

**2003 DRAFTING REQUEST**

**Senate Amendment (SA-SB44)**

Received: **05/22/2003**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Renner**

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

Drafter: **mkunkel**

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Subject: **Occupational Reg. - misc**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

LFB:.....Renner -

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**Topic:**

Initial and renewal credential fee audit

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**Instructions:**

See Attached

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**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>
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/1	mkunkel 05/22/2003	kfollett 05/23/2003	rschluet 05/23/2003	_____	sbasford 05/23/2003		

FE Sent For:

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/?	mkunkel	1/1/03 5/23					
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FE Sent For:

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**Legislative Fiscal Bureau**  
One East Main, Suite 301 - Madison, W

Post-It® Fax Note 7671		Date	# of pages 10
To	Mark Knobel	From	Darin Renner
Co./Dept.	LRB	Co.	LFB
Phone #		Phone #	
Fax #	4-6948	Fax #	

May 20, 2003

Joint Committee on Finance

Paper #648

### Revised Agency Credential Fees (R&L)

[LFB 2003-05 Budget Summary: Page 367, #2]

#### PRIOR JOINT COMMITTEE ON FINANCE ACTION

On April 23, 2003, the Joint Committee on Finance considered budget papers related to the Governor's recommendations for the Department of Regulation and Licensing (R&L). At the request of the Department, the Committee agreed to delay consideration of Paper #646, "Adequacy of Agency Credential Fees in Connection with a Required Lapse from Program Revenue Balances," until the agency could complete a credential fee study and propose adjustments to license fees for the regulated professions. On May 13, 2003, the Department submitted a revised fee study to the Committee. This paper adjusts the information presented in Paper #646, based on the Department's proposal.

#### CURRENT LAW

The Department of Regulation and Licensing (R&L) is required by s. 440.03(9) of the statutes to include with each biennial budget request the results of its analysis of the adequacy initial and renewal credential fees to support the proposed operating budget for the agency. This analysis also reviews the administrative and enforcement costs that are attributable to the regulation of each licensed occupation. Based on this review, R&L must recommend adjustments to the initial and renewal credential fees, when required, to reflect the proper apportionment of the agency's costs to each occupation. Biennially, as part of the Legislature's consideration of the agency's budget, any proposed fee adjustments are incorporated into the statutory schedule of initial and renewal fees.

*Initial Credential Fees.* For initial credentials, the license fee represents the shared, budgeted administrative costs attributable to new licensees. These administrative cost items include such activities as processing applications and determining eligibility for licensure. These total costs

are then divided by the projected number of new licensees over the biennium in order to determine the amount of the fee. For the 2001-03 biennium, the initial license fee is set by statute at \$53.

*Credential Renewal Fees.* For credential renewals, an occupation's total renewal fee consists of two cost components: a fixed portion and a variable portion. The fixed portion represents the shared, budgeted administrative costs that are charged equally to all regulated occupations. These common shared-cost items are divided by the estimated number of renewing license holders over the biennium in order to determine the fixed cost component of the fee. For the 2001-03 biennium, the fixed cost renewal fee component is \$53. The variable portion of the renewal fee consists of each licensed profession's share of direct enforcement costs attributed to it during the most recent prior fiscal year divided by the total number of licensees in the profession. For the 2001-03 biennium, the variable cost portion of the renewal fee added from \$0 to \$290 to the cost of a license, depending on the enforcement experience of the occupation. The fixed renewal costs and the apportioned variable costs for each occupation are then added to arrive at the fee amount to be included in a statutory schedule of renewal fees.

R&L is required to deposit 10% of the revenue generated from the assessment of initial and credential renewal fees to the general fund as GPR-Earned. Consequently, the fees must be set at a level sufficient to fund the agency's administrative and enforcement costs, net of the revenue allocations to the general fund.

## GOVERNOR

Make no adjustments to R&L's initial and renewal statutory fee schedule.

Require the Secretary of DOA to lapse \$1,969,900 annually to the general fund from the available PR balances in R&L's general program operations appropriation.

## DISCUSSION POINTS

1. R&L is funded entirely from program revenues. Nearly 98% of the agency's funding is derived from its initial and renewal credential fee collections. The balance of the agency's funding is derived from examination fees, criminal background check fees and minor, miscellaneous revenues.

2. The agency has used a fixed initial credential fee and some type of variable renewal credential fee methodology since this approach was first authorized under 1985 Wisconsin Act 27. The intent of the variable renewal fee was to allocate the higher costs of enforcement activities to those groups of licensees for whom the agency incurred higher costs.

3. As part of the Governor's 1989-91 biennial budget submission, R&L sought a uniform percentage increase for most of its credential fees, but was unable to provide sufficient evidence to show that the same percentage increase for all fees was equitable or justified. The

Legislature deleted the proposed across-the-board percentage increase.

4. Then, as part of a routine compliance audit, the Legislative Audit Bureau reviewed R&L's credential fee-setting methodology. That November, 1990, audit found that the agency had not been gathering or monitoring financial information to determine whether it was appropriately and equitably establishing fees for the various professions, but had recently begun to develop a new system to obtain the necessary revenue and expenditure data.

5. A follow-up audit in August, 1992, found that R&L's newly-implemented revenue and data collection systems were adequate and that the methodology used by the agency to establish renewable fees was reasonable. The audit recommended minor documentation improvements that were subsequently implemented by the Department.

6. The fee-setting methodology in place after the August, 1992, audit was used in each succeeding biennium through 2001-03 to set initial and renewal credential fees sufficient (with additional minor revenue collections from examinations and other minor fees) to support the agency's operations.

7. As part of the Governor's 2001-03 biennial budget proposal, one-time funding of \$30,000 was recommended to retain a consultant to review the adequacy and appropriateness of R&L's current fee-setting methodologies. The Finance Committee deleted the requested consultant funding and provided instead for a Legislative Audit Bureau evaluation of the methodologies used by R&L to ensure that the agency's initial and renewal fees are documented and straightforward in administration, represent the actual costs associated with the regulation of licensed professions, and provide adequate revenues to support the Department's operations. This audit provision was included in the 2001-03 biennial budget bill, as approved by the Legislature, but was subsequently item vetoed by the Governor.

8. R&L did not request, and the Governor did not recommend, any revisions to the current law renewal fee schedule for the 2003-05 biennium. [The agency did propose reducing the initial fee from the \$53 to \$51; however, that recommendation was not included in Senate Bill 44.] In the absence of additional revenues from increased fees (or from an increased number of individuals being licensed), any additional costs incurred by the agency must be funded from carryover available program revenue balances.

9. The agency's explanation for not revising credential renewal fees was that "due to the inadequacy of the existing fee setting method, it is impossible to determine with any level of assurance that the resultant fees represent a given profession's cost of enforcement. Since overall operational cost of enforcement is virtually identical to FY02-FY03, it can be argued that enforcement costs by profession, within the methodology's margin of error, is also virtually identical. In addition, the administrative cost of implementing such a small change can not be justified."

10. The agency highlighted some additional concerns with respect to the current fee-

setting methodology. It noted that the methodology does not consider complexity, severity and resources dedicated to a complaint when cost allocations are made. Further, complaints in the health professions were generally more costly than those in the business or direct licensing areas. Finally, enforcement costs tended to vary depending on the stage at which a complaint investigation was closed. In the agency's view, it was not clear that the current fee methodology captured these differences.

11. In light of this, the Committee could again direct the Legislative Audit Bureau to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and report its findings by June 30, 2004.

12. Normally, R&L and DOA undertake a supplemental fee-setting study once the Governor's budget recommendations for R&L are known but before the biennial budget bill has actually been introduced. This exercise is undertaken to ensure that the initial and renewal fee levels in the Governor's budget bill are sufficient to fund the modifications proposed by the Governor for the agency. The necessary statutory fee revisions are then included in the budget proposal submitted by the Governor to the Legislature.

13. The Governor's recommendations for the agency contain two significant provisions affecting R&L's credential fee-related funding:

- First, provisions of Senate Bill 44 require the lapse to the general fund of \$1,969,900 annually from the available program revenue in the agency's general program operations appropriation.

- Second, the bill increases the agency's total budgeted expenditure authority funded from credential fees by \$216,100 PR annually, representing a 2.2% increase over the adjusted base year-doubled.

14. The absence of any initial or renewal credential fee modifications to accommodate these budget recommendations will have severe budgetary consequences for the agency.

15. As demonstrated in the following table, if the Governor's budget recommendations for the agency are approved, R&L will experience a deficit in its general program operations appropriation account at the end of the 2004-05 fiscal year of \$1,622,400.

**Projected Revenues and Expenditures under  
R&L's General Program Operations Appropriation**

	<u>2003-04</u>	<u>2004-05</u>
Beginning Balance	\$1,805,500	\$1,009,400
<u>Revenues</u>		
Initial Credential Fees	\$941,700	\$941,700
Renewal Credential Fees	10,205,700	8,370,000
Minor Revenues	<u>250,000</u>	<u>250,000</u>
Total Revenues	\$11,397,400	\$9,561,700
Total Available	13,202,900	10,571,100
<u>Expenditures and Lapses</u>		
SB 44 Appropriations	\$10,223,600	\$10,223,600
Required Lapse	<u>1,969,900</u>	<u>1,969,900</u>
Total Expenditures and Lapses	\$12,193,500	\$12,193,500
Ending Balance	\$1,009,400	-\$1,622,400

16. On April 23, 2003, the Committee deleted \$498,400 PR in 2003-04 and \$543,400 PR in 2004-05 budgeted for improvement to the agency's IT environment. This action was adopted with the understanding that R&L could return to the Committee once cost projections for the IT project were fully developed and the agency could demonstrate that sufficient revenues would be available to support any requested additional expenditures. As a result of the Committee's actions, the estimated ending balances are now estimated at \$1,507,800 in 2003-04 and -\$580,600 in 2004-05.

17. If an agency has available expenditure authority, any expenditures from a program revenue account where there are insufficient balances would result in an unsupported loan from the general fund.

18. In light of this, the agency has recently indicated that it is contracting for a study of its fee structure in order to address the 2003-05 deficit. The agency is hopeful that the results of the study will soon be completed and that any recommendations can be addressed by the Legislature as a part of its 2003-05 budget deliberations.

19. There would appear to be four options available to the Committee to address this situation. First, the Committee could reduce the amount of the required lapse from the agency's general program operations appropriation. Second, the Committee could further reduce the agency's authorized expenditure authority through additional base level reductions. Third, the Committee could adopt a uniform fee increase amount for all initial and renewal credential fees first applicable to fees collected on and after September 1, 2003. (A combination of expenditure authority reductions and fee increases would also be feasible.) Finally, now that the Department has

submitted a revised fee study to provide adequate revenues for the 2003-05 biennium, the Committee could also adopt the recommended fee changes.

20. Under the first option, the Committee could choose to reduce the amount of the agency's required program revenue lapse to the general fund in 2004-05 by an additional \$580,600 in 2004-05, based on the Committee's earlier April 23, 2003, actions. Under this alternative the amount of the required lapse in that fiscal year would be reduced from \$1,969,900 to \$1,389,300, thereby eliminating the projected deficit.

21. To the extent that the Committee adopts any expenditure reductions, in addition to those in SB 44 for R&L, the proposed reduction applied to the 2004-05 lapse requirement would be adjusted by a corresponding amount.

22. Under the second and third options, the Committee could choose to adopt any of the following fee increase and/or expenditure reduction combinations in the following table. These sets of options would generate sufficient revenues or impose sufficient cost reductions (or both) to address the projected deficit. Any credential fee increase would first apply to fees collected on and after September 1, 2003, and would affect more than 300,000 credential holders.

**Fee Increase and Cost Reduction Options to Address the Projected Deficit**

<u>Fee Increase/Cost Reduction Combinations</u>		<u>Additional Revenues</u>	
<u>Required</u>	<u>Required Appropriation</u>	<u>Fee</u>	<u>GPR-</u>
<u>Fee Increase</u>	<u>Reduction</u>	<u>Revenue</u>	<u>Earned</u>
\$0	-\$1,622,400	\$0	\$0
\$1	-1,345,600	276,800	30,700
\$2	-1,068,900	553,500	61,500
\$3	-792,100	830,300	92,200
\$4	-515,300	1,107,100	123,000
\$5	-238,600	1,383,800	153,800
\$6	0	1,660,600	184,500

23. To the extent that the Committee adopts expenditure reductions, in addition to those in SB 44 for R&L, the total amount of the reductions from those decisions may be used in conjunction with the amount of fee revenue generated at the different fee levels to determine the maximum fee increase needed to eliminate the projected deficit.

24. *Revised Fee Study.* The Department contracted with Grant Thornton Consultants to review of the agency's current fee structure and to make recommendations for statutory adjustments to the 2003-05 biennial fee schedule. Based on these recommendations, the Department has requested revising the fee schedule for both initial and renewal credential fees. The agency newly proposes to institute a variable initial credential fee. Under current law, the initial credential fee is uniform for all professions (\$53). Adjustments to current law initial fees under the Department's proposal would range from decreases of \$19 to increases of \$588 per credential holder. Adjustments to current law renewal fees would range from decreases of \$81 to increases of \$642 per credential holder. The agency's proposed fee schedules are summarized in Attachments I and II.



25. According to the information provided by Grant Thornton Consultants, the submitted fee study does not reflect the actual variable costs related to the regulation of specific occupations and businesses. This is because the Department currently allocates enforcement costs by occupations and businesses based on the total costs of providing enforcement divided by the number of enforcement cases. Consequently, there is no consideration of the amount of time spent on each case or the complexity of the proceeding.

26. Grant Thornton Consultants recommended that the Department keep more detailed records that enable it to calculate more accurately the actual amount of time spent on enforcement and administrative costs associated with each profession. In the absence of this actual data, Grant Thornton Consultants calculated employee time spent on administrative and enforcement by using: (a) detailed records where they are available; (b) interviewing supervisors to obtain best estimates of staff support time; and (c) extrapolating overall time spent per profession using partial time records.

27. The consultants also recommended revising the fees every four years (though the fees would still be paid every two years) so that there would be less impact on professions with fee increases where there were relatively significant enforcement costs for only a brief period.

28. The following table provides a revised estimate of the expenditures based on Committee action to date, as well as the revenues and ending balance of R&L under the Department's revised fee schedule. The estimated total revenues would increase by \$174,800 GPR-REV and \$1,573,300 PR-REV in 2003-04 and \$93,500 GPR-REV and \$841,100 PR-REV in 2004-05 compared to current law.

**Projected Revenues and Expenditures under R&L's  
General Program Operations Appropriation  
(Revised Fee Schedule)**

	<u>2003-04</u>	<u>2004-05</u>
Beginning Balance	\$1,805,500	\$3,081,100
<u>Revenues</u>		
Initial Credential Fees	\$1,410,800	\$1,410,800
Renewal Credential Fees	11,309,900	8,742,000
Minor Revenues	<u>250,000</u>	<u>250,000</u>
Total Revenues	\$12,970,700	\$10,402,800
Total Available	\$14,776,200	\$13,483,900
<u>Expenditures and Lapses</u>		
SB 44 Appropriations [as affected by JFC]	\$9,725,200	\$9,680,200
Required Lapse	<u>1,969,900</u>	<u>1,969,900</u>
Total Expenditures and Lapses	\$11,695,100	\$11,650,100
Ending Balance	\$3,081,100	\$1,833,800

29. The agency's revised fee schedule would provide sufficient fee revenues to fund the appropriated expenditures of the agency for the next biennium. The Committee could approve the recommended fee changes.

30. On the other hand, the proposed fee schedule would include a number of significant fee increases. In addition, the agency would newly impose a variable initial credential fee schedule. Further the proposed fee structure may not accurately capture the true administrative and enforcement costs attributable to specific professions, and the development of a revised methodology may require further study. This conclusion would suggest that the revised fee schedule not be adopted at this time.

**ALTERNATIVES**

*Mark, I believe you can use language from 2001 Act 16 9132 (30) + just A the dates*

**A. Initial and Renewal Credential Fee Audit**

1. Include a nonstatutory provision directing the Legislative Audit Bureau to conduct an evaluation of the methodologies used by R&L to establish initial and renewal fee levels and report its findings by June 30, 2004.

2. Take no action.

**B. Required Lapse Modifications to Address the Projected Appropriation Deficit**

*The Committee could choose to address the projected appropriation deficit by modifying the proposed PR lapse requirement:*

1. Approve the Governor's recommendation requiring the Secretary of DOA to lapse \$1,969,900 annually to the general fund from the available PR balances in R&L's general program operations appropriation.

2. Modify the Governor's recommendation by reducing the amount of the required lapse to the general fund from program revenue balances in R&L's credential fee-supported general program operations appropriation account from \$1,969,900 to \$1,389,300 in 2004-05 to address a projected deficit in this appropriation account. [The amount of the adjustment reflects the impact of the Committee's April 23, 2003, actions on the agency's budget.]

<u>Alternative B2</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	- \$580,600

3. Maintain current law.

<u>Alternative B3</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	- \$3,939,800

**C. Fee Increase and Expenditure Reductions to Address the Projected Deficit**

The Committee could choose to address the projected appropriation deficit by adopting any of the following credential fee increase and base level expenditure reduction alternatives:

1. [No fee increase.] Delete <sup>290,300</sup> \$811,200 PR annually from the agency's general program operations appropriation.

Alternative C1	PR
2003-05 FUNDING (Change to Bill)	- \$1,622,400

*net*  
- 580,600

2. [\$1 fee increase.] Delete \$672,800 PR annually from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$1 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$16,400 in 2003-04 and \$14,300 in 2004-05.

Alternative C2	GPR	PR
2003-05 REVENUE (Change to Bill)	\$30,700	\$276,800
2003-05 FUNDING (Change to Bill)	\$0	- \$1,345,600

3. [\$2 fee increase.] Delete \$534,400 PR in 2003-04 and \$534,500 PR in 2004-05 from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$2 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$32,800 in 2003-04 and \$28,700 in 2004-05.

Alternative C3	GPR	PR
2003-05 REVENUE (Change to Bill)	\$61,500	\$553,500
2003-05 FUNDING (Change to Bill)	\$0	- \$1,068,900

4. [\$3 fee increase.] Delete \$396,000 PR in 2003-04 and \$396,100 PR in 2004-05 from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$3 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$49,100 in 2003-04 and \$43,100 in 2004-05.

Alternative C4	GPR	PR
2003-05 REVENUE (Change to Bill)	\$92,200	\$830,300
2003-05 FUNDING (Change to Bill)	\$0	- \$792,100

5. [\$4 fee increase.] Delete \$257,600 PR in 2003-04 and \$257,700 PR in 2004-05 from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$4 (first effective September 1, 2003, or the first day of the second month after

publication), and increase GPR-Earned estimates by \$65,600 in 2003-04 and \$57,400 in 2004-05.

<u>Alternative C5</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$123,000	\$1,107,100
2003-05 FUNDING (Change to Bill)	\$0	-\$515,300

6. [*\$5 fee increase.*] Delete \$119,300 PR annually from the agency's general program operations appropriation, increase all initial and renewal credential fees by \$5 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$82,000 in 2003-04 and \$71,800 in 2004-05.

<u>Alternative C6</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$153,800	\$1,383,800
2003-05 FUNDING (Change to Bill)	\$0	-\$238,600

7. [*\$6 fee increase.*] Increase all initial and renewal credential fees by \$6 (first effective September 1, 2003, or the first day of the second month after publication), and increase GPR-Earned estimates by \$98,300 in 2003-04 and \$86,200 in 2004-05.

<u>Alternative C7</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$184,500	\$1,660,600

**D. Agency's Proposed Fee Modifications**

8. Provide statutory adjustments to renewal credential fees for regulated professionals, as proposed in the Department's revised fee study. Newly authorize statutory variable initial credential fees in lieu of the current law standard \$53 fee, as proposed in the Department's revised fee study [see Attachments I and II]. Reestimate the amount of GPR-Earned by \$174,800 GPR-REV and \$1,841,100 PR-REV in 2003-04 and \$93,500 GPR-REV and \$1,573,300 PR-REV in 2004-05.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$268,300	\$3,414,400

Prepared by: Darin Renner  
Attachments

MO#	A	B	C
2 Darling	X		N
Welch	X		N
Harsdorf	X		N
Fitzgrid	X		N
Lazich	X		N
Kanavas	X		N
Decker	Y	X	
Moore	Y	X	
1 Kaufert	X		N
Huebsch	X		N
Ward	X		N
Stone	X		N
Rhoades	X		N
Meyer	X		N
Coggs	X		N
Schooff	Y	X	

MO#	Y	N
Darling	Y	N
Welch	Y	N
Fitzgrid	Y	N
Lazich	Y	N
Harsdorf	Y	N
Kanavas	Y	N
Decker	Y	N
Moore	Y	N
Kaufert	Y	N
Huebsch	Y	N
Ward	Y	N
Stone	Y	N
Rhoades	Y	N
Meyer	Y	N
Coggs	Y	N
Schooff	Y	N



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBb0265/1

MDK:Kj

LFB:.....Renner – Initial and renewal credential fee audit

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

1 At the locations indicated, amend the bill as follows:

2 1. Page 1084, line 11: after that line insert:

3 “(3<sup>h</sup>) EVALUATION OF CREDENTIALING FEES. The joint legislative audit committee  
4 is requested to, and may, direct the legislative audit bureau to evaluate the  
5 methodologies used by the department of regulation and licensing for recalculating  
6 administrative and enforcement costs under section 440.03 (9) (a) of the statutes and  
7 recommending changes to fees for issuing and renewing credentials under section  
8 440.03 (9) (b) of the statutes. An evaluation under this subsection shall determine  
9 whether the methodologies are adequately documented and administered in a  
10 straightforward manner, whether they represent the actual costs associated with the  
11 department’s regulation of credential holders, and whether they provide sufficient  
12 revenues to support the department’s operations. If the committee directs the

1 legislative audit bureau to perform an evaluation under this subsection, the bureau  
2 shall, no later than June 30, 2004, file its report as described in section 13.94 (1) (b)  
3 of the statutes.”.

4 (END)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBb0265/1  
MDK:kjf:rs

LFB:.....Renner – Initial and renewal credential fee audit

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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7 recommending changes to fees for issuing and renewing credentials under section  
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4 (END)