

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB104)**

Received: 01/25/2002

Received By: kuesejt

Wanted: Soon

Identical to LRB:

For: Charles Chvala (608) 266-9170

By/Representing: Doug Burnett

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact: Sen Ellis

Addl. Drafters: rmarchan

Subject: Elections - campaign finance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Chvala@legis.state.wi.us ✓

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

SA to SSA 1 to SB-104 (Issue advocacy; spending limits; qualifying threshold)

---

**Instructions:**

Senate \$100,000; Assembly \$50,000. Qualifying threshold for public grants 3% of disbursement limitation. Revise a0689/1 to delete s. 11.065 and restore s. 11.01 (16) (a) 3. from SB-104.

---

**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>
/?	kuesejt 01/25/2002 rmarchan 01/28/2002	csicilia 01/28/2002		_____			
/1			jfrantze	_____	lrb_docadmin	lrb_docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			01/28/2002 _____		01/28/2002	01/28/2002	
/2	kuesejt 01/28/2002 rmarchan 01/29/2002	csicilia 01/28/2002 jdye 01/29/2002	pgreensl 01/28/2002 _____ _____ _____		lrb_docadmin 01/28/2002	lrb_docadmin 01/28/2002	
/3			haueca 01/29/2002 _____		lrb_docadmin 01/29/2002	lrb_docadmin 01/29/2002	

FE Sent For:

<END>

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/?	kuesejt 01/25/2002 rmarchan 01/28/2002	csicilia 01/28/2002 <i>13 1/2 a jld</i>					
/1			jfrantze <i>Ch 1/29/02</i>	<i>Ch 1/29/02</i>	lrb_docadmin	lrb_docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			01/28/2002 _____		01/28/2002	01/28/2002	
/2	kuesejt 01/28/2002	csicilia 01/28/2002	pgreensl 01/28/2002 _____		lrb_docadmin 01/28/2002	lrb_docadmin 01/28/2002	

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Subject: Elections - campaign finance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Chvala@legis.state.wi.us

✓ Added  
Per JTK

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#### Pre Topic:

No specific pre topic given

#### Topic:

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#### Instructions:

Senate \$100,000; Assembly \$50,000. Qualifying threshold for public grants 3% of disbursement limitation. Revise a0689/1 to delete s. 11.065 and restore s. 11.01 (16) (a) 3. from SB-104.

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/?	kuesejt 01/25/2002 rmarchan 01/28/2002	csicilia 01/28/2002		<del>1/28</del>			
/1		1/29/02	jfrantze	1/28 pj/ch	lrb_docadmin	lrb_docadmin	

1/28  
PGX

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			01/28/2002 _____		01/28/2002	01/28/2002	

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1/?	kuesejt 1/25	1 cjs 1/28	1/28	To/ch 1/28			

FE Sent For:

<END>

DNOTE

2001 - 2002 LEGISLATURE

9/17/11  
LRBa0000/1  
JTK&RJM:kph:jf

Amended Mon 1/28  
11AM

Handwritten initials and "CS"

SENATE AMENDMENT,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 104

FNS A

1

At the locations indicated, amend the substitute amendment as follows:

2

1. Page 17, line 16: delete "may" and substitute "shall".

3

2. Page 17, line 18: delete the material beginning with ", or" and ending with "day." on line 21.

4

FNS B

5

3. Page 36, line 8: delete lines 8 to 11. ✓

6

4. Page 52, line 16: delete lines 16 to 22. ✓

FNS C

7

5. Page 55, line 13: delete the material beginning with "or section" and ending with "act," on line 14.

8

9

6. Page 55, line 15: delete the material beginning with ", and the" and ending with "act" on line 16.

10

11

(END)



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa1173/lins  
JTK & RJM.....

(ba) and substitute  
"ba"

#. Page 3, line 19:  
delete "(b)"

JWS A

1. Page 2, line 23: delete that line. ✓
2. Page 3, line 1: delete lines 1 to 10. ✓

#. Page 4, line 7: delete "(b)"  
# Page 7, line 9: delete "include the"  
and substitute "include".

3. Page 7, line 10: delete lines 10 to 14 and substitute: "a reference to a candidate at that election, an office to be filled at that election, or a political party in order to permit increased funding for candidates who are affected by those communications. This minimal disclosure burden is outweighed by the need to establish an effective funding mechanism for affected candidates to effectively respond to communications that may impact an election."

Fix COMPONENT

4. Page 7, line <sup>(15)</sup> 25: delete ~~lines 15 to 25 and substitute:~~ the material beginning with that line and ending with page 8, line 8

SECTION <sup>(12m)</sup> 11.01 (16) (a) 3. of the statutes is created to read:  
<sup>(13m B)</sup>  
11.01 (16) (a) 3. A communication that is made by means of one or more communications media, other than a communication that is exempt from reporting under s. 11.29, that is made during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election, a reference to an office to be filled at that election, or a reference to a political party."

5. Page 8, line 1: delete lines 1 to 8.
6. Page 16, line 23: delete lines 23 to 25.
7. Page 17, line 1: delete lines 1 to 24.
8. Page 18, line 1: delete lines 1 to 14.

# Page 22, line 23: in the material inserted by senate amendment 3, on page 1, line 12 of senate amendment 3, before that line insert "or for a purpose described in s. 11.01 (16) (a) 3".  
after that line, on page 1, line 12, of the material inserted by senate amendment 3, before "without" insert

JWS B

9. Page 37, line 2: delete "\$120,000" and substitute "\$100,000".

Fix COMPONENT

Page 8, line 9: after that line insert: (A)

H. Page 38, line 16: delete "(b) or ~~(ba)~~" and substitute "(ba) or (bb)".

10. Page 37, line 5: delete "\$60,000" and substitute "\$50,000". ✓

11. Page 43, line 4: delete "5%" and substitute "3%". ✓

12. Page 43, line 20: delete the material beginning with "Only" and ending with "percentage." on page 43, line 21 and substitute "Only the first \$100 of an aggregate contribution of more than \$100 may be counted toward the required percentage." ✓

13. Page 48, line 2: delete ~~(b), (ba)~~ and substitute "(ba)". ✓

14. Page 48, line 15: delete ~~(b), (ba)~~ and substitute "(ba)". ✓

15. Page 49, line 13: delete ~~lines 13 to 25~~ and substitute:

"SECTION 117. 11.50 (9) (ba) and (bb) of the statutes are created to read:" ✓

16. Page 50, line 1: delete lines 1 to 3. ✓

17. Page 50, line 4: before "(ba)" insert "11.50 (9)". ✓

18. Page 50, line 12: delete <sup>independent</sup> "expenditures" and substitute "disbursements". ✓

19. Page 50, line 13: delete <sup>independent</sup> "expenditures" and substitute "disbursements". ✓

20. Page 50, line 14: delete "sub. (1)" and substitute "s. 11.12 (6) (c)".

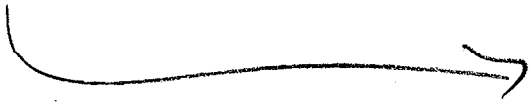
21. Page 50, line 18: delete <sup>independent</sup> "expenditures" and substitute "disbursements". ✓

22. Page 55, line 11: delete lines 11 to 16 and substitute:

"(a) Notwithstanding section 990.01 (11) of the statutes, if a court finds that all or any portion of sections 11.01 (16) (a) 3., 11.12 (6) (c) or 11.50 (9) (bb) of the statutes, as created by this act, is unconstitutional, then sections 11.01 (16) (a) 3., 11.12 (6) (c) and 11.50 (9) (bb) of the statutes, as created by this act, are void in their entirety." ✓

JWS  
B

JWS  
C





INS  
C

**23.** The treatment of the reference to "sub. (1)" in section 11.50 (9) (bb) of the statutes by this amendment supercedes the treatment of that reference by senate amendment 2.

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DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa1173/1dn  
JTK & RJM:j.....

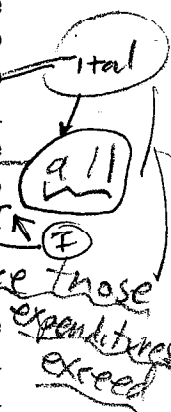
CS

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 only for expenditures that exceeded 20% of the applicable spending limit. This draft utilizes the 20% threshold. If you would rather have the 10% threshold, we need to redraft this amendment.

*total*



*former approach I*

*latter approach.*

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.

Jeffery T. Kuesel  
Managing Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1173/1dn  
JTK&RJM:csjf

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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Robert J. Marchant  
Legislative Attorney  
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E-mail: robert.marchant@legis.state.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

TODAY

LRBa1173/1 ✓  
JTK&RJM:cs:jf

T  
stays

**SENATE AMENDMENT ,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 104**

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 2, line 23: delete that line.
- 3 **2.** Page 3, line 1: delete lines 1 to 10.
- 4 **3.** Page 3, line 19: delete “(b), (ba),” and substitute “(ba)”.
- 5 **4.** Page 4, line 7: delete “(b), (ba),” and substitute “(ba)”.
- 6 **5.** Page 7, line 9: delete “include the” and substitute “include”.
- 7 **6.** Page 7, line 10: delete lines 10 to 14 and substitute “a reference to a
- 8 candidate at that election, an office to be filled at that election, or a political party
- 9 in order to permit increased funding for candidates who are affected by those
- 10 communications. This minimal disclosure burden is outweighed by the need to



1 establish an effective funding mechanism for affected candidates to effectively  
2 respond to communications that may impact an election.”

3 **7.** Page 7, line 15: delete the material beginning with that line and ending with  
4 page 8, line 8.

5 **8.** Page 8, line 9: after that line insert:

6 “SECTION 13m. 11.01 (16) (a) 3. of the statutes is created to read:

7 11.01 (16) (a) 3. A communication that is made by means of one or more  
8 communications media, other than a communication that is exempt from reporting  
9 under s. 11.29, that is made during the period beginning on the 60th day preceding  
10 an election and ending on the date of that election and that includes a reference to  
11 a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on  
12 the ballot at that election, a reference to an office to be filled at that election, or a  
13 reference to a political party.”

14 **9.** Page 16, line 23: delete lines 23 to 25.

15 **10.** Page 17, line 1: delete lines 1 to 24.

16 **11.** Page 18, line 1: delete lines 1 to 14.

17 **12.** Page 22, line <sup>22</sup>28: after that line, on page 1, line 12, of the material inserted  
18 by senate amendment 3, before “without” insert “or for a purpose described in s. 11.01

19 (16) (a) 3.”

⊙ # Page 7, line 23: delete “either”.  
# Page 7, line 25: after “spring” insert “primary, during  
the 30-day period preceding any spring election for the office of justice or state  
superintendent and the date of the  
spring”.

20 **13.** Page 36, line 8: delete lines 8 to 11.

21 **14.** Page 37, line 2: delete “\$120,000” and substitute “\$100,000”.

22 **15.** Page 37, line 5: delete “\$60,000” and substitute “\$50,000”.

23 **16.** Page 38, line 16: delete “(b) or (ba)” and substitute “(ba) or (bb)”.

1           **17.** Page 43, line 4: delete "5%" and substitute "3%".

2           **18.** Page 43, line 20: delete the material beginning with "Only" and ending  
3 with "percentage." on line 21 and substitute "Only the first \$100 of an aggregate  
4 contribution of more than \$100 may be counted toward the required percentage."

5           **19.** Page 48, line 2: delete "(b), (ba)." and substitute "(ba)".

6           **20.** Page 48, line 15: delete "(b), (ba)." and substitute "(ba)".

7           **21.** Page 49, line 13: delete lines 13 to 25 and substitute:  
8 "SECTION 117m. 11.50 (9) (ba) and (bb) of the statutes are created to read:"

9           **22.** Page 50, line 1: delete lines 1 to 3.

10          **23.** Page 50, line 4: before "(ba)" insert "11.50 (9)".

11          **24.** Page 50, line 12: delete "independent expenditures" and substitute  
12 "disbursements".

13          **25.** Page 50, line 13: delete "independent expenditures" and substitute  
14 "disbursements".

15          **26.** Page 50, line 14: delete "sub. (1)" and substitute "s. 11.12 (6) (c)".

→ *# page 50, line 14: delete "20%" and substitute "10%".* ✓

16          **27.** Page 50, line 18: delete "independent expenditures" and substitute  
17 "disbursements".

18          **28.** Page 52, line 16: delete lines 16 to 22.

19          **29.** Page 55, line 11: delete lines 11 to 16 and substitute:

*com stat* {  
20  
21  
22  
23

20           (a) Notwithstanding section 990.01 (11) of the statutes, if a court finds that all  
21 or any portion of sections 11.01 (16) (a) 3., 11.12 (6) (c) <sup>§ 11.26 (8m)</sup> or 11.50 (9) (bb) of the statutes, ✓  
22 as created by this act, is unconstitutional, then sections 11.01 (16) (a) 3., 11.12 (6) (c)  
23 <sup>§ 11.26 (8m)</sup> and 11.50 (9) (bb) of the statutes, as created by this act, are void in their entirety."



Now

+jd  
Purk

**SENATE AMENDMENT ,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 104**

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 2, line 23: delete that line.

3 2. Page 3, line 1: delete lines 1 to 10.

4 3. Page 3, line 19: delete "(b), (ba)," and substitute "(ba)".

5 4. Page 4, line 7: delete "(b), (ba)," and substitute "(ba)".

6 5. Page 7, line 9: delete "include the" and substitute "include".

7 6. Page 7, line 10: delete lines 10 to 14 and substitute "a reference to a  
8 candidate at that election, an office to be filled at that election, or a political party  
9 in order to permit increased funding for candidates who are affected by those  
10 communications. This minimal disclosure burden is outweighed by the need to

1 establish an effective funding mechanism for affected candidates to effectively  
2 respond to communications that may impact an election.”.

3 **7.** Page 7, line 15: delete the material beginning with that line and ending with  
4 page 8, line 8. *q*

5 **8.** Page 7, line 23: delete “either”.

6 **9.** Page 7, line 25: after “spring” insert “primary, during the 30 day period  
7 preceding any spring election for the office of justice or state superintendent and the  
8 date of the spring”.

9 **10.** Page 8, line 9: after that line insert:

10 “SECTION 13m. 11.01 (16) (a) 3. of the statutes is created to read:

11 11.01 (16) (a) 3. A communication that is made by means of one or more  
12 communications media, other than a communication that is exempt from reporting  
13 under s. 11.29, that is made during the period beginning on the 60th day preceding  
14 an election and ending on the date of that election and that includes a reference to  
15 a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on  
16 the ballot at that election, a reference to an office to be filled at that election, or a  
17 reference to a political party.”.

18 **11.** Page 16, line 23: delete lines 23 to 25.

19 **12.** Page 17, line 1: delete lines 1 to 24.

20 **13.** Page 18, line 1: delete lines 1 to 14.

21 **14.** Page 22, line 22: after that line, on page 1, line 12, of the material inserted  
22 by senate amendment 3, before “without” insert “or for a purpose described in s. 11.01  
23 (16) (a) 3.,”.

- 1           **15.** Page 36, line 8: delete lines 8 to 11.
- 2           **16.** Page 37, line 2: delete “\$120,000” and substitute “\$100,000”.
- 3           **17.** Page 37, line 5: delete “\$60,000” and substitute “\$50,000”.
- 4           **18.** Page 38, line 16: delete “(b) or (ba)” and substitute “(ba) or (bb)”.
- 5           **19.** Page 43, line 4: delete “5%” and substitute “3%”.
- 6           **20.** Page 43, line 20: delete the material beginning with “Only” and ending  
7 with “percentage.” on line 21 and substitute “Only the first \$100 of an aggregate  
8 contribution of more than \$100 may be counted toward the required percentage.”.
- 9           **21.** Page 48, line 2: delete “(b), (ba).” and substitute “(ba)”.
- 10           **22.** Page 48, line 15: delete “(b), (ba).” and substitute “(ba)”.
- 11           **23.** Page 49, line 13: delete lines 13 to 25 and substitute:  
12 “**SECTION 117m.** 11.50 (9) (ba) and (bb) of the statutes are created to read.”.
- 13           **24.** Page 50, line 1: delete lines 1 to 3.
- 14           **25.** Page 50, line 4: before “(ba)” insert “11.50 (9)”.
- 15           **26.** Page 50, line 12: delete “independent expenditures” and substitute  
16 “disbursements”.
- 17           **27.** Page 50, line 13: delete “independent expenditures” and substitute  
18 “disbursements”.
- 19           **28.** Page 50, line 14: delete “sub. (1)” and substitute “s. 11.12 (6) (c)”.
- 20           **29.** Page 50, line 14: delete “20%” and substitute “10%”.
- 21           **30.** Page 50, line 18: delete “independent expenditures” and substitute  
22 “disbursements”.



CCC

a1173/3

SA 6  
to SSA 1  
to SB-104

In engrossing, the following  
correction~~s~~ was made:

#. Page 3, line 8: after  
" (g) " insert " (b) " .

KMG





State of Wisconsin  
2001-2002 LEGISLATURE

**CORRECTIONS IN:**

**SENATE AMENDMENT 6,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 104**

Prepared by the Legislative Reference Bureau  
(January 31, 2002)

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1. Page 3, line 8: after "(9)" insert "(b)."

#. Page 3, line 10: delete that line.

LRBa1173/3ccc-1

KMG:kjf

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Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.



State of Wisconsin  
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