

2003 DRAFTING REQUEST

Bill

Received: 04/10/2003

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Cathy Stepp (608) 266-1832

By/Representing: Jay Risch

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: YES

Requester's email: Sen.Stepp@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Single sales factor apportionment

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>
/P1	jkreye 04/10/2003	kfollett 04/11/2003 kfollett 04/16/2003		_____			
/P2			chaskett 04/16/2003	_____	lemery 04/16/2003		State

<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 05/16/2003	kfollett 05/16/2003	jfrantze 05/16/2003	_____	mbarman 05/16/2003		State
	jkreye 05/16/2003	kfollett 05/16/2003		_____			
/2			chaskett 05/19/2003	_____	sbasford 05/19/2003	lemery 06/05/2003	State

FE Sent For: 06/09/2003.

↳ ("1/2")

<END>

2003 DRAFTING REQUEST

Bill

Received: 04/10/2003

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Ted Kanavas (608) 266-9174

By/Representing: mike

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: YES

Requester's email: Sen.Kanavas@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Requestor changed to Senator Stepp 06-10-2003 Per JK & Mike from Kanavas office MB

Pre Topic:

No specific pre topic given

Topic:

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Instructions:

See Attached

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/2			chaskett 05/19/2003	_____	sbasford 05/19/2003	lemery 06/05/2003	State

FE Sent For:

<END>

06-09-2003
 ("12")
 see attached

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Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Ted Kanavas (608) 266-9174

By/Representing: mike

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Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - corp. inc. and fran.

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kanavas@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

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/P2			chaskett 04/16/2003	_____	lemery 04/16/2003		State

*Please
jacket for
Sen.
Step
Thanks.*

*For
Senate*

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **mike**

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Addl. Drafters:

Subject: **Tax - corp. inc. and fran.**

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/P2		12 kjf 5/16	chaskett 04/16/2003		lemery 04/16/2003		State

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/P2		11 kjb 5/16	chaskett 04/16/2003	_____	lemery 04/16/2003		State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

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Wanted: **As time permits**

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By/Representing: **mike**

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Addl. Drafters:

Subject: **Tax - corp. inc. and fran.**

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/P1	jkreye	1/P1 4/16 KJF	1/P1 cph 4/16	pg/cph 4/16			

FE Sent For:

<END>

Kreye, Joseph

From: Richards, Mike
Sent: Thursday, April 10, 2003 10:24 AM
To: Kreye, Joseph
Subject: Single Sales Factor

Joseph,

We would like to have drafted a single sales factor bill--basically, we want to see single sales implemented in this state. We would like to see single sales in the first year of the next biennium.

As a separate amendment, we would like to have a provision that would state that if a company adds 100 new positions, then they can phase in single sales right away.

ANY questions let me know.

If you are wondering why we have so many drafts coming to you, we are working on an Economic Growth Package.

Thanks in advance!

MICHAEL D. RICHARDS
Joint Committee on Finance Staffer
Office of State Senator Ted Kanavas
33rd Senate District
(608) 266-9174
Mike.Richards@legis.state.wi.us

2001 ASSEMBLY BILL 380

in 4-10-03

SOON

PWF

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.

Reger

D-N

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

2008

2008 ASSEMBLY BILL 380

2008
→ 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, ~~2003~~, 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.

2005 → 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, ~~2003~~, 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, ~~2003~~, 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. 2008

2008 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, ~~2003~~, 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. 2005

2007 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.

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 71.04 (4) (a) For taxable years beginning before January 1, ~~2003~~ ²⁰⁰⁶, 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, ~~2004~~ ²⁰⁰⁵ and before
 21 January 1, ~~2004~~ ²⁰⁰⁷, 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

SECTION 4

1 71.04 (4) (c) For taxable years beginning after December 31, ~~2003~~²⁰⁰⁶ and before
 2 January 1, ~~2005~~²⁰⁰⁸, 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~~²⁰⁰⁷, an
 7 apportionment fraction composed of the sales factor under sub. (7).

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~~²⁰⁰⁵ and before
 10 January 1, ~~2003~~²⁰⁰⁸, 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~~²⁰⁰⁷, 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.

16 SECTION ~~5~~[#] 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, ~~2004~~²⁰⁰⁸.

19 SECTION ~~6~~[#] 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, ~~2004~~²⁰⁰⁸.

22 SECTION ~~7~~[#] 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. 2001

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, ~~2004~~ 2006
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, ~~2004~~ 2005
16 "public 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

ASSEMBLY BILL 380

SECTION 11

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, 2004. ²⁰⁰⁷

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

ASSEMBLY BILL 380

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, ~~2008~~ ²⁰⁰⁶ 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, ~~2007~~ ²⁰⁰⁵ and before
 19 January 1, ~~2008~~ ²⁰⁰⁷, 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, ~~2008~~ ²⁰⁰⁶ and before
 24 January 1, ~~2009~~ ²⁰⁰⁸, 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~~ 2007 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, ~~2004~~ 2005 and before
8 January 1, ~~2007~~ 2008, 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~~ 2007 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, ~~2008~~ 2008

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, ~~2008~~ 2008

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~~ 2001 stats.

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

6 2006 71.25 (10) (b) 1. In this section, for taxable years beginning before January 1,

7 ~~2006~~ "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 2. In this section, for taxable years beginning after December 31, ~~2002~~ 2005 "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:

ASSEMBLY BILL 380

SECTION 24

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 2007

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 respect(s) 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

ASSEMBLY BILL 380

SECTION 27

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) PHASE IN; DOMESTIC INSURERS. (a) For taxable years beginning after
 7 December 31, ~~2002~~²⁰⁰⁵ and before January 1, ~~2004~~²⁰⁰⁷, 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. ²⁰⁰⁶

12 (b) For taxable years beginning after December 31, ~~2002~~²⁰⁰⁶ and before January
 13 1, ~~2005~~²⁰⁰⁸, 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. ²⁰⁰⁷

18 (c) For taxable years beginning after December 31, ~~2004~~²⁰⁰⁷, 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

ASSEMBLY BILL 380

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) (e)
10 and 71.25 (6) (e) 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

D- Note

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

October 9, 2001 - Offered by ECONOMIC DEVELOPMENT.

INSERT
4-15

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

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

3 ^gSECTION ~~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, ~~2007~~²⁰⁰⁸, 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). ²⁰⁰⁷

9 2. For taxable years beginning after December 31, ~~2004~~²⁰⁰⁷, 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~~²⁰⁰⁸ 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~~²⁰⁰⁷ 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~~²⁰⁰⁸ 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~~²⁰⁰⁷ 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

21 ~~2. Page 8, line 13: after that line insert:~~

22 SECTION 184c. 71.25 (6m) of the statutes is created to read:

23 71.25 (6m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years
24 beginning before January 1, ~~2005~~²⁰⁰⁸ if both the numerator and the denominator of the

INSERT
8-13

2008

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). 2007

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. 2008

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. 2007

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. 2008

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

INSERT
813



INSERT
813

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

4 SECTION ~~284c~~[#] 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, ²⁰⁰⁸~~2006~~, 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, ²⁰⁰⁷~~2004~~, 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, ²⁰⁰⁸~~2006~~, 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, ²⁰⁰⁷~~2004~~, 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
12-21

INSERT
12-21

2008

2007

1 (c) 1. For taxable years beginning before January 1, 2006, if the numerator used
2 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
3 a positive number and the denominator used to determine the percentage under sub.
4 (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage
5 under sub. (3) (a) is one.

6 2. For taxable years beginning after December 31, 2004, if the numerator used
7 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is
8 a positive number and the denominator used to determine the percentage under sub.
9 (3) (a) related to a taxpayer's net income is zero or a negative number, all of the
10 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 ~~(1k)~~ **SINGLE SALES FACTOR APPORTIONMENT.** The treatment of section 71.45 (3)
14 (intro.), (a), and (b) and (3m) of the statutes first applies to taxable years beginning
15 after December 31, 2002.

16 ~~(END)~~
2005

INSERT
13-12

2520/P/dv
JK: kjf

Date

Sen. Kanaras^{vas}:

Please review this draft carefully to ensure that it is consistent with your intent. To ensure that the bill has no fiscal effect in the 2003-~~2005~~ biennium and that calendar year and fiscal year taxpayers are treated equally, the bill first applies to taxable years beginning on January 1, 2006.

JK

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

LRB-2520/P2dn
JK:kjf:cph

April 16, 2003

Sen. Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. To ensure that the bill has no fiscal effect in the 2003-05 biennium and that calendar year and fiscal year taxpayers are treated equally, the bill first applies to taxable years beginning on January 1, 2006.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Jeremy — Ted Kanover CAB-2520

"net" of 100 employees — maintained
for a 3 year period

266-9174

Kreye, Joseph

From: Kreye, Joseph
Sent: Friday, May 16, 2003 9:17 AM
To: Shepherd, Jeremy
Subject: Suggested language for motion

2520

Jeremy,

The following is the language I would add to the draft, in the appropriate places with the appropriate cross-references, to address the senator's intent:

If a taxpayer subject to apportionment ^{has a net gain of in this state} hires 100 employees in any taxable year beginning after December 31, 2005, and before January 1, 2008, the taxpayer's remaining net income shall be apportioned to this state by an apportionment fraction composed of the sales factor beginning with the taxable year in which the employees are hired.

I hope this helps with regard to preparing a motion for Joint Finance.

Joseph T. Kreye
Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

except that if the taxpayer does not ~~maintain~~ retain mid employees for at least 3 taxable years, the taxpayer shall apportion the taxpayer's remaining net income for taxable year or pro-rated value