

**2001 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB380)**

Received: 10/17/2001

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Robert Ziegelbauer (608) 266-0315

By/Representing: luanne

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - corp. inc. and fran.

Extra Copies:

Submit via email: NO

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Single sales factor to begin January 1, 2002, with no phase-in

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/17/2001	csicilia 10/19/2001		_____			
/1			jfrantze 10/19/2001	_____	lrb_docadmin 10/19/2001	lrb_docadmin 10/19/2001	

FE Sent For:

<END>

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1/?	jkreye	cg 10/18/01	[Signature] 10/19	[Signature] 10/19			

FE Sent For:

<END>

2001

Date (time) needed

Friday P.M. 10-19-01

LRBs 0214,1

**SUBSTITUTE AMENDMENT  
[TO A BILL]**

VK:gs:

Use the appropriate components and routines developed for substitute amendments.

S (A) SUBSTITUTE AMENDMENT

D-N

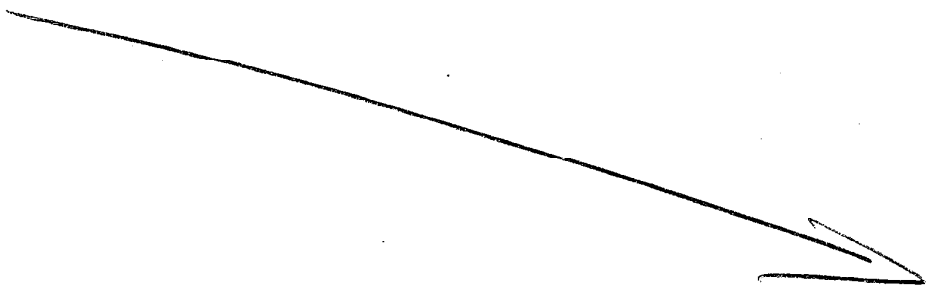
TO 2001 SB (AB) 380 (LRB- / )

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: INSERT 1-7

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

~~SECTION #.~~



## 2001 ASSEMBLY BILL 380

May 8, 2001 - Introduced by Representatives GARD, M. LEHMAN, RILEY, JENSEN, HUEBSCH, STARZYK, MONTGOMERY, KRAWCZYK, TOWNSEND, RHOADES, KEDZIE, GUNDRUM, LADWIG, ZIEGELBAUER, SERATTI, GROTHMAN, AINSWORTH, OTT, JESKEWITZ, SYKORA, POWERS, HUNDERTMARK, VRAKAS, WALKER, NASS, PETTIS, LEIBHAM, HAHN, J. FITZGERALD, STONE, GUNDERSON and HOVEN, cosponsored by Senators HUELSMAN, DARLING, WELCH, PLACHE, SCHULTZ and ROESSLER. Referred to Committee on Economic Development.

INSERT  
1-7

1 **AN ACT to renumber and amend** 71.04 (4), 71.04 (8) (b), 71.25 (6), 71.25 (10) (b)  
 2 and 71.45 (3) (b); **to amend** 71.04 (5) (intro.), 71.04 (6) (intro.), 71.04 (7) (d),  
 3 71.04 (8) (c), 71.04 (10), 71.25 (7) (intro.), 71.25 (8) (intro.), 71.25 (9) (d), 71.25  
 4 (10) (c), 71.25 (11), 71.45 (3) (intro.), 71.45 (3) (a) and 71.45 (3m); and **to create**  
 5 71.04 (4) (a), 71.04 (4) (b), 71.04 (4) (c), 71.04 (4) (d), 71.04 (4) (e), 71.25 (6) (a),  
 6 71.25 (6) (b), 71.25 (6) (c), 71.25 (6) (d), 71.25 (6) (e) and 71.45 (3d) of the statutes;  
 7 **relating to:** single sales factor apportionment of income for corporate income  
 8 tax and franchise tax purposes and granting rule-making authority.

### *Analysis by the Legislative Reference Bureau*

Under current law, when computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor, and a payroll factor. The sales factor represents 50% of the formula and the property and payroll factors each represent 25% of the formula. When computing income taxes and franchise taxes for an insurance company, a formula with a premium factor and a payroll factor is used to attribute a portion of an insurance company's income to this state.

Under this bill, beginning on January 1, 2005, the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. The property

**ASSEMBLY BILL 380**

and payroll factors will be decreased, and eventually phased out, over the next four years as the sales factor is increased and becomes the only factor. Beginning on January 1, 2005, the premium factor will be the only factor used to attribute a portion of an insurance company's income to this state. The payroll factor will be decreased, and eventually phased out, over the next four years as the premium factor is increased and becomes the only factor.

Under current law, the income of an electric or gas utility is apportioned by rules established by the department of revenue (DOR). Under the bill, for taxable years beginning after December 31, 2002, and before January 1, 2005, the income of an electric or gas utility is apportioned in the same manner as the income of a corporation under the bill. Beginning on January 1, 2005, the sales factor will be the only factor used to attribute a portion of the income of an electric or gas utility to this state.

Under current law, the income of a financial organization is apportioned, for corporate income tax and franchise tax purposes, by rules established by DOR. Under the bill, for taxable years beginning after December 31, 2002, and before January 1, 2005, the income of a financial organization is apportioned by multiplying that income by a fraction that includes a sales factor representing more than 50% of the fraction, as determined by rule by DOR. For taxable years beginning after December 31, 2004 the income of a financial organization is apportioned by using a sales factor, as determined by DOR.

Under current law and under the bill, the income of air carriers and pipeline companies is apportioned by rules established by DOR.

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

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

- 1           **SECTION 1.** 71.04 (4) of the statutes is renumbered 71.04 (4) (intro.) and  
2 amended to read:  
3           **71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA.** (intro.)  
4 Nonresident individuals and nonresident estates and trusts engaged in business  
5 within and without the state shall be taxed only on such income as is derived from  
6 business transacted and property located within the state. The amount of such  
7 income attributable to Wisconsin may be determined by an allocation and separate  
8 accounting thereof, when the business of such nonresident individual or nonresident

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1 estate or trust within the state is not an integral part of a unitary business, but the  
 2 department of revenue may permit an allocation and separate accounting in any case  
 3 in which it is satisfied that the use of such method will properly reflect the income  
 4 taxable by this state. In all cases in which allocation and separate accounting is not  
 5 permissible, the determination shall be made in the following manner: for all  
 6 businesses except air carriers, financial organizations, pipeline companies, public  
 7 utilities, railroads, sleeping car companies and car line companies there shall first  
 8 be deducted from the total net income of the taxpayer the part thereof (less related  
 9 expenses, if any) that follows the situs of the property or the residence of the  
 10 recipient. The remaining net income shall be apportioned to Wisconsin this state by  
 11 use of an ~~apportionment fraction composed of a sales factor representing 50% of the~~  
 12 ~~fraction, a property factor representing 25% of the fraction and a payroll factor~~  
 13 ~~representing 25% of the fraction.~~ the following:

14 SECTION 2. 71.04 (4) (a) of the statutes is created to read:

15 (15) 71.04 (4) (a) For taxable years beginning before January 1, ~~2003~~ <sup>2002</sup>, an  
 16 apportionment fraction composed of a sales factor under sub. (7) representing 50%  
 17 of the fraction, a property factor under sub. (5) representing 25% of the fraction, and  
 18 a payroll factor under sub. (6) representing 25% of the fraction.

19 ~~SECTION 3. 71.04 (4) (b) of the statutes is created to read:~~

20 ~~71.04 (4) (b) For taxable years beginning after December 31, 2002, and before~~  
 21 ~~January 1, 2004, an apportionment fraction composed of a sales factor under sub. (7)~~  
 22 ~~representing 60% of the fraction, a property factor under sub. (5) representing 20%~~  
 23 ~~of the fraction, and a payroll factor under sub. (6) representing 20% of the fraction.~~

24 SECTION 4. 71.04 (4) (c) of the statutes is created to read:

ASSEMBLY BILL 380

1 ~~71.04 (4) (c) For taxable years beginning after December 31, 2003, and before~~  
 2 ~~January 1, 2005, an apportionment fraction composed of a sales factor under sub. (7)~~  
 3 ~~representing 80% of the fraction, a property factor under sub. (5) representing 10%~~  
 4 ~~of the fraction, and a payroll factor under sub. (6) representing 10% of the fraction.~~

5 SECTION 5. 71.04 (4) (d) of the statutes is created to read:

6 71.04 (4) (d) For taxable years beginning after December 31, 2004, an  
 7 apportionment fraction composed of the sales factor under sub. (7). 2001 ✓

8 SECTION 6. 71.04 (4) (e) of the statutes is created to read:

9 71.04 (4) (e) ~~For taxable years beginning after December 31, 2002, and before~~  
 10 ~~January 1, 2005, the apportionment fraction for the remaining net income of a~~  
 11 ~~financial organization shall include a sales factor that represents more than 50% of~~  
 12 ~~the apportionment fraction, as determined by rule by the department.~~ For taxable  
 13 years beginning after December 31, 2004, the apportionment fraction for the  
 14 remaining net income of a financial organization is composed of a sales factor, as  
 15 determined by rule by the department. 2001 ✓

16 SECTION 7. 71.04 (5) (intro.) of the statutes is amended to read:

17 71.04 (5) PROPERTY FACTOR. (intro.) For purposes of sub. (4) and for taxable  
 18 years beginning before January 1, 2002 2002

19 SECTION 8. 71.04 (6) (intro.) of the statutes is amended to read:

20 71.04 (6) PAYROLL FACTOR. (intro.) For purposes of sub. (4) and for taxable years  
 21 beginning before January 1, 2002 2002

22 SECTION 9. 71.04 (7) (d) of the statutes is amended to read:

23 71.04 (7) (d) Sales, other than sales of tangible personal property, are in this  
 24 state if the income-producing activity is performed in this state. If the  
 25 income-producing activity is performed both in and outside this state the sales shall

INSERT 4-15 ✓

ASSEMBLY BILL 380

1 be divided between those states having jurisdiction to tax such business in  
2 proportion to the direct costs of performance incurred in each such state in rendering  
3 this service. Services performed in states which do not have jurisdiction to tax the  
4 business shall be deemed to have been performed in the state to which compensation  
5 is allocated by ~~sub. s. 71.04 (6), 1999 stats.~~

6 SECTION 10. 71.04 (8) (b) of the statutes is renumbered 71.04 (8) (b) 1. and  
7 amended to read:

8 71.04 (8) (b) 1. ~~Public~~ For taxable years beginning before January 1, ~~1999~~,  
9 "public utility", as used in this section, means any business entity described under  
10 subd. 2. and any business entity which owns or operates any plant, equipment,  
11 property, franchise, or license for the transmission of communications or the  
12 production, transmission, sale, delivery, or furnishing of electricity, water or steam,  
13 the rates of charges for goods or services of which have been established or approved  
14 by a federal, state or local government or governmental agency. "Public

15 2. In this section, for taxable years beginning after December 31, 2002, "public  
16 utility" also means any business entity providing service to the public and engaged  
17 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),  
18 regardless of whether or not the entity's rates or charges for services have been  
19 established or approved by a federal, state or local government or governmental  
20 agency.

21 SECTION 11. 71.04 (8) (c) of the statutes is amended to read:

22 71.04 (8) (c) The net business income of railroads, sleeping car companies, car  
23 line companies, pipeline companies, financial organizations, air carriers and public  
24 utilities requiring apportionment shall be apportioned pursuant to rules of the

2002 ✓

2001 ✓

✓



## ASSEMBLY BILL 380

1 department of revenue, but the income taxed is limited to the income derived from  
2 business transacted and property located within the state.

3 **SECTION 12.** 71.04 (10) of the statutes is amended to read: ✓

4 71.04 (10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident  
5 individual or nonresident estate or trust engaged in business within in and without  
6 the outside this state of Wisconsin and required to apportion its income as provided  
7 in this section, it shall be shown to the satisfaction of the department of revenue that  
8 the use of any one of the 3 factors provided under sub. (4) gives an unreasonable or  
9 inequitable final average ratio because of the fact that such nonresident individual  
10 or nonresident estate or trust does not employ, to any appreciable extent in its trade  
11 or business in producing the income taxed, the factors made use of in obtaining such  
12 ratio, this factor may, with the approval of the department of revenue, be omitted in  
13 obtaining the final average ratio which is to be applied to the remaining net income.

14 This subsection does not apply to taxable years beginning after December 31, 2001. ✓

15 **SECTION 13.** 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and  
16 amended to read: ✓

17 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.  
18 (intro.) Corporations engaged in business within and without the state shall be taxed  
19 only on such income as is derived from business transacted and property located  
20 within the state. The amount of such income attributable to Wisconsin may be  
21 determined by an allocation and separate accounting thereof, when the business of  
22 such corporation within the state is not an integral part of a unitary business, but  
23 the department of revenue may permit an allocation and separate accounting in any  
24 case in which it is satisfied that the use of such method will properly reflect the  
25 income taxable by this state. In all cases in which allocation and separate accounting

1 is not permissible, the determination shall be made in the following manner: for all  
2 businesses except air carriers, financial organizations, pipeline companies, public  
3 utilities, railroads, sleeping car companies, car line companies and corporations or  
4 associations that are subject to a tax on unrelated business income under s. 71.26 (1)  
5 (a) there shall first be deducted from the total net income of the taxpayer the part  
6 thereof (less related expenses, if any) that follows the situs of the property or the  
7 residence of the recipient. The remaining net income shall be apportioned to  
8 ~~Wisconsin this state by use of an apportionment fraction composed of a sales factor~~  
9 ~~under sub. (9) representing 50% of the fraction, a property factor under sub. (7)~~  
10 ~~representing 25% of the fraction and a payroll factor under sub. (8) representing 25%~~  
11 ~~of the fraction. the following:~~

12 SECTION 14. 71.25 (6) (a) of the statutes is created to read:

13 71.25 (6) (a) For taxable years beginning before January 1, ~~2003~~ <sup>2002</sup> an  
14 apportionment fraction composed of a sales factor under sub. (9) representing 50%  
15 of the fraction, a property factor under sub. (7) representing 25% of the fraction, and  
16 a payroll factor under sub. (8) representing 25% of the fraction.

17 ~~SECTION 15. 71.25 (6) (b) of the statutes is created to read:~~

18 ~~71.25 (6) (b) For taxable years beginning after December 31, 2002, and before~~  
19 ~~January 1, 2004, an apportionment fraction composed of a sales factor under sub. (9)~~  
20 ~~representing 60% of the fraction, a property factor under sub. (7) representing 20%~~  
21 ~~of the fraction, and a payroll factor under sub. (8) representing 20% of the fraction.~~

22 ~~SECTION 16. 71.25 (6) (c) of the statutes is created to read:~~

23 ~~71.25 (6) (c) For taxable years beginning after December 31, 2003, and before~~  
24 ~~January 1, 2005, an apportionment fraction composed of a sales factor under sub. (9)~~

ASSEMBLY BILL 380

1 representing 80% of the fraction, a property factor under sub. (7) representing 10%  
2 of the fraction, and a payroll factor under sub. (8) representing 10% of the fraction.

3 SECTION 17. 71.25 (6) (d) of the statutes is created to read:

4 71.25 (6) (d) For taxable years beginning after December 31, 2004, an  
5 apportionment fraction composed of the sales factor under sub. (9).

6 SECTION 18. 71.25 (6) (e) of the statutes is created to read:

7 ~~71.25 (6) (e) For taxable years beginning after December 31, 2002, and before~~  
8 ~~January 1, 2005, the apportionment fraction for the remaining net income of a~~  
9 ~~financial organization shall include a sales factor that represents more than 50% of~~  
10 ~~the apportionment fraction, as determined by rule by the department.~~ For taxable

11 years beginning after December 31, 2004, the apportionment fraction for the  
12 remaining net income of a financial organization is composed of a sales factor, as  
13 determined by rule by the department.

14 SECTION 19. 71.25 (7) (intro.) of the statutes is amended to read:

15 71.25 (7) PROPERTY FACTOR. (intro.) For purposes of sub. (5) (6) and for taxable  
16 years beginning before January 1, 2002,

17 SECTION 20. 71.25 (8) (intro.) of the statutes is amended to read:

18 71.25 (8) PAYROLL FACTOR. (intro.) For purposes of sub. (5) (6) and for taxable  
19 years beginning before January 1, 2002,

20 SECTION 21. 71.25 (9) (d) of the statutes is amended to read:

21 71.25 (9) (d) Sales, other than sales of tangible personal property, are in this  
22 state if the income-producing activity is performed in this state. If the  
23 income-producing activity is performed both in and outside this state the sales shall  
24 be divided between those states having jurisdiction to tax such business in  
25 proportion to the direct costs of performance incurred in each such state in rendering

INSERT 8-13

## ASSEMBLY BILL 380

1 this service. Services performed in states which do not have jurisdiction to tax the  
2 business shall be deemed to have been performed in the state to which compensation  
3 is allocated by ~~sub. s. 71.25 (8), 1999 stats.~~

4 SECTION 22. 71.25 (10) (b) of the statutes is renumbered 71.25 (10) (b) 1. and ✓  
5 amended to read:

6 <sup>2002</sup> 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,  
7 ~~2003~~ "public utility" means any business entity described under subd. 2. and any  
8 business entity which owns or operates any plant, equipment, property, franchise,  
9 or license for the transmission of communications or the production, transmission,  
10 sale, delivery, or furnishing of electricity, water or steam the rates of charges for  
11 goods or services of which have been established or approved by a federal, state or  
12 local government or governmental agency. "Public

13 <sup>2001</sup> 2. In this section, for taxable years beginning after December 31, ~~2002~~, "public  
14 utility" also means any business entity providing service to the public and engaged  
15 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),  
16 regardless of whether or not the entity's rates or charges for services have been  
17 established or approved by a federal, state or local government or governmental  
18 agency.

19 SECTION 23. 71.25 (10) (c) of the statutes is amended to read: ✓

20 71.25 (10) (c) The net business income of railroads, sleeping car companies, car  
21 line companies, pipeline companies, financial organizations, air carriers and public  
22 utilities requiring apportionment shall be apportioned pursuant to rules of the  
23 department of revenue, but the income taxed is limited to the income derived from  
24 business transacted and property located within the state.

25 SECTION 24. 71.25 (11) of the statutes is amended to read: ✓

1           71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation  
 2 engaged in business ~~within in~~ and ~~without the~~ outside this state of Wisconsin and  
 3 required to apportion its income as provided in sub. (6), it shall be shown to the  
 4 satisfaction of the department of revenue that the use of any one of the 3 factors  
 5 provided in sub. (6) gives an unreasonable or inequitable final average ratio because  
 6 of the fact that such corporation does not employ, to any appreciable extent in its  
 7 trade or business in producing the income taxed, the factors made use of in obtaining  
 8 such ratio, this factor may, with the approval of the department of revenue, be  
 9 omitted in obtaining the final average ratio which is to be applied to the remaining  
 10 net income. This subsection does not apply to taxable years beginning after  
 11 December 31, ~~2004~~ 2001

12           SECTION 25. 71.45 (3) (intro.) of the statutes is amended to read: ✓

13           71.45 (3) APPORTIONMENT. (intro.) ~~With respect~~ Except as provided in sub. (3d),  
 14 to determine Wisconsin income for purposes of the franchise tax, domestic insurers  
 15 ~~not engaged in the sale of life insurance but which that,~~ in the taxable year, have  
 16 ~~collected~~ received premiums, other than life insurance premiums, written on  
 17 ~~subjects of~~ for insurance on property or risks resident, located or to be performed  
 18 outside this state, ~~there shall be subtracted from~~ multiply the net income figure  
 19 derived by application of sub. (2) (a) ~~to arrive at Wisconsin income constituting the~~  
 20 ~~measure of the franchise tax an amount calculated by multiplying such adjusted~~  
 21 ~~federal taxable income~~ by the arithmetic average of the following 2 percentages:

22           SECTION 26. 71.45 (3) (a) of the statutes is amended to read: ✓

23           71.45 (3) (a) The Subject to sub. (3d), the percentage of total determined by  
 24 dividing the sum of direct premiums written on all property and risks for insurance  
 25 other than life insurance, with respects to all property and risks resident, located,

## ASSEMBLY BILL 380

1 or to be performed in this state, and assumed premiums written for reinsurance,  
2 other than life insurance, with respect to all property and risks resident, located, or  
3 to be performed in this state, by the sum of direct premiums written for insurance  
4 on all property and risks, other than life insurance, wherever located during the  
5 taxable year, as reflects, and assumed premiums written on insurance for  
6 reinsurance on all property and risks, other than life insurance, where the subject  
7 of insurance was resident, located or to be performed outside this state wherever  
8 located. In this paragraph, “direct premiums” means direct premiums as reported  
9 for the taxable year on an annual statement that is filed by the insurer with the  
10 commissioner of insurance under s. 601.42 (1g) (a). In this paragraph, “assumed  
11 premiums” means assumed reinsurance premiums from domestic insurance  
12 companies as reported for the taxable year on an annual statement that is filed with  
13 the commissioner of insurance under s. 601.42 (1g) (a).

14 SECTION 27. 71.45 (3) (b) of the statutes is renumbered 71.45 (3) (b) 1. and ✓  
15 amended to read:

16 71.45 (3) (b) 1. The Subject to sub. (3d), the percentage of determined by  
17 dividing the payroll, exclusive of life insurance payroll, paid in this state in the  
18 taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in  
19 the taxable year as reflects such compensation paid outside this state.  
20 Compensation.

21 2. Under subd. 1., payroll is paid outside in this state if the individual’s service  
22 is performed entirely outside in this state; or the individual’s service is performed  
23 both within and without in and outside this state, but the service performed within  
24 outside this state is incidental to the individual’s service without in this state; or  
25 some service is performed without in this state and the base of operations, or if there

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1 is no base of operations, the place from which the service is directed or controlled is  
2 without in this state, or the base of operations or the place from which the service is  
3 directed or controlled is not in any state in which some part of the service is  
4 performed, but the individual's residence is outside in this state.

5 SECTION 28. 71.45 (3d) of the statutes is created to read:

6 71.45 (3d) ~~ARITHMETIC AVERAGE~~ DOMESTIC INSURERS. <sup>(CS)</sup> ~~(a)~~ For taxable years beginning after

7 December 31, 2002, and before January 1, 2004, a domestic insurer that is subject  
8 to apportionment under sub. (3) and this subsection shall multiply the net income  
9 figure derived by the application of sub. (2) by an apportionment fraction composed  
10 of the percentage under sub. (3) (a) representing 60% of the fraction and the  
11 percentage under sub. (3) (b) 1. representing 40% of the fraction.

12 (b) For taxable years beginning after December 31, 2003, and before January  
13 1, 2005, a domestic insurer that is subject to apportionment under sub. (3) and this  
14 subsection shall multiply the net income figure derived by the application of sub. (2)  
15 by an apportionment fraction composed of the percentage under sub. (3) (a)  
16 representing 80% of the fraction and the percentage under sub. (3) (b) 1. representing  
17 20% of the fraction.

18 ~~(a)~~ For taxable years beginning after December 31, ~~2004~~ <sup>2001</sup>, a domestic insurer  
19 that is subject to apportionment under sub. (3) and this subsection shall multiply the  
20 net income figure derived by the application of sub. (2) by the percentage under sub.  
21 (3) (a).

22 SECTION 29. 71.45 (3m) of the statutes is amended to read:

23 71.45 (3m) ARITHMETIC AVERAGE. The Except as provided in sub. (3d), the  
24 arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to the  
25 net income figure arrived at by the successive application of sub. (2) (a) and (b) with

INSERT 12-21

1 respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which have  
2 collected received premiums, other than life insurance premiums, written upon for  
3 insurance, ~~other than life insurance, where the subject of such insurance was on~~  
4 property or risks resident, located or to be performed outside this state, to arrive at  
5 Wisconsin income constituting the measure of the franchise tax.

6 **SECTION 30. Nonstatutory provisions; revenue.**

7 (1) INCOME APPORTIONMENT FOR FINANCIAL ORGANIZATIONS; RULES. The  
8 department of revenue shall submit in proposed form rules related to the  
9 apportionment of the income of financial organizations under sections 71.04 (4) (b) <sup>c</sup>  
10 and 71.25 (6) (d) of the statutes, as created by this act, to the legislative council staff  
11 under section 227.15 (1) of the statutes no later than the first day of the 4th month  
12 beginning after the effective date of this subsection.

13

(END)

INSERT  
13-12



**ASSEMBLY AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 380**

October 9, 2001 - Offered by ECONOMIC DEVELOPMENT

INSERT  
4-15

LPS:  
thru all  
bill section  
numbers

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 4, line 15: after that line insert:~~

3 ~~SECTION 6m.~~ 71.04 (4m) of the statutes is created to read:

4 71.04 (4m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
5 beginning before January 1, ~~2005~~<sup>2002</sup>, if both the numerator and the denominator of the  
6 sales factor under sub. (7) related to a taxpayer's remaining net income are zero, the  
7 sales factor under sub. (7) is eliminated from the apportionment formula to  
8 determine the taxpayer's remaining net income under sub. (4). <sup>2001</sup>

9 2. For taxable years beginning after December 31, ~~2004~~<sup>2001</sup>, if both the numerator  
10 and the denominator of the sales factor under sub. (7) related to a taxpayer's  
11 remaining net income are zero, none of the taxpayer's remaining net income is  
12 apportioned to this state.

INSERT  
4-15

1 (b) 1. For taxable years beginning before January 1, ~~2005~~ <sup>2002</sup>, if the numerator of  
2 the sales factor under sub. (7) related to a taxpayer's remaining net income is a  
3 negative number and the denominator of the sales factor under sub. (7) related to a  
4 taxpayer's remaining net income is a positive number, a negative number, or zero,  
5 the sales factor under sub. (7) is zero.

6 2. For taxable years beginning after December 31, ~~2004~~ <sup>2001</sup>, if the numerator of the  
7 sales factor under sub. (7) related to a taxpayer's remaining net income is a negative  
8 number and the denominator of the sales factor under sub. (7) related to a taxpayer's  
9 remaining net income is a positive number, a negative number, or zero, none of the  
10 taxpayer's remaining net income is apportioned to this state.

11 (c) 1. For taxable years beginning before January 1, ~~2005~~ <sup>2002</sup>, if the numerator of  
12 the sales factor under sub. (7) related to a taxpayer's remaining net income is a  
13 positive number and the denominator of the sales factor under sub. (7) related to a  
14 taxpayer's remaining net income is zero or a negative number, the sales factor under  
15 sub. (7) is one.

16 2. For taxable years beginning after December 31, ~~2004~~ <sup>2001</sup>, if the numerator of the  
17 sales factor under sub. (7) related to a taxpayer's remaining net income is a positive  
18 number and the denominator of the sales factor under sub. (7) related to a taxpayer's  
19 remaining net income is zero or a negative number, all of the taxpayer's remaining  
20 net income is apportioned to this state.

END OF INSERT 4-15

~~27 Page 8, line 13: after that line insert:~~

SECTION ~~18m~~ <sup>#</sup> 71.25 (6m) of the statutes is created to read:

71.25 (6m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
beginning before January 1, ~~2005~~ <sup>2002</sup>, if both the numerator and the denominator of the

INSERT 8-13

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8-13  
↓

1 sales factor under sub. (9) related to a taxpayer's remaining net income are zero, the  
2 sales factor under sub. (9) is eliminated from the apportionment formula to  
3 determine the taxpayer's remaining net income under sub. (6). 2001

4 2. For taxable years beginning after December 31, ~~2004~~, if both the numerator  
5 and the denominator of the sales factor under sub. (9) related to a taxpayer's  
6 remaining net income are zero, none of the taxpayer's remaining net income is  
7 apportioned to this state.

8 (b) 1. For taxable years beginning before January 1, ~~2005~~, if the numerator of  
9 the sales factor under sub. (9) related to a taxpayer's remaining net income is a  
10 negative number and the denominator of the sales factor under sub. (9) related to a  
11 taxpayer's remaining net income is a positive number, a negative number, or zero,  
12 the sales factor under sub. (9) is zero. 2002

13 2. For taxable years beginning after December 31, ~~2004~~, if the numerator of the  
14 sales factor under sub. (9) related to a taxpayer's remaining net income is a negative  
15 number and the denominator of the sales factor under sub. (9) related to a taxpayer's  
16 remaining net income is a positive number, a negative number, or zero, none of the  
17 taxpayer's remaining net income is apportioned to this state. 2001

18 (c) 1. For taxable years beginning before January 1, ~~2005~~, if the numerator of  
19 the sales factor under sub. (9) related to a taxpayer's remaining net income is a  
20 positive number and the denominator of the sales factor under sub. (9) related to a  
21 taxpayer's remaining net income is zero or a negative number, the sales factor under  
22 sub. (9) is one. 2002

23 2. For taxable years beginning after December 31, ~~2004~~, if the numerator of the  
24 sales factor under sub. (9) related to a taxpayer's remaining net income is a positive  
25 number and the denominator of the sales factor under sub. (9) related to a taxpayer's

↓

1 remaining net income is zero or a negative number, all of the taxpayer's remaining  
2 net income is apportioned to this state.

END OF INSERT 8-13

3 ~~3. Page 12, line 21. after that line insert.~~

4 SECTION ~~28m.~~ 71.45 (3e) of the statutes is created to read:

5 71.45 (3e) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
6 beginning before January 1, ~~2000~~<sup>2002</sup>, if both the numerator and the denominator used  
7 to determine the percentage under sub. (3) (a) related to a taxpayer's net income are  
8 zero, the percentage under sub. (3) (a) is eliminated from the apportionment formula  
9 to determine the taxpayer's income under sub. (3).

10 2. For taxable years beginning after December 31, ~~2004~~<sup>2001</sup>, if both the numerator  
11 and the denominator used to determine the percentage under sub. (3) (a) related to  
12 a taxpayer's net income are zero, none of the taxpayer's net income is apportioned  
13 to this state.

14 (b) 1. For taxable years beginning before January 1, ~~2005~~<sup>2002</sup>, if the numerator  
15 used to determine the percentage under sub. (3) (a) related to a taxpayer's net income  
16 is a negative number and the denominator used to determine the percentage under  
17 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,  
18 or zero, the percentage under sub. (3) (a) is zero.

19 2. For taxable years beginning after December 31, ~~2004~~<sup>2001</sup>, if the numerator used  
20 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is  
21 a negative number and the denominator used to determine the percentage under  
22 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,  
23 or zero, none of the taxpayer's net income is apportioned to this state.

INSERT 12-24

1

(c) 1. For taxable years beginning before January 1, ~~2005~~<sup>2002</sup>, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage under sub. (3) (a) is one.

6

2. For taxable years beginning after December 31, ~~2004~~<sup>2001</sup>, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is zero or a negative number, all of the taxpayer's net income is apportioned to this state.

END OF INSERT  
12-21

11

~~4. Page 13, line 12: after that line insert:~~

12

~~SECTION 30m. Initial applicability.~~

13

~~SINGLE SALES FACTOR APPORTIONMENT.~~ The treatment of section 71.45 (3) (intro.), (a), and (b) and (3m) of the statutes first applies to taxable years beginning after December 31, ~~2002~~<sup>2001</sup>.

16

(END)

INSERT 13-12

then number

50214/1dn  
UK

date

Ziegelbauer:

Representative Ziegelbauer:

Under this substitute amendment, single sales  
= factor apportionment begins with taxable <sup>years</sup> years  
beginning on January 1, 2002.

UK

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0214/1dn  
JK:cjs:jf

October 19, 2001

Representative Ziegelbauer:

Under this substitute amendment, single sales factor apportionment begins with taxable years beginning on January 1, 2002.

Joseph T. Kreye  
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