



2009 ASSEMBLY BILL 757

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
4 560.2056 of the statutes; **relating to:** a food processing plant and food
5 warehouse investment tax credit, requiring the exercise of rule-making
6 authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

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

7 **SECTION 1.** 20.835 (2) (bc) of the statutes is created to read:
8 20.835 (2) (bc) *Food processing plant and food warehouse investment credit.* A
9 sum sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71.47
10 (3rm).

ASSEMBLY BILL 757**SECTION 2**

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

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

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

10 71.07 **(3rm)** FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT.

11 (a) *Definitions.* In this subsection:

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

13 2. "Food processing plant" has the meaning given in s. 97.29 (1) (h), except that
14 it does not include dairy plants licensed under s. 97.20 or meat establishments
15 licensed under s. 97.42.

16 3. "Food warehouse" has the meaning given in s. 97.27 (1) (b).

17 4. "Food processing plant or food warehouse modernization or expansion"
18 means constructing, improving, or acquiring buildings or facilities, or acquiring
19 equipment, for food processing or food warehousing, including the following, if used
20 exclusively for food processing or food warehousing and if acquired and placed in
21 service in this state during taxable years that begin after December 31, 2009, and
22 before January 1, 2017:

23 a. Food intake, handling, storage, and warehouse facilities.

24 b. Building additions.

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1 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
2 and waste facilities.

3 d. Installing energy savings equipment or equipment that converts waste to
4 energy.

5 e. Food or raw material intake and storage equipment.

6 f. Processing and manufacturing equipment, including vats, cookers, freezers,
7 pipes, motors, pumps, and valves.

8 g. Packaging and handling equipment, including cleaning, sealing, bagging,
9 boxing, labeling, conveying, and product movement equipment.

10 h. Warehouse equipment, including storage racks and loading and unloading
11 equipment.

12 i. Waste treatment and waste management equipment, including tanks,
13 blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or
14 industrial products.

15 j. Computer software or hardware for managing the claimant's food processing
16 or food warehousing operation, including software and hardware related to logistics,
17 inventory management, production plant controls, and temperature monitoring
18 controls.

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

21 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
22 506.2056, for taxable years beginning after December 31, 2009, and before January
23 1, 2017, a claimant may claim as a credit against the tax imposed under ss. 71.02 and
24 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the
25 claimant paid in the taxable year for food processing or food warehousing

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1 modernization or expansion related to the operation of the claimant's food processing
2 plant or food warehouse.

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

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

8 3. a. The maximum amount of the credits that may be allocated under this
9 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2009–10 is \$1,000,000,
10 as allocated under s. 560.2056.

11 b. The maximum amount of the credits that may be allocated under this
12 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2010–11 is \$1,200,000,
13 as allocated under s. 560.2056.

14 c. The maximum amount of the credits that may be allocated under this
15 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2011–12, and in each
16 year thereafter, is \$700,000, as allocated under s. 560.2056.

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

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1 5. If 2 or more persons own and operate the food processing plant or food
2 warehouse, each person may claim a credit under par. (b) in proportion to his or her
3 ownership interest, except that the aggregate amount of the credits claimed by all
4 persons who own and operate the food processing operation shall not exceed
5 \$200,000.

6 6. No credit may be allowed under this subsection unless the claimant submits
7 with the claimant's return a copy of the claimant's credit certification and allocation
8 under s. 560.2056.

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

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

16 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
17 28, is amended to read:

18 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
19 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
20 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
21 (3q), (3r), (3rm), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r), and
22 (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
23 (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
24 (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under
25 s. 71.07 (7), is less than the tax under this section, there is imposed on that natural

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1 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
2 an alternative minimum tax computed as follows:

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

5 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
6 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
7 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
8 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
9 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
10 credit under s. 71.07 (3r), food processing plant and food warehouse investment
11 credit under s. 71.07 (3rm), film production services credit under s. 71.07 (5f), film
12 production company investment credit under s. 71.07 (5h), veterans and surviving
13 spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s.
14 71.07 (3w), beginning farmer and farm asset owner tax credit under s. 71.07 (8r),
15 earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09,
16 and taxes withheld under subch. X.

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

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3s), (3t),
21 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall
22 be added to the partnership's income.

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

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1 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
2 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
3 (3rm), (3t), (3w), (5e), (5f), (5g), (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, limited liability company's, or tax-option
6 corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

8 **71.28 (3rm)** FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT.

9 (a) *Definitions.* In this subsection:

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

11 2. "Food processing plant" has the meaning given in s. 97.29 (1) (h), except that
12 it does not include dairy plants licensed under s. 97.20 or meat establishments
13 licensed under s. 97.42.

14 3. "Food warehouse" has the meaning given in s. 97.27 (1) (b).

15 4. "Food processing plant or food warehouse modernization or expansion"
16 means constructing, improving, or acquiring buildings or facilities, or acquiring
17 equipment, for food processing or food warehousing, including the following, if used
18 exclusively for food processing or food warehousing and if acquired and placed in
19 service in this state during taxable years that begin after December 31, 2009, and
20 before January 1, 2017:

21 a. Food intake, handling, storage, and warehouse facilities.

22 b. Building additions.

23 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
24 and waste facilities.

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1 d. Installing energy savings equipment or equipment that converts waste to
2 energy.

3 e. Food or raw material intake and storage equipment.

4 f. Processing and manufacturing equipment, including vats, cookers, freezers,
5 pipes, motors, pumps, and valves.

6 g. Packaging and handling equipment, including cleaning, sealing, bagging,
7 boxing, labeling, conveying, and product movement equipment.

8 h. Warehouse equipment, including storage racks and loading and unloading
9 equipment.

10 i. Waste treatment and waste management equipment, including tanks,
11 blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or
12 industrial products.

13 j. Computer software or hardware for managing the claimant's food processing
14 or food warehousing operation, including software and hardware related to logistics,
15 inventory management, production plant controls, and temperature monitoring
16 controls.

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

19 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
20 506.2056, for taxable years beginning after December 31, 2009, and before January
21 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.23, up
22 to the amount of the tax, an amount equal to 10 percent of the amount the claimant
23 paid in the taxable year for food processing or food warehousing modernization or
24 expansion related to the operation of the claimant's food processing plant or food
25 warehouse.

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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 \$200,000.

6 3. a. The maximum amount of the credits that may be allocated under this
7 subsection and ss. 71.07 (3rm) and 71.47 (3rm) in fiscal year 2009–10 is \$1,000,000,
8 as allocated under s. 560.2056.

9 b. The maximum amount of the credits that may be allocated under this
10 subsection and ss. 71.07 (3rm) and 71.47 (3rm) in fiscal year 2010–11 is \$1,200,000,
11 as allocated under s. 560.2056.

12 c. The maximum amount of the credits that may be allocated under this
13 subsection and ss. 71.07 (3rm) and 71.47 (3rm) in fiscal year 2011–12, and in each
14 year thereafter, is \$700,000, as allocated under s. 560.2056.

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 the food processing plant or food
25 warehouse, each person may claim a credit under par. (b) in proportion to his or her

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1 ownership interest, except that the aggregate amount of the credits claimed by all
2 persons who own and operate the food processing operation shall not exceed
3 \$200,000.

4 6. No credit may be allowed under this subsection unless the claimant submits
5 with the claimant's return a copy of the claimant's credit certification and allocation
6 under s. 560.2056.

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), food processing plant and food
20 warehouse investment credit under s. 71.28 (3rm), enterprise zone jobs credit under
21 s. 71.28 (3w), film production services credit under s. 71.28 (5f), film production
22 company investment credit under s. 71.28 (5h), beginning farmer and farm asset
23 owner tax 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:

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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)** FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT.

16 (a) *Definitions.* In this subsection:

17 1. “Claimant” means a person who files a claim under this subsection.

18 2. “Food processing plant” has the meaning given in s. 97.29 (1) (h), except that
19 it does not include dairy plants licensed under s. 97.20 or meat establishments
20 licensed under s. 97.42.

21 3. “Food warehouse” has the meaning given in s. 97.27 (1) (b).

22 4. “Food processing plant or food warehouse modernization or expansion”
23 means constructing, improving, or acquiring buildings or facilities, or acquiring
24 equipment, for food processing or food warehousing, including the following, if used
25 exclusively for food processing or food warehousing and if acquired and placed in

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1 service in this state during taxable years that begin after December 31, 2009, and
2 before January 1, 2017:

3 a. Food intake, handling, storage, and warehouse facilities.

4 b. Building additions.

5 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
6 and waste facilities.

7 d. Installing energy savings equipment or equipment that converts waste to
8 energy.

9 e. Food or raw material intake and storage equipment.

10 f. Processing and manufacturing equipment, including vats, cookers, freezers,
11 pipes, motors, pumps, and valves.

12 g. Packaging and handling equipment, including cleaning, sealing, bagging,
13 boxing, labeling, conveying, and product movement equipment.

14 h. Warehouse equipment, including storage racks and loading and unloading
15 equipment.

16 i. Waste treatment and waste management equipment, including tanks,
17 blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or
18 industrial products.

19 j. Computer software or hardware for managing the claimant's food processing
20 or food warehousing operation, including software and hardware related to logistics,
21 inventory management, production plant controls, and temperature monitoring
22 controls.

23 5. "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 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 506.2056, for taxable years beginning after December 31, 2009, and before January
3 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.43, up
4 to the amount of the tax, an amount equal to 10 percent of the amount the claimant
5 paid in the taxable year for food processing or food warehousing modernization or
6 expansion related to the operation of the claimant's food processing plant or food
7 warehouse.

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

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

13 3. a. The maximum amount of the credits that may be allocated under this
14 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2009–10 is \$1,000,000,
15 as allocated under s. 560.2056.

16 b. The maximum amount of the credits that may be allocated under this
17 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2010–11 is \$1,200,000,
18 as allocated under s. 560.2056.

19 c. The maximum amount of the credits that may be allocated under this
20 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2011–12, and in each
21 year thereafter, is \$700,000, as allocated under s. 560.2056.

22 4. Partnerships, limited liability companies, and tax–option corporations may
23 not claim the credit under this subsection, but the eligibility for, and the amount of,
24 the credit are based on their payment of expenses under par. (b), except that the
25 aggregate amount of credits that the entity may compute shall not exceed \$200,000.

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1 A partnership, limited liability company, or tax-option corporation shall compute
2 the amount of credit that each of its partners, members, or shareholders may claim
3 and shall provide that information to each of them. Partners, members of limited
4 liability companies, and shareholders of tax-option corporations may claim the
5 credit in proportion to their ownership interest.

6 5. If 2 or more persons own and operate the food processing plant or food
7 warehouse, each person may claim a credit under par. (b) in proportion to his or her
8 ownership interest, except that the aggregate amount of the credits claimed by all
9 persons who own and operate the food processing operation shall not exceed
10 \$200,000.

11 6. No credit may be allowed under this subsection unless the claimant submits
12 with the claimant's return a copy of the claimant's credit certification and allocation
13 under s. 560.2056.

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

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

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

23 71.49 (1) (f) The total of farmland preservation credit under subch. IX,
24 farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility
25 investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing

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1 facility investment credit under s. 71.47 (3r), food processing plant and food
2 warehouse investment credit under s. 71.47 (3rm), enterprise zone jobs credit under
3 s. 71.47 (3w), film production services credit under s. 71.47 (5f), film production
4 company investment credit under s. 71.47 (5h), beginning farmer and farm asset
5 owner tax credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

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

8 77.92 (4) “Net business income,” with respect to a partnership, means taxable
9 income as calculated under section 703 of the Internal Revenue Code; plus the items
10 of income and gain under section 702 of the Internal Revenue Code, including taxable
11 state and municipal bond interest and excluding nontaxable interest income or
12 dividend income from federal government obligations; minus the items of loss and
13 deduction under section 702 of the Internal Revenue Code, except items that are not
14 deductible under s. 71.21; plus guaranteed payments to partners under section 707
15 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
16 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
17 (3rm), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus,
18 as appropriate, transitional adjustments, depreciation differences, and basis
19 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
20 loss, and deductions from farming. “Net business income,” with respect to a natural
21 person, estate, or trust, means profit from a trade or business for federal income tax
22 purposes and includes net income derived as an employee as defined in section 3121
23 (d) (3) of the Internal Revenue Code.

24 **SECTION 15.** 560.2056 of the statutes is created to read:

ASSEMBLY BILL 757**SECTION 15****560.2056 Food processing plant and food warehouse investment**

credit. (1) The department of commerce shall implement a program to certify taxpayers as eligible for the food processing plant and food warehouse investment credit under ss. 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm).

(2) If the department of commerce certifies a taxpayer under sub. (1), the department of commerce shall determine the amount of credits to allocate to that taxpayer. The total amount of food processing plant and food warehouse investment credits allocated to taxpayers in fiscal year 2009–10 may not exceed \$600,000 and the total amount of food processing plant and food warehouse investment credits allocated to taxpayers in fiscal year 2010–11, and in each fiscal year thereafter, may not exceed \$700,000.

(2m) No taxpayer may be certified under sub. (1) if the taxpayer has hired an alien, as defined in 8 USC 1101 (a) (3), and has been found to have violated of 8 USC 1324a (a) in the year in which the taxpayer makes an investment for which the taxpayer could claim a credit under s. 71.07 (3rm), 71.28 (3rm), or 71.47 (3rm), or in any of the 5 years immediately preceding the year in which the taxpayer makes such an investment. A taxpayer certified under sub. (1) may not claim a credit under s. 71.07 (3rm), 71.28 (3rm), or 71.47 (3rm) for any year in which the taxpayer hires an alien and has been found to have violated 8 USC 1324a (a). For purposes of administering this subsection, the department of commerce shall promulgate rules for determining whether a taxpayer has been found to have violated 8 USC 1324a (a).

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

