

2009 DRAFTING REQUEST

Bill

Received: **01/14/2010**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Clark (608) 266-7746**

By/Representing: **beau**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Clark@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Tax credit for equipment used to harvest and process woody biomass

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>
/?				_____			State
/P1	jkreye 01/20/2010	bkraft 01/27/2010	rschluet 01/28/2010	_____	lparisi 01/28/2010		State
/P2	jkreye 01/29/2010	bkraft 01/29/2010	jfrantze 02/01/2010	_____	sbasford 02/01/2010		State
/1	jkreye 02/01/2010	bkraft 02/02/2010	mduchek 02/02/2010	_____	sbasford 02/02/2010	sbasford 02/09/2010	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

↳ At Intro.

<END>

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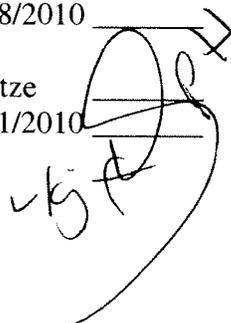
See attached

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FE Sent For:

1 bjk 2/2



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/?							State
/P1	jkreye 01/20/2010	bkraft 01/27/2010	rschlue 01/28/2010		lparisi 01/28/2010		

FE Sent For:

/P2 bjk'29 JF
WPA
<END>
1/29

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1/?	jkreye	/P1 bjk 1/27	RS	MD JF			
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FE Sent For: 1/28
<END>

Kréye, Joseph

From: Stafford, Beau
Sent: Thursday, January 14, 2010 9:17 AM
To: Kreye, Joseph
Subject: Bill Drafting Request-Tax Credits for Biomass Harvesting Equipment

Attachments: NCRJA - 3823.pdf

Joe,

Here is the email as promised. Rep. Clark would like to get a preliminary draft of a bill similar to the bill attached to this email. Instead of offering tax credits for lumber manufacturing facilities and silviculture investments, the Representative is interested in making tax credits for Woody Biomass Harvesting Equipment.

There are some parameters which still need to be worked out, but we wanted to start the drafting process despite these future changes. We would like to offer tax credits to companies purchasing new equipment for cutting and processing biomass fuel, whether it is in the field or in the processing facility.

We would like to model these tax credits on the Dairy and Meat Processing Tax Credits passed in the stimulus bill in February. The maximum allowable amount for all tax credits issued for biomass harvesting equipment would be \$900,000. The meat processing and dairy tax credits passed earlier this year had a maximum per company and we would like to do something similar.

Please let me know if you have any questions and I can't find some answers. Thank you.



NCRJA - 3823.pdf
(1 MB)

Beau Stafford
Office of Representative Fred Clark
42nd Assembly District
608-266-7746
Beau.stafford@legis.wi.gov

Kreye, Joseph

From: Stafford, Beau
Sent: Thursday, January 14, 2010 10:10 AM
To: Kreye, Joseph
Subject: Rough definition so far...

Joe,

Here is a definition to use temporarily. I will circle back with Rep. Clark and see if he has any additional insight. Thanks,

I got this off of the US Dept of Agriculture – Forest Service’s website:

“woody biomass: The trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment that are the byproducts of forest management. (Derived from the interagency memorandum of understanding between USDA, DOE, and DOI 2003.)”

Beau Stafford
Office of Representative Fred Clark
42nd Assembly District
608-266-7746
Beau.stafford@legis.wi.gov



Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
K-ref

in 1-20-10

gen.

1 AN ACT ...; relating to: an income and franchise tax credit for equipment used
2 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:

3 SECTION 1. 20.835 (2) (bc) of the statutes is created to read:
4 20.835 (2) (bc) *Woody biomass harvesting and processing credit.* A sum
5 sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm).

6 SECTION 2. 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
7 28, is amended to read:

SECTION # 71.07 (3rm) of the statute is created to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28.

action: create 7 71.07 (3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

8 Definitions. In this subsection:

- 9 1. "Claimant" means a person who files a claim under this subsection.
- 10 2. "Used exclusively" means used to the exclusion of all other uses except for
- 11 use not exceeding 5 percent of total use.
- 12 3. "Woody biomass" means trees and woody plants, including limbs, tops,
- 13 needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland
- 14 environment that are the byproducts of forest management.

hyphen

15 (b) Filing claims. Subject to the limitations provided in this subsection and s.
16 560.209, for taxable years beginning after December 31, 2008, and before January
17 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.02
18 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount
19 the claimant paid in the taxable year for equipment that is used exclusively to
20 harvest or process woody biomass that is used as fuel or as a component of fuel.

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

1 2. The aggregate amount of credits that a claimant may claim under this
2 subsection is \$200,000.

3 3. The maximum amount of the credits that may be claimed under this
4 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in any fiscal year is \$900,000, as
5 allocated under s. 560.209.

6 4. Partnerships, limited liability companies, and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on their payment of expenses under par. (b), except that the
9 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
10 A partnership, limited liability company, or tax-option corporation shall compute
11 the amount of credit that each of its partners, members, or shareholders may claim
12 and shall provide that information to each of them. Partners, members of limited
13 liability companies, and shareholders of tax-option corporations may claim the
14 credit in proportion to their ownership interest.

15 5. If 2 or more persons own and operate a woody biomass harvesting or
16 processing operation, each person may claim a credit under par. (b) in proportion to
17 his or her ownership interest, except that the aggregate amount of the credits
18 claimed by all persons who own and operate the operation shall not exceed \$200,000.

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

21 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
22 due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due
23 shall be certified by the department of revenue to the department of administration
24 for payment by check, share draft, or other draft drawn from the appropriation
25 account under s. 20.835 (2) (bc).

1 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

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

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27, 237; 1999 a. 9; 2001 a. 109; 2003 a. 99, 135, 255, 326; 2005 a. 25, 177, 361, 479, 483; 2007
a. 20, 97; 2009 a. 2, 28.

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

15 **71.10 (4) (i)** The total of claim of right credit under s. 71.07 (1), farmland
16 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
17 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
18 credit under s. 71.07 (3m),, dairy manufacturing facility investment credit under s.
19 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
20 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
21 71.07 (3rm), film production services credit under s. 71.07 (5f), film production
22 company investment credit under s. 71.07 (5h), veterans and surviving spouses
23 property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w),
24 beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income

1 tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes
2 withheld under subch. X.

History: 1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109; 2003 a. 33, 99, 135, 176, 255, 321; 2005 a. 25, 49, 71, 74, 177, 178, 323, 361, 460, 479, 483; 2007 a. 1, 20, 96, 97; 2009 a. 2, 28, 89.

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

5 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
6 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3s), (3t),
7 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall
8 be added to the partnership's income.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28.

9 **SECTION 6.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
10 is amended to read:

11 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
12 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
13 (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through
14 by a partnership, limited liability company, or tax-option corporation that has added
15 that amount to the partnership's, limited liability company's, or tax-option
16 corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 28.

action: create

17 **71.28 (3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT.** (a)
18 *Definitions.* In this subsection:
19 1. "Claimant" means a person who files a claim under this subsection.
20 2. "Used exclusively" means used to the exclusion of all other uses except for
21 use not exceeding 5 percent of total use.

A SECTION (B) (CS) # (B) 71.28A(3rm) of the statutes is created to read (i)

1 3. "Woody biomass" means trees and woody plants, including limbs, tops,
 2 needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland
 3 environment that are the byproducts of forest management.

hyphen

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 \$200,000.

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) in any fiscal year is \$900,000, as
 17 allocated under s. 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 \$200,000.
 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

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 \$200,000.

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 7.** 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.

1 SECTION 8. 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

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

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28.

7 SECTION 9. 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
8 28, is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3w),
11 (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a partnership,
12 limited liability company, or tax-option corporation that has added that amount to
13 the partnership's, limited liability company's, or tax-option corporation's income
14 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
15 (1), (3), (3t), (4), (4m), and (5).

action: create

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28.

16 71.47 (3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

17 Definitions. In this subsection:

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

23

← hyphen

H SECTION # 71.47 (3rm) of the statutes is created to read

1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 560.209, for taxable years beginning after December 31, 2008, and before January
3 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.43,
4 up to the amount of the tax, an amount equal to 10 percent of the amount the
5 claimant paid in the taxable year for equipment that is used exclusively to harvest
6 or process woody biomass that is used as fuel or as a component of fuel.

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

10 2. The aggregate amount of credits that a claimant may claim under this
11 subsection is \$200,000.

12 3. The maximum amount of the credits that may be claimed under this
13 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in any fiscal year is \$900,000, as
14 allocated under s. 560.209.

15 4. Partnerships, limited liability companies, and tax-option corporations may
16 not claim the credit under this subsection, but the eligibility for, and the amount of,
17 the credit are based on their payment of expenses under par. (b), except that the
18 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
19 A partnership, limited liability company, or tax-option corporation shall compute
20 the amount of credit that each of its partners, members, or shareholders may claim
21 and shall provide that information to each of them. Partners, members of limited
22 liability companies, and shareholders of tax-option corporations may claim the
23 credit in proportion to their ownership interest.

24 5. If 2 or more persons own and operate a woody biomass harvesting or
25 processing operation, each person may claim a credit under par. (b) in proportion to

1 his or her ownership interest, except that the aggregate amount of the credits
2 claimed by all persons who own and operate the operation shall not exceed \$200,000.

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

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

10 **SECTION 10.** 71.49 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
11 is amended to read:

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

20 History: 1987 a. 312, 411; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255; 2005 a. 74, 361, 479, 483; 2007 a. 20; 2009 a. 2, 28.

21 **SECTION 11.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
22 amended to read:

23 77.92 (4) "Net business income," with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
of income and gain under section 702 of the Internal Revenue Code, including taxable

1 state and municipal bond interest and excluding nontaxable interest income or
2 dividend income from federal government obligations; minus the items of loss and
3 deduction under section 702 of the Internal Revenue Code, except items that are not
4 deductible under s. 71.21; plus guaranteed payments to partners under section 707
5 (c) of the Internal Revenue Code; plus the credits claimed 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), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus,
8 as appropriate, transitional adjustments, depreciation differences, and basis
9 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
10 loss, and deductions from farming. "Net business income," with respect to a natural
11 person, estate, or trust, means profit from a trade or business for federal income tax
12 purposes and includes net income derived as an employee as defined in section 3121
13 (d) (3) of the Internal Revenue Code.

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28.

14 **SECTION 12.** 560.209 of the statutes is created to read:

15 **560.209 Woody biomass harvesting and processing credit.** (1) The
16 department of commerce shall implement a program to certify taxpayers as eligible
17 for the woody biomass harvesting and processing credit under ss. 71.07 (3rm), 71.28
18 (3rm), and 71.47 (3rm).

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

Kreye, Joseph

From: Stafford, Beau
Sent: Friday, January 29, 2010 8:55 AM
To: Kreye, Joseph
Subject: Changes/Questions for LRB 4125/P1

Joe,

There are a few changes we would like to see in the next preliminary draft:

- 1) We would like to revise the definition of Woody Biomass to be: “Woody Biomass’ means trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown on forest, woodland, or agricultural lands.”
- 2) We want the maximum claim to be 10% or up to \$100,000 per business rather than 200,000.

We also have some questions such as...

- 1) In Section 3 in line 25 of page 2, it specifies that the harvested woody biomass used “as fuel or component of fuel.” Does that mean woody biomass that include fuel distilled into a liquid or would it only apply to a solid fuel?
- 2) Also, under section 15 (4), lines 23-24 on page 11 – what would “consultation with” mean exactly? Does that mean DOC has direct authority over this program and they ask for DOR’s advice? Or does this mean that DOC and DOR have to be on the same page and approve the plan together?

Thanks Joe!

Beau Stafford
Office of Representative Fred Clark
42nd Assembly District
608-266-7746
Beau.stafford@legis.wi.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4125/2

JK:bjk:rs

stays

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA-

in Fri. 1-29-10

SOON

D-N

regen.

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:

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, woodland, or rangeland
19 environment that are the by-products of forest management

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.

on agricultural land
or agricultural land

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 ~~\$200,000~~ \$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) in any fiscal year is \$900,000, as
8 allocated under s. 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 \$200,000.
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 \$200,000.

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

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

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.

1 3. "Woody biomass" means trees and woody plants, including limbs, tops,
 2 needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland
 3 environment that are the by-products of forest management.

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 ~~\$200,000~~ \$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) in any fiscal year is \$900,000, as
 17 allocated under s. 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 \$200,000.
 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

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 \$200,000.

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:

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, woodland, or rangeland
 22 environment that are the by-products of forest management or on 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,

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 ~~\$200,000.~~ ² \$1,000,000

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) in any fiscal year is \$900,000, as
11 allocated under s. 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 \$200,000.
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 \$200,000.

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

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)

4125/P2 dr
JK: bjk

D-N
Date

Representative Clark!

< interest component >

JK

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

LRB-4125/P2dn
JK:bjk:jf

February 1, 2010

Representative Clark:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4125/02

JK:bjk:jf

stays

PMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-1-10

due Tues 2-2

regen.

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:

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.

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) in any fiscal year is \$900,000, as
8 allocated under s. 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 ~~\$200,000~~.
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. x2 \$100,000

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 ~~\$200,000~~.

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

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

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.

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) in any fiscal year is \$900,000, as
17 allocated under s. 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 \$200,000.

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

\$100,000

\$100,000

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 ~~\$200,000~~.

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:

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,

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) in any fiscal year is \$900,000, as
11 allocated under s. 560.209. x2 \$100,000

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 \$200,000.

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 \$200,000.

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

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)

Parisi, Lori

From: Stafford, Beau
Sent: Tuesday, February 09, 2010 2:32 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4125/1 Topic: Tax credit for equipment used to harvest and process woody biomass

Please Jacket LRB 09-4125/1 for the ASSEMBLY.