

BILL HISTORY FOR SENATE BILL 197 (LRB -2520)

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

2003

06-12. S.	Introduced by Senators Stepp, Kanavas, Panzer, Welch, Plale, Roessler, Brown, Kedzie, Leibham, Reynolds, A. Lasec, Zien, Darling, S. Fitzgerald, Lazich, Harsdorf and Wirch; cosponsored by Representatives Gard, Ladwig, Jensen, McCormick, Suder, Gunderson, J. Fitzgerald, Huebsch, Ziegelbauer, Gielow, Grothman, Nischke, Kreibich, Jeskewitz, M. Lehman, LeMahieu, Nass, Musser, Olsen and Albers.	
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06-13. S.	Fiscal estimate received.	
06-13. S.	Executive action taken.	
06-16. S.	Report introduction of Senate Substitute Amendment 1 recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0 (LRB s0108)	222
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06-16. S.	Available for scheduling.	
06-16. S.	Placed on calendar 6-17-2003 by committee on Senate Organization.	
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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 197**

June 16, 2003 – Offered by COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION
AND HOUSING.

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

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

10 **SECTION 1.** 71.04 (4) of the statutes is renumbered 71.04 (4) (intro.) and
11 amended to read:

2-12 (SAD)

1 71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. (intro.)
2 Nonresident individuals and nonresident estates and trusts engaged in business
3 within and without the state shall be taxed only on such income as is derived from
4 business transacted and property located within the state. The amount of such
5 income attributable to Wisconsin may be determined by an allocation and separate
6 accounting thereof, when the business of such nonresident individual or nonresident
7 estate or trust within the state is not an integral part of a unitary business, but the
8 department of revenue may permit an allocation and separate accounting in any case
9 in which it is satisfied that the use of such method will properly reflect the income
10 taxable by this state. In all cases in which allocation and separate accounting is not
11 permissible, the determination shall be made in the following manner: for all
12 businesses except air carriers, financial organizations, pipeline companies, public
13 utilities, railroads, sleeping car companies and car line companies there shall first
14 be deducted from the total net income of the taxpayer the part thereof (less related
15 expenses, if any) that follows the situs of the property or the residence of the
16 recipient. The remaining net income shall be apportioned to Wisconsin this state by
17 use of an ~~apportionment fraction composed of a sales factor representing 50% of the~~
18 ~~fraction, a property factor representing 25% of the fraction and a payroll factor~~
19 ~~representing 25% of the fraction.~~ the following:

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

21 71.04 (4) (a) For taxable years beginning before January 1, 2006, an
22 apportionment fraction composed of a sales factor under sub. (7) representing 50%
23 of the fraction, a property factor under sub. (5) representing 25% of the fraction, and
24 a payroll factor under sub. (6) representing 25% of the fraction.

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

1 71.04 (4) (b) For taxable years beginning after December 31, 2005, and before
2 January 1, 2007, an apportionment fraction composed of a sales factor under sub. (7)
3 representing 60% of the fraction, a property factor under sub. (5) representing 20%
4 of the fraction, and a payroll factor under sub. (6) representing 20% of the fraction.

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

6 71.04 (4) (c) For taxable years beginning after December 31, 2006, and before
7 January 1, 2008, an apportionment fraction composed of a sales factor under sub. (7)
8 representing 80% of the fraction, a property factor under sub. (5) representing 10%
9 of the fraction, and a payroll factor under sub. (6) representing 10% of the fraction.

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

11 71.04 (4) (d) For taxable years beginning after December 31, 2007, an
12 apportionment fraction composed of the sales factor under sub. (7).

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

14 71.04 (4) (e) For taxable years beginning after December 31, 2005, and before
15 January 1, 2008, the apportionment fraction for the remaining net income of a
16 financial organization shall include a sales factor that represents more than 50% of
17 the apportionment fraction, as determined by rule by the department. For taxable
18 years beginning after December 31, 2007, the apportionment fraction for the
19 remaining net income of a financial organization is composed of a sales factor, as
20 determined by rule by the department.

21 **SECTION 7.** 71.04 (4m) of the statutes is created to read:

22 71.04 (4m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years
23 beginning before January 1, 2008, if both the numerator and the denominator of the
24 sales factor under sub. (7) related to a taxpayer's remaining net income are zero, the

1 sales factor under sub. (7) is eliminated from the apportionment formula to
2 determine the taxpayer's remaining net income under sub. (4).

3 2. For taxable years beginning after December 31, 2007, if both the numerator
4 and the denominator of the sales factor under sub. (7) related to a taxpayer's
5 remaining net income are zero, none of the taxpayer's remaining net income is
6 apportioned to this state.

7 (b) 1. For taxable years beginning before January 1, 2008, if the numerator of
8 the sales factor under sub. (7) related to a taxpayer's remaining net income is a
9 negative number and the denominator of the sales factor under sub. (7) related to a
10 taxpayer's remaining net income is a positive number, a negative number, or zero,
11 the sales factor under sub. (7) is zero.

12 2. For taxable years beginning after December 31, 2007, if the numerator of the
13 sales factor under sub. (7) related to a taxpayer's remaining net income is a negative
14 number and the denominator of the sales factor under sub. (7) related to a taxpayer's
15 remaining net income is a positive number, a negative number, or zero, none of the
16 taxpayer's remaining net income is apportioned to this state.

17 (c) 1. For taxable years beginning before January 1, 2008, if the numerator of
18 the sales factor under sub. (7) related to a taxpayer's remaining net income is a
19 positive number and the denominator of the sales factor under sub. (7) related to a
20 taxpayer's remaining net income is zero or a negative number, the sales factor under
21 sub. (7) is one.

22 2. For taxable years beginning after December 31, 2007, if the numerator of the
23 sales factor under sub. (7) related to a taxpayer's remaining net income is a positive
24 number and the denominator of the sales factor under sub. (7) 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.

3 **SECTION 8.** 71.04 (5) (intro.) of the statutes is amended to read:

4 71.04 (5) PROPERTY FACTOR. (intro.) For purposes of sub. (4) and for taxable
5 years beginning before January 1, 2008:

6 **SECTION 9.** 71.04 (6) (intro.) of the statutes is amended to read:

7 71.04 (6) PAYROLL FACTOR. (intro.) For purposes of sub. (4) and for taxable years
8 beginning before January 1, 2008:

9 **SECTION 10.** 71.04 (7) (d) of the statutes is amended to read:

10 71.04 (7) (d) Sales, other than sales of tangible personal property, are in this
11 state if the income-producing activity is performed in this state. If the
12 income-producing activity is performed both in and outside this state the sales shall
13 be divided between those states having jurisdiction to tax such business in
14 proportion to the direct costs of performance incurred in each such state in rendering
15 this service. Services performed in states which do not have jurisdiction to tax the
16 business shall be deemed to have been performed in the state to which compensation
17 is allocated by ~~sub. s.~~ 71.04 (6), 2001 stats.

18 **SECTION 11.** 71.04 (8) (b) of the statutes is renumbered 71.04 (8) (b) 1. and
19 amended to read:

20 71.04 (8) (b) 1. “Public For taxable years beginning before January 1, 2006,
21 “public utility”, as used in this section, means any business entity described under
22 subd. 2. and any business entity which owns or operates any plant, equipment,
23 property, franchise, or license for the transmission of communications or the
24 production, transmission, sale, delivery, or furnishing of electricity, water or steam,

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

3 2. In this section, for taxable years beginning after December 31, 2005, “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 12.** 71.04 (8) (c) of the statutes is amended to read:

10 71.04 (8) (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.

15 **SECTION 13.** 71.04 (10) of the statutes is amended to read:

16 71.04 (10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident
17 individual or nonresident estate or trust engaged in business ~~within~~ in and ~~without~~
18 ~~the outside of this state of Wisconsin~~ and required to apportion its income as provided
19 in this section, it shall be shown to the satisfaction of the department of revenue that
20 the use of any one of the 3 factors provided under sub. (4) gives an unreasonable or
21 inequitable final average ratio because of the fact that such nonresident individual
22 or nonresident estate or trust does not employ, to any appreciable extent in its trade
23 or business in producing the income taxed, the factors made use of in obtaining such
24 ratio, this factor may, with the approval of the department of revenue, be omitted in

1 obtaining the final average ratio which is to be applied to the remaining net income.

2 This subsection does not apply to taxable years beginning after December 31, 2007.

3 SECTION 14. 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and
4 amended to read:

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

25 SECTION 15. 71.25 (6) (a) of the statutes is created to read:

1 71.25 (6) (a) For taxable years beginning before January 1, 2006, an
2 apportionment fraction composed of a sales factor under sub. (9) representing 50%
3 of the fraction, a property factor under sub. (7) representing 25% of the fraction, and
4 a payroll factor under sub. (8) representing 25% of the fraction.

5 **SECTION 16.** 71.25 (6) (b) of the statutes is created to read:

6 71.25 (6) (b) For taxable years beginning after December 31, 2005, and before
7 January 1, 2007, an apportionment fraction composed of a sales factor under sub. (9)
8 representing 60% of the fraction, a property factor under sub. (7) representing 20%
9 of the fraction, and a payroll factor under sub. (8) representing 20% of the fraction.

10 **SECTION 17.** 71.25 (6) (c) of the statutes is created to read:

11 71.25 (6) (c) For taxable years beginning after December 31, 2006, and before
12 January 1, 2008, an apportionment fraction composed of a sales factor under sub. (9)
13 representing 80% of the fraction, a property factor under sub. (7) representing 10%
14 of the fraction, and a payroll factor under sub. (8) representing 10% of the fraction.

15 **SECTION 18.** 71.25 (6) (d) of the statutes is created to read:

16 71.25 (6) (d) For taxable years beginning after December 31, 2007, an
17 apportionment fraction composed of the sales factor under sub. (9).

18 **SECTION 19.** 71.25 (6) (e) of the statutes is created to read:

19 71.25 (6) (e) For taxable years beginning after December 31, 2005, and before
20 January 1, 2008, the apportionment fraction for the remaining net income of a
21 financial organization shall include a sales factor that represents more than 50% of
22 the apportionment fraction, as determined by rule by the department. For taxable
23 years beginning after December 31, 2007, the apportionment fraction for the
24 remaining net income of a financial organization is composed of a sales factor, as
25 determined by rule by the department.

1 **SECTION 20.** 71.25 (6m) of the statutes is created to read:

2 **71.25 (6m) APPORTIONMENT FORMULA COMPUTATION.** (a) 1. For taxable years
3 beginning before January 1, 2008, if both the numerator and the denominator of the
4 sales factor under sub. (9) related to a taxpayer's remaining net income are zero, the
5 sales factor under sub. (9) is eliminated from the apportionment formula to
6 determine the taxpayer's remaining net income under sub. (6).

7 2. For taxable years beginning after December 31, 2007, if both the numerator
8 and the denominator of the sales factor under sub. (9) related to a taxpayer's
9 remaining net income are zero, none of the taxpayer's remaining net income is
10 apportioned to this state.

11 (b) 1. For taxable years beginning before January 1, 2008, if the numerator of
12 the sales factor under sub. (9) related to a taxpayer's remaining net income is a
13 negative number and the denominator of the sales factor under sub. (9) related to a
14 taxpayer's remaining net income is a positive number, a negative number, or zero,
15 the sales factor under sub. (9) is zero.

16 2. For taxable years beginning after December 31, 2007, if the numerator of the
17 sales factor under sub. (9) related to a taxpayer's remaining net income is a negative
18 number and the denominator of the sales factor under sub. (9) related to a taxpayer's
19 remaining net income is a positive number, a negative number, or zero, none of the
20 taxpayer's remaining net income is apportioned to this state.

21 (c) 1. For taxable years beginning before January 1, 2008, if the numerator of
22 the sales factor under sub. (9) related to a taxpayer's remaining net income is a
23 positive number and the denominator of the sales factor under sub. (9) related to a
24 taxpayer's remaining net income is zero or a negative number, the sales factor under
25 sub. (9) is one.

1 2. For taxable years beginning after December 31, 2007, if the numerator of the
2 sales factor under sub. (9) related to a taxpayer's remaining net income is a positive
3 number and the denominator of the sales factor under sub. (9) related to a taxpayer's
4 remaining net income is zero or a negative number, all of the taxpayer's remaining
5 net income is apportioned to this state.

6 **SECTION 21.** 71.25 (7) (intro.) of the statutes is amended to read:

7 71.25 (7) PROPERTY FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable
8 years beginning before January 1, 2008:

9 **SECTION 22.** 71.25 (8) (intro.) of the statutes is amended to read:

10 71.25 (8) PAYROLL FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable
11 years beginning before January 1, 2008:

12 **SECTION 23.** 71.25 (9) (d) of the statutes is amended to read:

13 71.25 (9) (d) Sales, other than sales of tangible personal property, are in this
14 state if the income-producing activity is performed in this state. If the
15 income-producing activity is performed both in and outside this state the sales shall
16 be divided between those states having jurisdiction to tax such business in
17 proportion to the direct costs of performance incurred in each such state in rendering
18 this service. Services performed in states which do not have jurisdiction to tax the
19 business shall be deemed to have been performed in the state to which compensation
20 is allocated by ~~sub. s. 71.25 (8), 2001 stats.~~

21 **SECTION 24.** 71.25 (10) (b) of the statutes is renumbered 71.25 (10) (b) 1. and
22 amended to read:

23 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,
24 2006, "public utility" means any business entity described under subd. 2. and any
25 business entity which owns or operates any plant, equipment, property, franchise,

1 or license for the transmission of communications or the production, transmission,
2 sale, delivery, or furnishing of electricity, water or steam the rates of charges for
3 goods or services of which have been established or approved by a federal, state or
4 local government or governmental agency. “Public

5 2. In this section, for taxable years beginning after December 31, 2005, “public
6 utility” also means any business entity providing service to the public and engaged
7 in the transportation of goods and persons for hire, as defined in s. 194.01 (4),
8 regardless of whether or not the entity’s rates or charges for services have been
9 established or approved by a federal, state or local government or governmental
10 agency.

11 **SECTION 25.** 71.25 (10) (c) of the statutes is amended to read:

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

17 **SECTION 26.** 71.25 (11) of the statutes is amended to read:

18 71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation
19 engaged in business ~~within in~~ and ~~without the~~ outside of this state of Wisconsin and
20 required to apportion its income as provided in sub. (6), it shall be shown to the
21 satisfaction of the department of revenue that the use of any one of the 3 factors
22 provided in sub. (6) gives an unreasonable or inequitable final average ratio because
23 of the fact that such corporation does not employ, to any appreciable extent in its
24 trade or business in producing the income taxed, the factors made use of in obtaining
25 such ratio, this factor may, with the approval of the department of revenue, be

1 omitted in obtaining the final average ratio which is to be applied to the remaining
2 net income. This subsection does not apply to taxable years beginning after
3 December 31, 2007.

4 **SECTION 27.** 71.45 (3) (intro.) of the statutes is amended to read:

5 71.45 (3) APPORTIONMENT. (intro.) ~~With respect~~ Except as provided in sub. (3d),
6 to determine Wisconsin income for purposes of the franchise tax, domestic insurers
7 not engaged in the sale of life insurance but which that, in the taxable year, have
8 collected received premiums, other than life insurance premiums, written on
9 subjects of for insurance on property or risks resident, located or to be performed
10 outside this state, there shall be subtracted from multiply the net income figure
11 derived by application of sub. (2) (a) to arrive at Wisconsin income constituting the
12 measure of the franchise tax an amount calculated by multiplying such adjusted
13 federal taxable income by the arithmetic average of the following 2 percentages:

14 **SECTION 28.** 71.45 (3) (a) of the statutes is amended to read:

15 71.45 (3) (a) The Subject to sub. (3d), the percentage of total determined by
16 dividing the sum of direct premiums written on all property and risks for insurance
17 other than life insurance, with respect to all property and risks resident, located, or
18 to be performed in this state, and assumed premiums written for reinsurance, other
19 than life insurance, with respect to all property and risks resident, located, or to be
20 performed in this state, by the sum of direct premiums written for insurance on all
21 property and risks, other than life insurance, wherever located during the taxable
22 year, as reflects, and assumed premiums written on insurance for reinsurance on all
23 property and risks, other than life insurance, where the subject of insurance was
24 resident, located or to be performed outside this state wherever located. In this
25 paragraph, "direct premiums" means direct premiums as reported for the taxable

1 year on an annual statement that is filed by the insurer with the commissioner of
2 insurance under s. 601.42 (1g) (a). In this paragraph, “assumed premiums” means
3 assumed reinsurance premiums from domestic insurance companies as reported for
4 the taxable year on an annual statement that is filed with the commissioner of
5 insurance under s. 601.42 (1g) (a).

6 SECTION 29. 71.45 (3) (b) of the statutes is renumbered 71.45 (3) (b) 1. and
7 amended to read:

8 71.45 (3) (b) 1. The Subject to sub. (3d), the percentage of determined by
9 dividing the payroll, exclusive of life insurance payroll, paid in this state in the
10 taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in
11 the taxable year as reflects such compensation paid outside this state.
12 Compensation.

13 2. Under subd. 1., payroll is paid outside in this state if the individual’s service
14 is performed entirely outside in this state; or the individual’s service is performed
15 both within and without in and outside of this state, but the service performed within
16 outside of this state is incidental to the individual’s service without in this state; or
17 some service is performed without in this state and the base of operations, or if there
18 is no base of operations, the place from which the service is directed or controlled is
19 without in this state, or the base of operations or the place from which the service is
20 directed or controlled is not in any state in which some part of the service is
21 performed, but the individual’s residence is outside in this state.

22 SECTION 30. 71.45 (3d) of the statutes is created to read:

23 71.45 (3d) PHASE IN; DOMESTIC INSURERS. (a) For taxable years beginning after
24 December 31, 2005, and before January 1, 2007, a domestic insurer that is subject
25 to apportionment under sub. (3) and this subsection shall multiply the net income

1 figure derived by the application of sub. (2) by an apportionment fraction composed
2 of the percentage under sub. (3) (a) representing 60% of the fraction and the
3 percentage under sub. (3) (b) 1. representing 40% of the fraction.

4 (b) For taxable years beginning after December 31, 2006, and before January
5 1, 2008, a domestic insurer that is subject to apportionment under sub. (3) and this
6 subsection shall multiply the net income figure derived by the application of sub. (2)
7 by an apportionment fraction composed of the percentage under sub. (3) (a)
8 representing 80% of the fraction and the percentage under sub. (3) (b) 1. representing
9 20% of the fraction.

10 (c) For taxable years beginning after December 31, 2007, a domestic insurer
11 that is subject to apportionment under sub. (3) and this subsection shall multiply the
12 net income figure derived by the application of sub. (2) by the percentage under sub.
13 (3) (a).

14 **SECTION 31.** 71.45 (3e) of the statutes is created to read:

15 **71.45 (3e) APPORTIONMENT FORMULA COMPUTATION.** (a) 1. For taxable years
16 beginning before January 1, 2008, if both the numerator and the denominator used
17 to determine the percentage under sub. (3) (a) related to a taxpayer's net income are
18 zero, the percentage under sub. (3) (a) is eliminated from the apportionment formula
19 to determine the taxpayer's income under sub. (3).

20 2. For taxable years beginning after December 31, 2007, if both the numerator
21 and the denominator used to determine the percentage under sub. (3) (a) related to
22 a taxpayer's net income are zero, none of the taxpayer's net income is apportioned
23 to this state.

24 (b) 1. For taxable years beginning before January 1, 2008, if the numerator
25 used to determine the percentage under sub. (3) (a) related to a taxpayer's net income

1 is a negative number and the denominator used to determine the percentage under
2 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,
3 or zero, the percentage under sub. (3) (a) is zero.

4 2. For taxable years beginning after December 31, 2007, if the numerator used
5 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
6 a negative number and the denominator used to determine the percentage under
7 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,
8 or zero, none of the taxpayer's net income is apportioned to this state.

9 (c) 1. For taxable years beginning before January 1, 2008, if the numerator used
10 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
11 a positive number and the denominator used to determine the percentage under sub.
12 (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage
13 under sub. (3) (a) is one.

14 2. For taxable years beginning after December 31, 2007, if the numerator used
15 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
16 a positive number and the denominator used to determine the percentage under sub.
17 (3) (a) related to a taxpayer's net income is zero or a negative number, all of the
18 taxpayer's net income is apportioned to this state.

19 **SECTION 32.** 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 **SECTION 33. Nonstatutory provisions; revenue.**

4 (1) 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) (e)
7 and 71.25 (6) (e) 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 **SECTION 34. Initial applicability.**

11 (1) SINGLE SALES FACTOR APPORTIONMENT. The treatment of section 71.45 (3)
12 (intro.), (a), and (b) and (3m) of the statutes first applies to taxable years beginning
13 after December 31, 2005.

14 (END)

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 197**

June 20, 2003 - Offered by JOINT COMMITTEE ON FINANCE.

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓1. Page 2, line 12: after "organizations," insert "telecommunications

2-13 ✓
3 companies."

4 ✓2. Page 6, line 11: after "organizations" insert "telecommunications

6-11 ✓
5 companies."

6 ✓3. Page 7, line 15: after "organizations," insert "telecommunications

7-15 ✓
7 companies."

8 ✓4. Page 11, line 13: after "organizations" insert "telecommunications

11-13 ✓
9 companies."
10

(END)