

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Federal and State Affairs** recommends **HB 2154**, as amended by House Committee of the Whole, be amended on page 1, following line 19, by inserting:

"Sec. 2. K.S.A. 48-517 is hereby amended to read as follows: 48-517. (a) Any person employed in the state of Kansas who is called or ordered to state active duty by ~~the~~ this state, or any other state, whether such person is a member of the Kansas army national guard, Kansas air national guard, the Kansas state guard or other military force of this state, or any other state, and who gave notice thereof to the person's employer, upon satisfactory performance of and release and return from such military duty or recovery from disease or injury resulting ~~therefrom~~ from such military duty, under honorable conditions, shall be reinstated in or restored to the position of employment, except a temporary position, which the person held at the time the person was called to state active duty. The person shall report to the person's place of employment within 72 hours after release from duty or recovery from disease or injury resulting ~~therefrom~~ from such military duty, as the case may be, and the person's employer or the employer's successor in interest, whether an agency of the state, a political subdivision of the state or a private employer, shall reinstate or restore the person in the same position which the person left at the time of the person's call to duty at no less compensation than that which the person was receiving at the time of the person's call to duty or to a position of like seniority, status and pay. However, if the person is not qualified to perform the duties of the same position by reason of disability sustained during the person's call to duty but is qualified to perform another position in the employ of the employer or the employer's successor, the employer or the employer's successor in

interest shall employ such person in another position, the duties of which the person is qualified to perform, that will provide like seniority, status and pay or the nearest approximation thereof consistent with the circumstances of the case. Any person called to state active duty shall receive, upon release ~~under honorable conditions~~ from state active duty, documentation of ~~honorable~~ such person's service to ~~the this state or any other state, as provided by the adjutant general~~ in a memorandum certified by such person's commanding officer.

(b) Any person who is restored to the person's position in accordance with the provisions of subsection (a) shall be considered as having been on temporary leave of absence during the period for which the person is called to state active duty, shall be restored without loss of seniority, shall be entitled to participate in any benefits offered by the employer pursuant to established rules and practices relating to employees on leave of absence in effect with the employer at the time the person was called to duty as provided ~~herein~~ in this section and shall not be discharged from the person's position without cause within one year after restoration to the position.

(c) It is understood and declared to be the intent of this section that any person who is restored to a position in accordance with the provisions of subsections (a) and (b) shall be restored in such manner as to give the person such status in the person's employment as the person would have enjoyed if the person had continued in such employment continuously from the time of the person's answering the call to state active duty until the time of the person's restoration to such employment.

(d) An application on behalf of a person claiming to be entitled to any right or benefit under this section may be made to the attorney general. If the attorney general is reasonably satisfied that the person is entitled to the right or benefit sought, the attorney general may appear on behalf of and act as attorney for the person on whose behalf the application is submitted and may commence an action in the district court of the county for appropriate relief for the person. The district court of the county where the employer of a person claiming a right or benefit under this section, or the successor in

interest to such employer, maintains a place of business shall have jurisdiction of any action filed by or on behalf of such person. If the court determines that the employer or the employer's successor in interest has failed to comply with the provisions of this section, the court may order the employer or the employer's successor in interest to: (1) Comply with the provisions of this section; and (2) compensate the person for any loss of wages or benefits suffered by reason of the failure of the employer or employer's successor in interest to comply with the provisions of this section. In addition, the court may order the employer or the employer's successor in interest to pay the person an additional amount equal to the amount authorized by subsection (d)(2) if the court determines that the employer or the employer's successor in interest willfully failed to comply with the provisions of this section. No fees or court costs shall be taxed against any person commencing an action under this subsection. The employer or the employer's successor in interest shall be deemed the only necessary party defendant to any such action.

(e) In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any law relating to similar reemployment or reinstatement benefits left the same position in order to enter ~~the state~~ this state's or any other state's call to active duty, the person who left the position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(f) Upon request, the adjutant general shall provide technical assistance to any person claiming to be entitled to any right or benefit under this section during the course of an investigation subsequent to a claim as provided in subsection (d) and, when appropriate, to the employer or employer's successor in interest. The adjutant general shall place an investigating officer on state active duty orders to investigate the person's claim and attempt to resolve the claim by making reasonable efforts to ensure that the employer or employer's successor in interest complies with the provisions of this section. If such efforts are not successful, the adjutant general shall notify the person of the results

of the investigation and the person's entitlement to proceed as provided by subsection (d).

(g) (1) An employer or an employer's successor in interest shall not be required to reemploy a person under this section if:

(A) The circumstances of the employer or the employer's successor in interest have so changed as to make reemployment of the person impossible or unreasonable;

(B) reemployment of the person would impose an undue hardship on the employer or the employer's successor in interest; or

(C) the employment from which the person leaves to serve in military duty is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

(2) As used in subsection ~~(f)~~(g)(1), "undue hardship" means actions requiring significant difficulty or expense, when considered in light of:

(A) The nature and cost of the action needed under this act;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer or the employer's successor in interest; the overall size of the business of the employer or the employer's successor in interest with respect to the number of employees; the number, type and location of its facilities; and

(D) the type of operation or operations of the employer or the employer's successor in interest, including the composition, structure and functions of the work force of such employer or successor in interest; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer or successor in interest.

New Sec. 3. (a) (1) A current member of the armed forces of the United States or the

member's spouse or dependent child who is enrolled or has been accepted for admission at a postsecondary educational institution as a postsecondary student shall be deemed to be a resident of the state for the purpose of tuition and fees for attendance at such postsecondary educational institution.

(2) A person is entitled to pay tuition and fees at an institution of higher education at the rates provided for Kansas residents without regard to the length of time the person has resided in the state if the person files a letter of intent to establish residence in the state with the postsecondary educational institution at which the person intends to register, lives in the state while attending the postsecondary educational institution and the person is eligible for benefits under the federal post-9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et seq., or any other federal law authorizing educational benefits for veterans.

(b) As used in this section:

(1) "Armed forces" means the army, navy, marine corps, air force, coast guard, Kansas army or air national guard or any branch of the military reserves of the United States;

(2) "Postsecondary educational institution" means the same as provided in K.S.A. 74-3201b, and amendments thereto; and

(3) "Veteran" means a person who has been separated from the armed forces and was honorably discharged or received a general discharge under honorable conditions.

(c) This section shall be part of and supplemental to chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 76-729 is hereby amended to read as follows: 76-729. (a) (1) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are

residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 60 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(2) The provisions of this subsection shall be applicable to any person enrolling at a state educational institution from and after July 1, 2006. Any person who (A) qualifies as a resident of the state of Kansas for fee purposes under the provisions of this subsection, (B) attended a state educational institution during academic year 2006-2007, and (C) paid fees as if such person was not a resident of the state of Kansas, may apply to such state educational institution to be reimbursed in an amount equal to the difference between the amount the person paid in fees and the amount the person would have paid if such person had been treated as a resident of the state of Kansas. Such reimbursement shall be paid by the state educational institution at which such person was enrolled during academic year 2006-2007.

(3) The provisions of this subsection shall not apply to a person who is deemed a resident for fee purposes pursuant to K.S.A. 2014 Supp. 76-731a, and amendments thereto.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

(1) Persons who are employees of a state educational institution;

(2) ~~persons who are in military service;~~

~~(3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under~~

~~honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);~~

~~(4)~~—persons having special domestic relations circumstances;

~~(5)~~(3) persons who have lost their resident status within six months of enrollment;

~~(6)~~(4) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;

~~(7)~~(5) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection;

~~(8)~~—persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse; and

~~(9)~~—persons who have retired or have been honorably discharged from military service, had a permanent change of station order for active duty in Kansas during such military service and live in

~~Kansas at the time of enrollment.~~

~~(c)(1) The state board of regents shall authorize the following class of persons to pay an amount equal to resident fees: Any dependent or spouse of a person in military service who is reassigned from Kansas to another duty station so long as such dependent or spouse continues to reside in Kansas.~~

~~(2) So long as a person remains continuously enrolled, exclusive of summer sessions, a person who qualifies to pay resident fees by virtue of being a spouse or dependent of a person in military service shall not lose such status because of a divorce or the death of a spouse. Pursuant to section 1, and amendments thereto, a veteran, an active duty member of the armed forces and the spouse and dependent child of such veteran or active duty member of the armed forces shall be deemed residents of the state for fee purposes.~~

(d) As used in this section:

(1) "Parents" means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-3051, and amendments thereto.

(3) "Custodian" means a person, agency or association granted legal custody of a minor under the revised Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

(6) "Dependent" means: (A) A birth child, adopted child or stepchild; or

(B) any child other than the foregoing who is actually dependent in whole or in part on the

person in military service and who is related to such individual by marriage or consanguinity.

~~(7) "Military service" means: (A) Any active service in any armed service of the United States; or (B) membership in the Kansas army or air national guard.~~

(8) "Academic year" means the twelve-month period ending June 30.

Sec. 5. K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2 by striking all before the period and inserting "military matters; amending K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 and repealing the existing sections"; and the bill be passed as amended.

Chairperson