

2013 Oc3 DRAFTING REQUEST

Bill

Received: 10/11/2013 Received By: jkreye
Wanted: As time permits Same as LRB: -1274 -3424
For: Chad Weininger (608) 266-5840 By/Representing: kirsten
May Contact: Drafter: jkreye
Subject: Tax, Business - credits Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Weininger@legis.wisconsin.gov
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
ron.shanovich@legis.wisconsin.gov
rob.reinhardt@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Increase the supplement to federal historic rehabilitation 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>
/?	jkreye 10/11/2013	csicilia 10/11/2013	jmurphy 10/11/2013	_____			
/1				_____	srose 10/11/2013	srose 10/11/2013	State

FE Sent For:

10-14-2013
(1/1 ")
Per Kirsten
<END>

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Jacket class Joe
Pol Reinhardt Ron Sharovich

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Instructions:

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Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? jkreye

1 cjs 10/11/13
jm 10/11
jm+jk 10/11

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE
October 2013 Special Session



LRB-3411/1
JK:eev&wlj:jf

BILL

slays

3423/1

in 10-11-13

now

Gen Cat

1 **AN ACT to repeal** 71.07 (9m) (a) 1. and 2., 71.28 (6) (a) 1. and 2. and 71.47 (6) (a)
2 1. and 2.; **to renumber** 71.10 (4) (dm); **to renumber and amend** 71.07 (9m)
3 (a) (intro.), 71.07 (9m) (c), 71.28 (6) (a) (intro.), 71.28 (6) (c), 71.47 (6) (a) (intro.)
4 and 71.47 (6) (c); **to amend** 71.07 (9m) (g) 2., 71.08 (1) (intro.), 71.28 (6) (g) 2.
5 and 71.47 (6) (g) 2.; and **to create** 71.07 (9m) (a) 2m., 71.07 (9m) (a) 3., 71.07
6 (9m) (c) 2., 71.07 (9m) (dm), 71.07 (9m) (h), 71.28 (6) (a) 2m., 71.28 (6) (a) 3.,
7 71.28 (6) (c) 2., 71.28 (6) (dm), 71.28 (6) (h), 71.47 (6) (a) 2m., 71.47 (6) (a) 3.,
8 71.47 (6) (c) 2., 71.47 (6) (dm) and 71.47 (6) (h) of the statutes; **relating to:**
9 increasing the amount of the supplement to the federal historic rehabilitation
10 tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an income and franchise tax credit for 10 percent of the qualified rehabilitation expenditures, as defined under the federal Internal Revenue Code, for certified historic structures on property located in this state, if construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989. The credit is a supplement to the federal tax

credit for 20 percent of the qualified rehabilitation expenditures for certified historic structures. The federal credit, and the supplemental state credit, apply to nonresidential real property and residential rental property.

Under this bill, a person may claim an income and franchise tax credit for 20 percent of the qualified rehabilitation expenses, as defined under the federal Internal Revenue Code, for certified historic structures on property located in this state, if the cost of the person's qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated property is placed in service after December 31, 2012.

The bill also allows a person to claim a credit equal to 20 percent of the qualified rehabilitation expenses for qualified rehabilitated buildings, as defined under the federal Internal Revenue Code, located in this state. The credit is similar to the federal credit for rehabilitating a building that was first placed in service before 1936, except that the federal credit is 10 percent of the qualified rehabilitation expenses.

Under the bill, the maximum amount of all credits that taxpayers may claim in a fiscal year for qualified rehabilitation expenses for certified historic structures or qualified rehabilitated buildings is \$4,000,000.

Under the bill, the Department of Revenue, in conjunction with the State Historical Society, must submit a report to the Joint Committee on Finance (JCF), no later than June 30, 2016, describing the economic impact of the tax credits and making a recommendation as to whether the tax credits should continue. The recommendation, however, may be implemented only upon approval of JCF.

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:

1 **SECTION 1.** 71.07 (9m) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
2 Act 20, is renumbered 71.07 (9m) (a) 1m. and amended to read:
3 71.07 (**9m**) (a) 1m. Any For taxable years beginning before January 1, 2013,
4 any person may credit against taxes otherwise due under this chapter, up to the
5 amount of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent
6 of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2)
7 of the Internal Revenue Code, for certified historic structures on property located in
8 this state if the physical work of construction or destruction in preparation for

1 construction begins after December 31, 1988, and the rehabilitated property is
2 placed in service after June 30, 1989, and before January 1, 2013.

3 **SECTION 2.** 71.07 (9m) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
4 Act 20, are repealed.

5 **SECTION 3.** 71.07 (9m) (a) 2m. of the statutes is created to read:

6 71.07 (9m) (a) 2m. For taxable years beginning after December 31, 2012, any
7 person may claim as a credit against taxes otherwise due under s. 71.02^{or 71.08} up to the
8 amount of those taxes, an amount equal to 20 percent of the costs of qualified
9 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
10 Code, for certified historic structures on property located in this state, if the cost of
11 the person's qualified rehabilitation expenditures is at least \$50,000 and the
12 rehabilitated property is placed in service after December 31, 2012.

13 **SECTION 4.** 71.07 (9m) (a) 3. of the statutes is created to read:

14 71.07 (9m) (a) 3. For taxable years beginning after December 31, 2012, any
15 person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up
16 to the amount of those taxes, an amount equal to 20 percent of the costs of qualified
17 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
18 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
19 Internal Revenue Code, on property located in this state, if the cost of the person's
20 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
21 property is placed in service after December 31, 2012, and regardless of whether the
22 rehabilitated property is used for multiple or revenue-producing purposes. No
23 credit may be claimed under this subdivision for property listed as a contributing
24 building in the state register of historic places or in the national register of historic
25 places and no credit may be claimed under this subdivision for nonhistoric,

1 nonresidential property converted into housing if the property has been previously
2 used for housing.

3 **SECTION 5.** 71.07 (9m) (c) of the statutes is renumbered 71.07 (9m) (c) (intro.)
4 and amended to read:

5 71.07 (**9m**) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
6 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
7 following:

8 1. Evidence that the rehabilitation was recommended by the state historic
9 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
10 before the physical work of construction, or destruction in preparation for
11 construction, began and that the rehabilitation was approved by the ~~secretary of the~~
12 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

13 **SECTION 6.** 71.07 (9m) (c) 2. of the statutes is created to read:

14 71.07 (**9m**) (c) 2. Evidence that the taxpayer obtained written certification from
15 the state historic preservation officer that:

16 a. The property is listed on the national register of historic places in Wisconsin
17 or the state register of historic places, or is determined by the state historical society
18 to be eligible for listing on the national register of historic places in Wisconsin or the
19 state register of historic places, or is located in a historic district that is listed in the
20 national register of historic places in Wisconsin or the state register of historic places
21 and is certified by the state historic preservation officer as being of historic
22 significance to the district, or is an outbuilding of an otherwise eligible property
23 certified by the state historic preservation officer as contributing to the historic
24 significance of the property.

1 b. The proposed preservation or rehabilitation plan complies with standards
2 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
3 substantially complies with the proposed plan.

4 c. The costs are not incurred to acquire any building or interest in a building
5 or to enlarge an existing building.

6 d. The costs were not incurred before the state historical society approved the
7 proposed preservation or rehabilitation plan.

8 **SECTION 7.** 71.07 (9m) (dm) of the statutes is created to read:

9 71.07 (**9m**) (dm) The maximum amount of the credits that may be claimed by
10 all claimants under this subsection and ss. 71.28 (6) and 71.47 (6) in a fiscal year is
11 \$4,000,000.

12 **SECTION 8.** 71.07 (9m) (g) 2. of the statutes is amended to read:

13 71.07 (**9m**) (g) 2. Notwithstanding s. 71.77, the department may adjust or
14 disallow the credit claimed under this subsection within 4 years after the date that
15 the state historical society notifies the department that the expenditures for which
16 the credit was claimed do not comply with the standards for certification
17 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
18 in part, a credit transferred under par. (h), only the person who originally transferred
19 the credit to another person is liable to repay the adjusted or disallowed amount.

20 **SECTION 9.** 71.07 (9m) (h) of the statutes is created to read:

21 71.07 (**9m**) (h) Any person, including a nonprofit entity described in section 501
22 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
23 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
24 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department

1 of the transfer, and submits with the notification a copy of the transfer documents,
2 and the department certifies ownership of the credit with each transfer.

3 **SECTION 10.** 71.08 (1) (intro.) of the statutes is amended to read:

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

14 **SECTION 11.** 71.10 (4) (dm) of the statutes is renumbered 71.10 (4) (fm).

15 **SECTION 12.** 71.28 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
16 Act 20, is renumbered 71.28 (6) (a) 1m. and amended to read:

17 71.28 (6) (a) 1m. ~~Any~~ For taxable years beginning before January 1, 2013, any
18 person may credit against taxes otherwise due under this chapter, up to the amount
19 of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent of the
20 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
21 Internal Revenue Code, for certified historic structures on property located in this
22 state if the physical work of construction or destruction in preparation for
23 construction begins after December 31, 1988, and the rehabilitated property is
24 placed in service after June 30, 1989; and before January 1, 2013.

1 **SECTION 13.** 71.28 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
2 Act 20, are repealed.

3 **SECTION 14.** 71.28 (6) (a) 2m. of the statutes is created to read:

4 71.28 (6) (a) 2m. For taxable years beginning after December 31, 2012, any
5 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
6 amount of those taxes, an amount equal to 20 percent of the costs of qualified
7 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
8 Code, for certified historic structures on property located in this state, if the cost of
9 the person's qualified rehabilitation expenditures is at least \$50,000 and the
10 rehabilitated property is placed in service after December 31, 2012.

11 **SECTION 15.** 71.28 (6) (a) 3. of the statutes is created to read:

12 71.28 (6) (a) 3. For taxable years beginning after December 31, 2012, any
13 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
14 amount of those taxes, an amount equal to 20 percent of the costs of qualified
15 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
16 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
17 Internal Revenue Code, on property located in this state, if the cost of the person's
18 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
19 property is placed in service after December 31, 2012, and regardless of whether the
20 rehabilitated property is used for multiple or revenue-producing purposes. No
21 credit may be claimed under this subdivision for property listed as a contributing
22 building in the state register of historic places or in the national register of historic
23 places and no credit may be claimed under this subdivision for nonhistoric,
24 nonresidential property converted into housing if the property has been previously
25 used for housing.

1 **SECTION 16.** 71.28 (6) (c) of the statutes is renumbered 71.28 (6) (c) (intro.) and
2 amended to read:

3 71.28 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
4 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
5 following:

6 1. Evidence that the rehabilitation was recommended by the state historic
7 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
8 before the physical work of construction, or destruction in preparation for
9 construction, began and that the rehabilitation was approved by the ~~secretary of the~~
10 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

11 **SECTION 17.** 71.28 (6) (c) 2. of the statutes is created to read:

12 71.28 (6) (c) 2. Evidence that the taxpayer obtained written certification from
13 the state historic preservation officer that:

14 a. The property is listed on the national register of historic places in Wisconsin
15 or the state register of historic places, or is determined by the state historical society
16 to be eligible for listing on the national register of historic places in Wisconsin or the
17 state register of historic places, or is located in a historic district that is listed in the
18 national register of historic places in Wisconsin or the state register of historic places
19 and is certified by the state historic preservation officer as being of historic
20 significance to the district, or is an outbuilding of an otherwise eligible property
21 certified by the state historic preservation officer as contributing to the historic
22 significance of the property.

23 b. The proposed preservation or rehabilitation plan complies with standards
24 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
25 substantially complies with the proposed plan.

1 c. The costs are not incurred to acquire any building or interest in a building
2 or to enlarge an existing building.

3 d. The costs were not incurred before the state historical society approved the
4 proposed preservation or rehabilitation plan.

5 **SECTION 18.** 71.28 (6) (dm) of the statutes is created to read:

6 71.28 (6) (dm) The maximum amount of the credits that may be claimed by all
7 claimants under this subsection and ss. 71.07 (9m) and 71.47 (6) in a fiscal year is
8 \$4,000,000.

9 **SECTION 19.** 71.28 (6) (g) 2. of the statutes is amended to read:

10 71.28 (6) (g) 2. Notwithstanding s. 71.77, the department may adjust or
11 disallow the credit claimed under this subsection within 4 years after the date that
12 the state historical society notifies the department that the expenditures for which
13 the credit was claimed do not comply with the standards for certification
14 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
15 in part, a credit transferred under par. (h), only the person who originally transferred
16 the credit to another person is liable to repay the adjusted or disallowed amount.

17 **SECTION 20.** 71.28 (6) (h) of the statutes is created to read:

18 71.28 (6) (h) Any person, including a nonprofit entity described in section 501
19 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
20 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
21 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
22 of the transfer, and submits with the notification a copy of the transfer documents,
23 and the department certifies ownership of the credit with each transfer.

24 **SECTION 21.** 71.47 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
25 Act 20, is renumbered 71.47 (6) (a) 1m. and amended to read:

1 71.47 (6) (a) 1m. ~~Any~~ For taxable years beginning before January 1, 2013, any
2 person may credit against taxes otherwise due under this chapter, up to the amount
3 of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent of the
4 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
5 Internal Revenue Code, for certified historic structures on property located in this
6 state if the physical work of construction or destruction in preparation for
7 construction begins after December 31, 1988, and the rehabilitated property is
8 placed in service after June 30, 1989: and before January 1, 2013.

9 **SECTION 22.** 71.47 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
10 Act 20, are repealed.

11 **SECTION 23.** 71.47 (6) (a) 2m. of the statutes is created to read:

12 71.47 (6) (a) 2m. For taxable years beginning after December 31, 2012, any
13 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
14 amount of those taxes, an amount equal to 20 percent of the costs of qualified
15 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
16 Code, for certified historic structures on property located in this state, if the cost of
17 the person's qualified rehabilitation expenditures is at least \$50,000 and the
18 rehabilitated property is placed in service after December 31, 2012.

19 **SECTION 24.** 71.47 (6) (a) 3. of the statutes is created to read:

20 71.47 (6) (a) 3. For taxable years beginning after December 31, 2012, any
21 person may claim as a credit against taxes otherwise due under s. 71.43, up to the
22 amount of those taxes, an amount equal to 20 percent of the costs of qualified
23 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
24 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
25 Internal Revenue Code, on property located in this state, if the cost of the person's

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1 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
2 property is placed in service after December 31, 2012, and regardless of whether the
3 rehabilitated property is used for multiple or revenue-providing purposes. No credit
4 may be claimed under this subdivision for property listed as a contributing building
5 in the state register of historic places or in the national register of historic places and
6 no credit may be claimed under this subdivision for nonhistoric, nonresidential
7 property converted into housing if the property has been previously used for housing.

8 **SECTION 25.** 71.47 (6) (c) of the statutes is renumbered 71.47 (6) (c) (intro.) and
9 amended to read:

10 71.47 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
11 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
12 following:

13 1. Evidence that the rehabilitation was recommended by the state historic
14 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
15 before the physical work of construction, or destruction in preparation for
16 construction, began and that the rehabilitation was approved by the ~~secretary of the~~
17 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

18 **SECTION 26.** 71.47 (6) (c) 2. of the statutes is created to read:

19 71.47 (6) (c) 2. Evidence that the taxpayer obtained written certification from
20 the state historic preservation officer that:

21 a. The property is listed on the national register of historic places in Wisconsin
22 or the state register of historic places, or is determined by the state historical society
23 to be eligible for listing on the national register of historic places in Wisconsin or the
24 state register of historic places, or is located in a historic district that is listed in the
25 national register of historic places in Wisconsin or the state register of historic places

1 and is certified by the state historic preservation officer as being of historic
2 significance to the district, or is an outbuilding of an otherwise eligible property
3 certified by the state historic preservation officer as contributing to the historic
4 significance of the property.

5 b. The proposed preservation or rehabilitation plan complies with standards
6 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
7 substantially complies with the proposed plan.

8 c. The costs are not incurred to acquire any building or interest in a building
9 or to enlarge an existing building.

10 d. The costs were not incurred before the state historical society approved the
11 proposed preservation or rehabilitation plan.

12 **SECTION 27.** 71.47 (6) (dm) of the statutes is created to read:

13 71.47 (6) (dm) The maximum amount of the credits that may be claimed by all
14 claimants under this subsection and ss. 71.07 (9m) and 71.28 (6) in a fiscal year is
15 \$4,000,000.

16 **SECTION 28.** 71.47 (6) (g) 2. of the statutes is amended to read:

17 71.47 (6) (g) 2. Notwithstanding s. 71.77, the department may adjust or
18 disallow the credit claimed under this subsection within 4 years after the date that
19 the state historical society notifies the department that the expenditures for which
20 the credit was claimed do not comply with the standards for certification
21 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
22 in part, a credit transferred under par. (h), only the person who originally transferred
23 the credit to another person is liable to repay the adjusted or disallowed amount.

24 **SECTION 29.** 71.47 (6) (h) of the statutes is created to read:

1 71.47 (6) (h) Any person, including a nonprofit entity described in section 501
2 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
3 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
4 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
5 of the transfer, and submits with the notification a copy of the transfer documents,
6 and the department certifies ownership of the credit with each transfer.

7 **SECTION 30. Nonstatutory provisions.**

8 (1) JOINT FINANCE REVIEW. No later than June 30, 2016, the department of
9 revenue, in conjunction with the state historical society, shall submit to the joint
10 committee on finance a report describing the economic impact of the tax credits
11 under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a)
12 2m. and 3. of the statutes, as affected by this act, and shall make a recommendation
13 to the committee as to whether the tax credits should continue. If the department
14 of revenue, in conjunction with the state historical society, determines that the cost
15 of the tax credits to the state is greater than the investments made in order to claim
16 the credits, the department shall recommend in the report that the credits be
17 discontinued for taxable years beginning after December 31, 2016. The report shall
18 also specify the number and type of claimants who have claimed the credits under
19 sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and
20 3. of the statutes, as affected by this act, and the commercial purposes for which the
21 rehabilitated properties are used. Within 14 working days after the submittal date
22 of the report, the cochairpersons of the committee shall notify the department of
23 revenue and the state historical society that the committee has scheduled a meeting

1 for the purpose of reviewing the recommendation. The recommendation may be
2 implemented only upon approval of the committee.

3 (END)