	~ **	
- 1		

Received: 11/29/2000 Received By: phurley Wanted: Soon Identical to LRB: For: **Jeff Stone** (608) 266-8590 By/Representing: tami rongstad This file may be shown to any legislator: NO Drafter: phurley May Contact: Addl. Drafters: fasttn Subject: Transportation - motor vehicles Extra Copies: ARG, MGD - 1 Submit via email: NO Pre Topic: No specific pre topic given Topic: Displaying a stolen registration plate on a motor vehicle **Instructions:** See Attached **Drafting History:** Vers. **Drafted** Reviewed **Typed Proofed Submitted** Jacketed Required /1 phurley rschluet pgreensl lrb_docadmin 12/22/2000 01/19/2001 01/19/2001 01/19/2001 /2 fasttn rschluet jfrantze lrb_docadmin lrb_docadmin <u>12/18/2001</u> 12/20/2001 12/20/2001 ___ 12/20/2001 01/15/2002

FE Sent For:

none needed

<END>

Bill

Received: 11/29/2000	Received By: phurley
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Wanted: Soon Identical to LRB:

For: Jeff Stone (608) 266-8590 By/Representing: tami rongstad

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May Contact: Addl. Drafters: fasttn

Subject: Transportation - motor vehicles Extra Copies: ARG, MGD - 1

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Displaying a stolen registration plate on a motor vehicle

Instructions:

See Attached

Drafting History:

Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required
/1	phurley 12/22/2000	rschluet 01/19/2001	pgreensl 01/19/200	1	lrb_docadmin 01/19/2001		
/2	fasttn 12/18/2001	rschluet 12/20/2001	jfrantze 12/20/200	1	lrb_docadmin 12/20/2001		

FE Sent For:

<END>

Bill

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Submit v	ia email: NO	ı						
Pre Top	ic:							
No speci	fic pre topic gi	ven						
Topic: Displayin	ng a stolen regi	stration plate o	n a motor ve	hicle				
Instruct	ions:			•				
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Drafting	g History:							
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required	
/1	phurley 12/22/2000	rschluet 01/19/2001	pgreensl 01/19/200	01	lrb_docadmin 01/19/2001			
FE Sent	For:	12-18-1 5 12-130 jld	Dia/20	JO DE VEND>)			

Bill

Received: 11/29/2000	Received By: phurley

Wanted: As time permits Identical to LRB:

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

May Contact: Alt. Drafters:

Subject: Transportation - motor vehicles Extra Copies: TNF

Pre Topic:

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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>

/? phurley 1/0 1/19

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau 100 N. Hamilton Street Legal Section 266-3561

Use this form only for bill draft requests. Attach more pages if necessary.
Date //-21-2000
Legislator, agency, or other person requesting this draft_Rep. Jeff Stone
Person submitting request (name and phone number) Tami Rongstad 6-8591
Persons to contact for questions about this draft (names and phone numbers)
Tami Rongstad 6-8591 Jeff Stone (414) 321-6100
Describe the problem, including any helpful examples. How do you want to solve the problem?
Desire to make displaying stolen vehicle
registration plates a crime (receiving stolen
property). Also create a rebuttable presumpt
that the vehicle operator displaying the stole plate intentionally received the property. Also create a penalty making the displayof a stolen license plate a Class A misdemeanor. Please attach a copy of any correspondence or other material that may help us. If you know of any
plate intentionally received the property.
Also create a penalty making the displayof a
Please attach a copy of any correspondence or other material that may help us. If you know of any
statute sections that might be affected, list them or provide a marked-up copy. Sec - 943.34 , Chapter 94
You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 o 1997 AB-67).
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 request urgent? YES (NO If yes, please indicate why
Should we give this request priority over any pending request of this legislator, agency, or person?
The state of the s



John O. Norquist Mayor

David R. Riemer Administration Director

Patrick T. Curley Intergovernmental Relations Director

Intergovernmental Relations Division

City Hall, Room 606, 200 East Wells Street, Milwaukee, Wisconsin 53202-3515

Phone (414) 286-3747 Fax (414) 286-8547

Memorandum

Date: November 30, 2000

To: Representative Jeff Stone

C/O Tammi Rongstad

From: Dextra Hadnot

Re:

Intergovernmental Relations C/O Commander Dean Collins Milwaukee Police Department

PROPOSED LEGISLATION FOR STOLEN VEHICLE REGISTRATION PLATES

Please consider the following for drafting instructions and for talking points on the legislation. I am available if you have additional questions.

The theft of vehicle registration plates has become more commonplace since the State now suspends the registration plates of those who fail to pay their traffic fines. This has, in turn, caused some increase in the theft of license plates. Through November of 2000, over 5,295 license plates were reported stolen in the city of Milwaukee. Beside the more mundane theft of the plates to replace those confiscated by the police, there are other reasons to steal registration plates. Sometimes plates are stolen to facilitate armed robberies, burglaries, sexual assaults, and other crimes. Criminals are aware that the lack of license plates gives police ample justification to pull over their vehicle.

The closest statute that addresses this problem is Receiving Stolen Property, Wis. Stat. 943.34 which proscribes the 'intentional receiving or concealing of stolen property'. The problem facing the police is how to prove that the person driving a vehicle with a stolen plate knew that the plate was stolen. If the driver chooses to remain silent under police questioning (which is usual), the police find it very difficult to meet their burden of proof that the driver had knowledge that the plate was stolen.



State of Misconsin 2001 - 2002 LEGISLATURE

LRB-1238/1

PJH:...:...



AN ACT ...; relating to: displaying a stolen registration plate and providing a

penalty.

Analysis by the Legislative Reference Bureau

Under current law, no person may display on a motor vehicle a registration plate, insert tag, decal, or other evidence of registration not issued for that motor vehicle. Any person who does so may be required to forfeit not more than \$500.

In addition to that general prohibition, this bill creates a specific prohibition against displaying on a motor vehicle a stolen registration plate. Under the bill, violators may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

The bill provides that a person charged with displaying a stolen registration plate may raise the affirmative defense that he or she did not know and could not, by reasonable effort, have known that the registration plate was stolen. Any person who raises this affirmative defense has the burdernot proving it by a preponderance of evidence.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

2

BILL

SECTION	1	
SPECTION.		

341.607 Display of stolen registration plates. (1) Any person who displays
a stolen registration plate on a motor vehicle may be fined not more than \$10,000
or imprisoned for not more than the months or both.

(2) It is an affirmative defense to a prosecution for a violation of this section if the defendant did not know, and in the exercise of reasonable care, could not have known, that the registration plate was stolen. A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

 $\mathbf{2}$

DRAFTER'S NOTE

FROM THE

LEGISLATIVE REFERENCE BUREAU

LRB-1238/1dn
PJH:....,
65 2 Kmg

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

I have created s. 341.607, rather than amend the general receiving stolen property statute (s. 943.34) because various sections of chapter 341 refer specifically to improper or illegal display of registration plates and because this draft targets a particular illegal display of registration plates.

Please note that the draft does not make knowledge that the registration plates were stolen an element of the crime of displaying stolen registration plates. Instead, a defendant may argue, as an affirmative defense, that he or she did not know that the registration plates he or she displayed were stolen. The burden is on the defendant to prove this by a preponderance of the evidence.

I found that this approach was more desirable than making knowledge an element of the crime and stating that the display of stolen registration plates creates a rebuttable presumption that the person knew the plates were stolen for two reasons. First, a constitutionally valid presumption of an element of a crime must not undercut the basic requirement that all facts necessary to constitute a crime must be proved by the prosecution beyond a reasonable doubt. If "knowledge" is a necessary element, it could be argued that creating a presumption based on the display itself relieves the prosecution of their burden to prove that the defendant knew the plates were stolen.

Second, a constitutionally valid presumption must logically follow the underlying fact or facts. For example, s. 948.62 (2) (receiving stolen goods from a child) creates a presumption that if a defendant received property from a child that is worth more than \$500 and the defendant did not get consent to receive the goods from a person who is responsible for the child, it may be presumed that the defendant knew/the goods were stolen. This is constitutionally permissible because the underlying facts support a logical inference that the goods were stolen. In contrast, it would be more difficult to argue that knowledge that registration plates were stolen logically follows from the mere display of the plates.

If you have any questions, please let me know.

Peggy Hurley Legislative Attorney Phone: (608) 266–8906

E-mail: peggy.hurley@legis.state.wi.us

that

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1238/1dn PJH:rs&kmg:pg

January 19, 2001

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

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If you have any questions, please let me know.

Peggy Hurley Legislative Attorney Phone: (608) 266–8906

E-mail: peggy.hurley@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn

Sent: Tuesday, November 13, 2001 4:21 PM

To: Rep.Stone

Subject: LRB-1238/1 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561) (E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

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

From: Rongstad, Tami

Sent: Wednesday, November 21, 2001 2:22 PM

Fast, Timothy; Gary, Aaron To:

Cc: 'dcolli@ci.mil.wi.us'; 'MMILLER@ci.mil.wi.us'

Subject: Stolen Plates Legislation

Hi Tim & Aaron--

1/26/01

I have been communicating with City of Milwaukee on one of our bill drafts - LRB 1238. The Police Department has some questions. Peggy was the drafting attorney, but I know she is out on maternity leave. Could one of you take over this draft and answer the questions? We may want some revisions.

Please feel free to communicate directly with Michael Miller and Dean Collins. Their contact information is included in the forwarded text of this email.

Whoever takes the bill, just please include the Stone office, Miller and Collins in any email correspondence relating to this LRB. That will keep us all on the same

Thanks!

page.

Tami Rongstad

Sent: Wednesday, November 21, 2001 2:13 PM

To: Tami.Rongstad@legis.state.wi.us

Subject: follow-up from MPD

Mike You thoughts on highlighted! UCL, "mere" possession would be covered by Research Assistant

943.20, right, as a Class A misdereance

Office of Rep. Jeff Stone

(sane penglty as bill). I could

----Original Message--
From: Michael Miller [mailto:MMILLER@ci.mil.wi.us] to add highlighted text from

Sent: Wednesday, November 21, 2001 2:13 PM

41.10

attacked s. 342,37(1). Rail for any help.

MIKE:

I like the proposed draft but I have a couple of questions that I would like posed to the drafting attorney:

1.) Can we also include possession of stolen plates that are not displayed on an auto? A suspect could have a pile of these plates in his house or garage but not actually on a vehicle. Or we might stop a suspect on the street with stolen plates tucked inside his jacket. I would like to have the bill also reach those circumstances in addition to display upon a vehicle, if possible.

2.) Could we legally increase the burden of proof for an affirmative defense from the proposed 'preponderance of the evidence' to the middle burden of 'clear, satisfactory, and convincing'?

Dean J. Collins Commander, Milwaukee Police Department Administration Bureau P.O. Box 531 Milwaukee, WI 53201-0531 (414) 935-7203 e-mail dcolli@ci.mil.wi.us fax: (414) 935-7040

>>> Michael Miller 11/21/01 01:09PM >>> Dean.

I talked w/ Tammy from Rep. Stones's office. I told her that I will discuss the proposed bill w/ you. It is in the Leg package, but I have not heard any dialogue about it. Let me know what you think, next week.

Have a good Thanksgiving!

magher permittees

From:

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Sent:

Wednesday, November 21, 2001 2:22 PM

To:

Fast, Timothy; Gary, Aaron

Cc:

'dcolli@ci.mil.wi.us'; 'MMILLER@ci.mil.wi.us'

Subject: Stolen Plates Legislation

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Whoever takes the bill, just please include the Stone office, Miller and Collins in any email correspondence relating to this LRB. That will keep us all on the same page.

Thanks!

Tami Rongstad **Research Assistant** Office of Rep. Jeff Stone

----Original Message----

From: Michael Miller [mailto:MMILLER@ci.mil.wi.us] Sent: Wednesday, November 21, 2001 2:13 PM

To: Tami.Rongstad@legis.state.wi.us

Subject: follow-up from MPD

Rob.

Do you see any problem(s) with changing the evidence threshold per highlighted

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>>> Michael Miller 11/21/01 01:09PM >>>

1/26/01 Bob Nelson reviewed. OK to go with middle butten, i.e., to legal impediments.

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Have a good Thanksgiving!

From:

Rongstad, Tami

Sent:

Tuesday, November 27, 2001 10:35 AM

To:

Fast, Timothy

Subject: RE: Stolen Plates Legislation

Tim-

Many thanks. Hope you and yours are feeling well. Thursday will be just fine with us.

Have a safe journey to Milwaukee!

Tami

----Original Message----From: Fast, Timothy

Sent: Tuesday, November 27, 2001 10:33 AM

To: Rongstad, Tami

Subject: RE: Stolen Plates Legislation

Tami:

I will be handling LRB-1238 in Peggy's absence. I'm familiar with the draft. I apologize for the delay in responding. Primarily for health-related reasons, I was out of the office last week. I will respond to the e-mail questions on Thursday. I have appointments this afternoon and will be in Milwaukee all day tomorrow.

I hope all is well with you and yours. Please take care.

Peace, Tim

----Original Message-----**From:** Rongstad, Tami

Sent: Wednesday, November 21, 2001 2:22 PM

To: Fast, Timothy; Gary, Aaron

Cc: 'dcolli@ci.mil.wi.us'; 'MMILLER@ci.mil.wi.us'

Subject: Stolen Plates Legislation

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Whoever takes the bill, just please include the Stone office, Miller and Collins in any email correspondence relating to this LRB. That will keep us all on the same page.

Thanks!

Tami Rongstad Research Assistant Office of Rep. Jeff Stone ----Original Message----

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To: Tami.Rongstad@legis.state.wi.us

Subject: follow-up from MPD

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Have a good Thanksgiving!

From:

Fast, Timothy

Sent:

Thursday, November 29, 2001 1:13 PM

To:

Rongstad, Tami; 'MMILLER@ci.mil.wi.us'; 'dcolli@ci.mil.wi.us'

Cc:

Dsida, Michael

Subject:

Stolen plates legislation

Greetings. The drafting attorney for LRB-1238 is on maternity leave, so I am responding to the questions raised in Commander Collins e-mail of 11/21/01. I reviewed the draft when it was being prepared so I'm fairly familiar with it.

Re question # 1: Yes, the scope of the provision could be expanded to add, for example, "or possesses, sells, or offers for sale a stolen registration plate for a motor vehicle". See s. 342.32 (1), stats., for similar language. Under many circumstances, these activities probably fall under the general theft provision (s. 943.20).

I asked Mike Dsida, who drafts in the criminal law area, to look at this question. He asked: Are each of these acts to be separate offenses? Can a person be convicted of both offering to sell and selling stolen plates? Possession may be an included offense, so conviction for possession may preclude conviction for any of the other acts. I think these issues could be addressed by adding the following sentence: "Each violation of this subsection constitutes a separate offense." Mike also noted that crimes related to registration plates are still punishable under s. 943.20. Is that OK?

2. Re question #2: Yes, you could legally change the burden of proof from "preponderance of the evidence" to "clear, satisfactory, and convincing", i.e., the middle burden of proof. Although I feel compelled to mention that just "clear and convincing" is used the great majority of times in the statutes. I'm not quite sure what "satisfactory" really adds.

I hope that this information helps. Please feel free to e-mail or call me (608-266-9739) if you have any questions or need further assistance.

Peace, Tim Fast

From: Dean Collins [DCOLLI@ci.mil.wi.us]
Sent: Thursday, November 29, 2001 3:05 PM

To: Michael Miller; Tami.Rongstad@legis.state.wi.us; Tim.Fast@legis.state.wi.us

Cc: Michael.Dsida@legis.state.wi.us
Subject: Re: Stolen plates legislation

TIM et al.:

Forgot to include some info in my last response to you concerning the number of stolen plates in the city of Milwaukee as follows:

1995 3,085 1996 3,803 1997 4,947 1998 5,858 1999 7,283 2000 6,463 2001 6,542 (Jan 1 through Nov. 24)

Perhaps you could obtain similar stats for the rest of the state from DOJ or Wis. BJA. Stolen plates are often used to facilitate other crimes. Their use by suspects can result in a real headache for the victim/owner for unpaid parking citations, traffic accidents, and identification with other offenses.

Please share the next draft with me. Thanks.

Dean J. Collins
Commander, Milwaukee Police Department
Administration Bureau
P.O. Box 531
Milwaukee, WI 53201-0531
(414) 935-7203
e mail dcolli@ci.mil.wi.us
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Peace, Tim Fast

From:

Rongstad, Tami

Sent:

Monday, December 17, 2001 3:10 PM

To:

Fast, Timothy

Subject:

RE: Stolen plates legislation

Have at it. It looks like a great idea to me :)

Thanks--

Tami

----Original Message----

From: Fast, Timothy

Sent: Monday, December 17, 2001 3:01 PM

To: Rongstad, Tami

Subject: FW: Stolen plates legislation

Tami,

Culling through e-mails. Did you want me to redraft LRB-1238 and make the changes I discussed in my e-mail below?

Hope all is well with you and yours.

Peace, Tim

----Original Message----

From: Dean Collins [mailto:DCOLLI@ci.mil.wi.us]

Sent: Thursday, November 29, 2001 2:47 PM

To: Michael Miller; Tami.Rongstad@legis.state.wi.us;

Tim.Fast@legis.state.wi.us

Cc: Michael.Dsida@legis.state.wi.us Subject: Re: Stolen plates legislation

TIM:

Thank you for your response to my suggestions concerning the draft. I am gratified by your proposed language. Although our intent is mainly to proscribe mere possession of a stolen plate, including sale, and offering for sale is a good idea. I also like the inclusion of "Each violation of this subsection constitutes a separate offense."

Inasmuch as the proposed section forbids possession as well as display of stolen registration plates. I suggest that the title of the section be changed to "Possession, display, or sale of stolen registration plates."

Re your second point, I'm an old dog and the words of art used to be 'clear, satisfactory, and convincing'. I grant that the word "satisfactory" has probably not been used much these days.

Dean J. Collins
Commander, Milwaukee Police Department
Administration Bureau
P.O. Box 531
Milwaukee, WI 53201-0531
(414) 935-7203
e-mail dcolli@ci.mil.wi.us
fax: (414) 935-7040

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(608-266-9739) if you have any questions or need further assistance.

Peace, Tim Fast



1

3

2001 BILL

, subject to one exception,

Also under current law, no person may transfer to another person or offer for sale a registration plate issued by the department of transportation. Any person who does so may be fined note more than \$5,000 or imprisoned for not more than \$\frac{1}{2} years and \$\frac{1}{2} \text{Months or both.} Regen seven

AN ACT to create 341.607 of the statutes; relating to: displaying a stolen

2 registration plate and providing a penalty. , possessing, selling, or offering to sell

Analysis by the Legislative Reference Bureau

Under current law, no person may display on a motor vehicle a registration plate, insert tag, decal, or other evidence of registration not issued for that motor, vehicle. Any person who does so may be required to forfeit not more than \$500.

Are addition to that general prohibition, this bill creates & specific probibition against displaying a stolen registration plate on a motor vehicle. Under the bill, violators may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

The bill provides that a person charged with displaying a stolen registration plate) may raise the affirmative defense that he or she did not know and could not, by reasonable effort, have known that the registration plate was stolen. Any person who raises this affirmative defense must prove it by a prepanderance of evidence.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 341.607 of the statutes is created to read:

or possessing, selling, or offering to sell a stolen registration plate

2001 – 2002 Legislature **BILL** SECTION 1 Notwithstanding s. 341.605, 341.607 Display of stolen registration plates. (1) Any person who displays 1 a stolen registration plate on a motor vehicle may be fined not more than \$10,000 or 2 imprisoned for not more than 9 months or both. / constitutes a separate offense. (2) It is an affirmative defense to a prosecution for a violation of this section. 4 5 if the defendant did not know, and in the exercise of reasonable care, could not have known, that the registration plate was stolen. A defendant who raises this 6 affirmative defense has the burden of proving this defense by appropriate affirmative defense has the burden of proving this defense by 7 evidence. clear, satisfactory, and convincing 9 (END)

or possesses, sells, or offers for sale a stolen registration plate

Emery, Lynn

From:

Emery, Lynn

Sent:

Thursday, December 20, 2001 11:51 AM

To:

Rep.Stone

Subject: LRB-1238/2 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561) (E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

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



STEPHEN R. MILLER

State of Misconsin

LEGISLATIVE REFERENCE BUREAU

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LEGAL SECTION:

(608) 266-3561 (608) 264-6948

December 20, 2001

MEMORANDUM

To:

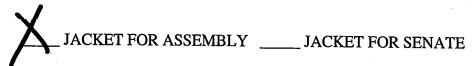
Representative Stone

From:

Peggy J. Hurley, Legislative Attorney

Re: Displaying a stolen registration plate on a motor vehicle

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.



If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-8906 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

RUSH