

2007 DRAFTING REQUEST

Bill

Received: **08/30/2006**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **mike**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.wisconsin.gov**

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

Pre Topic:

No specific pre topic given

Topic:

Innovation tax credit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 08/30/2006	wjackson 09/21/2006	pgreensl 09/25/2006	_____	sbasford 09/25/2006		State
	jkreye 09/25/2006	wjackson 09/27/2006		_____			
/1			rschluet 09/28/2006	_____	lparisi 09/28/2006	mbarman 01/30/2007	State

FE Sent For: *"/1" @ intro*
2-27-2007

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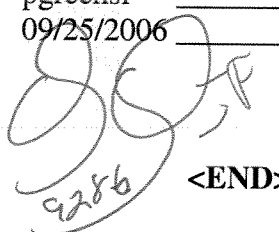
Instructions:

See Attached

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/P1	jkreye 08/30/2006	wjackson 09/21/2006	pgreensl 09/25/2006	_____	sbasford 09/25/2006	_____	State

FE Sent For:


9286 <END>

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No specific pre topic given

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Instructions:

See Attached

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/P1	jkreye	/pl WLj 9/21	9/28 PG	9/28 PG			

FE Sent For:

<END>

August 21, 2006

To Whom IT MAY CONCERN:

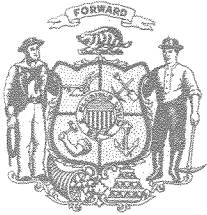
This memorandum I provided to Senator Kanaras last week re. suggested changes to 2005-2006 Senate Bill 449, otherwise known as the Innovation Tax Credit.

We would like to use last year's bill as a base, but incorporate the changes into this bill if at all possible. If we could get it drafted as a preliminary draft that would be great.

Please call me if there are any questions,

Best,

Michael Richards
(266.9174)



TED KANAVAS

STATE SENATOR

To: Senator Ted Kanavas

From: Michael Richards

Date: Sunday, August 14, 2006

Re: Innovation Tax Credit—**Draft Correspondence**

Last session you authored 2005 Senate Bill 449, otherwise referred to as the Innovation Tax Credit. Due to the fiscal priority of items such as the Broadband Deployment Act and the Film Wisconsin bill, this Invest Wisconsin package bill was pushed aside during the session. In my recent conversations with Jeremy Shepherd, it was learned that there were specific problems with this bill by certain members in relation to its specific target and overall feasibility.

After closely examining the draft, I understand that the bill would have a positive impact on our economy by providing incentives for new and existing companies to innovate and bring their product to the market quicker. As you are fully aware, our economy needs a boost in innovation and we need to diversify ourselves in a way that we are less reliant on the old-line manufacturing and agricultural sectors in future years.

In an effort to make this legislation more palatable to members in the next session, and align the bill in a way where success is probable, I am suggesting changing the bill in a way to set priorities for what should be funded through credits, and what is merely extra incentives that are available. The bill only offers \$10 million a year, and therefore, if we can draft this bill to prioritize our credits then more individual companies will get an incentive to innovate.

The bill spells out what eligible innovation costs are and what an eligible innovation entails. I believe that your intent has been to provide incentives for practices such as research and development and to a lesser degree the actual construction of the facility. However, the bill does not have a progressive or sliding scale for the incentives, such as 100% for research and development and 50% incentive for site clearance and architectural plans. Under the bill, everything is treated equally. My concern is that I do not think that you want to get into the debate about providing a tax credit for a company to provide lush office space as opposed to spending more money on the actual research and development.

STATE CAPITOL

P.O. Box 7882 • MADISON, WISCONSIN 53707-7882
(608) 266-9174 • (800) 863-8883 • FAX: (608) 264-6914

Page 2
Draft Correspondence

Further, it has been my understanding that this bill was primarily aimed at increasing this state's biotechnology industry. I suggest that we also try to aim more funding for nanotechnology, which will succeed silicon in the next decade. This is a niche market that this state can also take advantage of.

Specifically, we can make the following changes to the Innovation Tax Credit legislation so that this next session its passage will be realized:

2005 Senate Bill 449, Page 2-3, Section 2, Definitions

Under Section 2, of the draft attached, I have highlighted for you the areas that I believe need to be addressed. The first definition, under the heading of Innovation Projects and Facilities Credit, we can make changes to the draft using the following guidance:

- Create a progressive or sliding scale to ensure that the credits are being targeted to our overall intent;
- Instead of providing 100% to all of the "Allowable innovation costs" {page 2 lines 10-21 and page 3 lines 1-3}, I believe that we can provide the following as a revision to the draft:
 1. 50% credit for acquiring, construction, reconstructing, rehabilitating, renovating, enlarging, and facility improvement—also site clearance and preparation, architectural, engineering, or legal services, marketing products;
 2. However 100% would be given under number 1 [above] if the building is deemed blighted by the Department or is a brownfield, if no brownfield dollars are provided by the State;
 3. 100% would be provided for equipping a project facility, research and development, computer software or hardware or upgrades, product testing or other quality control activities, perfecting products, creating and protecting intellectual property;
- Under the "Eligible innovation project" {page 3, lines 6-8}, I believe that we could put a line in the bill that states that the Department shall give priority for the first two years to ^{eligible} innovation projects ^{and project facilities} that use bio-technology or nanotechnology.

In short, I believe that the aforementioned points will provide more direction to the Department. The percentages that I have listed above are not set in stone, they are merely there to show my ideas as to the sliding scale approach. The last point that I had made relative to the priority by the Department, we could add years to the sunset, or lose it altogether. But, I believe if your intent is provide incentives for bio-tech and nano-tech then I think that we need to make a statement of that in our bill.

Please review and provide me your feedback.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0080/P1dn

JK:.....

Wlj

Senator Kanavas:

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

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

0080/P1

Wlj

8-30-06

D-N

2005 SENATE BILL 449

November 22, 2005 - Introduced by Senators KANAVAS, PLALE, STEPP and ROESSLER, cosponsored by Representatives VOS, NISCHKE, OWENS, TOWNSEND, GUNDERSON, HAHN and MUSSER. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

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1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gwd), 71.28 (5e), 71.30
3 (3) (eor), 71.47 (5e), 71.49 (1) (eor) and 560.206 of the statutes; **relating to:**
4 creating an income and franchise tax credit for eligible innovation projects and
5 project facilities.

Analysis by the Legislative Reference Bureau

Under this bill, a person may claim an income and franchise tax credit that is equal to 20 percent of the costs that the person paid in the taxable year related to creating and operating a project facility or to creating and maintaining an eligible innovation project. The amount that a claimant may claim in any taxable year may not exceed \$250,000, and the total amount of all claims in each year may not exceed \$10,000,000. Under the bill, a project facility is any facility located in this state that is operated for the purpose of creating and maintaining an eligible innovation project, if the operation of the facility is likely to create new jobs, or preserve existing jobs, in this state, as determined by the Department of Commerce. The bill defines an eligible innovation project as any real property, tangible personal property, or intangible property related to a new product or process that is based on new technology or the creative application of existing technology.

SENATE BILL 449

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:

SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

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

SECTION 2. 71.07 (5e) of the statutes is created to read:

(5e) 71.07 **(5e)** INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this subsection:

1. "Allowable innovation costs" means the costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a project facility or eligible innovation project and the costs of all of the following related to creating and operating a project facility or to creating and maintaining an eligible innovation project:

a. Designs, plans, specifications, surveys, studies, estimates, and any similar services or items that are necessary or incidental to determining the feasibility or practicality of a project facility or eligible innovation project.

b. Site clearance and preparation.

c. Architectural, engineering, or legal services.

d. Research and development.

e. Computer software or hardware.

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SENATE BILL 449

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- f. Product testing and other quality control activities.
- g. Perfecting and marketing products.
- h. Creating and protecting intellectual property.

⑤ ² "Claimant" means a person who is certified to receive tax credits under s. 560.20⁷ and who files a claim under this subsection.

⑥ ³ "Eligible innovation project" means any real property, tangible personal property, or intangible property related to a new product or process that is based on new technology or the creative application of existing technology.

⑦ ⁴ "Project facility" means any facility located in this state that is operated for the purpose of creating and maintaining an eligible innovation project, if the operation of the facility is likely to create new jobs, or preserve existing jobs, in this state, as determined by the department of commerce.

⑧ (b) *Filing claims.* Subject to the limitations provided under this subsection and s. 560.20⁷, for taxable years beginning after December 31, 2006, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount that is equal to ~~20 percent of the allowable innovation costs~~ paid by the claimant in the taxable year. ⁵ INSERT 3-17 *the following*

⑨ (c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is \$250,000.

⑩ 2. The maximum amount of the credits that may be awarded under this subsection and ss. 71.28 ^{①5j} (5e) and 71.47 ^{②5j} (5e) in each year is \$10,000,000.

⑪ 3. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of

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

5 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
6 s. 71.28 (4), applies to the credit under this subsection.

7 **SECTION 3.** 71.10 (4) (gwd) of the statutes is created to read:

8 71.10 (4) (gwd) Innovation projects and facilities credit under s. 71.07 (5e). ^{5j}

9 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed
12 through to partners shall be added to the partnership's income.

13 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

14 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
15 the gross income as computed under the Internal Revenue Code as modified under
16 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
17 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
18 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
19 under this paragraph at the time that the taxpayer first claimed the credit plus the
20 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
21 (1ds), (1dx), (3g), (3n), (3t), and (5b), and (5e) and not passed through by a
22 partnership, limited liability company, or tax-option corporation that has added that
23 amount to the partnership's, limited liability company's, or tax-option corporation's
24 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
25 other disposition of assets the gain from which would be wholly exempt income, as

SENATE BILL 449

1 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
 2 minus deductions, as computed under the Internal Revenue Code as modified under
 3 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
 4 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
 5 otherwise disposed of in a taxable transaction during the taxable year, except as
 6 provided in par. (b) and s. 71.45 (2) and (5).

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S-6

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SECTION 6. 71.28 (5e) of the statutes is created to read:

71.28 (5e) INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this subsection:

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- I. "Allowable innovation costs" means the costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a project facility or eligible innovation project and the costs of all of the following related to creating and operating a project facility or to creating and maintaining an eligible innovation project:
 - a. Designs, plans, specifications, surveys, studies, estimates, and any similar services or items that are necessary or incidental to determining the feasibility or practicality of a project facility or eligible innovation project.
 - b. Site clearance and preparation.
 - c. Architectural, engineering, or legal services.
 - d. Research and development.
 - e. Computer software or hardware.
 - f. Product testing and other quality control activities.
 - g. Perfecting and marketing products.
 - h. Creating and protecting intellectual property.

INSERT
S-24

SENATE BILL 449

1 ³ 2 "Claimant" means a person who is certified to receive tax credits under s.
2 560.206 and who files a claim under this subsection.

3 ⁴ 3 "Eligible innovation project" means any real property, tangible personal
4 property, or intangible property related to a new product or process that is based on
5 new technology or the creative application of existing technology.

6 ⁵ 4 "Project facility" means any facility located in this state that is operated for
7 the purpose of creating and maintaining an eligible innovation project, if the
8 operation of the facility is likely to create new jobs, or preserve existing jobs, in this
9 state, as determined by the department of commerce.

10 (b) *Filing claims.* Subject to the limitations provided under this subsection and
11 s. 560.206⁷, for taxable years beginning after December 31, 2006, a claimant may
12 claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax,
13 an amount that is equal to ~~20 percent of the allowable innovation~~⁹ costs paid by the
14 claimant in the taxable year ~~to~~ ^{to} INSERT 6-14 ^{the following}

15 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
16 claim under this subsection in a taxable year is \$250,000.

17 2. The maximum amount of the credits that may be awarded under this
18 subsection and ss. 71.07 (5e)^{5j} and 71.47 (5e)^{5j} in each year is \$10,000,000.

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

SENATE BILL 449

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

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

5 SECTION 7. 71.30 (3) (eor) of the statutes is created to read:

6 71.30 (3) (eor) Innovation projects and facilities credit under s. 71.28 (5e). ^{Sj}

7 SECTION 8. 71.34 (1) (g) of the statutes is amended to read:

8 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
9 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
10 (3n), (3t), and (5b), and (5e) and passed through to shareholders.

11 SECTION 9. 71.45 (2) (a) 10. of the statutes is amended to read:

12 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
13 computed under s. 71.47 (1dd) to (1dx), (3n), and (5b), and (5e) and not passed
14 through by a partnership, limited liability company, or tax-option corporation that
15 has added that amount to the partnership's, limited liability company's, or
16 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
17 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

18 SECTION 10. 71.47 (5e) of the statutes is created to read:

19 71.47 (5e) INNOVATION PROJECTS AND FACILITIES CREDIT. (a) *Definitions.* In this
20 subsection:

21 1. "Allowable innovation costs" means the costs of acquiring, constructing,
22 reconstructing, rehabilitating, renovating, enlarging, improving, or equipping a
23 project facility or eligible innovation project and the costs of all of the following
24 related to creating and operating a project facility or to creating and maintaining an
25 eligible innovation project:

INSERT
7-17

SENATE BILL 449

1 a. Designs, plans, specifications, surveys, studies, estimates, and any similar
2 services or items that are necessary or incidental to determining the feasibility or
3 practicality of a project facility or eligible innovation project.

4 b. Site clearance and preparation.

5 c. Architectural, engineering, or legal services.

6 d. Research and development.

7 e. Computer software or hardware.

8 f. Product testing and other quality control activities.

9 g. Perfecting and marketing products.

10 h. Creating and protecting intellectual property.

INJECT
8-10

11 ³20 "Claimant" means a person who is certified to receive tax credits under s.
12 560.206 and who files a claim under this subsection.

13 ⁴30 "Eligible innovation project" means any real property, tangible personal
14 property, or intangible property related to a new product or process that is based on
15 new technology or the creative application of existing technology.

16 ⁵40 "Project facility" means any facility located in this state that is operated for
17 the purpose of creating and maintaining an eligible innovation project, if the
18 operation of the facility is likely to create new jobs, or preserve existing jobs, in this
19 state, as determined by the department of commerce.

20 (b) *Filing claims.* Subject to the limitations provided under this subsection and
21 s. 560.206^{7e}, for taxable years beginning after December 31, 2006, a claimant may
22 claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax,
23 an amount that is equal to ~~20 percent of the allowable innovation~~^{7e} costs paid by the
24 claimant in the taxable year ⁸⁰ INJECT 8-24 ✓ the following

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1 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
2 claim under this subsection in a taxable year is \$250,000.

3 2. The maximum amount of the credits that may be awarded under this
4 subsection and ss. 71.07 (5e)^{Sj} and 71.28 (5e)^{Sj} in each year is \$10,000,000.

5 3. Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under this subsection, but the eligibility for, and the amount of,
7 the credit are based on their payment of amounts under par. (b). A partnership,
8 limited liability company, or tax-option corporation shall compute the amount of
9 credit that each of its partners, members, or shareholders may claim and shall
10 provide that information to each of them. Partners, members of limited liability
11 companies, and shareholders of tax-option corporations may claim the credit in
12 proportion to their ownership interests.

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

15 SECTION 11. 71.49 (1) (eor) of the statutes is created to read:

16 71.49 (1) (eor) Innovation projects and facilities credit under s. 71.47 (5e)^{Sj}.

17 SECTION 12. 77.92 (4) of the statutes is amended to read:

18 77.92 (4) "Net business income," with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or
22 dividend income from federal government obligations; minus the items of loss and
23 deduction under section 702 of the Internal Revenue Code, except items that are not
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

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1 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), and (5b), and (5e); and
 2 plus or minus, as appropriate, transitional adjustments, depreciation differences,
 3 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
 4 income, gain, loss, and deductions from farming. "Net business income," with respect
 5 to a natural person, estate, or trust, means profit from a trade or business for federal
 6 income tax purposes and includes net income derived as an employee as defined in
 7 section 3121 (d) (3) of the Internal Revenue Code.

INSERT
10-7

8 SECTION 13. 560.206 of the statutes is created to read:

9 **560.206 Innovation projects and facilities program. (1) INNOVATION**

10 PROJECTS AND FACILITIES TAX CREDITS. The department shall implement a program to
 11 certify businesses for purposes of ss. 71.07 (5e), 71.28 (5e), and 71.47 (5e). A business
 12 desiring certification shall submit an application to the department in each taxable
 13 year for which the business desires certification. Unless otherwise provided under
 14 the rules of the department, a business may be certified under this subsection, and
 15 may maintain such certification, only if the business satisfies all of the following
 16 conditions:

INSERT
10-13

17 (a) It conducts business in this state.

18 (b) At least 51 percent of the employees employed by the business are employed
19 in this state.

20 (c) It is engaged in, or has committed to engage in, manufacturing, agriculture,
21 or processing or assembling products and conducting research and development or
22 developing a new product or business process.

23 (d) It is not engaged in real estate development, insurance, banking, lending,
24 lobbying, political consulting, professional services provided by attorneys,

See the provisions of article 10 of the constitution which require that the department not do this.

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1 accountants, business consultants, physicians, or health care consultants, wholesale
2 or retail trade, leisure, hospitality, transportation, or construction.

3 (2) ADMINISTRATION. (a) The department shall maintain a list of businesses
4 certified under sub. (1) and shall permit public access to the lists through the
5 department's Internet Web site.

6 (b) The department of commerce shall notify the department of revenue of
7 every certification issued under sub. (1) and the date on which any such certification
8 is revoked or expires.

9 (c) Annually, no later than September 15, the department shall submit a report
10 to the chief clerk of each house of the legislature for distribution to the legislature
11 under s. 13.172 (2), listing all of the following information:

12 1. The total amount of tax credits claimed under ss. 71.07 (5e), 71.28 (5e), and
13 71.47 (5e) per taxable year.

14 2. The name of each business claiming tax credits under ss. 71.07 (5e), 71.28
15 (5e), and 71.47 (5e), the amount of the tax credits, and the amount of the innovation
16 costs.

17 3. Any other information the department considers reasonable to include.

18

(END)