

ASSEMBLY BILL 757 (LRB -4259)

An Act to amend 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4); and to create 20.835 (2) (bc), 71.07 (3rm), 71.28 (3rm), 71.47 (3rm) and 560.2056 of the statutes; relating to: a food processing plant and food warehouse investment tax credit, requiring the exercise of rule-making authority, and making an appropriation. (FE)

2010

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|--------|----|---|-----|
| 02-17. | A. | Introduced by Representatives Vruwink, Hilgenberg, Molepske Jr., Hebl, Garthwaite, Jorgensen, Danou, A. Ott, Black, Sinicki, Turner, Bies, Zepnick, Ripp, Nerison and Berceau ; cosponsored by Senators Lassa, Schultz, Harsdorf and Taylor . | |
| 02-17. | A. | Read first time and referred to committee on Agriculture | 664 |
| 02-18. | A. | Senator Olsen added as a cosponsor | 670 |
| 02-24. | A. | Public hearing held. | |
| 02-25. | A. | Fiscal estimate received. | |
| 02-25. | A. | Executive action taken. | |
| 03-02. | A. | Report passage recommended by committee on Agriculture, Ayes 11, Noes 0 | 713 |
| 03-02. | A. | Referred to joint committee on Finance | 713 |
| 03-09. | A. | Representative Suder added as a coauthor | 744 |
| 03-22. | A. | Fiscal estimate received. | |
| 04-07. | A. | Executive action taken. | |
| 04-07. | A. | Assembly amendment 1 offered by committee on Finance (LRB a2028) | 789 |
| 04-07. | A. | Report Assembly Amendment 1 adoption recommended by joint committee on Finance, Ayes 11, Noes 3 | 791 |
| 04-07. | A. | Report passage as amended recommended by joint committee on Finance, Ayes 13, Noes 0 | 791 |
| 04-07. | A. | Referred to committee on Rules | 791 |
| 04-07. | A. | Placed on calendar 4-13-2010 by committee on Rules. | |
| 04-13. | A. | Read a second time | 816 |
| 04-13. | A. | Assembly amendment 1 adopted | 816 |
| 04-13. | A. | Ordered to a third reading | 816 |
| 04-13. | A. | Rules suspended | 816 |
| 04-13. | A. | Read a third time and passed , Ayes 92, Noes 5 | 816 |
| 04-13. | A. | Ordered immediately messaged | 816 |
| 04-14. | S. | Received from Assembly | 714 |
| 04-14. | S. | Read first time and referred to committee on Economic Development | 715 |
| 04-19. | S. | Public hearing held. | |
| 04-19. | S. | Executive action taken. | |
| 04-19. | S. | Report introduction and adoption of Senate Amendment 1 recommended by committee on Economic Development, Ayes 7, Noes 0 (LRB a2306). | |
| 04-19. | S. | Report concurrence as amended recommended by committee on Economic Development, Ayes 7, Noes 0. | |
| 04-19. | S. | Available for scheduling. | |
| 04-19. | S. | Placed on calendar 4-20-2010 pursuant to Senate Rule 18(1). | |
| 04-20. | S. | Read a second time. | |
| 04-20. | S. | Senate amendment 1 adopted . | |
| 04-20. | S. | Ordered to a third reading. | |
| 04-20. | S. | Rules suspended. | |
| 04-20. | S. | Read a third time and concurred in as amended, Ayes 31, Noes 2. | |
| 04-20. | S. | Ordered immediately messaged. | |
| 04-22. | A. | Received from Senate amended and concurred in as amended (Senate amendment 1 adopted). | |
| 04-22. | A. | Senate amendment 1 concurred in . | |
| 04-22. | A. | Action ordered immediately messaged. | |

SB

2009
ENROLLED BILL

09en A B-757 ✓

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

09-^x4259^x/11 ✓

Amendments to above (if none, write "NONE"):

[✓]AA1 (a ^x2028/1)

[✓]SA1 (a ^x2306/1)

Corrections - show date (if none, write "NONE"):

NONE ✓

Topic RELATING CLAUSE

4/28/2010

Date

Cash

Enrolling Drafter



2009 ASSEMBLY BILL 757

February 17, 2010 - Introduced by Representatives VRUWINK, HILGENBERG, MOLEPSKE JR., HEBL, GARTHWAITE, JORGENSEN, DANOU, A. OTT, BLACK, SINICKI, TURNER, BIES, ZEPNICK, RIPP, NERISON and BERCEAU, cosponsored by Senators LASSA, SCHULTZ, HARS DORF and TAYLOR. Referred to Committee on Agriculture.

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

This bill provides an income and franchise tax credit for 10 percent of the amount that a person pays in the taxable year for food processing plant and food warehouse modernization or expansion related to the person's food processing operation.

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:

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

ASSEMBLY BILL 757**SECTION 1**

1 20.835 (2) (bc) *Food processing plant and food warehouse investment credit*. A
2 sum sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71.47
3 (3rm).

4 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
5 28, is amended to read:

6 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3rm) (3p), (3q), (3r),
8 (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), and (8r) and not passed through by a
9 partnership, limited liability company, or tax-option corporation that has added that
10 amount to the partnership's, company's, or tax-option corporation's income under s.
11 71.21 (4) or 71.34 (1k) (g).

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

13 71.07 (3rm) **FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT.**

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

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

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

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

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

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- 1 a. Food intake, handling, storage, and warehouse facilities.
- 2 b. Building additions.
- 3 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
4 and waste facilities.
- 5 d. Installing energy savings equipment or equipment that converts waste to
6 energy.
- 7 e. Food or raw material intake and storage equipment.
- 8 f. Processing and manufacturing equipment, including vats, cookers, freezers,
9 pipes, motors, pumps, and valves.
- 10 g. Packaging and handling equipment, including cleaning, sealing, bagging,
11 boxing, labeling, conveying, and product movement equipment.
- 12 h. Warehouse equipment, including storage racks and loading and unloading
13 equipment.
- 14 i. Waste treatment and waste management equipment, including tanks,
15 blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or
16 industrial products.
- 17 j. Computer software or hardware for managing the claimant's food processing
18 or food warehousing operation, including software and hardware related to logistics,
19 inventory management, production plant controls, and temperature monitoring
20 controls.
- 21 5. "Used exclusively" means used to the exclusion of all other uses except for
22 use not exceeding 5 percent of total use.
- 23 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
24 506.2056, for taxable years beginning after December 31, 2009, and before January
25 1, 2017, a claimant may claim as a credit against the tax imposed under ss. 71.02 and

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SECTION 3

1 71.08, 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 food processing or food warehousing
 3 modernization or expansion related to the operation of the claimant's food processing
 4 plant or food warehouse.

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

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

10 3. a. The maximum amount of the credits that may be allocated under this
 11 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2009-10 is \$600,000,
 12 as allocated under s. 560.2056.

Handwritten notes: A box containing "\$600,000" with an arrow pointing to the text above. Another box containing "\$1,000,000" with an arrow pointing to the text above. A box containing "SAI-1" with an arrow pointing to the text above.

13 b. The maximum amount of the credits that may be allocated under this
 14 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2010-11, and in each
 15 fiscal year thereafter, is \$700,000, as allocated under s. 560.2056.

Handwritten notes: A box containing "\$700,000" with an arrow pointing to the text above. Another box containing "\$1,200,000" with an arrow pointing to the text above. A box containing "SAI-2" with an arrow pointing to the text above.

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

Handwritten notes: A box containing "SAI-3" with an arrow pointing to the text above.

20 A partnership, limited liability company, or tax-option corporation shall compute
 21 the amount of credit that each of its partners, members, or shareholders may claim
 22 and shall provide that information to each of them. Partners, members of limited
 23 liability companies, and shareholders of tax-option corporations may claim the
 24 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

ASSEMBLY BILL 757**SECTION 4**

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.

ASSEMBLY BILL 757**SECTION 8**

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 \$600,000,
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, and in each
11 fiscal year thereafter, is \$700,000, as allocated under s. 560.2056.

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 the food processing plant or food
22 warehouse, each person may claim a credit under par. (b) in proportion to his or her
23 ownership interest, except that the aggregate amount of the credits claimed by all
24 persons who own and operate the food processing operation shall not exceed
25 \$200,000.

\$600,000

\$1,000,000

\$1,200,000

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ASSEMBLY BILL 757**SECTION 8**

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

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

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

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

13 71.30 (3) (f) The total of farmland preservation credit under subch. IX,
14 farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility
15 investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing
16 facility investment credit under s. 71.28 (3r), food processing plant and food
17 warehouse investment credit under s. 71.28 (3rm), enterprise zone jobs credit under
18 s. 71.28 (3w), film production services credit under s. 71.28 (5f), film production
19 company investment credit under s. 71.28 (5h), beginning farmer and farm asset
20 owner tax credit under s. 71.28 (8r), and estimated tax payments under s. 71.29.

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

23 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
24 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),

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1 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k),
2 and (8r) and passed through to shareholders.

3 **SECTION 11.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

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

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

13 **71.47 (3rm) FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT.**

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

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

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

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

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

ASSEMBLY BILL 757**SECTION 12**

- 1 a. Food intake, handling, storage, and warehouse facilities.
- 2 b. Building additions.
- 3 c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing,
4 and waste facilities.
- 5 d. Installing energy savings equipment or equipment that converts waste to
6 energy.
- 7 e. Food or raw material intake and storage equipment.
- 8 f. Processing and manufacturing equipment, including vats, cookers, freezers,
9 pipes, motors, pumps, and valves.
- 10 g. Packaging and handling equipment, including cleaning, sealing, bagging,
11 boxing, labeling, conveying, and product movement equipment.
- 12 h. Warehouse equipment, including storage racks and loading and unloading
13 equipment.
- 14 i. Waste treatment and waste management equipment, including tanks,
15 blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or
16 industrial products.
- 17 j. Computer software or hardware for managing the claimant's food processing
18 or food warehousing operation, including software and hardware related to logistics,
19 inventory management, production plant controls, and temperature monitoring
20 controls.
- 21 5. "Used exclusively" means used to the exclusion of all other uses except for
22 use not exceeding 5 percent of total use.
- 23 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
24 506.2056, for taxable years beginning after December 31, 2009, and before January
25 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.43, up

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1 to the amount of the tax, an amount equal to 10 percent of the amount the claimant
2 paid in the taxable year for food processing or food warehousing modernization or
3 expansion related to the operation of the claimant's food processing plant or food
4 warehouse.

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

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

10 3. a. The maximum amount of the credits that may be allocated under this
11 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2009-10 is \$600,000,
12 as allocated under s. 560.2056.

13 b. 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 2010-11, and in each
15 fiscal year thereafter, is \$700,000, as allocated under s. 560.2056.

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

20 A partnership, limited liability company, or tax-option corporation shall compute
21 the amount of credit that each of its partners, members, or shareholders may claim
22 and shall provide that information to each of them. Partners, members of limited
23 liability companies, and shareholders of tax-option corporations may claim the
24 credit in proportion to their ownership interest.

\$600,000

\$1,000,000

\$1,200,000

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ASSEMBLY BILL 757**SECTION 12**

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. 71.43, the amount of the claim not used to offset the tax due shall be
13 certified by the department of revenue to the department of administration for
14 payment by check, share draft, or other draft drawn from the appropriation account
15 under s. 20.835 (2) (bc).

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

18 71.49 (1) (f) The total of farmland preservation credit under subch. IX,
19 farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility
20 investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing
21 facility investment credit under s. 71.47 (3r), food processing plant and food
22 warehouse investment credit under s. 71.47 (3rm), enterprise zone jobs credit under
23 s. 71.47 (3w), film production services credit under s. 71.47 (5f), film production
24 company investment credit under s. 71.47 (5h), beginning farmer and farm asset
25 owner tax credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

ASSEMBLY BILL 757

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

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

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

20 **560.2056 Food processing plant and food warehouse investment**
21 **credit.** (1) The department of commerce shall implement a program to certify
22 taxpayers as eligible for the food processing plant and food warehouse investment
23 credit under ss. 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm).

24 (2) If the department of commerce certifies a taxpayer under sub. (1), the
25 department of commerce shall determine the amount of credits to allocate to that

ASSEMBLY BILL 757

SECTION 15

1 taxpayer. The total amount of food processing plant and food warehouse investment
2 credits allocated to taxpayers in fiscal year 2009-10 may not exceed \$600,000 and
3 the total amount of food processing plant and food warehouse investment credits
4 allocated to taxpayers in fiscal year 2010-11, and in each fiscal year thereafter, may
5 not exceed \$700,000.

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

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

11 (END)

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**ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 757**

April 7, 2010 - Offered by JOINT COMMITTEE ON FINANCE.

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

2 ✓✓ 1. Page 16, line 10: after that line insert:

3 "SECTION 15m. Nonstatutory provisions.

4 (1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not
5 apply to the action of the legislature in enacting this act."

6 (END)

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**SENATE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 757**

April 19, 2010 - Offered by COMMITTEE ON ECONOMIC DEVELOPMENT.

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

2 ✓✓ **1.** Page 4, line 11: delete "\$600,000" and substitute "\$1,000,000".

3 ✓✓ **2.** Page 4, line 14: delete the material beginning with ", and in" and ending
4 with "\$700,000" on line 15 and substitute " is \$1,200,000".

5 ✓✓ **3.** Page 4, line 15: after that line insert:

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

9 ✓✓ **4.** Page 9, line 7: delete "\$600,000" and substitute "\$1,000,000".

10 ✓✓ **5.** Page 9, line 10: delete the material beginning with ", and in" and ending
11 with "\$700,000" on line 11 and substitute " is \$1,200,000".

12 ✓✓ **6.** Page 9, line 11: after that line insert:

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

4 ✓✓ 7. Page 13, line 11: delete "\$600,000" and substitute "\$1,000,000".

5 ✓✓ 8. Page 13, line 14: delete the material beginning with ", and in" and ending
6 with "\$700,000" on line 15 and substitute " is \$1,200,000".

7 ✓✓ 9. Page 13, line 15: after that line insert:

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

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11 ✓✓ 10. Page 16, line 5: after that line insert:

12 "(2m) No taxpayer may be certified under sub. (1) if the taxpayer has hired an
13 alien, as defined in 8 USC 1101 (a) (3), and has been found to have violated of 8 USC
14 1324a (a) in the year in which the taxpayer makes an investment for which the
15 taxpayer could claim a credit under s. 71.07 (3rm), 71.28 (3rm), or 71.47 (3rm), or in
16 any of the 5 years immediately preceding the year in which the taxpayer makes such
17 an investment. A taxpayer certified under sub. (1) may not claim a credit under s.
18 71.07 (3rm), 71.28 (3rm), or 71.47 (3rm) for any year in which the taxpayer hires an
19 alien and has been found to have violated 8 USC 1324a (a). For purposes of
20 administering this subsection, the department of commerce shall promulgate rules
21 for determining whether a taxpayer has been found to have violated 8 USC 1324a
22 (a)."

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