

SENATE BILL NO. 130

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

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| January 16, 1979 | Introduced and referred to Committee on State Administration. |
| January 23, 1979 | Committee recommend bill do pass. Report adopted. |
| January 24, 1979 | Printed and placed on members' desks. |
| January 25, 1979 | Second reading, do pass. |
| January 26, 1979 | Considered correctly engrossed. |
| January 27, 1979 | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

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| January 29, 1979 | Introduced and referred to Committee on State Administration. |
| March 2, 1979 | Committee recommend bill be concurred in. Report adopted. |
| March 3, 1979 | Second reading, concurred in. |
| March 6, 1979 | Third reading, concurred in. |

IN THE SENATE

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| March 7, 1979 | Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled. |
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 6 CLARIFY THE LAWS RELATING TO MILITARY AFFAIRS AND DISASTER
 7 AND EMERGENCY SERVICES; REPEALING SECTIONS 11-4301 THROUGH
 8 11-4304, 77-605, AND 77-606, R.C.M. 1947."

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 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 10-2-202, MCA, is amended to read:
 12 "10-2-202. Definitions. For purposes of 10-2-201
 13 through 10-2-206, the following definitions apply:

- 14 (1) The term "veterans" means persons:
 - 15 (a) who served in the armed forces of the United
 - 16 States in time of war or declared national emergency and who
 - 17 have been separated from service upon conditions other than
 - 18 dishonorable; or
 - 19 (b) who have after January 31, 1955:
 - 20 (i) served on active military duty for more than 180
 - 21 days ~~after--January--31--1955~~ or who were discharged or
 - 22 released because of a service-connected disability,
 - 23 including but not limited to those veterans serving because
 - 24 of the Vietnam conflict; and
 - 25 (ii) were honorably discharged.

- 1 (2) The term "war or declared national emergency"
- 2 includes:
 - 3 (a) The Civil War;
 - 4 (b) The ~~Spanish-American~~ Spanish-American War;
 - 5 (c) The Philippine Insurrection;
 - 6 (d) World War I, between April 6, 1917, and November
 - 7 11, 1918, both dates inclusive;
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 - 11 police action, between June 26, 1950, and January 31, 1955,
 - 12 both dates inclusive.
- 13 (3) The term "surviving spouse" means an unmarried
- 14 surviving spouse of a veteran.
- 15 (4) The word "percent" means percent of the total
- 16 aggregate points of the examination referred to."
- 17 Section 2. Section 10-2-211, MCA, is amended to read:
- 18 "10-2-211. Reemployment of veterans upon completion of
- 19 service. (1) Any person inducted into the ~~land--or--naval~~
- 20 armed forces of the United States as a result of the
- 21 operation of any selective training and service act or
- 22 national guard and reserve officers mobilization act since
- 23 1948, who has satisfactorily completed his period of
- 24 training and ~~or~~ service as attested by a certificate to that
- 25 effect shall be reemployed in the position he left in order

1 to perform such training and ~~or~~ service if:

2 (a) he is still qualified to perform the duties of
3 such ~~the~~ position;

4 (b) the position he formerly held was not a temporary
5 one; and

6 (c) he makes application for reemployment within 40
7 days after he is retired from training ~~or~~ service.

8 (2) Should any person qualified for such reemployment
9 be a schoolteacher or instructor, the board of trustees or
10 other employing agency of the school involved ~~shall~~ ~~is~~ not
11 be obligated to rehire such ~~the~~ person until the beginning
12 of the semester or quarter following the one in which the
13 application for such reemployment was made."

14 Section 3. Section 10-2-213, MCA, is amended to read:

15 "10-2-213. Restoration of benefits. Any person who is
16 restored to a position in accordance with 10-2-211 or
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18 absence during his ~~the~~ period of training or service in the
19 ~~land--or--naval~~ ~~armed~~ forces of the United States and at the
20 expiration of such ~~the~~ period shall be entitled to be
21 restored to his employment without loss of seniority, shall
22 be entitled to participate in insurance or other benefits
23 offered by the employer in accordance with established rules
24 and practices relating to employees on leave of absence, and
25 shall not be discharged from such ~~the~~ position without cause

1 within 1 year after restoration."

2 Section 4. Section 10-2-221, MCA, is amended to read:

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6 ~~aviation--unit-of-either-force)~~ or any member of any reserve
7 component of the ~~land-or-naval~~ ~~armed~~ forces, ~~or~~ national
8 guards, or ~~any~~ retired personnel ordered into the active
9 military service of the United States who, in order to
10 perform such training, service, or active duty, leaves a
11 position, other than a temporary position, in the employ of
12 the state of ~~Montana~~ or any political subdivision thereof
13 and who receives a certificate of completion of training or
14 service from the proper authorities of the United States
15 government and is still qualified to perform the duties of
16 such position shall be restored to:

17 (1) the position or to a position of like seniority,
18 status, and pay if such ~~the~~ position was in the employ of
19 the state of ~~Montana~~ or any political subdivision thereof,
20 excluding elective positions, ~~such person shall be--restored~~
21 ~~to-such-position-or-to-a-position-of-like-seniority-status~~
22 ~~and-pay--provided--however--that-such~~ and the position or
23 department has not been abolished or consolidated; or

24 (2) the position, status, and pay at any time during
25 the term for which he was elected if such ~~the~~ position was

1 that of an elected, executive, or judicial officer of the
 2 state of Montana or any political subdivision thereof ~~such~~
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 5 ~~provided herein."~~

6 Section 5. Section 10-2-312, MCA, is amended to read:

7 "10-2-312. Fee waiver -- children of prisoners of war
 8 and persons killed in action. (1) The board of regents of
 9 higher education may waive the charges for the
 10 matriculation, tuition, and any educational fees at any of
 11 the units of the Montana university system for the children
 12 of members of the armed forces of the United States who:

13 (a) served on active duty during World War II or the
 14 Korean or Vietnam conflicts;

15 (b) had legal residence in this state at the time of
 16 entry into the service; and

17 (c) ~~ere~~ were killed in action or ~~die~~ died as a result
 18 of injury, disease, or other disability incurred while in
 19 the service of the armed forces of the United States.

20 (2) The educational assistance to which an eligible
 21 person is entitled under ~~this section~~ subsection (1) may be
 22 afforded him during the period beginning on his 18th
 23 birthday or on the successful completion of his secondary
 24 schooling, whichever ~~first~~ occurs first, and ending on his
 25 23rd birthday.

1 (3) If he serves on duty with the armed forces as an
 2 eligible person under subsection (1) after his 18th birthday
 3 but before his 23rd birthday, then the period ends 5 years
 4 after his first discharge or release from duty with the
 5 armed forces. This period may not be extended beyond his
 6 31st birthday by reason of this subsection.

7 (4) The board of regents of higher education may waive
 8 the charges for the matriculation, tuition, and all
 9 educational fees for the spouse and children of any person
 10 who is a resident of Montana and who, either, while serving
 11 in the armed forces of the United States, was declared by
 12 the secretary of defense of the United States to be a
 13 prisoner of war or missing in action in connection with the
 14 conflict in Southeast Asia after January 1, 1961, or, while
 15 serving the United States in a civilian capacity, was
 16 declared by the secretary of state of the United States to
 17 be missing or captured in connection with the conflict in
 18 Southeast Asia after the same date.

19 (5) Any person who is eligible for the waiver of
 20 tuition and fees under subsection (4), upon being accepted
 21 for enrollment in any state-supported institution of higher
 22 education or state-supported technical or vocational school,
 23 shall continue to be eligible for ~~such~~ the waiver until the
 24 completion of the bachelor of arts or equivalent degree or
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 3 or the reported death of the prisoner of war or person
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5 Section 6. Section 10-3-602, MCA, is amended to read:

6 "10-3-602. Filling vacancy in governorship. ~~{1}~~
 7 Following an enemy attack, the line of succession to the
 8 office of governor shall be extended ~~to members of the~~
 9 ~~legislature in the order of their seniority as provided in~~
 10 Title 2, chapter 16, part 5. ~~For purposes of this section~~
 11 ~~the term "seniority" means the member who has served in the~~
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 17 ~~States, the governor, lieutenant governor, president pro~~
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 22 ~~States census, shall have the power and it shall be his duty~~
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2 ~~{3} Should such chairman of the board of county~~
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 25 certification of completion, as long as he remains enrolled

1 in good standing at the school or institution. Any No
 2 eligible person may not be disqualified by either the return
 3 ~~or the reported death~~ of the prisoner of war or person
 4 missing in action ~~or the reported death of the person."~~

5 Section 6. Section 10-3-602, MCA, is amended to read:

6 "10-3-602. Filling vacancy in governorship. ~~{}~~

7 Following an enemy attack, the line of succession to the
 8 office of governor shall be extended ~~to members of the~~
 9 ~~legislature in the order of their seniority as provided in~~
 10 ~~Title 2, chapter 16, part 5. For purposes of this section~~
 11 ~~the term "seniority" means the member who has served in the~~
 12 ~~legislature for the longest continuous period of time up to~~
 13 ~~and including his current term. If two or more members of~~
 14 ~~the legislature have equal seniority, the line of succession~~
 15 ~~among them shall be from eldest to youngest in age.~~

16 ~~{2} If, because of an enemy attack upon the United~~
 17 ~~States, the governor, lieutenant governor, president pro~~
 18 ~~tempore of the senate, and speaker of the house are killed~~
 19 ~~or rendered unable to serve as governor, the chairman of the~~
 20 ~~board of county commissioners of the state's most populous~~
 21 ~~county, as determined by the last preceding official United~~
 22 ~~States census, shall have the power and it shall be his duty~~
 23 ~~forthwith to call an emergency session of the state senate~~
 24 ~~at any safe location within the state for the purpose of~~
 25 ~~electing a president pro tempore, who shall then assume the~~

1 ~~office of governor~~

2 ~~{3} Should such chairman of the board of county~~
 3 ~~commissioners of the most populous county be dead or unable~~
 4 ~~to act, the chairman of the board of the next most populous~~
 5 ~~county shall exercise the power granted by this section."~~

6 Section 7. Repealer. Sections 11-4301 through 11-4304,
 7 77-605, and 77-606, R.C.M. 1947, are repealed.

-End-

SB 130

1 SENATE BILL NO. 130

2 INTRODUCED BY BLAYLOCK

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO MILITARY AFFAIRS AND DISASTER
7 AND EMERGENCY SERVICES; REPEALING SECTIONS 11-4301 THROUGH
8 11-4304, 77-605, AND 77-606, R.C.M. 1947."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 10-2-202, MCA, is amended to read:

12 "10-2-202. Definitions. For purposes of 10-2-201
13 through 10-2-206, the following definitions apply:

14 (1) The term "veterans" means persons:

15 (a) who served in the armed forces of the United
16 States in time of war or declared national emergency and who
17 have been separated from service upon conditions other than
18 dishonorable; or

19 (b) who have after January 31, 1955:

20 (i) served on active military duty for more than 180
21 days after--January--31--1955, or who were discharged or
22 released because of a service-connected disability,
23 including but not limited to those veterans serving because
24 of the Vietnam conflict; and

25 (ii) were honorably discharged.

1 (2) The term "war or declared national emergency"
2 includes:

3 (a) The Civil War;

4 (b) The Spanish-American Spanish-American War;

5 (c) The Philippine Insurrection;

6 (d) World War I, between April 6, 1917, and November
7 11, 1918, both dates inclusive;

8 (e) World War II, between September 16, 1940, and
9 December 31, 1946, both dates inclusive; and

10 (f) The Korean conflict, military expedition, or
11 police action, between June 26, 1950, and January 31, 1955,
12 both dates inclusive.

13 (3) The term "surviving spouse" means an unremarried
14 surviving spouse of a veteran.

15 (4) The word "percent" means percent of the total
16 aggregate points of the examination referred to."

17 Section 2. Section 10-2-211, MCA, is amended to read:

18 "10-2-211. Reemployment of veterans upon completion of
19 service. (1) Any person inducted into the land--or--naval
20 armed forces of the United States as a result of the
21 operation of any selective training and service act or
22 national guard and reserve officers mobilization act since
23 1948, who has satisfactorily completed his period of
24 training and or service as attested by a certificate to that
25 effect shall be reemployed in the position he left in order

1 to perform such training and or service if:

2 (a) he is still qualified to perform the duties of
3 such ~~the~~ position;

4 (b) the position he formerly held was not a temporary
5 one; and

6 (c) he makes application for reemployment within 40
7 days after he is retired from training or service.

8 (2) Should any person qualified for such reemployment
9 be a schoolteacher or instructor, the board of trustees or
10 other employing agency of the school involved ~~shall~~ is not
11 be obligated to rehire such ~~the~~ person until the beginning
12 of the semester or quarter following the one in which the
13 application for such reemployment was made."

14 Section 3. Section 10-2-213, MCA, is amended to read:

15 "10-2-213. Restoration of benefits. Any person who is
16 restored to a position in accordance with 10-2-211 or
17 10-2-212 shall be considered as having been on leave of
18 absence during his ~~the~~ period of training or service in the
19 ~~land--or--naval~~ armed forces of the United States and at the
20 expiration of such ~~the~~ period shall be entitled to be
21 restored to his employment without loss of seniority, shall
22 be entitled to participate in insurance or other benefits
23 offered by the employer in accordance with established rules
24 and practices relating to employees on leave of absence, and
25 shall not be discharged from such ~~the~~ position without cause

1 within 1 year after restoration."

2 Section 4. Section 10-2-221, MCA, is amended to read:

3 "10-2-221. Reemployment of public employee upon
4 completion of service. Any person inducted into the ~~land-or~~
5 ~~naval~~ armed forces of the United States (~~including--the~~
6 ~~aviation--unit-of-either-force~~) or any member of any reserve
7 component of the ~~land-or-naval~~ armed forces, or national
8 guardy or any retired personnel ordered into the active
9 military service of the United States who, in order to
10 perform such training, service, or active duty, leaves a
11 position, other than a temporary position, in the employ of
12 the state of Montana or any political subdivision thereof,
13 and who receives a certificate of completion of training or
14 service from the proper authorities of the United States
15 government and is still qualified to perform the duties of
16 such position shall be restored to:

17 (1) the position or to a position of like seniority,
18 status, and pay if such ~~the~~ position was in the employ of
19 the state of Montana or any political subdivision thereof,
20 excluding elective positions, ~~such person shall be restored~~
21 ~~to such position or to a position of like seniority, status,~~
22 ~~and pay provided, however, that such~~ and the position or
23 department has not been abolished or consolidated; or

24 (2) the position, status, and pay at any time during
25 the term for which he was elected if such ~~the~~ position was

1 that of an elected, executive, or judicial officer of the
 2 state of Montana or any political subdivision thereof; such
 3 person shall be restored to such position, status, and pay
 4 at any time during the term for which he was elected as
 5 provided herein."

6 Section 5. Section 10-2-312, MCA, is amended to read:

7 "10-2-312. Fee waiver -- children of prisoners of war
 8 and persons killed in action. (1) The board of regents of
 9 higher education may waive the charges for the
 10 matriculation, tuition, and any educational fees at any of
 11 the units of the Montana university system for the children
 12 of members of the armed forces of the United States who:

13 (a) served on active duty during World War II or the
 14 Korean or Vietnam conflicts;

15 (b) had legal residence in this state at the time of
 16 entry into the service; and

17 (c) were killed in action or died as a result
 18 of injury, disease, or other disability incurred while in
 19 the service of the armed forces of the United States.

20 (2) The educational assistance to which an eligible
 21 person is entitled under this section subsection (1) may be
 22 afforded him during the period beginning on his 18th
 23 birthday or on the successful completion of his secondary
 24 schooling, whichever first occurs first, and ending on his
 25 23rd birthday.

1 (3) If he serves on duty with the armed forces as an
 2 eligible person under subsection (1) after his 18th birthday
 3 but before his 23rd birthday, then the period ends 5 years
 4 after his first discharge or release from duty with the
 5 armed forces. This period may not be extended beyond his
 6 31st birthday by reason of this subsection.

7 (4) The board of regents of higher education may waive
 8 the charges for the matriculation, tuition, and all
 9 educational fees for the spouse and children of any person
 10 who is a resident of Montana and who, either, while serving
 11 in the armed forces of the United States, was declared by
 12 the secretary of defense of the United States to be a
 13 prisoner of war or missing in action in connection with the
 14 conflict in Southeast Asia after January 1, 1961, or, while
 15 serving the United States in a civilian capacity, was
 16 declared by the secretary of state of the United States to
 17 be missing or captured in connection with the conflict in
 18 Southeast Asia after the same date.

19 (5) Any person who is eligible for the waiver of
 20 tuition and fees under subsection (1), upon being accepted
 21 for enrollment in any state-supported institution of higher
 22 education or state-supported technical or vocational school,
 23 shall continue to be eligible for such the waiver until the
 24 completion of the bachelor of arts or equivalent degree or
 25 certification of completion, as long as he remains enrolled

1 in good standing at the school or institution. Any ~~no~~
 2 eligible person may not be disqualified by either the return
 3 ~~or the reported death~~ of the prisoner of war or person
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 23 forthwith to call an emergency session of the state senate
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