

1 HOUSE BILL NO. 13

2 INTRODUCED BY PAVLOVICH

3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN HONORARY CASH BENEFIT TO VETERANS OF
6 GRENADA, LEBANON, PANAMA, DESERT SHIELD, OR DESERT STORM WHO WERE RESIDENTS OF
7 MONTANA AT THE TIME OF ENTRY INTO MILITARY SERVICE; ESTABLISHING APPLICATION
8 PROCEDURES; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE DEPARTMENT OF
9 ADMINISTRATION TO ADMINISTER THE BENEFIT; AMENDING SECTION 15-30-116, MCA; AND
10 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because the bill gives the department of administration
14 authority to adopt administrative rules for the application procedure and adjudication of questions of fact
15 and of law regarding applications.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:18
19 NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Veterans'
20 Honorary Benefit Act".21
22 NEW SECTION. **Section 2. Purpose and intent of honorary benefit.** The honorary benefit provided
23 under [sections 1 through 11] is given in recognition of the persons who, through their military service in
24 the theaters of operation of Grenada, Lebanon, Panama, desert shield, and desert storm, discharged the
25 obligation of the state to contribute to the defense of the United States.26
27 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 11], the following
28 definitions apply:29 (1) "Armed forces" means the United States army, navy, marine corps, air force, and coast guard
30 and all other groups, branches, and services that are a part of the armed services and that are under the

1 control and subject to the discipline of the United States department of defense.

2 (2) "Department" means the department of administration.

3 (3) "Desert shield or desert storm" means the period from August 1, 1990, to August 31, 1991,
4 in the theater of operations, including but not limited to the air space, surrounding waters, and territories,
5 of Saudi Arabia, Kuwait, Iraq, Israel, Jordan, Turkey, the United Arab Emirates, Bahrain, Qatar, Oman,
6 Egypt, and Syria.

7 (4) "Grenada" means the period from October 23, 1983, to November 21, 1983, in the Grenada
8 theater of operations.

9 (5) "Lebanon" means the period from August 24, 1982, to February 26, 1984, in the Lebanon
10 theater of operations.

11 (6) "Military service" means service in a theater of operations performed by:

12 (a) a full-time member of the armed forces; or

13 (b) a member of the United States reserve or national guard who was called to active duty.

14 (7) "Panama" means the period from December 20, 1989, to January 31, 1990, in the Panama
15 theater of operations.

16 (8) "Resident" means a person who resided in Montana, as determined by 1-1-215, at the time of
17 entry into military service.

18

19 **NEW SECTION. Section 4. Honorary benefit for military service -- exemption from state taxation.**

20 (1) Except as provided in subsection (3), a person who was in military service in Grenada, Lebanon,
21 Panama, desert shield, or desert storm and who was a resident at the time of entry into military service or
22 the person's surviving beneficiary must receive a lump-sum honorary benefit equal to \$120 for each month
23 or for each portion of a month greater than 14 days spent in applicable military service.

24 (2) For purposes of this section:

25 (a) a person in military service who suffered a disease or injury from any cause in the line of duty,
26 including injury from exposure to weather conditions, and who was hospitalized by the armed services is
27 considered to have been in military service for the time hospitalized; and

28 (b) a person classified by the department of defense as a prisoner of war is considered to have
29 been in military service for the time so classified.

30 (3) A payment may not be made to a person who has been dishonorably discharged until the

1 person is restored by proper authority to an honorable status.

2 (4) Payments made under the provisions of [sections 1 through 11] are exempt from state taxation
3 as provided in 15-30-116.

4
5 **NEW SECTION. Section 5. Application for benefit.** (1) A person who is eligible for the benefit
6 provided under [sections 1 through 11] shall apply to the department or to a county clerk and recorder, as
7 provided in [section 7], in the form prescribed by the department. In the case of a minor or an incompetent
8 person, a claim must be filed by a guardian or custodian.

9 (2) The department shall approve or disapprove each application.

10 (3) Upon approval of an application, the department shall immediately file it with the state auditor.
11 The state auditor shall immediately issue to the applicant a warrant from the general fund and shall deliver
12 or mail the warrant to the applicant at the address shown on the application.

13
14 **NEW SECTION. Section 6. Contents of application -- department requirements.** (1) Each
15 application for the benefit provided under [sections 1 through 11] must contain:

- 16 (a) the full name of the applicant;
17 (b) the current address of the applicant;
18 (c) the applicant's date and place of birth;
19 (d) the name under which the applicant served in the armed forces;
20 (e) the beginning and ending dates of military service and the applicant's station and unit of
21 assignment during that service;
22 (f) proof that the person was a resident of Montana at the time of entry into military service; and
23 (g) other documentation required by the department.

24 (2) An application by a surviving spouse, child, or parent of a deceased person must contain:

- 25 (a) all the information as required in subsection (1), to the extent obtainable; and
26 (b) the necessary facts upon which the applicant claims the right to the benefit.

27 (3) The department shall:

- 28 (a) print a supply of application forms and furnish to each county clerk and recorder and each field
29 service office of the veterans' affairs division in Montana an adequate supply of the forms; and

30 (b) advertise to inform those eligible of their right to the benefit provided under [sections 1 through

1 11].

2 (4) A person who, with intent to defraud, subscribes to a false oath or makes a false
3 representation, either in the application or in the proof offered in support of an application, for the purpose
4 of obtaining the benefit provided under [sections 1 through 11] is guilty of false swearing.

5

6 **NEW SECTION. Section 7. Deadline for applications.** (1) All applications for the benefit provided
7 under [sections 1 through 11] must be made on or before June 30, 1997, and must be filed with the
8 department or with a county clerk and recorder.

9 (2) Upon receipt of an application, a county clerk and recorder shall:

10 (a) give the applicant a receipt that states the exact time of the filing;

11 (b) immediately endorse the application and the time of filing; and

12 (c) send the application and time of filing to the department.

13 (3) An application filed in accordance with this section preserves the right of the applicant to
14 receive the benefit despite any defect in the application. A defect may be corrected later under a procedure
15 provided in rules adopted by the department.

16

17 **NEW SECTION. Section 8. Eligible beneficiaries.** (1) If an eligible person dies before receiving the
18 benefit provided under [sections 1 through 11], the amount to which the person is entitled must be paid
19 in the following order of precedence:

20 (a) to a surviving spouse if the spouse has not remarried before making application for payment;

21 (b) if there is no surviving spouse or if the spouse has remarried before making application for
22 payment, to the deceased person's child or children in equal shares; or

23 (c) if there is no eligible spouse or surviving child, to the deceased person's parents in equal shares
24 or, if one parent is deceased, to the surviving parent. If both parents are deceased, payment may not be
25 made.

26 (2) A payment provided for under this section may be made only to a person living at the time of
27 the payment. A payment may not be made to a person's estate.

28 (3) In the case of a minor or an incompetent person, payment must be made to a guardian or
29 custodian.

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1 **NEW SECTION. Section 9. Rulemaking authority -- law to be construed liberally.** (1) The
 2 department may adopt rules for the application procedure and for the adjudication of questions of fact and
 3 of law regarding applications. The department may accept and consider any form of evidence, including
 4 affidavits that tend to establish claims with reasonable certainty.

5 (2) It is the intent of the legislature that [sections 1 through 11] be administered liberally so that,
 6 to the extent reasonably possible, a person entitled to the benefit provided under [sections 1 through 11]
 7 is not denied payment.

8
 9 **NEW SECTION. Section 10. Assistance by state and county officials.** The attorney general and
 10 all other state and county officials shall render, without charge, assistance to the department in the
 11 administration of [sections 1 through 11] and to claimants in the preparation of their applications and
 12 required documentation.

13
 14 **NEW SECTION. Section 11. Right to payment not subject to legal process.** The right to receive
 15 the honorary benefit provided under [sections 1 through 11] may not be assigned, pledged, mortgaged, or
 16 otherwise encumbered and is not subject to attachment, to levy under execution, or to any other judicial
 17 process.

18
 19 **Section 12.** Section 15-30-116, MCA, is amended to read:

20 **"15-30-116. Veterans' bonus or military salary -- exemptions.** (1) All payments made under ~~the~~
 21 ~~World War I bonus law, Korean bonus law, and the veterans' bonus law~~ and [sections 1 through 11] are
 22 ~~hereby~~ exempt from taxation under the income tax laws of the state of Montana, and any income tax ~~which~~
 23 that has been or may ~~hereafter~~ be paid on income received from this source ~~shall~~ must be considered an
 24 overpayment and ~~shall~~ must be refunded upon the filing of an amended return and a verified claim for
 25 refund on forms prescribed by the department in the same manner as other income tax refund claims are
 26 paid.

27 (2) The salary received from the armed forces by residents of Montana who are serving on active
 28 duty in the regular armed forces and who entered into active duty from Montana is exempt from state
 29 income tax."
 30

1 **NEW SECTION. Section 13. Appropriation for honorary veterans' benefit.** There is appropriated
2 to the department of administration from the general fund \$2.5 million to implement the provisions of
3 [sections 1 through 11] to be administered by the department of administration.

4

5 **NEW SECTION. Section 14. Codification instruction.** [Sections 1 through 11] are intended to be
6 codified as an integral part of Title 10, chapter 2, and the provisions of Title 10, chapter 2, apply to
7 [sections 1 through 11].

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9 **NEW SECTION. Section 15. Effective date.** [This act] is effective July 1, 1995.

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11 **NEW SECTION. Section 16. Termination.** [This act] terminates June 30, 1997.

12

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0013 as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

HB0013 provides an honorary tax-exempt cash benefit to veterans or survivors of veterans of Grenada, Lebanon, Panama, Desert Shield and Desert Storm who were residents of Montana at the time of entry into military service. The honorary benefit would be \$120 for each month served in the theater during these conflicts. The bill contains an appropriation of \$2.5 million from the general fund.

ASSUMPTIONS:

1. Based on information established in the October 1994 report from the Joint Interim Subcommittee on Veterans' Needs (Appendix E), there are 2,500 residents who would be eligible for \$120 a month for eight (8) months. Of the claims, 80% would be paid within one year, while 20% of claims would be paid in year two.
2. For purposes of this fiscal note, it is assumed that payment of benefits would be subject to the \$2.5 million appropriation [see technical note]. If there are valid applications for more than 20,336 duty-months, payments would be made on a first-come, first-served basis.
3. There would be required 1.00 FTE (grade 10) to implement and administer the program over the two-year period. Operating costs include printing, forms, notices, postage, and phone charges. A standard equipment package would be provided for the additional FTE.

FISCAL IMPACT:

Department of Administration

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	23,275	23,353
Operating Expenses	7,350	1,850
Equipment	3,800	0
Benefits	<u>1,920,000</u>	<u>480,000</u>
Total	1,954,425	505,203

Funding:

General Fund (01)	1,980,000	520,000
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill states that applications for the honorary benefit may be submitted to county clerk and recorders, thereby creating a minor increase in workload and associated operating costs.

TECHNICAL NOTES:

Because the benefit and claims projections are based on national statistics, the actual number of persons and the amounts for which they are eligible may vary. Consideration may be given to adding a provision which makes the benefits subject to appropriation.

Dave Lewis 1-4-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Bob Pavlovich
 BOB PAVLOVICH, PRIMARY SPONSOR DATE

Fiscal Note for HB0013, as introduced

HB 13