

**2003 DRAFTING REQUEST**

**Bill**

Received: **04/02/2003**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Administration**

By/Representing: **Dan Caucutt**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters: **rnelson2**

Subject: **Employ Pub - civil service**

Extra Copies:

Submit via email: **YES**

Requester's email: **dan.caucutt@doa.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Differential pay supplement for activated military state employees

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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>
/?							State
/1	rchampag 04/04/2003	kgilfoy 04/04/2003	chaskett 04/07/2003		sbasford 04/07/2003		State
/2	rchampag 04/25/2003	csicilia 04/25/2003	rschluet 04/25/2003		amentkow 04/25/2003		State

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/6	jkuescl 05/29/2003	csicilia 05/30/2003	rschluct 05/30/2003	_____	sbasford 05/30/2003		State
/7	jkuescl 06/02/2003	kgilfoy 06/02/2003	jfrantze 06/03/2003	_____	mbarman 06/03/2003	amentkow 06/13/2003	

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*At intro.*

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*For Assembly  
Send to  
Rep. Musser  
per RPN*

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*[Handwritten signature]*  
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FE Sent For:

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*3 q's 5/2  
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Addl. Drafters: rnelson2

Subject: **Employ Pub - civil service**

Extra Copies:

*send additional  
e-mail to Jon  
Kranz at DOA*

Submit via email: YES

Requester's email: **dan.caucutt@doa.state.wi.us**

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*1/2 c/s 4/25/03*  
*[Handwritten signatures and initials]*

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1?	rchampag	11-4/4 kmg	114/7 cpk	8/29/05 cpk			

FE Sent For:

<END>



**Nelson, Robert P.**

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**From:** Caucutt, Dan  
**Sent:** Wednesday, April 02, 2003 10:41 AM  
**To:** Nelson, Robert P.  
**Cc:** McArdle, Terrence; Kranz, Jonathan  
**Subject:** Differential Pay Supplement for Activated Military State Employees

Robert:

As one might surmise from press accounts, the Governor is considering advancing a bill that would provide state employees who are activated into the military continuing wages or salary from the same source as their state pay checks are paid to supplement the difference, if any, between military pay received while on active duty and state pay. While we think we know which statutes are affected by these changes, we leave the drafting to you. The other elements of the initiative are presented below. Please advise of any questions. You should certainly feel free to talk with Col. McCardle (242-3077) as needed.

Aspects of the Differential Pay on Military Leave legislation:

(1) Grants a new state employee benefit: Automatic leave with "differential pay" lasting up to 179 days beginning 30 days after an individual state employee's date of activation into the armed forces in response to a presidential declaration. "Differential pay" is the dollar difference between the amount earned at regular pay (per month or semi-monthly) in the employee's state job and the amount paid (base wage, allowances and combat pay) while on active duty.

Gives the governor permissive authority to extend by executive order the 179 day initial leave to a full year.

(2) The provision is a permanent change that applies to all current and future federal activations (but not state National Guard service).

(3) The new benefit is designated a **prohibited subject of collective bargaining**.

(4) Employees in differential pay military leave continue to earn sick leave credit; retirement service credit; civil service seniority. Employees remain in pay status and retain all benefits, unless otherwise contradicted by current law or contract.

(5) Costs of differential pay continue to be paid by state agencies from the payroll source of the authorized position. No additional funds would be provided. About 50% of state payroll is GPR.

(6) There are currently about 100 state employees serving active military duty. The six month cost of differential pay is estimated to be about \$500,000 all funds for the 100 soldiers. Department of Military Affairs estimates that the number of activations could rise to 450, putting the six month cost at about \$2.2 million all funds (\$1.1 million GPR).

## **Meeting on Differential Pay Legislation --- 27 Mar 03**

Location of meeting: Governor's Office lower level conference room

Attendees: Karen Timberlake, Sec DER; Sean Dilweg, EXA for DOA;  
Steve Bella, Gov.'s Communication's Dir.; Dan Leistikow, Gov.'s Press Sec.;  
Dan Caucutt, State Budget Dir.-DOA; LTC Tim Donovan, WING-PAO; &  
LTC Terry McArdle, WING-SJA

Subject: Potential for legislation to effectuate a pay differential statute for Wisconsin Reserve or Guard members who are State employees activated for federal military service.

### Essential points of discussions:

1. The effect that this legislation may have as precedent for county government, municipal government, vocational school districts and school districts within the state.
2. The leadership passing such legislation may have in effecting similar treatment by non-governmental employers.
3. Choosing an effective date of this legislation. Should it go back to Sept 11, 2001, should it be the date the legislation is signed, or should it be some date in between. The history of the number of personnel called up since Sept 11, 2001 was charted out, and the obvious effective date became Jan 1 2003, the start of the current build-up for Operation Iraqi Freedom.
4. The cost of such differential pay may have on state government operations. There are currently believed to be 100 state employees on military leave from state employment. From information garnered from discussions it is presumed that this number would probably not exceed 450 if all WI Guard and Reserve members were called up for federal service. The average annual income figure for state employees was discussed, as was the average annual income for enlisted military members. The differential was calculated and the total impact appears not to exceed \$450,000 per annum.
5. There was discussion on the issue of state employees acquiring this differential pay as a vested employment "right" versus a potential "benefit" that could be fully or partially controlled by the Governor.
6. The need to come up to determine some limitation on the period of time this provision would be in effect, probably not more than one year to coincide with the federal activation orders.
7. What type of military duty, state or federal, that would potentially dictate this benefit's imposition was discussed. Since state duty is already addressed in section 230.35 (30 (a), that duty is excluded.
8. Allowing the Governor to, at a minimum, partially control the length of this benefit so that if state economics dictate it, this benefit could be limited.
9. Should this provision be allowed to become a point of for collective bargaining. It was felt that that would not be needed, since state employees re-employment rights after military service under section 230.32 (7) (gm) are already excluded.

10. . What should be the nature of the statutory language? It was felt that the current language of section 230.35 (3) (a) could serve as a template.

**Basic terms recommended for proposed legislation**

1. Effective Date: January 1, 2003.
2. How effectuated: Upon Executive Order of the Governor.
3. For what length of time: For an initial period of 179 days, with the governor retaining the right to extend the benefit for the balance of one (1) year if the Governor deems that the state is in a fiscal position to do so.
4. For what type of service: Upon receipt of orders for federal service under one of the following authorities:
  - 1.) The *Presidential Selective Reserve call-up* under title 10 USC section 12304, of up to 200,000 members of the Guard and Reserve for up to 270 days;
  - 2.) A *Partial Mobilization* where a national emergency is declared by the President under Title 10 U.S.C. section 12302, of up to 1,000,000 members of the Guard and Reserve for up to 24 months;
  - 3.) A *Full Mobilization* of all members of the Guard and Reserve, in the event of war or national emergency declared by congress under title 10 U.S.C. section 12301, for the duration of the war and six months thereafter.
5. Basis for the Differential Pay: Based on the language currently found in section 230.35 (3) (a) of the WI Statutes, which is the right to receive the higher of state income or federal income and if the federal income lower than the state pays the differential. The intent is for the state employee to receive the higher of their gross income as a state employee, or their federal gross income. And the state agrees to pay the difference if the gross state income is higher. For the purpose of this comparison, gross federal income as a member of the military shall include the basic allowance for housing and the basic allowance for subsistence, if these allowances are received. The gross federal income can be determined on a monthly basis on the basis of the employee's military leave and earning statement.
6. Exemption from Bargaining: This legislation should be included as one of those items which is exempt from bargaining under section 111.91 (2) (gm). This provision already excludes from bargaining, those re-employment rights specified under section 230.32 (7) for active service

Prepared & Submitted by: /s/ Terry McArdle  
Lt Col, WING-JA  
Deputy State Judge Advocate  
(608) 242-3077

**Champagne, Rick**

---

**From:** Nelson, Robert P.  
**Sent:** Wednesday, April 02, 2003 1:07 PM  
**To:** Champagne, Rick  
**Subject:** FW: Governor Announces Commitment to Seek Differential Pay Benefit for Guard, Reserve Members Called to Active Duty

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

**From:** Caucutt, Dan  
**Sent:** Wednesday, April 02, 2003 12:52 PM  
**To:** Nelson, Robert P.  
**Subject:** FW: Governor Announces Commitment to Seek Differential Pay Benefit for Guard, Reserve Members Called to Active Duty

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

**From:** Nelson, Linda  
**Sent:** Wednesday, April 02, 2003 12:44 PM  
**To:** Caucutt, Dan; Koskinen, John; Kraus, Jennifer; Johnston, James; Grinde, Kirsten; Hanle, Bob  
**Subject:** FW: Governor Announces Commitment to Seek Differential Pay Benefit for Guard, Reserve Members Called to Active Duty

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

**From:** Erickson, Jessica - Office of Governor Jim Doyle  
**Sent:** Wednesday, April 02, 2003 12:23 PM  
**To:** Erickson, Jessica - Office of Governor Jim Doyle  
**Subject:** Governor Announces Commitment to Seek Differential Pay Benefit for Guard, Reserve Members Called to Active Duty

Wednesday, April 2, 2003  
Contact: Jessica Erickson, 608-261-2156

# **Governor Announces Commitment to Seek Differential Pay Benefit for Guard, Reserve Members Called to Active Duty**

***Says He Will Work With Legislative Leaders of Both  
Parties to Introduce and Quickly Pass Legislation***

Joined by legislative leaders of both parties, Governor Jim Doyle announced his commitment today to work with the Legislature to quickly provide a differential pay benefit for state employees who have been called to active duty in the National Guard and Reserves.

"Members of the Guard and Reserve already make a tremendous sacrifice in leaving their families and risking their lives when they are called to active duty," Governor Doyle said. "But those citizen soldiers and their families also endure other hardships - often financial hardships."

"When called to active duty, they may take a pay cut of thousands of dollars, which can make it difficult for a family struggling to make a mortgage payment or put a child through college,"

Doyle said. "Especially in these uncertain economic times, I just don't want to put our troops in that position."

The Governor has discussed the proposal with legislative leaders of both parties who have offered their support, and said he will work with legislators to draft legislation and ensure its speedy enactment.

No new state spending is required to fund the proposal, Governor Doyle said. Since money has already been appropriated for employee salaries, each agency would use funding within its base to cover the differential benefit.

Specific details of the proposal will be worked out in the coming days, but the basic outline would be as follows:

- The differential pay benefit would apply to those serving in Operation Iraqi Freedom and all future wars. The benefit would last for 179 days upon Executive Order of the Governor, with the option of extending benefits up to one year.
- The state, by way of the respective state agencies, would pay the difference in wages if the employee's state income exceeds their gross federal income while on active duty.
- The proposal would have a retroactive effective date of January 1, 2003, the beginning of the current build-up for Operation Iraqi Freedom.
- The benefit would cover the following types of military service:
  - 1) Presidential Selective Reserve Call up
  - 2) Partial Mobilization (National emergency declared by the President)
  - 3) Full Mobilization (Congressional declaration of war)

"Right now, the state has about 100 employees serving on active duty who would be eligible for this provision," Governor Doyle said. "For 100 citizen soldiers and their families, this benefit will mean a great deal. And it sends an important signal that no matter how difficult the circumstances, Wisconsin supports its troops."

- 30 -



4.2.03 - Differential  
Pay.pdf



*D-Note*  
State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/1  
RAC&RPN: *king*

*Monday 4/7*

**2003 BILL**

*GEN. CAT.*

1 AN ACT *GEN. CAT.*; relating to: differential pay benefit for state employees activated into  
2 service in the U.S. armed forces.

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

This bill provides that a classified employee of the state who is activated to serve on military duty in the U.S. armed forces must be paid his or her state salary, less any military pay and allowances he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. Under the bill, in order to qualify for the payment, the employee must satisfy all of the following: *1)* on or after January 1, 2003, *be* activated to serve on military duty in the U.S. armed forces, other than for training purposes; *2)* on the date on which he or she is activated, *be* either a member of the Wisconsin national guard or a member of a reserve component of the U.S. *be* armed forces or *be* recalled to active military duty from inactive reserve status; *3)* is on an authorized military leave of absence; and *be* permanent status in class. *4) have*

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

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

3 SECTION 1. 111.91 (2) (rm) of the statutes is created to read:

**BILL**

**SECTION 1**

1 111.91 (2) (rm) The differential pay benefit under s. 230.315. ✓

2 SECTION 2. 230.315 of the statutes is created to read:

3 **230.315 Differential pay benefit for state employees activated into**  
4 **service in the U.S. armed forces.** (1) Subject to subs. (2) and (3), a classified  
5 employee of the state who is activated to serve on military duty in the U.S. armed  
6 forces shall be paid his or her state salary, less any military pay and allowances <sup>that</sup> he  
7 or she receives, during the period in which the employee is on military duty in the  
8 U.S. armed forces, unless the military pay and allowances equal or exceed his or her  
9 state salary.

10 (2) Subsection (1) applies only to a classified employee to whom all of the ✓  
11 following apply:

12 (a) ~~2~~ On or after January 1, 2003, <sup>the employee</sup> is activated to serve on military duty in the U.S.  
13 armed forces, other than for training purposes.

14 (b) ~~2~~ On the date on which he or she is activated, <sup>the employee</sup> is either a member of the  
15 Wisconsin national guard or a member of a reserve component of the U.S. armed  
16 forces or is recalled to active military duty from inactive reserve status.

17 (c) ~~2~~ <sup>The employee</sup> Has received a military leave of absence under s. 230.32 (3) (a) or 230.35 (3), ✓  
18 under a collective bargaining agreement under subch. V of ch. 111 or under rules ✓  
19 promulgated by the secretary of employment relations, or is eligible for  
20 reemployment with the state under s. 45.50 after completion of his or her service in  
21 the U.S. armed forces.

22 (d) ~~2~~ <sup>The employee</sup> Has permanent status in class.

23 (3) (a) Except as provided in par. (b), beginning on the 30th day after a ✓  
24 classified state employee is activated to serve on military duty in the U.S. armed  
25 forces, the employee may be paid under ~~par. (a)~~ for a period of not more than 179 days.

sub. (1)

**BILL**

1 (b) The governor, by executive order, may extend the period that an employee  
2 is paid under par. (a) up to a period of one year from the date, <sup>on which</sup> the person is activated  
3 to serve on military duty in the U.S. armed forces.

4 **SECTION 3.** 230.32 (1) (intro.) of the statutes is amended to read:

5 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
6 employee, who enlists, is ordered or is inducted into active service in the armed forces  
7 of the United States or who is requested to work for the federal government during  
8 a national emergency or a limited national emergency, shall be restored to the same  
9 or similar position in the classified service and his or her employment shall be  
10 deemed not to have been interrupted by such leave except for the receipt of pay or  
11 other compensation, other than differential pay under s. 230.315, accumulation of  
12 sick leave and accumulation of vacation for the period of such absence, and the  
13 employee shall be given all the benefits of seniority, status, pay, pay advancement,  
14 performance awards and pension rights under ch. 40 as though the state  
15 employment was continuous, if:

History: 1971 c. 270 ss. 73, 74; Stats. 1971 s. 16.26; 1977 c. 196 ss. 56, 130 (5); 1977 c. 273; 1977 c. 418 s. 924 (13m); Stats. 1977 s. 230.32; 1981 c. 96 s. 67; 1981 c. 140; 1983 a. 27 s. 2200 (15); 2001 a. 26.

**SECTION 4. Nonstatutory provisions.**

17 (1) **COVERAGE.** Notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2),  
18 and 111.93 (3) of the statutes, section 230.315 of the statutes, as created by this act,  
19 applies to state employee<sup>s</sup> and the state regardless of whether the employees are  
20 unrepresented or represented by a labor organization, as defined in section 111.81  
21 (12) of the statutes.

22 (2) **RETROACTIVE PAYMENT OF BENEFIT.** If a state employee who is eligible to be  
23 paid under section 230.315 of the statutes, as created by this act, was activated to  
24 serve on military duty in the U.S. armed forces during the period that begins on



**BILL**

**SECTION 4**

1 January 1, 2003, and ends on the day before the effective date of this subsection, the  
2 employee shall be paid under section 230.315 (1)<sup>✓</sup> of the statutes, as created by this  
3 act, for any service on military duty in the U.S. armed forces during that period.

4 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2467/1dn

RAC: kmg

Dan Caucutt:

I made several assumptions in putting together the provisions of this bill. First, the differential pay benefit applies only to state employees with permanent status in class. This comes close to tracking s. 230.32 (1), which applies to "[a]ny classified employee of this state, except a limited term employee..." and s. 230.35 (3), which applies to "[o]fficials and employees of the state with permanent status". As a result, all unclassified employees and all classified employees who do not have permanent status in class will not receive the differential pay benefit.

Second, I used several of the criteria under s. 40.05 (4g) to determine which activated employees are eligible for the differential pay benefit.

Third, the intent appears to be to have the differential pay benefit paid immediately to nonrepresented and represented employees. Under current law, this benefit is bargainable and is currently not provided for in any of the expired collective bargaining agreements. For that reason, I drafted a nonstatutory provision that attempts to apply the benefit to represented employees whose benefits are currently determined by collective bargaining agreements. If challenged, it is uncertain if this language would trump the terms of a collective bargaining agreement.

With respect to other benefits that are provided to state employees on military leave, please note that s. 230.32 (1) covers seniority, status, pay, pay advancement, performance awards, and pension rights under ch. 40. Also, employees on military leave can qualify for creditable military service under s. 40.02 (15) (a), provided they return to employment with the same employer.

Once you have had an opportunity to review the draft, please call me if you have questions.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2467/1dn  
RAC:kmg:cph

April 7, 2003

Dan Caucutt:

I made several assumptions in putting together the provisions of this bill. First, the differential pay benefit applies only to state employees with permanent status in class. This comes close to tracking s. 230.32 (1), which applies to "[a]ny classified employee of this state, except a limited term employee..." and s. 230.35 (3), which applies to "[o]fficials and employees of the state with permanent status." As a result, all unclassified employees and all classified employees who do not have permanent status in class will not receive the differential pay benefit.

Second, I used several of the criteria under s. 40.05 (4g) to determine which activated employees are eligible for the differential pay benefit.

Third, the intent appears to be to have the differential pay benefit paid immediately to nonrepresented and represented employees. Under current law, this benefit is bargainable and is currently not provided for in any of the expired collective bargaining agreements. For that reason, I drafted a nonstatutory provision that attempts to apply the benefit to represented employees whose benefits are currently determined by collective bargaining agreements. If challenged, it is uncertain if this language would trump the terms of a collective bargaining agreement.

With respect to other benefits that are provided to state employees on military leave, please note that s. 230.32 (1) covers seniority, status, pay, pay advancement, performance awards, and pension rights under ch. 40. Also, employees on military leave can qualify for creditable military service under s. 40.02 (15) (a), provided they return to employment with the same employer.

Once you have had an opportunity to review the draft, please call me if you have questions.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

## Champagne, Rick

---

**From:** Caucutt, Dan  
**Sent:** Monday, April 21, 2003 3:43 PM  
**To:** Champagne, Rick  
**Cc:** Kranz, Jonathan  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Rick: I was out unexpectedly (ill) Thurs and Friday of last week. Re-reading this I see that they are looking for an aggressive timetable on a re-draft. I apologize for not seeing this when I got in @noon today.

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

**From:** Clark, Jessica - Office of Governor Jim Doyle  
**Sent:** Thursday, April 17, 2003 10:48 AM  
**To:** Caucutt, Dan  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Dan,

Could you request that LRB make the changes Karen suggests? Also, could you forward me an electronic copy of the current draft? Thanks.

Also, Katie has scheduled a meeting with Representative Musser at 2pm on Tuesday to discuss the provisions of the differential pay draft and moving it forward. Please join us if you are able and please let the drafter know that we would need the new draft by Tuesday morning at the latest.

Thanks!

Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

**From:** Timberlake, Karen - DER  
**Sent:** Thursday, April 17, 2003 9:54 AM  
**To:** Kranz, Jonathan  
**Cc:** Caucutt, Dan; Clark, Jessica - Office of Governor Jim Doyle  
**Subject:** RE: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Thanks Jon. After looking this over, I have a couple of thoughts.

1. Can we sunset the non-stat provision? that would ease the sting for the unions of taking this out of bargaining. Also, we need to take out the amendment to 111.91(2) (adding (rm) to make this a prohibited subject of bargaining.) The idea here is to do this through nonstat language, and sunset it, to address union concerns about removing this as subject of bargaining while still getting benefits to people.
2. I had mentioned to Jessica and Dan that some states expressly permit people to take a certain period of paid leave upon returning from active military duty, so that they don't have to get off the plane from Iraq on Friday and be at work on Monday. I'd suggest that we include this.

3. Someone should doublecheck with ETF to be sure that people will retain eligibility for health insurance, ICI, and other insurances while receiving differential pay. MY memory of our meeting with Mcardle is that health insurance is covered by federal law. How about ICI, life, long term disability, etc.?

Thanks again for the chance to review this.

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

From: Kranz, Jonathan

Sent: Wednesday, April 16, 2003 11:18 AM

To: Timberlake, Karen - DER

Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Here it is. Just so you don't have to search for your copy.

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

From: Caucutt, Dan

Sent: Monday, April 07, 2003 1:11 PM

To: Timberlake, Karen - DER

Cc: Kranz, Jonathan

Subject: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

First draft from LRB.

Draft review LRB 03-24671 Topic Differential pay supplement for activated military state employees



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/1  
RAC&RPN:kmg:cph

2

Today,  
if possible

*Handwritten signature*

*Handwritten initials: RMR*

2003 BILL

*and additional paid leave of absence*

*SN*

*Insert Analysis*

*Request*

*and additional paid leave of absence*

1 AN ACT to amend 230.32 (1) (intro.); and to create 111.91 (2) (rm) and 230.315  
2 of the statutes; relating to: differential pay benefit for state employees  
3 activated into service in the U.S. armed forces.

**Analysis by the Legislative Reference Bureau**

This bill provides that a classified employee of the state who is activated to serve on military duty in the U.S. armed forces must be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. Under the bill, in order to qualify for the payment, the employee must satisfy all of the following: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; 3) be on an authorized military leave of absence; and 4) have permanent status in class.

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

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

## BILL

## SECTION 1

~~SECTION 1. 111.91 (2) (rm) of the statutes is created to read:~~

~~111.91 (2) (rm) The differential pay benefit under s. 230.315.~~

SECTION 2. 230.315 of the statutes is created to read:

**230.315 Differential pay benefit for state employees activated into service in the U.S. armed forces.** (1) Subject to subs. (2) and (3), a classified employee of the state who is activated to serve on military duty in the U.S. armed forces shall be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary.

(2) Subsection (1) applies only to a classified employee to whom all of the following apply:

(a) On or after January 1, 2003, the employee is activated to serve on military duty in the U.S. armed forces, other than for training purposes.

(b) On the date on which he or she is activated, the employee is either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from inactive reserve status.

(c) The employee has received a military leave of absence under s. 230.32 (3) (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111, or under rules promulgated by the secretary of employment relations, or is eligible for reemployment with the state under s. 45.50 after completion of his or her service in the U.S. armed forces.

(d) The employee has permanent status in class.

**BILL**

1 (3) (a) Except as provided in par. (b), beginning on the 30th day after a classified  
2 state employee is activated to serve on military duty in the U.S. armed forces, the  
3 employee may be paid under sub. (1) for a period of not more than 179 days.

4 (b) The governor, by executive order, may extend the period that an employee  
5 is paid under par. (a) up to a period of one year from the date on which the person is  
6 activated to serve on military duty in the U.S. armed forces.

7 **SECTION 3.** 230.32 (1) (intro.) of the statutes is amended to read:

8 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
9 employee, who enlists, is ordered or is inducted into active service in the armed forces  
10 of the United States or who is requested to work for the federal government during  
11 a national emergency or a limited national emergency, shall be restored to the same  
12 or similar position in the classified service and his or her employment shall be  
13 deemed not to have been interrupted by such leave except for the receipt of pay or  
14 other compensation, other than differential pay under s. 230.315, accumulation of  
15 sick leave and accumulation of vacation for the period of such absence, and the  
16 employee shall be given all the benefits of seniority, status, pay, pay advancement,  
17 performance awards and pension rights under ch. 40 as though the state  
18 employment was continuous, if:

Insert 3-18

19 **SECTION 4. Nonstatutory provisions.**

20 (1) COVERAGE. Notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2),  
21 and 111.93 (3) of the statutes, section <sup>and 230.35(1)</sup> 230.315 of the statutes, as created by this act,  
22 <sup>apply</sup> applies to state employees and the state regardless of whether the employees are  
23 unrepresented or represented by a labor organization, as defined in section 111.81  
24 (12) of the statutes.

before July 1, 2005,





2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2467/2ins  
RAC:.....

**Insert Analysis:**

Also, any employee eligible to<sup>receive</sup> the payment is entitled to receive an additional 80 hours of paid leave of absence during the year in which the employee returns to state employment and is no longer serving on military duty in the U.S. armed forces. ✓

**Insert 3-18:**

**SECTION 1.** 230.35 (1) (a) (intro.) of the statutes is amended to read: ✓

230.35 (1) (a) (intro.) Except as provided in subs. (1m), (1r), ~~and~~ (1s), and (1t), appointing authorities shall grant to each person in their employ, except limited-term employees, based on accumulated continuous state service, annual leave of absence without loss of pay at the rate of:

History: 1971 c. 91, 125, 183, 211, 226; 1971 c. 270 ss. 70, 71, 83, 104; Stats. 1971 s. 16.30; 1973 c. 51, 243; 1975 c. 28, 39, 41; 1975 c. 147 s. 54; 1975 c. 189, 199, 421, 422; 1977 c. 44; 1977 c. 187 s. 135; 1977 c. 196 ss. 56, 118, 130 (3), 51 (12), 131; 1977 c. 273; 1977 c. 418 ss. 726, 727, 924 (13m); Stats. 1977 s. 230.35; 1979 c. 34, 89; 1979 c. 110 s. 60 (11); 1979 c. 221; 1981 c. 20, 96, 140; 1983 a. 27, 280 (15); 1983 a. 30 ss. 4 to 11, 14; 1983 a. 71, 140; 1983 a. 192 ss. 220, 221, 304; 1985 a. 119; 1987 a. 63, 287, 340, 399, 403; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 12, 47; 1995 a. 37, 178; 1997 a. 118, 307; 1999 a. 42, 85, 101, 125; 2001 a. 16, 109.

**SECTION 2.** 230.35 (1t) of the statutes is created to read:

230.35 (1t) An employee eligible to receive the differential pay benefit under s. 230.315, in addition to any other paid leave of absence to which the employee is entitled by law, shall receive an additional 80 hours of paid leave of absence during the year in which the employee returns to state employment and is no longer serving on military duty in the U.S. armed forces. ✓

## Champagne, Rick

---

**From:** Caucutt, Dan  
**Sent:** Thursday, May 01, 2003 2:41 PM  
**To:** Champagne, Rick  
**Cc:** Kranz, Jonathan  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement f or activated milit

Rick: Please proceed.

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

**From:** Clark, Jessica - Office of Governor Jim Doyle  
**Sent:** Thursday, May 01, 2003 2:40 PM  
**To:** Caucutt, Dan  
**Cc:** Kranz, Jonathan; Champagne, Rick; Boyce, Katie - Office of Governor Jim Doyle; Timberlake, Karen - DER; Henderson, Patrick - Office of Governor Jim Doyle  
**Subject:** RE: Draft review LRB 03-24671 Topic Differential pay supplement f or activated milit

Dan,

We want to cover ALL state employees (all classified and all unclassified). Please refer to the email exchange with Terry McArdle below for more on this point. While the benefit is likely most useful for classified employees, as noted by Terry, I don't think it's anyone's intent to exclude any state employee from this benefit (and it certainly won't help us get the bill through the legislature if legislative employees are not covered by the benefit).

Let me know if there are problems with this portion of the redraft request. Thanks.

Jessica

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

**From:** McArdle, Terence (WI) [mailto:terence.mcardle@wi.ngb.army.mil]  
**Sent:** Thursday, May 01, 2003 2:25 PM  
**To:** 'Clark, Jessica - Office of Governor Jim Doyle'  
**Cc:** Olson, Larry (WI)  
**Subject:** RE: Draft review LRB 03-24671 Topic Differential pay supplement f or activated milit

Jessica,

You're entirely correct. The differential pay legislation should include all employees, both classified and unclassified. However, I think it will probably be most effective as to classified employees. The Unclassified usually tend to be making slightly more money and they tend to hold slightly higher rank on the military side so they make more per month in federal duty status. Thus, they may not get any differential pay.

But for now, I agree we should go for both groups. But if we have to make a decision somewhere along the line, we ought to make sure we cover at least the classified employees. Your call, we'll back it as you see it.

Terry M

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

**From:** Clark, Jessica - Office of Governor Jim Doyle [mailto:Jessica.Clark@gov.state.wi.us]  
**Sent:** Thursday, May 01, 2003 10:49 AM  
**To:** McArdle, Terrence  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement f or activated milit

Hi, Terry,

Another question for you on the differential pay draft. The current draft (and the current statutes) allow differential pay for classified employees only. It was my impression that we wanted to ensure that all state employees received this benefit, classified or not. (Why should a DOC employee receive this benefit, for example, but a legislative employee should not?) Do you have any thoughts on this?

Thanks,  
Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Caucutt, Dan  
Sent: Thursday, May 01, 2003 2:18 PM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Cc: Kranz, Jonathan; Champagne, Rick  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Just to be clear: The revised draft will cover all state employees except: unclassified outside the UW System (e.g., in state agencies, legislature, courts). It will cover all classified employees in state government plus the unclassified at the UWS. Is this correct? Rick is ready to go.

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

From: Clark, Jessica - Office of Governor Jim Doyle  
Sent: Wednesday, April 30, 2003 6:12 PM  
To: Caucutt, Dan  
Cc: Boyce, Katie - Office of Governor Jim Doyle; Henderson, Patrick - Office of Governor Jim Doyle; Timberlake, Karen - DER  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Dan,

It was my thought that we wanted to include all state employees (classified and unclassified) in the draft. (Why should a classified employee in the Guard be eligible, but a legislative employee in the Guard should not?) Does this problem in the draft apply solely to the UW unclassified employees or all unclassified employees? Can unclassified employees receive this benefit without a law change?

I think we need to make sure that this applies to everyone equally. Thoughts on how to do this?

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

From: Caucutt, Dan  
Sent: Wednesday, April 30, 2003 4:24 PM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Cc: Kranz, Jonathan  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

The drafter is waiting for the decision on UW unclassified before proceeding with finishing draft.

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

From: Clark, Jessica - Office of Governor Jim Doyle  
Sent: Wednesday, April 30, 2003 10:13 AM  
To: Caucutt, Dan  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

FYI... Katie Boyce would like to have this revised draft ready to circulate this week. Do you think this is possible? Thanks.

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

From: Caucutt, Dan  
Sent: Wednesday, April 30, 2003 9:57 AM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

FYI

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

From: Champagne, Rick  
Sent: Wednesday, April 30, 2003 9:29 AM  
To: Caucutt, Dan  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

I'll get these changes to you ASAP Dan.

Rick Champagne  
Senior Staff Counsel  
Legal Section  
Wisconsin Legislative Reference Bureau  
100 N. Hamilton St.  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266-9930  
FAX (608) 264-6948  
rick.champagne@legis.state.wi.us

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

From: Caucutt, Dan  
Sent: Wednesday, April 30, 2003 9:23 AM  
To: Champagne, Rick  
Cc: Kranz, Jonathan  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Hi Rick. Can you help???

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

From: Clark, Jessica - Office of Governor Jim Doyle  
Sent: Wednesday, April 30, 2003 9:22 AM  
To: Caucutt, Dan  
Cc: Timberlake, Karen - DER; Boyce, Katie - Office of Governor Jim  
Doyle; Henderson, Patrick - Office of Governor Jim Doyle  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Dan,

Could you make the following requests for changes to the differential pay draft:

- 1) We do not want people to earn an extra 80 hours of leave. We want them to be allowed to TAKE up to 80 hours of already accrued leave after they return from active duty and before they report back to work. Please make the appropriate changes.
- 2) Please extend the differential pay benefit to those in the Public Health Service reserve who are activated to federal duty. (See series of email below for clarification on this.)

We need these changes ASAP, so any indication of urgency to the drafter on our behalf would be much appreciated.

Also, could someone in your shop track down how many Public Health Service reservists we have on the state payroll? Terry McArdle suggests that the number is likely low, but important to have, nonetheless. Thanks.

Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Timberlake, Karen - DER  
Sent: Wednesday, April 30, 2003 9:07 AM  
To: Clark, Jessica - Office of Governor Jim Doyle; Boyce, Katie - Office of Governor Jim Doyle; Henderson, Patrick - Office of Governor Jim Doyle  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Bottom line: let's include them.

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

From: Clark, Jessica - Office of Governor Jim Doyle  
Sent: Wednesday, April 30, 2003 8:43 AM  
To: Boyce, Katie - Office of Governor Jim Doyle; Henderson, Patrick - Office of Governor Jim Doyle; Timberlake, Karen - DER  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

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

From: McArdle, Terence (WI) [mailto:terence.mcardle@wi.ngb.army.mil]  
Sent: Tuesday, April 29, 2003 10:52 AM  
To: 'Clark, Jessica - Office of Governor Jim Doyle'  
Cc: Olson, Larry (WT)  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Jessica,

The protections for those called into service with Public Health Service by the President are the protections afforded by the Soldiers and Sailors Civil Relief Act (SSCRA). Section 101 of the act (found at 50 U.S.C. Appendix Section 511), under subsection (1) states: "The term "person in the military service", . . . shall include the following persons

and no others: . . . and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy. The term "military service", as used in this Act, shall signify Federal service on active duty with any branch of service . . .". Thus, those called up by the President for Public Health Service duty with one of the services are "covered" personnel under the act.

My understanding is that the Public Health Service has a group of Doctors and Nurses that have been educated at least in part at the federal governments' expense. In exchange for their education these people agree to provide medical services for the government at various times, such as for emergency medical care in a natural disaster situation, or if the Army, Navy or the Air Force's needs are great enough, they can be called into service to support them. Since we are trying to cover differential pay for those called up by the President for federal active duty service, the folks who are members of the Public Health Service's reserve force should also be included. And since they are already covered for the SSCRA protections it would make sense to include them for this legislation too.

The problem is, I do not know how many Doctors, Dentists, Nurses and other health care professionals who work for the state are also part of the Public Health Service? I'd suggest that we would be better served in trying to get that answer by going to the UW Hospital and talking to the Administrator's office there. I suspect that the number of persons who would be covered is low, but I have no way of knowing that for sure.

Please let me know if you would like more information on this issue.  
Terry McArdle

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

From: Clark, Jessica - Office of Governor Jim Doyle  
[mailto:Jessica.Clark@gov.state.wi.us]  
Sent: Monday, April 28, 2003 1:06 PM  
To: McArdle, Terrence  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement  
f or activated milit

Hi, Terry,

Could you provide some clarification as to the issues noted below? The question at hand relates to when someone is activated to the "Public Health Service" and what this means. The current differential pay draft does not cover these individuals and we are looking for additional information.  
Thanks!

Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Timberlake, Karen - DER  
Sent: Monday, April 28, 2003 8:50 AM  
To: Kranz, Jonathan; Clark, Jessica - Office of Governor Jim Doyle;  
Caucutt, Dan  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
for activated milit

A few thoughts:

1. Jessica, you might want to touch base with Terry McArdle re: ETF's point, noted by Jon below, that activation for the public health service doesn't qualify for this differential pay. In looking at the current military leave

provisions of ch. 230. I assume that it wouldn't qualify for those, either, as the bill draft references the "military leave" provisions of current law. I don't know anything about activation to the public health service, but it seems to me that we might want to extend these provisions to those folks, esp. in this post-9/11 world.

2. I agree that we do not want people to earn an extra 80 hours of leave. We do want them to be allowed to TAKE up to 80 hours of already accrued leave after they return from active duty and before they report back to work.

Thanks--

Karen

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

From: Kranz, Jonathan

Sent: Friday, April 25, 2003 4:43 PM

To: Timberlake, Karen - DER

Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Karen,

This is to confirm that according to ETF, employees will retain all benefits. Note that those who are not receiving a check will have to make arrangements for the benefits that are normally handled via payroll deduction.

FYI. ETF points out that the draft only covers uniformed personnel. Federal law provides these benefits for others such as personnel activated for the Public Health Service.

Please let me know if you desire any additional information.





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/2 3

RAC&RPN:kmg&cjs:me

FRI AM

T RMR  
stays

2003 BILL

- Regen ext.

- 1
- 2
- 3
- 4

AN ACT to amend 230.32 (1) (intro.) and 230.35 (1) (a) (intro.); and to create 230.315 and 230.35 (1t) of the statutes; relating to: differential pay benefit and additional paid leave of absence for state employees activated into service in the U.S. armed forces and the U.S. public health service

Analysis by the Legislative Reference Bureau employee

This bill provides that a ~~classified~~ employee of the state who is activated to serve on military duty in the U.S. armed forces must be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. ~~Also any employee eligible to receive the payment is entitled to receive an additional 80 hours of paid leave of absence during the year in which the employee returns to state employment and is no longer serving on military duty in the U.S. armed forces.~~ Under the bill, in order to qualify for the payment ~~and additional paid leave of absence~~, the employee must satisfy all of the following: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; ~~3) be on an authorized military leave of absence, and 4) have permanent status in class.~~ and

Insert Analysis →

**BILL**

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

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

1 SECTION 1. 230.315 of the statutes is created to read:

2 230.315 Differential pay benefit for state employees activated into

3 ~~service in the U.S. armed forces~~ *and the U.S. public health service* (1) Subject to ~~subs. (2) and~~ *Sub.* (3), a classified B  
4 ~~employee of the state~~ *employee* who is activated to serve on military duty in the U.S. armed

5 forces shall be paid his or her state salary, less any military pay and allowances that  
6 he or she receives, during the period in which the employee is on military duty in the  
7 U.S. armed forces, unless the military pay and allowances equal or exceed his or her  
8 state salary *if all of the following apply:*

9 ~~(2) Subsection (1) applies only to a classified employee to whom all of the~~  
10 ~~following apply:~~

11 (a) On or after January 1, 2003, the employee is activated to serve on military  
12 duty in the U.S. armed forces, other than for training purposes.

13 (b) On the date on which he or she is activated, the employee is either a member  
14 of the Wisconsin national guard or a member of a reserve component of the U.S.  
15 armed forces or is recalled to active military duty from inactive reserve status.

16 (c) The employee has received a military leave of absence under s. 230.32 (3)  
17 (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,  
18 or under rules promulgated by the secretary of employment relations or is eligible  
19 for reemployment with the state under s. 45.50 after completion of his or her service  
20 in the U.S. armed forces.

21 *(d) The employee has permanent status in class*

*Insert 2-21*

**BILL**

1 (3) (a) Except as provided in par. (b), beginning on the 30th day after a classified  
2 state employee is activated to serve on military duty in the U.S. armed forces, the  
3 employee may be paid under sub. (1) <sup>or sub. (2)</sup> for a period of not more than 179 days.

4 (b) The governor, by executive order, may extend the period that an employee  
5 is paid under par. (a) up to a period of one year from the date on which the person is  
6 activated to serve on military duty in the U.S. armed forces.

Insert  
3-6

7 **SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

8 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
9 employee, who enlists, is ordered or is inducted into active service in the armed forces  
10 of the United States or who is requested to work for the federal government during  
11 a national emergency or a limited national emergency, shall be restored to the same  
12 or similar position in the classified service and his or her employment shall be  
13 deemed not to have been interrupted by such leave except for the receipt of pay or  
14 other compensation, other than differential pay under s. 230.315, accumulation of  
15 sick leave and accumulation of vacation for the period of such absence, and the  
16 employee shall be given all the benefits of seniority, status, pay, pay advancement,  
17 performance awards and pension rights under ch. 40 as though the state  
18 employment was continuous, if:

or to serve in the U.S. public health service

19 **SECTION 3.** 230.35 (1) (a) (intro.) of the statutes is amended to read:

20 230.35 (1) (a) (intro.) Except as provided in subs. (1m), (1r), and (1s), and (1t),  
21 appointing authorities shall grant to each person in their employ, except  
22 limited-term employees, based on accumulated continuous state service, annual  
23 leave of absence without loss of pay at the rate of:

24 **SECTION 4.** 230.35 (1t) of the statutes is created to read:

**BILL**

1           230.35 (1t) An employee eligible to receive the differential pay benefit under  
 2 s. 230.315, in addition to any other paid leave of absence to which the employee is  
 3 entitled by law, shall receive an additional 80 hours of paid leave of absence during  
 4 the year in which the employee returns to state employment and is no longer serving  
 5 on military duty in the U.S. armed forces.

**SECTION 5. Nonstatutory provisions.**

6  
 7           (1) COVERAGE. Notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2),  
 8 and 111.93 (3) of the statutes, sections 230.315 and 230.35 (1t) of the statutes, as  
 9 created by this act, apply to state employees and the state before July 1, 2005,  
 10 regardless of whether the employees are unrepresented or represented by a labor  
 11 organization, as defined in section 111.81 (12) of the statutes.

12           (2) RETROACTIVE PAYMENT OF BENEFIT. If a state employee who is eligible to be  
 13 paid under section 230.315 of the statutes, as created by this act, was activated to  
 14 serve on military duty in the U.S. armed forces <sup>or in the U.S. public health</sup> during the period that begins on <sup>service</sup>  
 15 January 1, 2003, and ends on the day before the effective date of this subsection, the  
 16 employee shall be paid under section 230.315 (1) <sup>or (2)</sup> of the statutes, as created by this  
 17 act, for any service on military duty in the U.S. armed forces during that period.

(END)

*or in the  
 U.S. public health  
 service*

**2003-2004 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2467/3ins  
RAC:.....

**Insert Analysis:**

In addition, the bill provides that a state employee who is required to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and allowances that he or she receives during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed his or her state salary. ✓

**Insert 2-21:**

(2) Subject to sub. (3), a state employee who is required on or after January 1, 2003, to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and allowances that he or she receives, during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed his or her state salary. ✓

**Insert 3-6:**

(4) An appointing authority shall permit a state employee who is eligible to receive the differential pay benefit under sub. (1) or (2) and who has completed his or her duty with the U.S. armed forces or the U.S. public health service to use up to 80 hours of accumulated paid leave before the employee resumes employment with the state. ✓



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/3 4

RAC&RPN:kmg&cjs: ~~epb~~

Today

2003 BILL

stays

RMR

SA ✓

Repeal act.

1 AN ACT to amend 230.32 (1) (intro.); and to create 230.315 of the statutes;  
2 relating to: differential pay benefit for state employees activated into service  
3 in the U.S. armed forces and the U.S. public health service.

**Analysis by the Legislative Reference Bureau**

This bill provides that a state employee who is activated to serve on military duty in the U.S. armed forces must be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. Under the bill, in order to qualify for the payment, the employee must satisfy all of the following: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; and 3) be on an authorized military leave of absence.

In addition, the bill provides that a state employee who is required to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and allowances that he or she receives during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed his or her state salary.

**BILL**

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

---

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

1           SECTION 1. 230.315 of the statutes is created to read:

2           **230.315 Differential pay benefit for state employees activated into**  
3 **service in the U.S. armed forces and the U.S. public health service. (1)**

4 Subject to sub. (3), a state employee who is activated to serve on military duty in the  
5 U.S. armed forces shall be paid his or her state salary, less any military pay and  
6 allowances that he or she receives, during the period in which the employee is on  
7 military duty in the U.S. armed forces, unless the military pay and allowances equal  
8 or exceed his or her state salary if all of the following apply:

9           (a) On or after January 1, 2003, the employee is activated to serve on military  
10 duty in the U.S. armed forces, other than for training purposes.

11           (b) On the date on which he or she is activated, the employee is either a member  
12 of the Wisconsin national guard or a member of a reserve component of the U.S.  
13 armed forces or is recalled to active military duty from inactive reserve status.

14           (c) The employee has received a military leave of absence under s. 230.32 (3)  
15 (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,  
16 or under rules promulgated by the secretary of employment relations or is eligible  
17 for reemployment with the state under s. 45.50 after completion of his or her service  
18 in the U.S. armed forces.

19           (2) Subject to sub. (3), a state employee who is required on or after January 1,  
20 2003, to serve in the U.S. public health service and who is on detail with any of the  
21 U.S. armed forces shall be paid his or her state salary, less any federal pay and

**BILL**

1 allowances that he or she receives, during the period in which the employee is  
2 detailed for duty with any of the U.S. armed forces, unless the federal pay and  
3 allowances equal or exceed his or her state salary.

4 (3) (a) Except as provided in par. (b), beginning on the 30th day after a classified  
5 state employee is activated to serve on military duty in the U.S. armed forces or to  
6 serve in the U.S. public health service, the employee may be paid under sub. (1) or  
7 (2) for a period of not more than 179 days.

8 (b) The governor, by executive order, may extend the period that an employee  
9 is paid under par. (a) up to a period of one year from the date on which the person is  
10 activated to serve on military duty in the U.S. armed forces or to serve in the U.S.  
11 public health service.

12 (4) An appointing authority shall permit a state employee who is eligible to  
13 receive the differential pay benefit under sub. (1) or (2) and who has completed his  
14 or her duty with the U.S. armed forces or the U.S. public health service to use up to  
15 80 hours of accumulated paid leave before the employee resumes employment with  
16 the state.

17 **SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

18 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
19 employee, who enlists, is ordered or is inducted into active service in the armed forces  
20 of the United States or who is requested to work for the federal government during  
21 a national emergency or a limited national emergency, shall be restored to the same  
22 or similar position in the classified service and his or her employment shall be  
23 deemed not to have been interrupted by such leave except for the receipt of pay or  
24 other compensation, other than differential pay under s. 230.315, accumulation of  
25 sick leave and accumulation of vacation for the period of such absence, and the



**BILL**

1 employee shall be given all the benefits of seniority, status, pay, pay advancement,  
2 performance awards and pension rights under ch. 40 as though the state  
3 employment was continuous, if:

**SECTION 3. Nonstatutory provisions.**

5 (1) COVERAGE. Notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2),  
6 and 111.93 (3) of the statutes, section 230.315 of the statutes, as created by this act,  
7 apply to state employees and the state before July 1, ~~2005~~<sup>2003</sup>, regardless of whether the  
8 employees are unrepresented or represented by a labor organization, as defined in  
9 *applies* section 111.81 (12) of the statutes.

10 (2) RETROACTIVE PAYMENT OF BENEFIT. If a state employee who is eligible to be  
11 paid under section 230.315 of the statutes, as created by this act, was activated to  
12 serve on military duty in the U.S. armed forces or in the U.S. public health service  
13 during the period that begins on January 1, 2003, and ends on the day before the  
14 effective date of this subsection, the employee shall be paid under section 230.315 (1)  
15 or (2) of the statutes, as created by this act, for any service on military duty in the  
16 U.S. armed forces or in the U.S. public health service during that period.

17 (END)

## Champagne, Rick

---

**From:** Clark, Jessica - Office of Governor Jim Doyle  
**Sent:** Tuesday, May 06, 2003 12:31 PM  
**To:** Champagne, Rick; Caucutt, Dan; Timberlake, Karen - DER  
**Subject:** RE: Military Pay Differential

Dan/Rick,

The problem with sunsetting the date on July 1, 2003, is that 2003-05 contracts are not at all likely to be signed by that date. The benefit we want to provide would be interrupted by this deadline, and on hold until contracts are signed. We want to ensure that the benefit is continuous until new contracts including the provision are approved.

Secretary Timberlake recommends language that leaves the July 1, 2005 deadline in place, but stipulates that this non-statutory language will be superceded by the collective bargaining agreement reached for 2003-05 (whenever that occurs). Therefore, if contracts are signed later in the 2003-05 biennium, those eligible for the benefit will not lose it while waiting for the contracts to be approve.

Is this workable? Thanks,

Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

**From:** Champagne, Rick  
**Sent:** Tuesday, May 06, 2003 9:18 AM  
**To:** Clark, Jessica - Office of Governor Jim Doyle; Caucutt, Dan  
**Subject:** RE: Military Pay Differential

Jessica/Dan:

I would advise simply changing the 2005 date to 2003 on page 4, line 7 of the draft. In that way, the benefit can be paid to reps and nonreps for the 1/1/03 to 06/30/03 period. Beginning on July 1, 2003, the benefit is bargainable, as is the case with other matters under ch. 230 relating to wages, hours, and conditions of employment.

Rick

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

**From:** Clark, Jessica - Office of Governor Jim Doyle  
**Sent:** Tuesday, May 06, 2003 8:47 AM  
**To:** Caucutt, Dan; Champagne, Rick  
**Subject:** FW: Military Pay Differential

Secretary Timberlake would like this language to allow bargaining in 2003-05. She suggests (see below) that we use language setting this benefit as a minimum standard. She believes that there is language in the fair employment act that could be used as a model. Please let me know if you have questions.

Thanks!

Jessica L. Clark  
Policy Advisor

Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Timberlake, Karen - DER  
Sent: Tuesday, May 06, 2003 8:42 AM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Subject: RE: Military Pay Differential

Yes, we would like it changed so that we can bargain for 03-05. Perhaps Rick could put in that minimum standards language we were discussing--something like "nothing in this provision prevents the state from negotiating this benefit"....??? We are definitely trying to 1) get the benefit to people, and 2) preserve our ability to bargain it in 03-05.

Also, Cory Mason from WFT may call you looking for a bill circular memo (if that's the right phrase). He's interested in being helpful in lining up cosponsors. If we don't need his help yet/at all, just let him know or let me know and I can deliver that message.

Thanks--we're almost there...

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

From: Clark, Jessica - Office of Governor Jim Doyle  
Sent: Tuesday, May 06, 2003 8:37 AM  
To: Timberlake, Karen - DER  
Subject: FW: Military Pay Differential

Karen,

Rick C. states that the draft allows bargaining for the 2005-07 contracts, not 2003-05. In choosing the July 1, 2005 sunset date, we push the date off until 2005-07. Should we change this? (See analysis from Rick below).

Thanks,  
Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Caucutt, Dan  
Sent: Tuesday, May 06, 2003 8:34 AM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Cc: Kranz, Jonathan; Timberlake, Karen - DER  
Subject: Military Pay Differential

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

From: Champagne, Rick  
Sent: Tuesday, May 06, 2003 8:24 AM  
To: Caucutt, Dan  
Subject: RE: Military Pay Differential

Dan:

Under LRB 03-2467/3, pursuant to Section (3) (1) of the bill, the differential pay benefit is granted both to represented and nonrepresented state employees for the period before July 1, 2005. Beginning on July 1, 2005, the differential pay benefit will automatically apply only to nonrepresented state employees. For represented state employees, the benefit must be bargained. Thus, to answer your question, the differential pay benefit is not bargainable during 2003-05; it becomes bargainable for 2005-07 and beyond. Please advise if you would like this changed.

Rick Champagne  
Senior Staff Counsel  
Legal Section  
Wisconsin Legislative Reference Bureau  
100 N. Hamilton St.  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266-9930  
FAX (608) 264-6948  
rick.champagne@legis.state.wi.us

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

From: Caucutt, Dan  
Sent: Tuesday, May 06, 2003 7:49 AM  
To: Champagne, Rick  
Cc: Kranz, Jonathan  
Subject: FW: Military Pay Differential

Rick ?

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

From: Caucutt, Dan  
Sent: Monday, May 05, 2003 10:42 PM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Subject: RE: Military Pay Differential

Will do first thing Tue

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

From: Clark, Jessica - Office of Governor Jim Doyle  
To: Caucutt, Dan  
Sent: 5/5/2003 6:27 PM  
Subject: RE: Military Pay Differential

Dan,

Can you double check with Rick to make sure that this draft allows differential pay to be bargained in 2003-05? Karen and I read it this way, but the unions would like confirmation from the drafter that this is the case. Thanks!

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

From: Caucutt, Dan  
Sent: Friday, May 02, 2003 11:21 AM  
To: Clark, Jessica - Office of Governor Jim Doyle  
Cc: Timberlake, Karen - DER; Kranz, Jonathan  
Subject: Military Pay Differential

Here is the third and I would assume final draft of the military leave pay item. It extends the coverage to all state employees, including public health professions affected.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/4

RAC&RPN:kg&cjs:pg

Today  
2003 BILL

SAYS;  
since kg  
AS

RMR

- 1 AN ACT *to amend* 230.32 (1) (intro.); and *to create* 230.315 of the statutes;  
2 relating to: differential pay benefit for state employees activated into service  
3 in the U.S. armed forces and the U.S. public health service.

---

*Analysis by the Legislative Reference Bureau*

This bill provides that a state employee who is activated to serve on military duty in the U.S. armed forces must be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. Under the bill, in order to qualify for the payment, the employee must satisfy all of the following: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; and 3) be on an authorized military leave of absence.

In addition, the bill provides that a state employee who is required to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and allowances that he or she receives during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed his or her state salary.

**BILL**

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

---

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

1           **SECTION 1.** 230.315 of the statutes is created to read:

2           **230.315 Differential pay benefit for state employees activated into**  
3 **service in the U.S. armed forces and the U.S. public health service. (1)**

4 Subject to sub. (3), a state employee who is activated to serve on military duty in the  
5 U.S. armed forces shall be paid his or her state salary, less any military pay and  
6 allowances that he or she receives, during the period in which the employee is on  
7 military duty in the U.S. armed forces, unless the military pay and allowances equal  
8 or exceed his or her state salary if all of the following apply:

9           (a) On or after January 1, 2003, the employee is activated to serve on military  
10 duty in the U.S. armed forces, other than for training purposes.

11           (b) On the date on which he or she is activated, the employee is either a member  
12 of the Wisconsin national guard or a member of a reserve component of the U.S.  
13 armed forces or is recalled to active military duty from inactive reserve status.

14           (c) The employee has received a military leave of absence under s. 230.32 (3)  
15 (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,  
16 or under rules promulgated by the secretary of employment relations or is eligible  
17 for reemployment with the state under s. 45.50 after completion of his or her service  
18 in the U.S. armed forces.

19           (2) Subject to sub. (3), a state employee who is required on or after January 1,  
20 2003, to serve in the U.S. public health service and who is on detail with any of the  
21 U.S. armed forces shall be paid his or her state salary, less any federal pay and

**BILL**

1 allowances that he or she receives, during the period in which the employee is  
2 detailed for duty with any of the U.S. armed forces, unless the federal pay and  
3 allowances equal or exceed his or her state salary.

4 (3) (a) Except as provided in par. (b), beginning on the 30th day after a classified  
5 state employee is activated to serve on military duty in the U.S. armed forces or to  
6 serve in the U.S. public health service, the employee may be paid under sub. (1) or  
7 (2) for a period of not more than 179 days.

8 (b) The governor, by executive order, may extend the period that an employee  
9 is paid under par. (a) up to a period of one year from the date on which the person is  
10 activated to serve on military duty in the U.S. armed forces or to serve in the U.S.  
11 public health service.

12 (4) An appointing authority shall permit a state employee who is eligible to  
13 receive the differential pay benefit under sub. (1) or (2) and who has completed his  
14 or her duty with the U.S. armed forces or the U.S. public health service to use up to  
15 80 hours of accumulated paid leave before the employee resumes employment with  
16 the state.

17 **SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

18 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
19 employee, who enlists, is ordered or is inducted into active service in the armed forces  
20 of the United States or who is requested to work for the federal government during  
21 a national emergency or a limited national emergency, shall be restored to the same  
22 or similar position in the classified service and his or her employment shall be  
23 deemed not to have been interrupted by such leave except for the receipt of pay or  
24 other compensation, other than differential pay under s. 230.315, accumulation of  
25 sick leave and accumulation of vacation for the period of such absence, and the

**BILL**

1 employee shall be given all the benefits of seniority, status, pay, pay advancement,  
2 performance awards and pension rights under ch. 40 as though the state  
3 employment was continuous, if:

**SECTION 3. Nonstatutory provisions.**

*→ (a) Except as provided in paragraph (b),*

*auto ref.  
"KA"*

5

(1) COVERAGE. Notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2),

6 and 111.93 (3) of the statutes, section 230.315 of the statutes, as created by this act,

7

applies to state employees and the state before July 1, ~~2003~~ <sup>2005</sup>, regardless of whether

8 the employees are unrepresented or represented by a labor organization, as defined

9

in section 111.81 (12) of the statutes.

10 (2) RETROACTIVE PAYMENT OF BENEFIT. If a state employee who is eligible to be

11 paid under section 230.315 of the statutes, as created by this act, was activated to

12 serve on military duty in the U.S. armed forces or in the U.S. public health service

13 during the period that begins on January 1, 2003, and ends on the day before the

14 effective date of this subsection, the employee shall be paid under section 230.315 (1)

15 or (2) of the statutes, as created by this act, for any service on military duty in the

16 U.S. armed forces or in the U.S. public health service during that period.

17

(END)

*Insert  
4-9*



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2467/5ins  
RAC:.....

↙ auto  
ref. "KA"  
#

9-9  
x

(b) Beginning on July 1, 2003, for any state employee represented by a labor organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the statutes, as created by this act, applies until the day before the effective date of any act ratifying the collective bargaining agreement for the 2003-05 fiscal biennium that covers that employee. Beginning on the effective date of any such act, section 230.315 of the statutes, as created by this act, applies only if provided by the terms of the collective bargaining agreement.

## Kuesel, Jeffery

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**From:** Kranz, Jonathan  
**Sent:** Wednesday, May 28, 2003 9:07 AM  
**To:** Kuesel, Jeffery  
**Cc:** Caucutt, Dan  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Jeff,

I really appreciate your assistance. Please contact me if you have any questions (Jon Kranz at 266-8777 - DOA/State Budget Office).

The question is "does the draft provide for accrual of sick leave and vacation benefits while on military leave?"

Thanks.

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

**From:** Vergeront, David  
**Sent:** Tuesday, May 27, 2003 10:23 AM  
**To:** Kranz, Jonathan; Champagne, Rick  
**Cc:** Caucutt, Dan; Clark, Jessica - Office of Governor Jim Doyle  
**Subject:** RE: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

This is the first time I believe I have seen the proposed language. Nonetheless, unless I am missing something, I believe the word "except" and the sentence structure make it read that vacation and sick leave are excepted, along with pay and either compensation other than differential pay, and therefore would not accrue while the employee is on military leave. This seems to be inconsistent with the intent and the last part of the language which talks about all of the benefits that the employee is entitled to while on leave. Anything that can be done to clear this up and ensure that vacation and sick leave accrue while on military leave should be done.

Jonathan- I don't know where you want to insert the word "other".

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

**From:** Kranz, Jonathan  
**Sent:** Tuesday, May 27, 2003 10:06 AM  
**To:** Vergeront, David; Champagne, Rick  
**Cc:** Caucutt, Dan; Clark, Jessica - Office of Governor Jim Doyle  
**Subject:** FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

David and Rick,

Can you verify the proposed differential pay draft will include the accrual of vacation and sick leave hours? As you can see from the below, the Governor's Office is anxious for this verification.

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

**From:** Clark, Jessica - Office of Governor Jim Doyle  
**Sent:** Tuesday, May 27, 2003 9:57 AM  
**To:** Timberlake, Karen - DER; Kranz, Jonathan; Caucutt, Dan  
**Subject:** RE: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Hello, all,

Differential pay returns... I had a constituent contact me on the differential pay draft wondering about whether the draft allows continued accrual of benefits while receiving differential pay. Per Johnathan's conversation with ETF (below), it was my understanding that the draft did ensure this. However, the constituent (a state employee who has been activated twice), states that the draft explicitly precludes this continued accrual.

The relevant section is 230.32(1), as amended in LRB 2467/5. "Any classified employee of this state...shall be restored to the same or similar position in the classified service and his or her employment shall be deemed not to have been interrupted by such leave except for the receipt of pay or other compensation, other than differential pay under s. 230.315, accumulation of sick leave and accumulation of vacation for the period of such absence, and the employee shall be given all the benefits of seniority, status pay, pay advancement, performance awards and pension rights under ch. 40 as though the state employment was continuous,"

The constituent interprets this to mean that a state employee will not accrue vacation and sick leave. By inserting the word "other", I think we could make a case that those things that follow the word "other" could be allowed to accrue.

Thoughts? We should clear this up quickly. Thanks,

Jessica L. Clark  
Policy Advisor  
Office of Governor Jim Doyle  
23 East State Capitol  
P.O. Box 7863  
Madison, WI 53707  
(608) 266-1212 (phone)  
(608) 261-6804 (fax)

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

From: Timberlake, Karen - DER  
Sent: Monday, April 28, 2003 8:50 AM  
To: Kranz, Jonathan; Clark, Jessica - Office of Governor Jim Doyle;  
Caucutt, Dan  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
for activated milit

A few thoughts:

1. Jessica, you might want to touch base with Terry McArdle re: ETF's point, noted by Jon below, that activation for the public health service doesn't qualify for this differential pay. In looking at the current military leave provisions of ch. 230, I assume that it wouldn't qualify for those, either, as the bill draft references the "military leave" provisions of current law. I don't know anything about activation to the public health service, but it seems to me that we might want to extend these provisions to those folks, esp. in this post-9/11 world.

2. I agree that we do not want people to earn an extra 80 hours of leave. We do want them to be allowed to TAKE up to 80 hours of already accrued leave after they return from active duty and before they report back to work.

Thanks--

Karen

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

From: Kranz, Jonathan  
Sent: Friday, April 25, 2003 4:43 PM  
To: Timberlake, Karen - DER  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement  
for activated milit

Karen.

This is to confirm that according to ETF, employees will retain all benefits. Note that those who are not receiving a check will have to make arrangements for the benefits that are normally handled via payroll deduction.

FYI. ETF points out that the draft only covers uniformed personnel. Federal law provides these benefits for others such as personnel activated for the Public Health Service.

Please let me know if you desire any additional information.

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

From: Timberlake, Karen - DER  
Sent: Thursday, April 17, 2003 9:54 AM  
To: Kranz, Jonathan  
Cc: Caucutt, Dan; Clark, Jessica - Office of Governor Jim Doyle  
Subject: RE: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Thanks Jon. After looking this over, I have a couple of thoughts.

1. Can we sunset the non-stat provision? that would ease the sting for the unions of taking this out of bargaining. Also, we need to take out the amendment to 111.91(2) (adding (rm) to make this a prohibited subject of bargaining.) The idea here is to do this through nonstat language, and sunset it, to address union concerns about removing this as subject of bargaining while still getting benefits to people.
2. I had mentioned to Jessica and Dan that some states expressly permit people to take a certain period of paid leave upon returning from active military duty, so that they don't have to get off the plane from Iraq on Friday and be at work on Monday. I'd suggest that we include this.
3. Someone should doublecheck with ETF to be sure that people will retain eligibility for health insurance, ICI, and other insurances while receiving differential pay. MY memory of our meeting with Mcardle is that health insurance is covered by federal law. How about ICI, life, long term disability, etc.?

Thanks again for the chance to review this.

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

From: Kranz, Jonathan  
Sent: Wednesday, April 16, 2003 11:18 AM  
To: Timberlake, Karen - DER  
Subject: FW: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

Here it is. Just so you don't have to search for your copy.

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

From: Caucutt, Dan  
Sent: Monday, April 07, 2003 1:11 PM  
To: Timberlake, Karen - DER  
Cc: Kranz, Jonathan  
Subject: Draft review LRB 03-24671 Topic Differential pay supplement for activated milit

First draft from LRB.

Draft review LRB 03-24671 Topic Differential pay supplement for activated military state employees



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/6

JTK, RAC&RPN:kg&cjs:rs

wanted Fri 5/30

stays

2003 BILL

1 AN ACT to amend 230.32 (1) (intro.); and to create 230.315 of the statutes;  
2 relating to: differential pay benefit for state employees activated into service leave  
3 in the U.S. armed forces and the U.S. public health service.

and shall continue to accumulate sick leave and vacation as though no interruption in service has occurred

Analysis by the Legislative Reference Bureau

This bill provides that a state employee who is activated to serve on military duty in the U.S. armed forces shall be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary. Under the bill, in order to qualify for the payment, the employee must satisfy all of the following: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; and 3) be on an authorized military leave of absence.

In addition, the bill provides that a state employee who is required to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and allowances that he or she receives during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed his or her state salary.

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**BILL**

*INS 2A* →

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

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

SECTION 1. 230.315 of the statutes is created to read:

230.315 Differential pay benefit for state employees activated into certain federal service in the U.S. armed forces and the U.S. public health service. (1)

Subject to sub. (3), a state employee who is activated to serve on military duty in the U.S. armed forces shall be paid his or her state salary, less any military pay and allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed his or her state salary if all of the following apply:

(a) On or after January 1, 2003, the employee is activated to serve on military duty in the U.S. armed forces, other than for training purposes.

(b) On the date on which he or she is activated, the employee is either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from inactive reserve status.

(c) The employee has received a military leave of absence under s. 230.32 (3) (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111, or under rules promulgated by the secretary of employment relations or is eligible for reemployment with the state under s. 45.50 after completion of his or her service in the U.S. armed forces.

(2) Subject to sub. (3), a state employee who is required on or after January 1, 2003, to serve in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and

(B)

*sick leave and annual leave*

*federal*

*certain*

*paid and shall accumulate sick leave and annual leave of absence as though no interruption in service has occurred*

BILL

1 allowances that he or she receives, during the period in which the employee is  
 2 detailed for duty with any of the U.S. armed forces, unless the federal pay and  
 3 allowances equal or exceed his or her state salary. *paid* *of absence*  
*and shall accumulate sick leave and annual leave as though no*  
*interruption in service has occurred*

4 (3) (a) Except as provided in par. (b), beginning on the 30th day after a classified  
 5 state employee is activated to serve on military duty in the U.S. armed forces or to  
 6 serve in the U.S. public health service, the employee *shall receive the pay and benefits authorized*  
 7 (2) for a period of not more than 179 days.

8 (b) The governor, by executive order, may extend the period that an employee  
 9 *receives the pay and benefits*  
 10 ~~is paid~~ under par. (a) up to a period of one year from the date on which the person is  
 11 activated to serve on military duty in the U.S. armed forces or to serve in the U.S.  
 12 public health service.

13 (4) An appointing authority shall permit a state employee who is eligible to  
 14 receive the ~~state~~ *and benefits authorized* pay ~~benefit~~ under sub. (1) or (2) and who has completed his  
 15 or her duty with the U.S. armed forces or the U.S. public health service to use up to  
 16 80 hours of accumulated paid leave before the employee resumes employment with  
 17 the state.

18 SECTION 2. 230.32 (1) (intro.) of the statutes is amended to read:

19 230.32 (1) (intro.) Any classified employee of this state, except a limited term  
 20 employee, who enlists, is ordered or is inducted into active service in the armed forces  
 21 of the United States or who is requested to work for the federal government during  
 22 a national emergency or a limited national emergency, shall be restored to the same  
 23 or similar position in the classified service and his or her employment shall be  
 24 deemed not to have been interrupted by such leave except for the receipt of pay or  
 25 other compensation, ~~Other than differential pay under s. 230.315~~ *and* accumulation of  
 sick leave and ~~accumulation of~~ *unless the employee qualifies to receive pay and benefits* vacation for the period of such absence, and the *under*

↑ ↑ *S. 230.315*

**BILL**

*↓ other*

1 employee shall be given all ~~the~~ benefits of seniority, status, pay, pay advancement,  
2 performance awards and pension rights under ch. 40 as though the state  
3 employment was continuous, if:

4 **SECTION 3. Nonstatutory provisions.**

5 (1) COVERAGE. (a) Except as provided in paragraph (b), notwithstanding  
6 sections 111.84 (1) and (2), 111.91 (1) and (2), and 111.93 (3) of the statutes, section  
7 230.315 of the statutes, as created by this act, applies to state employees and the  
8 state before July 1, 2005, regardless of whether the employees are unrepresented or  
9 represented by a labor organization, as defined in section 111.81 (12) of the statutes.

10 (b) Beginning on July 1, 2003, for any state employee represented by a labor  
11 organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the  
12 statutes, as created by this act, applies until the day before the effective date of any  
13 act ratifying the collective bargaining agreement for the 2003-05 fiscal biennium  
14 that covers that employee. Beginning on the effective date of any such act, section  
15 230.315 of the statutes, as created by this act, applies only if provided by the terms  
16 of the collective bargaining agreement.

*RECEIPT OF PAY AND BENEFITS (CS)*

17  
18

*to receive the pay and benefits authorized*  
(2) RETROACTIVE ~~payment~~ If a state employee who is eligible ~~to be~~  
*paid* under section 230.315 of the statutes, as created by this act, was activated to  
19 serve on military duty in the U.S. armed forces or in the U.S. public health service  
20 during the period that begins on January 1, 2003, and ends on the day before the  
21 effective date of this subsection, the employee shall ~~be paid~~ *receive the pay and benefits* under section 230.315 (1) *authorized*  
22 or (2) of the statutes, as created by this act, for any service on military duty in the  
23 U.S. armed forces or in the U.S. public health service during that period.



**2003-2004 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2467/6ins  
JTK.....

*JWS 2A*

Under the bill, an employee receives pay and benefits for not more than 179 days, except that the governor may extend that period to not more than one year. The bill applies retroactively to leaves that begin on or after January 1, 2003.

Currently, classified state employees who are inducted into active service in the armed forces or who are requested to work for the federal government during a national emergency or limited national emergency have restoration rights and certain other benefits but do not receive their state salaries and do not accumulate sick leave and vacation while on leave for federal service.

*U.S.*



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2467/07  
JTK/RAC/RPN:kg&cjs:rs

2003 BILL

1 AN ACT <sup>Gen. Cat.</sup> to amend 230.32 (1) (intro.); and to create 230.315 of the statutes;  
2 relating to: differential pay and accumulation of sick leave and annual leave  
3 for certain state employees activated into service in the U.S. armed forces or the  
4 U.S. public health service.

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*Analysis by the Legislative Reference Bureau*

This bill provides that certain state employees who are activated to serve on military duty in the U.S. armed forces shall be paid their state salaries, less any military pay and allowances that they receive, during the period in which the employees are on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed an employee's state salary, and shall continue to accumulate sick leave and vacation as though no interruption in service has occurred. Under the bill, in order to qualify for the payment, an employee must: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; and 3) be on an authorized military leave of absence.

In addition, the bill provides that state employees who are required to serve in the U.S. public health service and who are on detail with any of the U.S. armed forces shall be paid their state salaries, less any federal pay and allowances that the employees receive during the period in which the employees are detailed for duty

**BILL**

with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed an employee's state salary.

Under the bill, an employee receives pay and benefits for not more than 179 days, except that the governor may extend that period to not more than one year. The bill applies retroactively to leaves that begin on or after January 1, 2003.

Currently, classified state employees who are inducted into active service in the U.S. armed forces or who are requested to work for the federal government during a national emergency or limited national emergency have restoration rights and certain other benefits but do not receive their state salaries and do not accumulate sick leave and vacation while on leave for federal service.

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

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

1           SECTION 1. 230.315 of the statutes is created to read:

2           **230.315 Differential pay, sick leave and annual leave for certain state**  
3 **employees activated into certain federal service.** (1) Subject to sub. (3), a state  
4 employee who is activated to serve on military duty in the U.S. armed forces shall  
5 be paid his or her state salary, less any military pay and allowances that he or she  
6 receives, during the period in which the employee is on military duty in the U.S.  
7 armed forces, unless the military pay and allowances equal or exceed his or her state  
8 salary, and shall accumulate sick leave and paid annual leave of absence as though  
9 no interruption in service has occurred if all of the following apply:

10           (a) On or after January 1, 2003, the employee is activated to serve on military  
11 duty in the U.S. armed forces, other than for training purposes.

12           (b) On the date on which he or she is activated, the employee is either a member  
13 of the Wisconsin national guard or a member of a reserve component of the U.S.  
14 armed forces or is recalled to active military duty from inactive reserve status.

**BILL**

1           (c) The employee has received a military leave of absence under s. 230.32 (3)  
2           (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,  
3           or under rules promulgated by the secretary of employment relations or is eligible  
4           for reemployment with the state under s. 45.50 after completion of his or her service  
5           in the U.S. armed forces.

6           (2) Subject to sub. (3), a state employee who is required on or after January 1,  
7           2003, to serve in the U.S. public health service and who is on detail with any of the  
8           U.S. armed forces shall be paid his or her state salary, less any federal pay and  
9           allowances that he or she receives, during the period in which the employee is  
10          detailed for duty with any of the U.S. armed forces, unless the federal pay and  
11          allowances equal or exceed his or her state salary, and shall accumulate sick leave  
12          and paid annual leave of absence as though no interruption in service has occurred.

13          (3)(a) Except as provided in par. (b), beginning on the 30th day after a ~~classified~~  
14          state employee is activated to serve on military duty in the U.S. armed forces or to  
15          serve in the U.S. public health service, the employee shall receive the pay and  
16          benefits authorized under sub. (1) or (2) for a period of not more than 179 days.

17          (b) The governor, by executive order, may extend the period that an employee  
18          receives the pay and benefits under par. (a) up to a period of one year from the date  
19          on which the person is activated to serve on military duty in the U.S. armed forces  
20          or to serve in the U.S. public health service.

21          (4) An appointing authority shall permit a state employee who is eligible to  
22          receive the pay and benefits authorized under sub. (1) or (2) and who has completed  
23          his or her duty with the U.S. armed forces or the U.S. public health service to use up  
24          to 80 hours of accumulated paid leave before the employee resumes employment with  
25          the state.

**BILL**

**SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

230.32 (1) (intro.) Any classified employee of this state, except a limited term employee, who enlists, is ordered or is inducted into active service in the armed forces of the United States or who is requested to work for the federal government during a national emergency or a limited national emergency, shall be restored to the same or similar position in the classified service and his or her employment shall be deemed not to have been interrupted by such leave except for the receipt of pay or other compensation, and accumulation of sick leave and accumulation of vacation for the period of such absence, unless the employee qualifies to receive pay and benefits under s. 230.315, and the employee shall be given all the other benefits of seniority, status, pay, pay advancement, performance awards and pension rights under ch. 40 as though the state employment was continuous, if:

**SECTION 3. Nonstatutory provisions.**

(1) COVERAGE. (a) Except as provided in paragraph (b) notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2), and 111.93 (3) of the statutes, section 230.315 of the statutes, as created by this act, applies to state employees and the state before July 1, 2005, regardless of whether the employees are ~~represented~~ <sup>non represented</sup> or represented by a labor organization, as defined in section 111.81 (12) of the statutes.

(b) Beginning on July 1, 2003, for any state employee represented by a labor organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the statutes, as created by this act, applies until the day before the effective date of any act ratifying the collective bargaining agreement for the 2003-05 fiscal biennium that covers that employee. Beginning on the effective date of any such act, section 230.315 of the statutes, as created by this act, applies only if provided by the terms of the collective bargaining agreement.

*LPS: Add par. indent as noted p. 15.*

14

**BILL**

1           (2) RETROACTIVE RECEIPT OF PAY AND BENEFITS. If a state employee who is eligible  
2 to receive the pay and benefits authorized under section 230.315 of the statutes, as  
3 created by this act, was activated to serve on military duty in the U.S. armed forces  
4 or in the U.S. public health service during the period that begins on January 1, 2003,  
5 and ends on the day before the effective date of this subsection, the employee shall  
6 receive the pay and benefits authorized under section 230.315 (1) or (2) of the  
7 statutes, as created by this act, for any service on military duty in the U.S. armed  
8 forces or in the U.S. public health service during that period.

9

(END)