

**2003 DRAFTING REQUEST**

**Bill**

Received: 11/20/2002

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Kitty Rhoades (608) 266-1526

By/Representing:

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Military Affairs - nat'l guard

Extra Copies:

Submit via email: YES

Requester's email: Rep.Rhoades@legis.state.wi.us

Carbon copy (CC:) to: terence.mcardle@wi.ngb.army.mil

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Eligibility of WI residents who are members of national guard units in another state

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/P1	rnelson2 12/09/2002	chanaman 12/23/2002	pgreensl 12/23/2002		lemery 12/23/2002		S&L
/1	rnelson2 01/16/2003	wjackson 01/23/2003	jfrantze 01/24/2003		sbasford 01/24/2003	sbasford 01/24/2003	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

→ 02-03-2003  
("1")

per RPN → "Rush"  
~

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#### Topic:

Eligibility of WI residents who are members of national guard units in another state

#### Instructions:

See Attached

*1/15 Jacket as is, with  
no changes.*

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/?							S&L
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FE Sent For:

*10/24 Jpg  
1/24*

*for Assembly  
per RPN*

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Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Military Affairs - nat'l guard

Extra Copies: Terry McClardle  
Dept. of Mil Affairs

Submit via email: YES

Requester's email: Rep.Rhoades@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

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Eligibility of WI residents who are members of national guard units in another state

Instructions:

See Attached

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FE Sent For:

		cmds 12/23 lpi	12/23 P8	12/23 <END> P810h			
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For Hilly Rhoades  
Copy to Terry McLandic, DVA

21.95(1)(a) Add language  
to say <sup>This</sup> includes a  
resident of this state  
who ~~are~~ <sup>is</sup> a member of  
the national guard  
of another state and  
who is called into  
active service by the  
governor <sup>or their designee</sup> of that other  
state

21.90(1)(a) Same

21.92(1)(c) not WI, "a"  
national

36.11(47)  
38.12(13)  
39.48

same



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0808/P1

RPN:.....

cmh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 *re-gen cat*  
AN ACT ...; relating to: benefits and eligibility of Wisconsin residents who are  
2 members of the national guard in another state.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.  
For further information see the ***state and local*** fiscal estimate, which will be  
printed as an appendix to this bill.

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

\*\*\*NOTE: *LPS - please check font.* Section 20.465 (2) (a) of the statutes provides money for  
tuition grants for members of the Wisconsin national guard. Do you want  
to expand that to include state residents who are members of other state  
national guards?

3 SECTION 1. 21.01 (2) of the statutes is amended to read:

4 21.01 (2) The Wisconsin national guard shall be organized into army national  
5 guard and air national guard units, and "national guard" when used in this chapter,  
6 unless the context otherwise requires, includes means both the Wisconsin army  
7 national guard and the Wisconsin air national guard.

1           **SECTION 2.** 21.025 (1) of the statutes is amended to read:

2           **21.025 (1) AUTHORITY AND NAME.** The adjutant general may establish a plan for  
3 organizing a military force to be known as the Wisconsin state defense force. The  
4 adjutant general may organize the Wisconsin state defense force under the plan if  
5 all or part of the ~~Wisconsin~~ national guard is called into the service of the United  
6 States. It shall be distinct from the national guard, uniformed, and composed of  
7 officers, commissioned or assigned, and of enlisted personnel who volunteer for  
8 service. Membership in the Wisconsin state defense force may not include any  
9 person who is in the active military forces, including the reserve components.  
10 Persons in the retired reserve may serve in the Wisconsin state defense force.

11           History: 1975 c. 94 ss. 6, 91 (1); 1983 a. 27; 1987 a. 63 ss. 3, 13; 1991 a. 316.

11           **SECTION 3.** 21.025 (2) (d) of the statutes is amended to read:

12           **21.025 (2) (d)** The adjutant general may organize a cadre force of not more than  
13 12 personnel at each state-owned armory. Each cadre force shall establish  
14 recruitment lists of persons interested in becoming members of the state defense  
15 force, which may be used to recruit full units for the state defense force in case the  
16 ~~Wisconsin~~ national guard is mobilized for active federal duty.

17           History: 1975 c. 94 ss. 6, 91 (1); 1983 a. 27; 1987 a. 63 ss. 3, 13; 1991 a. 316.

17           **SECTION 4.** 21.07 of the statutes is amended to read:

18           **21.07 Decorations and awards.** The adjutant general may prescribe  
19 decorations and awards for the ~~Wisconsin~~ national guard and the state defense force,  
20 the form and issue thereof made under rules adopted by the adjutant general and  
21 approved by the governor.

22           History: 1975 c. 189; 1981 c. 207; 1983 a. 27; 1987 a. 63 s. 13.

22           **SECTION 5.** 21.13 (1) of the statutes is amended to read:

23           **21.13 (1)** If any state resident who is a member of the a national guard of any  
24 state or of the state defense force is prosecuted by any civil or criminal action for any

1 act performed by the member while in the performance of military duty and in  
 2 pursuance of military duty, the action against the member shall be defended by  
 3 counsel, which may include the attorney general, appointed for that purpose by the  
 4 governor upon the recommendation of the adjutant general. The adjutant general  
 5 shall make the recommendation if the act performed by the member was in the line  
 6 of duty. The costs and expenses of any such defense shall be audited by the  
 7 department of administration and paid out of the state treasury and charged to the  
 8 appropriation under s. 20.455 (1) (b) and if the jury or court finds that the member  
 9 of the national guard against whom the action is brought acted within the scope of  
 10 his or her employment as a member, the judgment as to damages entered against the  
 11 member shall also be paid by the state.

History: 1977 c. 65; 1979 c. 34 s. 2102 (37) (a); 1979 c. 221; 1981 c. 20 s. 2202 (17) (a); 1985 a. 332 s. 253; 1987 a. 63 s. 13.

\*\*\*\*NOTE: I amended this subsection to include residents of Wisconsin who are members of other state national guards. Is that your intent?

12 SECTION 6. 21.13 (2) of the statutes is amended to read:

13 21.13 (2) Any civil action or proceeding brought against a member of the a  
 14 national guard or the state defense force under sub. (1) is subject to ss. 893.82 and  
 15 895.46.

History: 1977 c. 65; 1979 c. 34 s. 2102 (37) (a); 1979 c. 221; 1981 c. 20 s. 2202 (17) (a); 1985 a. 332 s. 253; 1987 a. 63 s. 13.

16 SECTION 7. 21.16 (1) of the statutes is amended to read:

17 21.16 (1) No person may wear the uniform of the ~~Wisconsin~~ national guard or  
 18 of the U.S. army, air force, navy<sup>2</sup> or marine corps, or a reserve component of the U.S.  
 19 armed forces, except a person who is regularly enrolled in the U.S. army, air force,  
 20 navy<sup>2</sup> or marine corps, a reserve component of the U.S. armed forces, the national  
 21 guard of one of the states or one of the student cadet companies armed and recognized  
 22 by the national or a state government, a person retired from active service or a  
 23 reserve component<sup>2</sup> or a person who is an inmate of any veterans' or soldiers' home.



1 Any person violating this subsection shall forfeit not less than \$10 nor more than  
2 \$100. The district attorney of the county in which any such offense is committed shall  
3 bring an action in the name of the state against the offender.

History: 1979 c. 221; 1983 a. 27.

4 **SECTION 8.** 21.18 (3) of the statutes is amended to read:

5 21.18 (3) All staff officers appointed under sub. (1), except the adjutant general  
6 whose tenure is governed by ss. 15.31 and 17.07 (5), shall hold their positions unless  
7 terminated earlier by resignation, disability or for cause and unless federal  
8 recognition of the officer's commission under 32 USC 323 is refused or withdrawn.  
9 The governor shall remove an officer whose federal recognition is refused or  
10 withdrawn, effective on the date of the loss of federal recognition. The terms of the  
11 deputy adjutants general for army and air shall be 5 years beginning on the first day  
12 of the 7th month of the term of the adjutant general. The deputy adjutants general  
13 may be reappointed to successive terms. Vacancies on the military staff of the  
14 governor shall be filled by appointment from officers actively serving in the  
15 ~~Wisconsin~~ national guard. Interim vacancies shall be filled by appointment by the  
16 adjutant general for the residue of the unexpired term.

History: 1981 c. 35; 1983 a. 391; 1987 a. 63.

17 **SECTION 9.** 21.19 (2) of the statutes is amended to read:

18 21.19 (2) The department of military affairs on behalf of the state may rent to  
19 appropriate organizations or individuals state-owned lands, buildings and facilities  
20 used by, acquired for, or erected for the ~~Wisconsin~~ national guard when not required  
21 for use by the ~~Wisconsin~~ national guard. Such rental shall not be effective unless in  
22 writing and approved by the governor and the adjutant general or a designee in  
23 writing.

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417;  
1997 a. 27; 2001 a. 107.

1           **SECTION 10.** 21.19 (3) (b) of the statutes is amended to read:

2           **21.19 (3) (b)** Notwithstanding s. 13.48 (14) (c), the department, under the  
3 authority and procedures established in par. (a), may sell and convey the ~~Wisconsin~~  
4 national guard armory located at 1225 E. Henry Clay Street, Whitefish Bay,  
5 Milwaukee County. The proceeds of a sale shall be used first to pay off all bonds, all  
6 or a part of which were used to construct or purchase the property. Any moneys  
7 remaining from the sale shall be paid into the state treasury and credited to the  
8 appropriation under s. 20.465 (1) (g).

History: 1975 c. 189, 421; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 35; 1983 a. 27; 1983 a. 333 s. 6; 1983 a. 524; 1991 a. 316; 1993 a. 184; 1995 a. 27, 417; 1997 a. 27; 2001 a. 107.

\*\*\*\*NOTE: Should this paragraph be removed because it is no longer necessary. Has the property been sold?

9           **SECTION 11.** 21.28 (1) of the statutes is amended to read:

10           **21.28 (1)** The adjutant general shall recommend a candidate for appointment  
11 as the United States property and fiscal officer for the ~~Wisconsin~~ national guard,  
12 subject to the concurrence of the governor, from federally commissioned officers  
13 actively serving in the ~~Wisconsin~~ national guard. The candidate shall be nominated  
14 by the governor, subject to the concurrence of the U.S. secretary of the army, if the  
15 nominee is serving in the army national guard, or the U.S. secretary of the air force,  
16 if the nominee is serving in the air national guard.

History: 1987 a. 63.

17           **SECTION 12.** 21.30 of the statutes is amended to read:

18           **21.30 Chief surgeons; powers and duties.** The chief surgeons for army and  
19 air shall, under direction of the adjutant general, have general supervision of the  
20 medical units of the ~~Wisconsin~~ national guard and state defense force when  
21 organized. The chief surgeons shall make recommendations concerning  
22 procurement of medical supplies for state active duty operations, for the  
23 procurement and training of medical personnel and for the publication of ~~Wisconsin~~

1 national guard directives on medical subjects. The chief surgeons shall submit an  
2 annual report of the affairs and expenses of their departments to the adjutant  
3 general.

History: 1975 c. 189, 421; 1981 c. 35; 1987 a. 63 s. 13.

4 **SECTION 13.** 21.32 of the statutes is amended to read:

5 **21.32 Physical examinations.** The chief surgeons for army and air shall  
6 provide for such physical examinations and inoculations of officers, enlistees, and  
7 applicants for enlistment, ~~Wisconsin~~ in the national guard, as may be prescribed by  
8 department of defense and national guard regulations.

History: 1975 c. 94 s. 91 (1); 1975 c. 189, 422; 1981 c. 35.

9 **SECTION 14.** 21.35 of the statutes is amended to read:

10 **21.35 Federal laws and regulations; no discrimination.** The  
11 organization, armament, equipment<sup>2</sup> and discipline of the ~~Wisconsin~~ national guard  
12 shall be that prescribed by federal laws or regulations; and the governor may by order  
13 perfect such organization, armament, equipment<sup>2</sup> and discipline, at any time, so as  
14 to comply with such laws and regulations insofar as they are consistent with the  
15 Wisconsin code of military justice. Notwithstanding any rule or regulation  
16 prescribed by the federal government or any officer or department thereof, no person,  
17 otherwise qualified, may be denied membership in the ~~Wisconsin~~ national guard  
18 because of sex, color, race, creed<sup>2</sup> or sexual orientation and no member of the  
19 Wisconsin national guard may be segregated within the ~~Wisconsin~~ national guard  
20 on the basis of sex, color, race, creed<sup>2</sup> or sexual orientation. Nothing in this section  
21 prohibits separate facilities for persons of different sexes with regard to dormitory  
22 accommodations, public toilets, showers, saunas<sup>2</sup> and dressing rooms.

History: 1975 c. 94; 1981 c. 112.

23 **SECTION 15.** 21.48 (1) of the statutes is amended to read:

1           21.48 (1) Each officer and enlisted person of the ~~Wisconsin~~ national guard on  
2 active duty in the state under orders of the governor on a state pay basis shall receive  
3 the base pay and allowances of an officer or enlisted person of equal rank in the  
4 corresponding branch of the U.S. armed forces except that the base pay so provided  
5 shall not be less than \$50 per day.

6 **History:** 1973 c. 279; 1975 c. 94 a. 91 (1); 1975 c. 382, 422; 1981 c. 35, 129; 1991 a. 316.

6           **SECTION 16.** 21.49 (1) (ar) of the statutes is amended to read:

7           21.49 (1) (ar) "Guard member" means any person who is a member of the  
8 ~~Wisconsin~~ national guard.

9 **History:** 1977 c. 29, 418; 1981 c. 20; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269; 1993 a. 399; 1995 a. 19; 1995 a. 27, ss. 1219t to 1223, 9127  
(1); 1995 a. 404; 1997 a. 27, 237; 1999 a. 9; 2001 a. 16.

9           **SECTION 17.** 21.50 (3) of the statutes is amended to read:

10           21.50 (3) The adjutant general, with the approval of the governor may obtain  
11 and pay for out of the annual military appropriation an adequate indemnity bond  
12 covering all of the officers of the ~~Wisconsin~~ national guard responsible to the state  
13 for moneys and military property.

14 **History:** 1975 c. 189, 421; 1991 a. 316.

14           **SECTION 18.** 21.72 (1) (c) of the statutes is amended to read:

15           21.72 (1) (c) "Service member" means a member of a reserve unit of the U.S.  
16 armed forces or a member of the ~~Wisconsin~~ a national guard unit of any state who  
17 is a resident of Wisconsin.

18 **History:** 2001 a. 22.

18           **SECTION 19.** 21.75 (1) (a) of the statutes is amended to read:

19           21.75 (1) (a) "Active state service" means active service for 30 days or more in  
20 the national guard or the state defense force under an order of the governor issued  
21 under this chapter or active service for 30 days or more in the national guard under  
22 32 USC 502 (f) or 506 that is not considered to be "service in the uniformed services,"  
23 as defined in 38 USC 4303 (13). "Active state service" includes active service for 30

1 days or more in the national guard of any state under the order of a governor of that  
2 state.

History: 2001 a. 24, 105.

3 SECTION 20. 21.75 (1) (d) of the statutes is amended to read:

4 21.75 (1) (d) "Service member" means a ~~person~~ resident of this state who may  
5 be called into active state service.

History: 2001 a. 24, 105.

6 SECTION 21. 21.80 (1) (a) 3. of the statutes is created to read:

7 21.80 (1) (a) 3. Active service in the national guard under an order of the  
8 governor of that state.

9 SECTION 22. 21.80 (3) (a) (intro.) of the statutes is amended to read:

10 21.80 (3) (a) *Prerequisites.* (intro.) Subject to par. (d), any person who is a  
11 resident of this state and absent from a position of employment because of active  
12 service is entitled to the reemployment rights and benefits specified in this section  
13 if all of the following apply:

History: 2001 a. 26, 109.

14 SECTION 23. 21.80 (3) (a) 1. of the statutes is amended to read:

15 21.80 (3) (a) 1. Except as provided in par. (b), the person or an appropriate  
16 officer in the national guard of this or another state or the state defense force has  
17 given advanced notice of the active service to the person's employer.

History: 2001 a. 26, 109.

18 SECTION 24. 21.80 (3) (a) 4. of the statutes is amended to read:

19 21.80 (3) (a) 4. In the case of active service in the national guard in this or  
20 another state or the state defense force, the active service has not been terminated  
21 under other than honorable conditions.

History: 2001 a. 26, 109.

22 SECTION 25. 36.11 (47) (intro.) of the statutes is amended to read:

1           36.11 (47) (intro.) If a student who is a resident of Wisconsin and a member of  
2 the Wisconsin a national guard or a member of a reserve unit of the U.S. armed forces  
3 withdraws from school after September 11, 2001, because he or she is called into state  
4 active duty under ch. 21 or into active service with the U.S. armed forces for at least  
5 30 days, the board shall, at the student's request, do one of the following for all  
6 courses from which the student had to withdraw:

History: 1973 c. 335; 1975 c. 39, 41, 224, 400; 1977 c. 29, 418; 1979 c. 32 s. 92 (8); 1979 c. 221; 1981 c. 20; 1983 a. 27, 366; 1983 a. 435 s. 7; 1983 a. 484;  
1985 a. 62, 120; 1985 a. 332 ss. 47, 49, 50; 1985 a. 332 s. 251 (1); 1987 a. 27, 287; 1989 a. 31, 56, 121, 177, 359; 1991 a. 39, 203, 250, 269, 285, 315; 1993 a.  
16, 213, 227, 399; 1995 a. 27 ss. 1757 to 1762y, 9130 (4); 1995 a. 201, 404, 448; 1997 a. 3, 27, 128, 237; 1999 a. 9, 29; 1999 a. 150 ss. 7, 351; 2001 a. 16, 22.

7           **SECTION 26.** 38.12 (13) (intro.) of the statutes is amended to read:

8           38.12 (13) ARMED FORCES. If a student who is a resident of Wisconsin and a  
9 member of the Wisconsin a national guard or a member of a reserve unit of the U.S.  
10 armed forces withdraws from school after September 11, 2001, because he or she is  
11 called into state active duty under ch. 21 or into active service with the U.S. armed  
12 forces for at least 30 days, the district board shall, at the student's request, do one  
13 of the following for all courses from which the student had to withdraw:

History: 1971 c. 154; 1975 c. 198 s. 65; 1977 c. 29; 1979 c. 221; 1981 c. 20, 269; 1981 c. 391 s. 210; 1983 a. 27, 192; 1983 a. 379 ss. 2, 5, 6, 7; 1983 a. 391;  
1985 a. 332 s. 251 (1), (3); 1987 a. 399; 1989 a. 56, 121, 177, 359; 1993 a. 227; 1995 a. 27 s. 9145 (1); 1995 a. 448; 1997 a. 27, 237; 1999 a. 150 s. 672; 2001  
a. 22.

14           **SECTION 27.** 39.48 of the statutes is amended to read:

15           **39.48 Armed forces.** If a student who is a resident of Wisconsin and a member  
16 of the Wisconsin a national guard or a member of a reserve unit of the U.S. armed  
17 forces withdraws from a private nonprofit college or university located in this state  
18 after September 11, 2001, because he or she is called into state active duty under ch.  
19 21 or into active service with the U.S. armed forces for at least 30 days, the college  
20 or university shall, at the student's request, grant the student an incomplete in all  
21 the courses and permit the student to complete the courses, within 6 months after  
22 leaving state service or active service, without paying additional tuition or fees.

History: 2001 a. 22.

23           **SECTION 28.** 40.05 (4g) (a) 3. of the statutes is amended to read:

1           40.05 (4g) (a) 3. On the date on which he or she is activated, is either a member  
 2 of the ~~Wisconsin~~ a national guard or a member of a reserve component of the U.S.  
 3 armed forces or is recalled to active military duty from inactive reserve status.

**History:** 1981 c. 96, 274, 278, 386; 1983 a. 9 s. 6; 1983 a. 27, 30; 1983 a. 46 ss. 2 to 4, 7; 1983 a. 140; 1983 a. 141 ss. 7 to 12, 20; 1983 a. 290, 504, 538; 1985 a. 29, 119, 135, 225; 1987 a. 27, 83, 107, 309, 356, 363; 1987 a. 403 s. 256; 1989 a. 13, 14, 31, 119, 122, 166, 182, 189, 230, 336, 355, 359; 1991 a. 32, 39, 107, 113, 141, 152, 189, 269; 1995 a. 27, 81, 88, 89, 240, 302; 1997 a. 35, 58, 149; 1999 a. 9, 11, 13, 104; 2001 a. 16.

\*\*\*\*NOTE: Look at sections 102.07 (9) and 230.35 (3) (a) of the statutes.

4

(END)

*LPS - please  
 check  
 font*

**Nelson, Robert P.**

---

**From:** Moore, Kevin  
**Sent:** Thursday, January 16, 2003 8:48 AM  
**To:** Nelson, Robert P.  
**Subject:** LRB 0808

Bob,

Just a follow-up on the bill draft. If you would send an e-mail version to Kitty's e-mail, we can get this draft approved and moved forward.

Please let me know if you have any questions.

Thank you!

**Kevin Moore**  
Office of Rep. Kitty Rhoades  
Toll Free: 1-888-529-0030  
Fax: 1-608-282-3630





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0808/PA

RPN:cmh/pg

WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2003 Bill

REGEN

1 AN ACT *to amend* 21.01 (2), 21.025 (1), 21.025 (2) (d), 21.07, 21.13 (1), 21.13 (2),  
2 21.16 (1), 21.18 (3), 21.19 (2), 21.19 (3) (b), 21.28 (1), 21.30, 21.32, 21.35, 21.48  
3 (1), 21.49 (1) (ar), 21.50 (3), 21.72 (1) (c), 21.75 (1) (a), 21.75 (1) (d), 21.80 (3) (a)  
4 (intro.), 21.80 (3) (a) 1., 21.80 (3) (a) 4., 36.11 (47) (intro.), 38.12 (13) (intro.) of  
5 the statutes, 39.48 and 40.05 (4g) (a) 3.; and *to create* 21.80 (1) (a) 3. of the  
6 statutes; **relating to:** benefits and eligibility of Wisconsin residents who are  
7 members of the national guard in another state.

*Analysis by the Legislative Reference Bureau*

Insert and

This is a preliminary draft. An analysis will be provided in a later version.  
For further information see the *state and local* fiscal estimate, which will be  
printed as an appendix to this bill.

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

\*\*\*NOTE: Section 20.465 (2) (a) of the statutes provides money for tuition grants for members of the Wisconsin national guard. Do you want to expand that to include state residents who are members of other state national guards?

1           **SECTION 1.** 21.01 (2)<sup>↓</sup> of the statutes is amended to read:

2           21.01 (2) The Wisconsin national guard shall be organized into army national  
3 guard and air national guard units, and “national guard” when used in this chapter,  
4 unless the context otherwise requires, includes means both the Wisconsin army  
5 national guard and the Wisconsin air national guard.

6           **SECTION 2.** 21.025 (1)<sup>↓</sup> of the statutes is amended to read:

7           21.025 (1) **AUTHORITY AND NAME.** The adjutant general may establish a plan for  
8 organizing a military force to be known as the Wisconsin state defense force. The  
9 adjutant general may organize the Wisconsin state defense force under the plan if  
10 all or part of the Wisconsin national guard is called into the service of the United  
11 States. It shall be distinct from the national guard, uniformed, and composed of  
12 officers, commissioned or assigned, and of enlisted personnel who volunteer for  
13 service. Membership in the Wisconsin state defense force may not include any  
14 person who is in the active military forces, including the reserve components.  
15 Persons in the retired reserve may serve in the Wisconsin state defense force.

16           **SECTION 3.** 21.025 (2) (d)<sup>↓</sup> of the statutes is amended to read:

17           21.025 (2) (d) The adjutant general may organize a cadre force of not more than  
18 12 personnel at each state-owned armory. Each cadre force shall establish  
19 recruitment lists of persons interested in becoming members of the state defense  
20 force, which may be used to recruit full units for the state defense force in case the  
21 Wisconsin national guard is mobilized for active federal duty.

22           **SECTION 4.** 21.07<sup>↓</sup> of the statutes is amended to read:

23           **21.07 Decorations and awards.** The adjutant general may prescribe  
24 decorations and awards for the Wisconsin national guard and the state defense force,

1 the form and issue thereof made under rules adopted by the adjutant general and  
2 approved by the governor.

3 SECTION 5. 21.13 (1) of the statutes is amended to read:

4 21.13 (1) If any state resident who is a member of the a national guard of any  
5 state or of the state defense force is prosecuted by any civil or criminal action for any  
6 act performed by the member while in the performance of military duty and in  
7 pursuance of military duty, the action against the member shall be defended by  
8 counsel, which may include the attorney general, appointed for that purpose by the  
9 governor upon the recommendation of the adjutant general. The adjutant general  
10 shall make the recommendation if the act performed by the member was in the line  
11 of duty. The costs and expenses of any such defense shall be audited by the  
12 department of administration and paid out of the state treasury and charged to the  
13 appropriation under s. 20.455 (1) (b) and if the jury or court finds that the member  
14 of the national guard against whom the action is brought acted within the scope of  
15 his or her employment as a member, the judgment as to damages entered against the  
16 member shall also be paid by the state.

~~\*\*\*NOTE: I amended this subsection to include residents of Wisconsin who are  
members of other state national guards. Is that your intent?\*\*\*~~

17 SECTION 6. 21.13 (2) of the statutes is amended to read:

18 21.13 (2) Any civil action or proceeding brought against a member of the a  
19 national guard or the state defense force under sub. (1) is subject to ss. 893.82 and  
20 895.46.

21 SECTION 7. 21.16 (1) of the statutes is amended to read:

22 21.16 (1) No person may wear the uniform of the ~~Wisconsin~~ national guard or  
23 of the U.S. army, air force, navy, or marine corps, or a reserve component of the U.S.

1 armed forces, except a person who is regularly enrolled in the U.S. army, air force,  
2 navy, or marine corps, a reserve component of the U.S. armed forces, the national  
3 guard of one of the states or one of the student cadet companies armed and recognized  
4 by the national or a state government, a person retired from active service or a  
5 reserve component, or a person who is an inmate of any veterans' or soldiers' home.  
6 Any person violating this subsection shall forfeit not less than \$10 nor more than  
7 \$100. The district attorney of the county in which any such offense is committed shall  
8 bring an action in the name of the state against the offender.

9 **SECTION 8.** 21.18 (3) of the statutes is amended to read:

10 21.18 (3) All staff officers appointed under sub. (1), except the adjutant general  
11 whose tenure is governed by ss. 15.31 and 17.07 (5), shall hold their positions unless  
12 terminated earlier by resignation, disability, or for cause and unless federal  
13 recognition of the officer's commission under 32 USC 323 is refused or withdrawn.  
14 The governor shall remove an officer whose federal recognition is refused or  
15 withdrawn, effective on the date of the loss of federal recognition. The terms of the  
16 deputy adjutants general for army and air shall be 5 years beginning on the first day  
17 of the 7th month of the term of the adjutant general. The deputy adjutants general  
18 may be reappointed to successive terms. Vacancies on the military staff of the  
19 governor shall be filled by appointment from officers actively serving in the  
20 Wisconsin national guard. Interim vacancies shall be filled by appointment by the  
21 adjutant general for the residue of the unexpired term.

22 **SECTION 9.** 21.19 (2) of the statutes is amended to read:

23 21.19 (2) The department of military affairs on behalf of the state may rent to  
24 appropriate organizations or individuals state-owned lands, buildings, and facilities  
25 used by, acquired for, or erected for the Wisconsin national guard when not required

1 for use by the ~~Wisconsin~~ national guard. Such rental shall not be effective unless in  
2 writing and approved by the governor and the adjutant general or a designee in  
3 writing.

4 **SECTION 10.** 21.19 (3) (b) <sup>√</sup> of the statutes is amended to read:

5 21.19 (3) (b) Notwithstanding s. 13.48 (14) (c), the department, under the  
6 authority and procedures established in par. (a), may sell and convey the ~~Wisconsin~~  
7 national guard armory located at 1225 E. Henry Clay Street, Whitefish Bay,  
8 Milwaukee County. The proceeds of a sale shall be used first to pay off all bonds, all  
9 or a part of which were used to construct or purchase the property. Any moneys  
10 remaining from the sale shall be paid into the state treasury and credited to the  
11 appropriation under s. 20.465 (1) (g).

~~\*\*\*NOTE: Should this paragraph be removed because it is no longer necessary. Has  
the property been sold?~~

12 **SECTION 11.** 21.28 (1) <sup>√</sup> of the statutes is amended to read:

13 21.28 (1) The adjutant general shall recommend a candidate for appointment  
14 as the United States property and fiscal officer for the ~~Wisconsin~~ national guard,  
15 subject to the concurrence of the governor, from federally commissioned officers  
16 actively serving in the ~~Wisconsin~~ national guard. The candidate shall be nominated  
17 by the governor, subject to the concurrence of the U.S. secretary of the army, if the  
18 nominee is serving in the army national guard, or the U.S. secretary of the air force,  
19 if the nominee is serving in the air national guard.

20 **SECTION 12.** 21.30 <sup>√</sup> of the statutes is amended to read:

21 **21.30 Chief surgeons; powers and duties.** The chief surgeons for army and  
22 air shall, under direction of the adjutant general, have general supervision of the  
23 medical units of the ~~Wisconsin~~ national guard and state defense force when

1 organized. The chief surgeons shall make recommendations concerning  
2 procurement of medical supplies for state active duty operations, for the  
3 procurement and training of medical personnel and for the publication of ~~Wisconsin~~  
4 national guard directives on medical subjects. The chief surgeons shall submit an  
5 annual report of the affairs and expenses of their departments to the adjutant  
6 general.

7 **SECTION 13.** 21.32<sup>↓</sup> of the statutes is amended to read:

8 **21.32 Physical examinations.** The chief surgeons for army and air shall  
9 provide for such physical examinations and inoculations of officers, enlistees, and  
10 applicants for enlistment, ~~Wisconsin~~ in the national guard, as may be prescribed by  
11 department of defense and national guard regulations.

12 **SECTION 14.** 21.35<sup>↓</sup> of the statutes is amended to read:

13 **21.35 Federal laws and regulations; no discrimination.** The  
14 organization, armament, equipment, and discipline of the ~~Wisconsin~~ national guard  
15 shall be that prescribed by federal laws or regulations; and the governor may by order  
16 perfect such organization, armament, equipment, and discipline, at any time, so as  
17 to comply with such laws and regulations insofar as they are consistent with the  
18 Wisconsin code of military justice. Notwithstanding any rule or regulation  
19 prescribed by the federal government or any officer or department thereof, no person,  
20 otherwise qualified, may be denied membership in the ~~Wisconsin~~ national guard  
21 because of sex, color, race, creed, or sexual orientation and no member of the  
22 ~~Wisconsin~~ national guard may be segregated within the ~~Wisconsin~~ national guard  
23 on the basis of sex, color, race, creed, or sexual orientation. Nothing in this section  
24 prohibits separate facilities for persons of different sexes with regard to dormitory  
25 accommodations, public toilets, showers, saunas, and dressing rooms.

1           **SECTION 15.** 21.48 (1) of the statutes is amended to read:

2           21.48 (1) Each officer and enlisted person of the ~~Wisconsin~~ national guard on  
3 active duty in the state under orders of the governor on a state pay basis shall receive  
4 the base pay and allowances of an officer or enlisted person of equal rank in the  
5 corresponding branch of the U.S. armed forces except that the base pay so provided  
6 shall not be less than \$50 per day.

7           **SECTION 16.** 21.49 (1) (ar) of the statutes is amended to read:

8           21.49 (1) (ar) "Guard member" means any person who is a member of the  
9 ~~Wisconsin~~ national guard.

10          **SECTION 17.** 21.50 (3) of the statutes is amended to read:

11          21.50 (3) The adjutant general, with the approval of the governor may obtain  
12 and pay for out of the annual military appropriation an adequate indemnity bond  
13 covering all of the officers of the ~~Wisconsin~~ national guard responsible to the state  
14 for moneys and military property.

15          **SECTION 18.** 21.72 (1) (c) of the statutes is amended to read:

16          21.72 (1) (c) "Service member" means a member of a reserve unit of the U.S.  
17 armed forces or a member of the ~~Wisconsin~~ a national guard unit of any state who  
18 is a resident of Wisconsin.

19          **SECTION 19.** 21.75 (1) (a) of the statutes is amended to read:

20          21.75 (1) (a) "Active state service" means active service for 30 days or more in  
21 the national guard or the state defense force under an order of the governor issued  
22 under this chapter or active service for 30 days or more in the national guard under  
23 32 USC 502 (f) or 506 that is not considered to be "service in the uniformed services,"  
24 as defined in 38 USC 4303 (13). "Active state service" includes active service for 30

1 days or more in the national guard of any state under the order of a governor of that  
2 state.

3 SECTION 20. 21.75 (1) (d) of the statutes is amended to read:

4 21.75 (1) (d) "Service member" means a person resident of this state who may  
5 be called into active state service.

6 SECTION 21. 21.80 (1) (a) 3. of the statutes is created to read:

7 21.80 (1) (a) 3. Active service in the national guard under an order of the  
8 governor of that state.

9 SECTION 22. 21.80 (3) (a) (intro.) of the statutes is amended to read:

10 21.80 (3) (a) *Prerequisites.* (intro.) Subject to par. (d), any person who is a  
11 resident of this state and absent from a position of employment because of active  
12 service is entitled to the reemployment rights and benefits specified in this section  
13 if all of the following apply:

14 SECTION 23. 21.80 (3) (a) 1. of the statutes is amended to read:

15 21.80 (3) (a) 1. Except as provided in par. (b), the person or an appropriate  
16 officer in the national guard of this or another state or the state defense force has  
17 given advanced notice of the active service to the person's employer.

18 SECTION 24. 21.80 (3) (a) 4. of the statutes is amended to read:

19 21.80 (3) (a) 4. In the case of active service in the national guard in this or  
20 another state or the state defense force, the active service has not been terminated  
21 under other than honorable conditions.

22 SECTION 25. 36.11 (47) (intro.) of the statutes is amended to read:

23 36.11 (47) (intro.) If a student who is a resident of Wisconsin and a member of  
24 the Wisconsin a national guard or a member of a reserve unit of the U.S. armed forces  
25 withdraws from school after September 11, 2001, because he or she is called into state



1 active duty under ch. 21 or into active service with the U.S. armed forces for at least  
2 30 days, the board shall, at the student's request, do one of the following for all  
3 courses from which the student had to withdraw:

4 **SECTION 26.** 38.12 (13) (intro.) of the statutes is amended to read:

5 **38.12 (13) ARMED FORCES.** <sup>(intro.)</sup> If a student who is a resident of Wisconsin and a  
6 member of ~~the Wisconsin~~ a national guard or a member of a reserve unit of the U.S.  
7 armed forces withdraws from school after September 11, 2001, because he or she is  
8 called into state active duty under ch. 21 or into active service with the U.S. armed  
9 forces for at least 30 days, the district board shall, at the student's request, do one  
10 of the following for all courses from which the student had to withdraw:

11 **SECTION 27.** 39.48<sup>√</sup> of the statutes is amended to read:

12 **39.48 Armed forces.** If a student who is a resident of Wisconsin and a member  
13 of ~~the Wisconsin~~ a national guard or a member of a reserve unit of the U.S. armed  
14 forces withdraws from a private nonprofit college or university located in this state  
15 after September 11, 2001, because he or she is called into state active duty under ch.  
16 21 or into active service with the U.S. armed forces for at least 30 days, the college  
17 or university shall, at the student's request, grant the student an incomplete in all  
18 the courses and permit the student to complete the courses, within 6 months after  
19 leaving state service or active service, without paying additional tuition or fees.

20 **SECTION 28.** 40.05 (4g) (a) 3.<sup>√</sup> of the statutes is amended to read:

21 40.05 (4g) (a) 3. On the date on which he or she is activated, is either a member  
22 of ~~the Wisconsin~~ a national guard or a member of a reserve component of the U.S.  
23 armed forces or is recalled to active military duty from inactive reserve status.

\*\*\*\*NOTE: Look at sections 102.07 (9) and 230.35 (3) (a) of the statutes.

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0808/lins  
RPN:cmh:pg

*the state pays*

insert anl:

Under current law, a resident of Wisconsin may be a national guard member of an adjacent state. Currently, if a member of the Wisconsin national guard is prosecuted for any civil or criminal action for an act performed while performing military duty, he or she must be defended by an attorney appointed by the governor, and any expenses incurred or judgment rendered ~~shall be paid by the state~~ if the act was performed within the scope of the member's national guard duties. This bill extends that provision to include any resident of Wisconsin who is a member of the national guard of any state.

Currently, if a license that a Wisconsin national guard member holds would expire while he or she is on state active duty or on active duty in the U.S. armed forces, that license does not expire until 90 days after the service member is discharged from active duty. In addition, the service member may have the license extended until the next date that the license is usually renewed if he or she meets certain conditions. This bill extends those provisions to include any resident of Wisconsin who is a member of the national guard of any state.

Currently, a member of the Wisconsin national guard is given certain protections while he or she is in active state service that are similar to the protections given to active members of the U.S. armed forces, including the stay of any liability or court judgment, of any proceeding in court, and of any execution or attachment against the member; the limit on interest that may be incurred to 6% per year; the prohibition against an eviction or a mortgage foreclosure; and the right to terminate a lease without penalty. This bill extends those provisions to include any resident of Wisconsin who is a member of the national guard of any state.

The bill also gives any resident of Wisconsin who is a member of the national guard of any state the same reemployment rights as a member in active service in the Wisconsin national guard if that resident is called into active service and must leave his or her employment.

# Memo

To: Senator  Representative  Rhoades

(The Draft's Requestor)

Per your request ... the attached is a fiscal estimate was prepared for your un-introduced 2003 draft.

LRB Number: LRB -0808

Version: "/ 1"

Fiscal Estimate Prepared By: (agency abbr.) DMA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requestor Via E-Mail: 2 / 4 / 2003

\* \* \* \* \*

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For A Un-Introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version.
- > **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- > **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the drafts introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 AB 19

## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Tuesday, February 04, 2003 10:59 AM  
**To:** Rep.Rhoades  
**Subject:** LRB-0808/1 (FE by DMA - attached - for your review)



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