

2003 DRAFTING REQUEST

Bill

Received: **01/31/2003**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Caucutt**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **State Finance - bud generally**
State Finance - miscellaneous

Extra Copies: **ALL by e-mail**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Caucutt -

Topic:

Program revenue appropriation reductions and transfers

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>
/?							State
/1	rchampag 01/31/2003	kgilfoy 01/31/2003	jfrantze 01/31/2003		sbasford 02/03/2003		
	jkuesel 01/31/2003	kgilfoy 02/03/2003	pgreensl 02/03/2003				
	jkuesel						

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

02/03/2003

FE Sent For:

<END>

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KMG

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1/?	rchampag	1-1/31 KMG	2-1/31	2-1/31			
		1 dn - 2/3/03 KMG	2/3 PG	2/3 PG/RS <END>			

FE Sent For:

Kuesel, Jeffery

From: Caucutt, Dan
Sent: Thursday, January 30, 2003 6:30 PM
To: Miller, Steve
Cc: Kuesel, Jeffery
Subject: PR-SEG Lapse Table for Biennial Budget



Book1.xls

Steve: Here is the PR-SEG lapse table we discussed yesterday. In addition to lapses from the cash balances of the itemized agency appropriations, there are about a half dozen inter-fund transfers mentioned at the bottom. This table is structured after the Act 109 and Budget Efficiency Bill approach, which I hope facilitates drafting.

We also wish to have included again the non-stat language item permitting agencies to petition under s.13.10 to reallocate the lapses differently that itemized.

PR-SEG Lapses to the General Fund (to LRB)

2:50 PM
30-Jan-03

Agency	Appn.		
115 DATCP	✓(1)(gb)	Food regulation	425,900
143 Commerce	✓(1)(L)	Recycling market dev; repayments	1,200,000
	✓(3)(j)	Safety and buildings ops	2,098,500
	✓(4)(kd)	Admin services	449,000
145 OCI	✓(1)(g)	General operations	1,226,800
	✓(2)(u)	Patients compensation admin	83,600
	✓(3)(u)	Local gov admin	75,100
	✓(4)(u)	State life admin	59,500
165 R & L	(1)(g)	General operations	1,969,900
433 CANPB	(1)(g)	General ops	16,400
435 DHFS	✓(4)(hg)	General ops health care information	162,500
	✓(4)(hi)	Special reports	50,000
	✓(6)(jm)	Licensing	275,000
455 DOJ	✓(2)(ja)	Law enforcement training fund ops	161,500
486 DVA	✓(3)(s)	Vets loan operations	900,300
505 DOA	✓(1)(ka)	Materials and services to state agencies	700,000
	✓(1)(kb)	Transportation, records & document svc	695,000
	✓(1)(kc)	Building construction services	555,000
	✓(1)(kj)	Financial services (Controller)	850,000
	✓(8)(j)	Racing raffles and games operations	50,000
530 DEG	✓(1)(ke)	Telecommunications services	750,000
Segregated Fund Transfers not involving appropriations			
Commerce		Petroleum Inspection Fund to General Fund	1,559,300
DNR		Environmental fund to general fund	1,368,500
DNR		Recycling fund to general fund	158,100
DNR		Petroleum Inspection Fund to General Fund	98,100
DOT		Transportation fund to general fund	15,000,000
Totals			30,938,000

SEG - 1879
(1661)
PR - 1880
(1660)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1880/1

RAC:.....
kmj

Now

DOA:.....Caucutt – Program revenue appropriation reductions and transfers
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

WPS: *check auto refs.*

DON'T GEN. CAT.

1 AN ACT ...; relating to: the budget.

DOA, DATCP, DEG, DHFS, DOJ, DRL, and the Department of Commerce
Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

DOA
STATE FINANCE

This bill requires ~~the Department of Administration~~ to lapse moneys to the general fund from a number of program revenue appropriations. The appropriations are made to the following state agencies: ~~the departments of Administration, Agriculture, Trade and Consumer Protection, Electronic Government, Commerce, Health and Family Services, Justice, and Regulation and Licensing, the Child Abuse and Neglect Board; and the Office of the Commissioner of Insurance.~~ *OCT*

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

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

2 SECTION 9260. Appropriation changes; other.

3 (1) STATE AGENCY APPROPRIATION LAPSES TO THE GENERAL FUND.

a.p.

(a) *Appropriation lapses to the general fund.* Subject to paragraph (b), in the ^{years indicated} ~~2003-04~~ fiscal year, from the following appropriation accounts, the secretary of administration shall lapse to the general fund the amounts indicated:

4	Agency	2003-04	2004-05
5		Fiscal Year	Fiscal Year
6	20.505 Administration, department of		
7	(1) (ka)	\$ 700,000	\$ LPS: Show same amounts as at left ←
8	(1) (kb)	695,000	
9	(1) (kc)	555,000	
10	(1) (ke)	750,000	
11	(1) (kj)	850,000	
12	20.115 Agriculture, trade and consumer		
13	protection, department of		
14	(1) (gb)	425,900	
15	20.433 Child abuse and neglect prevention board		
16	(1) (g)	16,400	
17	20.143 Commerce, department of		
18	(1) (L)	1,200,000	
19	(3) (j)	2,098,500	
20	(4) (kd)	449,000	
21	20.530 Electronic Government, department of		
22	(1) (ke)	750,000	
23	20.435 Health and family services, department of		
24	(4) (hg)	162,500	
25	(4) (hi)	50,000	
26	(6) (jm)	275,000	
27	20.145 Insurance, office of the commissioner of		

1 (1) (g) 1,226,800

2 **20.455 Justice, department of**

3 (2) (ja) 161,500

4 **20.165 Regulation and licensing, department of**

5 (1) (g) 1,969,900

6 (b) *Prohibited appropriation lapses and transfers.* The secretary of
7 administration may not lapse or transfer moneys to the general fund from any
8 appropriation account specified in paragraph (a) if the lapse or transfer would violate
9 a condition imposed by the federal government on the expenditure of the moneys or
10 if the lapse or transfer would violate the federal or state constitution.

11 (END)



a.r.

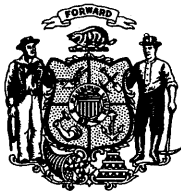
Emery, Lynn

From: Emery, Lynn
Sent: Friday, January 31, 2003 4:12 PM
To: Aaron Gary; Becky Tradewell; Debora Kennedy; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Madelon Lief; Marc Shovers; Mark Kunkel; Mary Glass; Michael Dsida; Pam Kahler; Peggy Hurley; Peter Dykman; Peter Grant; Rick Champagne; Robert Marchant; Robert Nelson; Robin Kite; Robin Ryan; Timothy Fast
Subject: LRB-1880/1 (attached)



03-1880/1

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1880/1

RAC:kmg:jf

[DNOTE] ← added

Stays

DOA:.....Caucutt – Program revenue appropriation reductions and transfers
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1

*Don't
GEN. CAT.*
AN ACT ..., relating to: the budget.

Analysis by the Legislative Reference Bureau
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This bill requires DOA to lapse moneys to the general fund from a number of program revenue appropriation accounts. The appropriations are made to the following state agencies: DOA, DATCP, DEG, DHFS, DOJ, DRL, and the Department of Commerce; the Child Abuse and Neglect Prevention Board; and OCI.

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:

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24	20.145 Insurance, office of the commissioner		
25	of		
26	(1) (g)	1,226,800	1,226,800

Line # 6

Line # 13

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1880/dn 1

RJM:JT
King

Date

Generally, the state's authority to regulate a particular occupation or business includes the authority to charge regulated individuals or entities a reasonable fee or tax to defray the cost of regulation, but only to the extent necessary for that purpose, and does not include the authority to impose a fee or tax for the purpose of raising revenue. See *Wis. Tel. Co. v. Public Service Comm.*, 206 Wis. 589 (1932). In determining the validity of such a fee imposed by a state, the burden is on the state to demonstrate that the fee is necessary to cover the reasonable costs of the regulatory system and that the fee is used for no other purpose than to meet those costs. *Milw. Mobilization for Survival v. Milw. County Park Comm.*, 477 F. Supp. 1210, 1220 (D.C. Wis., 1979). Although the Wisconsin Supreme Court has recently expressed great deference to the legislature's decisions regarding taxing and spending, see *Flynn v. Department of Administration*, 216 Wis. 2d 521 (1998) (upholding lapse of court automation fees to the general fund), this draft may be susceptible to constitutional challenge because it lapses regulatory fees (e.g., certain fees assessed by the Safety and Buildings Division of the Department of Commerce) to the general fund. Please feel free to call if you have any questions regarding this issue.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us



9. The diversion of program revenue that is collected under statutes that authorize the revenue to be collected to recover specific items of costs may be argued to result in unauthorized charges in certain situations. In some cases, the statutes that authorize program revenue to be collected are worded so that agencies may charge for their services and the charges need not relate to any particular cost items. See, for example, s. 16.53 (13), stats., which permits DOA to charge any agency for financial services provided to the agency. In this case, nothing limits the charges solely to recovery of costs of providing financial services. However, under s. 16.53 (1) (d) 2., stats., DOA is permitted to charge agencies for the department's costs of estimation, collection, and payment of benefits under ch. 108, stats. See also s. 16.98 (3), stats., which directs that the proceeds of program revenue collected under the federal resource acquisition program be used for specified purposes.

10. If more than one revenue stream feeds a particular appropriation [as is the case with s. 20.505 (1) (ka), stats.], then it may be possible for DOA to effect the diversion authorized by this draft by adhering to laws that require or permit charges to be levied to recover specific costs and to fund the diversion from sources where the statutes authorizing charges accord more discretion to DOA, and, if the issue is raised, the courts may require DOA to fund the cost of the diversion in this way.

11. In some cases, for example, with the proposed diversion from s. 20.505 (1) (kc), stats., it may be possible to argue that federal financial assistance is being diverted by this procedure, which may be questioned by federal auditors.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Sections 13.48 (5), 22.05 (2) (f) and (g) and 35.78 (2) and (3), stats., also limit charges to certain costs incurred.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1880/1dn
RJM&JTK:kmg:pg

February 3, 2003

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RAC:kmg:pg

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