

2001 DRAFTING REQUEST

Bill

Received: 09/27/2000

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 7-0371

By/Representing: Uecker

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Military Affairs - national guar

Extra Copies:

Pre Topic:

DOA:.....Uecker -

Topic:

Clarify which schools may be eligible under the tuition grant program

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>
/1	nelsorp1 10/09/2000	gilfokm 10/09/2000	martykr 10/10/2000	_____	lrb_docadmin 10/10/2000		

FE Sent For:

<END>

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S. 108.02(15)

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1/?	nelsorp1	1-10/9 King	Trn 12	<u>Kf 10</u> <u>Km 10</u>			

FE Sent For:

<END>



Date: September 25, 2000

To: Steve Miller, LRB

From: Deborah Uecker, DOA
267-0371

Subject: Department of Military Affairs Statutory Language

I am forwarding statutory language changes that the Department of Military Affairs (DMA) included in its budget submission.

- ✓ 1. **Emergency Management Assistance Compacts.** Create two appropriations for interstate military assistance and emergency assistance to allow the receipt of funds from other states to reimburse units or members of the Wisconsin national guard or the division of emergency management to provide assistance to other states.
- ✓ 2. **Sum Sufficient for Extended Emergency Management Liabilities.** Create a GPR sum sufficient appropriation to defray the costs incurred to reimburse local government units for the costs of worker's compensation, indemnification of tort liability and the destruction of equipment as the result of emergency response efforts.
- ✓ 3. **Reimbursement for Responses to Potential Hazardous Materials Releases.** Allow an emergency response team to seek reimbursement from a responsible party where a team responded to a potential release even though no actual release occurred. Convert LRBs0150/1, Senate Substitute Amendment 1 to 1999 Senate Bill 208 as the budget draft.
- ✓ 4. **Level A Emergency Response Teams.** Modify current statutory language to remove the requirement that at least one Level A emergency response team be located in La Crosse County. Require that Level A team members shall meet the highest standards for a hazardous materials responder and that all teams have members trained in appropriate speciality areas. Require that an annual financial report be filed by each team with the adjutant general each year.
- ✓ 5. **Consolidate Appropriations within the Emergency Management Program.** Consolidate 20.465(3)(dh) Hazardous substance emergency response; administration with the general program operations appropriation of the division of emergency management, 20.465(3)(a).
- ✓ 6. **Clarification of Eligible Schools for the National Guard Tuition Grant Program.** Allow the department to authorize grants to students attending institutions that meet the U.S. Department of Education eligibility requirements for Pell Grants and other federal student assistance programs and remove language referencing schools accredited by rule of the Higher Educational Aids Board.
- ✓ 7. **Level B Teams Equipment Appropriation** Change 20.465(3)(dp) Emergency response equipment appropriation to a biennial appropriation.

Thank you for your help.

WISCONSIN NATIONAL GUARD TUITION GRANT PROGRAM
ESTIMATED BUDGET REQUIREMENTS
2001-2003 BIENNium

	2001-2002	2002-2003
Estimated Program Cost	\$4,277,300	\$4,554,700
Less: Adjusted Base Level	-3,589,400	-3,589,400
FUNDING REQUESTED	\$687,900	\$965,300

The department notes that it is estimating participation based on the last true figures available and known historical precedents. If past patterns are repeated, we believe roughly 1,775 grants will be paid for the fall semester of 2000-01. This level of participation will result in a deficit in the current year of \$426,000, which we intend to request from the Joint Committee on Finance pursuant to §13.10, as directed by the non-statutory provision in 1999 Act 9. In order to ensure the maximum accuracy of that request, we intend to forward that request after fall semester participation figures are available, probably at the March, 2001 meeting. The same participation figures available at that time should be useful in refining the estimate of funding required for the upcoming biennium as well.

Clarification of the Statutory Definition of a Qualifying School

Under §21.49(1)(b), a "qualifying school" for this program means any of the following:

1. The extension division and any campus of the university of Wisconsin system.
2. Any accredited institution of higher education as defined by rule of the higher educational aids board"
3. Any technical college established under ch. 38"

This definition is not functional because no rule such as that referred to under sub(2) exists. To the best of our knowledge, the Higher Educational Aids Board has never promulgated such a rule, at least since it was largely privatized in 1984. As a result of this ambiguous statutory guidance, agency legal staff have questioned whether statutory authority exists to deny any grants from any institution.

Prior to 1991, the National Guard Tuition Grant Program was administered by the Department of Veterans Affairs, although the appropriation for the program was made to the Department of Military Affairs. DMA paid grants as certified by DVA. 1991 Wisconsin Act 39 transferred administrative control of the program to DMA. At that point in time, DMA adopted the practice which had been utilized by DVA, referring to the annual listing of higher educational institutions certified as Title IV eligible by the U.S. Department of Education. DMA has always presumed that the original legislative intent behind the statutory language adopted in 1977 was that the National Guard Tuition Grant program should recognize the same qualifying institutions used for state veterans programs.

As program participation grows and alternative educational delivery methods develop, questions over whether a particular program is accredited or qualifying have become more common. DMA does not have the expertise or staff resources to evaluate the quality or effectiveness of educational programs and would therefore prefer to have a qualified third party make the determination of what is an accredited, qualifying institution. Our goal is to simply have clear, unambiguous statutory guidance that we can implement in a fair and consistent manner. We suggest that §21.49(1)(b)(2) be redrafted as follows:

21.49(1)(b)2. Any accredited institution of higher education as defined by rule of the higher educational aids board determined to be eligible to participate in federal student financial assistance programs by the U.S. Department of Education pursuant to 20 USC 1070 et seq.

This definition would allow the agency to continue the established practice of authorizing National Guard Tuition Grants only to students of institutions that meet USDOE eligibility requirements for Pell Grants and other federal student assistance programs authorized by Title IV of the Higher Education Act of 1965 (PL 89-329) and subsequent amendments.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0552/1

RPN.....

King

D-NOTE
SOON

DOA:.....Uecker - Clarify which schools may be eligible under the tuition grant program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{DON'T GEN. CAT} relating to: the budget.

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Analysis by the Legislative Reference Bureau

VETERANS AND MILITARY AFFAIRS

DMA

Under current law, upon completion of a full-time or a part-time course in a qualifying school, the department of military affairs will reimburse an eligible national guard member for the tuition he or she paid. A school is qualified if the school is the extension or any campus of the University of Wisconsin System, a technical college, or any accredited institution of higher education, as defined by rule by the higher educational aids board. ~~The board~~ has not defined "institution of higher education" by rule. This bill changes the definition of "institution of higher education" to the definition used under federal law for purposes of determining eligibility for federal student financial assistance.

UW

HEAB

(HEAB)

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

2 SECTION 1. 21.49 (1) (b) 2. of the statutes is amended to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0552/1dn

RPN...:.....
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that is
This draft uses the federal cite to the actual definition of "institution of higher education" used by the federal government for purposes of student financial aid, rather than referring to the program and having the person try to find the definition.

I am not convinced that this is the best way to create a definition because in the last budget the reference to this definition was added to s. 45.396 of the statutes, relating to grants for correspondence classes taken by veterans, but at that time the definition was in 20 USC 1088. Now, that definition has been moved to 20 USC 1002. Thus, the cross-reference to the federal law made only two years ago is wrong, so a person looking for the definition will not find it where our statute says it is. That same thing could, and probably will happen again. ✓

I would suggest that you create a definition yourself that fits the needs of the program or use a definition from our statutes, such as in s. 39.45 (1) (a), 108.02 (18), or 442.04 (4). ✓

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0552/1dn
RPN:kmg:km

October 10, 2000

This draft uses the federal cite to the actual definition of "institution of higher education" that is used by the federal government for purposes of student financial aid, rather than referring to the program and having the person try to find the definition.

I am not convinced that this is the best way to create a definition because in the last budget the reference to this definition was added to s. 45.396 of the statutes, relating to grants for correspondence classes taken by veterans, but at that time the definition was in 20 USC 1088. Now, that definition has been moved to 20 USC 1002. Thus, the cross-reference to the federal law made only two years ago is wrong, so a person looking for the definition will not find it where our statute says it is. That same thing could, and probably will, happen again.

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0552/1
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FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau
VETERANS AND MILITARY AFFAIRS

Under current law, upon completion of a full-time or a part-time course in a qualifying school, DMA will reimburse an eligible national guard member for his or her tuition. A school is qualified if the school is the extension or any campus of the UW System, a technical college, or any accredited institution of higher education, as defined by rule by the higher educational aids board (HEAB). HEAB has not defined "institution of higher education" by rule. This bill changes the definition of "institution of higher education" to the definition used under federal law for purposes of determining eligibility for federal student financial assistance.

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

2 **SECTION 1.** 21.49 (1) (b) 2. of the statutes is amended to read:

3 21.49 (1) (b) 2. Any accredited institution of higher education, as defined by
4 ~~rule by the higher educational aids board~~ in 20 USC 1002.

5 (END)