



2009 ASSEMBLY BILL 749

February 15, 2010 - Introduced by Representatives CLARK, FRISKE, MILROY, ZIGMUNT, RADCLIFFE, MOLEPSKE JR., HRAYCHUCK, SMITH, SOLETSKI, HILGENBERG, HIXSON, FIELDS, SINICKI, MURSAU, TOWNSEND, MEYER, PETROWSKI, SUDER, M. WILLIAMS, BALLWEG and NERISON, cosponsored by Senators HOLPERIN, KREITLOW, TAYLOR and A. LASEE. Referred to Committee on Forestry.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26
2 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4);
3 and **to create** 20.835 (2) (bc), 71.07 (3rm), 71.28 (3rm), 71.47 (3rm) and 560.209
4 of the statutes; **relating to:** an income and franchise tax credit for equipment
5 used to harvest or process woody biomass.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit in an amount equal to 10 percent of the amount that a taxpayer pays in a taxable year for equipment used exclusively to harvest or process woody biomass that is used as fuel or as a component of fuel. If the credit amount exceeds the amount of the taxpayer's tax liability, the taxpayer will receive a refund.

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:

6 **SECTION 1.** 20.835 (2) (bc) of the statutes is created to read:

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1 20.835 (2) (bc) *Woody biomass harvesting and processing credit.* A sum
2 sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm).

3 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

5 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
6 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
7 (3rm), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), and (8r) and not passed through
8 by a partnership, limited liability company, or tax-option corporation that has added
9 that amount to the partnership's, company's, or tax-option corporation's income
10 under s. 71.21 (4) or 71.34 (1k) (g).

11 **SECTION 3.** 71.07 (3rm) of the statutes is created to read:

12 71.07 (3rm) **WOODY BIOMASS HARVESTING AND PROCESSING CREDIT.** (a)
13 *Definitions.* In this subsection:

14 1. "Claimant" means a person who files a claim under this subsection.

15 2. "Used exclusively" means used to the exclusion of all other uses except for
16 use not exceeding 5 percent of total use.

17 3. "Woody biomass" means trees and woody plants, including limbs, tops,
18 needles, leaves, and other woody parts, grown in a forest or woodland or on
19 agricultural land.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
21 560.209, for taxable years beginning after December 31, 2008, and before January
22 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.02
23 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount
24 the claimant paid in the taxable year for equipment that is used exclusively to
25 harvest or process woody biomass that is used as fuel or as a component of fuel.

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1 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
2 amount that the claimant paid for expenses described under par. (b) that the
3 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

4 2. The aggregate amount of credits that a claimant may claim under this
5 subsection is \$100,000.

6 3. The maximum amount of the credits that may be claimed under this
7 subsection and ss. 71.28 (3rm) and 71.47 (3rm) is \$900,000, as allocated under s.
8 560.209.

9 4. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their payment of expenses under par. (b), except that the
12 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
13 A partnership, limited liability company, or tax-option corporation shall compute
14 the amount of credit that each of its partners, members, or shareholders may claim
15 and shall provide that information to each of them. Partners, members of limited
16 liability companies, and shareholders of tax-option corporations may claim the
17 credit in proportion to their ownership interest.

18 5. If 2 or more persons own and operate a woody biomass harvesting or
19 processing operation, each person may claim a credit under par. (b) in proportion to
20 his or her ownership interest, except that the aggregate amount of the credits
21 claimed by all persons who own and operate the operation shall not exceed \$100,000.

22 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
23 credit under s. 71.28 (4), applies to the credit under this subsection.

24 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
25 due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due

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1 shall be certified by the department of revenue to the department of administration
2 for payment by check, share draft, or other draft drawn from the appropriation
3 account under s. 20.835 (2) (bc).

4 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
5 28, is amended to read:

6 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
7 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
8 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
9 (3q), (3r), (3rm), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r), and
10 (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
11 (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
12 (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under
13 s. 71.07 (7), is less than the tax under this section, there is imposed on that natural
14 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
15 an alternative minimum tax computed as follows:

16 **SECTION 5.** 71.10 (4) (i) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is amended to read:

18 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
19 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
20 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
21 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
22 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
23 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
24 71.07 (3rm), film production services credit under s. 71.07 (5f), film production
25 company investment credit under s. 71.07 (5h), veterans and surviving spouses

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1 property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w),
2 beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income
3 tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes
4 withheld under subch. X.

5 **SECTION 6.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
6 amended to read:

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3s), (3t),
9 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall
10 be added to the partnership's income.

11 **SECTION 7.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
12 is amended to read:

13 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
14 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
15 (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through
16 by a partnership, limited liability company, or tax-option corporation that has added
17 that amount to the partnership's, limited liability company's, or tax-option
18 corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

19 **SECTION 8.** 71.28 (3rm) of the statutes is created to read:

20 71.28 (3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

21 *Definitions.* In this subsection:

22 1. "Claimant" means a person who files a claim under this subsection.

23 2. "Used exclusively" means used to the exclusion of all other uses except for
24 use not exceeding 5 percent of total use.

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1 3. “Woody biomass” means trees and woody plants, including limbs, tops,
2 needles, leaves, and other woody parts, grown in a forest or woodland or on
3 agricultural land.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
5 560.209, for taxable years beginning after December 31, 2008, and before January
6 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.23,
7 up to the amount of the tax, an amount equal to 10 percent of the amount the
8 claimant paid in the taxable year for equipment that is used exclusively to harvest
9 or process woody biomass that is used as fuel or as a component of fuel.

10 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
11 amount that the claimant paid for expenses described under par. (b) that the
12 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

13 2. The aggregate amount of credits that a claimant may claim under this
14 subsection is \$100,000.

15 3. The maximum amount of the credits that may be claimed under this
16 subsection and ss. 71.07 (3rm) and 71.47 (3rm) is \$900,000, as allocated under s.
17 560.209.

18 4. Partnerships, limited liability companies, and tax-option corporations may
19 not claim the credit under this subsection, but the eligibility for, and the amount of,
20 the credit are based on their payment of expenses under par. (b), except that the
21 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
22 A partnership, limited liability company, or tax-option corporation shall compute
23 the amount of credit that each of its partners, members, or shareholders may claim
24 and shall provide that information to each of them. Partners, members of limited

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1 liability companies, and shareholders of tax-option corporations may claim the
2 credit in proportion to their ownership interest.

3 5. If 2 or more persons own and operate a woody biomass harvesting or
4 processing operation, each person may claim a credit under par. (b) in proportion to
5 his or her ownership interest, except that the aggregate amount of the credits
6 claimed by all persons who own and operate the operation shall not exceed \$100,000.

7 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
8 under sub. (4), applies to the credit under this subsection.

9 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
10 due under s. 71.23, the amount of the claim not used to offset the tax due shall be
11 certified by the department of revenue to the department of administration for
12 payment by check, share draft, or other draft drawn from the appropriation account
13 under s. 20.835 (2) (bc).

14 **SECTION 9.** 71.30 (3) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
15 is amended to read:

16 71.30 (3) (f) The total of farmland preservation credit under subch. IX,
17 farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility
18 investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing
19 facility investment credit under s. 71.28 (3r), woody biomass harvesting and
20 processing credit under s. 71.28 (3rm), enterprise zone jobs credit under s. 71.28 (3w),
21 film production services credit under s. 71.28 (5f), film production company
22 investment credit under s. 71.28 (5h), beginning farmer and farm asset owner tax
23 credit under s. 71.28 (8r), and estimated tax payments under s. 71.29.

24 **SECTION 10.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
25 is amended to read:

ASSEMBLY BILL 749**SECTION 10**

1 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
3 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k),
4 and (8r) and passed through to shareholders.

5 **SECTION 11.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
6 28, is amended to read:

7 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
8 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3w),
9 (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a partnership,
10 limited liability company, or tax-option corporation that has added that amount to
11 the partnership's, limited liability company's, or tax-option corporation's income
12 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
13 (1), (3), (3t), (4), (4m), and (5).

14 **SECTION 12.** 71.47 (3rm) of the statutes is created to read:

15 71.47 **(3rm)** WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)
16 *Definitions.* In this subsection:

- 17 1. "Claimant" means a person who files a claim under this subsection.
- 18 2. "Used exclusively" means used to the exclusion of all other uses except for
19 use not exceeding 5 percent of total use.
- 20 3. "Woody biomass" means trees and woody plants, including limbs, tops,
21 needles, leaves, and other woody parts, grown in a forest or woodland or on
22 agricultural land.

23 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
24 560.209, for taxable years beginning after December 31, 2008, and before January
25 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.43,

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1 up to the amount of the tax, an amount equal to 10 percent of the amount the
2 claimant paid in the taxable year for equipment that is used exclusively to harvest
3 or process woody biomass that is used as fuel or as a component of fuel.

4 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
5 amount that the claimant paid for expenses described under par. (b) that the
6 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

7 2. The aggregate amount of credits that a claimant may claim under this
8 subsection is \$100,000.

9 3. The maximum amount of the credits that may be claimed under this
10 subsection and ss. 71.07 (3rm) and 71.28 (3rm) is \$900,000, as allocated under s.
11 560.209.

12 4. Partnerships, limited liability companies, and tax-option corporations may
13 not claim the credit under this subsection, but the eligibility for, and the amount of,
14 the credit are based on their payment of expenses under par. (b), except that the
15 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
16 A partnership, limited liability company, or tax-option corporation shall compute
17 the amount of credit that each of its partners, members, or shareholders may claim
18 and shall provide that information to each of them. Partners, members of limited
19 liability companies, and shareholders of tax-option corporations may claim the
20 credit in proportion to their ownership interest.

21 5. If 2 or more persons own and operate a woody biomass harvesting or
22 processing operation, each person may claim a credit under par. (b) in proportion to
23 his or her ownership interest, except that the aggregate amount of the credits
24 claimed by all persons who own and operate the operation shall not exceed \$100,000.

ASSEMBLY BILL 749**SECTION 12**

1 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
2 credit under s. 71.28 (4), applies to the credit under this subsection.

3 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
4 due under s. 71.43, the amount of the claim not used to offset the tax due shall be
5 certified by the department of revenue to the department of administration for
6 payment by check, share draft, or other draft drawn from the appropriation account
7 under s. 20.835 (2) (bc).

8 **SECTION 13.** 71.49 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
9 is amended to read:

10 71.49 (1) (f) The total of farmland preservation credit under subch. IX,
11 farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility
12 investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing
13 facility investment credit under s. 71.47 (3r), woody biomass harvesting and
14 processing credit under s. 71.47 (3rm), enterprise zone jobs credit under s. 71.47 (3w),
15 film production services credit under s. 71.47 (5f), film production company
16 investment credit under s. 71.47 (5h), beginning farmer and farm asset owner tax
17 credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

18 **SECTION 14.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
19 amended to read:

20 77.92 (4) “Net business income,” with respect to a partnership, means taxable
21 income as calculated under section 703 of the Internal Revenue Code; plus the items
22 of income and gain under section 702 of the Internal Revenue Code, including taxable
23 state and municipal bond interest and excluding nontaxable interest income or
24 dividend income from federal government obligations; minus the items of loss and
25 deduction under section 702 of the Internal Revenue Code, except items that are not

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1 deductible under s. 71.21; plus guaranteed payments to partners under section 707
2 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
4 (3rm), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus,
5 as appropriate, transitional adjustments, depreciation differences, and basis
6 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
7 loss, and deductions from farming. "Net business income," with respect to a natural
8 person, estate, or trust, means profit from a trade or business for federal income tax
9 purposes and includes net income derived as an employee as defined in section 3121
10 (d) (3) of the Internal Revenue Code.

11 **SECTION 15.** 560.209 of the statutes is created to read:

12 **560.209 Woody biomass harvesting and processing credit.** (1) The
13 department of commerce shall implement a program to certify taxpayers as eligible
14 for the woody biomass harvesting and processing credit under ss. 71.07 (3rm), 71.28
15 (3rm), and 71.47 (3rm).

16 (2) If the department of commerce certifies a taxpayer under sub. (1), the
17 department of commerce shall determine the amount of credits to allocate to that
18 taxpayer. The total amount of woody biomass harvesting and processing credits
19 allocated to taxpayers in any fiscal year may not exceed \$900,000.

20 (3) The department of commerce shall inform the department of revenue of
21 every taxpayer certified under sub. (1) and the amount of credits allocated to the
22 taxpayer.

23 (4) The department of commerce, in consultation with the department of
24 revenue, shall promulgate rules to administer this section.

25

(END)