

SB

145

<TARGET><BILL>SB 145</BILL><SUBJECT>SB
145</SUBJECT><COMM>SSTA28</COMM></TARGET>

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/29/14

FURTHER: RULES

Date of 5-Day Notice: 2-13-14
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-20-14

State Affairs Committee considered SENATE BILL NO. 145

SB 145-VETS' RETIREMENT/LOANS/HOUSING/EMPLOYMENT

"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."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
<i>CEV</i>			✓	<i>4</i>
<i>ADM</i>			✓	<i>1</i>
<i>ADM</i>			✓	<i>2</i>
<i>REV</i>			✓	<i>3</i>

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Wielechewski				✓
	Coghill	✓			
	Gressel	✓			
CHAIR:	Dysan	✓			

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Governor Sean Parnell
STATE OF ALASKA

January 28, 2014

The Honorable Charlie Huggins
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Huggins,

With over 74,000 veterans calling Alaska home, our state has more veterans per capita than any other state, comprising 15 percent of Alaska's population. Together, we strongly support and honor our veterans and military families.

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the Teachers' Retirement System, the Judicial Retirement System, and the Public Employees' Retirement System for qualified military service; and relating to the definition of "veteran" for purposes of housing, eligibility for veterans' loans, and preferences in State employment hiring.

Under Alaska law, veterans are eligible for special loan, housing, and employment preferences. However, the current statutory language limits these preferences to veterans of foreign wars up to and including the Vietnam War, and the State is currently unable to extend these preferences to veterans of recent conflicts. In recognition of our servicemen and women, this bill amends preference eligibility statutes to reflect updated periods of service in order to include veterans of more recent wars and conflicts extending eligibility for veterans' preferences to veterans of the 1991 Gulf War, veterans who served on active duty during Operation Iraqi Freedom, and includes provisions should future conflicts arise.

The bill will also ensure that military families receive full survivor benefits for fallen soldiers by implementing provisions of Heroes Earnings Assistance and Relief Tax Act (HEART Act) as they apply to the State PERS, TERS, and JERS retirement plans. Under the HEART Act, employers are required to treat workers as if they were rehired the day before they died, ensuring that the worker is covered by the retirement plan at the time of death. The Act also addresses differential wage payments, compensation that a service member would have received from the employer during the service member's period of active duty had the employee not been called to active duty, to be treated as compensation for purpose of IRS reporting.

The Honorable Charlie Huggins

January 28, 2014

Page 2

In addition to our many veterans, Alaska is privileged to have nearly 25,000 active military members and their families in our state. We are honored to have these forces call Alaska home, and we remain committed to supporting them and encouraging them to be an active part of our state for years after their military service ends.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell". The signature is written in a cursive, flowing style.

Sean Parnell
Governor

Enclosure



THE STATE
of ALASKA
GOVERNOR SEAN PARNELL

Department of Administration

CURTIS W. THAYER, COMMISSIONER

10th Fl. State Office Building
PO Box 110200
Juneau, Alaska 99811
Main: 907.465.2200
Fax: 907.465.2135
www.doa.alaska.gov

January 29, 2014

The Honorable Fred Dyson, Chair
The Honorable Cathy Giessel, Vice-Chair
Senate State Affairs Standing Committee
Alaska State Capitol, Butrovich 205
Juneau, AK 99801

Dear Senators Dyson and Giessel:

The Department of Administration respectfully requests a hearing to be scheduled on Senate Bill 145, *"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."* at the committees earliest convenience.

If you should need any additional information please contact 465-2200 and ask for:

Andy Mills, Special Asst. to the Commissioner - andy.mills@alaska.gov

Cheri Lowenstein, Administrative Services Director - cheryl.lowenstein@alaska.gov

Thank you in advance for prompt attention to this bill at the start of another year's legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis W. Thayer".

Curtis W. Thayer
Commissioner

cc: Senate State Affairs Standing Committee members
Governor's Legislative Office

SB 145 Sectional Analysis

Department of Administration

Section 1: Amends Teachers' Retirement System statute AS 14.25.195 to add new subsections.

Subsection (b) provides that in the event a member dies while performing qualified military service, the survivors can have access to additional benefits that would have been provided had the member resumed employment and then terminated on account of death. Benefits include accelerated vesting, ancillary life insurance benefits, and benefits that are contingent on the member being actually employed at the time of death (does not include duplicative credited service accrual).

Subsection (c) provides that differential wage payments (these are payments that some employers pay for employees called to military service—they are the difference between what the military pays, and what the employer paid) shall be treated as compensation (not benefits) for purposes of retirement plan qualification. This statute pertains to the TRS defined benefit plan.

Section 2: Amends TRS statute AS 14.25.582 to add the same subsections as section 1. This statute pertains to the TRS defined contribution plan.

Section 3: Amends AS 18.55.470(4) to also include a veteran having served between August 2, 1990, and January 2, 1992; September 11, 2001 and ending on the day prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom; or any of the time periods listed in federal code 5 U.S.C. 2108(1). This will bring the Alaska Statute referring to the “veterans” definition into alignment with the federal definition.

Section 4: Amends Judicial Retirement System statute AS 22.25.110 to add the same subsections as section 1. JRS is only a defined benefit plan.

Section 5: Amends AS 26.15.130(a) relating to eligibility for veterans' loans in the Department of Commerce, Community, and Economic Development.

Section 6: Amends AS 26.15.160 extending the chapter to members of the United States Armed forces, removing references to specific conflicts, and updating qualifying dates of service.

Section 7: Amends AS 39.25.159(f)(5) to include the more recent range of service dates, including the 1991 Gulf War and Operation Iraqi Freedom, and incorporate by reference the corresponding federal statute related to veterans' preferences (5 U.S.C. 2108) so that the state statutes will not need further updating when future service dates arise.

Section 8: Amends Public Employees Retirement System statute 39.35.677 to add the same subsections as section 1.

Section 9: Amends PERS statute AS 39.35.972 to add the same subsections as section 2. This statute pertains to the PERS defined contribution plan.

Section 10: This section provides for retroactive effect of the HEART Act sections of the bill (1, 2, 4, 8, 9). The sections that pertain to providing survivor access to benefits had the employee resumed service are retroactive to January 1, 2007 [AS 14.25.195 (b), AS 14.42.582 (b), AS 22.25.110 (b), AS 39.35.677 (b), and AS 39.35.972 (b)]. The sections that pertain to the impact of differential wage payments on plan qualification are retroactive to January 1, 2009 [AS 14.25.195 (c), AS 14.25.582 (c), AS 22.25.110 (c), AS 39.35.677(c) and AS 39.35.972 (c)].

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 145
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB145-DCCED-DED-01-17-14
Title: VETS'
RETIREMENT/LOANS/HOUSING/EMPLOYMENT
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Commerce, Community and
Economic Development
Appropriation: Economic Development
Allocation: Economic Development
OMB Component Number: 2743

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Joseph Jacobson, Division Director
Division: Economic Development
Approved By: Jeanne Mungle, Director
Agency: Administrative Services

Phone: (907)465-2625
Date: 01/17/2014 03:11 PM
Date: 01/17/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 145

Analysis

This legislation expands the definition of 'veteran' to include military members who have served in recent conflicts. The Veteran's Loan Program is currently inactive. Therefore, this proposed legislation creates no additional work for the Division of Economic Development and no fiscal impact over the next six years.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 145
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB145-DOA-DOP-01-20-14
Title: VETS'
RETIREMENT/LOANS/HOUSING/EMPLOYMENT
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Administration
Appropriation: Centralized Administrative Services
Allocation: Finance
OMB Component Number: 59

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Nicki Neal, Director</u>	Phone: <u>(907)465-3794</u>
Division: <u>Division of Personnel and Labor Relations</u>	Date: <u>01/14/2014 11:45 AM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>01/20/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 145

Analysis

AS 39.25.159 is titled "Employment preference for veterans and former prisoners of war." Within this statute is a definition of "veteran" which includes dates of war or conflict in which a person who has served is considered a veteran. At present, only veterans serving in conflicts up to the end of the Vietnam War are eligible for employment preferences. The bill would extend the employment preferences to veterans of the 1991 Gulf War and veterans who served on active duty beginning September 11, 2001, and ending on the date determined under federal law as the last date of Operation Iraqi Freedom. The bill would amend the relevant Alaska Statutes (AS 39.25.159) to include these more recent conflicts and incorporate by reference the corresponding federal statute related to veterans' preferences so that the state statutes would not need further updating when future conflicts arise.

It is anticipated that there will be a de minimis increase in productive work hours as a result of additional interviews that will be required as a result of expanding the date range for employment preferences for veterans. Therefore DOPLR submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 145
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB145-DOR-AHFC-1-21-14
Title: VETS'
RETIREMENT/LOANS/HOUSING/EMPLOYMENT
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Revenue
Appropriation: Alaska Housing Finance Corporation
Allocation: AHFC Operations
OMB Component Number: 110

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By:	Les Campbell, Budget Director	Phone:	(907)330-8356
Division:	Alaska Housing Finance Corporation	Date:	01/13/2014 09:00 AM
Approved By:	Bryan Butcher, CEO	Date:	01/13/14
Agency:	Alaska Housing Finance Corporation		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 145

Analysis

The bill relates to the definition of "veteran" across a number of state statutes.

The bill would extend the definition of "veteran" to include veterans of the 1991 Gulf War and veterans who served on active duty beginning on September 11, 2001, and ending on the date determined under federal law as the last date of Operation Iraqi Freedom. The bill would amend relevant Alaska Statutes to include these more recent conflicts and incorporate by reference the corresponding federal statute related to veterans' preferences (5 U.S.C. 2108) so that the state statutes would not need further updating when future conflicts arise.

With passage of the bill, the statute referencing AHFC which is AS 18.55.470 will include the expanded definition of "veteran" The change would have no significant impact on AHFC programs and operations.

AHFC does not foresee any additional significant cost impacts resulting from this bill.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 145
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB145-DOA-DRB-01-20-14
Title: VETS'
RETIREMENT/LOANS/HOUSING/EMPLOYMENT
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Administration
Appropriation: Centralized Administrative Services
Allocation: Retirement and Benefits
OMB Component Number: 64

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Michael Barnhill, Deputy Commissioner</u>	Phone: <u>(907)465-2200</u>
Division: <u>Retirement and Benefits</u>	Date: <u>01/14/2014 12:00 AM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>01/20/2014</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 145

Analysis

Sections 1-2, 4, 8-11 of this bill allows the survivors of members who die while performing qualified military service access to benefits they would have been provided had the member resumed employment and then died. This bill also subjects differential wage payments (any wages paid by the employer to a service member while on active duty) to the Internal Revenue Service (IRS) maximum contribution limits under IRS code 415(c).

Since the HEART Act inception in 2009 the PERS, TRS and JRS have had no members die while performing qualified military service. This bill has no fiscal impact on the funding or administration of the plans and therefore DRB submits a zero fiscal note.

SB 145 Talking Points

Department of Administration

Veteran's Hiring Preference Sections

- Alaska statute currently defines the veteran's preference for hiring as applying to those that have served up to the end of the Korean and Vietnam wars.
- To ensure our veterans who have served in 1991 Gulf War, Operation Iraqi Freedom and conflicts arising after September 11, 2001 can benefit from that hiring preference, the bill extends a hiring preference to veterans who have served since the Vietnam War.
- Additionally the bill changes Alaska statutes to reference the federally established definitions so that our veterans of current and future conflicts can benefit from the preference without delay.
- It is anticipated that with expanded consideration of veteran applicants that these applicants will have a greater opportunity to gain employment with the State of Alaska, who will in turn attract talented services members to further public service.
- Currently if you are a disabled veteran or were a prisoner of war, you are guaranteed an interview for positions when you apply for and meet minimum qualifications.
- If you are a veteran but not a disabled veteran or prisoner of war, you are entitled to be given complete consideration for positions when you apply and meet minimum qualifications.
- The veteran's preference only applies to positions within the State of Alaska, classified service.

Veteran's Housing Preference Sections

- For Alaska Housing Finance Corporation the bill provides state statutory alignment with the federal definitions already used for public housing and mortgage loans.
- This bill will bring current the definition of 'veteran' as it applies to loan programs through the Division of Economic Development. While there are no programs currently funded that will be impacted by this bill, changing the definition to include veterans of recent and current conflicts is necessary should new loan programs be introduced, or existing programs funded.

HEART Act Sections

- The Heroes Earnings Assistance and Relief Tax Act (HEART Act) was signed into law in June 2008, to provide additional tax and pension benefits to individuals who are absent from work due to duty in the uniformed military service.
- All private and governmental employers must comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA), which provides special employment and benefit rights to individuals who leave employment to perform qualified military service.
- "Qualified military service" is service in the uniformed services while on active or inactive duty, including training periods. "Uniformed services" include the Army, Navy, Air Force, Marines, Coast Guard, Reserves, Army and Air National Guard, the commissioned corps of the Public Health Service, and any other persons designated by the President.

- The HEART Act clarified and expanded on some of the Uniformed Services Employment and Reemployment Rights Act (USERRA) requirements that apply to employer-sponsored retirement programs.
- Participants in the Alaska Public Employees Retirement System (PERS), Teachers Retirement System (TRS) or Judicial Retirement System (JRS) pension plans who die on or after January 1, 2007, while performing qualified military service, will be treated as first having been reemployed and then dying, to allow for the distribution of those survivor benefits that require the participant's termination of employment due to death.
- This ensures that the families of our military members who gave everything in service to this country and state receive our support.
- Some employers make differential wage payments to their employees who are called to active duty in the uniformed services. "Differential wage payments" (or "differential pay") are typically the difference between the individual's normal pay from the employer and his military pay. Employers are not required to make these wage payments, but for those that do, the HEART Act changed their tax treatment.
- Under the HEART Act, differential wage payments are considered W-2 wages. As a result, individuals receiving such payments are considered to be active employees of the employer.
- As required under the Internal Revenue Code ("Code"), the draft bill includes differential pay for purposes of applying the Annual Additions and Annual Benefit limits under Section 415 of the Code.

December 12, 2013

VIA EMAIL

Ms. Kathy Lea
Deputy Director
Division of Retirement and Benefits
Department of Administration
State of Alaska
333 Willoughby Avenue
6th Floor State Office Building
Juneau, AK 99811-0208

RE: HEART Act Survivor Benefits in the Alaska Retirement Systems Actuarial Valuations

Dear Kathy:

As requested, we are providing you this letter to document our correspondence regarding the application of the 2008 HEART Act in the actuarial valuations of the State of Alaska. Specifically, you have asked how we are treating retirement system members who are called to active duty and die while performing qualified military service. Under the requirements of the HEART Act, the eligible survivors would be eligible for death benefits under the retirement system as if the member had resumed employment and plan membership the day before death.

As you have confirmed, according to your records, no employees have died in this manner since 2009. In addition, our mortality assumptions are updated every four years to reflect actual death experience of members that are eligible to receive death benefits under the retirement systems. On the basis of your experience and our experience analysis, we expect any future impact on the retirement systems to be de minimus for actuarial valuation purposes. If in performing a future actuarial experience analysis we find that this mortality experience is not de minimus, we will recommend adjusting our mortality assumptions and request specific member data to capture and recognize expected future liability of these survivor benefits.

Please let us know if you need any further information.

Sincerely,



David H. Sliskinsky, F.C.A., A.S.A., E.A.
Principal and Consulting Actuary

c: Mr. Mike Barnhill, State of Alaska
Mr. Jim Puckett, State of Alaska
Ms. Rebecca Williams, Buck Consultants

AMENDMENT

OFFERED IN THE SENATE
TO: SB 145

BY SENATOR WIELECHOWSKI

1 Page 1, line 4, following "hiring;":

2 Insert "providing for home and community-based waiver services under Medicaid
3 for children of military service members;"
4

5 Page 9, following line 10:

6 Insert a new bill section to read:

7 "* Sec. 10. AS 47.07.045 is amended by adding new subsections to read:

8 (c) If a child who is financially dependent on a military service member is
9 eligible for home and community-based services while physically present in the state,
10 the department shall provide for home and community-based services when the child
11 returns to the state as though the child had remained in the state if the military service
12 member provides proof acceptable to the department that

13 (1) the member has maintained residency in the state for the period of
14 eligibility; proof under this paragraph must include official military personnel records;

15 (2) the member and the dependent child are physically present in the
16 state and intend to reside permanently in the state while receiving the home and
17 community-based services;

18 (3) the member returned to the state within 18 months after separating
19 from military service; and

20 (4) the member's dependent child is not eligible for coverage of home
21 and community-based services under another health insurance plan.

22 (d) In (c) of this section, "military" means the armed forces of the United
23 States, the United States Coast Guard, or the Alaska National Guard."

- 1
- 2

Renumber the following bill sections accordingly.



ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 419
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

Interim

716 W. 4th Ave, Ste. 540
Anchorage, AK 99501
(907) 269-0120
Fax: (907) 269-0122



State Affairs Committee

Judiciary Committee

In-State Energy Committee

Joint Armed Services
Committee

SENATOR BILL WIELECHOWSKI

SB 143: Home & Community Based Care for Military

"An Act providing for home and community-based waiver services under Medicaid for children of military service members."

Sponsor Statement

This act will allow military families that qualify for home- and community- based services under Medicaid to maintain their priority if they are moved outside the state. This bill only applies to residents of Alaska who intend to return to the state upon separating from the military.

The military healthcare program, TRICARE/ECHO, does not provide the home-based support those families with special needs children require, so they apply for a waiver under Medicaid. Depending on the state, military families could wait years before receiving the assistance they need for their families. SB 143 would allow families to apply for the waiver and keep their priority on the waiting list even after moving out of state. If the family returns to the state within 18 months of separation from the military, they will continue where they left off in the process without needing to re-apply.

This bill is one of ten priorities for the Department of Defense in state legislatures across the country. It will greatly assist our service men and women in Alaska. It does not change the services provided, but does facilitate the application process for Alaskans in the military.



ALLOW SERVICE MEMBERS TO RETAIN THEIR EARNED PRIORITY FOR RECEIVING MEDICAID HOME AND COMMUNITY BASED SERVICES WAIVERS

States can alleviate barriers experienced by military families who lose access to valuable medical benefits as a result of transitioning out of the Service.

KEY MESSAGE: Independent state Medicaid eligibility requirements, and lengthy waiting lists, hinder military families from obtaining supplemental financial support for members with special needs during critical transition periods. States can assist military families by facilitating their ability to earn the same priorities afforded to every state resident.



DISCUSSION POINTS: States can assist separating Service members and their families by recognizing that the mobile military lifestyle hinders reasonable participation in state Medicaid options and waiver programs.

- States could allow active duty Service members to use their state of legal residence (i.e. where they pay taxes, vote, register their vehicles, hold a driver's license, etc.) to register their special needs family members for a Medicaid waiver.
 - Enrollment for waivers in their resident state would allow the family members to progress along with other state citizens until they become eligible to receive benefits.
 - Eligibility status is retained as long as the member maintains the state as his/her legal resident and returns to the state after military separation.¹ The member either receives credit for time on the list or begins receiving benefits when they return home.
- As an alternative, states may consider modifying one of their existing waiver categories (such as individuals with critical need), to include military families transitioning out of the military, in order to expedite services through Home and Community Based Services.²

The Department of Defense established the TRICARE ECHO program to provide \$36,000 of additional coverage for active duty sponsored family members with condition-specific needs; however, they lose ECHO support upon separation/retirement from the military. Additionally, when military families transition out of the military, they generally have to start the entire Medicaid application process again in the state in which they settle, resulting in long waiting periods without services. Consequently, families incur significant debt while paying for a family member's care.

¹ Joint Federal Travel Regulation paragraph Ch5 Part A-U5012-I extends the final travel benefits up to six years from effective date of separation.

² As an additional consideration, this option may also be able to facilitate expediting services to family members with special needs during an assignment while on active duty.

Testimony of Captain Bob Pawlowski, NOAA, (RET)

SB 145

Senator Dyson and members of the Senate State Affairs Committee. Thank you for the opportunity to comment. For the record, I am Captain Bob Pawlowski, NOAA (Ret) a federally recognized veteran with service connected injuries. I am testifying on behalf of myself. With reflection on my past, I have been stationed in Alaska off and on since 1984 and am very proud of the contributions I and my family have made and continue to make to our great state. I also served for 6 years as the president of the Captain Cook Chapter, and lifetime member of the Military Officers Association of America, a national organization of over 350,000 members, with over 1,000 members in Alaska representing the seven (7) Uniformed Services. I want to compliment the Governor for introducing this bill. Veterans greatly contribute to our state's economy, population, and our simple enjoyment in having neighbors that served. And all of the seven (7) Uniformed Services have members stationed in Alaska and serving the duties of their specific service or retired and contributing to our state.

I appreciate your attention to the importance that Veterans bring to our nation and our state. In reviewing this bill, I ask you to consider changing the definition and aspects associated with "veteran" from "armed forces" to "military service in the uniformed services of the United States" to bring Alaska consistent with the United States Code. Specifically, I am referring to Titles 10 USC – Armed Forces, 37 USC – Pay and Allowances of the Uniformed Services, and 38 USC – Veterans Benefits which provide the federal definitions for "active duty" as it applies to "military service" and the "uniformed services" that qualify. I have attached the specific definitions from these titles for these terms.

I would like to share a personal story. When I was stationed at Woods Hole, LCDR Dave Rockmore, USPHS was Paula and my pediatrician at USCG Air Station Cape Cod. Dave and I were both excited about being transferred to Alaska in 1984, me to Anchorage and him to Kodiak. Sadly to say, CDR Dave Rockmore and 5 USCG air crew members perished on November 2, 1986 when their helicopter crashed in poor weather while on nighttime SAR mission to Old Harbor (attached). In honor of his and the crew's service, the USCG Kodiak clinic is named the Rockmore-King Clinic. I share this story because he was performing "qualified

military service” his survivors would have received the benefits identified in Sections 1, 2, 4, 8 & 9 of this bill. However, if he had survived , successfully continued his career and chose to live in Alaska, as many other USPHS officers, he would not have qualified for veterans benefits detailed in Sections 3, 5, 6 & 7 because he was not part of the Armed Forces and thus does not qualify as a “veteran” in Alaska.

As a retired NOAA Commissioned Officer having completed my active duty consistent with Titles 10, 37 & 38 USC, I am in the comparable “veterans” exclusion because of my “military service in a uniformed service” versus the “armed forces”. However, I also find inconsistencies in AS 39.25.159 as it relates to “disabled veteran” (definition attached). I receive disability benefits from the US Department of Veterans Affairs and thus qualify as a “disabled veteran” in Alaska and would qualify for at the minimum employment preferences under AS 39.25.159, but do not qualify as a “veteran”. Presently I or any other service connected injured USPHS Officer or NOAA Commissioned Officer are blocked in the state application process.

I share these points and the story of CDR Rockmore as examples of the inconsistencies in limiting veterans in Alaska to only those from the armed forces. I ask you to consider these points and recognize the federal definitions in Titles 10, 37 and 38 of the US Code for “military service”, “active duty” and the 7 uniformed services it applies to. By expanding the definition of “veteran” from “armed forces” to “military service in the uniformed services of the United States” you will create consistency with the federal laws and provide equity in benefits for all who have successfully completed their military service in a uniformed service of the United States.

Finally, as a lifetime member of the Military Officers Association of America, I have assisted the national legislative team on numerous issues to take care of those serving and those who have served. At this stage of my life, I will get little out of the changes in the definition of “veterans” other than knowing that those members of the USPHS and NOAA Commissioned Corps that choose to live in Alaska today and in the future will have the same benefits for their military service as those who have served in the armed forces.

Thank you. I would be happy to answer any questions.

Title 10 – Armed Forces

10 USC 101 – Definitions

(a) In General.— The following definitions apply in this title:

(4) The term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term “uniformed services” means—

(A) the armed forces;

(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(C) the commissioned corps of the Public Health Service.

(d) Duty Status.— The following definitions relating to duty status apply in this title:

(1) The term “active duty” means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

Title 37 – Pay and Allowances of the Uniformed Services

37 USC 101 - Definitions

(3) The term “uniformed services” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(4) The term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term “Secretary concerned” means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy;

(E) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(F) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

Title 38 – Veterans Benefits

38 USC 101 Definitions

21) The term “active duty” means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to “full military benefits” or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or Service.

38 USC 4303 - Definitions

13) The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

AS 39.25.159. Employment Preference For Veterans and Former Prisoners of War

(2) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Department of Veterans Affairs, a person who was honorably discharged or released from active duty because of a service-connected disability, or a person who was disabled in the line of duty while serving in the Alaska Territorial Guard;

(From: http://www.check-six.com/lib/Coast_Guard_Aviation_Casualties.htm#1980)

Date of incident: 2 November 1986

Crash related deaths:

LT Michael Clement Dollahite (CG Aviator #2148)

LT Robert L. Carson, Jr.

CDR David Meurice Rockmore, USPHS

ASM2 Kevin M. McCracken

AT3 William G. Kemp

HS3 Ralph D. King

Air Station the aircraft and/or crew were assigned to:

Air Station Kodiak, AK

Aircraft type and Coast Guard tail number:

Sikorsky HH-3F Pelican, 1473 *

Location of the incident: Ugak Island, off Kodiak, Alaska

Description of the incident:

This crew was on a night SAR case to Old Harbor, AK in very poor weather. While circumnavigating Ugak Island, a small island with high terrain just off the main island of Kodiak, it is believed that they encountered unexpected weather in the form of heavy winds and rain. The aircraft impacted a high cliff and fell to the beach below to be consumed by a post-crash fire.