

**2017 DRAFTING REQUEST**

**Bill**

For: **Jerry Petrowski (608) 266-2502** Drafter: **mkunkel**  
 By: **Derick** Secondary Drafters:  
 Date: **4/19/2017** May Contact:  
 Same as LRB: **-3387**

Submit via email: **YES**  
 Requester's email: **Sen.Petrowski@legis.wisconsin.gov**  
 Carbon copy (CC) to: **nancy.merrill@wtcsystem.edu**  
**aaron.gary@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

In-state fees for "covered individuals" under federal veterans laws

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 4/19/2017				
/P1	mkunkel 5/1/2017	aernstr 4/20/2017	lparisi 4/20/2017		State S&L
/1		aernstr 5/1/2017	lparisi 5/1/2017	hkohn 5/4/2017	State S&L

FE Sent For:

<END>

*at intro*

## Kunkel, Mark

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**From:** Kunkel, Mark  
**Sent:** Wednesday, March 29, 2017 10:27 AM  
**To:** Kunkel, Mark  
**Subject:** VA law

### § 3679. Disapproval of courses

(a)

(1) Except as provided by paragraph (2), any course approved for the purposes of this chapter [38 USCS §§ 3670 et seq.] which fails to meet any of the requirements of this chapter [38 USCS §§ 3670 et seq.] shall be immediately disapproved by the Secretary or the appropriate State approving agency. An educational institution which has its courses disapproved by the Secretary or a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(2) In the case of a course of education that would be subject to disapproval under paragraph (1) solely for the reason that the Secretary of Education withdraws the recognition of the accrediting agency that accredited the course, the Secretary of Veterans Affairs, in consultation with the Secretary of Education, and notwithstanding the withdrawal, may continue to treat the course as an approved course of education under this chapter [38 USCS §§ 3670 et seq.] for a period not to exceed 18 months from the date of the withdrawal of recognition of the accrediting agency, unless the Secretary of Veterans Affairs or the appropriate State approving agency determines that there is evidence to support the disapproval of the course under this chapter [38 USCS §§ 3670 et seq.]. The Secretary shall provide to any veteran enrolled in such a course of education notice of the status of the course of education.

(b) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section. The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution under chapter 31 of this title [38 USCS §§ 3100 et seq.].

(c)

(1) Notwithstanding any other provision of this chapter [38 USCS §§ 3670 et seq.] and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning if the institution charges tuition and fees for that course for covered individuals who are pursuing the course with educational assistance under chapter 30 or 33 of this title [38 USCS §§ 3001 et seq. or 3301 et seq.] while living in the State in which the institution is located at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) ***[Caution: For provisions applicable to a course, semester or term that begins before 7/1/2017, see 2016 amendment note below.]*** An individual who is entitled to assistance under—

(i) section 3311(b)(9) of this title [38 USCS § 3311(b)(9)]; or

3311 (b)(9): An individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.

(ii) section 3319 of this title [38 USCS § 3319] by virtue of the individual's relationship to—

Section 3319 is titled, "Authority to transfer unused education benefits to family members"

(I) a veteran described in subparagraph (A); or

(II) a member of the uniformed services described in section 3319(b) of this title [38 USCS § 3319(b)] who is serving on active duty.

3319 (b): Eligible individuals. An individual referred to in subsection (a) is any member of the uniformed services who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

(1) six years of service in the Armed Forces and enters into an agreement to serve at least four more years as a member of the uniformed services; or

(2) the years of service as determined in regulations pursuant to subsection (j).

**Prior to 2016 amendment**, (B) provided: An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30 and 33 of this title [38 USCS §§ 3001 et seq. and 3301 et seq.].

(d) Notwithstanding any other provision of this chapter [38 USCS §§ 3670 et seq.], the Secretary or the applicable State approving agency shall disapprove a course of education described in paragraph (14) or (15) of section 3676(c) of this title [38 USCS § 3676(c)] unless the educational institution providing the course of education--

(1) publicly discloses any conditions or additional requirements, including training, experience, or examinations, required to obtain the license, certification, or approval for which the course of education is designed to provide preparation; and

(2) makes each disclosure required by paragraph (1) in a manner that the Secretary considers prominent (as specified by the Secretary in regulations prescribed for purposes of this subsection).

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Mark D. Kunkel  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



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VA » Veterans Benefits Administration » Education and Training » GI Bill Resident Rate Requirements

## Education and Training

### GI Bill Resident Rate Requirements

Section 417 of Public Law 114-315 requires VA to disapprove programs of education for payment of benefits under the Post-9/11 GI Bill and Montgomery GI Bill-Active Duty at public Institutions of Higher Learning (IHLs) if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students for terms beginning after July 1, 2017.

To remain approved for VA's GI Bill programs, schools must charge in-state tuition and fee amounts to "covered individuals." A covered individual is defined as:

- A Veteran who lives in the state where the IHL is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
- An individual using transferred benefits who lives in the state where the IHL is located (regardless of his/her formal state of residence) and enrolls in the school within three years of the transferor's discharge from a period of active duty service of 90 days or more. *3679(c)(2)(A)*
- Anyone described above while he or she remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters, or terms) at the same school. The person so described must have enrolled in the school prior to the expiration of the three year period following discharge or release as described above and must be using educational benefits under either chapter 30 or chapter 33, of title 38, United States Code. *3679(c)(1)?*
- Anyone using transferred Post-9/11 GI Bill benefits who lives in the state where the IHL is located and the transferor is a member of the uniformed service who is serving on active duty. *3679(a)(2)(B)(ii)(I)*
- Anyone using benefits under the Marine Gunnery Sergeant John David Fry Scholarship who lives in the state where the IHL is located (regardless of his/her formal state of residence). *3679(a)(2)(B)(i)?*

The in-state tuition provisions in Section 417 do not apply to those individuals on active duty using benefits under the Post-9/11 GI Bill and Montgomery GI Bill-Active Duty.

Public IHLs must offer in-state tuition and fees to all covered individuals with Post-9/11 GI Bill and Montgomery GI Bill - Active Duty (MGIB - AD) benefits in order for programs to remain approved for GI Bill benefits for terms beginning after July 1, 2017. After July 1, 2017, VA will not issue payments for any students eligible for the Post-9/11 GI Bill or the MGIB-AD until the school becomes fully compliant. These requirements ensure our nation's recently discharged Veterans, and their eligible family members, will not bear the cost of out-of-state charges while using their well-deserved education benefits.

#### Am I eligible for the resident rate for tuition and fees?

It depends on your school's policy and rules:

- By law, schools are allowed to have additional requirements that must be met in order for a "covered individual" to be charged the resident rate for tuition and fees.
- Also, some schools grant the resident rates to students with military connections (current or former member of the Armed Forces, or dependents of current or former members of the Armed Forces) regardless of whether they are "covered individuals."

Therefore, you should contact your school to learn more about their rules and requirements for charging tuition and fees. Your school will review your particular situation and determine if you will be charged the resident rate. You may access the contact information for your school and search by state or territory.

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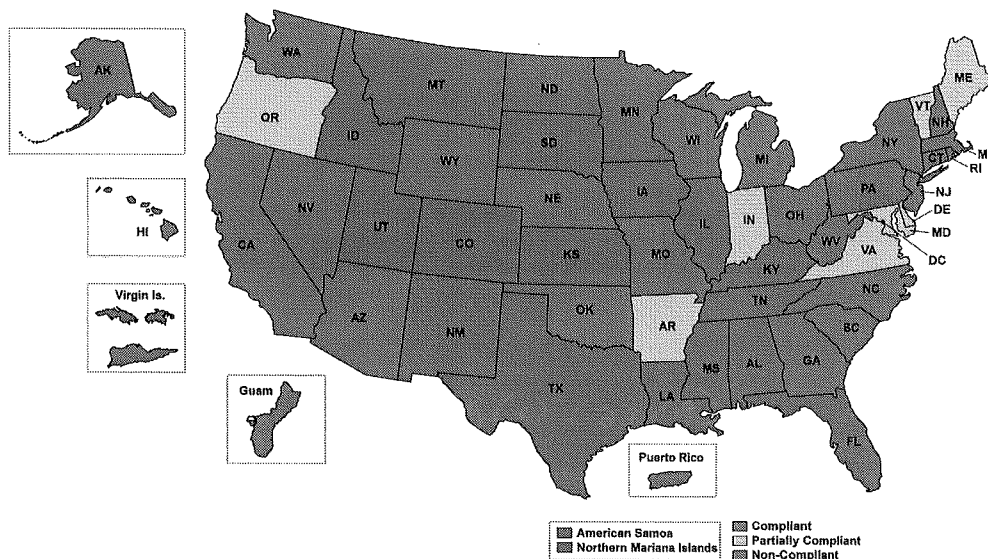
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If, after discussing this matter with your school, you believe the school incorrectly intends to charge or has charged you more than the resident rate, you should submit a complaint into the GI Bill Feedback System. Please include details as to why you believe either you or your beneficiary has been incorrectly charged out of state tuition. Our Complaint Team will review the case and take appropriate action.

## Is my state or school compliant with the GI Bill Resident Rate Requirements?

The map below indicates which states and schools are currently compliant with the requirements in Section 417. Please check back for an up-to-date status of your school/state!



## Compliant

Alabama, Alaska, American Somoa, Colorado, Florida, Guam, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Mississippi, Montana, New Hampshire, New Mexico, New York, North Mariana Islands, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Texas, Utah, and Virgin Islands.

## Partially Compliant

The schools listed below are compliant with requirements in Section 417:

### Arkansas

Arkansas Northeastern College, Arkansas State University - (Beebe), Black River Technical College, Cossatot Community College of the University of Arkansas, East Arkansas Community College, Henderson State University, Ozarka College, Rich Mountain Community College, Southern Arkansas University, Southern Arkansas University Tech, University of Arkansas for Medical Sciences, University of Arkansas-Fayetteville, University of Arkansas-Fort Smith, University of Arkansas-Little Rock, University of Arkansas-Pine Bluff, University of Arkansas Community College at Batesville, University of Arkansas Community College at Hope and University of Arkansas Community College at Morrilton.

### Delaware

Delaware State University and University of Delaware.

### Indiana

Indiana State University and University of Southern Indiana.

### Maine

Maine Maritime Academy, University of Maine at Augusta, University of Maine at Farmington, University of Maine at Fort Kent, University of Maine at Machias, University of Maine at Orono, University of Maine at Presque Isle, University of Maine School of Law and University of Southern Maine.

### Maryland

Carroll Community College

### Oregon

Blue Mountain Community College, Chemeketa Community College, Columbia Gorge Community College, Eastern Oregon University, Lane Community College, Oregon Institute of Technology, Portland Community College, Rogue Community College, Southwestern Oregon Community College, Tillamook Bay Community College, Treasure Valley Community College, Umpqua Community College, University of Oregon and Western Oregon University.

### Vermont

Castleton State College, Community College of Vermont, Johnson State College, Lyndon State College and Vermont Technical College.

**Virginia**

Blue Ridge Community College, Central Virginia Community College, Christopher Newport University, Christopher Newport University Police Dept, College of William and Mary, Dabney S. Lancaster Community College, Danville Community College, Eastern Shore Community College, Eastern Virginia Medical School, George Mason University, Germanna Community College, J Sargeant Reynolds Community College, James Madison University, John Tyler Community College, Longwood University, Lord Fairfax Community College, Lord Fairfax Community College-Fauquier, Mountain Empire Community College, New River Community College, Norfolk State University, Northern Virginia Community College -Alexandria, Northern Virginia Community College-Annadale, Northern Virginia Community College -Loudoun, Northern Virginia Community College - Manassas, Northern Virginia Community College - Woodbridge, Patrick Henry Community College, Paul D Camp Community College, Piedmont Virginia Community College, Rappahannock Community College, Richard Bland College, Southside Virginia Community College, Southside Virginia Community College - J H Daniel Campus, Southwest Community College, Thomas Nelson Community College, Tidewater Community College, Tidewater Community College - Chesapeake, Tidewater Community College - Portsmouth, Tidewater Community College - Virginia Beach, Tidewater Community College - Workforce Development, University of Mary Washington, University of Mary Washington-Stafford, University of Virginia, University of Virginia's College at Wise, Virginia Commonwealth University, Virginia Highlands Community College, Virginia Military Institute, Virginia Polytechnic & State University, Virginia State University, Virginia Western Community College andWytheville Community College.

**Non-Compliant**

Arizona, California, Connecticut, Georgia, Hawaii, Michigan, Missouri, Nebraska, Nevada, Ohio, Oklahoma, New Jersey, North Carolina, South Carolina, Washington, West Virginia, Wisconsin and Wyoming.

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## Kunkel, Mark

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**From:** Merrill, Nancy A - WTCS  
**Sent:** Monday, April 17, 2017 5:03 PM  
**To:** Kunkel, Mark  
**Subject:** RE: question

Hi again Mark – maybe I misunderstood and the change is related to active duty transfers of Post-9/11 benefits. I know that, if we don't comply, then feds are saying we won't qualify for Post-9/11 tuition payments that go directly to colleges, which would be a huge loss.

In the end then you don't think we need to make changes? My concern is that feds are pretty insistent that we do to continue getting tuition payments for qualifying participants under federal Post-9/11. I'd welcome any suggestions you have on how to proceed.

Thanks for your help on this -

Nancy Merrill

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**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]  
**Sent:** Monday, April 17, 2017 3:40 PM  
**To:** Merrill, Nancy A <nancy.merrill@wtcsystem.edu>  
**Subject:** RE: question

Nancy:

What federal law requires active duty service members to be charged in-state fees? It doesn't look to me that 38 USC 3679 (c) applies to active duty service members. Instead, it applies to the following, which are defined as "covered individuals":

- 1) certain veterans – see 38 USC 3679 (c) (2) (A)
- 2) individuals receiving assistance under the Marine Gunnery Sergeant John David Fry Scholarship – see 38 USC 3679 (c) (2) (b) (i)
- 3) individuals using Post-9/11 GI Bill benefits that were transferred by a veteran – see 38 USC 3679 (c) (2) (b) (ii) (I)
- 4) individuals using Post-9/11 GI Bill benefits that were transferred by an active duty service member – see 38 USC 3679 (c) (2) (b) (ii) (II)

The only remaining subunit of 38 USC 3679 (c) is paragraph (1), and that paragraph doesn't say that active duty members are entitled to in-state fees. Instead, that paragraph requires in-state fees for covered individuals as defined above.

If the VA isn't concerned about active duty service members themselves, but instead is concerned about Post 9/11 GI bill benefits transferred by active duty service members, then that result is achieved by referring to covered individuals as defined in 38 USC 3679 (2) (c) (2), as they are included under 38 USC 3679 (2) (c) (2) (b) (ii) (II).

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**From:** Merrill, Nancy A - WTCS  
**Sent:** Monday, April 17, 2017 9:15 AM



**To:** Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>

**Subject:** RE: question

Hi Mark – thanks for this. I think that the change to “covered individual” and the reference that eliminates (2) is because it now applies to both active duty and veterans – so perhaps (2) is too specific because it refers to vets?

---

**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]

**Sent:** Monday, April 10, 2017 4:25 PM

**To:** Merrill, Nancy A <nancy.merrill@wtcsystem.edu>

**Subject:** RE: question

Nancy:

It looks like the VA is trying to incorporate the “continuous enrollment” language that is set forth in 38 USC 3679 (c) (3). If so, I don’t think you can accomplish that by changing our definition of “covered individual” in s. 38.24 (3m) (a). Our definition is correctly drafted, as the federal law defines “covered individual” in 38 USC 3679 (c) (2). If we change our definition to say that “covered individual” has the meaning given in 38 USC 3679 (c), I don’t think we succeed in inherently referring to the continuous enrollment language in 38 USC 3679 (c) (3).

How about doing what I set forth below? Let me know what you think.

--Mark

38.24(3m) NONRESIDENT FEE EXEMPTION FOR VETERANS AND THEIR SPOUSES AND CHILDREN COVERED INDIVIDUALS.

(a) In this subsection, "covered individual" has the meaning given in 38 USC 3679 (c) (2).

(b) The district boards shall charge covered individuals living in this state the fees established under sub. (1m) (a) and (b) while those individuals remain continuously enrolled at technical colleges, other than during regularly scheduled breaks between courses, semesters, or terms.

~~(c) If a covered individual living in this state is enrolled at a technical college, and has been charged fees in accordance with par. (b), on the date that begins the 3rd year after the veteran described in 38 USC 3679 (c) (2) (A) that is or is associated with the covered individual was discharged or released from service, the covered individual shall continue to be charged fees established in accordance with this subsection, rather than sub. (3) (a), for as long as the covered individual maintains continuous enrollment at the technical college.~~

(d) This subsection does not affect any other fee exemption or fee remission for which a covered individual may be eligible under this section.

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**From:** Kunkel, Mark

**Sent:** Wednesday, March 29, 2017 11:00 AM

**To:** Merrill, Nancy A - WTCS <nancy.merrill@wtcsystem.edu>

**Subject:** RE: question

Nancy:

When you have time, can you walk me through what VA is trying to accomplish and why current state law has to be amended to accomplish that? I don't know how referring to 38 USC 3679 (c), instead of the more specific reference to 38 USC 3679 (c) (2) , accomplishes what the VA says it wants to accomplish.

Under the federal statute, the definition of "covered individual" is set forth in 38 USC 3679 (c) (2). The other provisions of 38 USC 3679 (c) don't say anything about what the term "covered individual" means, so I don't know what is gained by referring to all of 38 USC 3679 (c) instead of the more specific provision that sets forth the definition (i.e. 38 USC 3679 (c) (2)).

This is the first time I've read the state and federal statutes on this issue, so there is probably something going on that I'm just not getting on my first read through.

Thanks,

--Mark

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**From:** Merrill, Nancy A - WTCS  
**Sent:** Sunday, March 26, 2017 5:01 PM  
**To:** Kunkel, Mark <[Mark.Kunkel@legis.wisconsin.gov](mailto:Mark.Kunkel@legis.wisconsin.gov)>  
**Subject:** RE: question

Thanks Mark!

Sent from my U.S. Cellular® Smartphone

----- Original message -----

**From:** "Kunkel, Mark" <[Mark.Kunkel@legis.wisconsin.gov](mailto:Mark.Kunkel@legis.wisconsin.gov)>  
**Date:** 3/24/17 4:04 PM (GMT-06:00)  
**To:** "Merrill, Nancy A" <[nancy.merrill@wtcsystem.edu](mailto:nancy.merrill@wtcsystem.edu)>  
**Subject:** RE: question

I have a few other things to get to first, but will try to look at this early next week.

--Mark

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**From:** Merrill, Nancy A - WTCS  
**Sent:** Friday, March 24, 2017 3:55 PM  
**To:** Kunkel, Mark <[Mark.Kunkel@legis.wisconsin.gov](mailto:Mark.Kunkel@legis.wisconsin.gov)>  
**Subject:** RE: question

Hi Mark -

I've pasted the suggested changes we received below. I don't think the changes are very complicated (or actually necessary at the title is not determinant) but would appreciate your thoughts.

UWS made the most recent changes through System policy in 2015 but we had statutory language that required change. That happened with 2015 SB 164.

Thanks for your thoughts -

Nancy M.

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This email is intended to provide technical assistance on how to amend Wisconsin law in order to achieve compliance with 38 U.S.C. 3679(c). Attached for your convenience is a copy of the current applicable Wisconsin statute.

VA recommends the following edits:

~~38.24(3m) NONRESIDENT FEE EXEMPTION FOR VETERANS AND THEIR SPOUSES AND CHILDREN COVERED INDIVIDUALS. (a) In this subsection, "covered individual" has the meaning given in 38 USC 3679(c)(2).~~

VA also recommends deleting paragraph 38.24(3m)(c) in its entirety.

~~(c) If a covered individual living in this state is enrolled at a technical college, and has been charged fees in accordance with par. (b) on the date that begins the 3<sup>rd</sup> year after the veteran described in 38 USC 3679(c)(2)(A) that is or is associated with the covered individual was discharged or released from service, the covered individual shall continue to be charged fees established in accordance with this subsection, rather than sub. (3)(a), for as long as the covered individual maintains continuous enrollment at the technical college.~~

Subsection 38.24(3m)(d) will become the new 38.24(3m)(c).

These changes will make the statutory language compliant. By referencing 38 U.S.C. 3679(c) instead of 38 U.S.C. 3679(c)(2), the statute makes an inherent provision for continuous enrollment.

Policy and Regulation Development Team  
Education Service

**VA**



U.S. Department of Veterans Affairs  
Veterans Benefits Administration

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**From:** Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]  
**Sent:** Friday, March 24, 2017 2:50 PM  
**To:** Merrill, Nancy A <[nancy.merrill@wtcsystem.edu](mailto:nancy.merrill@wtcsystem.edu)>  
**Subject:** FW: question

Hi Nancy,

Can you email the changes or otherwise send them to me? Also, do the changes apply only to technical colleges, or do they also apply to the UW System?

If you want to give me a call, you can reach me at 608 266-0131.

Thanks,

--Mark

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**From:** Hoesly, Bruce  
**Sent:** Friday, March 24, 2017 2:26 PM  
**To:** Merrill, Nancy A - WTCS <nancy.merrill@wtcsystem.edu>  
**Cc:** Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>  
**Subject:** RE: question

Hi Nancy;

By copy of this email I am forwarding your question to Mark Kunkel, an attorney in our office who drafts Tech Colleges legislation. He will contact you directly.

Bruce

---

**From:** Merrill, Nancy A - WTCS  
**Sent:** Friday, March 24, 2017 2:13 PM  
**To:** Hoesly, Bruce <Bruce.Hoesly@legis.wisconsin.gov>  
**Subject:** question

Hi Bruce –

Sorry to bother you but hoping you can point me in the right direction. A couple years ago, we worked to change some statutory language related to veterans tuition exemptions to comply with federal rules.

We've been contacted by federal VA saying that new federal code changes make our statutory language non-compliant (I don't necessarily agree but they are insistent.)

They have provided some draft language that I believe we can live with but wonder if it might be appropriate for someone in LRB to review the suggested changes? If so, who?

We anticipate that we will work with someone in legislature on getting to bill to make the change at some point – sooner rather than later as the Feds expect a change by July 1 or will penalize us.

Thanks for your help –

Nancy Merrill  
WTCS



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## Education and Training

### Transfer Post-9/11 GI Bill to Spouse and Dependents

The transferability option under the Post-9/11 GI Bill allows Servicemembers to transfer all or some unused benefits to their spouse or dependent children. The request to transfer unused GI Bill benefits to eligible dependents must be completed while servicing as an active member of the Armed Forces. The Department of Defense (DoD) determines whether or not you can transfer benefits to your family. Once the DoD approves benefits for transfer, the new beneficiaries apply for them at VA. To find out more, visit the DoDs website or apply now.



#### Type of Assistance

Eligible Servicemembers may transfer all 36 months or the portion of unused Post-9/11 GI Bill benefits (unless DoD or the Department of Homeland Security has limited the number of transferable months). If you're eligible, you may transfer benefits to the following individuals:

- Your spouse
- One or more of your children
- Any combination of spouse and child

#### Available Benefits and Eligibility

Family members must be enrolled in the Defense Eligibility Enrollment Reporting System (DEERS) and be eligible for benefits at the time of transfer to receive transferred benefits.

The option to transfer is open to any member of the armed forces active duty or Selected Reserve, officer or enlisted who is eligible for the Post-9/11 GI Bill, and meets the following criteria:

- Has at least six years of service in the armed forces (active duty and/or Selected Reserve) on the date of approval and agrees to serve four additional years in the armed forces from the date of election.
- Has at least 10 years of service in the armed forces (active duty and/or Selected Reserve) on the date of approval, is precluded by either standard policy (by Service Branch or DoD) or statute from committing to four additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute.
- Transfer requests are submitted and approved while the member is in the armed forces.

**Transfer Process.** While in the armed forces, transferors use the Transfer of Education Benefits (TEB) website to designate, modify, and revoke a Transfer of Entitlement (TOE) request. After leaving the armed forces, transferors may provide a future effective date for use of TOE, modify the number of months transferred, or revoke entitlement transferred by submitting a written request to VA. Submit a TEB request now for your Service component approval (non-VA

## eBenefits

Check Your Current Post-9/11 GI Bill Enrollment Status on eBenefits

[www.ebenefits.va.gov](http://www.ebenefits.va.gov)

### VERIFY SCHOOL ATTENDANCE

Keep receiving education and training benefits from VA by **verifying your attendance.**

### RESOURCES

- Benefits A-Z
- Federal Benefits for Veterans, Dependents, and Survivors
- Trouble Making Payments
- New/Update Military ID Card

#### CONNECT WITH BENEFITS



## eBenefits

Access Your VA & DoD Benefits  
24/7

[www.ebenefits.va.gov](http://www.ebenefits.va.gov)

## Transfer Post-9/11 GI Bill to Spouse and Dependents - Education and Training

Link). (NOTE: When the milConnect Home page displays, select Education then Transfer of Education Benefits [TEB] from the menu bar.)

Upon approval, family members may apply to use transferred benefits with VA by printing, completing, and mailing the VA Form 22-1990e to your nearest VA regional office of applying online. VA Form 22-1990e should only be completed and submitted to VA by the family member after DoD has approved the request for TEB. Do not use VA Form 22-1990e to apply for TEB.

### Other Factors to Consider

#### **Marriage and Divorce**

- A child's subsequent marriage will not affect his or her eligibility to receive the educational benefit; however, after an individual has designated a child as a transferee under this section, the individual retains the right to revoke or modify the transfer at any time.
- A subsequent divorce will not affect the transferee's eligibility to receive educational benefits; however, after an individual has designated a spouse as a transferee under this section, the eligible individual retains the right to revoke or modify the transfer at any time.

#### **Reallocation of Benefits**

If a Servicemember wants to reallocate transferred benefits they can do so using the TEB Portlet in MilConnect at <https://www.dmdc.osd.mil/milconnect>. If a Veteran wants to reallocate benefits they should contact the VA using our "Ask A Question" website <http://gibill.custhelp.com>.

If transferred benefits are totally revoked for a dependent a Servicemember must resubmit a transfer request for the dependent via MilConnect, a Veteran cannot re-transfer benefits to a dependent if the dependent's transfer eligibility was previously totally revoked.

#### **Nature of Transfer**

Family member use of transferred educational benefits is subject to the following rules:

##### **Spouses**

- May start to use the benefit immediately
- May use the benefit while the member remains in the Armed Forces or after separation from active duty
- Are not eligible for the monthly housing allowance while the member is serving on active duty
- Can use the benefit for up to 15 years after the service members last separation from active duty

##### **Children**

- May start to use the benefit only after the individual making the transfer has completed at least 10 years of service in the armed forces
- May use the benefit while the eligible individual remains in the armed forces or after separation from active duty
- May not use the benefit until he or she has attained a secondary school diploma (or equivalency certificate), or he or she has reached age 18
- Is entitled to the monthly housing allowance stipend even though the eligible individual is on active duty
- Is not subject to the 15-year delimiting date, but may not use the benefit after reaching 26 years of age

### More Information

- View the official DoD website for information on transferability (non-VA link)
- Get the fact sheet on transferability of Post-9/11 GI Bill benefits

## Transfer Post-9/11 GI Bill to Spouse and Dependents - Education and Training

- For specific questions about your eligibility, the status of your transfer request, and service specific questions about the TEB Portlet, please contact the appropriate career counselor or personnel center from the following list:

Branch of Service	Contact
Army Active Duty Officer	Email
Army Active Duty Enlisted	Email
Army National Guard	Email
Army Reserve (Enlisted and Officer)	Email
Navy Active Duty Navy Personnel Command Customer Service Center	866-U-ASK-NPC (866-827-5672)/DSN 882-5672
Navy Reserve	800-621-8853, Fax: 757-444-7597/7598 Email
Marine Corps Active Duty Officer	Email
Marine Corps Active Duty Enlisted	Email
Marine Corps Reserve	Email
Air Force Active Duty	800-525-0102 or 210-565-5000 or DSN 665-5000
Air National Guard	Contact one of the Retention Office Managers at your unit.
Air Force Reserve	Email
Coast Guard Active Duty	Email
Coast Guard Reserve	Email
NOAA	Email or 301-713-7728
PHS	Email or 240-453-6130

[return to top ▲](#)

**CONNECT**

Veterans Crisis Line:  
1-800-273-8255 (Press 1)

Social Media



[Complete Directory](#)

**EMAIL UPDATES****VA HOME**

[Notices](#)  
[Privacy](#)  
[FOIA](#)  
[Regulations](#)  
[Web Policies](#)  
[No FEAR Act](#)  
[Whistleblower Rights & Protections](#)  
[Site Index](#)

**QUICK LIST**

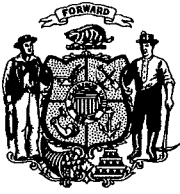
[Apply for Benefits](#)  
[Apply for Health Care](#)  
[Prescriptions](#)  
[My Health eVal](#)  
[eBenefits](#)  
[Life Insurance Online Applications](#)  
[VA Forms](#)  
[State and Local Resources](#)

**RESOURCES**

[Careers at VA](#)  
[Veterans Employment Center](#)  
[Returning Service Members](#)  
[Vocational Rehabilitation & Employment](#)  
[Homeless Veterans](#)  
[Women Veterans](#)  
[Minority Veterans](#)

**ADMINISTRATION**

[Veterans Health Administration](#)  
[Veterans Benefits Administration](#)  
[National Cemetery Administration](#)



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3167/P1

MDK: *dhe*

*Q-NOTE*

*bus Fri  
4-20  
before  
noon*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** resident technical college fees for individuals receiving  
2 benefits transferred under federal law by active duty uniformed service  
3 members.

*gen*  
*see*

*transfer certain  
unused educational  
benefits*

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

Under this bill, technical college districts must charge resident fees to individuals who use certain benefits transferred from active duty uniformed service members under federal law. Under current state law, technical college districts must charge resident fees to "covered individuals," as defined under federal law, while those individuals are continuously enrolled. Before its amendment in 2016, the federal law defined "covered individual" to include individuals using benefits transferred from certain veterans. In 2016, the federal law was amended to define "covered individual" to also include individuals using benefits transferred from active duty uniformed service members. Although current state law uses the definition of "covered individual" under federal law, current state law includes a provision that has the effect of prohibiting technical college districts from charging resident fees to individuals who are covered individuals that use benefits transferred from active duty uniformed service members. This bill eliminates that provision and therefore requires technical college districts to charge resident fees to those individuals.

Finally, as noted above, current law requires charging resident fees while a covered individual is continuously enrolled. This bill clarifies that an individual remains continuously enrolled during regularly scheduled breaks between courses, semesters, or terms.

*to whom*

*to whom*

*by*

*to whom*

*based on unused*

*transfer unused benefits*

*transfer unused benefits*



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

---

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

1           ~~SECTION 1.~~ 38.24 (3m) (title) of the statutes is amended to read:

2                                38.24 (3m) (title) NONRESIDENT FEE EXEMPTION FOR VETERANS AND THEIR SPOUSES  
3                                AND CHILDREN COVERED INDIVIDUALS.

History: 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418; ~~1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 107, 336; 1991 a. 39 ss. 1103 to 1108m, 1117; 1993 a. 16, 223, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 228; 1997 a. 27, 163, 292; 1999 a. 32 s. 97; 1999 a. 130, 154; 2003 a. 42; 2005 a. 22, 25, 253, 320, 468; 2007 a. 20 ss. 738mr to 741, 9121 (6) (a); 2007 a. 130; 2009 a. 28, 276; 2011 a. 32; 2013 a. 20, 173; 2015 a. 21, 55.~~

4           ~~SECTION 2.~~ 38.24 (3m) (b) of the statutes is amended to read:

5                                38.24 (3m) (b) The district boards shall charge covered individuals living in  
6                                this state the fees established under sub. (1m) (a) and (b) while those individuals  
7                                remain continuously enrolled. For purposes of this paragraph, an individual  
8                                remains continuously enrolled during regularly scheduled breaks between courses,  
9                                semesters, or terms.

History: 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418; ~~1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 107, 336; 1991 a. 39 ss. 1103 to 1108m, 1117; 1993 a. 16, 223, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 228; 1997 a. 27, 163, 292; 1999 a. 32 s. 97; 1999 a. 130, 154; 2003 a. 42; 2005 a. 22, 25, 253, 320, 468; 2007 a. 20 ss. 738mr to 741, 9121 (6) (a); 2007 a. 130; 2009 a. 28, 276; 2011 a. 32; 2013 a. 20, 173; 2015 a. 21, 55.~~

10           ~~SECTION 3.~~ 38.24 (3m) (c) of the statutes is repealed.

11

(END)

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

LRB-3167/P1dn

MDK:...

ane

Date

Sen. Petrowski:

The U.S. Department of Veterans Affairs (VA) has suggested that we repeal s. 38.24 (3m) (c) and amend the definition of "covered individual" in s. 38.24 (3m) (a) so that it refers to all of 38 USC 3679 (c), instead of just 38 USC 3679 (c) (2). Regarding the amendment of s. 38.24 (3m) (a), the VA has stated that it will inherently provide that resident fees must be charged during continuous enrollment.

(a) I agree that s. 38.24 (3m) (c) should be repealed, but I don't think that amending s. 38.24 (3m) (c) has the effect intended by the VA. 38 USC 3679 (c) consists of paragraphs (1) and (2). The definition of "covered individual" is set forth in paragraph (2). If we amended s. 38.24 (3m) (a) to refer to "covered individual" as defined in 38 USC 3679 (c), a reader would likely conclude that the state law is still directing the reader to the definition in paragraph (2) of 38 USC 3679 (c). I don't think anything else inherently results from telling the reader that "covered individual" has the definition that is set forth in the federal law.

If you want to require the charging of resident fees during continuous enrollment, I think state law should expressly state that requirement. Therefore, I amended s. 38.24 (3m) (b) to express that requirement.

Please contact me if you have any questions.

Mark D. Kunkel  
Senior Legislative Attorney  
(608) 266-0131  
mark.kunkel@legis.wisconsin.gov

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

LRB-3167/P1dn  
MDK:ahc

April 20, 2017

Sen. Petrowski:

The U.S. Department of Veterans Affairs (VA) has suggested that we repeal s. 38.24 (3m) (c) and amend the definition of "covered individual" in s. 38.24 (3m) (a) so that it refers to all of 38 USC 3679 (c), instead of just 38 USC 3679 (c) (2). Regarding the amendment of s. 38.24 (3m) (a), the VA has stated that it will inherently provide that resident fees must be charged during continuous enrollment.

I agree that s. 38.24 (3m) (c) should be repealed, but I don't think that amending s. 38.24 (3m) (a) has the effect intended by the VA. 38 USC 3679 (c) consists of paragraphs (1) and (2). The definition of "covered individual" is set forth in paragraph (2). If we amended s. 38.24 (3m) (a) to refer to "covered individual" as defined in 38 USC 3679 (c), a reader would likely conclude that the state law is still directing the reader to the definition in paragraph (2) of 38 USC 3679 (c). I don't think anything else inherently results from telling the reader that "covered individual" has the definition that is set forth in the federal law.

If you want to require the charging of resident fees during continuous enrollment, I think state law should expressly state that requirement. Therefore, I amended s. 38.24 (3m) (b) to express that requirement.

Please contact me if you have any questions.

Mark D. Kunkel  
Senior Legislative Attorney  
(608) 266-0131  
mark.kunkel@legis.wisconsin.gov

## Kunkel, Mark

---

**From:** Punches, Derek  
**Sent:** Thursday, April 27, 2017 3:37 PM  
**To:** Kunkel, Mark  
**Cc:** Fiocchi, Tim; lmerrifield@districtboards.org  
**Subject:** RE: LRB-3167/P1 FW: Wisconsin - Compliance with 38 U.S.C. 3679(c)

Mark –

I agree. As far as the groups of covered individuals to which continuous enrollment applies, I can only point to the email I forwarded you on 4/17/17 that was received by the WDVA from the federal VA, which I have truncated below. Unfortunately, the federal VA has not been quick to respond to inquiry, nor do they provide a point of contact beyond the policy group's email.

I have forwarded your comments to WTCS to see if they have received or can provide further clarification.

---

"Recently, Congress passed Public Law 114-315, which modifies 38 U.S.C. 3679(c). As amended, 38 U.S.C. 3679(c) requires that the following individuals be charged the resident rate:

- A Veteran using educational assistance under either chapter 30 (Montgomery G.I. Bill – Active Duty Program) or chapter 33 (Post-9/11 G.I. Bill), of title 38, United States Code, who lives in the state in which the institution is located (regardless of his/her formal State of residence) and enrolls in the institution within three years of discharge or release from a period of active duty service of 90 days or more.
- Anyone using transferred Post-9/11 GI Bill benefits (38 U.S.C. § 3319) who lives in the state in which the institution is located (regardless of his/her formal State of residence) and enrolls in the institution within three years of the transferor's discharge or release from a period of active duty service of 90 days or more.
- Anyone described above while he or she remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters, or terms) at the same institution. The person so described must have enrolled in the institution prior to the expiration of the three year period following discharge or release as described above and must be using educational benefits under either chapter 30 or chapter 33, of title 38, United States Code.
- Anyone using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (38 U.S.C. § 3311(b)(9)) who lives in the state in which the institution is located (regardless of his/her formal State of residence).
- Anyone using transferred Post-9/11 G.I. Bill benefits (38 U.S.C. § 3319) who lives in the state in which the institution is located (regardless of his/her formal state of residence) and the transferor is a member of the uniformed service who is serving on active duty.

In summary, individuals using the Marine Gunnery Sergeant John David Fry Scholarship are no longer required to enroll within three years of the service member's death, and there is no longer a requirement that the deceased service member's death in the line of duty followed a period of active duty service of 90 days or more. A new category of individuals was added to section 3679; the new category consists of individuals using transferred Post-9/11 G.I. Bill benefits while the transferor is on active duty in the uniformed services.

---

Derek Punches

Clerk, Senate Committee on Transportation and Veterans Affairs  
Office of Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502

---

**From:** Kunkel, Mark  
**Sent:** Thursday, April 27, 2017 1:52 PM  
**To:** Punches, Derek <Derek.Punches@legis.wisconsin.gov>  
**Cc:** Fiocchi, Tim <Tim.Fiocchi@legis.wisconsin.gov>  
**Subject:** RE: LRB-3167/P1 FW: Wisconsin - Compliance with 38 U.S.C. 3679(c)

In my view, the change requested by the VA does not accomplish what the VA says it achieves. Instead, I think the change will create a confusing reference to the definition in federal law.

If you want to ensure that the concept of continuous enrollment is applied to the appropriate groups of individuals, I would specify those groups of individuals in the state law. After looking at the federal law, I did not correctly determine the groups to which continuous enrollment applies and the groups to which it does not apply. I wrongly concluded that continuous enrollment applies to all groups of "covered individuals."

Can somebody please clarify for me the groups of covered individuals to which continuous enrollment applies and the groups to which it does not apply? It would be great to have that clarification in the drafting file to create a record of what the federal VA thinks their recommended change achieves.

--Mark

---

**From:** Punches, Derek  
**Sent:** Thursday, April 27, 2017 1:46 PM  
**To:** Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>  
**Cc:** Fiocchi, Tim <Tim.Fiocchi@legis.wisconsin.gov>  
**Subject:** LRB-3167/P1 FW: Wisconsin - Compliance with 38 U.S.C. 3679(c)

Mark –

Can you please review the comments provided by the VA below and call me to discuss?

---

Derek Punches  
Clerk, Senate Committee on Transportation and Veterans Affairs  
Office of Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502

---

**From:** Layla Merrifield [<mailto:lmerrifield@districtboards.org>]  
**Sent:** Thursday, April 27, 2017 1:32 PM  
**To:** Punches, Derek <Derek.Punches@legis.wisconsin.gov>; Fiocchi, Tim <Tim.Fiocchi@legis.wisconsin.gov>  
**Subject:** Fwd: Wisconsin - Compliance with 38 U.S.C. 3679(c)

Hi Derek and Tim,  
The VA's requested changes to the p draft are below.  
Thank you!

Layla Merrifield  
Sent from my iPhone

Begin forwarded message:

**From:** "Merrill, Nancy A" <nancy.merrill@wtcsystem.edu>  
**Date:** April 27, 2017 at 12:39:31 PM CDT  
**To:** "lmerrifield@districtboards.org" <lmerrifield@districtboards.org>, "Zylstra, James" <jim.zylstra@wtcsystem.edu>, "Foy, Morna" <morna.foy@wtcsystem.edu>  
**Subject:** FW: Wisconsin - Compliance with 38 U.S.C. 3679(c)

---

**From:** VAVBAWAS/CO/SECTION417 [mailto:Section417.VBAVACO@VA.GOV]  
**Sent:** Thursday, April 27, 2017 7:52 AM  
**To:** Merrill, Nancy A <nancy.merrill@wtcsystem.edu>  
**Subject:** Wisconsin - Compliance with 38 U.S.C. 3679(c)

Thank you for your email. VA has taken the proposed language and incorporated edits in order to make the language compliant. The concept of continuous enrollment does not apply to all covered individuals. As a result, the text concerning continuous enrollment has been deleted. By incorporating the reference to 38 U.S.C. 3679(c), the policy will ensure that the concept of continuous enrollment is applied to the appropriate groups of individuals.

✓ **SECTION 1.** 38.24 (3m) (title) of the statutes is amended to read:

38.24 (3m) (title) NONRESIDENT FEE EXEMPTION FOR VETERANS AND THEIR SPOUSES AND CHILDREN COVERED INDIVIDUALS. (a) In this subsection, "covered individual" has the meaning given in 38 USC 3679(c).

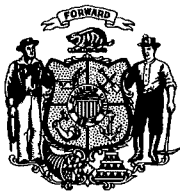
✓ **SECTION 2.** 38.24 (3m) (b) of the statutes is amended to read:

38.24 (3m) (b) The district boards shall charge covered individuals living in this state the fees established under sub. (1m) (a) and (b) while those individuals remain continuously enrolled. For purposes of this paragraph, an individual remains continuously enrolled during regularly scheduled breaks between courses, semesters, or terms.

**SECTION 3.** 38.24 (3m) (c) of the statutes is repealed.

Policy and Regulation Development Team  
Education Service

to whom does it apply and not apply?



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3167/P10  
MDK:ahc

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

TODAY

RM has been run

sac  
gen cat

- 1 AN ACT *to repeal* 38.24 (3m) (c); and *to amend* 38.24 (3m) (title) and 38.24 (3m)
- 2 (b) of the statutes; **relating to:** resident technical college fees for individuals
- 3 receiving benefits transferred under federal law by active duty uniformed
- 4 service members.

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

Under this bill, technical college districts must charge resident fees to individuals to whom active duty uniformed service members transfer certain unused educational benefits under federal law. Under current state law, technical college districts must charge resident fees to "covered individuals," as defined under federal law, while those individuals are continuously enrolled. Before its amendment in 2016, the federal law defined "covered individual" to include individuals to whom certain veterans transfer unused benefits. In 2016, the federal law was amended to define "covered individual" to also include individuals to whom active duty uniformed service members transfer unused benefits. Although current state law uses the definition of "covered individual" under federal law, current state law includes a provision that has the effect of prohibiting technical college districts from charging resident fees to individuals who are covered individuals based on unused benefits transferred by active duty uniformed service members. This bill eliminates that provision and therefore requires technical college districts to charge resident fees to those individuals.

Finally, as noted above, current law requires charging resident fees while a covered individual is continuously enrolled. This bill clarifies that an individual

remains continuously enrolled during regularly scheduled breaks between courses, semesters, or terms.

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

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

1 SECTION 1. 38.24 (3m) (title) of the statutes is amended to read:

2 38.24 (3m) (title) NONRESIDENT FEE EXEMPTION FOR VETERANS AND THEIR SPOUSES  
3 AND CHILDREN COVERED INDIVIDUALS.

4 SECTION 2. 38.24 (3m) (b) of the statutes is amended to read:

5 38.24 (3m) (b) The district boards shall charge covered individuals living in  
6 this state the fees established under sub. (1m) (a) and (b) while those individuals  
7 remain continuously enrolled. For purposes of this paragraph, an individual  
8 remains continuously enrolled during regularly scheduled breaks between courses,  
9 semesters, or terms.

10 SECTION 3. 38.24 (3m) (c) of the statutes is repealed.

11 (END)

INSEAT 2-3



**2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3167/lins  
MDK:...

50 ✓

1

**INSERT 2-3:**

2

SECTION 1. 38.24 (3m) (a) of the statutes is amended to read:

3

38.24 (3m) (a) In this subsection, “covered individual” has the meaning given

4

in 38 USC 3679 (c) (2).

**History:** 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 107, 336; 1991 a. 39 ss. 1103 to 1108m, 1117; 1993 a. 16, 223, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 228; 1997 a. 27, 163, 292; 1999 a. 32 s. 97; 1999 a. 130, 154; 2003 a. 42; 2005 a. 22, 25, 253, 320, 468; 2007 a. 20 ss. 738mr to 741, 9121 (6) (a); 2007 a. 130; 2009 a. 28, 276; 2011 a. 32; 2013 a. 20, 173; 2015 a. 21, 55.

**Kohn, Hanna**

---

**From:** PUNCHES, Derek  
**Sent:** Thursday, May 04, 2017 9:26 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3167/1

Please Jacket LRB -3167/1 for the SENATE.