

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-AB1)

Received: **03/07/2002**

Received By: **jkreye**

Wanted: **Today**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Shanovich (RR)**

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**

Pre Topic:

LFB:.....Shanovich (RR) -

Topic:

Omnibus motion: sales factor apportionment formula

Instructions:

See Attached

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>
/1	jkreye 03/07/2002	jdyer 03/07/2002	jfrantze 03/07/2002	_____	lrb_docadmin 03/07/2002		

FE Sent For:

<END>

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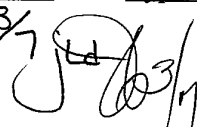
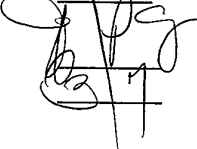
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FE Sent For:

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but retain the current levy rate limit of 1.5 mills on the levy for all purposes except debt service. Delete the proposed 10% limit on increases in program fees charged students in 2002-03.

E. Wage Claim Liens. Modify the state wage payment and collection law to delete the requirement that a lien of a financial institution that originates before a wage claim lien takes effect takes precedence over the wage claim lien. Require that the change in precedence applies retroactively beginning with wage claim liens filed after February 1, 1998.

F. Earned Income Tax Credit. Utilize TANF funding for the eligible portion of the projected increase in the cost of the EITC in 2002-03 by: (a) providing \$2,960,000 in additional TANF funds in 2002-03; and (b) reducing estimated expenditures from the GPR sum sufficient EITC appropriation by \$2,960,000 in that year. [The TANF funds would be budgeted as FED in DWD and also as PR-S under Shared Revenue and Tax Relief.]

G. Sales Factor of Apportionment Formula. Starting with tax years beginning on or after January 1, 2004, increase the sales factor to represent 55% of the apportionment formula used under the state income and franchise tax to apportion the income of corporations (including insurance companies, financial institutions, and gas, electric and telecommunications utilities), nonresidential individuals, and estate and trusts. Decrease the payroll and property factors to each represent 22.5% of the apportionment formula. [There would be no fiscal effect in the current biennium. However, it is estimated that state income and franchise tax revenues would be reduced by \$4.0 million in 2003-04 and \$8.8 million annually thereafter.]

H. State References to Federal Depreciation Provisions. Delete current law provisions that permit taxpayers to compute amortization or depreciation under the federal Internal Revenue Code in effect for the tax year for which the return is filed and provide that federal amortization and depreciation provisions could be adopted for state tax purposes only after action by the Legislature.

[Change to Bill: \$134,168,700 GPR, \$200,000,000 GPR-REV, -\$200,000,000 GPR-Lapse, \$2,960,000 FED and \$2,960,000 PR]



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2322/1

January 2002 Special Session

JK:.....

TODAY

jd

LFB:.....Shanovich (RR) – Omnibus motion: sales factor apportionment formula

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 1

W 3-7-02

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

2 1. Page 91, line 3: after that line insert:

3 "SECTION ^{170c}~~77~~ 71.04 (4) [✓] of the statutes is renumbered 71.04(4)(intro.) and
4 amended to read:

5 71.04 (4) (intro.) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA
6 Nonresident individuals and nonresident estates and trusts engaged in business
7 within and without the state shall be taxed only on such income as is derived from
8 business transacted and property located within the state. The amount of such
9 income attributable to Wisconsin may be determined by an allocation and separate
10 accounting thereof, when the business of such nonresident individual or nonresident
11 estate or trust within the state is not an integral part of a unitary business, but the

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

13 History: 1987 a. 312; 1987 a. 411 ss. 34 to 40, 61; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39, 189, 269; 1993 a. 112, 204, 491; 1995 a. 27; 1997 a. 27, 237; 1999 a. 9.

^{170d}
SECTION ~~71~~ 71.04 (4) (a) of the statutes is created to read:

14 71.04 (4) (a) For taxable years beginning before January 1, 2004, an
15 apportionment fraction composed of a sales factor under sub. (7) ✓ representing 50%
16 of the fraction, a property factor under sub. (5) ✓ representing 25% of the fraction, and
17 a payroll factor under sub. (6) ✓ representing 25% of the fraction.

^{170e}
SECTION ~~71~~ 71.04 (4) (b) ✓ of the statutes is created to read:

19 71.04 (4) (b) For taxable years beginning after December 31, 2003, an
20 apportionment fraction composed of a sales factor under sub. (7) representing 55%
21 of the fraction, a property factor under sub. (5) representing 22.5% of the fraction,
22 and a payroll factor under sub. (6) ✓ representing 22.5% of the fraction.

^{170f}
SECTION ~~71~~ 71.04 (4) (c) ✓ of the statutes is created to read:

1 71.04 (4) (c) For taxable years beginning after December 31, 2003, the
2 apportionment fraction for the remaining net income of a financial organization shall
3 include a sales factor that represents 55% of the apportionment fraction, as
4 determined by rule by the department.

5 SECTION ^{170g} ~~170~~ 71.04 (8) (b) [✓] of the statutes is renumbered 71.04 (8) (b) 1. and
6 amended to read:

7 71.04 (8) (b) 1. ~~Public~~ For taxable years beginning before January 1, 2004,
8 “public utility”, as used in this section, means any business entity described under
9 subd. 2. [✓] and any business entity which owns or operates any plant, equipment,
10 property, franchise, or license for the transmission of communications or the
11 production, transmission, sale, delivery, or furnishing of electricity, water or steam,
12 the rates of charges for goods or services of which have been established or approved
13 by a federal, state or local government or governmental agency. “Public

14 2. In this section, for taxable years beginning after December 31, 2003, “public
15 utility” also means any business entity providing service to the public and engaged
16 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
17 regardless of whether or not the entity’s rates or charges for services have been
18 established or approved by a federal, state or local government or governmental
19 agency.

20 SECTION ^{170h} ~~170~~ 71.04 (8) (c) [✓] of the statutes is amended to read:

21 71.04 (8) (c) The net business income of railroads, sleeping car companies, car
22 line companies, pipeline companies, financial organizations, air carriers, and public
23 utilities requiring apportionment shall be apportioned pursuant to rules of the

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1 ~~representing 25% of the fraction and a payroll factor under sub. (8) representing 25%~~
2 ~~of the fraction. the following:~~

3 History: 1987 a. 312; 1987 a. 411 ss. 57, 62, 117 to 123; 1989 a. 31^{192f}; 1991 a. 39, 269; 1993 a. 112; 1997 a. 299; 1999 a. 9; 2001 a. 16.

3 SECTION ~~77~~⁷⁷. 71.25 (6) (a) of the statutes is created to read:

4 71.25 (6) (a) For taxable years beginning before January 1, 2004, an
5 apportionment fraction composed of a sales factor under sub. (9)[✓] representing 50%
6 of the fraction, a property factor under sub. (7)[✓] representing 25% of the fraction, and
7 a payroll factor under sub. (8)[✓] representing 25% of the fraction.

8 SECTION ~~77~~⁷⁷. 71.25 (6) (b)^{192g} of the statutes is created to read:

9 71.25 (6) (b) For taxable years beginning after December 31, 2003, an
10 apportionment fraction composed of a sales factor under sub. (9) representing 55%
11 of the fraction, a property factor under sub. (7) representing 22.5% of the fraction,
12 and a payroll factor under sub. (8) representing 22.5% of the fraction.

13 SECTION ~~77~~⁷⁷. 71.25 (6) (c)^{192h} of the statutes is created to read:

14 71.25 (6) (c) For taxable years beginning after December 31, 2003,[✓] the
15 apportionment fraction for the remaining net income of a financial organization shall
16 include a sales factor that represents 55% of the apportionment fraction, as
17 determined by rule by the department.

18 SECTION ~~77~~⁷⁷. 71.25 (10) (b)^{192j} of the statutes is renumbered 71.25 (10) (b) 1. and
19 amended to read:

20 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,
21 2004, "public utility" means any business entity described under subd. 2. and any
22 business entity which owns or operates any plant, equipment, property, franchise,
23 or license for the transmission of communications or the production, transmission,
24 sale, delivery, or furnishing of electricity, water or steam the rates of charges for

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380

1 goods or services of which have been established or approved by a federal, state or
2 local government or governmental agency. “Public

3 2. In this section, for taxable years beginning after December 31, 2003, “public
4 utility” also means any business entity providing service to the public and engaged
5 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
6 regardless of whether or not the entity’s rates or charges for services have been
7 established or approved by a federal, state or local government or governmental
8 agency.

9 SECTION ^{192k}~~PR~~. 71.25 (10) (c) ✓ of the statutes is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 57, 62, 117 to 123; 1989 a. 31; 1991 a. 39, 269; 1993 a. 112; 1997 a. 299; 1999 a. 9; 2001 a. 16.

15 **3.** Page 160, line 7: after that line insert:

16 “SECTION ^{231c}~~PR~~. 71.45 (3) (intro.) ✓ of the statutes is amended to read:

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

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1 ~~measure of the franchise tax an amount calculated by multiplying such adjusted~~
2 ~~federal taxable income~~ by the arithmetic average of the following 2 percentages:

3 SECTION ^{231d} ~~71~~. 71.45 (3) (a) [✓] of the statutes is amended to read:

4 71.45 (3) (a) The Subject to sub. (3d),[✓] the percentage of total determined by
5 dividing the sum of direct premiums written on all property and risks for insurance
6 other than life insurance, with respects to all property and risks resident, located,
7 or to be performed in this state, and assumed premiums written for reinsurance,
8 other than life insurance, with respect to all property and risks resident, located, or
9 to be performed in this state, by the sum of direct premiums written for insurance
10 on all property and risks, other than life insurance,[✓] wherever located during the
11 taxable year, as reflects, and assumed premiums written on insurance for
12 reinsurance on all property and risks, other than life insurance, where the subject
13 of insurance was resident, located or to be performed outside this state wherever
14 located. In this paragraph,[✓] "direct premiums" means direct premiums as reported
15 for the taxable year on an annual statement that is filed by the insurer with the
16 commissioner of insurance under s. 601.42 (1g) (a).[✓] In this paragraph, "assumed
17 premiums" means assumed reinsurance premiums from domestic insurance
18 companies as reported for the taxable year on an annual statement that is filed with
19 the commissioner of insurance under s. 601.42 (1g) (a).

20 SECTION ^{231e} ~~71~~. 71.45 (3) (b) [✓] of the statutes is renumbered 71.45 (3) (b) 1. and
21 amended to read:

22 71.45 (3) (b) 1. The Subject to sub. (3d),[✓] the percentage of determined by
23 dividing the payroll, exclusive of life insurance payroll, paid in this state in the
24 taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in

1 the taxable year as ~~reflects such compensation paid outside this state.~~
2 Compensation.

3 2. Under subd. 1., payroll is paid ~~outside~~ in this state if the individual's service
4 is performed entirely ~~outside~~ in this state; or the individual's service is performed
5 both ~~within and without~~ in and outside this state, but the service performed ~~within~~
6 outside this state is incidental to the individual's service ~~without~~ in this state; or
7 some service is performed ~~without~~ in this state and the base of operations, or if there
8 is no base of operations, the place from which the service is directed or controlled is
9 ~~without~~ in this state, or the base of operations or the place from which the service is
10 directed or controlled is not in any state in which some part of the service is
11 performed, but the individual's residence is ~~outside~~ in this state.

12 SECTION ²³¹⁴ ~~71~~. 71.45 (3d) [✓] of the statutes is created to read:

13 71.45 (3d) PREMIUMS FACTOR; DOMESTIC INSURERS. (a) For taxable years
14 beginning after December 31, 2003, a domestic insurer that is subject to
15 apportionment under sub. (3) [✓] and this subsection shall multiply the net income
16 figure derived by the application of sub. (2) [✓] by an apportionment fraction composed
17 of the percentage under sub. (3) (a) representing 55% of the fraction and the
18 percentage under sub. (3) (b) 1. [✓] representing 45% of the fraction.

19 SECTION ²³¹⁹ ~~71~~. 71.45 (3m) [✓] of the statutes is amended to read:

20 71.45 (3m) ARITHMETIC AVERAGE. The Except as provided in sub. (3d), the
21 arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to the
22 net income figure arrived at by the successive application of sub. (2) (a) and (b) with
23 respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which have
24 collected received premiums, other than life insurance premiums, written upon for
25 insurance, ~~other than life insurance, where the subject of such insurance was on~~

1 property or risks resident, located or to be performed outside this state, to arrive at
2 Wisconsin income constituting the measure of the franchise tax.” ✓

3 **4.** Page 394, line 11: after that line insert:

4 “(2b) INCOME APPORTIONMENT FOR FINANCIAL ORGANIZATIONS; RULES. The
5 department of revenue shall submit in proposed form rules related to the
6 apportionment of the income of financial organizations under sections 71.04 (4) (c) ✓
7 and 71.25 (6) (c) ✓ of the statutes, as created by this act, to the legislative council staff
8 under section 227.15 (1) of the statutes no later than the first day of the 4th month
9 beginning after the effective date of this subsection.” ✓

10 **5.** Page 458, line 10: after that line insert:

11 “(2b) SALES FACTOR APPORTIONMENT. The treatment of section 71.45 (3) (intro.), ✓
12 (a), ✓ and (b) and (3m) ✓ of the statutes first applies to taxable years beginning after
13 December 31, 2003.”

14 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2322/1
JK:jld:jf

LFB:.....Shanovich (RR) – Omnibus motion: sales factor apportionment formula

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 1

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

2 1. Page 91, line 3: after that line insert:

3 “SECTION 170c. 71.04 (4) of the statutes is renumbered 71.04 (4) (intro.) and
4 amended to read:

5 71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. (intro.)
6 Nonresident individuals and nonresident estates and trusts engaged in business
7 within and without the state shall be taxed only on such income as is derived from
8 business transacted and property located within the state. The amount of such
9 income attributable to Wisconsin may be determined by an allocation and separate
10 accounting thereof, when the business of such nonresident individual or nonresident
11 estate or trust within the state is not an integral part of a unitary business, but the

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

13 **SECTION 170d.** 71.04 (4) (a) of the statutes is created to read:

14 71.04 (4) (a) For taxable years beginning before January 1, 2004, an
15 apportionment fraction composed of a sales factor under sub. (7) representing 50%
16 of the fraction, a property factor under sub. (5) representing 25% of the fraction, and
17 a payroll factor under sub. (6) representing 25% of the fraction.

18 **SECTION 170e.** 71.04 (4) (b) of the statutes is created to read:

19 71.04 (4) (b) For taxable years beginning after December 31, 2003, an
20 apportionment fraction composed of a sales factor under sub. (7) representing 55%
21 of the fraction, a property factor under sub. (5) representing 22.5% of the fraction,
22 and a payroll factor under sub. (6) representing 22.5% of the fraction.

23 **SECTION 170f.** 71.04 (4) (c) of the statutes is created to read:

24 71.04 (4) (c) For taxable years beginning after December 31, 2003, the
25 apportionment fraction for the remaining net income of a financial organization shall

1 include a sales factor that represents 55% of the apportionment fraction, as
2 determined by rule by the department.

3 **SECTION 170g.** 71.04 (8) (b) of the statutes is renumbered 71.04 (8) (b) 1. and
4 amended to read:

5 71.04 (8) (b) 1. “Public For taxable years beginning before January 1, 2004,
6 “public utility”, as used in this section, means any business entity described under
7 subd. 2. and any business entity which owns or operates any plant, equipment,
8 property, franchise, or license for the transmission of communications or the
9 production, transmission, sale, delivery, or furnishing of electricity, water or steam,
10 the rates of charges for goods or services of which have been established or approved
11 by a federal, state or local government or governmental agency. “Public

12 2. In this section, for taxable years beginning after December 31, 2003, “public
13 utility” also means any business entity providing service to the public and engaged
14 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
15 regardless of whether or not the entity’s rates or charges for services have been
16 established or approved by a federal, state or local government or governmental
17 agency.

18 **SECTION 170h.** 71.04 (8) (c) of the statutes is amended to read:

19 71.04 (8) (c) The net business income of railroads, sleeping car companies, car
20 line companies, pipeline companies, financial organizations, air carriers, and public
21 utilities requiring apportionment shall be apportioned pursuant to rules of the
22 department of revenue, but the income taxed is limited to the income derived from
23 business transacted and property located within the state.”.

24 **2.** Page 111, line 10: after that line insert:

1 “SECTION 192e. 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and
2 amended to read:

3 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.
4 (intro.) Corporations engaged in business within and without the state shall be taxed
5 only on such income as is derived from business transacted and property located
6 within the state. The amount of such income attributable to Wisconsin may be
7 determined by an allocation and separate accounting thereof, when the business of
8 such corporation within the state is not an integral part of a unitary business, but
9 the department of revenue may permit an allocation and separate accounting in any
10 case in which it is satisfied that the use of such method will properly reflect the
11 income taxable by this state. In all cases in which allocation and separate accounting
12 is not permissible, the determination shall be made in the following manner: for all
13 businesses except air carriers, financial organizations, pipeline companies, public
14 utilities, railroads, sleeping car companies, car line companies, and corporations or
15 associations that are subject to a tax on unrelated business income under s. 71.26 (1)
16 (a) there shall first be deducted from the total net income of the taxpayer the part
17 thereof (less related expenses, if any) that follows the situs of the property or the
18 residence of the recipient. The remaining net income shall be apportioned to
19 Wisconsin this state by use of an apportionment fraction composed of a sales factor
20 under sub. (9) representing 50% of the fraction, a property factor under sub. (7)
21 representing 25% of the fraction and a payroll factor under sub. (8) representing 25%
22 of the fraction. the following:

23 SECTION 192f. 71.25 (6) (a) of the statutes is created to read:

24 71.25 (6) (a) For taxable years beginning before January 1, 2004, an
25 apportionment fraction composed of a sales factor under sub. (9) representing 50%

1 of the fraction, a property factor under sub. (7) representing 25% of the fraction, and
2 a payroll factor under sub. (8) representing 25% of the fraction.

3 **SECTION 192g.** 71.25 (6) (b) of the statutes is created to read:

4 71.25 (6) (b) For taxable years beginning after December 31, 2003, an
5 apportionment fraction composed of a sales factor under sub. (9) representing 55%
6 of the fraction, a property factor under sub. (7) representing 22.5% of the fraction,
7 and a payroll factor under sub. (8) representing 22.5% of the fraction.

8 **SECTION 192h.** 71.25 (6) (c) of the statutes is created to read:

9 71.25 (6) (c) For taxable years beginning after December 31, 2003, the
10 apportionment fraction for the remaining net income of a financial organization shall
11 include a sales factor that represents 55% of the apportionment fraction, as
12 determined by rule by the department.

13 **SECTION 192j.** 71.25 (10) (b) of the statutes is renumbered 71.25 (10) (b) 1. and
14 amended to read:

15 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,
16 2004, “public utility” means any business entity described under subd. 2. and any
17 business entity which owns or operates any plant, equipment, property, franchise,
18 or license for the transmission of communications or the production, transmission,
19 sale, delivery, or furnishing of electricity, water or steam the rates of charges for
20 goods or services of which have been established or approved by a federal, state or
21 local government or governmental agency. “Public

22 2. In this section, for taxable years beginning after December 31, 2003, “public
23 utility” also means any business entity providing service to the public and engaged
24 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
25 regardless of whether or not the entity’s rates or charges for services have been

1 established or approved by a federal, state or local government or governmental
2 agency.

3 **SECTION 192k.** 71.25 (10) (c) of the statutes is amended to read:

4 71.25 (10) (c) The net business income of railroads, sleeping car companies, car
5 line companies, pipeline companies, financial organizations, air carriers, and public
6 utilities requiring apportionment shall be apportioned pursuant to rules of the
7 department of revenue, but the income taxed is limited to the income derived from
8 business transacted and property located within the state.”.

9 **3.** Page 160, line 7: after that line insert:

10 **“SECTION 231c.** 71.45 (3) (intro.) of the statutes is amended to read:

11 71.45 (3) APPORTIONMENT. (intro.) ~~With respect~~ Except as provided in sub. (3d),
12 to determine Wisconsin income for purposes of the franchise tax, domestic insurers
13 not engaged in the sale of life insurance but which that, in the taxable year, have
14 collected received premiums, other than life insurance premiums, written on
15 subjects of for insurance on property or risks resident, located or to be performed
16 outside this state, ~~there shall be subtracted from multiply~~ the net income figure
17 derived by application of sub. (2) (a) ~~to arrive at Wisconsin income constituting the~~
18 ~~measure of the franchise tax an amount calculated by multiplying such adjusted~~
19 ~~federal taxable income by the arithmetic average of the following 2 percentages:~~

20 **SECTION 231d.** 71.45 (3) (a) of the statutes is amended to read:

21 71.45 (3) (a) The Subject to sub. (3d), the percentage of total determined by
22 dividing the sum of direct premiums written on all property and risks for insurance
23 other than life insurance, with respects to all property and risks resident, located,
24 or to be performed in this state, and assumed premiums written for reinsurance.

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

13 **SECTION 231e.** 71.45 (3) (b) of the statutes is renumbered 71.45 (3) (b) 1. and
14 amended to read:

15 71.45 (3) (b) 1. The Subject to sub. (3d), the percentage of determined by
16 dividing the payroll, exclusive of life insurance payroll, paid in this state in the
17 taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in
18 the taxable year as reflects such compensation paid outside this state.
19 Compensation.

20 2. Under subd. 1., payroll is paid outside in this state if the individual's service
21 is performed entirely outside in this state; or the individual's service is performed
22 both within and without in and outside this state, but the service performed within
23 outside this state is incidental to the individual's service without in this state; or
24 some service is performed without in this state and the base of operations, or if there
25 is no base of operations, the place from which the service is directed or controlled is

1 ~~without~~ in this state, or the base of operations or the place from which the service is
2 directed or controlled is not in any state in which some part of the service is
3 performed, but the individual's residence is ~~outside~~ in this state.

4 **SECTION 231f.** 71.45 (3d) of the statutes is created to read:

5 71.45 (3d) PREMIUMS FACTOR; DOMESTIC INSURERS. For taxable years beginning
6 after December 31, 2003, a domestic insurer that is subject to apportionment under
7 sub. (3) and this subsection shall multiply the net income figure derived by the
8 application of sub. (2) by an apportionment fraction composed of the percentage
9 under sub. (3) (a) representing 55% of the fraction and the percentage under sub. (3)
10 (b) 1. representing 45% of the fraction.

11 **SECTION 231g.** 71.45 (3m) of the statutes is amended to read:

12 71.45 (3m) ARITHMETIC AVERAGE. ~~The~~ Except as provided in sub. (3d), the
13 arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to the
14 net income figure arrived at by the successive application of sub. (2) (a) and (b) with
15 respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which have
16 ~~collected~~ received premiums, ~~other than life insurance premiums,~~ written upon for
17 ~~insurance, other than life insurance, where the subject of such insurance was on~~
18 property or risks resident, located or to be performed outside this state, to arrive at
19 Wisconsin income constituting the measure of the franchise tax.”.

20 **4.** Page 394, line 11: after that line insert:

21 “(2b) INCOME APPORTIONMENT FOR FINANCIAL ORGANIZATIONS; RULES. The
22 department of revenue shall submit in proposed form rules related to the
23 apportionment of the income of financial organizations under sections 71.04 (4) (c)
24 and 71.25 (6) (c) of the statutes, as created by this act, to the legislative council staff

1 under section 227.15 (1) of the statutes no later than the first day of the 4th month
2 beginning after the effective date of this subsection.”.

3 **5.** Page 458, line 10: after that line insert:

4 “(2b) SALES FACTOR APPORTIONMENT. The treatment of section 71.45 (3) (intro.),
5 (a), and (b) and (3m) of the statutes first applies to taxable years beginning after
6 December 31, 2003.”.

7 (END)