

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS**

February 18, 2014

1:07 p.m.

**MEMBERS PRESENT**

Representative Neal Foster, Co-Chair  
Representative Gabrielle LeDoux, Co-Chair  
Representative Pete Higgins  
Representative Shelley Hughes  
Representative Lora Reinbold  
Representative Dan Saddler  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 25

Urging the United States Congress to restore the presumption of a service connection for Agent Orange exposure to United States Veterans who served in the waters defined by and in the airspace over the combat zone in Vietnam.

- MOVED CSHJR 25(MLV) OUT OF COMMITTEE

HOUSE BILL NO. 286

"An Act relating to the Teachers' Retirement System, the Judicial Retirement System, and the Public Employees' Retirement System for qualified military service; relating to the definition of 'veteran' for purposes of housing, eligibility for veterans' loans, and preferences in state employment hiring; and providing for an effective date."

- MOVED HB 286 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 25

SHORT TITLE: VIETNAM VETS: SERVICE-RELATED DISEASES

SPONSOR(s): REPRESENTATIVE(s) LEDOUX

02/03/14	(H)	READ THE FIRST TIME - REFERRALS
02/03/14	(H)	MLV

02/18/14 (H) MLV AT 1:00 PM CAPITOL 120

BILL: HB 286

SHORT TITLE: VETS' RETIREMENT/LOANS/HOUSING/EMPLOYMENT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/29/14 (H) READ THE FIRST TIME - REFERRALS  
01/29/14 (H) MLV, L&C  
02/11/14 (H) MLV AT 1:00 PM CAPITOL 120  
02/11/14 (H) Heard & Held  
02/11/14 (H) MINUTE(MLV)  
02/13/14 (H) MLV AT 1:00 PM CAPITOL 120  
02/13/14 (H) -- MEETING CANCELED --  
02/18/14 (H) MLV AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

THOMAS BROWN, Staff  
Representative Gabrielle LeDoux  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided background and summary information on HJR 25 on behalf of Representative LeDoux, prime sponsor, and answered questions.

JOHN ROSSIE, Executive Vice-President  
Blue Water Navy Vietnam Veterans Association  
Littleton, Colorado

**POSITION STATEMENT:** Testified in support of HJR 25 and answered questions.

MIKE BARNHILL, Deputy Commissioner  
Office of the Commissioner  
Department of Administration (DOA)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 286, on behalf of the sponsor, House Rules Committee by request of the governor.

MCHUGH PIERRE, Deputy Commissioner  
Office of the Commissioner/Adjutant General  
Department of Military & Veterans' Affairs  
Joint Base Elmendorf-Richardson, Alaska

**POSITION STATEMENT:** Answered a question during the hearing on HB 286.

**ACTION NARRATIVE**

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**CO-CHAIR NEAL FOSTER** called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:07 p.m. Representatives Hughes, Reinbold, Saddler, LeDoux, Higgins, and Foster were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

**HJR 25-VIETNAM VETS: SERVICE-RELATED DISEASES**

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CO-CHAIR FOSTER announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 25, Urging the United States Congress to restore the presumption of a service connection for Agent Orange exposure to United States Veterans who served in the waters defined by and in the airspace over the combat zone in Vietnam.

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CO-CHAIR LEDOUX introduced HJR 25, as the prime sponsor. She informed the committee HJR 25 is a step to fix a lapse in the treatment of Vietnam veterans. Currently, only soldiers who had "boots on the ground" during the Vietnam conflict are eligible for benefits related to their exposure to Agent Orange; HJR 25 urges the U.S. Congress to pass House Resolution 543, "Blue Water Navy Vietnam Veterans Act of 2013," which amends current compensation and health care regulations to include coverage of the service members who served in the waters of Vietnam, many of whom were also exposed to Agent Orange, a fact not recognized by the federal government. Co-Chair LeDoux concluded that these brave men served their country honorably and Congress needs to be reminded of its responsibility towards its veterans.

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THOMAS BROWN, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, began the summary on HJR 25 by providing background information. In 1991, the U.S. Congress passed the Agent Orange Act which forced the U. S. Department of Veterans Affairs (VA) to make a presumption of exposure for any Vietnam veteran who displays symptoms related to the herbicide known as Agent Orange, and to provide them with medical and/or financial benefits. In 2002, VA redefined what made a veteran eligible for those benefits, choosing to limit benefits to only those

veterans who served on the ground, thereby dismissing all of the offshore Naval and Marine personnel from coverage. Mr. Brown opined this was done without any scientific, medical, or legal reasons. Over the last six years, the Institute of Medicine - the health division of the National Academies - has issued reports concluding that there are no legitimate reasons to exclude members of the aforementioned service, known as the Blue Water Navy, from receiving benefits related to their exposure to Agent Orange. Currently before Congress is HR-543 Blue Water Navy Vietnam Veterans Act of 2013, which returns medical benefits and compensation to those who have earned them. The resolution has 174 co-sponsors, and is supported by Alaska's congressman, the Honorable Don Young, U.S. Representative. Mr. Brown said that HJR 25 urges Congress to honor veterans and pass HR-543. Should HJR 25 pass, copies of the resolution will be delivered to Alaska's Congressional Delegation, the Honorable Eric Shinseki, U.S. Secretary of Veterans Affairs, the Honorable John Boehner, Speaker of the U.S. House of Representatives, the Honorable Joseph Biden, Jr., Vice-President of the U.S. and the Honorable Barack Obama, President of the U.S. Mr. Brown estimated that hundreds of Blue Water Navy veterans in Alaska may need assistance due to the toxins they were exposed to during their time of service.

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REPRESENTATIVE REINBOLD asked for the number of Alaskans who have been affected [by Agent Orange].

MR. BROWN said there is no way to know, although approximately 609 Blue Water Navy veterans live in Alaska.

REPRESENTATIVE HUGHES inquired as to whether members of the Blue Water Navy ever spent time on land.

MR. BROWN responded that qualification for benefits has nothing to do with the duration of time spent on the ground, but has to do with where a service member was stationed.

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REPRESENTATIVE HUGHES declared a possible conflict of interest.

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REPRESENTATIVE REINBOLD objected.

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CO-CHAIR FOSTER said Representative Hughes would be required to vote.

MR. BROWN, in further response to Representative Hughes, said the effects from exposure to Agent Orange range from a wide spectrum of neurological damage to skin rashes and dermatological conditions.

REPRESENTATIVE SADDLER asked for the current status of HR-543.

MR. BROWN advised the resolution has not moved out of the committee of first referral. In further response to Representative Saddler, he said VA has not offered testimony on the resolution.

REPRESENTATIVE SADDLER then asked whether a federal fiscal note has indicated, "What the cost would be to extend the coverage of the presumption of Agent Orange exposure to airman and sailors."

MR. BROWN expressed his understanding that there has been little interest in the bill thus there is no fiscal note or other attachments; however, it is logical to assume that there would be a cost. In further response to Representative Saddler, Mr. Brown said he did not have any information on the costs to the federal government related to the passage of the Agent Orange Act of 1991.

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REPRESENTATIVE HIGGINS observed the toxicity of the Agent Orange chemicals was unknown, but is known now; therefore, there is an obligation to the affected servicemen and servicewomen, no matter what the cost. He said he appreciated the resolution.

REPRESENTATIVE HUGHES surmised the bill is only in the U.S. [House of Representatives].

MR. BROWN said correct.

REPRESENTATIVE HUGHES encouraged the sponsor to ensure that a copy of the Alaska resolution is provided to the leadership of the U.S. Senate.

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REPRESENTATIVE GRUENBERG described his personal experience in Vietnam serving on a landing ship, tank (LST), in blue and brown water. He explained that the Blue Water Navy personnel were stationed in the offshore areas where the water is blue, and the Brown Water Navy personnel were stationed in the inland waters and right up on the beaches. He stated his conflict of interest.

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REPRESENTATIVE HUGHES objected.

REPRESENTATIVE GRUENBERG said he supported the bill; however, he suggested that the bill has not received much support in Congress because these issues are being addressed "into a bigger bill, you wouldn't likely find something little like this pass but they ... meld it into an appropriations bill or something like that." He asked whether Mr. Brown was aware of any attempt to put this [resolution] into any other bill.

MR. BROWN advised Congressman Young is a co-sponsor, and his office is unaware of any attempt to move the bill.

REPRESENTATIVE GRUENBERG further suggested contact with the U.S. House of Representative's sponsor of the bill, and with U.S. Senators on the appropriations committee.

MR. BROWN agreed.

REPRESENTATIVE SADDLER clarified that his questions did not indicate a lack of support for the resolution.

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REPRESENTATIVE HUGHES made a motion to adopt [Conceptual Amendment 1] to add the Honorable Harry Reid, Senator, U.S. Senate majority leader, to the paragraph beginning on line 21, page [3], thereby directing that he receive a copy of the resolution.

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REPRESENTATIVE GRUENBERG objected for the purpose of making an amendment to the amendment. He recommended that the committee act in a bipartisan way and also send the resolution to the Honorable Mitch McConnell, Senator, U.S. Senate minority leader.

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REPRESENTATIVE HUGHES said she would accept a friendly amendment to Conceptual Amendment 1. There being no objection to the amendment to Conceptual Amendment 1, the amendment to the amendment was adopted.

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There being no further objection to Conceptual Amendment 1, the amendment was adopted.

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CO-CHAIR FOSTER opened public testimony on HJR 25.

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JOHN ROSSIE, Executive Vice-President, Blue Water Navy Vietnam Veterans Association, informed the committee his organization has been instrumental in providing educational and documented information to the public and members of Congress in order for them to understand the intricacies of the bill, specifically the evidence of the high probability of exposure for the ships offshore. Because of this high exposure, VA needs to return [Blue Water Navy veterans] to the Agent Orange Act of 1991. In response to Representative Saddler's question, he said the Congressional Budget Office released a preliminary estimate in October 2012, that over a period of 10 years the bill could cost VA approximately \$1.7 billion. This estimate includes health care and compensation for the dependents of those who die of a dioxin-related, service-connected injury. He advised that the estimate will decrease because the number of veterans who served in the Blue Water Navy has been finalized at 190,000-210,000. In response to Representative Hughes's question regarding specific diseases, Mr. Rossi explained that in order to qualify for benefits, there must be a diagnosis of an active disease, the most prevalent of which is diabetes mellitus type 2. Also included are respiratory cancer, prostate cancer, and Parkinson's disease. In response to Representative Gruenberg's question, he said the bill was first introduced in July 2010, thus is in its second full session of Congress. He agreed that the number of Blue Water Navy veterans living in Alaska is in the hundreds; however, less than 30 percent of veterans utilize the VA health care system and VA is unable to track all veterans.

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REPRESENTATIVE GRUENBERG referred to House Resolution 543, and said "It's limited to the 'territorial seas of such Republic' i.e. Vietnam. How far does that extend off the coast of Vietnam?"

MR. ROSSI said Vietnam uses a baseline territorial designation, which means instead of following the coast, the baseline is measured from a low-water point that could be several miles offshore; from the baseline point the territorial waters extend 12 miles outward. In further response to Representative Gruenberg, he opined that in order for the U.S. Senate to sponsor the bill, Senators required that the designated area be reduced from the entire theatre of combat to the territorial waters. He added that the CBO is using a headcount to determine the cost of the bill and has excluded from benefits those veterans "if they were further out than the 12 miles." Mr. Rossi said twenty of twenty-seven aircraft carriers were the ships most likely not to have sailed within the 12-mile limit, and he is personally working "to expand that."

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REPRESENTATIVE GRUENBERG noted his experience serving on an aircraft carrier with those who may be excluded by HR-543. He then questioned whether the Alaska State Legislature should recommend that the term "territorial sea of the Republic" be extended to cover [veterans serving outside the 12-mile limit].

MR. ROSSI agreed, adding that he expects an amendment to that effect. In further response to Representative Gruenberg, he said the 9/25/85 effective date of HR-543 is historically the date VA recognized that there is a large morbidity population from diseases caused by the dioxin within Agent Orange. In further response to Representative Gruenberg, he said the date does not cut off a great many people because a veteran alive in 1985, and diagnosed with one of the aforementioned diseases, probably would not be alive today, as estimates indicate that the average age [at death] of a Vietnam veteran is 66 years. Finally, Mr. Rossi confirmed for Representative Gruenberg that HB-543 was introduced in the U.S. House of Representatives and the U.S. Senate during the [112th Congress of the United States]; once the bill is passed by the House it will automatically go to the Senate, and he recommended that HJR 25 be sent to the Honorable Bernard Sanders, chairman of the U.S. Senate Committee on Veterans' Affairs.

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REPRESENTATIVE GRUENBERG expressed his intention to offer an amendment.

REPRESENTATIVE HUGHES said she supported the resolution. She asked for the annual or monthly amount of the compensation to service members and whether it can be determined - at the time of diagnosis - if dioxin is the cause of diabetes and prostate cancer.

MR. ROSSI said compensation is based on a range of 0.0 to 100 percent disability; 100 percent disability is assigned to a veteran with active cancer. Compensation for other diseases ranges from 40-100 percent; the payment for a 100 percent disability of an unmarried veteran is \$2,858.24 per month and the payment for a 100 percent disability of a married veteran \$3,017.60 per month. In further response to Representative Hughes, he said the source of the diseases cannot be determined; however, 90 percent of Blue Water Navy sailors who have ischemic heart disease, diabetes, or prostate cancer were affected at the age of 30-40 years. He cautioned that one of the characteristics of dioxin is that it is capable of lying dormant, but the presumptive approach of the Agent Orange Act of 1991 ensures that legitimate claims are covered.

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REPRESENTATIVE GRUENBERG disclosed that he may be affected by the disease. He expressed his understanding that the effect of [HR-543] is that if a veteran has a related disease, and is within the covered class, the legal presumption is that the cause of the veteran's disease is Agent Orange.

MR. ROSSI said yes. In further response to Representative Gruenberg, he said the presumption clause applies in all cases, without the effect of any time factor.

REPRESENTATIVE GRUENBERG withdrew the final question.

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CO-CHAIR FOSTER, after ascertaining that no one further wished to testify, closed public testimony on HJR 25.

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REPRESENTATIVE GRUENBERG [made a motion to adopt Conceptual Amendment 2 that the Honorable Bernard Sanders, Senator, and the ranking member of the U.S. Senate Committee on Veterans' Affairs be added to the paragraph beginning at line 21, page 3, of HJR 25].

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There being no objection, Conceptual Amendment 2 was adopted.

[1:52:50 PM](#)

REPRESENTATIVE HIGGINS moved to report HJR 25, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 25(MLV) was moved from the House Special Committee on Military and Veterans' Affairs.

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The committee took a brief at-ease.

**HB 286-VETS' RETIREMENT/LOANS/HOUSING/EMPLOYMENT**

[1:57:26 PM](#)

CO-CHAIR FOSTER announced that the final order of business would be HOUSE BILL NO. 286, "An Act relating to the Teachers' Retirement System, the Judicial Retirement System, and the Public Employees' Retirement System for qualified military service; relating to the definition of 'veteran' for purposes of housing, eligibility for veterans' loans, and preferences in state employment hiring; and providing for an effective date."

[1:57:50 PM](#)

MIKE BARNHILL, Deputy Commissioner, Office of the Commissioner, Department of Administration (DOA), informed the committee HB 286 was introduced by the request of the governor and is known as the veterans' update bill.

REPRESENTATIVE SADDLER expressed his appreciation of all aspects of the bill. He asked for the amount of the state's exposure actuarially.

MR. BARNHILL responded that the state's actuary, Buck Consultants, computed the projected number of deaths expected in the Public Employees' Retirement System and the Teachers' Retirement System based on the percentage of military in the U.S. population as a whole. The projection over an 11-12 year period - based on statistics from 2003 - is that there would be 1.13 deaths, which would equate to approximately \$800,000 in benefits. The actuary concluded this projection is de minimis, therefore, DOA [attached a zero fiscal note.] In further response to Representative Saddler, he confirmed that the data was from 2003.

[2:01:01 PM](#)

CO-CHAIR FOSTER reopened public testimony. After ascertaining no one wished to testify, public testimony on HB 286 was closed.

REPRESENTATIVE SADDLER directed attention to lines 27-29, page 7, of the bill which read:

day prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom, or during any time period listed in 5 U.S.C.2108(1); or

REPRESENTATIVE SADDLER then asked when the conflict in Afghanistan is likely to be legally concluded for the purpose of veterans' benefits.

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MCHUGH PIERRE, Deputy Commissioner, Office of the Commissioner/Adjutant General, Department of Military & Veterans' Affairs, answered:

... This is the most current up-to-date definition that the VA is using, and it does cover all current conflict members. ... I would think when the President officially removes our last troops, and concludes the conflict, which is supposed to be 2015 ....

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CO-CHAIR LEDOUX moved to report HB 286 out of committee with individual recommendations and the attached fiscal notes. There being no objection, HB 286 was reported out of the House Special Committee on Military and Veterans' Affairs.

2:04:04 PM

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 2:04 p.m.