



2017 ASSEMBLY BILL 640

November 14, 2017 - Introduced by Representatives NEYLON, ROHRKASTE, CROWLEY, FIELDS, GENRICH, HORLACHER, KRUG, MURSAU, OHNSTAD, TUSLER, ZEPNICK and GOYKE, cosponsored by Senators DARLING, WANGGAARD, FEYEN, JOHNSON and OLSEN. Referred to Committee on Small Business Development.

1 **AN ACT to amend** 20.536 (1) (k) and 25.14 (1) (a) (intro.); and **to create** 19.42 (10)
2 (t), 19.42 (13) (q), 20.192 (1) (t), 20.192 (1) (y), 25.17 (73), 25.90, 73.17 and
3 subchapter III of chapter 238 [precedes 238.40] of the statutes; **relating to:**
4 creating the innovation fund and economic development programs funded by
5 that fund, establishing the Innovation Fund Council, authorizing the State of
6 Wisconsin Investment Board to provide certain advice and services to state
7 agencies and others, and making appropriations.

Analysis by the Legislative Reference Bureau

Innovation fund

This bill creates a nonlapsible fund to be known as the “innovation fund” (fund). From the interest earnings of the fund, the Wisconsin Economic Development Corporation may make grants, and payments under certain contracts, as set forth below. For short-term management, the fund is included in the state investment fund managed by the State of Wisconsin Investment Board.

In addition to any donations, gifts, or bequests made to the fund, any moneys transferred to the fund, any moneys deposited in the fund by WEDC, and any income or interest earned by the fund, the fund consists of moneys generated from tax revenue collected from a specific class of companies, referred to in the bill as “qualifying companies.” Under the bill, a qualifying company is identified by the

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company's principal business activity code under the North American Industry Classification System (NAICS).

The bill directs the Department of Revenue to determine before May 1, 2019, the total amount of withholding taxes due and payable from qualifying companies for calendar year 2017. Then, on July 1, 2019, and on each July 1 thereafter, ending on July 1, 2033, DOR must deposit in the fund an amount equal to 95 percent of the withholding taxes due and payable from qualifying companies that exceeds the total amount calculated for calendar year 2017. DOR may not deposit more than \$50,000,000 into the fund in any fiscal year and may not deposit more than \$500,000,000 in total into the fund.

Innovation Fund Council

The bill requires WEDC to establish an Innovation Fund Council to advise WEDC with respect to the use of fund moneys to make grants and to make payments under certain contracts, as set forth below. The advisory council consists of the following 11 members:

1. One member appointed by the executive director of the Investment Board.
2. One member appointed by the managing director of the Wisconsin Alumni Research Foundation.
3. One member appointed by the governor who serves in a senior management position at a manufacturing company headquartered in Wisconsin that employs at least 250 employees and engages in research and development.
4. One member appointed by the governor who serves in a senior management position at a manufacturing company headquartered in Wisconsin that employs fewer than 50 employees and who has responsibilities related to the financing of the company or of its product development activities.
5. One member appointed by the governor who serves in a senior management position at a technology company headquartered in Wisconsin that employs at least 250 employees and engages in corporate research and development.
6. One member appointed by the governor who serves in a senior management position at a technology company headquartered in Wisconsin that employs fewer than 50 employees and who has responsibilities related to the financing of the company or of its product development activities.
7. One member appointed by the president of the University of Wisconsin System who has experience in collaborations among universities and industries to conduct innovative, fundamental research in science, engineering, technology, and other areas of interest to industry.
8. One member appointed by the president of the Wisconsin Association of Independent Colleges and Universities who has experience in collaborations among universities and industries to conduct innovative, fundamental research in science, engineering, technology, and other areas of interest to industry.
9. Two members appointed by the governor who have experience working for industry cluster partnerships. Under the bill, an industry cluster partnership is defined as a nonprofit organization whose primary purpose is to assist in developing and supporting a regional concentration of industry-specific private sector

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businesses that share a common interest in fostering research and development, worker skills training, and market development.

10. One member appointed by the governor who has at least five years of experience in the investment activities, merger, and acquisition of technology or manufacturing companies.

Economic development programs supported by the fund

Under the bill, subject to certain additional limitations and requirements set forth in the bill, WEDC administers the following economic development programs using interest earnings from the fund:

1. WEDC may award grants to businesses and other entities headquartered in Wisconsin for the development or deployment of new technologies, components, systems, or processes to solve or significantly improve upon local problems identified by WEDC with the advisory council's concurrence.

2. WEDC may award a grant to businesses and other entities headquartered in Wisconsin for the development or deployment of a new technology, component, system, or process to solve or significantly improve upon a problem affecting a significant portion of Wisconsin or the nation identified by WEDC.

3. WEDC may award grants to early stage businesses for the purpose of facilitating rapid prototype development and pilot testing of potentially marketable new technologies, components, or products.

4. WEDC may make payments under contracts with industry cluster partnerships. WEDC may award a contract to an industry cluster partnership only if it meets certain conditions and may award only one contract per year.

The bill further authorizes WEDC to expend interest earnings from the fund to partially fund any grant that WEDC provides under a program WEDC administers to support business accelerators in Wisconsin. The bill also authorizes WEDC to use interest earnings from the fund to partially fund any grant that WEDC provides to match or partially match grants made by the federal small business administration or under the federal Small Business Technology Transfer Program.

Additional contracting authority for the Investment Board

The bill authorizes the Investment Board to provide advice, services, and facilities to any state agency or authority or a business entity owned by an agency or authority. Under the bill, the Investment Board may provide advice or services related to the management or administration, for any purpose, including economic development, of money or property that an agency, authority, or eligible business entity controls. The agency, authority, or eligible business entity must contract with the Investment Board and pay the Investment Board for any advice, services, or facilities the Investment Board provides.

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:

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1 **SECTION 1.** 19.42 (10) (t) of the statutes is created to read:

2 19.42 (10) (t) The members of the innovation fund council established under
3 s. 238.41.

4 **SECTION 2.** 19.42 (13) (q) of the statutes is created to read:

5 19.42 (13) (q) The members of the innovation fund council established under
6 s. 238.41.

7 **SECTION 3.** 20.192 (1) (t) of the statutes is created to read:

8 20.192 (1) (t) *Innovation fund and programs; general program operations;*
9 *grants.* From interest earnings of the innovation fund, a sum sufficient to provide
10 the grants and other payments under ss. 238.42, 238.43, 238.44, and 238.45 and for
11 general program operations and administrative expenses related to the innovation
12 fund council and the programs administered under subch. III of ch. 238. Not more
13 than the following amounts may be expended under this paragraph for general
14 program operations and administrative expenses under subch. III of ch. 238:

- 15 1. In fiscal year 2019-20, 5 percent of the moneys in the innovation fund.
- 16 2. In fiscal year 2020-21, 5 percent of the moneys in the innovation fund.
- 17 3. In fiscal year 2021-22, 2 percent of the moneys in the innovation fund.
- 18 4. In fiscal year 2022-23 and in each fiscal year thereafter, 0.5 percent of the
19 moneys in the innovation fund.

20 **SECTION 4.** 20.192 (1) (y) of the statutes is created to read:

21 20.192 (1) (y) *Innovation fund and programs; additional operational or*
22 *administrative expenses.* From interest earnings of the innovation fund, a sum
23 sufficient equal to any amount authorized under s. 238.48 (2) for general program
24 operations and administrative expenses.

25 **SECTION 5.** 20.536 (1) (k) of the statutes is amended to read:

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1 20.536 (1) (k) *General program operations.* All moneys received from
2 assessments made under s. 25.187 (2) and from charges made under s. 25.17 (9), and
3 from assessments or charges made under s. 25.17 (73), for the purpose of conducting
4 general program operations.

5 **SECTION 6.** 25.14 (1) (a) (intro.) of the statutes is amended to read:

6 25.14 (1) (a) (intro.) There is created a state investment fund under the
7 jurisdiction and management of the board to be operated as an investment trust for
8 the purpose of managing the securities of all funds that are required by law to be
9 invested in the state investment fund, the innovation fund, and all of the state's
10 funds specified in s. 25.17 (1), except all of the following:

11 **SECTION 7.** 25.17 (73) of the statutes is created to read:

12 25.17 (73) Have authority to provide advice and services requested by a state
13 agency, as defined in s. 20.001 (1), or authority, as defined in s. 16.417 (1) (b), or
14 business entity owned or controlled by a state agency or authority, relating to
15 managing or administering money and property controlled by the agency, authority,
16 or business entity for any purpose, including economic development in this state.
17 The scope of any advice or services provided to a state agency, authority, or business
18 entity under this subsection shall be defined by agreement between the board and
19 the agency, authority, or business entity. This agreement shall require the cost of any
20 advice or services provided by the board to be paid by the agency, authority, or
21 business entity and the agreement may authorize the board to make assessments
22 against the money and property controlled by the agency, authority, or business
23 entity or to charge the agency, authority, or business entity for the cost of any advice
24 or services provided. All moneys received by the board under this subsection shall
25 be credited to the appropriation account under s. 20.536 (1) (k).

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1 **SECTION 8.** 25.90 of the statutes is created to read:

2 **25.90 Innovation fund.** There is established a separate nonlapsible trust
3 fund designated as the innovation fund. The fund shall consist of all moneys
4 deposited in the fund under s. 73.17, together with all donations, gifts, or bequests
5 made to the fund, all moneys transferred to the fund from other funds, and all income
6 or interest earned by the fund.

7 **SECTION 9.** 73.17 of the statutes is created to read:

8 **73.17 Innovation fund. (1)** In this section, “qualifying company” means a
9 person whose principal business activity code in the North American Industry
10 Classification System, 2017 edition, published by the federal office of management
11 and budget, is one of the following: 111, 112, 311, 424, 445, 481, 3121, 3364, 4244,
12 4245, 4881, 221111, 221112, 221113, 221114, 221115, 221116, 221117, 221121,
13 221122, 221210, 221310, 221330, 237990, 238210, 311221, 311224, 324110, 324191,
14 325193, 325199, 325220, 325311, 325312, 325314, 325320, 325411, 325412, 325413,
15 325414, 325998, 326122, 326199, 327331, 332410, 332420, 332911, 332913, 322999,
16 333111, 333249, 333241, 333242, 333318, 333413, 333414, 333415, 333611, 333612,
17 333613, 333618, 333991, 333993, 333994, 333995, 333996, 333999, 334111, 334290,
18 334412, 334413, 334416, 334418, 334419, 334510, 334511, 334512, 334513, 334514,
19 334515, 334516, 334517, 334519, 335110, 335121, 335122, 335129, 335210, 335220,
20 335311, 335312, 335313, 335314, 335911, 335912, 335921, 335929, 335931, 335999,
21 339112, 339113, 339114, 339115, 339116, 511210, 517410, 541320, 541330, 541370,
22 541380, 541511, 541512, 541519, 541620, 541713, 541714, 541715, 611512, 621491,
23 621493, 621511, 621512, 622110, or 811219.

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1 (c) Any business, institution of higher education, technical college, or public
2 utility that participates in a business accelerator, business incubator, or technology
3 pilot program facilitated by an industry cluster partnership.

4 (2) “Fund” means the innovation fund.

5 (3) “Industry cluster partnership” means a nonprofit organization, including
6 its subsidiaries and affiliates, whose primary purpose, or whose subsidiary’s or
7 affiliate’s primary purpose, is to assist in developing and supporting a regional
8 concentration of industry-specific private sector businesses in this state and to foster
9 industry-specific research and development, worker skills training, and market
10 development at institutions of higher education in this state, including technical
11 colleges, for the purpose of transferring to the private sector, and commercializing,
12 technology developed at those institutions that is related to relevant industries.

13 **238.41 Innovation fund council. (1) ESTABLISHMENT.** The corporation shall
14 establish an advisory council to be called the “innovation fund council.” Except as
15 otherwise provided under this section or in policies and procedures adopted by the
16 corporation to govern the council’s business, the council shall be subject to s. 15.09.
17 The council shall advise the corporation concerning the use of fund moneys and the
18 economic development programs administered under this subchapter.

19 (2) **MEMBERSHIP.** The council shall consist of the following members, to serve
20 staggered 3-year terms:

21 (a) One member appointed by the executive director of the investment board.

22 (b) One member appointed by the managing director of the Wisconsin Alumni
23 Research Foundation, Inc.

24 (c) One member appointed by the governor who currently serves in a senior
25 management position at a manufacturing company headquartered in this state that

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1 employs at least 250 employees in this state, including any affiliate, and that
2 engages in research and development.

3 (d) One member appointed by the governor who currently serves in a senior
4 management position at a manufacturing company headquartered in this state that
5 employs fewer than 50 employees in this state, including any affiliate, and who, in
6 addition to any other responsibilities, has responsibilities related to the financing of
7 the company or of its product development activities.

8 (e) One member appointed by the governor who currently serves in a senior
9 management position at a technology company headquartered in this state that
10 employs at least 250 employees in this state, including any affiliate, and that
11 engages in corporate research and development.

12 (f) One member appointed by the governor who currently serves in a senior
13 management position at a technology company headquartered in this state that
14 employs fewer than 50 employees in this state, including any affiliate, and who, in
15 addition to any other responsibilities, has responsibilities related to the financing of
16 the company or of its product development activities.

17 (g) One member appointed by the president of the University of Wisconsin
18 System who has experience in collaborations among universities and industries to
19 conduct innovative, fundamental research in science, engineering, technology, and
20 other areas of interest to industry.

21 (h) One member appointed by the president of the Wisconsin Association of
22 Independent Colleges and Universities, Inc., who has experience in collaborations
23 among universities and industries to conduct innovative, fundamental research in
24 science, engineering, technology, and other areas of interest to industry.

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1 (i) Two members appointed by the governor who have experience working for
2 industry cluster partnerships.

3 (j) One member appointed by the governor who has at least 5 years of
4 experience in the investment activities, merger, and acquisition of technology or
5 manufacturing companies.

6 **238.42 Innovation through competition. (1) LOCAL CHALLENGES.** (a) The
7 corporation, in collaboration with the council, may identify local problems affecting
8 one or more regions within the state that, in the corporation's opinion, are susceptible
9 to being solved over time through private sector innovation and the development and
10 use of new technologies, components, systems, or processes.

11 (b) The corporation may solicit grant applications from and award grants to
12 businesses headquartered in this state, or coalitions of such businesses or of such
13 businesses and institutions of higher education, for the development or deployment
14 of a new technology, component, system, or process to solve or significantly improve
15 upon a local problem identified under par. (a).

16 (c) Each grant under par. (b) shall be made from the appropriation under s.
17 20.192 (1) (t). In awarding the grants, the corporation shall give priority to
18 applicants that, in the corporation's opinion, present the most compelling potential
19 solution to the problem and the most credible business case for eventually marketing
20 a solution that solves or significantly improves upon the problem and that
21 demonstrates a potential to increase jobs in this state or reduce costs to the state or
22 a political subdivision of the state.

23 **(2) GRAND CHALLENGES.** (a) The corporation may identify problems affecting
24 a significant portion of the state or nation that, in the corporation's opinion, are

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1 susceptible to being solved over time through private sector innovation and the
2 development and use of new technologies, components, systems, or processes.

3 (b) The corporation may solicit grant applications from and award grants to
4 businesses headquartered in this state, or coalitions of such businesses or of such
5 businesses and institutions of higher education, for the development or deployment
6 of a new technology, component, system, or process to solve or significantly improve
7 upon a problem identified under par. (a).

8 (c) Each grant under par. (b) shall be made from the appropriation under s.
9 20.192 (1) (t). In awarding the grants, the corporation shall give priority to
10 applicants that, in the corporation's opinion, present the most compelling potential
11 solution to the problem and the most credible business case for eventually marketing
12 a solution that solves or significantly improves upon the problem and that
13 demonstrates a potential to increase jobs in this state or reduce costs to the state or
14 a political subdivision of the state.

15 **(3) MAXIMIZING GRANT FUNDS.** Using available and feasible mechanisms, such
16 as matching funds, the corporation shall undertake to maximize the impact of grants
17 awarded under this section with the understanding that many grants under this
18 section might not immediately result in the development of a marketable technology,
19 component, system, or process but that the grants are an important contribution to
20 future innovation and manufacturing growth in this state and an important method
21 of fostering a culture of private sector collaboration and innovation.

22 **238.43 New product research and development. (1) DEFINITION.** In this
23 section, "early stage business" means a business that satisfies all of the following
24 conditions:

25 (a) The business satisfies s. 238.15 (1) (a) to (g), (k), (kn), and (L).

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1 (b) At the time it receives a grant under this section, the business has less than
2 100 employees.

3 (c) At the time it receives a grant under this section, the business has been in
4 operation in this state for not more than 10 consecutive years.

5 (d) The business has not received aggregate private equity investment in cash
6 of more than \$10,000,000 before it receives a grant under this section.

7 **(2) GRANTS.** (a) From the appropriation under s. 20.192 (1) (t), the corporation
8 may make grants to early stage businesses for the purpose of facilitating rapid
9 prototype development and pilot testing of potentially marketable new technologies,
10 components, or products.

11 (b) The corporation may make a grant to an early stage business under this
12 section only if the early stage business is a member of an industry cluster partnership
13 and agrees to consult with the industry cluster partnership concerning expenditures
14 of the grant moneys.

15 **(3) MAXIMIZING GRANT FUNDS.** Using available and feasible mechanisms, such
16 as matching funds, the corporation shall undertake to maximize the impact of grants
17 awarded under this section with the understanding that many grants under this
18 section might not immediately result in the development of a marketable technology,
19 component, or product but that the grants are an important contribution to future
20 innovation and manufacturing and technology growth in this state and an important
21 method of fostering a culture of private sector collaboration and innovation.

22 **238.44 Capacity building through industry cluster partnerships. (1)**
23 **CONTRACT APPLICATION.** Any industry cluster partnership in this state may apply for
24 a contract under this section. In addition to any other information the corporation
25 requires, the application shall include a business plan for the applicant that sets

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1 forth measurable economic development and business-related goals and the specific
2 programming the applicant intends to implement to achieve those goals. The
3 business plan shall demonstrate to the corporation's satisfaction how the applicant
4 plans to be without need of corporation funding within 10 years after first receiving
5 a payment under a contract under this section.

6 **(2) CONTRACT PAYMENTS.** From the appropriation under s. 20.192 (1) (t), the
7 corporation may make payments to industry cluster partnerships subject to
8 contracts under this section. The corporation may not enter into more than one
9 contract per industry under this section each year.

10 **(3) AWARD OF CONTRACT; TERMINATION.** (a) Subject to pars. (b) to (f), the
11 corporation may award a contract under this section only to an industry cluster
12 partnership that submits an application under sub. (1) and for which the corporation
13 has evaluated all of the following:

14 1. Evidence that the industry cluster partnership will strongly support the
15 further development of existing regional concentrations of industry-specific
16 businesses in this state.

17 2. Evidence that the industry cluster partnership has raised funding or funding
18 commitments from sources other than the corporation and the state that equal at
19 least 10 percent of the annual amount the industry cluster partnership is requesting
20 from the corporation.

21 (b) The corporation may not contract under this section with an industry
22 cluster partnership unless the industry cluster partnership is headquartered in this
23 state.

24 (c) The corporation may not contract under this section with an industry cluster
25 partnership unless the industry cluster partnership is governed by a board of

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1 directors with members from the public and private sectors who represent the
2 businesses within the applicable industry, including businesses in the industry
3 cluster partnership, and who represent the interests necessary to ensure a
4 collaborative, strategic approach to supporting economic development, job growth,
5 and the development of marketable products and services in the applicable industry.

6 (d) The corporation may not contract under this section with more than one
7 industry cluster partnership per industry at one time, unless every other industry
8 cluster partnership in that industry with which the corporation is under contract is
9 materially underperforming and the corporation determines that the public interest
10 requires contracting with another industry cluster partnership within that industry.

11 (e) If the corporation has more than one application pending under this section
12 from industry cluster partnerships in the same industry, the corporation shall
13 contract with the industry cluster partnership that the corporation determines is
14 likely to have the greatest overall impact on economic development in this state
15 within the applicable industry. In making that determination, and in making all
16 competitive funding decisions under this section, the corporation shall give
17 preference to the industry cluster partnership that best satisfies all of the following
18 conditions:

- 19 1. Has demonstrated strength in academic and industry relationships.
- 20 2. Has strong leadership from the applicable industry on its board of directors.
- 21 3. Was previously subject to a contract under this subsection, provided the
22 industry cluster partnership met the goals outlined in the business plan submitted
23 under sub. (1) and otherwise completed the contract to the corporation's satisfaction.

24 (f) Each contract under this section shall provide, in addition to other bases for
25 contract termination, that the corporation may terminate the contract if the industry

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1 cluster partnership fails to make satisfactory progress, as determined by the
2 corporation, toward the goals outlined in the industry cluster partnership's business
3 plan. Before terminating a contract for lack of such satisfactory progress, the
4 corporation shall provide the industry cluster partnership notice of the pending
5 termination and an opportunity to cure.

6 **238.45 Accelerators and small business innovation.** The corporation may
7 expend moneys from the appropriation under s. 20.192 (1) (t) to partially fund any
8 of the following:

9 (1) Any grant that the corporation provides under a program the corporation
10 administers to support business accelerators in this state.

11 (2) Any grant that the corporation provides to match or partially match grants
12 made by the federal small business administration or under the federal Small
13 Business Technology Transfer Program.

14 **238.46 Prioritization of funds.** If the corporation determines that the
15 amounts appropriated under s. 20.192 (1) (t) are not sufficient to fund all program
16 activities under ss. 238.42 to 238.45 to the extent the corporation believes is
17 necessary to accomplish its strategic economic development objectives under this
18 subchapter, the corporation shall give priority to the program activities under ss.
19 238.43 to 238.45.

20 **238.47 Regulatory fast track.** If an eligible regulatory applicant requires a
21 permit or other approval of a state agency for activities related to the potential
22 development and deployment of a new technology, component, product, system, or
23 process, including field testing potentially marketable new technologies,
24 implementing new technologies or products in a pilot project, or completing projects
25 consistent with the economic development goals of the applicable industry cluster

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1 partnership, the state agency shall provide priority, expedited service to the eligible
2 regulatory applicant to ensure that the agency's determination concerning the
3 permit or approval is made as quickly as practicable and, in any event, no later than
4 90 days after a complete application or request for the permit or approval is received
5 by the agency. The state agency shall appoint a single point of contact within the
6 agency to receive communications from the applicant and manage the approval
7 process. To the maximum extent possible under the state agency's authority with
8 respect to the required approval, the agency shall seek to facilitate the rapid
9 approval and successful execution of the requested activities.

10 **238.48 Operational or administrative costs. (1)** The corporation shall
11 cover its initial program operations and administrative expenses under this
12 subchapter from the appropriation under s. 20.192 (1) (r). No moneys may be
13 expended under this subsection after June 30, 2018.

14 **(2)** If the corporation determines that the amount provided under s. 20.192 (1)
15 (t) 1., 2., 3., or 4. is not sufficient to cover the corporation's actual general program
16 operations and administrative expenses under this subchapter for a fiscal year, the
17 corporation may notify the joint committee on finance in writing that the corporation
18 proposes to exceed that amount for those purposes. That notice shall state the
19 specific amount of additional moneys from the fund that the corporation proposes to
20 use for general program operations and administrative expenses and the
21 corporation's reasons supporting its determination that its expenditure of that
22 additional amount is necessary for those purposes. If, within 14 working days after
23 the date of that notice, the cochairpersons of the committee do not notify the
24 corporation that the committee has scheduled a meeting to review the corporation's
25 proposal, the corporation may expend the additional amount as proposed in the

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1 corporation's notice. If, within 14 working days after the date of that notice, the
2 cochairpersons of the committee notify the corporation that the committee has
3 scheduled a meeting to review the corporation's proposal, the corporation may
4 expend the additional amount only upon approval of the committee.

5

(END)