5 million per taxable year. The higher expensing limit, the higher threshold, and the \$25,000 limitation for SUVs subject to Section 179 are indexed for inflation under the Act beginning in tax year 2019. Qualified property subject to Section 179 expensing is expanded to include certain property used predominately to furnish lodging or in connection with furnishing lodging. Qualified real property eligible under Section 179 is expanded to include the following improvements to nonresidential real property placed in service beginning in 2018: (a) roofs; (b) heating, ventilation, and air-conditioning property; (c) fire protection and alarm systems; and (d) security systems.

The provision applies to property placed in service in taxable years beginning after December 31, 2017. It is estimated that this provision will reduce state tax revenues, compared to current law, by \$47.6 million in the 2017-19 biennium.

Alternative Minimum Tax Exemption Amounts

Under the AMT, exemptions based on filing status reduce the amount of income (alternative minimum taxable income, or AMTI) subject to the tax. The exemptions are subject to phaseout. The exemption amounts and phaseout thresholds are indexed for inflation. For tax years 2018 through 2025, the Act increases the exemption amounts and the thresholds:

Filing Status	Exemption		Phaseout is 25% of AMTI Exceeding:	
	2017	2018	2017	2018
Married-Joint	\$84,500	\$109,400	\$160,900	\$1,000,000
Single and Head of Household	54,300	70,300	120,700	500,000
Married-Separate	42,250	54,700	80,450	500,000

In 2015 Wisconsin Act 55, the Legislature adopted the federal AMT exemption levels for purposes of the Wisconsin AMT. Therefore, the higher exemption levels will apply in 2018 for state tax purposes. However, due to the way that treatment was included in the state's individual income tax statute and the way the federal Tax Cuts and Jobs Act amended the IRC, the state exemption will not be subject to phaseout for state tax purposes in tax year 2018. The combined effect of the federal AMT changes is a reduction in state individual income tax collections estimated at \$2,800,000 in 2018-19. These effects relate only to tax year 2018, because 2017 Wisconsin Act 59 repealed the state AMT, effective in tax year 2019.

Supplement to Federal Historic Rehabilitation Tax Credits

Under state law, the supplement to federal historic rehabilitation tax credit may be claimed for an amount equal to 20% of qualified rehabilitation expenditures for certified historic structures and for qualified rehabilitated buildings. The state credits act as supplements to similar federal credits, which can result in a total credit of 40% for certified historic structures (buildings that have historic significance) and 30% for qualified rehabilitated buildings (constructed prior to 1936). For certified historic structures, the qualified rehabilitation expenditures must be at least \$50,000; and for pre-1936 buildings, such expenditures must be more than the greater of \$50,000 or the claimant's adjusted basis in the building. Claimants must be certified by the Wisconsin Economic Development Corporation (WEDC) in order to claim the credits. WEDC has maintained a moratorium on certifying persons for the credit for pre-1936 buildings for applications received after June 23, 2014.

The Act repeals the credit for qualified rehabilitation expenditures paid or incurred after December 31, 2017, for pre-1936 buildings, with a transition rule that applies to certain expenditures beginning within 180 days of the enactment date. Because the state credit is a supplement to, and must be claimed at the same time as, the federal credit, the state credit for pre-1936 buildings is effectively sunset. In addition, state law automatically adopts the provision in the Act that modifies the timing for claiming the state credit for certified historic structures. As a

result, the state credit must be claimed ratably over a five-year period beginning in the taxable year in which the building is placed in service, with a transition rule that applies to projects contracted and completed prior to tax year 2021.

The provisions of the Act are effective for amounts paid or incurred after December 31, 2017. It is estimated that these provisions will increase state tax revenues by \$100,000 in 2018-19.

Technical Termination of Partnerships

Under state and federal law, prior to tax year 2018, a partnership was considered terminated if within any 12-month period: (a) no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership (referred to as an actual termination); or (b) a sale or exchange of 50% or more of the total interest in partnership capital and profits (referred to as a technical termination) occurs. Under a technical termination, the partnership's tax year closes, resulting in a short taxable year, and the partnership may restart its depreciation recovery period. The Act repeals the provision allowing a technical termination of a partnership described under "b," beginning in tax year 2018, and a partnership can no longer restart its depreciation recovery year solely based on a technical termination. It is estimated that this provision will increase state tax revenues by \$1.4 million in 2018-19.

PROVISIONS AFFECTING INDIVIDUALS AND FAMILIES THAT REQUIRE LEGISLATIVE ACTION

Alternative Inflation Adjustment

Certain features of the IRC are indexed for inflation based on the Consumer Price Index for Urban Consumers (CPI-U). The Act changes the index from this measure to its "chained" version (C-CPI-U), which recognizes that consumers substitute one good for another in response to price changes. This provision takes effect for tax year 2018 and is not sunset. Federal tax features subject to indexing with a Wisconsin tax effect include the income thresholds for the earned income tax credit, the teacher classroom expense deduction, transportation fringe benefits, exemption levels for the alternative minimum tax (AMT), and the student loan interest deduction phaseout. In areas where Wisconsin has federalized tax treatments, adopting this provision would ensure that the federal and Wisconsin treatments would be identical. The Congressional Budget Office reports "annual inflation as measured by the chained CPI-U will be about 0.25 percentage points lower, on average, than annual inflation as measured by the traditional CPI." Therefore, little or no fiscal effect in the 2017-19 biennium is estimated. However, over time, use of the C-CPI-U would increase state individual income tax collections. Adopting this provision would not affect Wisconsin's income tax brackets and sliding scale standard deduction because those items are indexed under separate provisions authorized under state law.

Itemized Deductions

For federal income tax purposes, individuals may claim a standard deduction or they may itemize their deductions. The Act increases the standard deduction and makes a number of changes

to the amounts that may be itemized. These changes include:

- repealing the overall limitation on itemized deductions for higher income filers;
- limiting the deduction for interest on home mortgages to the interest on the first \$750,000 of principal (previously \$1 million) for indebtedness acquired after December 15, 2017. After December 31, 2025, this applies to debt regardless of when the debt is incurred;
- suspending the deduction for interest on home equity loans;
- limiting the deduction for state and local taxes to \$10,000 in aggregate of property taxes and income taxes;
- limiting the deduction for personal casualty and theft losses to losses attributable to a presidentially-declared disaster;
- clarifying that the limitation on wagering losses applies both to actual losses and to other gambling related expenses incurred by the individual;
- modifying the deduction for charitable contributions by: (a) increasing the percentage limit for contributions made in cash (as opposed to property); (b) denying the deduction for payments made in exchange for college athletic event seating rights; and (c) repealing the exception related to donee acknowledgement of contributions;
- suspending the miscellaneous deductions subject to the 2% floor (that is, the deductions in aggregate must exceed 2% of the taxpayer's AGI), such as for unreimbursed employee expenses, tax preparation fees, and other expenses; and
- lowering the threshold for deducting unreimbursed medical expenses from 10% to 7.5% of AGI for tax years 2017 and 2018 (prior to 2017, the threshold for taxpayers 65 years of age or older was 7.5%).

Except as noted, the provisions generally first apply in tax year 2018, and most of the provisions are temporary and sunset after tax year 2025. However, the modifications to the deductions for charitable contributions, relating to college athletic event seating rights and the donee acknowledgement of contributions, and medical expenses are permanent.

Federal itemized deductions affect state tax collections in several ways. First, some of the deductions are add-backs for calculating the federal AMT, and Wisconsin's AMT is based on the federal AMT. However, 2017 Act 59 eliminates the state AMT beginning in tax year 2019, so adopting the federal itemized deduction treatment would only affect the Wisconsin AMT in tax year 2018.

A second effect of federal itemized deductions relates to the state's itemized deduction tax credit, which is based on the federal deductions for charitable contributions, medical and dental expenses, interest expenses for a principal residence or a second home in Wisconsin, interest expenses for property sold on a land contract, other interest expenses, except personal interest, and casualty losses directly related to a presidentially declared disaster. If these deductions exceed the amount of the taxpayer's state sliding scale standard deduction, the taxpayer may claim a nonrefundable credit equal to 5% of the excess. Among the Act's changes, repealing the overall limitation on deductions would increase the cost of the state credit, and the other provisions would either reduce the cost of the credit or have no effect. Adopting all of the federal itemized deduction

changes would increase the state itemized deduction credit and decrease state individual income tax collections by an estimated \$10.9 million in 2018-19.

The third effect of the provisions is limited to the changes regarding charitable contributions for athletic event seating rights. Adopting that provision would increase individual and corporate income and franchise tax collections by an estimated \$1.4 million in 2018-19.

Bicycle Commuting

Qualified bicycle commuting employer reimbursements of up to \$20 per month may be excluded from the employee's income for tax purposes. The Act temporarily suspends the exclusion for tax years 2018 through 2025. Adopting this provision would increase state individual income tax collections by a minimal amount in 2018-19.

Moving Expense Reimbursement Exclusion

Employer reimbursement of employee moving expenses are excluded from the employee's gross income and not subject to tax, except employees may not claim both this exclusion and the moving expense deduction. The Act temporarily suspends the exclusion for tax years 2018 through 2025. Adopting this treatment would increase state individual income tax collections by an estimated \$6.4 million in 2018-19.

Moving Expense Deduction

In calculating federal AGI, taxpayers may deduct their moving expenses if the move is work-related and the new workplace is at least 50 miles farther from the taxpayer's old residence than the distance between the taxpayer's old residence and old workplace. Special provisions apply to Armed Services members on active duty. The Act suspends the deduction for tax years 2018 through 2025, but does not change the treatment for active duty Armed Services members. Wisconsin follows the federal treatment, except does not allow the deduction for moves out of state. Adopting the federal treatment to temporarily suspend the deduction for moving expenses would increase state tax collections by an estimated \$8.9 million in 2018-19.

Recharacterization of Individual Retirement Accounts

Federal law allows contributions to individual retirement accounts (IRAs) to be recharacterized, so long as the recharacterization occurs before the extended due date for the individual's tax return for that year. Under this procedure, a contribution to a traditional IRA can be recharacterized as a contribution to a Roth IRA, and vice versa. The Act prohibits recharacterization to be used to unwind a conversion of a traditional IRA to a Roth IRA. This provision would take effect in tax year 2018. Wisconsin generally follows federal law for the treatment of IRAs. Adopting this provision would increase state individual income tax collections by a minimal amount.

Retirement Plan Loan Offsets

Retirement plans may provide loans to employees. If the loan is not repaid, the unpaid balance becomes a "deemed distribution" and taxed like an actual distribution. In addition, a 10% early distribution tax is imposed if the employee is under age 59 ½. In such cases, the unpaid balance may not be rolled over into another retirement plan. In instances where an employee terminates employment, the loan repayment schedule may be accelerated, and nonpayment results in the loan being canceled. The employee's retirement account balance is reduced by the cancelled loan amount, known as a loan offset. That amount is considered an actual distribution subject to regular tax, but not the early distribution tax imposed on deemed distributions. However within 60 days, loan offsets may be rolled over into other retirement plans on a tax-free basis. Beginning in tax year 2018, the Act extends the rollover period from 60 days after the date of the offset to the due date for the employee's tax return, including extensions, for the tax year that the distribution would otherwise be subject to tax. Adopting this provision would decrease state individual income tax collections by a minimal amount. Individuals who incur federal penalties related to retirement plans are subject to a state penalty equal to 33% of the federal penalty.

Length of Service Awards for Public Safety Volunteers

Deferred compensation plan provisions under the IRC allow state and local governments and private, tax-exempt employers to establish plans that make deferred payments based on length of service for volunteers performing firefighting and fire prevention services, medical services, and ambulance services. Payments into plans are made on a tax-deferred basis on behalf of volunteers, and volunteers may not make withdrawals until they fulfill vesting and minimum age requirements. Plans may be established to provide distributions as annuities based on contributions and earnings or as defined benefit plans. Under prior law, the aggregate amount of length of service award accruing to a volunteer for any length of service could not exceed \$3,000, but the Act increases that limit to \$6,000, with future adjustments for inflation. For defined benefit plans, the \$6,000 limit is based on the actuarial present value of combined awards accruing to a volunteer with respect to any year for the individual's service. Adopting this provision would have a negligible effect on individual income tax collections.

College Savings (529) Accounts

Distributions from college savings accounts are made on a tax-free basis provided the distribution is used for the payment of qualified higher education expenses at an eligible educational institution, defined as an accredited post-secondary educational institution. The Act allows distributions, limited to no more than \$10,000 per beneficiary, from accounts to be used for expenses at public, private, or religious elementary and secondary schools and for certain homeschool expenses. This provision is not sunset. Federalizing the treatment of these distributions would reduce state individual income tax collections by a minimal amount in 2018-19. However, the effect is expected to become measurable after five or more years, as taxpayers establish accounts specifically for this purpose. Some of this effect is attributable to the deduction for contributions to 529 accounts, which is allowed under the Wisconsin individual income tax but not under the federal income tax. If the federal provision is adopted for state tax purposes, the

Legislature might consider modifying the existing deduction for private elementary and secondary school tuition to prohibit taxpayers from claiming that deduction if tuition is paid from a 529 account. In addition, modifications to Chapter 224 of the Wisconsin Statutes, concerning administration of the state's college savings program, may also be required.

Rollovers to ABLE Accounts

Federal law allows tax-favored savings accounts for disabled individuals (ABLE accounts) to be established under programs that operate similarly to college savings programs. The Act allows amounts in 529 accounts to be rolled over into ABLE accounts, provided that the ABLE account is owned by the beneficiary of the 529 account or a member of the beneficiary's family. This provision is sunset on January 1, 2026. Adopting this provision would first affect distributions made after December 22, 2017 in tax year 2017 and would reduce individual income tax collections by a minimal amount.

ABLE Account Contribution Limits

Under federal law, the gift tax exclusion allows donees to receive up to \$15,000 annually on a tax free basis, including as contributions to ABLE accounts. This amount is for tax year 2018 and is indexed for inflation. Under the Act, beneficiaries of ABLE accounts may make additional contributions to accounts equal to the lesser of (a) the federal poverty level for a one-person household; or (b) the individual's compensation included in gross income for the tax year. In addition, the Act allows beneficiaries to claim the federal saver's credit based on contributions to the beneficiary's account. These provisions were enacted on a temporary basis and will apply for tax years beginning after December 22, 2017, through 2025. Adopting the change regarding the contribution limit would reduce state individual income tax collections by a minimal amount.

Military Service in the Sinai Peninsula

The IRC extends certain tax benefits to members of the Armed Forces serving in a combat zone. The Act extends those benefits to members serving in the Sinai Peninsula of Egypt. The provision is retroactive to June 9, 2015, with the exception of the definition of wages relating to combat pay which takes effect after December 22, 2017, and remains in effect through tax year 2025. Adopting this provision would reduce state individual income tax collections by minimal amount.

Discharge of Certain Student Loan Indebtedness

Under federal law, the forgiveness of student loans is not considered income and subject to tax, provided the student works for a specified time period in certain professions for certain employers. The Act extends this exclusion to student loan discharges resulting from the student's death or permanent and total disability. The exclusion first applies in tax year 2018 and is sunset in tax year 2026. Adopting this provision would reduce individual income tax collections by a minimal amount.

Presidentially-Declared 2016 Disaster Areas

The IRC limits early withdrawals from eligible retirement plans, subjecting non-qualifying withdrawals to a 10% early withdrawal tax, and establishes procedures for the rollover of withdrawals into other eligible retirement plans. Plan distributions before an employee's termination of employment may be permitted in cases of financial hardship and unforeseen emergency. Subject to limitations, casualty losses may be deducted from income. When a distribution relates to a 2016 presidentially-declared disaster area, the Act exempts distributions from the 10% early withdrawal tax, allows distributions to be ratably included in the taxpayer's income over the three succeeding years, and permits repayment of the distributions within three years with no tax consequences. To qualify for these treatments, any distribution from a plan must be made on or after January 1, 2016, and before January 1, 2018. Also under the Act, personal casualty losses exceeding \$500 that arise from a 2016 presidentially declared disaster need not exceed 10% of the taxpayer's AGI to be deducted. In July, 2016, severe storms and flooding occurred in eight northern Wisconsin counties and resulted in a Presidential disaster declaration on August 9, 2016. A second declaration on October 20, 2016, was in response to storms, flooding, and mudslides on September 21 and 22 in ten western Wisconsin counties. Adopting this provision would reduce state individual income tax collections by an estimated \$2.8 million in 2018-19.

Alimony

In calculating federal AGI, federal law requires a spouse receiving alimony to include the payments as income subject to tax and allows the spouse paying the alimony to deduct the payments. Under the Act, spouses receiving alimony will not be required to include the payments as income, and spouses making payments will not be allowed to deduct the payments from income, provided the couple's divorce or separation instrument is executed after December 31, 2018, or specifically modified after that date to reflect this treatment. Adopting these provisions would have nearly offsetting effects, although a minimal change in state tax collections could occur.

Treatment of Qualified Equity Grants

The transfer of stock from an employer to an employee becomes recognizable as income when the right to the stock is transferable or the stock is not subject to a substantial risk of forfeiture. The Act allows qualified employees to defer the inclusion in income of the amount of income attributable to qualified stock transferred to the employee by the employer. In addition, the Act requires the employer to defer recognizing the deduction until the employee recognizes the income. Further, the Act limits the employees who can be qualified employees and the stock that can be qualified stock. Adopting this provision would affect both individual and corporate income tax collections, reducing combined collections by an estimated \$1.6 million in 2018-19.

Gains on Opportunity Zone Investments

Under the federal new market tax credit, taxpayers may claim a credit on certain investments over seven years. In aggregate, the credit equals 39% of the investment in a community development entity (CDE), where the CDE invests in a low-income community business located in

a low-income community. The credit expires on December 31, 2019, but carryover provisions extend through 2024. The Act provides two tax incentives relating to the treatment of capital gains from certain investments that qualify for the credit. First, gains that are reinvested in qualifying opportunity funds may be temporarily deferred, subject to certain limitations, with subsequent adjustments (increases) made to the basis of the investment depending on the length of holding in the opportunity fund. The Act allows states to designate certain low-income census tracts as opportunity zones, and authorizes qualified opportunity funds, organized as certain business entities, to invest in investment zone property including opportunity zone stock, partnership interests, and business property. Second, the Act provides an exclusion from income for certain gains on investments in opportunity zone funds. If a taxpayer holds an investment in a fund for more than ten years, the taxpayer's basis for the investment is its fair market value when sold or exchanged. Adopting this provision would reduce state individual income tax collections by an estimated \$10.0 million in 2018-19.

PROVISIONS AFFECTING BUSINESSES THAT REQUIRE LEGISLATIVE ACTION

Deduction for Pass-Through Business Income

Pass-through income is business income that flows through the business (is not taxed) to its owners where it is subject to tax under the individual income tax. Pass-through businesses include sole proprietorships, general partnerships, limited partnerships, and S corporations and are distinguished from ordinary corporations, or C-corporations, which are subject to the corporate income tax. Limited liability companies (LLCs) are not recognized under the IRC but can elect to be taxed as sole proprietorships or partnerships (pass-through entities) or as a corporation (C or S-corporation). For tax years 2018 through 2025, the Act allows a deduction from taxable income equal to 20% of pass-through income. For individuals engaged in certain "service businesses," the deduction is subject to phaseout and limitation. The phaseout occurs for taxpayers with taxable income between \$157,500 and \$207,500, or between \$315,000 and \$415,000 if married filing jointly. The limitation equals the greater of 50% of the business' wages or the sum of 25% of the business' wages and 2.5% of the unadjusted basis of the business' property. Under the Act, the deduction is claimed after the calculation of taxable income (federal adjusted gross income minus either the standard deduction or itemized deductions). Because federal adjusted gross income (AGI) is the starting point for calculating Wisconsin AGI, this provision would not affect state tax collections, unless it is adopted with modifications. It should also be noted that Wisconsin's agriculture and manufacturing credit already eliminates most of the state income tax imposed on pass-through income generated from Wisconsin-based manufacturing and agricultural businesses. If Wisconsin converted the provision to a subtraction from federal AGI, state individual income tax collections would decrease by an estimated \$242.5 million in 2018-19.

Loss Limitation for Pass-Through Taxpayers

Under the individual income tax, taxpayers may deduct business losses from their regular income, subject to certain limitations. For example, passive losses and excess farm losses cannot be deducted in the year incurred, but can be carried forward. For tax years 2018 through 2025, the Act limits the amount of business losses by not allowing excess business losses to be deducted.

The Act defines excess business loss as the taxpayer's aggregate deductions for business purposes that exceed the sum of the taxpayer's gross income or gain plus \$500,000 for married, joint filers or \$250,000 for other types of filers. Excess business losses may be carried forward and claimed under net operating loss provisions, as amended by the Act. Also for tax years 2018 through 2025, the limitation relating to excess farm losses does not apply. Excess farm losses comprise losses occurring in the same year that certain farm subsidies are received, provided the farm is not a C corporation. For purposes of calculating adjusted gross income, the excess business loss limitation created by the Act applies after passive loss rules. Adopting this provision would increase state individual income tax collections by an estimated \$83.3 million in 2018-19.

Bonus Depreciation

General Depreciation. In general, a taxpayer must capitalize the cost of property used in a trade or business held for the production of income and recover such cost over time through annual deductions for depreciation and amortization. Tangible personal property is generally depreciated under the modified accelerated cost recovery system (MACRS), which allows for property to be depreciated as 3-, 5-, 7-, 10-, 15-, 20-, or 25-year property, depending on the class of property and its expected useful life. Such property can be depreciated using the general depreciation system, which generally allows the straight-line method or the declining balance method of depreciation. Certain types of property, such as residential rental property located outside the U.S. and certain farm property that does not use uniform capitalization (UNICAP) rules, is depreciated under the alternative depreciation system (ADS). Under ADS, property is generally depreciated using the straight line method over recovery periods specific to the class of the property. In general, UNICAP rules require direct and indirect costs incurred during the production of real or tangible personal property to be capitalized into the basis of the property and depreciated over the property's useful life.

Bonus Depreciation. As opposed to the general depreciation schedule described above, a first-year bonus 50% depreciation deduction is allowed under federal law for qualified property placed into service prior to December 31, 2017. In general, original use of qualified property must commence with the taxpayer, and qualified property includes: (a) property to which MACRS applies with an applicable recovery period of 20 years or less; (b) water utility property; (c) certain computer software; or (d) qualified improvement property. The bonus depreciation was scheduled to phase down to 40% in 2018, 30% in 2019, and be eliminated in 2020. Since the early 2000s, the federal government has enacted a number of first-year depreciation bonuses for qualified property on a temporary basis. Due to the potential impact on state revenues, the Legislature has not adopted the temporary bonus depreciation provisions.

The Act increases first-year bonus depreciation from 50% to 100% for qualified property through 2022, with a scheduled phasedown to 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026, and repeal thereafter. The Act expands bonus depreciation to include qualified film, television, and live theatrical productions, and to the purchase of used qualified property purchased at an arms-length transaction (rather than only new qualified property).

These provisions generally apply to property acquired after September 27, 2017. It is estimated that state adoption of this provision would reduce state tax revenues by \$241.1 million in 2018-19. Because bonus depreciation allows the taxpayer to claim the deduction in the current year rather than over a number of years, and because of the aforementioned scheduled phasedown of the federal bonus depreciation, it is estimated that state adoption of these provisions would result in increased tax revenues beginning in 2023-24.

Depreciation Limits on Luxury Automobiles and Personal Use Property

For certain passenger automobiles placed in service in 2017, the maximum depreciation deduction is \$3,160 in year 1, \$5,100 in year 2, \$3,050 in year 3, and \$1,875 in year 4 and later years (this provision is commonly referred to as the "luxury automobile depreciation limitation"). Certain passenger automobiles are eligible for an additional first-year depreciation of \$8,000. The annual limits are indexed to inflation and apply to luxury automobiles expensed under Section 179. The Act increases the annual limits to \$10,000 in year 1, \$16,000 in year 2, \$9,600 in year 3, and \$5,760 in year 4 and annually thereafter. The Act also eliminates certain reporting requirements for businesses that expense computer or peripheral equipment under Section 179. These provisions are effective for property placed in service after December 31, 2017, in taxable years ending after that date. Although Wisconsin does not automatically adopt these federal changes, the fiscal impact on state tax revenues was accounted for under the estimated fiscal effect of automatically adopting the Section 179 expensing provisions.

Depreciation of Certain Farm Property

Depreciable assets used in a farming business, such as machinery and equipment, grain bins, and fences, generally have a depreciation period of seven years under state and federal law if placed in service in 2017. Under the Act, the recovery period for such machinery and equipment is shortened to five years for property placed in service after December 31, 2017.

Prior to the Act, any property used in the business of farming was generally required to be depreciated using the 150% declining balance method. Under the Act, property used in the business of farming with a recovery period of 3-, 5-, 7-, or 10-years may be depreciated using either the 150% declining balance method or the 200% declining balance method.

The provision is effective for property placed in service after December 31, 2017, for taxable years ending after such date. It is estimated that state adoption of this provision would result in a small reduction in tax revenues over the 2017-19 biennium, but would measurably increase revenues from 2020-21 to 2024-25.

Applicable Recovery Period for Real Property

Real property is generally subject to a recovery period of 39 years for nonresidential real property and 27.5 years for residential rental property under MACRS. However, separate provisions govern the depreciation period for qualified leasehold improvement, qualified restaurant, and qualified retail improvement property, which can be depreciated as qualified

improvement property over a 15-year period. Under ADS, property is generally depreciated using the straight line method over recovery periods equal to the class of the property.

The Act shortens the ADS recovery period for residential rental property from 40 years to 30 years. Qualified improvement property is consolidated into one category (rather than three) with a 15-year recovery period. This provision takes effect for property placed in service after December 31, 2017. It is estimated that state adoption of this provision would decrease tax revenues by \$700,000 in 2018-19.

Amortization of Research Expenses

Most business expenses associated with the development or creation of an asset that has a useful life beyond the current year must be capitalized and depreciated over the useful life of the asset. However, researchers can elect to immediately deduct reasonable research or experimentation expenditures associated with the development or creation of a business asset. Researchers also may elect to amortize such expenditures over a five-year or 10 year period, rather than capitalize such expenditures under UNICAP rules.

The Act requires research and experimental expenditures to be capitalized and amortized ratably over a five-year period. Expenditures attributable to research conducted outside of the United States must be capitalized and amortized ratably over a period of 15 years. The election to immediately expense such costs was repealed. The Act also expands the definition of research or experimental expenditures to include expenditures for software development, as well as depreciation and depletion allowances for property other than land that is depreciated or depleted in connection with research or experimentation. This provision takes effect in taxable years beginning after December 31, 2021. Because of the delayed effective date, state adoption of this provision would not affect state tax revenues in the 2017-19 biennium. However, adoption of this provision would result in a significant increase in state tax revenues beginning in 2021-22.

Expensing Related to Citrus Plants Lost by Reason of a Casualty

The Act allows certain taxpayers to immediately expense preproduction costs, rather than capitalize and depreciate such costs under UNICAP rules, for replanting citrus plants lost or damaged due to casualty. This provision applies to costs paid or incurred after the date of enactment. It is estimated that state adoption of this provision would reduce tax revenues by a minimal amount.

Capitalization of Insurance Company Policy Acquisition Expenses

Prior to 2018, insurance companies were generally required to capitalize and amortize specified policy acquisition expenses over the 120-month period beginning on the first month in the second half of the taxable year in which the expenses were incurred. Prior to 2018, specified policy acquisition expenses that are determined as the portion of the insurance company's general deductions were limited to the following percentages of net premiums for the tax year: (a) 1.75%

for annuity contracts; (b) 2.05% for life insurance contracts; and (c) 7.7% for all other specified insurance contracts.

The Act increases the general amortization period for deducting policy acquisition expenses from 120 months to 180 months. In addition, the percentage limits on such expenses are increased to: (a) 2.09% for annuity contracts; (b) 2.45% for group life insurance contracts; and (c) 9.20% for all other contracts. These provisions first apply to taxable years beginning after December 31, 2017. It is estimated that state adoption of these provisions would increase tax revenues by \$1.5 million in 2018-19.

Simplified Accounting for Small Businesses

Cash and Accrual Method. Most taxpayers use either the cash method of accounting (recognize items of income when received and expenses when paid) or the accrual method of accounting (expenses and income recognized when earned, typically used for financial accounting purposes). The Act requires C corporations (including farming businesses), partnerships with a C corporation partner, and tax-exempt trusts or corporations with unrelated business income to use the accrual method if their gross receipts over the previous three years average at least \$25 million. Under prior law, the gross receipts threshold was \$5 million and was based on average gross receipts over all prior tax years. The Act also repeals exemptions from the requirement to use accrual accounting for farming businesses operating a nursery or sod farm or that harvest trees.

Accounting for Inventories. In general, taxpayers must account for inventories and maintain inventory records to account for the inventory and the cost of goods sold if the production, purchase, or sale of merchandise is an income-producing factor to the taxpayer. In determining inventory, the accrual method generally must be used with regard to purchases and sales. Prior to 2018, exemptions from this rule existed for taxpayers whose average annual gross receipts did not exceed \$1 million and for taxpayers in certain industries whose average annual gross receipts did not exceed \$10 million. Exempt taxpayers may account for inventory as materials and supplies that are not incidental. For nonexempt taxpayers, the taxpayer must maintain inventory records to determine cost of goods sold. The Act increases the exemption limit under this provision to \$25 million for all taxpayers. Exempt taxpayers may treat inventories as non-incidental materials and supplies or conform to their financial accounting treatment of inventory.

Uniform Capitalization. UNICAP rules require certain direct and indirect costs allocable to property produced by the taxpayer to be included either in inventory or capitalized into the basis of the property. However, certain exemptions apply to this rule, including for taxpayers who acquire property for resale and have \$10 million or less of average annual gross receipts. The Act increases the exemption limit to \$25 million, beginning in 2018.

Long-Term Contracts. For long-term contracts, taxable income is determined under the percentage-of-completion method. Gross income for a taxable year is equal to the product of: (a) the gross contract price; and (b) the percentage of the contract completed during the taxable year. Costs incurred under a long-term contract are deductible in the year incurred, subject to the general accrual method of accounting. Contracts exempt for the construction or improvement of real property were exempt from this requirement if the contract: (1) is expected to be completed within

two years of commencement of the contract; and (2) is performed by a taxpayer whose average annual gross receipts for the prior three years do not exceed \$10 million. Contracts exempt from the percentage-of-completion accounting method may use the completed contract method, the exempt-contract percentage-of-completion method, or any other permissible method. The Act increases the threshold under "2" to \$25 million, beginning in 2018.

Fiscal Effect and Effective Date. These provisions expand the universe of taxpayers eligible to use the cash method of accounting. The \$25 million thresholds described above are indexed for inflation, beginning in tax year 2019. The provisions take effect for taxable years beginning after December 31, 2017. The provision regarding long-term construction contracts applies to contracts entered into after December 31, 2017, in taxable years ending after such date. It is estimated that state adoption of these provisions would reduce state tax revenues by \$53.4 million in 2018-19.

Accounting Rules for Accrual Method Taxpayers

Gross income is generally taxable in the tax year in which the money, property, or service is received, with exceptions to permit deferral of gross income related to advance payments. The Act requires an accrual method taxpayer to recognize income no later than the taxable year in which such income is taken into account as revenue in an applicable financial statement, with an exception for taxpayers without an applicable or other specified financial statement. The Act codifies the current deferral method of accounting for advance payments for goods, services, and other specified items to allow accrual method taxpayers to elect to defer the inclusion of income associated with advance receipt if such income is also deferred for financial statement purposes. The Act also repeals special rules that apply to the accrual of interest for original issue discount debt instruments (other than mortgage servicing contracts) that have an applicable financial statement, and the change in accounting for such debt instruments must be taken into account ratably over six taxable years. This provision generally applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$9.8 million in 2018-19.

Conversion of S Corporation to C Corporation

Under state and federal law, a C corporation generally must use the accrual method of accounting, but S corporations may be eligible to use cash accounting. Certain procedures must be followed when a taxpayer changes its method of accounting, and adjustments are generally taken ratably during the four taxable years beginning with the year of the accounting change. If an S corporation elects to convert to a C corporation, distributions of cash by the C corporation with respect to its stock during the one-year period following the election are treated as tax-free distributions to the shareholders, but the basis of the stock is reduced to reflect the amount distributed.

The Act provides special provisions for an eligible terminated S corporation that converts to a C corporation if the corporation: (a) is an S corporation on the day prior to enactment of the Act; (b) converts within two years of enactment of the Act; and (c) has the same owners on the date that the S corporation election is revoked that retain the same ownership interest as on the date of such

conversion. For eligible S corporations, the adjustment for the method of accounting (such as converting from cash accounting to the accrual method) is taken into account ratably over a six-year period, rather than a four-year period. For distributions of money by an eligible terminated S corporation within one year of the conversion, certain adjustments must be made to the corporation's accumulated adjustment account and its earnings and profits. This provision took effect upon enactment of the Act and applies to distributions made after the effective date of the Act. It is estimated that state adoption of this provision would reduce tax revenues \$3.1 million in 2018-19.

Limit Interest Deduction to 30% of Adjusted Taxable Income (ATI)

Under state and federal law, interest paid or accrued by a business was generally deductible from taxable income prior to tax year 2018, with certain limitations. However, deductible interest on indebtedness allocable to property held for investment was generally limited to net investment income for the taxable year, provided interest exceeded 2% of AGI. Investment interest that could not be deducted could be carried forward to the following year. A deduction could be disallowed for disqualified interest paid involving related parties or to a taxable real estate investment trust subsidiary if the payor's debt-to-equity ratio exceeded 1.5 to 1.0 and the payor's net interest expense exceeded 50% of AGI.

In general, the deduction for business interest is limited under the Act to the sum of: (a) business interest income; (b) 30% of the taxpayer's ATI; and (c) floor plan financing interest of the taxpayer for the taxable year. Business interest income means any interest paid or accrued on indebtedness allocable to a trade or business, but does not include investment interest or investment income. ATI means taxable income of the taxpayer computed without regard to any: (1) item of income, gain, deduction, or loss not properly allocable to the trade or business; (2) business interest or interest income; (3) net operating loss deduction; and (4) the 20% deduction for certain pass-through income. Wages are not included in ATI. For tax years 2018 through 2021, ATI is computed without regard to deductions allowable for depreciation, amortization, or depletion. Floor plan financing interest includes any interest on indebtedness used to finance any self-propelled vehicles (such as on the floor of a car dealership) and is not subject to the deduction limitation, but not on indebtedness used to finance construction machinery and equipment.

Any deduction disallowed as a result of the limit for business interest may be carried forward indefinitely for use in future years. The deduction limit for partnerships and S corporations is computed at the entity level, and special rules apply, generally to prevent double counting of the deduction limit at the entity-level and at the partner or shareholder level. The following entities are exempt from the deduction limit: (a) taxpayers with average gross receipts of less than \$25 million over the prior three taxable years; (b) certain regulated public utilities; (c) most businesses engaged in real property development, construction, rental, leasing, or brokerage activities; and (d) farming businesses, as well as certain agricultural or horticultural cooperatives. A farming business that claims this exemption must use straight line depreciation for property that has a recovery period of ten years or more.

This provision first applies for taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$78.2 million in 2018-19.

Repeal Like-Kind Exchanges for Tangible Personal Property

The Act repeals the provision allowing the nonrecognition of gains in a like-kind exchange if the property exchanged is of the same class and is one of the following classes of property: (a) depreciable tangible personal property; or (b) intangible or nondepreciable personal property. However, the nonrecognition of gains is retained for the like-kind exchange of real property. This provision applies to exchanges completed after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$4.2 million in 2018-19.

Limitation on Deduction for Employers of Fringe Benefit Expenses

Meals and Entertainment Expenses. Deductions are not allowed for expenses related to activities that are considered entertainment, amusement, or recreation, or expenses for a facility (like aircraft) used for such purpose. However, prior to 2018, taxpayers could deduct certain expenses equal to: (a) 50% of entertainment expenses that are directly related to a taxpayer's active trade or business; and (b) 50% of food and beverages provided to employees. The Act repeals the deduction allowed under "a."

Under state and federal de minimis fringe benefit provisions, food and beverages provided to employees through an eating facility operated by the employer that is located on or near the employer's business premises and that meets certain requirements could be deducted by the employer. The Act limits the deduction to food and beverages provided for the convenience of the employer and reduces the deductible amount to 50% for amounts incurred and paid after December 31, 2017. However, for amounts paid or incurred after December 31, 2025, such expenses cannot be deducted.

Under the Act, these provisions generally apply to amounts paid or incurred after December 31, 2017. It is estimated that state adoption of these provisions would increase tax revenues by \$11.7 million in 2018-19.

Qualified Transportation Fringe Benefits. The Act eliminates the deduction for qualified transportation fringe benefits provided by an employer to its employees (including qualified parking, transit passes, vanpool benefits, and qualified bicycle commuting reimbursements) unless the fringe benefits are necessary to ensure the safety of the employee. However, the Act eliminates the deduction for qualified bicycle commuting reimbursements regardless of whether the fringe benefits are necessary to ensure the safety of the employee. As under prior law, the expenses must be for commuting between the employee's residence and place of employment. This provision also applies to tax-exempt organizations subject to the unrelated business income tax.

This provision applies to amounts paid or incurred after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$8.7 million in 2018-19.

Property Provided as an Employee Achievement Award. An employer is allowed a limited deduction for the cost of an employee achievement award. Awards deducted by the employer are excludible from the employee's gross income and are not subject to payroll taxes. An employee achievement award is defined as an item of tangible personal property given to an employee in recognition of either length of service or safety achievement that is presented as part of a meaningful presentation. The Act clarifies that an employee achievement award does not include cash, cash equivalents, gift cards, gift coupons or gift certificates, or vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items. This provision applies to amounts paid or incurred after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by a minimal amount.

Eliminate Deduction for Member of Congress Living Expenses

State and federal law generally allow a deduction for ordinary and necessary expenses paid or incurred in connection with the trade or business conducted by the taxpayer. Federal law allows a deduction for traveling expenses (such as food or lodging) paid or incurred in pursuit of a trade or business while away from home in carrying on that trade or business. Prior to the Act, the deduction for members of Congress was limited to no more than \$3,000 per taxable year for such expenses incurred traveling outside the state, district, or possession that the member of Congress represents. For taxable years beginning on December 22, 2017, the Act prohibits a member of Congress from deducting such expenses as an ordinary and necessary expense. State adoption of this provision is estimated to increase in state revenues by a minimal amount.

Repeal Rollover of Publicly Traded Securities Gain into Certain Companies

Subject to certain limitations, a corporation or individual can elect to roll over, tax-free, any capital gain realized on the sale of publicly-traded securities, provided the taxpayer invests the proceeds from the sale in common stock or a partnership interest in a specialized small business investment company within 60 days. This provision is repealed for sales occurring after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

Treatment of Self-Created Property

The Act specifies that a patent, invention, model, or design, or a secret formula or process which is held either by the taxpayer who created the property or a taxpayer with a substituted or transferred basis from the creator is excluded from the definition of capital assets. As a result, the gain or loss from the sale or exchange of such property is treated as ordinary income, rather than a capital gain. This provision applies to dispositions of such assets after December 31, 2017. It is estimated that state adoption of this provision would increase state revenues by \$300,000 in 2018-19.

Deduction for Federal Deposit of Insurance Corporation (FDIC) Premiums

Under the Act, beginning in tax year 2018, FDIC premiums are no longer deductible if paid or incurred by a taxpayer with total consolidated assets of \$50 billion or more. Taxpayers may deduct 100% of FDIC premiums if such assets are less than \$10 billion. For taxpayers with such assets of between \$10 billion and \$50 billion, the applicable percentage of the deduction is prorated over that range (for example, if the taxpayer has \$20 billion of such assets, 25% of FDIC premiums are taxable). It is estimated that state adoption of this provision would increase tax revenues by \$6.2 million in 2018-19.

Repeal Exclusion for Interest on Advance Refunding Bonds

In general, gross income does not include interest received on state or local bonds, including a governmental advance refunding bond. A bond is classified as an advance refunding bond if it is issued more than 90 days before the redemption or call date of the refunded bond. Governmental bonds generally can be advance refunded only one time for the advance refund to be tax exempt. Interest received on state or local bonds issued to advance refund another bond is no longer exempt from tax under the Act. This provision first applies to advance refunding bonds issued after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$4.8 million in 2018-19.

Modify Limit on Deduction for Highly Paid Individuals

Salaries, wages, and other forms of remuneration to officers of a business are deductible. However, deductible compensation expenses in the case of a "publicly held corporation" are limited to no more than \$1 million per year for each "covered employee." A covered employee generally means the principal executive officer and the three most highly compensated officers as of the last day of the tax year (four covered employees). Certain types of remuneration are not included when calculating the deduction limit. The Act generally expands applicability of the \$1 million deduction limit by:

- a. Expanding the definition of a publicly held corporation to include all domestic publicly traded corporations, including large private C corporations or S corporations that are not publicly traded;
- b. Including remuneration paid on a commission basis and performance-based compensation;
- c. Expanding the definition of a covered employee to also include the principal financial officer, in addition to the principal executive officer and the three most highly compensated officers (five covered employees);
- d. Including any individual that holds the position of principal executive officer or principal financial officer at any time during the taxable year; and

e. Requiring that an individual who is a covered employee, beginning in tax year 2017, remains a covered employee subject to the \$1 million deduction limit with respect to compensation otherwise deductible in subsequent years, including years in which the individual is no longer employed by the corporation and in years after the employee has died;

As a result, the number of covered employees under the Act may exceed five, and deferred compensation paid to a covered employee, or the beneficiary of a covered employee, is subject to the \$1 million deduction limit. This provision is effective for taxable years beginning after December 31, 2017. A transition rule applies that grandfathers written binding contracts in effect on November 2, 2017. However, a contract is considered a new contract if it is renewed or if there has been a material modification to its terms. It is estimated that state adoption of this provision would increase tax revenues by \$2.7 million in 2018-19.

Repeal of Small Life Insurance Company Deduction

Prior to 2018, under state and federal law, a small life insurance company with up to \$500 million of assets was eligible for a deduction for up to 60% of the first \$3 million of the company's taxable income, subject to certain limitations. The Act repeals this deduction for taxable years beginning after December 31, 2017. State adoption of this provision would result in a minimal increase in tax revenues.

Adjustment for Change in Computing Life Insurance Reserves

In general, income or loss resulting from a change in the method of computing reserves of life insurance companies must be included in taxable income ratably over a ten-year period. The Act shortens the period over which such income or loss must be taken into account to a four-year period for life insurance companies. This provision first applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$700,000 in 2018-19.

Distribution from a Policyholder Surplus Account

Any direct or indirect distribution to shareholders from an existing policyholders surplus account of a stock life insurance company is subject to the corporate income or franchise tax under state and federal law. Policyholder surplus accounts were permitted as a tax-deferred account for life insurance companies under a three-phase system of taxation that existed from 1959 to 1983, subject to tax once shareholder distributions were (and are) made. For taxable years after 1983, life insurance companies could not enlarge a policyholder surplus account. Under state and federal law, distributions to shareholders made in tax year 2017 were treated as made: (a) first, out of the shareholders surplus account; (b) second, out of the policyholders surplus account; and (c) third, out of other accounts.

The Act eliminates the rules imposing income tax on pre-1984 policyholder surplus accounts. Instead, tax is imposed on the balance of the account as of December 31, 2017, and is paid ratably over the eight taxable years beginning after that date. Life insurance company losses

are not allowed to offset the amount of the policyholders surplus account balance subject to tax. This provision applies to taxable years beginning after December 31, 1983. State adoption of this provision would result in a minimal increase in tax revenues.

Computation of Life Insurance Reserves

In general, a life insurance company's gross income includes any net decrease in reserves and deducts any net increase in reserves. Prior to 2018, life insurance reserves for any contract were the greater of the net surrender value of the contract or the reserves determined under federally prescribed rules. The Act generally limits the allowable deduction for additions to life insurance reserves for any contract such that:

a. For any contract, other than variable contracts, the reserve amount is the greater of the net surrender value of the contract or 92.81% of the amount determined using the tax reserve method otherwise applicable to the contract as of the date the reserve is determined; and

b. For variable contracts, the reserve amount is the sum of: (a) the greater of the net surrender value of the contract or the separate-account reserve amount under federal laws governing variable contracts; plus (b) 92.81% of the excess (if any) of the amount determined using the tax reserve method otherwise applicable to the contract as of the date of the reserve.

The amount of deductible reserves cannot exceed the amount which would be taken into account in determining statutory reserves. The Act also prohibits double counting deductible reserves under the general computation of income and under the computation of loss reserves. This provision first applies to tax year 2018 and allows for a phase-in of these provisions ratably over eight taxable years. It is estimated that state adoption of this provision would increase tax revenues by \$8.4 million in 2018-19.

Tax Reporting for Life Settlement Transactions

Transfer for Value Rules. Amounts received under a life insurance contract by reason of the death of the insured are excluded from federal income tax. However, under transfer for value rules, if a life insurance contract is sold or otherwise transferred for valuable consideration, the amount paid by reason of death of the insured that is excludable from income is generally limited to not more than the sum of the actual value of the consideration and the premiums or other amounts subsequently paid by the transferee of the contract. Prior to 2018, exceptions to this limit applied if: (a) the transferee's basis in the contract is determined, in whole or in part, by reference to the transferor's basis in the contract; or (b) the transfer is to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer. These exceptions no longer apply under the Act to the transfer of a life insurance contract, or any interest in a life insurance contract, in a reportable policy sale (a portion of death benefits ultimately payable could be included as income). This provision is effective for transfers occurring after December 31, 2017.

Basis Adjustment of Transfer. Under a ruling by the Internal Revenue Service, in the case of a cash value life insurance contract, the insured's (seller's) basis is reduced by the cost of insurance (expected mortality expenses and certain other costs), and the gain on the sale of the contract is taxed as ordinary income, provided the amount would be recognized as ordinary income if the contract was surrendered, and any excess amount is taxed as a long-term capital gain. The Act reverses this ruling and specifies that no adjustment can be made for cost of insurance in determining the basis of a life transfer or annuity contract. This clarification of the basis rules for life insurance and annuity contracts is effective for transactions entered into after August 25, 2009.

Fiscal Estimate. It is estimated that state adoption of these provisions would result in a minimal revenue increase over the 2017-19 biennium.

Modify Discounting Rules for Property and Casualty Companies

Property and casualty insurance companies can generally deduct additions to reserves for losses and expenses incurred. To take into account the time value of money, discounting of unpaid losses is required with separate discounting rates for each line of business. The discounts are calculated using a prescribed interest rate based on the federal mid-term rate (mid-term AFR) effective at the beginning of each month over the 60-month period preceding the calendar year for which the determination is made. The U.S. Department of the Treasury (Treasury) determines the discount period for each line of business every five years based on the historical loss payment pattern aggregated for each line of business over an industry-wide basis. The Act modifies the discounting rules that apply to additions to reserves for property and casualty insurance companies as follows:

a. The interest rate is an annual rate for any calendar year, determined by Treasury, based on the corporate bond yield curve (rather than the mid-term AFR) on investment grade corporate bonds with varying maturities and that are in the top three quality levels available;

b. For certain businesses that discount reserves for losses paid over a period of more than ten years, the maximum extension beyond the ten-year period following the accident is 14 years, rather than five years; and

c. A taxpayer must discount reserves using the industry-wide payment pattern. Prior to the Act, a taxpayer could elect to discount additions to reserves using its own historical loss payment pattern.

These provisions generally apply to taxable years beginning after December 31, 2017, with a transition rule and eight-year ratable adjustment period for unpaid losses, and expenses unpaid, prior to tax year 2018. It is estimated that state adoption of this provision would increase tax revenues by \$6.4 million in 2018-19.

Proration Rules for Property and Casualty Insurance Companies

For a property and casualty insurance company, the deductible portion of its reserve for losses incurred is calculated by reducing the amount of losses incurred by an amount equal to 15% of: (a) the insurer's tax-exempt interest; (b) the deductible portion of dividends received; and (c) increases in the cash value of life insurance endowment or annuity contracts the company owns. The proration reflects that reserves are generally funded in part from tax-exempt interest, deductible dividends, and other untaxed amounts. The Act replaces the aforementioned reduction percentage with a reduction equal to 5.25% divided by the top federal corporate tax rate. For tax year 2018, the top federal corporate tax rate is 21%, resulting in a percentage reduction equal to 25% (rather than 15%). This provision applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

Treatment of Gains on the Sale of a Partnership Interest

In general, the gain or loss from the sale or exchange of a partnership interest is treated as a gain or loss from the sale of a capital asset subject to capital gains tax. Under a 1991 revenue ruling, the Internal Revenue Service applied the asset-use test and business activities test at the partnership level to determine the extent to which the consideration derived from the sale or exchange of a partnership interest by a nonresident alien or foreign corporation is subject to a withholding tax of 10% on the amount of any gain realized on the transfer. However, pursuant to a 2017 tax court case, the gain or loss on the sale or exchange by a foreign person of an interest in a partnership that is engaged in a U.S. trade or business is treated as foreign-sourced income and not subject to the withholding tax.

The Act effectively reverses the 2017 tax court ruling and specifies that the gain or loss from the sale or exchange of a partnership interest is effectively connected with a U.S. trade or business as if the transferor had sold all of its assets at fair market value, effective for sales, exchanges, and dispositions on or after November 27, 2017. Any gain or loss must be determined as if the hypothetical asset sale by the partnership had occurred. The transferee of a partnership interest, including a broker acting as agent of the transferee, must deduct and withhold 10% of any gain realized on the disposition, for sales or exchanges of partnership interests after December 31, 2017. The withholding tax does not apply if the transferor certifies that the transferor is not a nonresident alien individual or foreign corporation. State adoption of this provision is estimated to increase tax revenues by \$800,000 in 2018-19.

Substantial Built-In Loss for Purposes of Partnership Loss Transfers

A partnership must adjust the basis of partnership property following the transfer of a partnership interest if the partnership has a "substantial built-in loss" (the partnership's adjusted basis in its property exceeds fair market value by at least \$250,000). The Act expands the definition of a "built-in loss" to also exist in a partnership if the transferee would be allocated a net loss in excess of \$250,000 under the hypothetical disposition of all of the partnership's assets. As a result, a partnership must adjust its basis if a built-in loss exists at either the partnership level or the

partner level under a hypothetical transfer. This provision applies to transfers of partnership interests after December 31, 2017. State adoption of this provision would result in a minimal increase in tax revenues during the 2017-19 biennium.

Treatment of Charitable Contributions and Foreign Taxes for a Partner's Share of Loss

In general, a partner's basis in a partnership interest is decreased by, but not by more than, the distributions by the partnership of its distributive share of partnership losses. However, Treasury regulations do not take into account the partner's share of partnership charitable contributions and foreign taxes paid or accrued in applying the basis limitation on partner losses. The Act reverses the Treasury regulations on taxes paid or accrued to a foreign country or possession of the United States and for charitable contributions paid by the partnership. As a result, the partner's basis in a partnership interest is reduced by the partner's distributive share of the adjusted basis of the taxes paid or property contributed. This provision applies to partnership taxable years beginning after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by \$500,000 in 2018-19.

Modify Treatment of Gains on Partnership Profits Interest (Carried Interest) Held in Connection with the Performance of Services

In general, a profits interest in a partnership is the right to receive future profits in a partnership, but does not include any right to receive money or other property upon immediate liquidation of the partnership. A taxpayer is generally required to recognize income from the transfer of property in connection with the performance of a service in the taxable year in which the property is first vested (transferred and not subject to substantial risk). The disposition of such property is generally taxed as a capital gain, rather than ordinary income, if the property is held for more than one year. The Act makes the following changes to the income tax treatment for the acquisition of a profits interest in a partnership:

- a. Define "applicable partnership interest" to mean any interest in a partnership, excluding an interest that includes the right to share in capital held by the partnership upon liquidation of the partnership, or any interest held by a corporation, that is transferred to the taxpayer in connection with performance of service in any applicable trade or business, regardless of whether the service provider also made contributions to the partnership;
- b. Require a person to hold an "applicable partnership interest" for three years, rather than one year, for the gain realized on the disposition of that interest to be taxed as a capital gain, rather than as ordinary income, regardless of whether the person elected to recognize the transfer as income prior to the applicable partnership interest being substantially nonvested; and
- c. Require that, if a person transfers any applicable partnership interest to a person related to the taxpayer, the taxpayer must include as a short term capital gain any gain attributable to the sale or exchange of an asset that is held for less than three years (rather than one-year). A person related to the taxpayer includes either a family member or a colleague who performed a

service within the current or preceding three years in any applicable trade or business in which, or for which, the taxpayer performed the service.

This provision does not apply under certain circumstances to income or gain attributed to any asset that is not held for portfolio investment on behalf of third party investors. This provision applies to taxable years beginning after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by \$1.4 million in 2018-19.

Separate Computation of Each Trade or Business Activity Under the Unrelated Business Income Tax (UBIT)

Tax-exempt organizations may be subject to UBIT for certain income not associated with the organization's tax-exempt function. Tax-exempt organizations subject to UBIT generally include: (a) organizations under Section 501(a), including most 501(c) organizations; (b) qualified pension, profit-sharing, and stock bonus plans and (c) certain state colleges and universities. An exempt organization may take a specific deduction of \$1,000 for each unrelated trade or business (in addition to other normal operating expenditures), but the specific deduction cannot create a net operating loss (NOL) to be carried back or forward to another taxable year. A tax-exempt organization that operates multiple unrelated trades or businesses must aggregate its income and deductions and, as a result, the specific deduction of \$1,000 that is deductible for one unrelated trade or business may be used to offset taxable income from another, thereby reducing the organization's aggregate UBIT liability.

The Act requires a tax-exempt organization with more than one trade or business to first compute income subject to UBIT separately for each trade or business without regard to the specific deduction, and the specific deduction may only be used to offset that trade or business's UBIT liability. An NOL deduction is allowed only with respect to the trade or business from which the loss arose. As a result, the specific deduction cannot be used by an organization to offset income from a different unrelated trade or business for the same tax year. However, an organization may carry forward the NOL arising from the specific deduction to offset income from that specific unrelated trade or business in future tax years.

This provision is effective for taxable years beginning after December 31, 2017. Under a special transition rule, an NOL carried forward from taxable years beginning before January 1, 2018, is not subject to this provision. It is estimated that state adoption of this provision would increase tax revenues by \$1.7 million in 2018-19.

Tax Treatment of Alaska Native Corporations and Settlement Trusts

The Act modifies the income tax treatment of certain payments and transfers made under the Alaska Native Claims Settlement Act. The provision generally applies for taxable years beginning after December 31, 2016. State adoption of this provision would result in a minimal reduction in tax revenues.

Small Business Trusts

An electing small business trust (ESBT) may be a shareholder of an S corporation. However, a nonresident alien individual could not be either the shareholder of an S corporation or a potential current beneficiary of an ESBT prior to 2018. The portion of an ESBT that consists of an S corporation's stock is treated as a separate trust and its earnings are taxed at the highest rate of tax imposed on individuals, but income is not taxed to the beneficiaries of the ESBT. Because an ESBT is a trust, charitable contributions are deducted from gross income without limitation. However, deductible charitable contributions that would reduce taxable income below \$0 could not be carried forward.

The Act permits a nonresident alien individual to be a potential current beneficiary of an ESBT, beginning January 1, 2018. The Act provides that charitable contributions of an ESBT may be deducted under rules governing individuals, rather than trusts, beginning with taxable years after December 31, 2017, and the percentage limitations and carryforward provisions that apply to individuals also apply to ESBTs. State adoption of this provision is estimated to result in a minimal reduction in tax revenues.

Deny Deduction for Sexual Harassment Settlements

In general, a deduction is allowed for ordinary and necessary expenses paid or incurred in carrying on any trade or business, with certain exceptions. Under the Act, no deduction is allowed for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement. This provision is effective for amounts paid or incurred after the date of enactment. State adoption of this provision would result in a minimal increase in tax revenues.

Disallowed Deduction for Fines and Penalties

Fines or penalties paid to a government for the violation of any law cannot be deducted for state or federal income tax purposes. Under the Act, amounts also cannot be deducted if paid or incurred, whether by suit, agreement, or otherwise, to or at the direction of a government or specified nongovernmental entity in relation to any violated law. Expenses cannot be deducted if paid or incurred for the investigation into the potential violation of a law. However, restitution, including remediation of property, that is paid to come into compliance with a violated law, but not including reimbursement of a government investigation or litigation cost, is a deductible expense if a government is a complainant or investigator with respect to such violation. Any restitution payment for failure to pay any tax is only deductible to the extent the tax would have been deductible if timely paid. Reporting requirements apply for amounts required to be paid in a court order or agreement of \$600 or more. This provision applies to amounts paid or incurred after the day of enactment, except for amounts paid or incurred under a binding order or agreement entered into before that date. State adoption of this provision would result in a minimal increase in tax revenues.

Repeal Deduction for Local Lobbying Expenses

In general, a deduction is not allowed for expenses paid or incurred in connection with lobbying and political activities, unless such expenditures are "in-house" and less than a de minimis threshold (\$2,000). However, an exception applied to certain expenses incurred in carrying on a trade or business with respect to local legislation (including tribal legislation), such as appearing before a local body and directly communicating with a local council or body for which the taxpayer has a direct interest. The Act repeals this exception for amounts paid or incurred after the date of enactment. State adoption of this provision would result in a minimal increase in tax revenues.

Modify Treatment of Contributions to Capital

Gross income generally does not include any contribution to capital. The Act excludes from the definition of contribution to capital and, instead, includes in gross income: (a) any contribution made in aid of construction or any other contribution as a customer or potential customer; and (b) any contribution made by any governmental entity or civic group. The provision applies to contributions made after the date of enactment. However, the provision does not apply to any contribution made after the date of enactment by a governmental entity pursuant to a master development plan that has been approved prior to such date by a governmental entity. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

DISASTER TAX RELIEF AND AIRPORT AND AIRWAY EXTENSION ACT

Title V of the Disaster Tax Relief and Airport and Airway Extension Act (the Act) provides relief to individuals and businesses affected by Hurricanes Harvey, Irma, and Maria. The provisions are limited to individuals, businesses, and property in a presidentially-declared disaster zone or disaster area resulting from the three hurricanes. One of the Act's provisions creates a tax credit for employers affected by the hurricanes and does not affect the definition of federal AGI. Several other provisions modify that definition and could affect state tax collections if adopted. However, the provisions are targeted to individuals in the hurricane disaster areas and would not likely have a measurable effect on state tax collections.

Deduction for Casualty Loss

The IRC allows individuals to claim an itemized deduction for a casualty loss, subject to limitations. The loss must exceed \$100, and the deduction is limited to the amount of the loss, minus \$100, exceeding 10% of the taxpayer's AGI. The Act allows taxpayers who suffer a loss or property in a hurricane disaster area caused by one of the hurricanes to deduct the amount of the loss exceeding \$500, without regard to the 10% of AGI limitation. In addition, the deduction may be claimed by taxpayers using the standard deduction, as well as by those who itemize their deductions. These provisions apply to losses that occurred on or after the dates of the hurricanes and apply in tax year 2017. Casualty losses incurred in a presidentially declared disaster area may

be claimed under Wisconsin's itemized deduction credit. Adopting this provision would have a minimal effect on state individual income tax collections.

Charitable Contributions

Charitable contributions are claimed as an itemized deduction for federal tax purposes. Contributions that may be deducted are limited to a percentage of the taxpayer's federal AGI based on the form that the contribution takes (cash versus property). Also, for tax year 2017, itemized deductions are subject to phaseout for high-income taxpayers. Corporations can deduct contributions of up to 10% of their taxable income. The Act allows the deduction of certain contributions of up to 100% of AGI with no phaseout for high-income taxpayers and contributions of up to 100% of a corporation's taxable income. The contribution must have been made between August 23, 2017, and December 31, 2017, to a charitable organization for relief efforts in one of the three hurricane disaster areas. Contributions in excess of the 100% limits can be carried forward for five years. Charitable contributions may be claimed under Wisconsin's itemized deduction credit. Adopting this provision would have a minimal effect on state individual income tax collections. A minimal reduction in corporate income and franchise taxes could also occur.

Early Distributions from Retirement Plans

The Act waives the 10% additional tax on certain early distributions from retirement plans made on or after August 23, 2017, and before January 1, 2019. Distributions up to \$100,000 are eligible, provided the individual's principal place of residence was in a hurricane disaster area, and the individual sustained an economic loss due to the hurricane(s). Taxpayers receiving distributions may repay the distribution by making contributions to a retirement account within three years to qualify for rollover treatment. Otherwise, the distribution is included in income ratably over three years. Also, the Act permits individuals to recontribute funds to retirement plans if the funds were distributed for a home purchase in a hurricane disaster area and the purchase was cancelled on account of one of the hurricanes. With regard to loans from retirement plans, the Act increases the loan limit from \$50,000 to \$100,000 and delays the repayment deadline by one year. These provisions took effect upon enactment and apply in tax year 2017. Adopting these provisions could reduce state tax collections by a minimal amount.

Earned Income and Child Tax Credits

These credits are based on the claimant's income. The Act allows claimants whose principal residence was in one of the three hurricane disaster areas and who were displaced by one of the hurricanes to use their 2016 income to claim their earned income or child tax credits in tax year 2017, if that income is higher than their 2017 income. Wisconsin already follows the federal treatment for purposes of the state EITC. The child tax credit provisions would not affect state tax collections.

SUMMARY OF FISCAL EFFECT

The Attachment shows the estimated state fiscal effects of adopting the provisions described above for state tax purposes in state fiscal years 2018-19 through 2026-27. As noted, the fiscal impacts of the provisions that will automatically be adopted for state tax purposes have been incorporated into our January 17, 2018, revenue estimates.

Prepared by: Rob Reinhardt, Rick Olin, and Sean Moran
Attachment

ATTACHMENT

Estimated Effects on State Tax Collections of Adopting Federal Tax Provisions Enacted in 2017 (In Millions)

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Automatically Adopted*									
Section 179 Expensing - includes Depreciation Limits on Luxury Automobiles and Personal Use Property	-\$47.6	-\$22.9	-\$13.8	-\$10.0	-\$7.5	-\$5.2	-\$4.3	-\$4.2	-\$4.2
Alternative Minimum Tax Exemption Amounts	-2.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplement to Federal Historic Rehabilitation Tax Credits	0.1	1.3	4.0	6.4	8.0	7.2	5.4	3.6	1.8
Technical Termination of Partnerships	1.4	0.5	0.5	0.9	0.9	0.9	0.9	0.9	0.9
SUBTOTAL	-\$48.9	-\$21.1	-\$9.3	-\$2.7	\$1.4	\$2.9	\$2.0	\$0.3	-\$1.5
Other Provisions Affecting Individuals and Families									
Itemized Deductions	-\$10.9	-\$3.4	-\$2.9	-\$2.5	-\$1.9	-\$1.5	-\$0.9	-\$0.4	\$0.2
Charitable Deduction Related to College Athletic Event Seating Rights and Exception for Donee Acknowledgement of Contributions	1.4	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Moving Expense Reimbursement Exclusion	6.4	3.8	3.8	3.8	3.8	3.8	4.5	1.3	0.0
Moving Expense Deduction	8.9	5.8	5.8	6.4	6.4	6.4	7.0	1.9	0.0
College Savings Accounts	Minimal	Minimal	Minimal	Minimal	-0.6	-0.6	-0.6	-0.6	-0.6
Presidentially-Declared 2016 Disaster Areas	-2.8	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
Treatment of Qualified Equity Grants	-1.6	-0.9	-0.9	-0.5	Minimal	Minimal	Minimal	Minimal	Minimal
Gains on Opportunity Zone Investments	-10.0	-6.6	-6.8	-6.6	-6.2	-6.1	-6.4	-22.9	-16.3
SUBTOTAL	-\$8.6	-\$0.5	-\$0.2	\$1.4	\$2.3	\$2.8	\$4.4	\$25.9	\$16.7
Other Provisions Affecting Businesses									
Deduction for Pass-Through Business Income	-\$242.5	-\$161.8	-\$168.0	-\$171.2	-\$169.3	-\$173.9	-\$172.5	-\$78.5	-\$6.2
Loss Limitation for Pass-Through Taxpayers	83.3	55.8	58.4	61.0	63.6	66.1	62.9	30.1	4.2
Bonus Depreciation	-241.1	-110.1	-67.9	-49.8	-25.8	13.8	35.1	49.3	54.6
Depreciation of Certain Farm Property	Minimal	Minimal	-0.3	-0.7	-1.0	-0.8	-0.5	Minimal	Minimal
Applicable Recovery Period for Real Property	-0.7	-0.9	-1.3	-1.7	-2.3	-2.3	-2.4	-3.1	-2.4
Amortization of Research Expenses	0.0	0.0	0.0	65.5	110.9	100.0	74.6	47.9	27.3
Capitalization of Insurance Company Policy Acquisition Expenses	1.5	2.1	2.6	2.7	3.0	3.4	3.5	3.7	4.1
Simplified Accounting for Small Businesses	-53.4	-17.6	-9.7	-7.3	-6.3	-6.4	-6.8	-6.9	-7.1
Accounting Rules for Accrual Method Taxpayers	9.8	8.3	8.6	5.9	3.7	3.3	2.4	1.6	1.4
Conversion of a S Corporation to a C Corporation	-3.1	-2.1	-2.2	-2.2	-2.2	-2.2	-2.4	-2.5	-2.5
Limit Interest Deduction to 30% of Adjusted Taxable Income	78.2	69.3	70.8	85.1	104.3	107.4	112.8	122.7	131.2
Repeal Like-Kind Exchanges for Tangible Personal Property	4.2	4.3	5.7	7.5	9.9	12.9	16.2	19.9	24.7
Limitation on Deduction for Employers of Fringe Benefit Expenses									
- Meals and Entertainment Expenses	11.7	8.0	8.2	8.3	8.5	8.6	8.9	9.9	10.1
- Qualified Transportation Fringe Benefits	8.7	6.0	6.1	6.4	6.5	6.8	6.9	7.1	7.2
Repeal Rollover of Publicly Traded Securities Gain into Certain Companies	1.0	0.8	0.8	0.8	0.5	0.4	0.4	0.4	0.4
Treatment of Self-Created Property	0.3	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Deduction for FDIC Premiums	6.2	5.8	5.8	5.8	6.1	6.1	6.1	6.4	6.5
Repeal Exclusion for Interest on Advance Refunding Bonds	4.8	5.1	6.2	7.4	8.0	8.1	8.4	8.5	8.5
Other Provisions Affecting Businesses (continued)									
Modify Limit on Deduction for Highly Paid Individuals	\$2.7	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.9
Adjustment for Change in Computing Life Insurance Reserves	0.7	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Computation of Life Insurance Reserves	8.4	6.5	6.5	6.8	6.9	6.9	7.2	5.3	2.9
Modify Discounting Rules for Property and Casualty Companies	6.4	6.9	6.9	6.9	6.9	6.6	5.7	3.1	1.4
Proration Rules for Property and Casualty Insurance Companies	1.0	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Treatment of Gains on the Sale of a Partnership Interest	0.8	1.3	1.3	1.8	2.2	2.2	2.2	2.2	2.6
Substantial Built-In Loss for Purposes of Partnership Loss Transfers	Minimal	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Treatment of Charitable Contributions and Foreign Taxes for a Partner's Share of Loss	0.5	0.5	0.5	0.5	0.5	0.5	0.8	0.8	0.8
Modify Treatment of Gains on Partnership Profits Interest Held in Connection with the Performance of Services	1.4	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Separate Computation of Each Trade or Business Activity Under the Unrelated Business Income Tax	1.7	1.2	1.2	1.4	1.5	1.5	1.5	1.5	1.5
Modify Treatment of Contributions to Capital	1.0	1.2	2.3	3.4	3.6	3.4	3.0	2.6	2.3
SUBTOTAL	-\$306.5	-\$103.2	-\$51.4	\$50.4	\$145.8	\$178.5	\$180.1	\$238.1	\$279.9
TOTAL	-\$364.0	-\$124.8	-\$60.9	\$49.1	\$149.5	\$184.2	\$186.5	\$264.3	\$295.1
TOTAL LESS AUTOMATICALLY ADOPTED *	-315.1	-103.7	-51.6	\$1.8	148.1	181.3	184.5	264.0	296.6

* The impacts of the provisions that will automatically be adopted for state tax purposes have been incorporated into the revised revenue estimates released by this office on January 17, 2018.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

February 13, 2018

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Federal Tax Law Changes Enacted in 2017

State individual income tax and corporate income/franchise tax provisions regarding the amount of income subject to taxation are generally referenced to definitions under federal law. With limited exceptions, changes to federal law take effect for state tax purposes only after action by the Legislature. The Legislature typically reviews the previous year's federal law changes each year to update state references to the federal Internal Revenue Code (IRC). Under current law, state tax references generally refer to the code in effect on December 31, 2016.

As noted, references to the federal IRC are primarily used in determining the amount of income subject to tax. The state generally does not conform to the federal tax rates and brackets, standard deduction amounts, personal exemption amount, itemized deductions, or tax credits.

On December 22, 2017, President Trump signed the federal Tax Cuts and Jobs Act (the Act), which makes a number of changes to federal tax law. Some of the most prominent changes in the Act will not affect Wisconsin income and franchise tax law. These include corporate and individual income tax rate reductions, an increased standard deduction amount, elimination of personal exemptions, an increased child credit, and limitations on the federal itemized deductions for state and local taxes. Many other provisions of the Act are relevant to Wisconsin's state income and franchise taxes.

A limited number of new provisions in the Act will automatically be adopted for state tax purposes. These include provisions expanding immediate expensing of business equipment purchases under section 179 of the IRC, increasing the exemption amounts for the alternative minimum tax (AMT), repealing statutes regarding technical termination of partnerships, and modifying the historic rehabilitation credit. In order to adopt other relevant provisions of the Act, legislation to update references to the federal IRC is necessary.

The following sections describe each of the relevant provisions in the federal Act, how they relate to Wisconsin tax law, and the estimated fiscal effect of adopting the provision for state tax purposes. More detailed descriptions of each provision can be found in the Tax Cuts and Jobs Act Conference Report, which is available on-line through the U.S. Government Printing Office. Copies of the report are available by request through this office.

One other federal tax act, the Disaster Tax Relief and Airport and Airway Extension Act, was adopted in 2017. The provisions of that legislation are also described at the end of this memorandum.

The entries below include estimated fiscal effects for 2018-19. These amounts, and estimates for later years, are shown in the attachment to this memorandum. The 2018-19 amounts include one-time impacts from anticipated changes to estimated payments. Depending on the date of enactment of any legislation to conform to the federal provisions, some of the one-time fiscal impacts could be realized in 2017-18. Also, the fiscal effect of the provisions that will be automatically updated have been incorporated into the revenue estimates released by this office on January 17, 2018.

PROVISIONS THAT ARE AUTOMATICALLY ADOPTED

Section 179 Expensing

Under state and federal law, qualified property, generally tangible personal property purchased in the active conduct of a trade or business, including off the shelf computer software and qualified real leasehold improvement, restaurant, and retail improvement property, can be immediately expensed under Section 179. For tax year 2017, the maximum amount of qualified property that could be expensed was \$510,000 per taxable year. The maximum expense limit was reduced by a dollar-for-dollar amount for qualified property expensed in excess of \$2.03 million. The expensing limit and threshold amounts were indexed for inflation beginning in tax year 2016. Prior to tax year 2018, for sport utility vehicles (SUVs) expensed under Section 179, the maximum that could be expensed was \$25,000 in any taxable year.

Beginning in tax year 2018, the Act increased the maximum amount a taxpayer may expense under Section 179 to \$1.0 million, and the threshold after which the limit is reduced is increased to \$2.5 million per taxable year. The higher expensing limit, the higher threshold, and the \$25,000 limitation for SUVs subject to Section 179 are indexed for inflation under the Act beginning in tax year 2019. Qualified property subject to Section 179 expensing is expanded to include certain property used predominately to furnish lodging or in connection with furnishing lodging. Qualified real property eligible under Section 179 is expanded to include the following improvements to nonresidential real property placed in service beginning in 2018: (a) roofs; (b) heating, ventilation, and air-conditioning property; (c) fire protection and alarm systems; and (d) security systems.

The provision applies to property placed in service in taxable years beginning after December 31, 2017. It is estimated that this provision will reduce state tax revenues, compared to current law, by \$47.6 million in the 2017-19 biennium.

Alternative Minimum Tax Exemption Amounts

Under the AMT, exemptions based on filing status reduce the amount of income (alternative minimum taxable income, or AMTI) subject to the tax. The exemptions are subject to phaseout. The exemption amounts and phaseout thresholds are indexed for inflation. For tax years 2018 through 2025, the Act increases the exemption amounts and the thresholds:

Filing Status	Exemption		Phaseout is 25% of AMTI Exceeding:	
	2017	2018	2017	2018
Married-Joint	\$84,500	\$109,400	\$160,900	\$1,000,000
Single and				
Head of Household	54,300	70,300	120,700	500,000
Married-Separate	42,250	54,700	80,450	500,000

In 2015 Wisconsin Act 55, the Legislature adopted the federal AMT exemption levels for purposes of the Wisconsin AMT. Therefore, the higher exemption levels will apply in 2018 for state tax purposes. However, due to the way that treatment was included in the state's individual income tax statute and the way the federal Tax Cuts and Jobs Act amended the IRC, the state exemption will not be subject to phaseout for state tax purposes in tax year 2018. The combined effect of the federal AMT changes is a reduction in state individual income tax collections estimated at \$2,800,000 in 2018-19. These effects relate only to tax year 2018, because 2017 Wisconsin Act 59 repealed the state AMT, effective in tax year 2019.

Supplement to Federal Historic Rehabilitation Tax Credits

Under state law, the supplement to federal historic rehabilitation tax credit may be claimed for an amount equal to 20% of qualified rehabilitation expenditures for certified historic structures and for qualified rehabilitated buildings. The state credits act as supplements to similar federal credits, which can result in a total credit of 40% for certified historic structures (buildings that have historic significance) and 30% for qualified rehabilitated buildings (constructed prior to 1936). For certified historic structures, the qualified rehabilitation expenditures must be at least \$50,000; and for pre-1936 buildings, such expenditures must be more than the greater of \$50,000 or the claimant's adjusted basis in the building. Claimants must be certified by the Wisconsin Economic Development Corporation (WEDC) in order to claim the credits. WEDC has maintained a moratorium on certifying persons for the credit for pre-1936 buildings for applications received after June 23, 2014.

The Act repeals the credit for qualified rehabilitation expenditures paid or incurred after December 31, 2017, for pre-1936 buildings, with a transition rule that applies to certain expenditures beginning within 180 days of the enactment date. Because the state credit is a supplement to, and must be claimed at the same time as, the federal credit, the state credit for pre-1936 buildings is effectively sunset. In addition, state law automatically adopts the provision in the Act that modifies the timing for claiming the state credit for certified historic structures. As a

result, the state credit must be claimed ratably over a five-year period beginning in the taxable year in which the building is placed in service, with a transition rule that applies to projects contracted and completed prior to tax year 2021.

The provisions of the Act are effective for amounts paid or incurred after December 31, 2017. It is estimated that these provisions will increase state tax revenues by \$100,000 in 2018-19.

Technical Termination of Partnerships

Under state and federal law, prior to tax year 2018, a partnership was considered terminated if within any 12-month period: (a) no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership (referred to as an actual termination); or (b) a sale or exchange of 50% or more of the total interest in partnership capital and profits (referred to as a technical termination) occurs. Under a technical termination, the partnership's tax year closes, resulting in a short taxable year, and the partnership may restart its depreciation recovery period. The Act repeals the provision allowing a technical termination of a partnership described under "b," beginning in tax year 2018, and a partnership can no longer restart its depreciation recovery year solely based on a technical termination. It is estimated that this provision will increase state tax revenues by \$1.4 million in 2018-19.

PROVISIONS AFFECTING INDIVIDUALS AND FAMILIES THAT REQUIRE LEGISLATIVE ACTION

Alternative Inflation Adjustment

Certain features of the IRC are indexed for inflation based on the Consumer Price Index for Urban Consumers (CPI-U). The Act changes the index from this measure to its "chained" version (C-CPI-U), which recognizes that consumers substitute one good for another in response to price changes. This provision takes effect for tax year 2018 and is not sunset. Federal tax features subject to indexing with a Wisconsin tax effect include the income thresholds for the earned income tax credit, the teacher classroom expense deduction, transportation fringe benefits, exemption levels for the alternative minimum tax (AMT), and the student loan interest deduction phaseout. In areas where Wisconsin has federalized tax treatments, adopting this provision would ensure that the federal and Wisconsin treatments would be identical. The Congressional Budget Office reports "annual inflation as measured by the chained CPI-U will be about 0.25 percentage points lower, on average, than annual inflation as measured by the traditional CPI." Therefore, little or no fiscal effect in the 2017-19 biennium is estimated. However, over time, use of the C-CPI-U would increase state individual income tax collections. Adopting this provision would not affect Wisconsin's income tax brackets and sliding scale standard deduction because those items are indexed under separate provisions authorized under state law.

Itemized Deductions

For federal income tax purposes, individuals may claim a standard deduction or they may itemize their deductions. The Act increases the standard deduction and makes a number of changes

to the amounts that may be itemized. These changes include:

- repealing the overall limitation on itemized deductions for higher income filers;
- limiting the deduction for interest on home mortgages to the interest on the first \$750,000 of principal (previously \$1 million) for indebtedness acquired after December 15, 2017. After December 31, 2025, this applies to debt regardless of when the debt is incurred;
- suspending the deduction for interest on home equity loans;
- limiting the deduction for state and local taxes to \$10,000 in aggregate of property taxes and income taxes;
- limiting the deduction for personal casualty and theft losses to losses attributable to a presidentially-declared disaster;
- clarifying that the limitation on wagering losses applies both to actual losses and to other gambling related expenses incurred by the individual;
- modifying the deduction for charitable contributions by: (a) increasing the percentage limit for contributions made in cash (as opposed to property); (b) denying the deduction for payments made in exchange for college athletic event seating rights; and (c) repealing the exception related to donee acknowledgement of contributions;
- suspending the miscellaneous deductions subject to the 2% floor (that is, the deductions in aggregate must exceed 2% of the taxpayer's AGI), such as for unreimbursed employee expenses, tax preparation fees, and other expenses; and
- lowering the threshold for deducting unreimbursed medical expenses from 10% to 7.5% of AGI for tax years 2017 and 2018 (prior to 2017, the threshold for taxpayers 65 years of age or older was 7.5%).

Except as noted, the provisions generally first apply in tax year 2018, and most of the provisions are temporary and sunset after tax year 2025. However, the modifications to the deductions for charitable contributions, relating to college athletic event seating rights and the donee acknowledgement of contributions, and medical expenses are permanent.

Federal itemized deductions affect state tax collections in several ways. First, some of the deductions are add-backs for calculating the federal AMT, and Wisconsin's AMT is based on the federal AMT. However, 2017 Act 59 eliminates the state AMT beginning in tax year 2019, so adopting the federal itemized deduction treatment would only affect the Wisconsin AMT in tax year 2018.

A second effect of federal itemized deductions relates to the state's itemized deduction tax credit, which is based on the federal deductions for charitable contributions, medical and dental expenses, interest expenses for a principal residence or a second home in Wisconsin, interest expenses for property sold on a land contract, other interest expenses, except personal interest, and casualty losses directly related to a presidentially declared disaster. If these deductions exceed the amount of the taxpayer's state sliding scale standard deduction, the taxpayer may claim a nonrefundable credit equal to 5% of the excess. Among the Act's changes, repealing the overall limitation on deductions would increase the cost of the state credit, and the other provisions would either reduce the cost of the credit or have no effect. Adopting all of the federal itemized deduction

changes would increase the state itemized deduction credit and decrease state individual income tax collections by an estimated \$10.9 million in 2018-19.

The third effect of the provisions is limited to the changes regarding charitable contributions for athletic event seating rights. Adopting that provision would increase individual and corporate income and franchise tax collections by an estimated \$1.4 million in 2018-19.

Bicycle Commuting

Qualified bicycle commuting employer reimbursements of up to \$20 per month may be excluded from the employee's income for tax purposes. The Act temporarily suspends the exclusion for tax years 2018 through 2025. Adopting this provision would increase state individual income tax collections by a minimal amount in 2018-19.

Moving Expense Reimbursement Exclusion

Employer reimbursement of employee moving expenses are excluded from the employee's gross income and not subject to tax, except employees may not claim both this exclusion and the moving expense deduction. The Act temporarily suspends the exclusion for tax years 2018 through 2025. Adopting this treatment would increase state individual income tax collections by an estimated \$6.4 million in 2018-19.

Moving Expense Deduction

In calculating federal AGI, taxpayers may deduct their moving expenses if the move is work-related and the new workplace is at least 50 miles farther from the taxpayer's old residence than the distance between the taxpayer's old residence and old workplace. Special provisions apply to Armed Services members on active duty. The Act suspends the deduction for tax years 2018 through 2025, but does not change the treatment for active duty Armed Services members. Wisconsin follows the federal treatment, except does not allow the deduction for moves out of state. Adopting the federal treatment to temporarily suspend the deduction for moving expenses would increase state tax collections by an estimated \$8.9 million in 2018-19.

Recharacterization of Individual Retirement Accounts

Federal law allows contributions to individual retirement accounts (IRAs) to be recharacterized, so long as the recharacterization occurs before the extended due date for the individual's tax return for that year. Under this procedure, a contribution to a traditional IRA can be recharacterized as a contribution to a Roth IRA, and vice versa. The Act prohibits recharacterization to be used to unwind a conversion of a traditional IRA to a Roth IRA. This provision would take effect in tax year 2018. Wisconsin generally follows federal law for the treatment of IRAs. Adopting this provision would increase state individual income tax collections by a minimal amount.

Retirement Plan Loan Offsets

Retirement plans may provide loans to employees. If the loan is not repaid, the unpaid balance becomes a "deemed distribution" and taxed like an actual distribution. In addition, a 10% early distribution tax is imposed if the employee is under age 59 ½. In such cases, the unpaid balance may not be rolled over into another retirement plan. In instances where an employee terminates employment, the loan repayment schedule may be accelerated, and nonpayment results in the loan being canceled. The employee's retirement account balance is reduced by the canceled loan amount, known as a loan offset. That amount is considered an actual distribution subject to regular tax, but not the early distribution tax imposed on deemed distributions. However within 60 days, loan offsets may be rolled over into other retirement plans on a tax-free basis. Beginning in tax year 2018, the Act extends the rollover period from 60 days after the date of the offset to the due date for the employee's tax return, including extensions, for the tax year that the distribution would otherwise be subject to tax. Adopting this provision would decrease state individual income tax collections by a minimal amount. Individuals who incur federal penalties related to retirement plans are subject to a state penalty equal to 33% of the federal penalty.

Length of Service Awards for Public Safety Volunteers

Deferred compensation plan provisions under the IRC allow state and local governments and private, tax-exempt employers to establish plans that make deferred payments based on length of service for volunteers performing firefighting and fire prevention services, medical services, and ambulance services. Payments into plans are made on a tax-deferred basis on behalf of volunteers, and volunteers may not make withdrawals until they fulfill vesting and minimum age requirements. Plans may be established to provide distributions as annuities based on contributions and earnings or as defined benefit plans. Under prior law, the aggregate amount of length of service award accruing to a volunteer for any length of service could not exceed \$3,000, but the Act increases that limit to \$6,000, with future adjustments for inflation. For defined benefit plans, the \$6,000 limit is based on the actuarial present value of combined awards accruing to a volunteer with respect to any year for the individual's service. Adopting this provision would have a negligible effect on individual income tax collections.

College Savings (529) Accounts

Distributions from college savings accounts are made on a tax-free basis provided the distribution is used for the payment of qualified higher education expenses at an eligible educational institution, defined as an accredited post-secondary educational institution. The Act allows distributions, limited to no more than \$10,000 per beneficiary, from accounts to be used for expenses at public, private, or religious elementary and secondary schools and for certain homeschool expenses. This provision is not sunset. Federalizing the treatment of these distributions would reduce state individual income tax collections by a minimal amount in 2018-19. However, the effect is expected to become measurable after five or more years, as taxpayers establish accounts specifically for this purpose. Some of this effect is attributable to the deduction for contributions to 529 accounts, which is allowed under the Wisconsin individual income tax but not under the federal income tax. If the federal provision is adopted for state tax purposes, the

Legislature might consider modifying the existing deduction for private elementary and secondary school tuition to prohibit taxpayers from claiming that deduction if tuition is paid from a 529 account. In addition, modifications to Chapter 224 of the Wisconsin Statutes, concerning administration of the state's college savings program, may also be required.

Rollovers to ABLE Accounts

Federal law allows tax-favored savings accounts for disabled individuals (ABLE accounts) to be established under programs that operate similarly to college savings programs. The Act allows amounts in 529 accounts to be rolled over into ABLE accounts, provided that the ABLE account is owned by the beneficiary of the 529 account or a member of the beneficiary's family. This provision is sunset on January 1, 2026. Adopting this provision would first affect distributions made after December 22, 2017 in tax year 2017 and would reduce individual income tax collections by a minimal amount.

ABLE Account Contribution Limits

Under federal law, the gift tax exclusion allows donees to receive up to \$15,000 annually on a tax free basis, including as contributions to ABLE accounts. This amount is for tax year 2018 and is indexed for inflation. Under the Act, beneficiaries of ABLE accounts may make additional contributions to accounts equal to the lesser of (a) the federal poverty level for a one-person household; or (b) the individual's compensation included in gross income for the tax year. In addition, the Act allows beneficiaries to claim the federal saver's credit based on contributions to the beneficiary's account. These provisions were enacted on a temporary basis and will apply for tax years beginning after December 22, 2017, through 2025. Adopting the change regarding the contribution limit would reduce state individual income tax collections by a minimal amount.

Military Service in the Sinai Peninsula

The IRC extends certain tax benefits to members of the Armed Forces serving in a combat zone. The Act extends those benefits to members serving in the Sinai Peninsula of Egypt. The provision is retroactive to June 9, 2015, with the exception of the definition of wages relating to combat pay which takes effect after December 22, 2017, and remains in effect through tax year 2025. Adopting this provision would reduce state individual income tax collections by minimal amount.

Discharge of Certain Student Loan Indebtedness

Under federal law, the forgiveness of student loans is not considered income and subject to tax, provided the student works for a specified time period in certain professions for certain employers. The Act extends this exclusion to student loan discharges resulting from the student's death or permanent and total disability. The exclusion first applies in tax year 2018 and is sunset in tax year 2026. Adopting this provision would reduce individual income tax collections by a minimal amount.

Presidentially-Declared 2016 Disaster Areas

The IRC limits early withdrawals from eligible retirement plans, subjecting non-qualifying withdrawals to a 10% early withdrawal tax, and establishes procedures for the rollover of withdrawals into other eligible retirement plans. Plan distributions before an employee's termination of employment may be permitted in cases of financial hardship and unforeseen emergency. Subject to limitations, casualty losses may be deducted from income. When a distribution relates to a 2016 presidentially-declared disaster area, the Act exempts distributions from the 10% early withdrawal tax, allows distributions to be ratably included in the taxpayer's income over the three succeeding years, and permits repayment of the distributions within three years with no tax consequences. To qualify for these treatments, any distribution from a plan must be made on or after January 1, 2016, and before January 1, 2018. Also under the Act, personal casualty losses exceeding \$500 that arise from a 2016 presidentially declared disaster need not exceed 10% of the taxpayer's AGI to be deducted. In July, 2016, severe storms and flooding occurred in eight northern Wisconsin counties and resulted in a Presidential disaster declaration on August 9, 2016. A second declaration on October 20, 2016, was in response to storms, flooding, and mudslides on September 21 and 22 in ten western Wisconsin counties. Adopting this provision would reduce state individual income tax collections by an estimated \$2.8 million in 2018-19.

Alimony

In calculating federal AGI, federal law requires a spouse receiving alimony to include the payments as income subject to tax and allows the spouse paying the alimony to deduct the payments. Under the Act, spouses receiving alimony will not be required to include the payments as income, and spouses making payments will not be allowed to deduct the payments from income, provided the couple's divorce or separation instrument is executed after December 31, 2018, or specifically modified after that date to reflect this treatment. Adopting these provisions would have nearly offsetting effects, although a minimal change in state tax collections could occur.

Treatment of Qualified Equity Grants

The transfer of stock from an employer to an employee becomes recognizable as income when the right to the stock is transferable or the stock is not subject to a substantial risk of forfeiture. The Act allows qualified employees to defer the inclusion in income of the amount of income attributable to qualified stock transferred to the employee by the employer. In addition, the Act requires the employer to defer recognizing the deduction until the employee recognizes the income. Further, the Act limits the employees who can be qualified employees and the stock that can be qualified stock. Adopting this provision would affect both individual and corporate income tax collections, reducing combined collections by an estimated \$1.6 million in 2018-19.

Gains on Opportunity Zone Investments

Under the federal new market tax credit, taxpayers may claim a credit on certain investments over seven years. In aggregate, the credit equals 39% of the investment in a community development entity (CDE), where the CDE invests in a low-income community business located in

a low-income community. The credit expires on December 31, 2019, but carryover provisions extend through 2024. The Act provides two tax incentives relating to the treatment of capital gains from certain investments that qualify for the credit. First, gains that are reinvested in qualifying opportunity funds may be temporarily deferred, subject to certain limitations, with subsequent adjustments (increases) made to the basis of the investment depending on the length of holding in the opportunity fund. The Act allows states to designate certain low-income census tracts as opportunity zones, and authorizes qualified opportunity funds, organized as certain business entities, to invest in investment zone property including opportunity zone stock, partnership interests, and business property. Second, the Act provides an exclusion from income for certain gains on investments in opportunity zone funds. If a taxpayer holds an investment in a fund for more than ten years, the taxpayer's basis for the investment is its fair market value when sold or exchanged. Adopting this provision would reduce state individual income tax collections by an estimated \$10.0 million in 2018-19.

PROVISIONS AFFECTING BUSINESSES THAT REQUIRE LEGISLATIVE ACTION

Deduction for Pass-Through Business Income

Pass-through income is business income that flows through the business (is not taxed) to its owners where it is subject to tax under the individual income tax. Pass-through businesses include sole proprietorships, general partnerships, limited partnerships, and S corporations and are distinguished from ordinary corporations, or C-corporations, which are subject to the corporate income tax. Limited liability companies (LLCs) are not recognized under the IRC but can elect to be taxed as sole proprietorships or partnerships (pass-through entities) or as a corporation (C or S-corporation). For tax years 2018 through 2025, the Act allows a deduction from taxable income equal to 20% of pass-through income. For individuals engaged in certain "service businesses," the deduction is subject to phaseout and limitation. The phaseout occurs for taxpayers with taxable income between \$157,500 and \$207,500, or between \$315,000 and \$415,000 if married filing jointly. The limitation equals the greater of 50% of the business' wages or the sum of 25% of the business' wages and 2.5% of the unadjusted basis of the business' property. Under the Act, the deduction is claimed after the calculation of taxable income (federal adjusted gross income minus either the standard deduction or itemized deductions). Because federal adjusted gross income (AGI) is the starting point for calculating Wisconsin AGI, this provision would not affect state tax collections, unless it is adopted with modifications. It should also be noted that Wisconsin's agriculture and manufacturing credit already eliminates most of the state income tax imposed on pass-through income generated from Wisconsin-based manufacturing and agricultural businesses. If Wisconsin converted the provision to a subtraction from federal AGI, state individual income tax collections would decrease by an estimated \$242.5 million in 2018-19.

Loss Limitation for Pass-Through Taxpayers

Under the individual income tax, taxpayers may deduct business losses from their regular income, subject to certain limitations. For example, passive losses and excess farm losses cannot be deducted in the year incurred, but can be carried forward. For tax years 2018 through 2025, the Act limits the amount of business losses by not allowing excess business losses to be deducted.

The Act defines excess business loss as the taxpayer's aggregate deductions for business purposes that exceed the sum of the taxpayer's gross income or gain plus \$500,000 for married, joint filers or \$250,000 for other types of filers. Excess business losses may be carried forward and claimed under net operating loss provisions, as amended by the Act. Also for tax years 2018 through 2025, the limitation relating to excess farm losses does not apply. Excess farm losses comprise losses occurring in the same year that certain farm subsidies are received, provided the farm is not a C corporation. For purposes of calculating adjusted gross income, the excess business loss limitation created by the Act applies after passive loss rules. Adopting this provision would increase state individual income tax collections by an estimated \$83.3 million in 2018-19.

Bonus Depreciation

General Depreciation. In general, a taxpayer must capitalize the cost of property used in a trade or business held for the production of income and recover such cost over time through annual deductions for depreciation and amortization. Tangible personal property is generally depreciated under the modified accelerated cost recovery system (MACRS), which allows for property to be depreciated as 3-, 5-, 7-, 10-, 15-, 20-, or 25-year property, depending on the class of property and its expected useful life. Such property can be depreciated using the general depreciation system, which generally allows the straight-line method or the declining balance method of depreciation. Certain types of property, such as residential rental property located outside the U.S. and certain farm property that does not use uniform capitalization (UNICAP) rules, is depreciated under the alternative depreciation system (ADS). Under ADS, property is generally depreciated using the straight line method over recovery periods specific to the class of the property. In general, UNICAP rules require direct and indirect costs incurred during the production of real or tangible personal property to be capitalized into the basis of the property and depreciated over the property's useful life.

Bonus Depreciation. As opposed to the general depreciation schedule described above, a first-year bonus 50% depreciation deduction is allowed under federal law for qualified property placed into service prior to December 31, 2017. In general, original use of qualified property must commence with the taxpayer, and qualified property includes: (a) property to which MACRS applies with an applicable recover period of 20 years or less; (b) water utility property; (c) certain computer software; or (d) qualified improvement property. The bonus depreciation was scheduled to phase down to 40% in 2018, 30% in 2019, and be eliminated in 2020. Since the early 2000s, the federal government has enacted a number of first-year depreciation bonuses for qualified property on a temporary basis. Due to the potential impact on state revenues, the Legislature has not adopted the temporary bonus depreciation provisions.

The Act increases first-year bonus depreciation from 50% to 100% for qualified property through 2022, with a scheduled phasedown to 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026, and repeal thereafter. The Act expands bonus depreciation to include qualified film, television, and live theatrical productions, and to the purchase of used qualified property purchased at an arms-length transaction (rather than only new qualified property).

These provisions generally apply to property acquired after September 27, 2017. It is estimated that state adoption of this provision would reduce state tax revenues by \$241.1 million in 2018-19. Because bonus depreciation allows the taxpayer to claim the deduction in the current year rather than over a number of years, and because of the aforementioned scheduled phasedown of the federal bonus depreciation, it is estimated that state adoption of these provisions would result in increased tax revenues beginning in 2023-24.

Depreciation Limits on Luxury Automobiles and Personal Use Property

For certain passenger automobiles placed in service in 2017, the maximum depreciation deduction is \$3,160 in year 1, \$5,100 in year 2, \$3,050 in year 3, and \$1,875 in year 4 and later years (this provision is commonly referred to as the "luxury automobile depreciation limitation"). Certain passenger automobiles are eligible for an additional first-year depreciation of \$8,000. The annual limits are indexed to inflation and apply to luxury automobiles expensed under Section 179. The Act increases the annual limits to \$10,000 in year 1, \$16,000 in year 2, \$9,600 in year 3, and \$5,760 in year 4 and annually thereafter. The Act also eliminates certain reporting requirements for businesses that expense computer or peripheral equipment under Section 179. These provisions are effective for property placed in service after December 31, 2017, in taxable years ending after that date. Although Wisconsin does not automatically adopt these federal changes, the fiscal impact on state tax revenues was accounted for under the estimated fiscal effect of automatically adopting the Section 179 expensing provisions.

Depreciation of Certain Farm Property

Depreciable assets used in a farming business, such as machinery and equipment, grain bins, and fences, generally have a depreciation period of seven years under state and federal law if placed in service in 2017. Under the Act, the recovery period for such machinery and equipment is shortened to five years for property placed in service after December 31, 2017.

Prior to the Act, any property used in the business of farming was generally required to be depreciated using the 150% declining balance method. Under the Act, property used in the business of farming with a recovery period of 3-, 5-, 7-, or 10-years may be depreciated using either the 150% declining balance method or the 200% declining balance method.

The provision is effective for property placed in service after December 31, 2017, for taxable years ending after such date. It is estimated that state adoption of this provision would result in a small reduction in tax revenues over the 2017-19 biennium, but would measurably increase revenues from 2020-21 to 2024-25.

Applicable Recovery Period for Real Property

Real property is generally subject to a recovery period of 39 years for nonresidential real property and 27.5 years for residential rental property under MACRS. However, separate provisions govern the depreciation period for qualified leasehold improvement, qualified restaurant, and qualified retail improvement property, which can be depreciated as qualified

improvement property over a 15-year period. Under ADS, property is generally depreciated using the straight line method over recovery periods equal to the class of the property.

The Act shortens the ADS recovery period for residential rental property from 40 years to 30 years. Qualified improvement property is consolidated into one category (rather than three) with a 15-year recovery period. This provision takes effect for property placed in service after December 31, 2017. It is estimated that state adoption of this provision would decrease tax revenues by \$700,000 in 2018-19.

Amortization of Research Expenses

Most business expenses associated with the development or creation of an asset that has a useful life beyond the current year must be capitalized and depreciated over the useful life of the asset. However, researchers can elect to immediately deduct reasonable research or experimentation expenditures associated with the development or creation of a business asset. Researchers also may elect to amortize such expenditures over a five-year or 10 year period, rather than capitalize such expenditures under UNICAP rules.

The Act requires research and experimental expenditures to be capitalized and amortized ratably over a five-year period. Expenditures attributable to research conducted outside of the United States must be capitalized and amortized ratably over a period of 15 years. The election to immediately expense such costs was repealed. The Act also expands the definition of research or experimental expenditures to include expenditures for software development, as well as depreciation and depletion allowances for property other than land that is depreciated or depleted in connection with research or experimentation. This provision takes effect in taxable years beginning after December 31, 2021. Because of the delayed effective date, state adoption of this provision would not affect state tax revenues in the 2017-19 biennium. However, adoption of this provision would result in a significant increase in state tax revenues beginning in 2021-22.

Expensing Related to Citrus Plants Lost by Reason of a Casualty

The Act allows certain taxpayers to immediately expense preproduction costs, rather than capitalize and depreciate such costs under UNICAP rules, for replanting citrus plants lost or damaged due to casualty. This provision applies to costs paid or incurred after the date of enactment. It is estimated that state adoption of this provision would reduce tax revenues by a minimal amount.

Capitalization of Insurance Company Policy Acquisition Expenses

Prior to 2018, insurance companies were generally required to capitalize and amortize specified policy acquisition expenses over the 120-month period beginning on the first month in the second half of the taxable year in which the expenses were incurred. Prior to 2018, specified policy acquisition expenses that are determined as the portion of the insurance company's general deductions were limited to the following percentages of net premiums for the tax year: (a) 1.75%

for annuity contracts; (b) 2.05% for life insurance contracts; and (c) 7.7% for all other specified insurance contracts.

The Act increases the general amortization period for deducting policy acquisition expenses from 120 months to 180 months. In addition, the percentage limits on such expenses are increased to: (a) 2.09% for annuity contracts; (b) 2.45% for group life insurance contracts; and (c) 9.20% for all other contracts. These provisions first apply to taxable years beginning after December 31, 2017. It is estimated that state adoption of these provisions would increase tax revenues by \$1.5 million in 2018-19.

Simplified Accounting for Small Businesses

Cash and Accrual Method. Most taxpayers use either the cash method of accounting (recognize items of income when received and expenses when paid) or the accrual method of accounting (expenses and income recognized when earned, typically used for financial accounting purposes). The Act requires C corporations (including farming businesses), partnerships with a C corporation partner, and tax-exempt trusts or corporations with unrelated business income to use the accrual method if their gross receipts over the previous three years average at least \$25 million. Under prior law, the gross receipts threshold was \$5 million and was based on average gross receipts over all prior tax years. The Act also repeals exemptions from the requirement to use accrual accounting for farming businesses operating a nursery or sod farm or that harvest trees.

Accounting for Inventories. In general, taxpayers must account for inventories and maintain inventory records to account for the inventory and the cost of goods sold if the production, purchase, or sale of merchandise is an income-producing factor to the taxpayer. In determining inventory, the accrual method generally must be used with regard to purchases and sales. Prior to 2018, exemptions from this rule existed for taxpayers whose average annual gross receipts did not exceed \$1 million and for taxpayers in certain industries whose average annual gross receipts did not exceed \$10 million. Exempt taxpayers may account for inventory as materials and supplies that are not incidental. For nonexempt taxpayers, the taxpayer must maintain inventory records to determine cost of goods sold. The Act increases the exemption limit under this provision to \$25 million for all taxpayers. Exempt taxpayers may treat inventories as non-incidental materials and supplies or conform to their financial accounting treatment of inventory.

Uniform Capitalization. UNICAP rules require certain direct and indirect costs allocable to property produced by the taxpayer to be included either in inventory or capitalized into the basis of the property. However, certain exemptions apply to this rule, including for taxpayers who acquire property for resale and have \$10 million or less of average annual gross receipts. The Act increases the exemption limit to \$25 million, beginning in 2018.

Long-Term Contracts. For long-term contracts, taxable income is determined under the percentage-of-completion method. Gross income for a taxable year is equal to the product of: (a) the gross contract price; and (b) the percentage of the contract completed during the taxable year. Costs incurred under a long-term contract are deductible in the year incurred, subject to the general accrual method of accounting. Contracts exempt for the construction or improvement of real property were exempt from this requirement if the contract: (1) is expected to be completed within

two years of commencement of the contract; and (2) is performed by a taxpayer whose average annual gross receipts for the prior three years do not exceed \$10 million. Contracts exempt from the percentage-of-completion accounting method may use the completed contract method, the exempt-contract percentage-of-completion method, or any other permissible method. The Act increases the threshold under "2" to \$25 million, beginning in 2018.

Fiscal Effect and Effective Date. These provisions expand the universe of taxpayers eligible to use the cash method of accounting. The \$25 million thresholds described above are indexed for inflation, beginning in tax year 2019. The provisions take effect for taxable years beginning after December 31, 2017. The provision regarding long-term construction contracts applies to contracts entered into after December 31, 2017, in taxable years ending after such date. It is estimated that state adoption of these provisions would reduce state tax revenues by \$53.4 million in 2018-19.

Accounting Rules for Accrual Method Taxpayers

Gross income is generally taxable in the tax year in which the money, property, or service is received, with exceptions to permit deferral of gross income related to advance payments. The Act requires an accrual method taxpayer to recognize income no later than the taxable year in which such income is taken into account as revenue in an applicable financial statement, with an exception for taxpayers without an applicable or other specified financial statement. The Act codifies the current deferral method of accounting for advance payments for goods, services, and other specified items to allow accrual method taxpayers to elect to defer the inclusion of income associated with advance receipt if such income is also deferred for financial statement purposes. The Act also repeals special rules that apply to the accrual of interest for original issue discount debt instruments (other than mortgage servicing contracts) that have an applicable financial statement, and the change in accounting for such debt instruments must be taken into account ratably over six taxable years. This provision generally applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$9.8 million in 2018-19.

Conversion of S Corporation to C Corporation

Under state and federal law, a C corporation generally must use the accrual method of accounting, but S corporations may be eligible to use cash accounting. Certain procedures must be followed when a taxpayer changes its method of accounting, and adjustments are generally taken ratably during the four taxable years beginning with the year of the accounting change. If an S corporation elects to convert to a C corporation, distributions of cash by the C corporation with respect to its stock during the one-year period following the election are treated as tax-free distributions to the shareholders, but the basis of the stock is reduced to reflect the amount distributed.

The Act provides special provisions for an eligible terminated S corporation that converts to a C corporation if the corporation: (a) is an S corporation on the day prior to enactment of the Act; (b) converts within two years of enactment of the Act; and (c) has the same owners on the date that the S corporation election is revoked that retain the same ownership interest as on the date of such

conversion. For eligible S corporations, the adjustment for the method of accounting (such as converting from cash accounting to the accrual method) is taken into account ratably over a six-year period, rather than a four-year period. For distributions of money by an eligible terminated S corporation within one year of the conversion, certain adjustments must be made to the corporation's accumulated adjustment account and its earnings and profits. This provision took effect upon enactment of the Act and applies to distributions made after the effective date of the Act. It is estimated that state adoption of this provision would reduce tax revenues \$3.1 million in 2018-19.

Limit Interest Deduction to 30% of Adjusted Taxable Income (ATI)

Under state and federal law, interest paid or accrued by a business was generally deductible from taxable income prior to tax year 2018, with certain limitations. However, deductible interest on indebtedness allocable to property held for investment was generally limited to net investment income for the taxable year, provided interest exceeded 2% of AGI. Investment interest that could not be deducted could be carried forward to the following year. A deduction could be disallowed for disqualified interest paid involving related parties or to a taxable real estate investment trust subsidiary if the payor's debt-to-equity ratio exceeded 1.5 to 1.0 and the payor's net interest expense exceeded 50% of AGI.

In general, the deduction for business interest is limited under the Act to the sum of: (a) business interest income; (b) 30% of the taxpayer's ATI; and (c) floor plan financing interest of the taxpayer for the taxable year. Business interest income means any interest paid or accrued on indebtedness allocable to a trade or business, but does not include investment interest or investment income. ATI means taxable income of the taxpayer computed without regard to any: (1) item of income, gain, deduction, or loss not properly allocable to the trade or business; (2) business interest or interest income; (3) net operating loss deduction; and (4) the 20% deduction for certain pass-through income. Wages are not included in ATI. For tax years 2018 through 2021, ATI is computed without regard to deductions allowable for depreciation, amortization, or depletion. Floor plan financing interest includes any interest on indebtedness used to finance any self-propelled vehicles (such as on the floor of a car dealership) and is not subject to the deduction limitation, but not on indebtedness used to finance construction machinery and equipment.

Any deduction disallowed as a result of the limit for business interest may be carried forward indefinitely for use in future years. The deduction limit for partnerships and S corporations is computed at the entity level, and special rules apply, generally to prevent double counting of the deduction limit at the entity-level and at the partner or shareholder level. The following entities are exempt from the deduction limit: (a) taxpayers with average gross receipts of less than \$25 million over the prior three taxable years; (b) certain regulated public utilities; (c) most businesses engaged in real property development, construction, rental, leasing, or brokerage activities; and (d) farming businesses, as well as certain agricultural or horticultural cooperatives. A farming business that claims this exemption must use straight line depreciation for property that has a recovery period of ten years or more.

This provision first applies for taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$78.2 million in 2018-19.

Repeal Like-Kind Exchanges for Tangible Personal Property

The Act repeals the provision allowing the nonrecognition of gains in a like-kind exchange if the property exchanged is of the same class and is one of the following classes of property: (a) depreciable tangible personal property; or (b) intangible or nondepreciable personal property. However, the nonrecognition of gains is retained for the like-kind exchange of real property. This provision applies to exchanges completed after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$4.2 million in 2018-19.

Limitation on Deduction for Employers of Fringe Benefit Expenses

Meals and Entertainment Expenses. Deductions are not allowed for expenses related to activities that are considered entertainment, amusement, or recreation, or expenses for a facility (like aircraft) used for such purpose. However, prior to 2018, taxpayers could deduct certain expenses equal to: (a) 50% of entertainment expenses that are directly related to a taxpayer's active trade or business; and (b) 50% of food and beverages provided to employees. The Act repeals the deduction allowed under "a."

Under state and federal de minimis fringe benefit provisions, food and beverages provided to employees through an eating facility operated by the employer that is located on or near the employer's business premises and that meets certain requirements could be deducted by the employer. The Act limits the deduction to food and beverages provided for the convenience of the employer and reduces the deductible amount to 50% for amounts incurred and paid after December 31, 2017. However, for amounts paid or incurred after December 31, 2025, such expenses cannot be deducted.

Under the Act, these provisions generally apply to amounts paid or incurred after December 31, 2017. It is estimated that state adoption of these provisions would increase tax revenues by \$11.7 million in 2018-19.

Qualified Transportation Fringe Benefits. The Act eliminates the deduction for qualified transportation fringe benefits provided by an employer to its employees (including qualified parking, transit passes, vanpool benefits, and qualified bicycle commuting reimbursements) unless the fringe benefits are necessary to ensure the safety of the employee. However, the Act eliminates the deduction for qualified bicycle commuting reimbursements regardless of whether the fringe benefits are necessary to ensure the safety of the employee. As under prior law, the expenses must be for commuting between the employee's residence and place of employment. This provision also applies to tax-exempt organizations subject to the unrelated business income tax.

This provision applies to amounts paid or incurred after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$8.7 million in 2018-19.

Property Provided as an Employee Achievement Award. An employer is allowed a limited deduction for the cost of an employee achievement award. Awards deducted by the employer are excludible from the employee's gross income and are not subject to payroll taxes. An employee achievement award is defined as an item of tangible personal property given to an employee in recognition of either length of service or safety achievement that is presented as part of a meaningful presentation. The Act clarifies that an employee achievement award does not include cash, cash equivalents, gift cards, gift coupons or gift certificates, or vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items. This provision applies to amounts paid or incurred after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by a minimal amount.

Eliminate Deduction for Member of Congress Living Expenses

State and federal law generally allow a deduction for ordinary and necessary expenses paid or incurred in connection with the trade or business conducted by the taxpayer. Federal law allows a deduction for traveling expenses (such as food or lodging) paid or incurred in pursuit of a trade or business while away from home in carrying on that trade or business. Prior to the Act, the deduction for members of Congress was limited to no more than \$3,000 per taxable year for such expenses incurred traveling outside the state, district, or possession that the member of Congress represents. For taxable years beginning on December 22, 2017, the Act prohibits a member of Congress from deducting such expenses as an ordinary and necessary expense. State adoption of this provision is estimated to increase in state revenues by a minimal amount.

Repeal Rollover of Publicly Traded Securities Gain into Certain Companies

Subject to certain limitations, a corporation or individual can elect to roll over, tax-free, any capital gain realized on the sale of publicly-traded securities, provided the taxpayer invests the proceeds from the sale in common stock or a partnership interest in a specialized small business investment company within 60 days. This provision is repealed for sales occurring after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

Treatment of Self-Created Property

The Act specifies that a patent, invention, model, or design, or a secret formula or process which is held either by the taxpayer who created the property or a taxpayer with a substituted or transferred basis from the creator is excluded from the definition of capital assets. As a result, the gain or loss from the sale or exchange of such property is treated as ordinary income, rather than a capital gain. This provision applies to dispositions of such assets after December 31, 2017. It is estimated that state adoption of this provision would increase state revenues by \$300,000 in 2018-19.

Deduction for Federal Deposit of Insurance Corporation (FDIC) Premiums

Under the Act, beginning in tax year 2018, FDIC premiums are no longer deductible if paid or incurred by a taxpayer with total consolidated assets of \$50 billion or more. Taxpayers may deduct 100% of FDIC premiums if such assets are less than \$10 billion. For taxpayers with such assets of between \$10 billion and \$50 billion, the applicable percentage of the deduction is prorated over that range (for example, if the taxpayer has \$20 billion of such assets, 25% of FDIC premiums are taxable). It is estimated that state adoption of this provision would increase tax revenues by \$6.2 million in 2018-19.

Repeal Exclusion for Interest on Advance Refunding Bonds

In general, gross income does not include interest received on state or local bonds, including a governmental advance refunding bond. A bond is classified as an advance refunding bond if it is issued more than 90 days before the redemption or call date of the refunded bond. Governmental bonds generally can be advance refunded only one time for the advance refund to be tax exempt. Interest received on state or local bonds issued to advance refund another bond is no longer exempt from tax under the Act. This provision first applies to advance refunding bonds issued after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$4.8 million in 2018-19.

Modify Limit on Deduction for Highly Paid Individuals

Salaries, wages, and other forms of remuneration to officers of a business are deductible. However, deductible compensation expenses in the case of a "publicly held corporation" are limited to no more than \$1 million per year for each "covered employee." A covered employee generally means the principal executive officer and the three most highly compensated officers as of the last day of the tax year (four covered employees). Certain types of remuneration are not included when calculating the deduction limit. The Act generally expands applicability of the \$1 million deduction limit by:

- a. Expanding the definition of a publicly held corporation to include all domestic publicly traded corporations, including large private C corporations or S corporations that are not publicly traded;
- b. Including remuneration paid on a commission basis and performance-based compensation;
- c. Expanding the definition of a covered employee to also include the principal financial officer, in addition to the principal executive officer and the three most highly compensated officers (five covered employees);
- d. Including any individual that holds the position of principal executive officer or principal financial officer at any time during the taxable year; and

- e. Requiring that an individual who is a covered employee, beginning in tax year 2017, remains a covered employee subject to the \$1 million deduction limit with respect to compensation otherwise deductible in subsequent years, including years in which the individual is no longer employed by the corporation and in years after the employee has died;

As a result, the number of covered employees under the Act may exceed five, and deferred compensation paid to a covered employee, or the beneficiary of a covered employee, is subject to the \$1 million deduction limit. This provision is effective for taxable years beginning after December 31, 2017. A transition rule applies that grandfathers written binding contracts in effect on November 2, 2017. However, a contract is considered a new contract if it is renewed or if there has been a material modification to its terms. It is estimated that state adoption of this provision would increase tax revenues by \$2.7 million in 2018-19.

Repeal of Small Life Insurance Company Deduction

Prior to 2018, under state and federal law, a small life insurance company with up to \$500 million of assets was eligible for a deduction for up to 60% of the first \$3 million of the company's taxable income, subject to certain limitations. The Act repeals this deduction for taxable years beginning after December 31, 2017. State adoption of this provision would result in a minimal increase in tax revenues.

Adjustment for Change in Computing Life Insurance Reserves

In general, income or loss resulting from a change in the method of computing reserves of life insurance companies must be included in taxable income ratably over a ten-year period. The Act shortens the period over which such income or loss must be taken into account to a four-year period for life insurance companies. This provision first applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$700,000 in 2018-19.

Distribution from a Policyholder Surplus Account

Any direct or indirect distribution to shareholders from an existing policyholders surplus account of a stock life insurance company is subject to the corporate income or franchise tax under state and federal law. Policyholder surplus accounts were permitted as a tax-deferred account for life insurance companies under a three-phase system of taxation that existed from 1959 to 1983, subject to tax once shareholder distributions were (and are) made. For taxable years after 1983, life insurance companies could not enlarge a policyholder surplus account. Under state and federal law, distributions to shareholders made in tax year 2017 were treated as made: (a) first, out of the shareholders surplus account; (b) second, out of the policyholders surplus account; and (c) third, out of other accounts.

The Act eliminates the rules imposing income tax on pre-1984 policyholder surplus accounts. Instead, tax is imposed on the balance of the account as of December 31, 2017, and is paid ratably over the eight taxable years beginning after that date. Life insurance company losses

are not allowed to offset the amount of the policyholders surplus account balance subject to tax. This provision applies to taxable years beginning after December 31, 1983. State adoption of this provision would result in a minimal increase in tax revenues.

Computation of Life Insurance Reserves

In general, a life insurance company's gross income includes any net decrease in reserves and deducts any net increase in reserves. Prior to 2018, life insurance reserves for any contract were the greater of the net surrender value of the contract or the reserves determined under federally prescribed rules. The Act generally limits the allowable deduction for additions to life insurance reserves for any contract such that:

a. For any contract, other than variable contracts, the reserve amount is the greater of the net surrender value of the contract or 92.81% of the amount determined using the tax reserve method otherwise applicable to the contract as of the date the reserve is determined; and

b. For variable contracts, the reserve amount is the sum of: (a) the greater of the net surrender value of the contract or the separate-account reserve amount under federal laws governing variable contracts; plus (b) 92.81% of the excess (if any) of the amount determined using the tax reserve method otherwise applicable to the contract as of the date of the reserve.

The amount of deductible reserves cannot exceed the amount which would be taken into account in determining statutory reserves. The Act also prohibits double counting deductible reserves under the general computation of income and under the computation of loss reserves. This provision first applies to tax year 2018 and allows for a phase-in of these provisions ratably over eight taxable years. It is estimated that state adoption of this provision would increase tax revenues by \$8.4 million in 2018-19.

Tax Reporting for Life Settlement Transactions

Transfer for Value Rules. Amounts received under a life insurance contract by reason of the death of the insured are excluded from federal income tax. However, under transfer for value rules, if a life insurance contract is sold or otherwise transferred for valuable consideration, the amount paid by reason of death of the insured that is excludable from income is generally limited to not more than the sum of the actual value of the consideration and the premiums or other amounts subsequently paid by the transferee of the contract. Prior to 2018, exceptions to this limit applied if: (a) the transferee's basis in the contract is determined, in whole or in part, by reference to the transferor's basis in the contract; or (b) the transfer is to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer. These exceptions no longer apply under the Act to the transfer of a life insurance contract, or any interest in a life insurance contract, in a reportable policy sale (a portion of death benefits ultimately payable could be included as income). This provision is effective for transfers occurring after December 31, 2017.

Basis Adjustment of Transfer. Under a ruling by the Internal Revenue Service, in the case of a cash value life insurance contract, the insured's (seller's) basis is reduced by the cost of insurance (expected mortality expenses and certain other costs), and the gain on the sale of the contract is taxed as ordinary income, provided the amount would be recognized as ordinary income if the contract was surrendered, and any excess amount is taxed as a long-term capital gain. The Act reverses this ruling and specifies that no adjustment can be made for cost of insurance in determining the basis of a life transfer or annuity contract. This clarification of the basis rules for life insurance and annuity contracts is effective for transactions entered into after August 25, 2009.

Fiscal Estimate. It is estimated that state adoption of these provisions would result in a minimal revenue increase over the 2017-19 biennium.

Modify Discounting Rules for Property and Casualty Companies

Property and casualty insurance companies can generally deduct additions to reserves for losses and expenses incurred. To take into account the time value of money, discounting of unpaid losses is required with separate discounting rates for each line of business. The discounts are calculated using a prescribed interest rate based on the federal mid-term rate (mid-term AFR) effective at the beginning of each month over the 60-month period preceding the calendar year for which the determination is made. The U.S. Department of the Treasury (Treasury) determines the discount period for each line of business every five years based on the historical loss payment pattern aggregated for each line of business over an industry-wide basis. The Act modifies the discounting rules that apply to additions to reserves for property and casualty insurance companies as follows:

a. The interest rate is an annual rate for any calendar year, determined by Treasury, based on the corporate bond yield curve (rather than the mid-term AFR) on investment grade corporate bonds with varying maturities and that are in the top three quality levels available;

b. For certain businesses that discount reserves for losses paid over a period of more than ten years, the maximum extension beyond the ten-year period following the accident is 14 years, rather than five years; and

c. A taxpayer must discount reserves using the industry-wide payment pattern. Prior to the Act, a taxpayer could elect to discount additions to reserves using its own historical loss payment pattern.

These provisions generally apply to taxable years beginning after December 31, 2017, with a transition rule and eight-year ratable adjustment period for unpaid losses, and expenses unpaid, prior to tax year 2018. It is estimated that state adoption of this provision would increase tax revenues by \$6.4 million in 2018-19.

Proration Rules for Property and Casualty Insurance Companies

For a property and casualty insurance company, the deductible portion of its reserve for losses incurred is calculated by reducing the amount of losses incurred by an amount equal to 15% of: (a) the insurer's tax-exempt interest; (b) the deductible portion of dividends received; and (c) increases in the cash value of life insurance endowment or annuity contracts the company owns. The proration reflects that reserves are generally funded in part from tax-exempt interest, deductible dividends, and other untaxed amounts. The Act replaces the aforementioned reduction percentage with a reduction equal to 5.25% divided by the top federal corporate tax rate. For tax year 2018, the top federal corporate tax rate is 21%, resulting in a percentage reduction equal to 25% (rather than 15%). This provision applies to taxable years beginning after December 31, 2017. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

Treatment of Gains on the Sale of a Partnership Interest

In general, the gain or loss from the sale or exchange of a partnership interest is treated as a gain or loss from the sale of a capital asset subject to capital gains tax. Under a 1991 revenue ruling, the Internal Revenue Service applied the asset-use test and business activities test at the partnership level to determine the extent to which the consideration derived from the sale or exchange of a partnership interest by a nonresident alien or foreign corporation is subject to a withholding tax of 10% on the amount of any gain realized on the transfer. However, pursuant to a 2017 tax court case, the gain or loss on the sale or exchange by a foreign person of an interest in a partnership that is engaged in a U.S. trade or business is treated as foreign-sourced income and not subject to the withholding tax.

The Act effectively reverses the 2017 tax court ruling and specifies that the gain or loss from the sale or exchange of a partnership interest is effectively connected with a U.S. trade or business as if the transferor had sold all of its assets at fair market value, effective for sales, exchanges, and dispositions on or after November 27, 2017. Any gain or loss must be determined as if the hypothetical asset sale by the partnership had occurred. The transferee of a partnership interest, including a broker acting as agent of the transferee, must deduct and withhold 10% of any gain realized on the disposition, for sales or exchanges of partnership interests after December 31, 2017. The withholding tax does not apply if the transferor certifies that the transferor is not a nonresident alien individual or foreign corporation. State adoption of this provision is estimated to increase tax revenues by \$800,000 in 2018-19.

Substantial Built-In Loss for Purposes of Partnership Loss Transfers

A partnership must adjust the basis of partnership property following the transfer of a partnership interest if the partnership has a "substantial built-in loss" (the partnership's adjusted basis in its property exceeds fair market value by at least \$250,000). The Act expands the definition of a "built-in loss" to also exist in a partnership if the transferee would be allocated a net loss in excess of \$250,000 under the hypothetical disposition of all of the partnership's assets. As a result, a partnership must adjust its basis if a built-in loss exists at either the partnership level or the

partner level under a hypothetical transfer. This provision applies to transfers of partnership interests after December 31, 2017. State adoption of this provision would result in a minimal increase in tax revenues during the 2017-19 biennium.

Treatment of Charitable Contributions and Foreign Taxes for a Partner's Share of Loss

In general, a partner's basis in a partnership interest is decreased by, but not by more than, the distributions by the partnership of its distributive share of partnership losses. However, Treasury regulations do not take into account the partner's share of partnership charitable contributions and foreign taxes paid or accrued in applying the basis limitation on partner losses. The Act reverses the Treasury regulations on taxes paid or accrued to a foreign country or possession of the United States and for charitable contributions paid by the partnership. As a result, the partner's basis in a partnership interest is reduced by the partner's distributive share of the adjusted basis of the taxes paid or property contributed. This provision applies to partnership taxable years beginning after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by \$500,000 in 2018-19.

Modify Treatment of Gains on Partnership Profits Interest (Carried Interest) Held in Connection with the Performance of Services

In general, a profits interest in a partnership is the right to receive future profits in a partnership, but does not include any right to receive money or other property upon immediate liquidation of the partnership. A taxpayer is generally required to recognize income from the transfer of property in connection with the performance of a service in the taxable year in which the property is first vested (transferred and not subject to substantial risk). The disposition of such property is generally taxed as a capital gain, rather than ordinary income, if the property is held for more than one year. The Act makes the following changes to the income tax treatment for the acquisition of a profits interest in a partnership:

- a. Define "applicable partnership interest" to mean any interest in a partnership, excluding an interest that includes the right to share in capital held by the partnership upon liquidation of the partnership, or any interest held by a corporation, that is transferred to the taxpayer in connection with performance of service in any applicable trade or business, regardless of whether the service provider also made contributions to the partnership;
- b. Require a person to hold an "applicable partnership interest" for three years, rather than one year, for the gain realized on the disposition of that interest to be taxed as a capital gain, rather than as ordinary income, regardless of whether the person elected to recognize the transfer as income prior to the applicable partnership interest being substantially nonvested; and
- c. Require that, if a person transfers any applicable partnership interest to a person related to the taxpayer, the taxpayer must include as a short term capital gain any gain attributable to the sale or exchange of an asset that is held for less than three years (rather than one-year). A person related to the taxpayer includes either a family member or a colleague who performed a

service within the current or preceding three years in any applicable trade or business in which, or for which, the taxpayer performed the service.

This provision does not apply under certain circumstances to income or gain attributed to any asset that is not held for portfolio investment on behalf of third party investors. This provision applies to taxable years beginning after December 31, 2017. State adoption of this provision is estimated to increase tax revenues by \$1.4 million in 2018-19.

Separate Computation of Each Trade or Business Activity Under the Unrelated Business Income Tax (UBIT)

Tax-exempt organizations may be subject to UBIT for certain income not associated with the organization's tax-exempt function. Tax-exempt organizations subject to UBIT generally include: (a) organizations under Section 501(a), including most 501(c) organizations; (b) qualified pension, profit-sharing, and stock bonus plans and (c) certain state colleges and universities. An exempt organization may take a specific deduction of \$1,000 for each unrelated trade or business (in addition to other normal operating expenditures), but the specific deduction cannot create a net operating loss (NOL) to be carried back or forward to another taxable year. A tax-exempt organization that operates multiple unrelated trades or businesses must aggregate its income and deductions and, as a result, the specific deduction of \$1,000 that is deductible for one unrelated trade or business may be used to offset taxable income from another, thereby reducing the organization's aggregate UBIT liability.

The Act requires a tax-exempt organization with more than one trade or business to first compute income subject to UBIT separately for each trade or business without regard to the specific deduction, and the specific deduction may only be used to offset that trade or business's UBIT liability. An NOL deduction is allowed only with respect to the trade or business from which the loss arose. As a result, the specific deduction cannot be used by an organization to offset income from a different unrelated trade or business for the same tax year. However, an organization may carry forward the NOL arising from the specific deduction to offset income from that specific unrelated trade or business in future tax years.

This provision is effective for taxable years beginning after December 31, 2017. Under a special transition rule, an NOL carried forward from taxable years beginning before January 1, 2018, is not subject to this provision. It is estimated that state adoption of this provision would increase tax revenues by \$1.7 million in 2018-19.

Tax Treatment of Alaska Native Corporations and Settlement Trusts

The Act modifies the income tax treatment of certain payments and transfers made under the Alaska Native Claims Settlement Act. The provision generally applies for taxable years beginning after December 31, 2016. State adoption of this provision would result in a minimal reduction in tax revenues.

Small Business Trusts

An electing small business trust (ESBT) may be a shareholder of an S corporation. However, a nonresident alien individual could not be either the shareholder of an S corporation or a potential current beneficiary of an ESBT prior to 2018. The portion of an ESBT that consists of an S corporation's stock is treated as a separate trust and its earnings are taxed at the highest rate of tax imposed on individuals, but income is not taxed to the beneficiaries of the ESBT. Because an ESBT is a trust, charitable contributions are deducted from gross income without limitation. However, deductible charitable contributions that would reduce taxable income below \$0 could not be carried forward.

The Act permits a nonresident alien individual to be a potential current beneficiary of an ESBT, beginning January 1, 2018. The Act provides that charitable contributions of an ESBT may be deducted under rules governing individuals, rather than trusts, beginning with taxable years after December 31, 2017, and the percentage limitations and carryforward provisions that apply to individuals also apply to ESBTs. State adoption of this provision is estimated to result in a minimal reduction in tax revenues.

Deny Deduction for Sexual Harassment Settlements

In general, a deduction is allowed for ordinary and necessary expenses paid or incurred in carrying on any trade or business, with certain exceptions. Under the Act, no deduction is allowed for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement. This provision is effective for amounts paid or incurred after the date of enactment. State adoption of this provision would result in a minimal increase in tax revenues.

Disallowed Deduction for Fines and Penalties

Fines or penalties paid to a government for the violation of any law cannot be deducted for state or federal income tax purposes. Under the Act, amounts also cannot be deducted if paid or incurred, whether by suit, agreement, or otherwise, to or at the direction of a government or specified nongovernmental entity in relation to any violated law. Expenses cannot be deducted if paid or incurred for the investigation into the potential violation of a law. However, restitution, including remediation of property, that is paid to come into compliance with a violated law, but not including reimbursement of a government investigation or litigation cost, is a deductible expense if a government is a complainant or investigator with respect to such violation. Any restitution payment for failure to pay any tax is only deductible to the extent the tax would have been deductible if timely paid. Reporting requirements apply for amounts required to be paid in a court order or agreement of \$600 or more. This provision applies to amounts paid or incurred after the day of enactment, except for amounts paid or incurred under a binding order or agreement entered into before that date. State adoption of this provision would result in a minimal increase in tax revenues.

Repeal Deduction for Local Lobbying Expenses

In general, a deduction is not allowed for expenses paid or incurred in connection with lobbying and political activities, unless such expenditures are "in-house" and less than a de minimis threshold (\$2,000). However, an exception applied to certain expenses incurred in carrying on a trade or business with respect to local legislation (including tribal legislation), such as appearing before a local body and directly communicating with a local council or body for which the taxpayer has a direct interest. The Act repeals this exception for amounts paid or incurred after the date of enactment. State adoption of this provision would result in a minimal increase in tax revenues.

Modify Treatment of Contributions to Capital

Gross income generally does not include any contribution to capital. The Act excludes from the definition of contribution to capital and, instead, includes in gross income: (a) any contribution made in aid of construction or any other contribution as a customer or potential customer; and (b) any contribution made by any governmental entity or civic group. The provision applies to contributions made after the date of enactment. However, the provision does not apply to any contribution made after the date of enactment by a governmental entity pursuant to a master development plan that has been approved prior to such date by a governmental entity. It is estimated that state adoption of this provision would increase tax revenues by \$1.0 million in 2018-19.

DISASTER TAX RELIEF AND AIRPORT AND AIRWAY EXTENSION ACT

Title V of the Disaster Tax Relief and Airport and Airway Extension Act (the Act) provides relief to individuals and businesses affected by Hurricanes Harvey, Irma, and Maria. The provisions are limited to individuals, businesses, and property in a presidentially-declared disaster zone or disaster area resulting from the three hurricanes. One of the Act's provisions creates a tax credit for employers affected by the hurricanes and does not affect the definition of federal AGI. Several other provisions modify that definition and could affect state tax collections if adopted. However, the provisions are targeted to individuals in the hurricane disaster areas and would not likely have a measurable effect on state tax collections.

Deduction for Casualty Loss

The IRC allows individuals to claim an itemized deduction for a casualty loss, subject to limitations. The loss must exceed \$100, and the deduction is limited to the amount of the loss, minus \$100, exceeding 10% of the taxpayer's AGI. The Act allows taxpayers who suffer a loss or property in a hurricane disaster area caused by one of the hurricanes to deduct the amount of the loss exceeding \$500, without regard to the 10% of AGI limitation. In addition, the deduction may be claimed by taxpayers using the standard deduction, as well as by those who itemize their deductions. These provisions apply to losses that occurred on or after the dates of the hurricanes and apply in tax year 2017. Casualty losses incurred in a presidentially declared disaster area may

be claimed under Wisconsin's itemized deduction credit. Adopting this provision would have a minimal effect on state individual income tax collections.

Charitable Contributions

Charitable contributions are claimed as an itemized deduction for federal tax purposes. Contributions that may be deducted are limited to a percentage of the taxpayer's federal AGI based on the form that the contribution takes (cash versus property). Also, for tax year 2017, itemized deductions are subject to phaseout for high-income taxpayers. Corporations can deduct contributions of up to 10% of their taxable income. The Act allows the deduction of certain contributions of up to 100% of AGI with no phaseout for high-income taxpayers and contributions of up to 100% of a corporation's taxable income. The contribution must have been made between August 23, 2017, and December 31, 2017, to a charitable organization for relief efforts in one of the three hurricane disaster areas. Contributions in excess of the 100% limits can be carried forward for five years. Charitable contributions may be claimed under Wisconsin's itemized deduction credit. Adopting this provision would have a minimal effect on state individual income tax collections. A minimal reduction in corporate income and franchise taxes could also occur.

Early Distributions from Retirement Plans

The Act waives the 10% additional tax on certain early distributions from retirement plans made on or after August 23, 2017, and before January 1, 2019. Distributions up to \$100,000 are eligible, provided the individual's principal place of residence was in a hurricane disaster area, and the individual sustained an economic loss due to the hurricane(s). Taxpayers receiving distributions may repay the distribution by making contributions to a retirement account within three years to qualify for rollover treatment. Otherwise, the distribution is included in income ratably over three years. Also, the Act permits individuals to recontribute funds to retirement plans if the funds were distributed for a home purchase in a hurricane disaster area and the purchase was cancelled on account of one of the hurricanes. With regard to loans from retirement plans, the Act increases the loan limit from \$50,000 to \$100,000 and delays the repayment deadline by one year. These provisions took effect upon enactment and apply in tax year 2017. Adopting these provisions could reduce state tax collections by a minimal amount.

Earned Income and Child Tax Credits

These credits are based on the claimant's income. The Act allows claimants whose principal residence was in one of the three hurricane disaster areas and who were displaced by one of the hurricanes to use their 2016 income to claim their earned income or child tax credits in tax year 2017, if that income is higher than their 2017 income. Wisconsin already follows the federal treatment for purposes of the state EITC. The child tax credit provisions would not affect state tax collections.

SUMMARY OF FISCAL EFFECT

The Attachment shows the estimated state fiscal effects of adopting the provisions described above for state tax purposes in state fiscal years 2018-19 through 2026-27. As noted, the fiscal impacts of the provisions that will automatically be adopted for state tax purposes have been incorporated into our January 17, 2018, revenue estimates.

Prepared by: Rob Reinhardt, Rick Olin, and Sean Moran
Attachment

ATTACHMENT

Estimated Effects on State Tax Collections of Adopting Federal Tax Provisions Enacted in 2017 (In Millions)

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Automatically Adopted*									
Section 179 Expensing - Includes Depreciation Limits on Luxury Automobiles and Personal Use Property	-\$47.6	-\$22.9	-\$13.8	-\$10.0	-\$7.5	-\$5.2	-\$4.3	-\$4.2	-\$4.2
Alternative Minimum Tax Exemption Amounts	-2.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplement to Federal Historic Rehabilitation Tax Credits	0.1	1.3	4.0	6.4	8.0	7.2	5.4	3.6	1.8
Technical Termination of Partnerships	1.4	0.5	0.5	0.9	0.9	0.9	0.9	0.9	0.9
SUBTOTAL	-\$48.9	-\$21.1	-\$9.3	-\$2.7	\$1.4	\$2.9	\$2.0	\$0.3	-\$1.5
Other Provisions Affecting Individuals and Families									
Itemized Deductions	-\$10.9	-\$3.4	-\$2.9	-\$2.5	-\$1.9	-\$1.5	-\$0.9	-\$0.4	\$0.2
Charitable Deduction Related to College Athletic Event Seating Rights and Exception for Donee Acknowledgment of Contributions	1.4	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Moving Expense Reimbursement Exclusion	6.4	3.8	3.8	3.8	3.8	3.8	4.5	1.3	0.0
Moving Expense Deduction	8.9	5.8	5.8	6.4	6.4	6.4	7.0	1.9	0.0
College Savings Accounts	Minimal	Minimal	Minimal	Minimal	-0.6	-0.6	-0.6	-0.6	-0.6
Presidentially-Declared 2016 Disaster Areas	-2.8	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
Treatment of Qualified Equity Grants	-1.6	-0.9	-0.9	-0.5	Minimal	Minimal	Minimal	Minimal	Minimal
Gains on Opportunity Zone Investments	-10.0	-6.6	-6.8	-6.6	-6.2	-6.1	-6.4	22.9	16.3
SUBTOTAL	-\$8.6	-\$0.5	-\$0.2	\$1.4	\$2.3	\$2.8	\$4.4	\$25.9	\$16.7
Other Provisions Affecting Businesses									
Deduction for Pass-Through Business Income	-\$242.5	-\$161.8	-\$168.0	-\$171.2	-\$169.3	-\$173.9	-\$172.5	-\$78.5	-\$6.2
Loss Limitation for Pass-Through Taxpayers	83.3	55.8	58.4	61.0	63.6	66.1	62.9	30.1	4.2
Bonus Depreciation	-241.1	-110.1	-67.9	-49.8	-25.8	13.8	35.1	49.3	54.6
Depreciation of Certain Farm Property	Minimal	Minimal	-0.3	-0.7	-1.0	-0.8	-0.5	Minimal	Minimal
Applicable Recovery Period for Real Property	-0.7	-0.9	-1.3	-1.7	-2.3	-2.3	-2.4	-3.1	-2.4
Amortization of Research Expenses	0.0	0.0	0.0	65.5	110.9	100.0	74.6	47.9	27.3
Capitalization of Insurance Company Policy Acquisition Expenses	1.5	2.1	2.6	2.7	3.0	3.4	3.5	3.7	4.1
Simplified Accounting for Small Businesses	-53.4	-17.6	-9.7	-7.3	-6.3	-6.4	-6.8	-6.9	-7.1
Accounting Rules for Accrual Method Taxpayers	9.8	8.3	8.6	5.9	3.7	3.3	2.4	1.6	1.4
Conversion of a S Corporation to a C Corporation	-3.1	-2.1	-2.2	-2.2	-2.2	-2.2	-2.4	-2.5	-2.5
Limit Interest Deduction to 30% of Adjusted Taxable Income	78.2	69.3	70.8	85.1	104.3	107.4	112.8	122.7	131.2
Repeal Like-Kind Exchanges for Tangible Personal Property	4.2	4.3	5.7	7.5	9.9	12.9	16.2	19.9	24.7
Limitation on Deduction for Employers of Fringe Benefit Expenses									
- Meals and Entertainment Expenses	11.7	8.0	8.2	8.3	8.5	8.6	8.9	9.9	10.1
- Qualified Transportation Fringe Benefits	8.7	6.0	6.1	6.4	6.5	6.8	6.9	7.1	7.2
Repeal Rollover of Publicly Traded Securities Gain into Certain Companies	1.0	0.8	0.8	0.8	0.5	0.4	0.4	0.4	0.4
Treatment of Self-Created Property	0.3	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Deduction for FDIC Premiums	6.2	5.8	5.8	5.8	6.1	6.1	6.1	6.4	6.5
Repeal Exclusion for Interest on Advance Refunding Bonds	4.8	5.1	6.2	7.4	8.0	8.1	8.4	8.5	8.5
Other Provisions Affecting Businesses (continued)									
Modify Limit on Deduction for Highly Paid Individuals	\$2.7	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.6	\$3.9
Adjustment for Change in Computing Life Insurance Reserves	0.7	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Computation of Life Insurance Reserves	8.4	6.5	6.5	6.8	6.9	6.9	7.2	5.3	2.9
Modify Discounting Rules for Property and Casualty Companies	6.4	6.9	6.9	6.9	6.9	6.6	5.7	3.1	1.4
Proration Rules for Property and Casualty Insurance Companies	1.0	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Treatment of Gains on the Sale of a Partnership Interest	0.8	1.3	1.3	1.8	2.2	2.2	2.2	2.2	2.6
Substantial Built-In Loss for Purposes of Partnership Loss Transfers	Minimal	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Treatment of Charitable Contributions and Foreign Taxes for a Partner's Share of Loss	0.5	0.5	0.5	0.5	0.5	0.5	0.8	0.8	0.8
Modify Treatment of Gains on Partnership Profits Interest Held in Connection with the Performance of Services	1.4	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Separate Computation of Each Trade or Business Activity Under the Unrelated Business Income Tax	1.7	1.2	1.2	1.4	1.5	1.5	1.5	1.5	1.5
Modify Treatment of Contributions to Capital	1.0	1.2	2.3	3.4	3.6	3.4	3.0	2.6	2.2
SUBTOTAL	-\$306.5	-\$103.2	-\$51.4	\$50.4	\$145.8	\$178.5	\$180.1	\$238.1	\$279.9
TOTAL	-\$364.0	-\$124.8	-\$60.9	\$49.1	\$149.5	\$184.2	\$186.5	\$264.3	\$295.1
TOTAL LESS AUTOMATICALLY ADOPTED *	-315.1	-103.7	-51.6	51.8	148.1	181.3	184.5	264.0	296.6

* The impacts of the provisions that will automatically be adopted for state tax purposes have been incorporated into the revised revenue estimates released by this office on January 17, 2018.