

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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November 12, 2001

The Legislative Fiscal Bureau has issued a general fund condition statement which concludes that there are insufficient moneys in the general fund to maintain the required general fund balance at the end of this fiscal biennium. The creation of the appropriation under s. 20.255 (2) (du) in this draft affects general purpose revenue and could possibly result in a violation of s. 20.003 (4), stats.

You may wish to include a nonstatutory provision in this bill which states that s. 20.003 (4), stats., does not apply to the action of the legislature in enacting this bill. Please note that s. 20.003 (4), stats., is not legally enforceable, but rather constitutes a rule of procedure under article IV, section 8, of the Wisconsin Constitution. The Wisconsin supreme court has held that the remedy for failing to comply with rules of procedure lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while rules of procedure may govern internal legislative procedure, courts will not enforce procedural rules, and the rules do not affect the validity of any enactment resulting from a procedure that may be viewed as contravening them. Therefore, including a nonstatutory provision in this bill would be only for the purpose of internal legislative operations, not for the purpose of ensuring the legality of the bill.

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