

2001 DRAFTING REQUEST

Bill

Received: 03/27/2001

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing: Ron Sklansky (LC)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies: **TNF, PJH, MGD, RLR**

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

State trooper investigations

Instructions:

Wants to clarify in s. 110.07 (2m) that state troopers may conduct accident reconstruction and other investigation relating to traffic offenses and other crimes, including those in chs. 939 to 948, relating to use of vehicle. 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	agary 04/17/2001	jdyer 04/17/2001	jfrantze 04/17/2001	_____	lrb_docadmin 04/17/2001	lrb_docadminState 04/23/2001	
/2	agary 05/01/2001	jdyer 05/02/2001	pgreensl 05/03/2001	_____	lrb_docadmin 05/03/2001	lrb_docadminState 05/03/2001	

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	agary 12/11/2001	jdyer 12/11/2001		_____			
/3			pgreensl 12/11/2001	_____	lrb_docadmin 12/11/2001	lrb_docadminState 12/11/2001	
/4	agary 01/10/2002	jdyer 01/10/2002	kfollet 01/10/2002	_____	lrb_docadmin 01/10/2002	lrb_docadminState 01/10/2002	

FE Sent For:

<END>

→ At
Intro.

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/4 1/10 jld

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/1	agary 04/17/2001	jdye 04/17/2001	jfrantze 04/17/2001	12/11 	lrb_docadmin 04/17/2001	lrb_docadminState 04/23/2001	

13 12/11 jld
12/11 pg
KJP/PG

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	agary 04/17/2001	jdyer 04/17/2001	jfrantze 04/17/2001	<u>5/3</u>	lrb_docadmin 04/17/2001	lrb_docadminState 04/23/2001	
		1/2 5/2 JLD	5/2 PG	PG 1/8			

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1?	agary	1 4/17 jld	204/17	3rd/6 4/17			State

FE Sent For:

<END>

NOTES on Statute 110.07

State troopers have traditionally performed investigative work involved with OWI offenses, as well as other traffic related violations and accidents. However, over the past several years, penalties have significantly increased for OWI offenses and certain traffic related violations resulting in accidents. Today, a number of those offenses are considered "crimes," whereas in the past they were not so classified. As a result, it could be that "technically" troopers do not have the right to investigate traffic crimes.

The statute in question is Wis. Stats. 110.07 (2m):

(2m) In addition to the primary powers granted by subs. (1) and (2), any officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28, except that the officer shall have the arrest powers of a law enforcement officer under s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal penalty. A state traffic officer shall at all times be available as a witness for the state but shall not conduct investigations for crimes under chs. 939 to 948. The primary duty of a state traffic officer shall be the enforcement of chs. 340 to 351 or of any other law relating to the use or operation of vehicles upon the highway. No state traffic officer shall be used in or take part in any dispute or controversy between employer or employe concerning wages, hours, labor or working conditions; nor shall any such officer be required to serve civil process. The department may assign state traffic officers to safeguard state officers or other persons.

Counties have been inconsistent in their opinions toward state patrol officers' investigative authority for traffic related crimes under state statute 110.07 (2m). Many traffic related crimes require additional follow-up investigation such as interviews, interrogations, and analysis prior to forwarding charges to district attorneys, i.e. injury by intoxicated use of a motor vehicle. State patrol officers obtain blood samples for all criminal offenses relating to intoxicated use of a vehicle. State patrol officers provide technical crash scene reconstruction of crashes in which crimes are committed.

Statute clarification?

Legal interpretation?



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2957/1

ARG:.....

Jld

2001 BILL

D-Note

gen

1 AN ACT ...; relating to: investigations by state traffic patrol officers.

Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers[✓] specific powers and duties. The primary duty of a state traffic patrol officer is to enforce motor vehicle and traffic laws. A state traffic patrol officer may not conduct investigations for crimes under * the criminal code.

* This bill specifies that a state traffic patrol officer may conduct investigations relating to the violation of any law for which the state traffic patrol officer is granted enforcement powers, including traffic laws and crimes relating to the use or operation of vehicles upon a highway. A state traffic patrol officer may not conduct * investigations for crimes under the criminal code that are unrelated to the use or operation of vehicles upon a highway.

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:

2 SECTION 1. 110.07 (2m)^X of the statutes is amended to read:

3 110.07 (2m) In addition to the primary powers granted by subs. (1) and (2), any
4 officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,

BILL

SECTION 1

1 except that the officer shall have the arrest powers of a law enforcement officer under
2 s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal
3 penalty. A state traffic officer shall at all times be available as a witness for the state
4 but shall may not conduct investigations for crimes under chs. 939 to 948^{plain} other than
5 crimes relating to the use or operation of vehicles upon the highway. The primary
6 duty of a state traffic officer shall be the enforcement of chs. 340 to 351 or of any other
7 law relating to the use or operation of vehicles upon the highway. No state traffic
8 officer shall be used in or take part in any dispute or controversy between employer
9 or employee concerning wages, hours, labor or working conditions; nor shall any such
10 officer be required to serve civil process. The department may assign state traffic
11 officers to safeguard state officers or other persons.

12

(END)

D. Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/1dn

ARG:.....

JLD

Based upon my conversation with Ron Sklansky of the Joint Legislative Council Staff, I have amended s. 110.07 (2m), stats., to clarify that state traffic patrol officers may *investigate crimes under the criminal code if those crimes relate to the use or operation of vehicles on a highway.

I note that s. 110.07 (4), stats., relating to inspectors employed by the department of transportation (DOT), contains language that parallels s. 110.07 (2m), stats. Do you also want to amend s. 110.07 (4), stats., to clarify that a DOT inspector may conduct investigations relating to the violation of any law for which the inspector is granted enforcement powers?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/1dn
ARG:jld:jf

April 17, 2001

Based upon my conversation with Ron Sklansky of the Joint Legislative Council Staff, I have amended s. 110.07 (2m), stats., to clarify that state traffic patrol officers may investigate crimes under the Criminal Code if those crimes relate to the use or operation of vehicles on a highway.

I note that s. 110.07 (4), stats., relating to inspectors employed by the department of transportation (DOT), contains language that parallels s. 110.07 (2m), stats. Do you also want to amend s. 110.07 (4), stats., to clarify that a DOT inspector may conduct investigations relating to the violation of any law for which the inspector is granted enforcement powers?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

April 17, 2001

MEMORANDUM

To: Representative Freese

From: Arron R. Gary, Attorney

Re: LRB-2957/1 State trooper investigations

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.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6926 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.

LRB 2957
4/30/01

Telephone call (voice mail) from Rob in Rep. Freese's ofc., 67502. In response to d-note, wants the bill redrafted to include DOT inspectors.

ARG



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2957/2

ARG:jld:jf

RMR

D-Note

2001 BILL

Regen

1 AN ACT to amend 110.07 (2m) of the statutes; relating to: investigations by
2 state traffic patrol officers and inspectors

Keep plain

Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers specific powers and duties. The primary duty of a state traffic patrol officer is to enforce motor vehicle and traffic laws. A state traffic patrol officer may not conduct investigations for crimes under the Criminal Code.

This bill specifies that a state traffic patrol officer may conduct investigations relating to the violation of any law for which the state traffic patrol officer is granted enforcement powers, including traffic laws and crimes relating to the use or operation of vehicles upon a highway. A state traffic patrol officer may not conduct investigations for crimes under the Criminal Code that are unrelated to the use or operation of vehicles upon a highway.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

insert A

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

3 SECTION 1. 110.07 (2m) of the statutes is amended to read:
4 110.07 (2m) In addition to the primary powers granted by subs. (1) and (2), any
5 officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,

BILL

SECTION 1

1 except that the officer shall have the arrest powers of a law enforcement officer under
2 s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal
3 penalty. A state traffic officer shall at all times be available as a witness for the state
4 but shall may not conduct investigations for crimes under chs. 939 to 948 other than
5 crimes relating to the use or operation of vehicles upon the highway. The primary
6 duty of a state traffic officer shall be the enforcement of chs. 340 to 351 or of any other
7 law relating to the use or operation of vehicles upon the highway. No state traffic
8 officer shall be used in or take part in any dispute or controversy between employer
9 or employee concerning wages, hours, labor or working conditions; nor shall any such
10 officer be required to serve civil process. The department may assign state traffic
11 officers to safeguard state officers or other persons.

12

(END)

Insert
B

D-note

<

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/2ins
ARG:.....

insert A

Current law grants state traffic patrol officers and inspectors ✓ specific powers and duties. The primary duty of a state traffic patrol officer is to enforce motor vehicle and traffic laws. The primary duty of an inspector is to enforce motor vehicle laws. State traffic patrol officers and inspectors may not conduct investigations for crimes under the criminal code. *

This bill specifies that a state traffic patrol officer or inspector may conduct investigations relating to the violation of any law for which the state traffic patrol officer or inspector is granted enforcement powers, including crimes relating to the use or operation of motor vehicles upon a highway. State traffic patrol officers and inspectors may not conduct investigations for crimes under the criminal code that are unrelated to the use or operation of vehicles upon a highway. *

SECTION 1. 110.07 (4) ✓ of the statutes is amended to read:

insert B

110.07 (4) In addition to the primary powers granted by sub. (3), any inspector shall have the powers of a peace officer under s. 59.28, except that the inspector shall have the arrest powers of a law enforcement officer under s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal penalty. An inspector shall at all times be available as a witness for the state but shall may ✓ not conduct investigations for crimes under chs. 939 to 948 other than crimes relating to the use or operation of vehicles upon the highway. The primary duty of an inspector shall be the enforcement of the provisions specified in sub. (3). No inspector may be used in or take part in any dispute or controversy between employer or employee concerning wages, hours, labor or working conditions; nor may an inspector be required to serve civil process. The department may assign inspectors to safeguard state officers or other persons.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/2dn

ARG:.....

JLD

The attached draft is identical to LRB-2957/1 except that it also treats s. 110.07 (4) to parallel the treatment of s. 110.07 (2m) in LRB-2957/1. The attached draft clarifies that, like state traffic patrol officers, inspectors may investigate crimes under the criminal code (chs. 939 to 948) if the crime relates to the use or operation of a vehicle upon a highway.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/2dn
ARG:jld:pg

May 3, 2001

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Richard, Rob
Sent: Tuesday, December 11, 2001 12:55 PM
To: Gary, Aaron
Subject: RE:

My bad. It's been so long since I dealt with this issue, I forgot we had a /2. Sorry. The jacket is on its way. Please remove "upon the highway" on page 2, lines 7 and 21.

Thank you!
Rob

-----Original Message-----

From: Gary, Aaron
Sent: Tuesday, December 11, 2001 12:38 PM
To: Richard, Rob
Subject: RE:

Rob,

This draft is already jacketed, so I will need the jacket back before the redraft can go out.

This bill has also been re-drafted to a "/2" to include DOT inspectors. For your reference, I am sending a copy of the "/2" draft by separate e-mail. Please confirm that you want the phrase "upon the highway" removed on page 2, lines 7 and 21.

After I hear back from you, I will get this into editing and have it to you promptly. You can then call our front desk at 6-3561 and have the "/3" jacketed right away. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Richard, Rob
Sent: Monday, December 10, 2001 10:15 AM
To: Gary, Aaron
Subject: RE:

Aaron:

One more thing, please delete "upon the highway" on page 2, line 5, of the draft. This rule would follow for DOT inspectors as well if the wording is similar.

Thank you!

-----Original Message-----

From: Richard, Rob
Sent: Monday, December 10, 2001 9:55 AM
To: Gary, Aaron
Subject:

Aaron:

We're ready to introduce LRB-2957. To answer the question on your drafter's note, yes, we'd like to give DOT inspectors those enforcement powers as well.

Can I sign off on it electronically so I can get the jacket more quickly?

Thanks!

**Rob Richard, Legislative Aide
Office of Rep. Steve Freese
266-7502**



500m

2001 ASSEMBLY BILL

1 *Reger* AN ACT to amend 110.07 (2m) and 110.07 (4) of the statutes; relating to:

2 investigations by state traffic patrol officers and inspectors.

Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers and inspectors specific powers and duties. The primary duty of a state traffic patrol officer is to enforce motor vehicle and traffic laws. The primary duty of an inspector is to enforce motor vehicle laws. State traffic patrol officers and inspectors may not conduct investigations for crimes under the Criminal Code.

This bill specifies that a state traffic patrol officer or inspector may conduct investigations relating to the violation of any law for which the state traffic patrol officer or inspector is granted enforcement powers, including crimes relating to the use or operation of motor vehicles ~~upon a highway~~. State traffic patrol officers and inspectors may not conduct investigations for crimes under the Criminal Code that are unrelated to the use or operation of vehicles ~~upon a highway~~.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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3 SECTION 1. 110.07 (2m) [✓] of the statutes is amended to read:

ASSEMBLY BILL

1 110.07 (2m) In addition to the primary powers granted by subs. (1) and (2), any
2 officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,
3 except that the officer shall have the arrest powers of a law enforcement officer under
4 s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal
5 penalty. A state traffic officer shall at all times be available as a witness for the state
6 but ~~shall~~ may not conduct investigations for crimes under chs. 939 to 948 other than
7 crimes relating to the use or operation of vehicles upon the highway. The primary
8 duty of a state traffic officer shall be the enforcement of chs. 340 to 351 or of any other
9 law relating to the use or operation of vehicles upon the highway. No state traffic
10 officer shall be used in or take part in any dispute or controversy between employer
11 or employee concerning wages, hours, labor or working conditions; nor shall any such
12 officer be required to serve civil process. The department may assign state traffic
13 officers to safeguard state officers or other persons.

14 **SECTION 2.** 110.07 (4) [✓] of the statutes is amended to read:

15 110.07 (4) In addition to the primary powers granted by sub. (3), any inspector
16 shall have the powers of a peace officer under s. 59.28, except that the inspector shall
17 have the arrest powers of a law enforcement officer under s. 968.07, regardless of
18 whether the violation is punishable by forfeiture or criminal penalty. An inspector
19 shall at all times be available as a witness for the state but ~~shall~~ may not conduct
20 investigations for crimes under chs. 939 to 948 other than crimes relating to the use
21 or operation of vehicles upon the highway. The primary duty of an inspector shall be
22 the enforcement of the provisions specified in sub. (3). No inspector may be used in
23 or take part in any dispute or controversy between employer or employee concerning
24 wages, hours, labor or working conditions; nor may an inspector be required to serve

ASSEMBLY BILL

1 civil process. The department may assign inspectors to safeguard state officers or
2 other persons.

3 (END)

Basford, Sarah

From: Basford, Sarah
Sent: Tuesday, January 08, 2002 9:43 AM
To: Rep.Freese
Subject: LRB -2957/3 (attached)



01-2957/3

Sarah Basford
Program Assistant
State of Wisconsin
Legislative Reference Bureau
PH: (608) 266-3561/FAX: (608) 264-6948
sarah.basford@legis.state.wi.us

Gary, Aaron

From: Richard, Rob
Sent: Thursday, January 10, 2002 8:55 AM
To: Gary, Aaron
Subject: RE: LRB-2957/3

Aaron:
No problem, the jacket is on its way.
Rob

-----Original Message-----

From: Gary, Aaron
Sent: Wednesday, January 09, 2002 3:42 PM
To: Richard, Rob
Subject: LRB-2957/3

Rob,

I was reviewing LRB-2957/3 (relating to investigations by state traffic patrol officers) and noticed a minor mistake in the analysis. In the second paragraph of the analysis, the fourth line begins with "use or operation of motor vehicles." This should be "use or operation of vehicles", the same language used in the draft. Because the term "vehicle" is broader than "motor vehicle" (it includes such things as bicycles), using the term "motor vehicle" in the analysis suggests the bill is slightly narrower than it actually is and could be considered misleading. Do you want me to redraft the bill to correct the error before the bill is introduced? If so, please let me know, and I'll need the jacket back. Thanks, and I apologize for the oversight. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Jacket returned 1/10/02



2001 ASSEMBLY BILL

RMR

by 1/14/02
end of day

J-Note

Regen

1 AN ACT to amend 110.07 (2m) and 110.07 (4) of the statutes; relating to:
2 investigations by state traffic patrol officers and inspectors.

Analysis by the Legislative Reference Bureau

Current law grants state traffic patrol officers and inspectors specific powers and duties. The primary duty of a state traffic patrol officer is to enforce motor vehicle and traffic laws. The primary duty of an inspector is to enforce motor vehicle laws. State traffic patrol officers and inspectors may not conduct investigations for crimes under the Criminal Code.

This bill specifies that a state traffic patrol officer or inspector may conduct investigations relating to the violation of any law for which the state traffic patrol officer or inspector is granted enforcement powers, including crimes relating to the use or operation of ~~state~~ vehicles. State traffic patrol officers and inspectors may not conduct investigations for crimes under the Criminal Code that are unrelated to the use or operation of vehicles.

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. 110.07 (2m) of the statutes is amended to read:

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1 110.07 (2m) In addition to the primary powers granted by subs. (1) and (2), any
2 officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,
3 except that the officer shall have the arrest powers of a law enforcement officer under
4 s. 968.07, regardless of whether the violation is punishable by forfeiture or criminal
5 penalty. A state traffic officer shall at all times be available as a witness for the state
6 but shall may not conduct investigations for crimes under chs. 939 to 948 other than
7 crimes relating to the use or operation of vehicles. The primary duty of a state traffic
8 officer shall be the enforcement of chs. 340 to 351 or of any other law relating to the
9 use or operation of vehicles upon the highway. No state traffic officer shall be used
10 in or take part in any dispute or controversy between employer or employee
11 concerning wages, hours, labor or working conditions; nor shall any such officer be
12 required to serve civil process. The department may assign state traffic officers to
13 safeguard state officers or other persons.

14 **SECTION 2.** 110.07 (4)[✓] of the statutes is amended to read:

15 110.07 (4) In addition to the primary powers granted by sub. (3), any inspector
16 shall have the powers of a peace officer under s. 59.28, except that the inspector shall
17 have the arrest powers of a law enforcement officer under s. 968.07, regardless of
18 whether the violation is punishable by forfeiture or criminal penalty. An inspector
19 shall at all times be available as a witness for the state but shall may not conduct
20 investigations for crimes under chs. 939 to 948 other than crimes relating to the use
21 or operation of vehicles. The primary duty of an inspector shall be the enforcement
22 of the provisions specified in sub. (3). No inspector may be used in or take part in any
23 dispute or controversy between employer or employee concerning wages, hours,

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- 1 labor or working conditions; nor may an inspector be required to serve civil process.
- 2 The department may assign inspectors to safeguard state officers or other persons.

3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/4dn

ARG:↑:...

jld

The attached draft corrects the analysis by replacing the term "motor vehicles" with the term "vehicles" on line 4[✓] of the second paragraph.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2957/4dn
ARG:jld:kjf

January 10, 2002

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