



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Senate Bill 170

**Senate Substitute
Amendment 1 (As Amended by
Senate Amendments 1 and 2)**

Memo published: November 4, 2003

Contact: Richard Sweet, Senior Staff Attorney (266-2982)

Senate Bill 170 modifies a number of statutes that relate to veterans' benefits, including statutes that relate to the purposes of veterans' programs, eligibility, and benefit levels.

SENATE SUBSTITUTE AMENDMENT 1

National Guard Educational Benefits

Under the current law governing the program that provides National Guard educational benefits, a person is eligible for tuition reimbursement for 100% of actual tuition or 100% of the arithmetic average of resident undergraduate tuition charged by the four-year University of Wisconsin (UW) System institutions for comparable credits, whichever is less. (References in this memorandum to "current law" are to the statutes, as affected by 2003 Wisconsin Act 33, the 2003-05 Biennial Budget Act.) Senate Substitute Amendment 1 modifies this to 100% of actual tuition or 100% of the maximum resident undergraduate tuition at UW-Madison for comparable credits, whichever is less.

In addition, the substitute amendment states that a National Guard member is ineligible under this program for a semester in which he or she receives a grant under the veterans' tuition reimbursement program.

References to Iraq War

The substitute amendment modifies the current definition of "war period" to include a reference to the Iraq war, which covers the time between March 19, 2003, and the ending of Operation Iraqi Freedom or a successor operation, as established by the state Department of Veterans Affairs (DVA) by rule. The substitute amendment also changes other statutes to include references to Operation Iraqi Freedom.

Veterans' Tuition Reimbursement

Under current law, in order to be eligible for veterans' tuition reimbursement, a person must have served on active duty (not including active duty for training purposes) under honorable conditions in the U.S. Armed Forces for two continuous years or more or the full period of the initial service obligation, whichever is less. The two-year requirement does not apply under certain circumstances. The substitute amendment repeals the current provision and instead changes references to "individual" in the statute dealing with veterans' tuition reimbursement to "veteran."

In addition, the substitute amendment states that reimbursement may be provided at a school other than the one from which the veteran is receiving his or her degree if two conditions are met: (1) the curriculum at the other school consists only of courses necessary to complete a degree in a particular course of study; and (2) the course is accepted as transfer credits at the school from which the veteran is receiving the degree, but is not available at that school.

DVA Headquarters and Museum

The substitute amendment authorizes DVA to acquire by gift, purchase, or condemnation property for the purpose of providing a headquarters and museum for the department. The list of purposes for which the veterans' mortgage loan repayment fund may be used is amended to include payments of obligations arising from this acquisition.

Housing for Homeless Veterans

The substitute amendment authorizes DVA to provide a loan guarantee for multifamily transitional housing for homeless veterans.

Health Care Aid Grants

Under current law, DVA may not give prior authorization for a health care aid grant, but may issue a certificate of entitlement stating that a veteran or dependent is eligible for a grant if the treatment is received within a time period that DVA promulgates by rule. The substitute amendment repeals the current prohibition on prior authorization. The substitute amendment also states that DVA may not grant health care aid to pay for care provided to the veteran or dependent before the time period identified in the certificate of entitlement, except for emergency care as determined by DVA if the application is submitted within 90 days after the emergency care ends.

Veterans' Personal Loans

Under current law, DVA may lend a veteran, a veteran's unremarried spouse, or a deceased veteran's child not more than \$15,000 or a lesser amount established by DVA by rule for specified purposes. Those purposes are the purchase of a mobile home, business, or business property, the education of the veteran or the veteran's spouse or children, the payment of medical or funeral expenses, payment of delinquent child support or maintenance or past support, medical expenses, or birth expenses, or the consolidation of debt.

The substitute amendment makes the following changes to current law:

- The list of purposes for which DVA may make a personal loan is repealed. [However, a separate statute dealing with loans for the education of a child is retained.]
- The amounts in current law are increased to \$25,000 or a lesser amount established by DVA. Subject to these limits, DVA may periodically adjust the maximum loan amount based on financial market conditions, funds available, needs of the Veterans Trust Fund, or other factors that DVA determines relevant.
- DVA is given authority to periodically adjust the interest rates for loans, which may vary based on the term of the loans, the type of security offered, the method of payment, or other factors that DVA considers relevant.
- A loan of \$5,000 or less to an applicant whose total indebtedness under the program is \$5,000 or less must be evidenced by a promissory note and secured by a guarantor or by a mortgage on real estate in Wisconsin. All other loans under the program must be evidenced by a promissory note and secured by a mortgage on real estate in Wisconsin. A mortgage is acceptable if the applicant has equity in the property equal to or exceeding a minimum amount established by DVA by rule.

Veterans Cemeteries

The current statute dealing with veterans cemeteries defines "veteran" as a person who has served on active duty in the U.S. Armed Forces. The substitute amendment states that the definition does not include persons who served on active duty for training purposes.

Correspondence Courses and Part-Time Study Tuition Reimbursement for Veterans

Currently, reimbursement is not available under this program if the income of the veteran and his or her spouse (not including Agent Orange litigation payments) exceeds \$47,500 plus \$500 for each dependent in excess of two dependents. The substitute amendment states that no reimbursement is available under this program if the income of the veteran and his or her spouse exceeds \$50,000 plus \$1,000 for each dependent in excess of two dependents.

Under current law, the maximum tuition reimbursement available under this program is 100% of actual tuition and fees or 100% of the standard cost for the state resident for tuition and fees for an equivalent course at UW-Madison per course, whichever is less. The substitute amendment modifies this to subtract from the maximum tuition reimbursement any grants or scholarships that the veteran receives specifically for the payment of tuition.

Grants to Counties for County Veterans Service Officers

Current law provides state grants to counties for county veterans service officers (CVSOs), which vary from \$8,500 to \$13,000 per year, depending on the population of the county. However, counties with a part-time CVSO are eligible for an annual grant of up to \$500.

The substitute amendment states that an eligible county with a part-time CVSO may request and receive a grant of \$8,500 to \$13,000, or a grant in excess of \$500, if the county submits a plan for full-time service to veterans in that county that has been adopted by the county by resolution. The Board of Veterans Affairs must review the plan and approve the grant at the requested amount or a lesser amount based on the plan's compliance with criteria established by the board. This provision takes effect on the first day of the seventh month beginning after publication of the Act.

Veterans' Housing Loan Program

The substitute amendment makes the following changes in the Veterans' Housing Loan Program:

- The definition of the term "authorized lender" is expanded to include a servicer of veterans' mortgage loans. In addition, DVA is given authority to enter into contracts with persons other than authorized lenders for the servicing of loans.
- The substitute amendment expands eligibility for the program to include persons who are serving on active duty in the U.S. Armed Forces at the time of making application and who meet other residency requirements.
- Current law provides that applications for purchase, construction, or refinancing loans are made to an authorized lender. Applications for home improvement loans are made to a CVSO. Persons may apply to DVA through a CVSO for certification of eligibility as a veteran. The substitute amendment modifies this so that applications for home improvement loans may be made to either DVA or a CVSO. In addition, under the substitute amendment, applicants apply to DVA or a CVSO for certification of eligibility as a veteran.
- The substitute amendment authorizes DVA to loan money from the Veterans Trust Fund to the veterans mortgage loan repayment fund to fund loans.
- As described earlier in the memorandum, the substitute amendment changes the list of purposes for which the veterans mortgage loan repayment fund may be used to include payment of obligations arising from DVA acquisition of a headquarters and museum.
- The substitute amendment states that any money appropriated or transferred by law from the veterans mortgage loan repayment fund for purposes other than those listed in the statute that sets forth those purposes, and other than moneys made temporarily available to other enumerated funds, must be repaid from the general fund with a 5% annual interest rate.

Fire Fighter at Wisconsin Veterans Home

Current law provides that if a state employee enumerated in the law suffers injury while in the performance of duties, the employee must continue to be fully paid with no reduction in leave or in the rate of earning leave. The enumerated state employees include a fire fighter at the Wisconsin Veterans Home at King. The substitute amendment deletes this reference to the fire fighter at the Wisconsin Veterans Home at King.

SENATE AMENDMENT 1

Senate Amendment 1 deletes from the substitute amendment the changes in the law dealing with state grants for CVSOs.

SENATE AMENDMENT 2

Senate Amendment 2 makes the following changes:

- The amendment modifies the definition of “veteran”, which generally applies throughout the chapter of the statute dealing with veterans, to insert the word “or.” This word was eliminated, apparently inadvertently, by a Revisor’s Revision Bill in the previous legislative session (2001 Wisconsin Act 103).
- The amendment deletes from a statute dealing with veterans’ tuition reimbursement a reference to grants under the statute dealing with National Guard educational benefits since the substitute amendment does not permit persons to receive National Guard educational benefits for a semester in which they receive veterans’ tuition reimbursement.
- The amendment adds the words “and museum” after a reference to the DVA headquarters, for consistency with other provisions in the substitute amendment.

LEGISLATIVE HISTORY

Senate Substitute Amendment 1 was introduced by Senator Ronald Brown and Senate Amendments 1 and 2 to the substitute amendment were introduced by the Joint Committee on Finance.

On October 28, 2003, the Joint Committee on Finance recommended adoption of Senate Amendments 1 and 2 to Senate Substitute Amendment 1, adoption of Senate Substitute Amendment 1, and passage of the bill as amended, all on votes of Ayes, 15; Noes, 0.

RNS:tlu;ksm



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

**2003 Wisconsin Act 83
[2003 Senate Bill 170]**

Veterans' Benefits

2003 Acts: www.legis.state.wi.us/2003/data/acts/

Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 83 modifies a number of statutes that relate to veterans' benefits, including statutes that relate to the purposes of veterans' programs, eligibility, and benefit levels.

National Guard Educational Benefits

This Act increases the maximum grant for National Guard educational benefits from 100% of actual tuition or 100% of the arithmetic average of resident undergraduate tuition charged by the four-year University of Wisconsin (UW) System institutions, whichever is less, to 100% of actual tuition or 100% of the maximum resident undergraduate tuition at UW-Madison, whichever is less. In addition, the Act states that a National Guard member is ineligible under this program for a semester in which he or she receives a grant under the veterans' tuition reimbursement program.

Veterans' Tuition Reimbursement

Under prior law, in order to be eligible for veterans' tuition reimbursement, a person generally must have served on active duty (not including active duty for training purposes) under honorable conditions in the U.S. Armed Forces for two continuous years or more or the full period of the initial service obligation, whichever is less. The Act repeals the current provision and instead changes references to "individual" in the statute dealing with veterans' tuition reimbursement to "veteran."

The Act also increases the income eligibility level under this program from \$47,500 plus \$500 for each dependent in excess of two dependents, to \$50,000 plus \$1,000 for each dependent in excess of two dependents. In addition, the Act states that reimbursement may be provided at a school other than the one from which the veteran is receiving his or her degree if specified conditions are met.

Health Care Aid Grants

The Act repeals the prior prohibition on prior authorization for a health care aid grant. The Act also states that the Department of Veterans Affairs (DVA) may not grant health care aid to pay for care provided

This memo provides a brief description of the Act. For more detailed information,
consult the text of the law and related legislative documents.

to the veteran or dependent before the time period identified in the certificate of entitlement, except for emergency care as determined by DVA if the application is submitted within 90 days after the emergency care ends.

Veterans' Personal Loans

The Act makes the following changes to the law that relates to veterans' personal loans: (1) the list of purposes for which DVA may make a personal loan is repealed; (2) the maximum loan amounts are increased from \$15,000 to \$25,000 or a lesser amount established by DVA; (3) DVA is given authority to periodically adjust the interest rates for loans; and (4) a loan of \$5,000 or less to an applicant whose total indebtedness under the program is \$5,000 or less must be evidenced by a promissory note and secured by a guarantor or by a mortgage on real estate in Wisconsin; all other loans must be evidenced by a promissory note and secured by a mortgage on real estate in Wisconsin.

Correspondence Courses and Part-Time Study Tuition Reimbursement for Veterans

The Act increases the income eligibility level under this program from \$47,500 plus \$500 for each dependent in excess of two dependents, to \$50,000 plus \$1,000 for each dependent in excess of two dependents. The Act also modifies the maximum tuition reimbursement available under this program to subtract any grants or scholarships that the veteran receives specifically for the payment of tuition.

Veterans' Housing Loan Program

The Act makes the following changes in the Veterans' Housing Loan Program: (1) the definition of the term "authorized lender" is expanded to include a servicer of loans and DVA is given authority to enter into contracts with persons other than authorized lenders for the servicing of loans; (2) the Act expands eligibility for the program to include persons who are serving on active duty in the U.S. Armed Forces at the time of making application and who meet other residency requirements; (3) the Act allows applications for home improvement loans to be made to either DVA or a county veterans service officer (CVSO); in addition, applicants apply to DVA or a CVSO for certification of eligibility as a veteran; (4) the Act authorizes DVA to loan money from the Veterans Trust Fund to the veterans mortgage loan repayment fund to fund loans; (5) the statutory list of purposes for which the veterans mortgage loan repayment fund may be used is amended to include payment of obligations arising from DVA acquisition of a headquarters and museum; and (6) the Act states that any money appropriated or transferred by law from the veterans mortgage loan repayment fund for purposes other than those listed and other than moneys made temporarily available to other enumerated funds, must be repaid with a 5% annual interest rate.

Other Provisions

The Act: (1) modifies the definition of "war period" and amends other statutes to include references to the Iraq war; (2) authorizes DVA to provide a loan guarantee for multifamily transitional housing for homeless veterans; (3) modifies the definition of "veteran" for purposes of the statute relating to veterans cemeteries to exclude persons who served on active duty for training purposes; (4) deletes a statutory reference to a fire fighter at the Wisconsin Veterans Home at King; and (5) authorizes DVA to acquire property for a headquarters and museum and amends the list of purposes for which the veterans' mortgage loan repayment fund may be used to include payments arising from the acquisition.

Effective Date: The Act takes effect on December 9, 2003.

Prepared by: Richard Sweet, Senior Staff Attorney

November 25, 2003

RNS:tlu:ksm;jal;wu

November 26, 2003

DEC 02 2003

Senator Ron Brown
Room 104 South
State Capitol
P.O. Box 7882
Madison 53707-7882

12/2/03
pub

Dear Senator Brown

This letter is to thank you for all the wonderful work you did for veterans as reflected in SB170 and to apologize for the timing of a guest editorial authored by me and published by the Wisconsin State Journal on Veterans Day. I would like to think you never saw that editorial but I fear you did.

That editorial alleged that, like Congress, the Wisconsin Legislature has been slow to make National Guard call-ups eligible for state veterans education benefits. This has certainly been true for the last ten years and it was true when I penned that editorial early last summer. It even seemed to be true when, in frustration, I submitted that article for publication early in October because the original version of SB170 was mired in controversy and passage by both houses this year seemed very unlikely.

But it certainly was not true when the Wisconsin State Journal finally published the piece on Nov. 11. From early October to Nov. 11, you, Representative Musser, Secretary Scocos and many others worked very hard making compromises and refashioning SB 170 so that it had the support of the entire veterans community.

Before Veterans Day I was relieved that the paper had chosen to not run my out-of-date opinion. I was upset and embarrassed when, on the eve of Veterans Day, I learned it would probably be published after all. And then to see it laid out in a right-left format opposite a fine column by John Scocos was doubly embarrassing.

I sure ended up looking like an ungrateful idiot. Please accept my apology.

Sincerely,



Chuck Goranson
714 University Ave
Madison, WI 53715



*Jim Doyle, Governor
John A. Scocos, Secretary*

STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS

*30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843
PHONE: (608) 266-1311 1-800-947-8387 (WIS VETS)
WEB SITE: <http://dva.state.wi.us>
E-MAIL: Headquarters@dva.state.wi.us
FAX: (608) 267-0403*

November 26, 2003

WDVA Bulletin No. 675

**TO: County Veterans Service Officers
Veterans School Officials**

Subject: ACT 83 / SB 170 Program Changes

Wisconsin Act 83, formerly SB 170 was signed into law by Governor Doyle on November 21, 2003. With the publication of this law, scheduled for December 8, 2003, several WDVA programs will have significant changes. Complete applications for loans or grants that are received by WDVA before 4:30 p.m., December 8, 2003 will be reviewed under existing law. Applications received after 4:30 p.m., December 8, 2003 will be reviewed under provisions of the new law.

Eligibility

The new law extends eligibility for all state veterans benefits to those who serve in Operation Iraqi Freedom. Eligibility for the Primary Mortgage Loan Program is also expanded to include veterans who are on active duty at the time of application.

Health Care Aid Grants

The Health Care Aid Grant will no longer retroactively reimburse medical care that was received prior to the issuance of a Certificate of Entitlement (COE); unless the care was Emergency Care and was completed within 90 days of the date of receipt of the application by the Department. Emergency Care is defined by the USDVA as "Care that must have been rendered in a medical emergency of such nature that a prudent layperson would have reasonably expected that delay in seeking immediate medical attention would have been hazardous to life or health." WDVA Form 2069, Verification of Need for Treatment, will be modified to allow a doctor to indicate if the care met this standard. The new form will be available on-line prior to the 9th of December.

Personal Loan Program

All restrictive purposes for the PLP have been removed. The loan may now be used for any purpose. Loans secured by a mortgage will be referred to as Home Equity Loans and guarantor secured loans will remain Personal Loans. There will be no immediate changes in the application form or process. The department now has the statutory authority to make loans secured with a mortgage, up to \$25,000. Loans secured by a guarantor may now be submitted for a maximum of \$5,000 with a maximum repayment term of 5 years.

Education Grants

The income cap on the Part-Time Study Grant (PTSG) and the Tuition and Fee Reimbursement Grant (TFRG) is raised to a maximum of \$50,000, up from \$47,500, in household income and \$1,000, formerly \$500, for each dependent in excess of two. Eligibility for education grants becomes the same as that for other state veterans programs which is generally 90 days of active duty service, other than active duty for training. A veteran may not receive a TFRG and a National Guard Tuition Grant (NGTG) in the same semester for the same academic credits.

Gilbert, Melissa

From: Vick, Hannah
Sent: Wednesday, November 19, 2003 12:42 PM
To: Gilbert, Melissa
Subject: FW: Notice of Bill Signing- SB 170

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

From: Hudzinski, Nicole - Office of Governor Jim Doyle
Sent: Wednesday, November 19, 2003 12:18 PM
To: Sen.Breske; Sen.Brown; Sen.Carpenter; Sen.Darling; Sen.Decker; Sen.Fitzgerald; Sen.George; Sen.Hansen; Sen.Harsdorf; Sen.Jauch; Sen.Kanavas; Sen.Kedzie; Sen.Lasee; Sen.Lassa; Sen.Leibham; Sen.Plale; Sen.Roessler; Sen.Schultz; Sen.Stepp; Sen.Welch; Sen.Wirch; Sen.Zien; Rep.Balow; Rep.Berceau; Rep.Bies; Rep.Black; Rep.Boyle; Rep.Coggs; Rep.Colon; Rep.Fitzgerald; Rep.Freese; Rep.Gronemus; Rep.Gunderson; Rep.Gundrum; Rep.Hahn; Rep.Hebl; Rep.Hines; Rep.Huber; Rep.Huebsch; Rep.Hundertmark; Rep.Jeskewitz; Rep.Johnsrud; Rep.Kaufert; Rep.Kestell; Rep.Krawczyk; Rep.Kreibich; Rep.Kreuser; Rep.Ladwig; Rep.LehmanM; Rep.Loeffelholz; Rep.McCormick; Rep.Meyer; Rep.Miller; Rep.Montgomery; Rep.Morris; Rep.Musser; Rep.Nass; Rep.Nischke; Rep.Olsen; Rep.Ott; Rep.Owens; Rep.Petrowski; Rep.Pettis; Rep.Plouff; Rep.Rhoades; Rep.Richards; Rep.Schneider; Rep.Seratti; Rep.Shilling; Rep.Sinicki; Rep.Stone; Rep.Suder; Rep.Towns; Rep.Townsend; Rep.Travis; Rep.Turner; Rep.Underheim; Rep.Van Roy; Rep.Vrakas; Rep.Vukmir; Rep.Ward; Rep.Wieckert; Rep.WoodJ; Rep.Young; Rep.Zepnick; Sen.Moore; Sen.Panzer; Sen.Risser; Sen.Robson; Sen.Erpenbach
Subject: Notice of Bill Signing- SB 170

Governor Jim Doyle will be acting on SB 170, relating to the Veterans benefits, at the Richard I. Bong WWII Heritage Center in Superior on Friday, November 21, 2003, at 1:30 p.m. Please let me know by 3:00 p.m. on Thursday, Nov. 20th, if you plan to attend. Thank you.

Nicole Hudzinski
Assistant to Legislative Director
and Policy Director
Office of Governor Jim Doyle
608-266-7424

Vets get fair deal

Veterans returning from Iraq will get a better deal on richly deserved benefits for their service, thanks to lawmakers and the governor.

Gov. Jim Doyle signed legislation last week that expands veterans benefits to those currently serving in Iraq and also increases how much the state will reimburse veterans for attending college. The bill:

- ◆ Makes it easier for National Guard members returning from Iraq and other qualified veterans to get tuition and home loans.
- ◆ Helps the Department of Veterans Affairs deliver services to veterans faster and more efficiently.

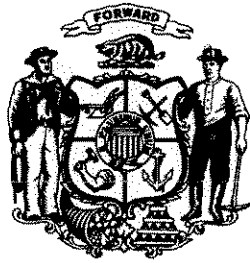
The legislation also offers full college tuition reimbursement. Veterans can get the same help for correspondence courses and part-time studies.

The measure also expands loan guarantees for housing for homeless veterans.

The legislation helps right a wrong committed in 1991, when National Guard troops returning from Operation Desert Storm found they weren't able to get the same help as their full-time counterparts in the armed forces.

We are relying even more heavily on National Guard members in Iraq this time around, making their second-class status obviously unfair. The action taken last week will help veterans keep pace in education and jobs with peers who didn't serve in the armed forces. It's the least we can do to recognize and respect these soldiers' selfless dedication to service.

WSS 11/26/03



WISCONSIN STATE SENATE
P. O. Box 7882 Madison, WI 53707-7882

November 12, 2003

Letter to the Editor
Wisconsin State Journal

CONTACT:
Sen. Ron Brown
State Capitol
Room 104 South
608-266-8546

Re: Bill Provides Education Benefits to Guard Members Serving in Iraq

We are writing in response to a guest column printed on Veterans Day concerning National Guard members serving in Iraq and the state veterans tuition and fee reimbursement program. Contrary to the rhetoric expressed in the column, the sacrifices made by the courageous guard members deployed overseas have been recognized by state legislators, and efforts to expand eligibility for the veterans education program are well under way. In fact, we were surprised by the tone of the column since a bill rectifying this discrepancy in the law is expected to pass out of the Assembly this week. This legislation received the unanimous approval of the Senate on Nov. 4.

As we reflect on the brave service rendered by all Wisconsin veterans, we acknowledge that we owe them more than just a debt of gratitude. Accordingly, we will continue to work toward ensuring this state maintains one of the best veterans programs in the nation. We believe the veterans omnibus bill being forwarded to the governor goes a long way toward accomplishing that objective.

Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform
Sen. Ron Brown, Chair
Sen. Roger Breske
Sen. Scott Fitzgerald
Sen. Bob Wirch
Sen. Dave Zien



Jim Doyle, Governor
John A. Scocos, Secretary

STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS

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FAX: (608) 267-0403

DATE: November 12, 2003
TO: Anthony Hardie, Executive Assistant
FROM: John Rosinski, Chief Legal Counsel *JR*
RE: Assembly Amendment 1, To 2003 Senate Bill 170 Is Not Necessary

Senate substitute amendment 1, to 2003 senate bill 170, at page 4, lines 2 to 7, creates the Iraq war period. Under that language, any service member who serves during that war period on active duty in the U.S. armed forces or in forces incorporated in the U.S. armed forces, for a period of at least 90 days, attains veteran status. If the service period is less than 90 days, the individual attains veteran status if he or she dies while on active duty or is discharged for a service-connected disability or a disability subsequently determined to be service-connected. The active duty service can be anywhere. It applies to all active duty personnel, including Reservists and Guard members activated for federal service.

Assembly amendment 1, to senate bill 170, adds language at s. 45.34 (2) (g), creating a Middle East crisis denominated Operation Iraqi Freedom. Insofar as it requires 90 days of active duty service, it adds nothing to the eligibility criteria currently in the bill. It does extend eligibility to service members who serve less than 90 days and are not discharged for a service-connected disability, or die while on active duty, but who serve at least one day in the theater of operation. This would be an extremely rare occurrence. However, in any case, those individuals currently qualify under a liberal interpretation of existing law, at s. 45.34 (2) (f). The department has determined that any service in the Middle East may be considered to be service in the Operation Enduring Freedom theater of operation. It is not time limited.

In conclusion, passage of assembly amendment 1, to senate bill 170 is not necessary. It does not create eligibility that is not otherwise attainable under senate substitute amendment 1, to 2003 senate bill 170 and existing law.

"It is time for Congress and the Wisconsin Legislature to honor and respect these Iraq war veterans with more than hollow words."

CHUCK GORANSON, guest column

A8 • Tuesday, November 11, 2003

GUEST COLUMN

Iraq vets deserve GI Bill benefits

By Chuck Goranson

Sadly, many of us Vietnam veterans know all too well what it is like to be treated as second-class veterans.

When we came home our war was not seen as "honorable" as previous wars, so that we vets were therefore less deserving of the public's respect and of federal and state veterans benefits. At the time, the justification for this view included the fact that Congress had not officially "declared war" in Vietnam. My comrades and I swore that this poor treatment of veterans would never happen again.

But it has. Believe it or not, many Iraq war soldiers who return to civilian life will not be eligible for critical veterans education benefits such as the GI Bill and the Wisconsin Veterans Tuition and Fees Reimbursement Grants. This time, the justification has to do with the way today's military is structured.

Instead of a large standing army, our nation has chosen to have a less expensive reserve force that can be called up in times of crisis. They have served and fought in Bosnia, Afghanistan and wherever else they were needed. When the reserves and National Guard are activated and incorporated into the regular armed forces, they serve side by side with the regular troops, doing the same work and taking the same risks. You would think they would receive the same respect and benefits as other veterans when they come home.

But they don't. These days, the GI Bill is used primarily as an entitlement incentive to draw college-minded men and women into the regular armed forces. The federal government apparently sees no profit in making GI Bill benefits available to returning Guard and reserve members.

It's not any better on the state level, where returning Iraq war veterans who are ac-

tivated National Guard members are not eligible for the Wisconsin Veterans Tuition and Fees Reimbursement Grant. That's because the law governing that program does not recognize them as veterans. They are eligible for most other state veterans benefits, but not the full-time education grant.

If these veterans stay in the Guard, they may be eligible for some limited education benefits available to active members whether or not they were called up. But should they choose not to reenlist and to attend school full time, they get nothing.

In 1951, we welcomed our National Guard troops home from Operation Desert Storm with a big parade around the Capitol Square, but we withheld state veterans' full-time education benefits from them — and we are doing the same to National Guard members who serve now in Iraq.

Believe me, these men and women are not "weekend warriors." They are individuals whose lives were interrupted when they answered their country's call. They left their jobs, their schools and their families to serve in a war. They trained, they worked critical jobs, they placed themselves in danger, many of them fought, some were wounded and some may die.

Like those of us who came home from the nation's wars before them, these National Guard members need and deserve full veterans GI Bill and Wisconsin Veterans benefits to help them to return to school and to "catch up" with their peers who chose not to serve.

It is time for Congress and the Wisconsin Legislature to honor and respect these Iraq war veterans with more than hollow words, to stop treating them as second-class veterans and to give them the benefits they truly deserve.

Vietnam veteran Chuck Goranson is a veterans education benefit specialist with vets, a student veterans service organization.

Vick, Hannah

From: Lawrence, Steven D.
Sent: Wednesday, November 05, 2003 9:39 AM
To: Brown, Ronald
Subject: SB170

Senator, Just wanted to thank you for drafting this Legislation for our State Veterans. I heard that it was a long session yesterday, but that SB170 passed the Senate. Congratulations on this achievement. I also wanted to thank you for taking time out of your busy schedule yesterday to meet with myself and the other veterans that were with me.

I will be at the hearing tomorrow at 11:00 A.M. look forward to seeing you there. Thanks for your efforts!!!

Steve Lawrence

Bureau of Tax & Accounting

(608) 264-8793



Gilbert, Melissa

From: Boyce, Katie - Office of Governor Jim Doyle
Sent: Tuesday, November 04, 2003 8:36 AM
To: Gilbert, Melissa
Cc: Boyce, Katie - Office of Governor Jim Doyle
Subject: FW: SB 170 DVA headquarters

Here it is again. Please call if you don't get this again.

Katie

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

From: Boyce, Katie - Office of Governor Jim Doyle
Sent: Tuesday, November 04, 2003 8:25 AM
To: Gilbert, Melissa
Subject: FW: SB 170 DVA headquarters

As we discussed. Thanks for reviewing.

Katie

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

From: Dilweg, Sean
Sent: Monday, November 03, 2003 10:42 AM
To: Boyce, Katie - Office of Governor Jim Doyle
Subject: RE: SB 170 DVA headquarters

Katie,

I would recommend the headquarters purchase be taken out of the bill and run through the regular capital budget process. There are 3 problems that arise from the bill:

- 1) the current building has \$10 to \$12 million needed in repairs.
- 2) condemnation authority to DVA is controversial and highly unusual
- 3) we can work through the regular building commission process to allow the veteran loan program to help pay for a potential purchase of the headquarters.

--Sean

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

From: Maternowski, Peter
Sent: Monday, November 03, 2003 10:10 AM
To: Dilweg, Sean; Casper, Tim - Office of Governor Jim Doyle
Cc: Cramer, Robert; Crawford, Ted
Subject: SB 170 DVA headquarters

I wanted to bring to your attention some portions of SB 170. The bill will be taken up by the Senate tomorrow. The bulk of the bill makes changes to various Veteran's Loan programs. However it also includes unrelated sections that at a minimum create mechanisms for DVA to purchase their headquarters building.

DVA has in the past expressed an interest in purchasing the building that they and the Veteran's Museum occupy. DSF has concerns about their plan primarily because of the significant backlog of maintenance in the building, DVA's lack of experience in managing a facility and concerns about the wisdom of purchasing additional state space at a time of state employee reductions.

Section 14 of SB 170 allows DVA to acquire by gift or condemnation property for a headquarters building. The bill also allows the department to transfer Veterans Trust funds to the Veterans Mortgage Loan Repayment Fund and use monies in that fund to purchase a headquarters building.

It is not clear if the bill would provide DVA with a means to purchase a headquarters building without out further B.C. or Legislative approval.

I have attached a link to the text of the bill. <http://www.legis.state.wi.us/2003/data/SB-170.pdf>

Peter Maternowski
Division of State Facilities
608-266-5565



Vietnam Veterans of America Wisconsin State Council

Marvin J. Freedman, Executive Director
Post Office Box 55363, Madison, WI 53705-5363
608-836-8586 ★ WIVVA@tds.net

November 3, 2003

NOV 04 2003

John A. Scocos, Secretary
Department of Veterans Affairs
State of Wisconsin
30 West Mifflin Street
Madison, WI 53701

Re: 2003 Senate Bill 170

Dear John:

As a follow-up to our conversations last week on October 27th and October 28th, I wanted to thank you again for your efforts to help address the three areas of concern with SB 170 shared by Vietnam Veterans of America, the CVSO Association of Wisconsin [CVSO Association] and DAV. We especially appreciate the role you played in working with Sen. Ron Brown, Sen. Scott Fitzgerald, Sen. Russ Decker and Rep. Mike Huebsch to bring about the introduction and adoption by Joint Finance of Senate Amendment 1 to Senate Substitute Amendment 1 to SB 170 which deleted Sections 30 and 41 of Substitute Amendment 1 [generally referred to as the "Green County" CVSO grant provision].

This action coupled with the earlier agreement to strike the original SB 170 service delivery provision [Section 15] from the Senate Substitute Amendment to SB 170 leaves only one issue remaining: the PLP guarantor limit provisions.

As we agreed on October 28th, with the concurrence of the CVSO Association and DAV, we did not object to the \$5000 PLP guarantor limit in Senate Substitute Amendment 1 when it came before Joint Finance that day. Nor will we object to the provision when it is considered by the Senate tomorrow. However, our agreement not to object is premised upon the understanding you reached with Sen. Fitzgerald and which was confirmed by me on October 28th that Sen. Fitzgerald will work with WDVA, VVA, the CVSO Association and DAV and interested members of the Legislature on the drafting and introduction of separate legislation to provide for a two-pronged, tiered approach for the use of guarantors for PLP loans of "up to a maximum of \$15,000" along with a grant of rule-making authority to WDVA to establish the necessary implementation criteria for the approach. It was further agreed that the separate legislation would be introduced as soon as possible after January 1, 2004 and that we would work on this legislation as a priority for

passage by the Legislature before adjournment of the current session in March 2004.

Specifically, we agreed that the thrust of the ultimate WDVA administrative rules would be consistent with the following, as you and I discussed on October 27th and 28th and which I outlined for you in writing on the morning of October 28th:

- There will be a two-pronged approach based on WDVA established standards of credit worthiness.
- The first category of veterans seeking guarantor secured personal loans would consist of those veterans who have already established a satisfactory record of timely payments on previous or existing WDVA loans or who, based on WDVA standards, have established such a record with third party lenders. These veterans would be entitled to obtain guarantor secured loans up to a maximum of \$15,000.
- The second category of veterans would consist of those veterans who do not fall into the first category. These veterans could only utilize guarantors for personal loans as follows:
 - These veterans would be initially limited to PLP loans of \$5000.
 - If after 12 months such a veteran has made timely payments to WDVA and has otherwise maintained a satisfactory credit history with third parties, the veteran would be allowed to borrow up to a total of \$10,000 in PLP loans.
 - If after 24 months such a veteran has made timely payments to WDVA and has otherwise maintained a satisfactory credit history with third parties, the veteran would be allowed to borrow up to a total of \$15,000 in PLP loans.

[NOTE: The 12 and 24 month cut points have been recommended by the three organizations as suggestions. We are all open to discussing alternative ones.]

As I noted on October 28th, this compromise position was offered to address the concerns of Sen. Brown and WDVA that have been shared all along by VVA, the CVSO Association and DAV about existing delinquency and default rates with guarantor based PLP loans while recognizing that 85% of all PLP loans with guarantors are being paid on time. The net result would be to adequately deal with the delinquency-default concerns while still maximizing total PLP loans to the benefit of the Veterans Trust Fund.

Thanks once again for your personal efforts in helping to work out the compromises that fully addressed the concerns that VVA, the CVSO Association and DAV had about the original service delivery and CVSO grant provisions of SB 170 while helping to create an acceptable framework within which we should now be able to successfully resolve the PLP guarantor limit issue. I look forward to personally working with you again both on the separate enabling statutory language and subsequent WDVA administrative rules that will permit guarantor based PLP loans of up to

\$15,000 while addressing the original concerns that have been shared by all of us from the beginning of this process.

With kind regards,

A handwritten signature in black ink, appearing to read "Marv", written over the typed name "Marvin J. Freedman".

Marvin J. Freedman
Executive Director

cc: Sen. Scott Fitzgerald
Sen. Roger Breske
Sen. Ron Brown
Sen. Alberta Darling
Sen. Russ Decker
Sen. Gwenn Moore
Sen. Bob Wirch
Rep. Mike Huebsch
Rep. Dean Kaufert
Rep. Terry Musser
Chris Jordan, President, CVSO Association of Wisconsin
Ken Brown, Legislative Director, CVSO Association of Wisconsin
Ken Kuehl, Legislative Director, DAV



KENNETH KUEHNL, JR.
LEGISLATIVE DIRECTOR
PAST DEPT. COMMANDER
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E-Mail: cadwell@acronet.net

DATE: October 30, 2003

TO: Senator Brown
Representative Musser

OCT 31 2003

FROM: Kenneth Kuehnl Jr., Legislative Director
Disabled American Veterans
Department of Wisconsin

Subject: SB 170

The Disabled American Veterans Department of Wisconsin endorses SB 170. This positive piece of legislation will help many of Wisconsin's veterans and their families to lead better lives for many years to come.

Sincerely,


Kenneth Kuehnl Jr.

cc: DAV WI
WDVA

11/03/03
RWB
File. SB170



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Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 28, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 170: Modifications to Various Veterans Programs

Senate Bill 170 (SB 170) would make a variety of modifications to veterans programs and benefits and would revise the authorized uses for the segregated veterans trust fund and the veterans mortgage loan repayment fund. SB 170 was introduced on May 21, 2003, and was referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform. On June 17, the Committee adopted Senate Amendment 1, and recommended SB 170, as amended, for passage on a 5-0 vote. On October 22, 2003, the bill was referred to the Joint Committee on Finance.

SUMMARY OF THE BILL

Modifications to Veterans Programs and Benefits

Changes Related to the Educational Grant Programs Administered by DVA. SB 170 would modify the agency's Tuition and Fee Reimbursement Grant program to provide that an eligible veteran would be reimbursed at the lesser of their actual tuition and fee costs or 100% (rather than 85%) of tuition and fees for a state resident for an equivalent number of undergraduate credits at the UW-Madison. A comparable provision would apply to the Part-Time Study Grant program. The Tuition and Fee Reimbursement Grant program reimburses qualified veterans who attend any institution or center within the UW System, any state technical college or any similar institution that has a tuition reciprocity agreement with Wisconsin. The Part-Time Study Grant program reimburses qualified veterans who attend an institution of higher education in the state or a public or private high school.

[At the time SB 170 was introduced, the reimbursement rate for these programs was the lesser of actual tuition or 85% of tuition and fees for a state resident at the UW-Madison. Provisions of 2003 Wisconsin Act 33 (the biennial budget act), as affected by the Governor's item vetoes, resulted in the reimbursement rates being increased to the lesser of actual tuition or 100% of tuition and fees for a resident undergraduate at the UW-Madison. Senate Amendment 1, described below, corrects the bill to reflect a portion of the Act 33 law changes.]

SB 170 would also modify certain enrollment and course eligibility limitations affecting one or both of these educational programs. The bill would modify the current law requirement under the Tuition and Fee Reimbursement Grant program that stipulates that an eligible course for reimbursement purposes must be completed within 10 years of separation from military service, by specifying that the course must be completed "during the semester" that started within 10 years of separation from military service. Act 33 also addressed this issue by specifying that the class must be "begun" within 10 years of separation. The Committee may wish to adopt a technical amendment to conform the bill to the Act 33 language.

SB 170 would also authorize reimbursements under the Tuition and Fee Reimbursement Grant program for courses of instruction at an eligible institution other than the one from which the veteran is receiving his or her degree, if all the following provisions apply: (1) the curriculum at the other institution consists only of courses necessary for the student's degree in a particular course of study; and (2) the course is accepted as transfer credits at the institution where the veteran is receiving his or her degree but is not available at that institution. These modifications under SB 170 are included in a statutory section that was modified by the Governor, as part of his item veto, to provide a reimbursement rate of up to 100% of tuition and fees under Act 33. The Committee may wish to adopt a technical amendment that has the effect of retaining the Governor's treatment of the text (thereby retaining the 100% reimbursement rate) but also includes the proposed course credit transfer provisions described above.

SB 170 would prohibit the use of education grants under the Tuition and Fee Reimbursement Grant program and the Part-Time Study Grant program for courses that are approved for credit by DVA's Academic Credit for Military Experience Program. Under this program the Department may award academic credits based on military experience. Further, with respect to the Tuition and Fee Reimbursement Grant program, these credits could also not be counted toward the 12-credit course minimum required each semester in order to be eligible for a reimbursement grant.

SB 170 would also increase the income eligibility ceiling under both education grant programs from the current \$47,500 plus \$500 per dependent in excess of two dependents to \$50,000 plus \$1,000 per dependent in excess of two dependents.

SB 170 would delete a definition of "veteran" under the Tuition and Fee Reimbursement Grant program that requires military service on active duty for the period of one's initial service obligation, or two years, whichever is less, and instead utilizes the general definition of veteran under chapter 45 of the statutes. The term "individual" used under the Tuition and Fee

Reimbursement Grant program to describe persons eligible for the program would be uniformly changed to the word "veteran." The effect of this change would be to open the program to veterans who may have had as little as 90 days of active service, rather than the current two years.

Finally, provisions of SB 170 would prohibit a member of the Wisconsin National Guard who was receiving a National Guard Tuition Grant from also receiving a Tuition and Fee Reimbursement Grant, and a veteran receiving reimbursement under the Tuition and Fee Reimbursement Grant program from also receiving a National Guard Tuition Grant.

Personal Loan Program. SB 170 would increase the maximum loan available under the Veterans Personal Loan program from \$15,000 to \$25,000. DVA would be authorized to establish this maximum based on financial market conditions, available funds, needs of the veterans trust fund, or other factors considered relevant by the agency. Specific statutory purposes for which the loans could be used (mobile homes, businesses, business properties, educational expenses, medical or funeral expenses, or the consolidation of debt) would be deleted. The agency would further be authorized to periodically adjust the interest rates on these loans based on the term of the loan, the type of security offered, method of payment, or any other factor determined relevant by agency.

Finally, SB 170 would establish the type of security that must be provided by an applicant of a personal loan. Most loans would have to be evidenced by a promissory note and secured by a Wisconsin mortgage. Where the loan was less than \$5,000 and was made to an individual with total Veterans Personal Loan program indebtedness of less than \$5,000, the loan could be evidenced by a promissory note secured by a guarantor or by a Wisconsin mortgage. The Department would be required to establish the minimum allowable equity for mortgages that are used to secure these personal loans by rule. Currently, the required security is established by rule, which requires that personal loans include at least one guarantor, or Wisconsin real estate security.

Health Care Aid Grants Program. SB 170 would clarify current law requirements relating to the granting of prior (retroactive) authorization for the payment of health care aid under the program. Currently, such authorization is prohibited; however, the agency may issue a certificate of entitlement stating that a veteran or dependent is eligible for a grant within a specific time period. The SB 170 language clarifies that the agency may not grant health care aid to a qualified individual before the time period identified in the certificate of entitlement.

Other Changes. SB 170 would make a variety of other changes, including: (1) specifying that an authorized lender under the veterans mortgage loan program is also an authorized servicer under the program; (2) authorizing the Department to enter into contracts with persons other than the newly defined authorized lenders for the purpose of servicing loans; (3) authorizing veterans to apply directly to the Department for veterans retraining grants, for mortgage loans and for any other benefit program offered by the Department; (4) revising the definition of "veteran" for purposes of burial in a Wisconsin veterans cemetery to exclude those individual's whose only active duty service was service on active duty for training purposes; (5) extending eligibility for the veterans housing loan program to persons serving on active duty in the U. S. armed forces at the time of

making application; and (6) specifying that a county with an eligible part-time county veterans service office (rather than the current law "officer") would be eligible for an annual grant of up to \$500.

Modifications Affecting the Authorized Uses of the Segregated Veterans Funds

Purchase of the Department's Headquarters Building. Authorize DVA to acquire property by gift, purchase, or condemnation for the purpose of an agency headquarters building. Enumerate as a statutory purpose of the veterans mortgage loan repayment fund the payment of obligations incurred by DVA from the purchase of a headquarters building. The agency's current headquarters building is located on Capitol Square in Madison and is privately owned. Under the proposed new authority, DVA could negotiate directly with the owner of the agency's leased headquarters facility or with the owner of another property for use as a headquarters facility.

Under current law, before the Building Commission may authorize the acquisition of land, or the repair, remodeling or improvement to any existing building, structure, or facility for a state agency (where the project cost is in excess of \$500,000, regardless of funding source), the project must be enumerated in the state building program. To enumerate a project, the Legislature typically lists the project title and budget in a nonstatutory provision enacted as part of the biennial budget. While SB 170 would authorize DVA to acquire property for a headquarters facility, the bill would not enumerate the acquisition of the property at this time.

If the Legislature ultimately acts to enumerate the project as part of the state building program, the Building Commission would still have final approval on the release of the veterans mortgage loan repayment funds before the property acquisition or the construction project related to the agency's headquarters could be undertaken. Further, while SB 170 would provide the agency with the authority to make payments from the veterans mortgage loan repayment fund, there is no specific current law authority under any of the agency's existing appropriations to make these payments.

Under the grant of condemnation authority to DVA, the agency would have the right (under Chapter 32 of the statutes) to purchase real estate that cannot otherwise be obtained by gift or voluntary sale. Under these condemnation or eminent domain procedures, the agency would have the right to purchase property at fair market value (based upon appraisals or upon subsequent court review), plus the costs of relocation for the previous occupants. To start the condemnation process, appraisals are prepared and the purchaser must attempt to negotiate with the property owner. If this negotiation process does not lead to an agreeable price, the matter is forwarded to a circuit court judge, who may condemn the property and assign a condemnation committee to review the matter and determine a fair price. The decision of the committee may be appealed to the circuit court judge for final determination.

Veterans Mortgage Loan Repayment Fund Transfers. Stipulate that any funds appropriated or transferred by law from the veterans mortgage loan repayment fund, other than for the

enumerated statutory purposes of the fund, must be repaid from the state's general fund plus interest computed at 5% annually from the date of the appropriation or transfer to the date of repayment. Under the bill, repayment from the general fund would apply regardless of the fund to which the program's funds were transferred or appropriated. Specify that this repayment provision would not apply to temporary, short-term interfund reallocations authorized under s. 20.002(11) of the statutes.

Under current law, the authorized purposes of the veterans mortgage loan repayment fund are the following: (1) transfers to the bond security and redemption fund; (2) acquisition or redemption of public debt, as determined by the Building Commission; (3) payment of losses arising from delinquency or default in the repayment of state bonds for veterans mortgage loans; (4) agency payments for processing and servicing loans, purchasing of servicing rights for mortgage loans, and funding administration costs for DVA and county veterans service officers related to the program; (5) payments of all costs incurred in contracting public debt for veterans housing loans; (6) payments related to issuance costs of revenue bonds for veterans housing loans that are not covered by those bonds; (7) payment of obligations purchased by WHEDA from the program; (8) payment of any other authorized costs of program operations; (9) payments of the costs of loaning money from the program to the veterans trust fund, with the approval of the Building Commission; (10) payment of origination fees for veterans who have at least a 30% service connected disability; and (11) escrow payments for housing insurance. As described above, payments of obligations associated with the acquisition of a headquarters building for the agency would be added as a further statutory purpose of the fund.

As the bill is drafted, the creation of a statutory 5% interest rate on repayments to the fund would appear to create an incentive to borrow from the fund whenever the market rate for monies from other sources exceeded 5%.

Authorized Fund Transfers. Authorize the DVA to make loans to the veterans mortgage loan repayment fund from the veterans trust fund. No interest amount is specified on such loans.

Loan Guarantees. Create an additional eligible use of veterans trust fund of providing loan guarantees for multifamily transitional housing for homeless veterans. No further statutory language on this program is included in SB 170.

Miscellaneous Provision

Eligibility for Hazard Duty Pay for State Firefighter Employees at the Veterans Homes. Repeal the eligibility of a firefighter employed at the Wisconsin Veterans Home at King or the Southern Wisconsin Veterans Retirement Center for hazardous duty benefits if the firefighter is injured in the performance of his or her duties. These facilities no longer directly employ firefighters.

SENATE AMENDMENT 1

Senate Amendment 1 (SA 1) to SB 170 would make the following changes:

Purchase of Departmental Headquarters. SA 1 would authorize the Department to acquire the veterans museum, in addition to a headquarters facility by gift, purchase, or condemnation.

Reimbursement Levels for Education Grants. SA 1 would delete the language of SB 170 increasing the reimbursement rates for both the Tuition and Fee Reimbursement Grant program and the Part-Time Study Grant program tuition to recognize that these reimbursement rate increases were provided under Act 33. However, SA 1 does not delete all provisions of SB 170 affecting these education grant programs that were also modified under Act 33.

Health Care Aid Grants. SB 170 modifies the statutes dealing with health care aid grants to veterans to state that DVA may not grant health care aid to pay for care provided before the time period identified in the certificate of entitlement. SA 1 modifies this provision to add ", except for emergency care as determined by the Department if the application for the health care aid is submitted within 90 days after the emergency care ends."

County Veterans Service Office Payments. Under SB 170, counties that had a part-time officer, but a full time office would be eligible for an annual grant not exceeding \$500. The bill modifies this provision by deleting the reference to "officer" and instead inserting a reference to county veterans service "office." SA 1 restores the reference to "officer" but adds language that the \$500 limit on reimbursement does not apply if the county has a full-time county veterans' service office, in which case the statutory provision dealing with higher reimbursement applies (\$8,500 to \$13,000 depending on the county's population).

Benefit Applications. SB 170 provides that an application for state veterans benefits may be submitted directly to DVA, or to any qualified representative approved by DVA. SA 1 states that those applications may be submitted directly to DVA, to a county veterans' service officer, or to any qualified representative approved by DVA. SA 1 also requires DVA to promulgate rules establishing the qualifications for those representatives, the approved places of submission for applications, and other administrative matters to ensure efficient deliver of departmental services.

TECHNICAL AMENDMENT

A technical amendment is required to conform the provisions of SB 170 relating to the 100% reimbursement rate authorized for DVA's education grant programs by Act 33. The technical amendment would also incorporate the Act 33 language that courses under the educational programs must be "begun" rather than be completed "during the semester" that started within 10 years of separation from military service. New language proposed under SB 170 in the statutory section affected by the technical that relates to the reimbursements for certain courses taken at

institutions other than the one where the veteran is expecting his or her degree would be retained and would not be modified.

FISCAL EFFECT

The bill contains no appropriation, and no additional funding or position authorization is provided to the Department.

The Department estimates that the demand for personal loans would increase to approximately \$18,700,000 SEG annually. Under current law the appropriation for this program provides for up to \$30,000,000 SEG biennially for personal loans. However, the Department has indicated that it would likely not offer the maximum loan amounts authorized under the bill during this biennium, and that the current appropriation level would be sufficient.

The Department estimates that enrollment in the Tuition and Fee Reimbursement Grant program could increase due to the change in definition of eligible veterans. Additional veterans could qualify for the program; however, it is unknown how many additional enrollments might result from this eligibility change. The reimbursement rate change proposed for the agency's education grant programs by SB 170 have already been effected by provisions of Act 33. It is estimated that these educational programs may ultimately require an additional \$101,800 SEG in 2003-04 and \$702,800 SEG in 2004-05 to fully fund the Act 33 reimbursement rates, provided program utilization levels also remain unchanged.

Finally, the modification to county veterans service office payments in counties that do not have a full-time service officer could affect two counties (Green and Florence). To the extent that these counties might qualify for higher reimbursement rates under SB 170, as affected by SA 1, the maximum additional cost would be \$17,500 SEG. This additional cost would be funded from the agency's s. 20.485(2)(vx) appropriation, which is appropriated \$297,500 SEG annually. Currently, this appropriation is fully committed to payments to the 70 counties with full-time county veterans service officers.

Senate Amendment 1. Additional costs under the Health Care Aid Grants program could occur as a result of the SA 1 provision authorizing retroactive payments for emergency care. It is unknown, how many additional individuals would seek such grants under this provision; however, the Department indicates that the current budget authority (\$1,500,000 SEG annually) should be sufficient, due to greater use of federal awards for other ongoing program activity.

Prepared by: Darin Renner

**STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS**

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Jim Doyle, Governor

John A. Scocos, Secretary

DATE: October 28, 2003

TO: Senator Scott Fitzgerald

FROM: Anthony Hardie, Executive Assistant
Department of Veterans Affairs

SUBJECT: Condemnation Authority

Under the proposed language in SB 170 relative to the acquisition of a headquarters building, the department is authorized to "acquire by gift, purchase, or condemnation" a headquarters building.

Generally, the authority to exercise eminent domain rights is provided at Chapter 32 of the Statutes. The condemnation procedure, in other than transportation matters, is specifically identified at sec. 32.06. In the event that the condemnation authority is utilized, the statutes assure significant procedural safeguards to property owners, including a determination of the necessity of taking, appraisal, and court review of any jurisdictional offer. Under sec. 32.02 the department could not exercise its condemnation authority unless the Building Commission determined its use to be appropriate.

The department has been granted statutory condemnation authority for other acquisitions. For example, it has condemnation authority relative to the acquisition of land for residential, treatment and care facilities in southern Wisconsin [45.385], for purposes of constructing veterans cemeteries [45.358(2)], and for the purpose of operating a Veterans Home at King [45.365]. Simply stated, this is authority that the Legislature has been willing to provide to the department for other acquisitions. I'm not aware of the department ever exercising its condemnation authority to acquire property.

32.05 EMINENT DOMAIN

amount of the basic award, plus interest on the amount of such difference from the date of taking.

(b) If the jury verdict as approved by the court exceeds the basic award, the appellant shall have judgment for the amount of such excess plus legal interest thereon to date of payment in full from that date which is 14 days after the date of taking.

(c) All moneys payable under this subsection shall be paid within 60 days after entry of judgment unless within such period an appeal is taken to the court of appeals.

(12) EFFECT OF DETERMINATION OF COMPENSATION BY THE COURT WHERE JURY WAIVED. If the action is tried by the court upon waiver of a jury the determination of the amount of damages by the court shall be considered in lieu of the words "jury verdict as approved by the court" where such language occurs in this section.

History: 1971 c. 244, 287, 307; 1973 c. 244, Sup. Ct. Order; 67 Wis. 2d 585, 773 (1975); 1975 c. 318, 311, 410, 421; 1977 c. 29, 203, 338; 1977 c. 419 ss. 259, 924 (Sm); 1977 c. 438, 440, 441, 449; 1979 c. 310, 1981 c. 282 s. 47; 1981 c. 390 s. 252; 1983 a. 27; 1983 a. 219 ss. 3, 46; 1983 a. 236 s. 13; 1983 a. 249; 1985 a. 29 s. 320; 1985 a. 135; 1987 a. 378; 1989 a. 31, 89; 1991 a. 32, 39, 316; 1993 a. 246, 263, 301, 453, 491; 1995 a. 417; 1997 a. 184, 282; 1999 a. 32, 65; 1999 s. 150 s. 672; 1999 s. 186.

If a notice of appeal from a condemnation award is not served on the condemnor, the appeal is not perfected. In making an assignment to condemnation commissioners, a judge is acting in an administrative capacity. *State ex rel. Milwaukee County Expressway Commission v. Spenner*, 51 Wis. 2d 138, 186 N.W.2d 298 (1971).

When the plaintiffs sold 2 parcels of land but reserved a strip between them for street purposes and the state then condemned the strip for a street, the taking was total and no special benefits to the land already sold could be considered. *Bank v. State*, 52 Wis. 2d 539, 191 N.W.2d 4 (1971).

When the record owner of property is deceased, the jurisdictional offer may properly be served on the heirs. Any objection may be raised only by action under sub. (5). A motion to quash the proceeding is not sufficient. *Area Board of Vocational, Technical & Adult Education District #2 v. Sater*, 57 Wis. 2d 524, 204 N.W.2d 909 (1975).

Sub. (11) (c) does not govern the time within which an appeal may be taken, but rather sets forth the time within which a party seeking to withhold payment pending the outcome of the appeal must file its appeal. *Weiland v. DOT*, 82 Wis. 2d 456, 215 N.W.2d 455 (1974).

The sub. (10) (a) requirement of service of a notice of appeal by personal service or by certified mail is not met by service through regular mail. *Big Valley Farms, Inc. v. Public Service Corp.* 66 Wis. 2d 620, 225 N.W.2d 488 (1975).

Scale drawings of a proposed sewer line as it traversed the condemnor's property was sufficient to comply with sub. (1). *Ingalls v. Village of Walworth*, 66 Wis. 2d 773, 226 N.W.2d 201 (1975).

A condemnor appealing under sub. (10) has no right to abandon the appeal over the condemnor's objection if the time for the condemnor to appeal has expired. *Hahn v. Public Service Corp.* 82 Wis. 2d 192, 260 N.W.2d 676 (1978).

The valuation of a financially troubled mass transit public utility in a condemnation take-over by a governmental unit is discussed. Sub. (11) (b) requires the payment of compound simple interest at the legal rate of 5% from 14 days after the date of the taking until the date of payment. *Milwaukee & Suburban Transport Corp. v. Milwaukee County*, 82 Wis. 2d 420, 263 N.W.2d 303 (1978).

If an action under sub. (5) is timely, a court must, on its own motion, dismiss for lack of subject-matter jurisdiction. *Achtor v. Pewaukee Lake Sanitary District 88* Wis. 2d 658, 277 N.W.2d 778 (1979).

A court had no jurisdiction over a party to an appeal when service under sub. (10) (a) was by first class mail. 519 Corp. v. DOT, 92 Wis. 2d 276, 284 N.W.2d 643 (1979).

Sales of components comparable to components of a unitary economic entity were admissible to prove the value of the entity. Income evidence was properly excluded. *Leatham South Lodge, Inc. v. State*, 94 Wis. 2d 406, 285 N.W.2d 808 (1980).

In the absence of special circumstances, giving notice of "appeal" under sub. (10) (a) to a party's attorney was not sufficient notice to the party. Time computations under sub. (10) (a) and s. 32.06 (10) are controlled by s. 801.15 (1), not s. 990.001 (4). In the Matter of Wisconsin Electric Power Co. 110 Wis. 2d 649, 329 N.W.2d 186 (1983).

The market value of a unique property that cannot be sold for near its value or its owner may be determined by the cost approach; replacement cost minus depreciation. *Milwaukee Rescue Mission v. Milwaukee Redevelopment Authority*, 161 Wis. 2d 472, 468 N.W.2d 663 (1991).

In a review under sub. (11), the jury was not limited to the ultimate opinion of expert appraisers in setting value through the cost approach but was entitled to consider a contractor's testimony of replacement cost. *Milwaukee Rescue Mission v. Milwaukee Redevelopment Authority*, 161 Wis. 2d 472, 468 N.W.2d 663 (1991).

Service of an appeal under sub. (9) must be made within 60 days of filing in accordance with s. 801.02 (1). *City of LaCrosse v. Shiffer Bros.* 162 Wis. 2d 556, 469 N.W.2d 915 (Ct. App. 1991).

One of the conditions precedent for the issuance to the condemnor of a writ of assistance under sub. (8) is that the displaced person must have comparable replacement property made available to the extent required by ss. 32.19 to 32.27. No substantive right is created by sub. (8). *City of Racine v. Bassinger*, 163 Wis. 2d 1029, 473 N.W.2d 526 (Ct. App. 1991).

The removal, in eminent domain proceedings, of billboards not in conformity with s. 84.30 is subject to the just compensation provisions of s. 84.30 (6). *Vivid, Inc. v. Nieder*, 182 Wis. 2d 71, 512 N.W.2d 771 (1994).

A purchase agreement under sub. (2a) is subject to the provisions of ch. 32; failure to refer to the provisions of ch. 32 is not a waiver. Sub. (11) (a) applies to all awards

including negotiated awards. *Dorschner v. DOT*, 183 Wis. 2d 236, 515 N.W.2d 311 (Ct. App. 1994).

Comparable sales occurring after the taking may be considered by a court, but may be found inadmissible as too remote. Postjudgment interest under sub. (10) (b) is determined under s. 815.05 (8) while interest under sub. (11) (b) is at the statutory rate. *Calaway v. Brown County*, 203 Wis. 2d 737, 553 N.W.2d 805 (Ct. App. 1996).

After the DOT commences condemnation proceedings under this section, sovereign immunity is fully waived. The question of whether the cost of the condemnor's appraisal was reasonable and, therefore, subject to payment by the DOT under sub. (2) (b) is not for the DOT to unilaterally determine; it is a question of fact for the court. *Missen v. DOT*, 226 Wis. 2d 298, 394 N.W.2d 821 (Ct. App. 1999).

Service on the state through the attorney general, rather than the department of transportation, was sufficient service under sub. (9). *DOT v. Peterson*, 226 Wis. 2d 623, 394 N.W.2d 765 (1999).

When through inadvertent error the award of damages was attached to the notice of application under sub. (9), the award was not a part of the application, and it was error to declare the application nullity and to withdraw the assignment of the application from the county condemnation committee. *Schoenhofen v. DOT*, 231 Wis. 2d 508, 605 N.W.2d 248 (Ct. App. 1999).

Filing of an award is complete, and the 60-day appeal period under sub. (10) (a) begins to run, when the commission has filed its award with the circuit court clerk and the clerk has mailed and recorded the award under s. 32.06 (6) (b). *Dairyland Fuels, Inc. v. State*, 2000 WI App 129, 237 Wis. 2d 467, 614 N.W.2d 829.

Consistent with *Peterson*, service on the state through the attorney general, rather than the department of transportation, was sufficient service under sub. (10). *Dairyland Fuels, Inc. v. State*, 2000 WI App 129, 237 Wis. 2d 467, 614 N.W.2d 829.

Taking jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a given part have been entirely abrogated but instead focuses on the extent of the interference with rights in the parcel as a whole. *R. W. Docks & Slips v. State*, 2001 WI 73, 244 Wis. 2d 497, 628 N.W.2d 781.

Sub. (1) does not require that the making of a relocation order must be the first step in the condemnation process. *Danielson v. City of Sun Prairie*, 2000 WI App 227, 233 Wis. 2d 174, 619 N.W.2d 108.

"Acceptance and retention of any compensation" under sub. (3) (b) requires that the landowner negotiate the check and retain the check proceeds before the landowner can be barred from contesting the condemnation. Additionally, a landowner who negotiates the check but returns the proceeds to the DOT before filing suit may pursue an action contesting the condemnation. *TIF Notance Trust v. DOT*, 2001 WI App 116, 244 Wis. 2d 242, 629 N.W.2d 57.

Sub. (8) does not mean that a court may not grant a condemnor possession of condemned premises until a replacement property deemed acceptable by the condemnor is procured, regardless of its acquisition costs, all of which the condemnor must bear or tender, nor does it mean that the condemnor will never have to vacate the condemned property if a replacement property acceptable to the condemnor cannot be acquired for an amount not exceeding the award of compensation plus the maximum relocation benefits to which the condemnor is entitled. *Dory Drumpling's Dowry, Ltd. v. Community Development Authority of the City of Madison*, 2002 WI App 200, ___ Wis. 2d ___, ___ N.W.2d ___.

A condemnor may obtain a writ of assistance after it has provided the relocation assistance to which a displaced person is statutorily entitled. *Dory Drumpling's Dowry, Ltd. v. Community Development Authority of the City of Madison*, 2002 WI App 200, ___ Wis. 2d ___, ___ N.W.2d ___.

Statutory restrictions on the exercise of eminent domain in Wisconsin: Dual requirements of prior negotiation and provision of negotiating materials. 63 MLR 489 (1980).

Towards success in eminent domain litigation. *Southwick*, 1973 WBB No. 5. New development in law of eminent domain, condemnation and relocation. *Thiel*, WBB June, 1979.

32.06 Condemnation procedure in other than transportation matters. The procedure in condemnation in all matters except acquisitions under s. 32.05 or 32.22, acquisitions under subch. II, acquisitions under subch. II of ch. 157, and acquisitions under ch. 197, shall be as follows:

(1) DETERMINATION OF NECESSITY OF TAKING. The necessity of the taking shall be determined as provided in s. 32.07.

(2) APPRAISAL. (a) The condemnor shall cause at least one (or more in the condemnor's discretion) appraisal to be made of the property proposed to be acquired. In making any such appraisal the appraiser shall confer with the owner or one of the owners, or the personal representative of the owner or one of the owners, if reasonably possible.

(b) The condemnor shall provide the owner with a full narrative appraisal upon which the jurisdictional offer is based and a copy of any appraisal made under par. (a) and at the same time shall inform the owner of his or her right to obtain an appraisal under this paragraph. The owner may obtain an appraisal by a qualified appraiser of all property proposed to be acquired, and submit the reasonable costs of the appraisal to the condemnor for payment. The owner shall submit a full narrative appraisal to the condemnor within 60 days after the owner receives the condemnor's appraisal. If the owner does not accept a negotiated offer under sub. (2a) or the jurisdictional offer under sub. (3), the owner may

use an appraisal prepared under this paragraph in any subsequent appeal.

(2a) AGREED PRICE. Before making the jurisdictional offer under sub. (3) the condemnor shall attempt to negotiate personally with the owner or one of the owners or his or her representative of the property sought to be taken for the purchase of the same. In such negotiation the condemnor shall consider the owner's appraisal under sub. (2) (b) and may contract to pay the items of compensation enumerated in ss. 32.09 and 32.19 where shown to exist. Before attempting to negotiate under this paragraph, the condemnor shall provide the owner or his or her representative with copies of applicable pamphlets prepared under s. 32.26 (6). When negotiating under this subsection, the condemnor shall provide the owner or his or her representative with the names of at least 10 neighboring landowners to whom offers are being made, or a list of all offerees if less than 10 owners are affected, together with a map showing all property affected by the project. Upon request by an owner or his or her representative, the condemnor shall provide the name of the owner of any other property which may be taken for the project. The owner or his or her representative shall also have the right, upon request, to examine any maps in the possession of the condemnor showing property affected by the project. The owner or his or her representative may obtain copies of such maps by tendering the reasonable and necessary costs of preparing copies. The condemnor shall record any conveyance by or on behalf of the owner of the property to the condemnor executed as a result of negotiations under this subsection with the register of deeds of the county in which the property is located. The condemnor shall also record a certificate of compensation stating the identity of all persons having an interest of record in the property immediately prior to its conveyance, the legal description of the property, the nature of the interest acquired and the compensation for such acquisition. The condemnor shall serve upon or mail by certified mail to all persons named therein a copy of the statement and a notice of the right to appeal the amount of compensation under this subsection. Any person named in the certificate may, within 6 months after the date of its recording, appeal from the amount of compensation therein stated by filing a petition with the judge of the circuit court of the county in which the property is located for proceedings to determine the amount of just compensation. Notice of such petition shall be given to all persons having an interest of record in such property. The judge shall forthwith assign the matter to the chairperson of the county condemnation commissioners for hearing under sub. (3). The procedures prescribed under subs. (9) (a) and (b), (10) and (12) and chs. 808 and 809 shall govern such appeals. The date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

(3) MAKING JURISDICTIONAL OFFER. The condemnor shall make and serve the jurisdictional offer and notice in the form (insofar as applicable) and manner of service provided in s. 32.05 (3) and (4), but *lis pendens* shall not be filed until date of petition under sub. (7). The offer shall state that if it is not accepted within 20 days, the condemnor may petition for a determination of just compensation by county condemnation commissioners and that either party may appeal from the award of the county condemnation commissioners to the circuit court within 60 days as provided in sub. (10).

(3m) DEFINITION. In this section, "uneconomic remnant" means the property remaining after a partial taking of property, if the property remaining is of such size, shape or condition as to be of little value or of substantially impaired economic viability. If acquisition of only part of a property would leave its owner with an uneconomic remnant, the condemnor shall offer to acquire the remnant concurrently and may acquire it by purchase or by condemnation if the owner consents.

(4) RIGHT OF MINORS AND INCOMPETENTS. If any person having an ownership interest in the property proposed to be condemned is a minor or an incompetent person, a special guardian shall be appointed for the person pursuant to s. 32.05 (4).

(5) COURT ACTION TO CONTEST RIGHT OF CONDEMNATION. When an owner desires to contest the right of the condemnor to condemn the property described in the jurisdictional offer for any reason other than that the amount of compensation offered is inadequate, such owner may within 40 days from the date of personal service of the jurisdictional offer or within 40 days from the date of postmark of the certified mail letter transmitting such offer, or within 40 days after date of publication of the jurisdictional offer as to persons for whom such publication was necessary and was made, commence an action in the circuit court of the county wherein the property is located, naming the condemnor as defendant. Such action shall be the only manner in which any issue other than the amount of just compensation or other than proceedings to perfect title under ss. 32.11 and 32.12 may be raised pertaining to the condemnation of the property described in the jurisdictional offer. The trial of the issues raised by the pleadings in such action shall be given precedence over all other actions in said court then not on trial. If such action is not commenced within the time limited the owner or other person having any interest in the property shall be forever barred from raising any such objection in any other manner. The commencement of an action by an owner under this subsection shall not prevent a condemnor from filing the petition provided for in sub. (7) and proceeding thereon. Nothing in this subsection shall be construed to limit in any respect the right to determine the necessity of taking as conferred by s. 32.07 nor to prevent the condemnor from proceeding with condemnation during the pendency of the action to contest the right to condemn. This section shall not apply to any owner who had a right to bring a proceeding pursuant to s. 66.431 (7), 1959 stats., prior to its repeal by chapter 526, laws of 1961, effective on October 8, 1961, and, in lieu of this section, s. 66.431 (7), 1959 stats., as it existed prior to such effective date of repeal shall be the owner's exclusive remedy.

(6) ACCEPTANCE OF JURISDICTIONAL OFFER. The owner has 20 days from the date of personal service of the jurisdictional offer or 20 days from the date of postmark of the certified mail letter transmitting such offer or 20 days from the date of filing the final judgment order or remittitur in the circuit court of the county in an action commenced under sub. (5), if the judgment permits the taking of the land, in which to accept the jurisdictional offer and deliver the same to the condemnor. If the offer is accepted, the transfer of title shall be accomplished within 60 days after acceptance including payment of the consideration stipulated in such offer unless such time is extended by mutual written consent of the condemnor and condemnee. If the jurisdictional offer is rejected in writing by all of the owners of record the condemnor may proceed to petition in condemnation forthwith. If the owner fails to convey the condemnor may proceed as hereinafter set forth.

(7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer is not accepted within the periods limited in sub. (6) or the owner fails to consummate an acceptance as provided in sub. (6), the condemnor may present a verified petition to the circuit court for the county in which the property to be taken is located, for proceedings to determine the necessity of taking, where such determination is required, and the amount of just compensation. The petition shall state that the jurisdictional offer required by sub. (3) has been made and rejected; that it is the intention of the condemnor in good faith to use the property or right therein for the specified purpose. It shall name the parties having an interest of record in the property as near as may be and shall name the parties who are minors or persons of unsound mind or unknown. The petition may not disclose the amount of the jurisdictional offer, and if it does so it is a nullity. The petition shall be filed with the clerk of the court. Notice of the petition shall be given as provided in s. 32.05 (4) to all persons having an interest of record in the property, including the special guardian appointed for minors or incompetent persons. A *lis pendens* shall be filed on the date of filing the petition. The date of filing the *lis pendens* is the "date of evaluation" of the property for the purpose of fixing just compensation, except that if the property is to be used in connection

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with the construction of a facility, as defined under s. 196.491 (1), the "date of evaluation" is the date that is 2 years prior to the date on which the certificate of public convenience and necessity is issued for the facility. The hearing on the petition may not be earlier than 20 days after the date of its filing unless the petitioner acquired possession of the land under s. 32.12 (1) in which event this hearing is not necessary. If the petitioner is entitled to condemn the property or any portion of it, the judge immediately shall assign the matter to the chairperson of the county condemnation commissioners for hearing under s. 32.08. An order by the judge determining that the petitioner does not have the right to condemn or refusing to assign the matter to the chairperson of the county condemnation commissioners may be appealed directly to the court of appeals.

(8) **COMMISSION HEARING.** Thereafter the commission shall proceed in the manner and with the rights and duties as specified in s. 32.08 to hear the matter and make and file its award with the clerk of the circuit court, specifying therein the property or interests therein taken and the compensation allowed the owner, and the clerk shall give certified mail notice with return receipt requested of such filing, with a copy of the award to condemnor and owner.

(9) ABANDONMENT OF PROCEEDINGS; OR PAYMENT OF AWARD.

(a) Within 30 days after the date of filing of the commission's award, the condemnor shall petition the circuit court for the county wherein the property is situated, upon 5 days' notice by certified mail to the owner, for leave to abandon the petition for taking if the condemnor desires to abandon the proceeding. The circuit court shall grant the petition upon such terms as it deems just, and shall make a formal order discontinuing the proceeding which order shall be recorded in the judgment record of the court after the record of the commission's award. The order shall operate to divest any title of condemnor to the lands involved and to automatically discharge the lis pendens.

(b) If condemnor does not elect to abandon the condemnation proceeding as provided in par. (a), it shall within 70 days after the date of filing of the commission's award, pay the amount of the award, plus legal interest from the date of taking but less delinquent tax liens, proportionately allocated as in division in redemption under ss. 74.51 and 75.01 when necessary and less prorated taxes of the year of taking, if any, likewise proportionately allocated when necessary, to the owner and take and file the owner's receipt therefor with the clerk of the circuit court, or at the option of the condemnor pay the same into the office of the clerk of the circuit court for the benefit of the parties having an interest of record on the date of evaluation in the property taken and give notice thereof by certified mail to such parties. If the condemnor pays the amount of said award within 14 days after the date of filing of the commission's award, no interest shall accrue. Title to the property taken shall vest in the condemnor upon the filing of such receipt or the making of such payment.

(c) 1. In this paragraph, "condemnor" has the meaning given in s. 32.185.

2. No person occupying real property may be required to move from a dwelling or move his or her business or farm without at least 90 days' written notice of the intended vacation date from the condemnor. The person shall have rent-free occupancy of the acquired property for a period of 30 days commencing with the next 1st or 15th day of the month after title vests in the condemnor, whichever is sooner. Any person occupying the property after the date that title vests in the condemnor is liable to the condemnor for all waste committed or allowed by the occupant on the lands condemned during the occupancy. The condemnor has the right to possession when the persons who occupied the acquired property vacate, or hold over beyond the vacation date established by the condemnor, whichever is sooner, except as provided under subd. 3. If the condemnor is denied the right of possession, the condemnor may, upon 48 hours' notice to the occupant, apply to the circuit court where the property is located for a writ of assistance to be put in possession. The circuit court shall grant the writ of as-

sistance if all jurisdictional requirements have been complied with, if the award has been paid or tendered as required and if the condemnor has made a comparable replacement property available to the occupants, except as provided under subd. 3.

3. The condemnor may not require the persons who occupied the premises on the date that title vested in the condemnor to vacate until a comparable replacement property is made available. This subdivision does not apply to any person who waives his or her right to receive relocation benefits or services under s. 32.197 or who is not a displaced person, as defined under s. 32.19 (2) (e), unless the acquired property is part of a program or project receiving federal financial assistance.

(10) **APPEAL TO CIRCUIT COURT.** Within 60 days after the date of filing of the commission's award either condemnor or owner may appeal to the circuit court by giving notice of appeal to the opposita party and to the clerk of the circuit court as provided in s. 32.05 (10). The clerk shall thereupon enter the appeal as an action pending in said court with the condemnee as plaintiff and the condemnor as defendant. It shall thereupon proceed as an action in said court subject to all the provisions of law relating to actions brought therein, but the only issues to be tried shall be questions of title, if any, as provided by ss. 32.11 and 32.12 and the amount of just compensation to be paid by condemnor, and it shall have precedence over all other actions not then on trial. It shall be tried by jury unless waived by both plaintiff and defendant. The amount of the jurisdictional offer or of the commission's award shall not be disclosed to the jury during such trial.

(a) If the jury verdict as approved by the court exceeds the commission's award, the owner shall have judgment increased by the amount of legal interest from the date title vests in condemnor to date of entry of judgment on the excess of the verdict over the compensation awarded by the commission.

(b) If the jury verdict as approved by the court does not exceed the commission's award, the condemnor shall have judgment against the owner for the difference between the verdict and the amount of the commission's award, with legal interest on such difference from the date condemnor paid such award.

(c) If the jury verdict as approved by the court exceeds the amount of the jurisdictional offer, the condemnor may within 40 days after filing of such verdict petition the court for leave to abandon the proceeding and thereafter sub. (9) (a) shall apply.

(d) All judgments required to be paid shall be paid within 60 days after entry of judgment unless within this period appeal is taken to the court of appeals or unless condemnor has petitioned for and been granted an order abandoning the condemnation proceeding. Otherwise such judgment shall bear interest from the date of entry of judgment at the rate of 10% per year until payment.

(11) **WITHDRAWAL OF COMPENSATION PAID INTO COURT; BOND.** If either party appeals from the award of the commission, the owner shall not be entitled to receive the amount of compensation paid into court by condemnor unless the owner files with the clerk of the court a surety bond executed by a licensed corporate surety company in an amount equal to one-half of the commission's award, conditioned to pay to the condemnor, any sums together with interest and costs as allowed by the court, by which the award of the commission may be diminished.

(12) **EFFECT OF DETERMINATION OF COMPENSATION BY THE COURT WHERE JURY WAIVED.** If the action is tried by the court upon waiver of a jury, the determination of the amount of the damages by the court shall be considered in lieu of the words "jury verdict as approved by the court" where such language occurs in this section.

History: 1973 c. 244; 1975 c. 68, 410, 422; 1977 c. 29; 1977 c. 187 s. 134; 1977 c. 438, 440, 447, 449; 1979 c. 37; 1979 c. 110 s. 60 (13); 1981 c. 390; 1983 a. 27; 1983 a. 219 ss. 4, 46; 1983 a. 236 s. 13; 1983 a. 302 s. 8; 1985 a. 316 s. 25; 1987 a. 378; 1991 a. 39, 316; 1993 a. 184; 1997 a. 204.

There was no failure to negotiate when the condemnor made an offer based on a computer appraisal offer after the condemnee had already rejected an offer that was higher and had refused to make a counteroffer. *Herro v. Natural Resources Board*, 53 Wis. 2d 157, 192 N.W.2d 104 (1971).

A news report of the amount of the jurisdictional offer did not invalidate the proceedings when the record did not show that the condemnation commission knew of it or was influenced by it. *Hezro v. Natural Resources Board*, 53 Wis. 2d 157, 192 N.W.2d 104 (1971).

Costs may not be recovered if condemnation proceedings are stopped by court order. *Martineau v. State Conservation Commission*, 54 Wis. 2d 76, 194 N.W.2d 664 (1972).

The issues of title and navigability were entirely collateral to the amount of compensation. When the condemnation proceeding was terminated, the issues collateral thereto were likewise dismissed. *Martineau v. State Conservation Commission*, 66 Wis. 2d 439, 225 N.W.2d 613 (1975).

An owner who under sub. (5) contests a condemnation on grounds that achievement of the stated public purpose is too remote or contingent must demonstrate a lack of reasonable assurance that the intended use will come to pass. *Falkner v. Northern State Power Co.*, 75 Wis. 2d 116, 248 N.W.2d 883 (1977).

A condemnor did not exercise condemnation powers when it made a jurisdictional offer. A lessee's share of a condemnation award is discussed. *Motey v. Redevelopment Authority of Racine*, 94 Wis. 2d 375, 288 N.W.2d 794 (1980).

Time computations under ss. 32.05 (10) (a) and 32.06 (10) are controlled by s. 801.15 (1), not s. 890.001 (4). *Matter of Wisconsin Electric Power Co.*, 110 Wis. 2d 649, 329 N.W.2d 186 (1983).

Notice of appeal under sub. (10) and the unit rule are discussed. *Green Bay Broadcasting v. Green Bay Authority*, 116 Wis. 2d 1, 342 N.W.2d 27 (1983); reconsidered 119 Wis. 2d 251, 349 N.W.2d 478 (1984).

A condemnor may voluntarily dismiss an appeal to a circuit court pursuant to s. 805.04 without court order. *Dioke v. City of Tonaw*, 160 Wis. 2d 20, 465 N.W.2d 282 (Ct. App. 1990).

Sub. (2a) does not require the condemnor to file the certificate of compensation at the same time that it records the conveyance. *Kurylo v. Wisconsin Electric Power Company*, 2000 WI App 102, 235 Wis. 2d 166, 612 N.W.2d 380.

Condemnation of a lessor's property for purchase by lessees in order to reduce concentration of land ownership was a constitutional "public use". *Hawaii Housing Authority v. Murrill*, 467 U.S. 229 (1984).

Statutory restrictions on the exercise of eminent domain in Wisconsin: Dual requirements of prior negotiation and provision of negotiating materials. 63 MLR 430 (1980).

New developments in law of eminent domain, condemnation and relocation. *Trial*, WBB June, 1979.

32.07 Necessity, determination of. The necessity of the taking shall be determined as follows:

(1) A certificate of public convenience and necessity issued under s. 196.491 (3) shall constitute the determination of the necessity of the taking for any lands or interests described in the certificate.

(2) The petitioner shall determine necessity if application is by the state or any commission, department, board or other branch of state government or by a city, village, town, county, school district, board, commission, public officer, commission created by contract under s. 66.0301, joint local water authority under s. 66.0823, redevelopment authority created under s. 66.1333, local exposition district created under subch. II of ch. 229, local cultural arts district created under subch. V of ch. 229, housing authority created under ss. 66.1201 to 66.1211 or for the right-of-way of a railroad up to 100 feet in width, for a telegraph, telephone or other electric line, for the right-of-way for a gas pipeline, main or service or for easements for the construction of any elevated structure or subway for railroad purposes.

(3) In all other cases, the judge shall determine the necessity.

(4) The determination of the public service commission of the necessity of taking any undeveloped water power site made pursuant to s. 32.03 (3) shall be conclusive.

History: 1975 c. 306; 1975 c. 68; 1979 c. 175 s. 53; 1981 c. 346; 1983 a. 27; 1985 a. 187; 1993 a. 134, 263; 1997 a. 184, 204; 1999 s. 65; 1999 a. 150 s. 672.

A public utility need only show that the property sought to be condemned is reasonably necessary, reasonably requisite, and proper for the accomplishment of the desired public purpose. *Falkner v. Northern States Power Co.*, 75 Wis. 2d 116, 248 N.W.2d 885 (1977).

A school district is not empowered to make its own determination of necessity. *Joyce v. School Dist. of Hudson*, 169 Wis. 2d 611, 487 N.W.2d 41 (Ct. App. 1992).

32.075 Use after condemnation. (1) In this section, "public utility" has the meaning given under s. 196.01 (5) and includes a telecommunications carrier, as defined in s. 196.01 (8m).

(2) Whenever the public service commission has made a finding, either with or without hearing, that it is reasonably certain it will be necessary for a public utility to acquire lands or interests therein for the purpose of the conveyance of telegraph and telephone messages, or for the production, transformation or transmission of electric energy for the public, or for right-of-way for a gas pipeline, main or service, and that such public utility is un-

likely to commence construction of its facilities upon such lands within 2 years of such finding, such public utility may file its petition and proceed with condemnation as prescribed in s. 32.06 and no further determination of necessity shall be required. When the lands to be condemned under this subsection are needed for rights-of-way for telegraph, telephone or electric lines or pipelines, it shall not be necessary that the particular parcel or parcels of land be described in the commission's finding, but it shall be sufficient that such finding described the end points of any such lines and the general direction or course of the lines between the end points, but when the public utility files its petition under s. 32.06 it shall specifically describe therein the lands to be acquired. Notwithstanding the completion of the condemnation proceedings and the payment of the award made under this subchapter, the owner may continue to use the land until such time as the public utility constructs its facilities thereon.

(3) (a) The public service commission shall notify by certified mail any person whose ownership interest in the property was terminated by condemnation by a public utility under this chapter if all of the following occur:

1. The public utility's legal title was obtained after May 1, 1984, solely by a condemnation award under s. 32.06.

2. The public service commission revokes a certificate of public convenience and necessity required under s. 196.491 (3) (a) 1. or finds that a state or federal agency has denied or revoked any license, permit, certificate or other requirement on which completion of the public utility's project for which the land was condemned is contingent or that the public utility has for any other reason abandoned a project for which the condemned property was acquired.

3. The public utility within 365 days after issuance of the public service commission denial, revocation or finding under subd. 2. has not proposed, by application to the commission, an alternative use for the property or the public service commission has denied an alternative use proposed by the public utility.

(b) If the person is a minor or incompetent, the notice under par. (a) shall be to the special guardian appointed for the person. The notice under par. (a) shall state that the person, or, if the person is deceased, the person's heirs, may petition the circuit court of the county in which the property is located, within 90 days after receipt of the notice, for an order to require the public utility to return the interest in the property to the petitioner. The circuit court shall grant the petition and shall make a formal order returning the petitioner's interest in the property. The order shall operate to divest any title of the public utility to the property subject to the petition and to automatically discharge any lis pendens filed in relation to the condemnation of the property.

(c) An order issued under par. (b) shall direct that:

1. The public utility return the petitioner's ownership interest in the property.

2. The public utility remove any lien or other encumbrance that may have accrued or been assessed since acquisition by the public utility.

3. The petitioner pay to the public utility the fair market value of the property returned to the petitioner under the order, which fair market value shall be determined under a method prescribed by the court.

4. The public utility pay its prorated share of any real estate or ad valorem taxes due on the date of the order.

5. If requested by the petitioner, the public utility pay for all costs for return of property to a reasonable topographic configuration or the condition the property was in at the time the public utility first acquired the property, as established by the court and subject to applicable land use restrictions.

6. The public utility remove from the property, at the option of the petitioner but at no expense or inconvenience to the petitioner, all buildings, equipment and other materials placed on the property by the public utility.

CHAPTER 32

EMINENT DOMAIN

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SUBCHAPTER I

GENERAL EMINENT DOMAIN

32.01 Definitions. In this subchapter unless the context clearly requires otherwise:

(1) "Person" includes the state, a county, town, village, city, school district or other municipal corporation, a board, commission, including a commission created by contract under s. 66.0301, corporation, or housing authority created under ss. 65.1201 to 66.1211 or redevelopment authority created under s. 66.1533.

(2) "Property" includes estates in lands, fixtures and personal property directly connected with lands.

History: 1973 c. 305; 1979 c. 175 s. 53; 1983 a. 27; 1983 a. 236 s. 12; 1999 s. 150 s. 672.

32.02 Who may condemn; purposes. The following departments, municipalities, boards, commissions, public officers and corporations may acquire by condemnation any real estate and personal property appurtenant thereto or interest therein which they have power to acquire and hold or transfer to the state, for the purposes specified, in case such property cannot be acquired by gift or purchase at an agreed price:

(1) Any county, town, village, city, including villages and cities incorporated under general or special acts, school district, the department of health and family services, the department of corrections, the board of regents of the University of Wisconsin System, the building commission, a commission created by contract under s. 66.0301, with the approval of the municipality in which condemnation is proposed, or any public board or commission, for any lawful purpose, but in the case of city and village boards or commissions approval of that action is required to be granted by the governing body. A mosquito control commission, created under s. 59.70 (12), and a local professional football six-

dium district board, created under subch. IV of ch. 229, may not acquire property by condemnation.

(2) The governor and adjutant general for land adjacent to the Wisconsin state military reservation at Camp Douglas for the use of the Wisconsin national guard.

(3) Any railroad corporation, any grantee of a permit to construct a dam to develop hydroelectric energy for sale to the public, any Wisconsin plank or turnpike road corporation, any drainage corporation, any interstate bridge corporation, or any corporation formed under chapter 288, laws of 1899, for any public purpose authorized by its articles of incorporation.

(4) Any Wisconsin telegraph or telecommunications corporation for the construction and location of its lines.

(5) (a) "Foreign transmission provider" means a foreign corporation that satisfies each of the following:

1. The foreign corporation is an independent system operator, as defined in s. 196.485 (1) (d), or an independent transmission owner, as defined in s. 196.485 (1) (dm), that is approved by the applicable federal agency, as defined in s. 196.485 (1) (c).

2. The foreign corporation controls transmission facilities, as defined in s. 196.485 (1) (h), in this and another state.

(b) Any Wisconsin corporation engaged in the business of transmitting or furnishing heat, power or electric light for the public or any foreign transmission provider for the construction and location of its lines or for ponds or reservoirs or any dam, dam site, flowage rights or undeveloped water power.

(6) Any Wisconsin corporation furnishing gas, electric light or power to the public, for additions or extensions to its plant and for the purpose of conducting tests or studies to determine the suitability of a site for the placement of a facility.

(7) Any Wisconsin corporation formed for the improvement of any stream and driving logs therein, for the purpose of the improvement of such stream, or for ponds or reservoir purposes.

(8) Any Wisconsin corporation organized to furnish water or light to any city, village or town or the inhabitants thereof, for the construction and maintenance of its plant.

(9) Any Wisconsin corporation transmitting gas, oil or related products in pipelines for sale to the public directly or for sale to one or more other corporations furnishing such gas, oil or related products to the public.

(10) Any rural electric cooperative association organized under ch. 185 which operates a rural electrification project to:

(a) Generate, distribute or furnish at cost electric energy at retail to 500 or more members of said association in accordance with standard rules for extension of its service and facilities as provided in the bylaws of said association and whose bylaws also provide for the acceptance into membership of all applicants therefor who may reside within the territory in which such association undertakes to furnish its service, without discrimination as to such applicants; or

(b) Generate, transmit and furnish electric energy at wholesale to 3 or more rural electric cooperative associations furnishing electric energy under the conditions set forth in par. (a), for the construction and location of its lines, substations or generating plants, ponds or reservoirs, any dam, dam site, flowage rights or undeveloped water power, or for additions or extension of its plant and for the purpose of conducting tests or studies to determine the suitability of a site for the placement of a facility.

(11) Any housing authority created under ss. 66.1201 to 66.1211; redevelopment authority created under s. 66.1353 community development authority created under s. 66.1335; local cultural arts district created under subch. V of ch. 229, subject to s. 229.844 (4) (c); or local exposition district created under subch. II of ch. 229.

(12) Any person operating a plant which creates waste material which, if released without treatment would cause stream pollution, for the location of treatment facilities. This subsection does not apply to a person licensed under ch. 293.

(13) Any corporation licensed to do business in Wisconsin that shall transmit oil or related products including all hydrocarbons which are in a liquid form at the temperature and pressure under which they are transported in pipelines in Wisconsin, and shall maintain terminal or product delivery facilities in Wisconsin, and shall be engaged in interstate or international commerce, subject to the approval of the public service commission upon a finding by it that the proposed real estate interests sought to be acquired are in the public interest.

(15) The department of transportation for the acquisition of abandoned rail and utility property under s. 85.09.

(16) The department of natural resources with the approval of the appropriate standing committees of each house of the legislature as determined by the presiding officer thereof and as authorized by law, for acquisition of lands.

History: 1971 c. 100 s. 23; 1973 c. 243, 365; 1975 c. 68, 311; 1977 c. 29, 203, 438, 440; 1979 c. 34 s. 21.02 (32) (b); 1979 c. 122; 1979 c. 175 s. 53; 1981 c. 86, 348, 374; 1983 s. 27; 1985 s. 29 s. 32.00 (51); 1985 s. 30 s. 42; 1985 s. 187; 1985 s. 297 s. 76; 1987 s. 27; 1989 s. 31; 1993 s. 246, 263; 1993 s. 491 s. 284; 1995 s. 27 s. 91.26 (19); 1996 s. 201; 1997 s. 204; 1999 s. 63; 1999 s. 150 s. 672; 1999 s. 167; 2001 s. 30 s. 109.

Cross Reference: See s. 13.48 (16) for limitation on condemnation authority of the building commission.

32.03 When condemnation not to be exercised.

(1) The general power of condemnation conferred in this subchapter does not extend to property owned by the state, a municipality, public board or commission, nor to the condemnation by a railroad, public utility or electric cooperative of the property of either a railroad, public utility or electric cooperative unless such power is specifically conferred by law, provided that property not to exceed 100 feet in width owned by or otherwise under the control or jurisdiction of a public board or commission of any city, village or town may be condemned by a railroad corporation for right-of-way or other purposes, whenever a city, village or town by ordinance consents thereto. This subchapter does not apply to

the acquisition by municipalities of the property of public utilities used and useful in their business, nor to any city of the 1st class, except that every such city may conduct any condemnation proceedings either under this subchapter or, at its option, under other laws applicable to such city.

(2) Any railroad corporation or pipeline corporation may acquire by condemnation lands or interest therein which are held and owned by another railroad corporation or pipeline corporation. In the case of a railroad corporation, no such land shall be taken so as to interfere with the main track of the railroad first established except for crossing, and in the case of a pipeline corporation no such land shall be taken except for crossing or in such manner as to interfere with or endanger railroad operations.

(3) Any public utility corporation, or cooperative association mentioned in s. 32.02 (10), upon securing from the public service commission, pursuant to written application and upon due notice to all interested parties, an order determining that lands or interests therein sought to be acquired by the applicant are owned by a public utility corporation or such rural electric cooperative and are not then being used by the owner for service to the public by the public utility or to its members by such cooperative association and will not be required in the future for such purposes to an extent and within a period which will be interfered with by the appropriation of the lands or interests sought to be condemned, may acquire by condemnation such lands or interests therein. No lands, or interests therein, belonging to a public utility corporation or to any such cooperative association which is being held by such owner as a site for an electric generating plant, and no other property so owned, or any interest therein, which is used or suitable for the development of water power, shall be subject to condemnation under this subsection; except that an undeveloped water power site, belonging to any such public utility corporation or to any such cooperative association and which is within the flowage area of any other undeveloped water power site, may be condemned pursuant to this subsection, but only if, upon application to it, the public service commission, after hearing held upon notice to such owner and all parties interested, shall by order determine the necessity of taking such lands or interest therein. Such order shall be subject to review as prescribed by ch. 227. Any condemnation of lands pursuant to this subsection shall be conducted in accordance with the procedure and requirements prescribed by ss. 32.04 to 32.14.

(5) (a) If an electric utility is required to obtain a certificate of public convenience and necessity from the public service commission under s. 196.491 (3), no right to acquire real estate or personal property appurtenant thereto or interest therein for such project by condemnation shall accrue or exist under s. 32.02 or 32.075 (2) until such a certificate of public convenience and necessity has been issued.

(b) This subsection does not apply to the condemnation of a limited interest in real property or appurtenant personal property, except structures with foundations, necessary to conduct tests or studies to determine the suitability of a site for the placement of a utility facility, provided that:

1. Such a limited interest does not run for more than 3 years; and
2. Activities associated with such tests or studies will be conducted at reasonable hours with minimal disturbance, and the property will be reasonably restored to its former state, upon completion of such tests or studies.

History: 1973 c. 305; 1975 c. 68; 1979 c. 175 s. 53; 1983 s. 27; 1985 s. 226 s. 12; 1983 s. 338 s. 3; 1983 s. 30 s. 42; 1985 s. 187; 1993 s. 246, 490; 1997 s. 204.

County lands are not subject to condemnation by a town absent express statutory authority authorizing such condemnation. 62 Atty. Gen. 64.

32.035 Agricultural impact statement. (1) DEFINITIONS

In this section:

(a) "Department" means department of agriculture, trade and consumer protection.

(b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 (1).

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(b) The department may enter into transactions with the state investment board to obtain money to make loans under this section. Transactions authorized under this paragraph may include the sale of loans.

History: 1993 a. 16; 1995 a. 404; 1997 a. 27, 115; 1999 a. 9; 2001 a. 103.
Cross Reference: See also ch. VA 12 and s. VA 1.19, Wis. adm. code.

45.357 Veterans assistance program. (1) The department shall administer a program to provide assistance to persons who served in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces and who were discharged under conditions other than dishonorable. The department shall provide assistance to persons whose need for services is based upon homelessness, incarceration, or other circumstances designated by the department by rule. The department shall designate the assistance available under this section, which may include assistance in receiving medical care, dental care, education, employment, and transitional housing. The department may provide grants to facilitate the provision of services under this section.

(2) The department may charge fees for transitional housing and for such other assistance that is provided under this section as the department designates. The department shall promulgate rules establishing the fee schedule and the manner of implementation of that schedule.

History: 1993 a. 16; 1995 a. 129; 1997 a. 27; 2001 a. 103.
Cross Reference: See also ch. VA 13, Wis. adm. code.

45.358 Wisconsin veterans cemeteries. (1) **DEFINITIONS.** In this section:

(a) "Dependent child" means any natural or adoptive child under 18 years of age, or under the age of 26 if in full attendance at a recognized school of instruction, or of any age if the child is unmarried and incapable of self-support by reason of mental or physical disability.

(b) "Veteran" means a person who has served on active duty in the U.S. armed forces.

(2) **CONSTRUCTION AND OPERATION OF CEMETERIES.** Subject to authorization under ss. 13.48 (10) and 20.924 (1), the department may construct and operate veterans cemeteries in northwestern and southeastern Wisconsin and may employ any personnel that are necessary for the proper management of the cemeteries. The cemetery in southeastern Wisconsin is the Southern Wisconsin Veterans Memorial Cemetery. The cemetery in northwestern Wisconsin is the Northern Wisconsin Veterans Memorial Cemetery. The department may acquire, by gift, purchase, or condemnation, lands necessary for the purposes of the cemeteries. Title to the properties shall be taken in the name of this state. Every deed of conveyance shall be immediately recorded in the office of the proper register of deeds and thereafter filed with the secretary of state. All cemeteries operated by the department are exempt from the requirements of ss. 157.061 to 157.070 and 440.90 to 440.95.

(3) **ELIGIBILITY.** The following persons are eligible for burial at a cemetery constructed and operated under sub. (2) or s. 45.37 (15):

(a) A veteran who died while on active duty or who was discharged or released from active duty in the U.S. armed forces under honorable conditions and who was a resident of this state at the time of his or her entry or reentry into active service and his or her dependent children and surviving spouse.

(b) A veteran who was discharged or released from active duty in the U.S. armed forces under honorable conditions and who was a resident of this state at the time of his or her death and his or her dependent children and surviving spouse.

(c) The spouse or dependent child of a veteran who is serving on active duty at the time of the spouse's or dependent child's death if the veteran was a resident of this state at the time of the veteran's entry or reentry into active service.

(d) The spouse or dependent child of a veteran if the veteran was a resident of this state at the time of his or her entry or reentry

into active service and was discharged or released from active duty in the U.S. armed forces under honorable conditions.

(e) The spouse or dependent child of a veteran who was discharged or released from active duty in the U.S. armed forces under honorable conditions if the veteran and spouse or dependent child were residents of this state at the time of the spouse's or dependent child's death.

(f) A person who was a resident of this state at the time of his or her entry or reentry into service in the Wisconsin army national guard or air national guard or a reserve component of the U.S. armed forces or at the time of his or her death and who has 20 or more years of creditable military service for retirement pay as a member of the Wisconsin army national guard or air national guard or a reserve component of the U.S. armed forces or who would have been entitled to that retirement pay except that the person was under 60 years of age at the time of his or her death, and the person's spouse, surviving spouse and dependent children.

(g) A veteran who was discharged or released from active duty in the U.S. armed forces under honorable conditions and who was a resident of the state for at least 12 consecutive months after entering or reentering service on active duty.

(3m) **FEES.** The department may charge a fee for burials under this section and may promulgate rules for the assessment of the fee.

(4) **GIFTS, GRANTS, AND BEQUESTS.** The department may accept for the state all gifts, grants, and bequests for the purposes of maintenance, restoration, preservation, and rehabilitation of the veterans cemeteries constructed under sub. (2).

History: 1993 a. 296; 1995 a. 27, 255; 1997 a. 27; 1999 a. 9; 2001 a. 103, 109.
Cross Reference: See also ch. VA 14, Wis. adm. code.

45.36 Release of information and records by the department and by county veterans' service offices.

(1) **DEFINITIONS.** In this section:

(b) "Duly authorized representative" means any person authorized in writing by the veteran to act for the veteran, or a legally constituted representative if the veteran is incompetent or deceased. Where for proper reason no representative has been or will be appointed, the veteran's spouse, an adult child, or, if the veteran is unmarried, either parent shall be recognized as the duly authorized representative.

(c) "Service office" means a county veterans' service office.
Cross Reference: See also s. VA 1.10, Wis. adm. code.

(2) **SEPARATION DOCUMENTS.** Separation documents and copies thereof evidencing service in the armed forces of the U.S. are confidential and privileged. Examination of such records in the possession of the department or service office will be limited to authorized employees of the department or service office and information entered thereon will be disclosed only to veterans and their duly authorized representatives or to interested governmental agencies for the purpose of assisting veterans and their dependents to obtain the rights and benefits to which they may be entitled.

(3) **U.S. DEPARTMENT OF VETERANS AFFAIRS RECORDS.** Records and papers in the possession of the department or service office which are released to the department or service office by or from the U.S. department of veterans affairs or which contain information provided by the U.S. department of veterans affairs are confidential. Release of information from such records or papers may be made only pursuant to regulations of the U.S. department of veterans affairs.

(4) **INVESTIGATION.** All reports of investigation made by employees of the department or at the direction of the department for official departmental purposes are only for the use of the secretary and staff. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department may not be released.

(4m) **VITAL RECORDS.** The service office may obtain a copy of a vital record under s. 69.30 (2) and may transmit the copy to the

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department or to the U.S. department of veterans affairs to assist a veteran or his or her dependent in obtaining a benefit to which he or she may be entitled.

(5) **DISCLOSURE OF MONETARY BENEFITS.** The department shall disclose to any person who requests, the amount of any grant or loan made by the department to any applicant. A person seeking such information shall be required to sign a statement setting forth the person's name, address and the reason for making the request and certifying that the person will not use the information obtained for commercial or political purposes.

(5m) **DISCLOSURE OF LOAN STATUS INFORMATION.** The department may disclose to a consumer reporting agency, as defined in 15 USC 1681a (f), the current repayment status of, the balances due on, and other relevant information pertaining to department loans that is readily accessible from current department computer tapes on any loans on which balances are due and owing the department. The department may charge consumer reporting agencies requesting these computer tapes an amount sufficient to cover all the costs of preparation and delivery of the tapes.

(6) **DISCLOSURE OF OTHER INFORMATION.** Except as provided in subs. (2) to (5), all files, records, reports, papers, and documents pertaining to applications for benefits from the department, and information contained therein, shall be released by the department or service office only pursuant to rules of the department. The rules must provide for the furnishing of information required under sub. (5m) and for official purposes by any agency of the U.S. government, by any agency of this state, by any law enforcement or public welfare agency of any Wisconsin county, or by members of the state senate and assembly. The rules will otherwise provide for release of personal information pertaining to or contained in any application for benefits, whether pending or adjudicated, only when authorized in writing by the applicants or when necessary to assist applicants in securing veterans benefits that the applicants may be entitled to or when necessary for the efficient management of loans made by the department.

History: 1971 c. 178; 1983 a. 189; 1985 a. 29 a. 3200 (2); 1987 a. 403 a. 255; 1989 a. 31, 56; 1995 a. 27; 2001 a. 103.

45.365 Wisconsin Veterans Home at King and southeastern facility; management. (1) (a) In this section and s. 45.37:

2. "Home" means the Wisconsin Veterans Home at King.

3. "Southeastern facility" means any of the residential, treatment or nursing care facilities operated by the department in southeastern Wisconsin under s. 45.385.

(am) The department shall operate the home, and employ a commandant and the officers, nurses, attendants, and other personnel necessary for the proper conduct of the home. The department may employ a commandant for the southeastern facility. In compliance with the compensation plan established pursuant to s. 230.12(3), a commandant may recommend to the director of personnel charges for meals, living quarters, laundry, and other services furnished to employees and members of the employees' family maintained at the home and the southeastern facility. Complete personal maintenance and medical care to include programs and facilities that promote comfort, recreation, well-being, or rehabilitation shall be furnished to all members of the home under the policy of the department.

(b) All money received in reimbursement for services to home or southeastern facility employees under par. (a) or in payment for meals served to guests at the home or southeastern facility shall be accumulated in an account named "employee maintenance credits" and shall be paid into the general fund within one week after receipt and credited to the appropriation under s. 20.485 (1) (gk).

(d) The home and southeastern facility shall include a geriatric evaluation, research and education program. The program staff shall be funded from the appropriations under s. 20.485 (1) (bm), (j) and (mj).

(2) ~~The department may acquire, by gift, purchase or condemnation, lands necessary for the purposes of the home. Title thereto shall be taken in the name of this state and shall be held by and for the uses and purposes of said home so long as used for the present objects and purposes thereof. No payment shall be made out of the state treasury or otherwise for any such land until the title has been examined and approved by the attorney general. Every such deed of conveyance shall be immediately recorded in the office of the proper register of deeds and thereafter filed with the secretary of state.~~

(2a) The department may use moneys appropriated pursuant to s. 20.485 (1) (h) to purchase, erect, construct or remodel buildings, and to provide additions and improvements thereto, and to provide equipment therefor and to provide materials, supplies and services necessary for the purposes of the home and southeastern facilities, and for such expenses as may be necessary and incidental to acquisition of property pursuant to s. 45.37 (10) and (11).

(2b) The department may accept gifts, bequests, grants or donations of money or of property from private sources to be administered by the department for the purposes of the home and southeastern facility. All moneys so received shall be paid into the general fund and are appropriated therefrom as provided in s. 20.485 (1) (h), except that gifts or grants received specifically for the purposes of the geriatric program at the home and southeastern facility are appropriated as provided in s. 20.485 (1) (hm). The department shall not apply to the gifts and bequests fund interest on certificate of savings deposits for those members who do not receive maximum monthly retained income. The department shall establish for such persons upon their request individual accounts with savings and interest applied pursuant to such member requests.

(2m) (a) The department may enter into agreements for furnishing and charging for water and sewer service from facilities constructed at and for the home to public and private properties lying in the immediate vicinity of the home.

(b) Agreements under this section shall be drafted to hold harmless the department, to require all expense thereof to be paid by the applicant, and to be terminable by the department when other water and sewer services become available to the applicant.

(3) A commandant and employees designated by the commandant may summarily arrest all persons within or upon the grounds of the home or southeastern facility who are guilty of any offense against the laws of this state or the rules and regulations governing the home or southeastern facility. For this purpose, a commandant and deputies have the power of constables.

(5) The fire department at the home or southeastern facility in response to emergency fire calls may make runs and render fire fighting service beyond the confines of the home or southeastern facility.

(6) The home and the nursing care facility within the southeastern facility are subject to ch. 150.

(7) The department may develop a program to provide stipends to individuals to attend school and receive the necessary credentials to become employed at the home or the southeastern facility. If the department does develop a stipend program under this subsection, the department shall promulgate administrative rules related to the program, including the application process, eligibility criteria, stipend amount, repayment provisions, and other provisions that the department determines are necessary to administer the program.

History: 1971 c. 276 s. 104; 1973 c. 113; 1975 c. 333 s. 201 m; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 131; 1981 c. 26; 1985 a. 29; 1989 a. 56; 1991 a. 39, 120; 1999 a. 63; 196; 2001 a. 16, 103; 2003 a. 33.

Cross Reference: See also ch. VA 6, Wis. adm. code.

45.37 Who are eligible to membership. (1) **GENERAL STATEMENT.** Within the limitations of the home and southeastern facility, the department may admit to membership in the home and southeastern facility persons who meet the qualifications set forth in this section.

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lessor to file any claim with the legislature prior to the commencement of any such action.

(c) Nothing in this section empowers the board or the department to incur any state debt.

(d) All powers and duties conferred upon the board or the department pursuant to this section shall be exercised and performed by resolution of the board. All conveyances, leases, and subleases made pursuant to this section, when authorized pursuant to resolution of the board, shall be made, executed, and delivered in the name of the department and shall be signed by the director and sealed with the seal of the department.

(e) All laws, conflicting with any provisions of this section, are, insofar as they conflict with this section and no further, superseded by this section.

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1991 s. 120; 1997 a. 79; 2001 s. 105.

45.385 Veterans residential, treatment, and nursing care facilities. Subject to authorization under ss. 13.48 (10) and 20.924 (1), the department may construct or renovate and operate residential, treatment, and nursing care facilities in southeastern Wisconsin, including a community-based residential facility, to be known as the Southern Wisconsin Veterans Retirement Center. The department may employ any personnel that are necessary for the proper management of the Southern Wisconsin Veterans Retirement Center. The department may acquire by gift, purchase, or condemnation lands necessary for the purposes of the Southern Wisconsin Veterans Retirement Center. Title to any properties acquired under this section shall be taken in the name of this state. Every deed of conveyance shall be immediately recorded in the office of the proper register of deeds and filed with the secretary of state.

History: 1997 a. 121; 1999 a. 9; 2001 s. 102.

45.396 Correspondence courses and part-time classroom study. (1) In this section:

(a) "Institution of higher education" has the meaning given in 20 USC 1001 (a).

(b) "Part-time classroom study" means any of the following:

1. Enrollment by a graduate student in courses for which no more than 8 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion.

2. Enrollment by a graduate student in courses that upon satisfactory completion will fulfill no more than the minimum semester or equivalent trimester or quarter credit requirements of the program or school in which the student is enrolled.

3. Enrollment by any other eligible student in courses for which no more than 11 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion.

4. Study during a summer semester or session.

(c) "Tuition" has the meaning given in s. 45.25 (1g).

(2) Any veteran upon the completion of any correspondence course or part-time classroom study from an institution of higher education located in this state, from a school that is approved under s. 45.35 (9m), from a proprietary school that is approved under s. 45.54, or from any public or private high school may be reimbursed in part for the cost of the course by the department upon presentation to the department of a certificate from the school indicating that the veteran has completed the course and stating the cost of the course and upon application for reimbursement completed by the veteran and received by the department no later than 60 days after the termination of the course for which the application for reimbursement is made. The department shall accept and process an application received more than 60 days after the termination of the course if the applicant shows good cause for the delayed receipt. The department may not require that an application be received sooner than 60 days after a course is completed. Benefits granted under this section shall be paid out of the appropriation under s. 20.485 (2) (th).

(3) A veteran who is a resident of this state and otherwise qualified to receive benefits under this section may receive the benefits under this section upon the completion of any correspondence courses or part-time classroom study from an institution of higher education located outside this state, from a school that is approved under s. 45.35 (9m), or from a proprietary school that is approved under s. 45.54, if any of the following applies:

(a) The part-time classroom study is not offered within 50 miles of the veteran's residence by any school or institution under sub. (2) and the educational institution from which the study is offered is located not more than 50 miles from the boundary line of this state.

(b) The correspondence course is not offered in this state.

(4) Enrolled part-time classroom study or direct correspondence courses from a qualified educational institution may be authorized and the veteran reimbursed in part by the department when such courses are related to one's occupational, professional or employment objectives, and to the extent that payment or reimbursement is not available from any other sources, or, in cases where reimbursement is not specifically for tuition, to the extent that such reimbursement is insufficient to cover all educational costs.

(5) (a) Except as provided in par. (b), the amount of the reimbursement may not exceed the total cost of the individual's tuition or the standard cost for a state resident for tuition for an equivalent undergraduate course at the University of Wisconsin-Madison per course, whichever is less, and may not be provided to an individual more than 4 times during any consecutive 12-month period.

(b) Any individual who is eligible to receive reimbursement under par. (a) shall be reimbursed an amount not to exceed the amount determined under s. 45.396 (9).

(5m) (a) No veteran or eligible dependent who has obtained a master's degree or its equivalent is eligible for grants under this section.

(b) No veteran or eligible dependent who has obtained at least a baccalaureate degree or its equivalent but not a master's degree or its equivalent is eligible for grants offered under this section if the person has remaining U.S. department of veterans affairs education benefits.

(c) For the purpose of this section any student who has received a baccalaureate degree shall be deemed to be a graduate student whether he or she is taking graduate or undergraduate courses.

(6) The department may make a grant under this section to an applicant whose name appears on the statewide support lien docket under s. 49.854 (2) (b) only if the applicant provides the department with one of the following:

(a) A repayment agreement that the applicant has entered into, that has been accepted by the county child support agency under s. 59.33 (5) and that has been kept current for the 6-month period immediately preceding the date of the application.

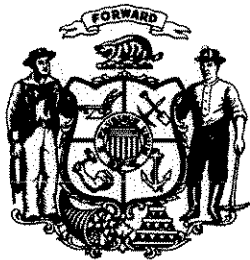
(b) A statement that the applicant is not delinquent in child support or maintenance payments and does not owe past support, medical expenses or birth expenses, signed by the department of workforce development or its designee within 7 working days before the date of the application.

(7) (a) No veteran may receive a grant under this section if the department determines, after disregarding any payment described under s. 45.85, 1997 stats., that the income of the veteran and his or her spouse exceeds \$500 for each dependent in excess of 2 dependents plus whichever of the following applies:

1. For applications for grants received during the period beginning on August 12, 1993, and ending on June 30, 1994, \$45,000.

2. For applications for grants received beginning on July 1, 1994, \$47,500.

(b) In determining eligibility for grants under this section, the department shall verify all reported income amounts by contact-



WISCONSIN STATE SENATE

P. O. Box 7882 Madison, WI 53707-7882

TO: Adjutant Maurice Jackson
Disabled American Veterans

FROM: Melissa Gilbert, Office of Sen. Ron Brown

DATE: October 6, 2003

SUBJECT: Marv Freedman testimony on SB 170

FAX: (414) 383-7023

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Maurice,

Here is the letter I have on file from Marv Freedman regarding SB 170. DAV is specifically referenced under the first and third areas of concern cited in the letter. We certainly would be interested in any comments and/or concerns from your organization about this correspondence.

Please let me know if you have any questions or need additional information.

Thank you,
Missy

10/28

- unable to get letter out on SB 170 because commander (?) in hospital
 - did vote to support at meeting last weekend
 - will tell Marv he cannot speak for → Maurice Jackson, them
- DAV



Vietnam Veterans of America Wisconsin State Council

Marvin J. Freedman, Executive Director
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June 18, 2003

The Honorable Ron Brown
The Wisconsin Senate
State Capitol
Madison, WI 53702

RE: 2003 Senate Bill 170

Dear Ron:

Thank you again for taking the time last Thursday to personally call me to discuss Senate Bill 170 and Senate Amendment 1 to SB 170, as well as the executive action your committee was taking when you called. I continue to appreciate the direct accessibility you provide to me and Vietnam Veterans of America [VVA] as we try to best serve the veterans of Wisconsin.

As I discussed with you last week, VVA continues to support virtually all of the provisions of SB 170. We appreciate the amendment you submitted for executive action that addressed the technical concerns we had about the new statutory language pertaining to the purchase of a Wisconsin Department of Veterans Affairs [WDVA] headquarters and included our suggested language regarding the Wisconsin Veterans Museum. And as we also discussed, in view of your extensive personal background in addressing the needs of Wisconsin firefighters, we have deferred to you and now support Section 37 of SB 170.

However, with regard to the substantive concerns raised at the SB 170 hearing by VVA, Disabled American Veterans and the CVSO Association of Wisconsin, we still cannot give SB 170 our unqualified support. To summarize the explanation I provided to you last Thursday on these provisions and the results of the subsequent review that VVA has made of our positions as you requested, I wish to advise you of VVA's current positions of the four sections of SB 170 which have been the focus of our concerns:

1. Section 15: Service Delivery

We expressed our very strong concerns, as did the CVSO Association and DAV, about the inclusion of this section in SB 170 as originally drafted when we testified at your committee hearing on May 28th. The revised language included in Senate Amendment 1 has not alleviated the concerns we had, but has actually added to them.

The focus of service delivery should remain a local one. WDVA's role in service delivery must continue to be a supportive one and local control of the CVSO system must be maintained.

If WDVA feels that some counties could be doing a better job of providing service delivery, WDVA should offer to cooperatively assist those CVSO offices and the CVSO Association in getting the job done. There is no basis for providing the suggested statutory powers to WDVA that would allow the department to dictate how counties choose to provide services to their veterans nor has the case been made that the department should be given competitive, concurrent authority to provide the very services that CVSOs currently provide in their 72 counties.

Furthermore, the Veterans Trust Fund is not in a financial position to fund a duplication of statewide service delivery functions.

We will continue to support providing WDVA with the statutory authority to accept claims in the course of their very successful "supermarkets", a program that has received our solid support since its inception. However, with this one exception, VVA still strongly opposes the substantive statutory changes to the service delivery function in Wisconsin proposed by WDVA.

2. Section 18: Health Care Aid Grants

As I explained last Thursday, VVA's concerns about the proposal relating to Health Care Aid grants goes beyond the concern expressed by the CVSO Association. In addition to covering emergency health care, VVA has always supported the continuation of using the Health Care Aid grant program to address the medical debt issue. And as we discussed, VVA does not feel that the way to deal with abuses by some of the medical debt aspect of the program is properly addressed by repealing the medical debt aspect of the program – the way to do so is to specifically target the specific abuses themselves.

However, at your request, VVA has reviewed the issue once again in view of your language in Senate Amendment 1 to SB 170 which we agree addresses the emergency care issue raised by the CVSO Association. **VVA will support your**

revised position if we have your assurance that you will work with VVA, the CVSO Association and other concerned parties to ensure that rules promulgated by WDVA with regard to emergency care will afford Wisconsin veterans the fullest possible coverage for emergency services.

3. Section 24: Personal Loan Program

VVA continues to believe that lowering the loan limit for personal loans using a guarantor from the current \$15,000 to \$5000 is ill-advised and we urge you to reconsider your position and support a guarantor limit of at least \$10,000.

As you know, our position has been shared by DAV and the CVSO Association, which originally supported a limit of \$15,000 when it testified on SB 170, now also supports a \$10,000 limit as a reasonable compromise on the guarantor limit issue.

As discussed with you in part last Thursday, VVA's position is based on a number of concerns including, but not limited to, the following:

a. We are not persuaded by WDVA's statistics on personal loan delinquency rates that higher guarantor limits are creating a serious drain on the Veterans Trust Fund. The more appropriate figures would be a review of the actual default rates for guarantor and mortgage-based personal loans during the last five fiscal years along with statistics on the actual dollar value of personal loans from each class that were written off during each of those last five fiscal years. I requested these statistics from WDVA Executive Assistant Anthony Hardie last Thursday and was assured that they would be forthcoming.

b. Veterans using guarantors for personal loans currently pay a 1% premium compared to the rate paid by veterans supporting their loans with mortgages. If the 1% is insufficient to adequately address a greater default rate by those using guarantors, perhaps WDVA should be reevaluating its underwriting decisions rather than precluding the vast majority of veterans who currently use the guarantor option [almost 86%] from continuing to use what, in most cases, is the only option available to them.

c. A \$5000 guarantor limit will create a hardship for younger veterans who are just starting out after leaving the service. For example, a young Persian Gulf War II veteran returns home. He is married with two children and has very limited assets. He wants to get a college degree and will have most of his tuition and fees paid for by the Tuition & Fees Reimbursement Program. However, he needs a personal loan to help pay for other living expenses that will not be covered by the part-time jobs he and his wife have. They have no

property to mortgage. There is no way that \$5000 is a realistic limit for them in the situation described which is by no means atypical of what may be expected. In fact, situations like this one actually support leaving the current \$15,000 limit in place. And they underscore the very reasonableness of the \$10,000 limit supported in a spirit of reasonable compromise by VVA, DAV and the CVS0 Association.

d. We respectfully ask that you help VVA in determining whether or not Native American veterans will be unduly precluded from availing themselves of personal loans. Specifically, we are trying to determine if federal law has been changed to allow Native Americans to mortgage their reservation property for purposes of obtaining personal loans of the type in question.

4. Section 31: Alter Language for Part-Time Veterans Service Officers

VVA supports the CVS0 Association's position that this section, in its entirety, should be eliminated.

VVA does not believe that there is suitable language that can be drafted to address the unique concerns of Green County without creating potential long term problems for other CVS0 offices and, ultimately, Wisconsin veterans. This provision is a well-intentioned one, but not a practical one.

Again, VVA commends you on your efforts on SB 170. With the very few exceptions cited above, VVA supports the bill. However, without the changes we outline above, Vietnam Veterans of America cannot support SB 170 in its present form.

VVA and I stand ready to work with you and others on SB 170 and if the concerns we have cited above are addressed adequately, we look forward to providing SB 170 our full and unqualified support.

With kind regards,



Marvin J. Freedman
Executive Director

cc: Members of The Wisconsin Senate Committee on Homeland Security, Veterans & Military Affairs and Government Reform

Members of The Wisconsin Assembly Committee on Veterans & Military Affairs



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR RONALD W. BROWN
FROM: *rnj* Richard Sweet, Senior Staff Attorney
RE: Senate Substitute Amendment 1 to 2003 Senate Bill 170 (Veterans' Benefits)
DATE: October 27, 2003

Attached is a chart that shows how Senate Substitute Amendment 1 to 2003 Senate Bill 170 changes current law as affected by 2003 Wisconsin Act 33 (the 2003-05 Biennial Budget Act).

Feel free to contact me if I can be of further assistance.

RNS:wu

Attachment

SENATE SUBSTITUTE AMENDMENT 1 TO 2003 SENATE BILL 170 (VETERANS' BENEFITS)

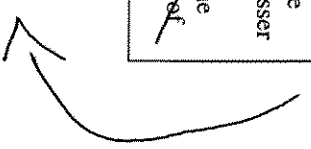
	<i>Current Law (As Affected by 2003 Wisconsin Act 33)</i>	<i>Senate Substitute Amendment 1 to 2003 Senate Bill 170</i>
<p>National Guard Educational Benefits</p> <p>Maximum Tuition Reimbursement</p>	<p>100% of actual tuition charged by the school or 100% of the arithmetic average of resident undergraduate tuition charged by four-year UW System institutions for comparable credits, whichever is less.</p>	<p>100% of actual tuition charged by the school or 100% of the maximum resident undergraduate tuition at UW-Madison for comparable credits, whichever is less.</p>
<p>Ineligibility if Receive Veterans' Tuition Reimbursement</p>	<p>No provision.</p>	<p>National Guard member is ineligible under this program for a semester in which he or she receives a grant under the veterans' tuition reimbursement program.</p>
<p>References to Iraq War</p>	<p>No provision.</p>	<p>Definition of "war period" is amended to include a reference to the Iraq War, which covers the time between March 19, 2003, and the ending of Operation Iraqi Freedom or a successor operation, as established by DVA by rule. References are also included in other statutes.</p>
<p>Veterans' Tuition Reimbursement</p> <p>Reference to Veterans</p>	<p>To be eligible, a person must have served on active duty (not including active duty for training purposes), under honorable conditions in the U.S. armed forces for two continuous years or more of the full period of the initial service obligation, whichever is less. Two-year requirement does not apply to persons released or discharged due to hardship, service-connected disability, or reduction in U.S. armed forces.</p>	<p>Current provision is repealed. References to "individual" in the statute dealing with veterans' tuition reimbursement are changed to "veteran".</p>
<p>Reimbursement at Schools Other Than School From Which Veteran is Receiving Degree</p>	<p>No provision.</p>	<p>Reimbursement may be provided at a school other than the one from which the veteran is receiving his or her degree if two conditions are met: (1) the curriculum at the other school consists only of courses necessary to complete a degree in a particular course of study; and (2) the course is accepted as transfer credits at the school from which the veteran is receiving the degree, but is not available at that school.</p>

<i>Current Law</i> <i>(As Affected by 2003 Wisconsin Act 33)</i>		<i>Senate Substitute Amendment 1</i> <i>to 2003 Senate Bill 170</i>
DVA Headquarters and Museum	No provision.	DVA is authorized to acquire by gift, purchase, or condemnation property for the purposes of providing a headquarters and museum for the department. The list of purposes for which the veterans mortgage loan repayment fund may be used is amended to include payments of obligations arising from this acquisition.
Housing for Homeless Veterans	No provision.	DVA is authorized to provide a loan guarantee for multifamily transitional housing for homeless veterans.
Health Care Aid Grants	DVA may not give prior authorization for a health care aid grant, but may issue a certificate of entitlement stating that a veteran or dependent is eligible for a grant if the treatment is received within a time period that DVA promulgates by rule.	The current prohibition on prior authorization is repealed. DVA may not grant health care aid to pay for care provided to the veteran or dependent before the time period identified in the certificate of entitlement, except for emergency care as determined by DVA if the application is submitted within 90 days after the emergency care ends.

<i>Current Law (As Affected by 2003 Wisconsin Act 33)</i>		<i>Senate Substitute Amendment 1 to 2003 Senate Bill 170</i>
<p>Veterans Personal Loans</p> <p>Maximum Amounts</p>	<p>DVA may lend a veteran, a veteran's unremarried spouse, or a deceased veteran's child not more than \$15,000 or a lesser amount established by DVA by rule for specified purposes. DVA may lend not more than \$15,000 or a lesser amount specified by DVA by rule to a veteran's remarried surviving spouse or to the parent of a veteran's child for the education of a child.</p>	<p>The amounts in current law are increased to \$25,000 or a lesser amount established by DVA. Subject to these limits, DVA may periodically adjust the maximum loan amount based on financial market conditions, funds available, needs of the Veterans Trust Funds, or other factors that DVA considers relevant.</p>
<p>Interest Rates</p>	<p>No provision.</p>	<p>DVA may periodically adjust the interest rates for loans, which may vary based on the term of the loans, the type of security offered, the method of payment, or other factors that DVA considers relevant.</p>
<p>Purposes</p>	<p>DVA may make personal loans for the purchase of a mobile home, business, or business property, the education of the veteran or the veteran's spouse or children, the payment of medical or funeral expenses, payment of delinquent child support or maintenance or past support, medical expenses, or birth expenses, or the consolidation of debt.</p>	<p>The list of purposes for which DVA may make a personal loan is repealed.</p>
<p>Security for Loans</p>	<p>No provision.</p>	<p>A loan of \$5,000 or less to an applicant whose total indebtedness under the program is \$5,000 or less must be evidenced by a promissory note and secured by a guarantor or by a mortgage on real estate in Wisconsin. All other loans under the program must be evidenced by a promissory note and secured by a mortgage on real estate in Wisconsin. A mortgage is acceptable if the applicant has equity in the property equal to or exceeding a minimum amount established by DVA by rule.</p>

	<i>Current Law (As Affected by 2003 Wisconsin Act 33)</i>	<i>Senate Substitute Amendment 1 to 2003 Senate Bill 170</i>
Veterans Cemeteries	"Veteran" is defined for purposes of the statute dealing with veterans cemeteries as a person who has served on active duty in the U.S. armed forces.	Persons who served on active duty for training purposes are excluded from the definition of "veteran".
Correspondence Courses and Part-Time Study Tuition Reimbursement for Veterans		
Income Limit	No reimbursement under this program if the income of the veteran and spouse (not including Agent Orange litigation payments) exceeds \$47,500 plus \$500 for each dependent in excess of two dependents.	No reimbursement under this program if the income of the veteran and spouse exceeds \$50,000 plus \$1,000 for each dependent in excess of two dependents.
Maximum Tuition Reimbursement	100% of actual tuition and fees or 100% of the standard cost for a state resident for tuition and fees for an equivalent course at UW-Madison per course, whichever is less.	100% of actual tuition and fees or 100% of the standard cost for a state resident for tuition and fees for an equivalent course at UW-Madison per course, whichever is less, minus any grants or scholarships that the veteran receives specifically for the payment of tuition.
Grants to Counties for CVSOs	State grants to counties for CVSOs vary from \$8,500 to \$13,000 per year, depending on the population of the county. However, counties with a part-time CVSO are eligible for an annual grant of up to \$500.	An eligible county with a part-time CVSO may request and receive a grant of \$8,500 to \$13,000, or a grant in excess of \$500, if the county submits a plan for full-time service to veterans in that county that has been adopted by the county by resolution. The Board of Veterans Affairs must review the plan and approve the grant at the requested amount or a lesser amount based on the plan's compliance with criteria established by the board. This provision takes effect on the first day of the seventh month beginning after publication of the Act.

amendment to substitute
maintains current law



	<i>Current Law (As Affected by 2003 Wisconsin Act 33)</i>	<i>Senate Substitute Amendment I to 2003 Senate Bill 170</i>
Veterans' Housing Loan Program		
Definition of "Authorized Lender"	"Authorized lender" is defined as a lender authorized by DVA to make or service veterans' mortgage loans.	"Authorized lender" is defined as a lender or servicer authorized by DVA to make or service veterans' mortgage loans. DVA is given authority to enter into contracts with persons other than authorized lenders for the servicing of loans.
Eligibility	The veteran must have been a resident of and living in Wisconsin at the time of making application, or be deceased, and meet other residency conditions.	The veteran must have been a resident of and living in Wisconsin at the time of making application, or be deceased, or be serving on active duty in the U.S. armed forces at the time of making application, and meet other residency conditions.
Applications and Certification of Eligibility	Applications for purchase, construction, or refinancing loans are made to an authorized lender.	Applications for purchase, construction, or refinancing loans are made to an authorized lender.
Transfers From Veterans Trust Fund	Applications for home improvement loans are made to a CVSO. Applicants apply to DVA through a CVSO for certification of eligibility as a veteran. No provision.	Applications for home improvement loans are made to DVA or a CVSO. Applicants apply to DVA or a CVSO for certification of eligibility as a veteran. DVA may loan money from the Veterans Trust Fund to the veterans mortgage loan repayment fund to fund loans. As described above, the list of purposes for which the veterans mortgage loan repayment fund may be used is amended to include payments of obligations arising from DVA acquisition of a headquarters and museum.
DVA Headquarters and Museum	No provision.	Any money appropriated or transferred by law from the veterans mortgage loan repayment fund for purposes other than those listed in s. 45.79 (7), Stats., and other than moneys made temporarily available to other enumerated funds, must be repaid from the general fund with a 5% annual interest rate.
Repayment of Money to Veterans Mortgage Loan Repayment Fund	No provision.	Any money appropriated or transferred by law from the veterans mortgage loan repayment fund for purposes other than those listed in s. 45.79 (7), Stats., and other than moneys made temporarily available to other enumerated funds, must be repaid from the general fund with a 5% annual interest rate.

	<i>Current Law (As Affected by 2003 Wisconsin Act 33)</i>	<i>Senate Substitute Amendment I to 2003 Senate Bill 170</i>
Fire Fighter at Wisconsin Veterans Home	If any enumerated state employee suffers injury while in the performance of duties, the employee must continue to be fully paid, with no reduction in leave or in the rate of earning leave. The enumerated state employees includes a fire fighter at the Wisconsin Veterans Home at King.	The reference to a fire fighter at the Wisconsin Veterans Home at King is repealed.

Abbreviations: CVSO - county veterans service officer
DVA - state Department of Veterans Affairs
UW - University of Wisconsin

Prepared by: Richard Sweet, Senior Staff Attorney
Wisconsin Legislative Council
October 27, 2003

RNS:wu:dlu