

**1999 DRAFTING REQUEST**

**Bill**

Received: **04/21/99**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Glenn**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

deduction for costs of tobacco advertising

**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 05/27/99	ygeller 05/28/99		_____			State
/1			martykr 06/1/99	_____	lrb_docadmin 06/1/99	lrb_docadmin 06/1/99	

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: **04/21/99**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Glenn**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

deduction for costs of tobacco advertising

**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 05/27/99	ygeller 05/28/99		_____			State
/1			martykr 06/1/99	_____	lrb_docadmin 06/1/99		

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: **04/21/99**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Glenn**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

deduction for costs of tobacco advertising

**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>
1?	jkreye	1 5/20 jag	1/1	mye 6 km 1			

FE Sent For:

<END>

**LEGISLATIVE REFERENCE BUREAU**

Legal Section, 5<sup>th</sup> Floor, 100 N. Hamilton St.  
 (608) 266-3561

**BILL REQUEST FORM**

*Attn: Joe Kreye; Co-2263*

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.  
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>4/21</i>	Legislator or agency requesting this draft: <i>Rep. Pagan</i>
Name/phone number of person submitting request: <i>266-8570</i>	
Persons to contact for questions about this draft (names and phone numbers please): <i>Glenn → 266-8570</i>	
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>Currently, corporations may deduct advertising for tax purposes. This bill would eliminate this provision for advertising of tobacco products.</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

*Attached*

**Requests are confidential unless stated otherwise.**

May we tell others that we are working on this for you?  YES  NO

If yes, anyone who asks?  YES  NO

Any legislator?  YES  NO  ONLY the following persons:

Do you consider this urgent?  YES  NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES  NO If yes, please sign your name here:

## S T A T E O F N E W Y O R K

S. 1987

A. 3330

1999-2000 Regular Sessions  
 S E N A T E - A S S E M B L Y  
 February 1, 1999

IN SENATE -- Introduced by Sens. SCHNEIDERMAN, KRUGER, MONTGOMERY, SAMPSON, SANTIAGO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations, Taxation and Government Operations

IN ASSEMBLY -- Introduced by M. of A. DINOWITZ -- Multi-Sponsored by -- M. of A. COLTON, LUSTER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to eliminating the deduction for amounts expended for tobacco advertising

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Paragraph (b) of subdivision 9 of section 208 of the tax  
 2 law is amended by adding a new subparagraph 16 to read as follows:  
 3 (16) ANY EXPENSES PAID OR INCURRED FOR THE ADVERTISING OF ANY CIGA-  
 4 RETTE OR TOBACCO PRODUCT, AS SUCH TERMS ARE DEFINED IN SUBDIVISIONS ONE  
 5 AND TWO, RESPECTIVELY, OF SECTION FOUR HUNDRED SEVENTY OF THIS CHAPTER.  
 6 § 2. Paragraph (b) of subdivision 8 of section 11-602 of the adminis-  
 7 trative code of the city of New York is amended by adding a new subpara-  
 8 graph 16 to read as follows:  
 9 (16) ANY EXPENSES PAID OR INCURRED FOR THE ADVERTISING OF ANY CIGA-  
 10 RETTE OR TOBACCO PRODUCT, AS SUCH TERMS ARE DEFINED IN SUBDIVISIONS ONE  
 11 AND TWO, RESPECTIVELY, OF SECTION FOUR HUNDRED SEVENTY OF THE TAX LAW.  
 12 § 3. This act shall take effect on the first day of January next  
 13 succeeding the date on which it shall have become a law and shall apply  
 14 to taxable years beginning on or after such date.

BILL NUMBER: A3330

PURPOSE OR GENERAL IDEA OF BILL: Ends a subsidy which exists because

State and City taxes are computed using federal adjusted gross income as a starting point. Federal adjusted gross income includes the deduction for business expenses -- such as advertising. The bill requires tobacco companies to add back to adjusted gross income a New York-allocated portion of their direct advertising expenses.

SUMMARY OF SPECIFIC PROVISIONS: Requires corporate taxpayers to add

back to their adjusted gross income amounts deducted from income as costs of advertising tobacco products. Applies to New York State corporate franchise tax and New York City general corporation tax.

JUSTIFICATION: It is a basic principle of taxation that legitimate

business expenses incurred in the production of income can be written off. But there is nothing legitimate about expenses incurred for the purpose of getting more people to smoke more cigarettes. The government has officially concluded that cigarette smoking leads directly to sickness and death.

The legislation is prompted at this time by these recent developments:

- Marketing plans for the new cigarette, "Uptown," aimed at African-American smokers. The plans were vehemently denounced by Health and Human Services Secretary Louis Sullivan. The public outcry over the cigarette has forced the temporary cancellation of its introduction.

- The "Smooth Character" advertisements by RJR Nabisco for Camel cigarettes, condemned by New York City Consumer Affairs Commissioner Mark Green as designed to appeal to teenagers. Particularly offensive is a "Smooth Character" advertising poster in a recent issue of Rolling

Stone which, with perforations, encourages tearing off the government

health warning.

- The shameless RJR Nabisco advertising plans for "Dakota" cigarettes, aimed, according to a marketing memo, at 18 to 20 year old white females with no education beyond high school who work in factory or low-paying service jobs.

With a fall-off in smoking by the general population, cigarette makers are going after the poor working classes and youths -- after those who are most vulnerable or susceptible to advertising. The tobacco companies are engaged in a cynical plan to get populations already at high health risk to smoke more, the legislators stated.

20% of women with cancer have lung cancer, up from 3% forty years ago.

According to the American Cancer Society, an extraordinary \$2.5 billion was spent last year getting people to smoke more. About 60% of this was spent on promotions, such as auto races, tennis tournaments, and contributions to museums and exhibits, and 40% was spent on direct advertising in magazines, billboards, and newspapers.

This bill does not interfere with federal rules prohibiting states or localities from restricting tobacco advertising: it does not limit the right of cigarette makers to advertise. It merely ends a public subsidy of tobacco advertising.

Legislation has been introduced in Washington by New Jersey Senator Bill Bradley to eliminate this deduction in the federal tax code. However, the tobacco lobby is very powerful in Washington, and it is doubtful

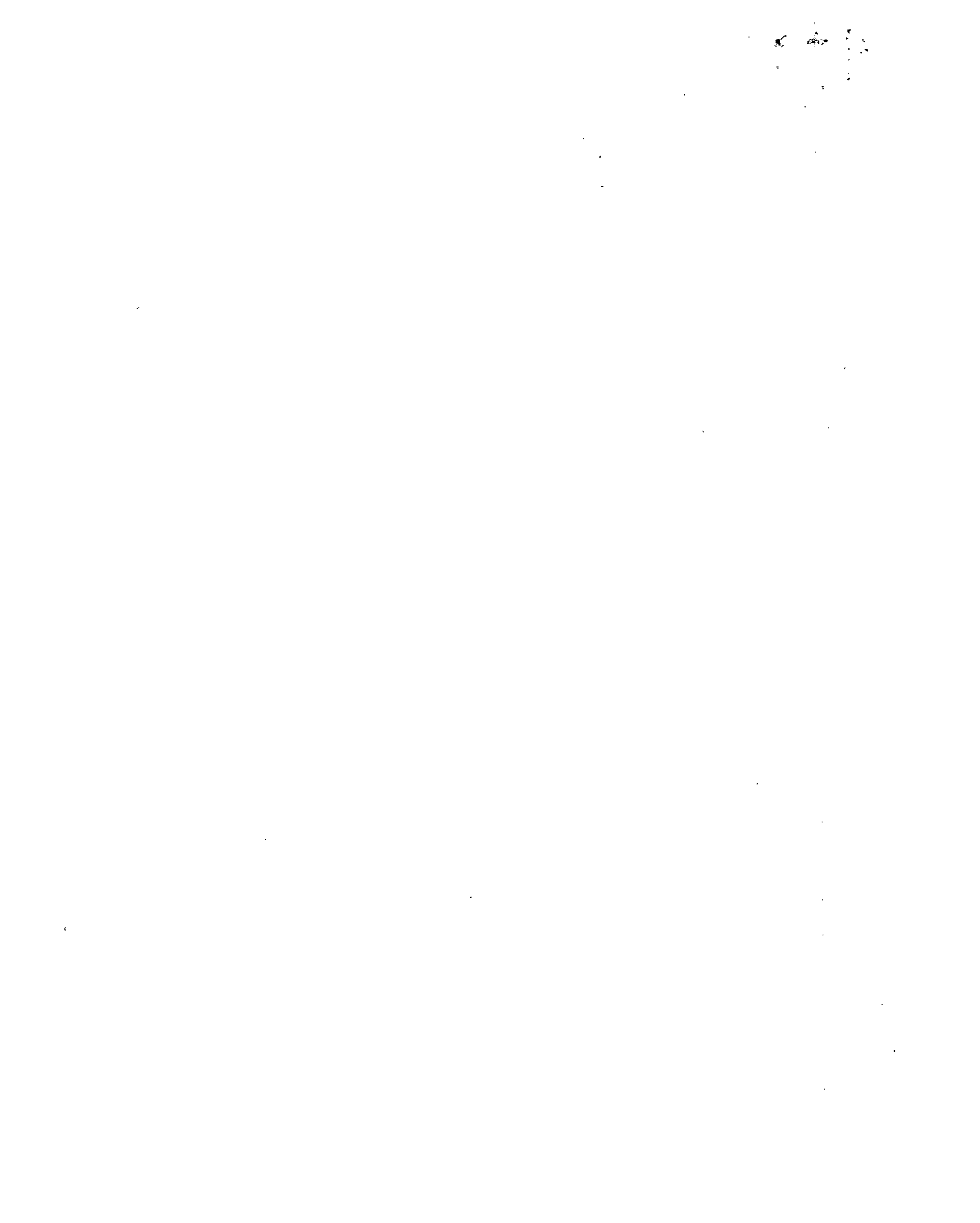
President Bush would sign such a measure. New York should not wait for federal action to stop this indecent subsidy.

PRIOR LEGISLATIVE HISTORY:

1997-98: A. 6814 Referred to Ways and Means S.3032 (Leichter) Referred to Investigation and Taxation

FISCAL IMPLICATIONS: This bill would increase State revenue by at least \$15 million and New York City revenue by at least \$6 million.

EFFECTIVE DATE: The first day of January next succeeding the date on which it shall have become a law and shall apply to taxable years beginning on or after such date.





4-21-99 1040AM

Plan at  
Pocan's office

Bill in NY state corp can deduct  
ad expenses  
for tax purposes

→ draft bill to disallow deduction for  
ad. expenses related to  
tobacco ads



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2959

JK:.....

m 5-27-99

jlg

gen

1 AN ACT ...; relating to: the corporate income tax deduction for tobacco  
2 advertising expenses.

*Analysis by the Legislative Reference Bureau*

Under current law, to determine a corporation's adjusted gross income for income tax and franchise tax purposes, a corporation may deduct from the corporation's income the advertising expenses paid by the corporation. Under this bill, a corporation may not deduct any expenses for advertising that is intended to promote the sale or use of cigarettes or tobacco products.

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:*

3 SECTION 1. 71.26 (3) (e) 4. of the statutes is created to read:

4 71.26 (3) (e) 4. So that payments for advertising may be deducted only if the  
5 advertising is not intended to promote the sale or use of cigarettes, as defined under  
6 s. 139.30 (1), or tobacco products, as defined under s. 139.75 (12).

7 SECTION 2. Initial applicability.

1           (1) This act first applies to taxable years beginning on January 1 of the year  
2           in which this subsection takes effect, except that if this subsection takes effect after  
3           July 31, this act first applies to taxable years beginning on January 1 of the year  
4           following the year in which this subsection takes effect.

5

(END)

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Tuesday, June 01, 1999 2:02 PM  
**To:** Rep.Pocan  
**Subject:** LRB 99-2959/1 (per your request) (Attn: Glen)



99-2959/1

*Mike Barman*

Mike Barman - Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 6/1/99

**To:** Representative Pocan

**Relating to LRB drafting number:** LRB-2959

**Topic**

deduction for costs of tobacco advertising

**Subject(s)**

Tax - corp. inc. and fran.

1. **JACKET** the draft for introduction \_\_\_\_\_

in the Senate \_\_\_\_ or the Assembly  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW** prior to introduction \_\_\_\_\_

If the analysis indicates that \_\_\_\_\_ is required because the proposal makes an appropriation or increases or decreases \_\_\_\_\_ or state or general local government fiscal liability or revenue \_\_\_\_\_ estimate prior to introduction. If you choose to in \_\_\_\_\_ fiscal estimate will be requested automatically upon intro \_\_\_\_\_ estimate. Requesting the fiscal estimate prior to introduc \_\_\_\_\_ of the proposal.

If you have a \_\_\_\_\_ use call 266-3561. If you have any questions relating to the at \_\_\_\_\_

*Joseph  
Could you also send  
an electronic version  
of this to Rep. Pocan@  
legis.state.wi.us. Thanks  
Glenn*

Joseph T. Kreye, Legislative Attorney  
Telephone: (608) 266-2263