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VETERANS AND MILITARY BENEFITS: LEGISLATION ENACTED BY 2005-06 WISCONSIN LEGISLATURE

The biennial state budget act, 2005 Wisconsin Act 25, and five other acts passed during the 2005-06 legislative session created or expanded a number of educational, tax, and housing benefits designed to aid the state's approximately half-million veterans and their families. These provisions, in addition to current law, constitute one of the nation's most generous packages of benefits for residents who served in the armed forces.

FREE COLLEGE FOR VETERANS

Under 2005 Wisconsin Act 468, eligible veterans may receive waivers of 100% of tuition and fees at any University of Wisconsin System (UW System) or Wisconsin Technical College System institution. The full waiver will be available beginning with the 2007-08 academic year. Act 468 expands the current 50% tuition waiver that was enacted by Act 25 and in effect for the 2005-06 school year.

The benefit may be used for 128 credits or eight semesters, "whichever is longer." There is no time limit within which the benefits must be used, no age limit or restriction based on family size or household income, no requirement that the veteran have served overseas or under combat or hazardous duty conditions, and no restriction on educational level (undergraduate or graduate courses) for which the credits may be earned. To qualify, a veteran must be verified by the DVA to have been a resident of Wisconsin at the time of his or her entry into service, must be a resident of the state at the time the benefits will be used, must have served under honorable conditions, and must meet any of the following conditions:

- Served on active duty for two continuous years or more or the full period of his or her initial service obligation, whichever is less.
- Served on active duty for at least one qualifying term of service during a specified war period or in a crisis zone, or is entitled to receive a specified expeditionary or service medal.
- Was honorably discharged for a service-connected disability, or for reasons of hardship.
- Was released due to a reduction in the U.S. armed forces.

Eligibility for Resident Tuition. Act 25 provides that veterans who were Wisconsin residents at the time they entered or reentered active duty may qualify for resident tuition rates without having to first reestablish Wisconsin residency by living in the state for 12 consecutive months before enrolling.

College Reenrollment and Registration Priority. Current law requires public colleges and universities to allow a student who is forced to withdraw from school because he or she is called into active military service to reimburse the student for tuition, fees and prorated room and board or to grant the student an incomplete and allow the student to complete the courses within six months of leaving service without additional payments. The law applies to private educational institutions, but does not provide the option of reimbursement in lieu of granting an incomplete and permitting the student to complete the course for no additional charge.

Act 470 requires all colleges and universities, in addition to the protections described above, to reenroll the student beginning in the semester in which he or she is discharged,

demobilized, or deactivated or the next succeeding semester, whichever the student prefers. The student must also be given the same priority in registering for courses that the student would have had, had he or she registered for courses at the beginning of the registration period.

COLLEGE BENEFITS FOR FAMILY OF DECEASED OR DISABLED VETERANS

Tuition and fees at any UW System institution or Technical College will be waived for the resident spouses, unremarried surviving spouses, or children of certain deceased or disabled veterans. The remission of tuition and fees may be granted for 128 credits or eight semesters, "whichever is longer." This benefit, available beginning with the 2005-06 academic year, is similar to that granted to the children and spouses of law enforcement officers, fire fighters, emergency medical technicians, ambulance drivers, and correctional officers killed in the line of duty.

Surviving Spouses and Children of Veterans Killed on Duty or Who Died as the Result of a Service-Connected Disability. For a spouse or child of a deceased veteran to qualify, the veteran must be verified by the Wisconsin Department of Veterans Affairs (DVA) to have served on active duty under honorable conditions in the U.S. armed forces, in the national guard, or in a reserve component of the U.S. armed forces; must have been a resident of Wisconsin at the time of entry into that service; and, while a resident of this state: died on active duty; died while a member of the national guard or a reserve component while on active duty or inactive duty for training purposes; or died as the result of a service-connected disability. (In general, a member of the armed forces remains a resident of the state from which he or she entered the service until changing his or her official state of residence.) This benefit was originally created by Act 25 and extended to family members of veterans who died resulting from service-connected disabilities by Act 468.

A surviving spouse must use the benefit within the first 10 years after the death of the veteran. A child may use the benefit only if at least 18 but less than 26 years of age and while a full-time student.

Spouses and Children of Disabled Veterans. Waivers are available to the spouses and children of veterans who were residents of Wisconsin at the time they entered active duty and who incurred at least a 30% disability rating under federal rules. The spouse of a disabled veteran may use the benefit only during the first 10 years after the veteran received the service-connected disability rating. A child may use the benefit only if at least 18 but less than 26 years of age and while a full-time student. When this benefit was created by Act 25, it applied only to the family members of veterans who incurred the disability rating while a resident of Wisconsin. Act 468 removed the requirement that the veteran be a resident of the state when the disability was incurred.

PROPERTY TAX CREDIT FOR CERTAIN VETERANS OR THEIR SPOUSES

Act 25 created a refundable individual income tax credit equal to the real estate and personal property taxes paid by certain veterans or their unremarried surviving spouses. The credit, which applies only to a principal residence, may first be claimed for taxable years beginning on January 1, 2005. It will not be allowed if a person files a claim in the same year for the property tax/rent credit, the farmland tax relief credit, the homestead credit, or the farmland preservation credit. The following individuals are eligible to claim the credit:

- **Disabled, elderly veterans.** A veteran who is at least 65 years of age, was a resident of Wisconsin at the time he or she entered active duty, served under honorable conditions, lived in Wisconsin for at least the last 12 consecutive months, and has a service-connected disability rating of 100%.
- **Spouses of veterans killed on duty.** The spouse of a veteran killed while on active duty, or a member of the national guard or a reserve component of the armed forces who

died in the line of duty while on active or inactive duty for training purposes. The deceased veteran must have been a resident of Wisconsin at the time of entry into the applicable service, and been a resident of the state at the time of death.

- **Spouses of deceased, disabled, elderly veterans.** The spouse of a veteran who had served honorably on active duty in the armed forces, who was a resident of Wisconsin both at the time of entry into the service and at the time of death, and who had a service-connected disability rating of 100%. In addition, the veteran must have been at least 65 years old at the time of death, or would have been 65 years old at the end of the year in which the death occurred.

TERMINATION OF MOBILE TELEPHONE CONTRACTS

Under federal law, if a person called into active military service has a lease for a premises or motor vehicle, the person may generally obtain termination of the lease after 30 days with proper notice (and return of the motor vehicle).

Act 473 creates similar provisions in state law for mobile (cellular) telephone service. If the contract was entered into before the person entered active military service and is for a period of more than one month, the person may suspend or terminate the contract without any penalties or additional fees by giving written notice to the mobile telephone service provider. Suspension or termination is effective 30 days after the first date on which the next payment is due after delivery of the notice. The lessor is required to refund any amount paid in advance that covers a period after the effective date of the suspension or termination.

After receiving notice, the lessor may apply to a court before the suspension or termination date for any modification or restriction of the suspension or termination that the court determines is appropriate under the circumstances. If a provider assesses a person in military service any penalty or fee after the

person has suspended or terminated the contract in accordance with the law, or fails to make any required refund, the service member may bring an action in civil court for damages. If the service member prevails in the lawsuit, the court will order the mobile telephone service provider to pay exemplary damages of \$2,000 in addition to repaying the advance, fee, or refund.

EXTENSION OF DIFFERENTIAL PAY FOR ACTIVATED STATE EMPLOYEES

Current law, as created by 2003 Wisconsin Act 162, provides that the state will make up the difference, if any, between a state government employee's regular salary and his or her military pay (including housing allowances). The law does not apply if the total of the employee's military compensation exceeds his or her state government salary. Act 162 provided for an initial period of eligibility of up to 179 days, with one extension of up to two years by executive order of the governor. 2005 Act 469 authorizes the governor to make up to three additional extensions of up to two years each.

CONSIDERING PARENT'S MILITARY STATUS IN CHILD CUSTODY DETERMINATIONS

Act 471 prohibits courts from holding a parent's military status against him or her in determining or modifying child custody orders.

If one of the parties in an action involving child custody, such as a divorce, is a service member, the court may not consider that status in determining the legal custody of a child. Also, if a court modifies an order of physical placement on the basis that the service member has been or will be called to active duty, the court must provide that the order regarding the allocation of periods of physical placement and any physical placement schedule that were in effect before the modification are reinstated immediately upon the service member's discharge or release from active duty.

HOUSING LOAN PROGRAM

Act 25 made changes to the Veterans Primary Mortgage Loan Program and the Veterans Home Improvement Loan Program. It deleted the \$25,000 maximum limit for a home improvement loan and permitted money from either program to be used for the purchase, construction, or improvement of any building that is used by the veteran as "a residence," instead of only the veteran's principal place of residence. The act also extended eligibility for loans to residents who completed six continuous years of honorable service in the national guard or a reserve component and liberalized the rules for using program money to refinance existing loans for the purchase, construction, or improvement of a residence.

FOR MORE INFORMATION

Department of Veterans Affairs. To obtain verification of eligibility for educational benefits, or for questions about the veterans housing loan programs, contact the DVA at (800) WIS-VETS (947-8387) or 266-1311. For

more details about available veterans benefits, visit the department's Web site at <http://dva.state.wi.us>. You may also contact your county's Veterans Service Officers (a contact list is also on the department's Web site).

Department of Revenue. For questions about the income tax credit, call Income Tax Customer Service at (608) 266-2772.

Colleges. For questions about enrollment and tuition/fee waivers, contact the individual campus, the UW System's Office of Academic and Student Services at (608) 262-8778, or the Technical Colleges System Administration at (608) 266-2449.

Previous LRB Publications. Other publications from the Legislative Reference Bureau about veterans benefits are available on our Web site: <http://www.legis.state.wi.us>.

- Budget Brief 05-2: *Veterans Educational, Tax, and Housing Benefits* (August 2005)
- Wisconsin Brief 04-12: *Veterans and Military Benefits: Summary of 2003-04 Wisconsin Legislation* (June 2004)

