

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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January 28, 2002

Senator Chvala:

1. This amendment amends, and therefore assumes adoption of Senate Amendment 3. If Senate Amendment 3 is not adopted, this amendment must be redrafted.
2. SB-104 is structured differently than SSA 1 to SB-104. In SB-104, "issue advocacy" expenditures are reportable as disbursements in the same way that independent disbursements are reported under current law. In SSA 1, "issue advocacy" expenditures are not considered to be disbursements, but are instead separately defined as "independent expenditures" and a separate reporting structure is established for these expenditures. In proposed s. 11.50 (9) (b), (ba) and (bb) of SSA 1, increase grants are available to candidates who are affected by a) conventional independent disbursements; b) opposing candidates who spend more than the spending limit; and c) "issue advocacy" expenditures. Because under this amendment, there is no distinction between conventional independent disbursements and "issue advocacy" expenditures, there are only two rather than three ways for candidates to supplement their grants. In merging these provisions, there was a substantive difference. For conventional independent disbursements, in SSA 1, there was a match only for *disbursements that exceeded 10% of the applicable spending limit*. For "issue advocacy" expenditures, there was a match for *all expenditures once those expenditures exceed 20% of the applicable spending limit*. This draft utilizes the latter approach. *If you would rather have the former approach, we need to redraft this amendment.*
3. In adjusting the percentage qualifier for grant applicants, we noted that a sentence in s. 11.50 (2) (b) 5. stats. was inadvertently stricken in a previous draft and carried into this draft. This sentence relates to the first \$100 of a contribution of more than \$100 being counted towards the qualifier. Because this appeared to us to be a mistake, this draft restores that sentence.
4. As discussed in our drafter's note to SB-104, the reporting of "issue advocacy" expenditures sends us into uncharted constitutional waters. The change made by this amendment to simplify that reporting by treating these expenditures in exactly the same way as independent disbursements may be viewed by the courts as less defensible than establishing a separate structure that is limited only to reporting the cost of certain communications, as provided in SSA 1. As we mentioned previously, however, we currently do not know the extent to which these expenditures may be

reached under current decisions, so this change may ultimately not be the deciding factor in determining the validity of this proposal.

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