

SENATE BILL NO. 210
INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A TUITION BENEFIT FOR MONTANA VETERANS WITH A RECORD OF COMBAT DUTY IN THE WAR ON TERROR OR TO THEIR SPOUSES AND THEIR DEPENDENTS; SETTING LIMITS ON THE USE OF THE TUITION BENEFIT; PROVIDING A PROCEDURE FOR APPLICATION; PROVIDING THE BOARD OF REGENTS WITH RULEMAKING AUTHORITY TO IMPLEMENT THE TUITION BENEFIT PROGRAM; AND PROVIDING EFFECTIVE DATES."

WHEREAS, the terrorist actions of September 11, 2001, changed American foreign policy irrevocably and the Legislature supports and appreciates the successful efforts of our President to choose diplomacy over military action where warranted and favors firm and sensible diplomacy--especially in securing international support for our policies--over the use of military force, while realizing that diplomacy may fail to be the best avenue in securing the safety of our nation and that military action may then be needed; and

WHEREAS, diplomacy is conducted by statesmen, but war is conducted by a nation's youth and the Legislature resolves to express our patriotism and love for America by offering to those men and women of Montana who put themselves in harm's way in the defense of our nation a concrete token of our thanks and esteem; and

WHEREAS, for those who fight for our national security, it is the policy of the State of Montana to assist in providing economic security by providing special consideration for Montana's members of the military, as allowed by Article II, section 35, of the Montana Constitution, through tuition benefits for higher education, which is universally recognized as a major benefit in individual economic success.

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "Combat zone" means an area:
 - (a) designated by the president of the United States under executive order for the period starting with the date of the executive order and continuing until the executive order is terminated;
 - (b) determined under regulations of the secretary of defense to be an area where a member of the active

armed forces of the United States, the national guard, or the military reserves was subjected to hostile fire or imminent danger while on duty and was eligible for special pay authorized under 37 U.S.C. 310; or

(c) determined for tax purposes by the internal revenue service to involve terroristic or military action as defined in 26 U.S.C. 692(c)(2).

(2) "Resident of Montana" means, within the provisions of 1-1-215 for determining residence, a person who is eligible to pay Montana in-state tuition and is eligible to vote in Montana. However, a member of the U.S. armed forces who is assigned to and residing in Montana is not a resident unless the person indicates an intention to establish a residence in Montana.

(3) "U.S. armed forces" means the active military forces of the United States, the military reserves, and the Montana national guard.

(4) "Veteran" means a resident of Montana, has the same meaning provided in 10-2-101, and includes members of the Montana national guard or military reserve who served in a domestic combat zone during the war on terror pursuant to subsection (1)(c) or who have been honorably discharged from federal active duty.

(5) "War on terror" means the U.S. campaign against international terrorism that began with the attack against U.S. citizens and property on September 11, 2001, and was approved by congress on September 18, 2001, as Public Law 107-40.

NEW SECTION. Section 2. Tuition paid for certain veterans and dependents. (1) The department of administration shall provide up to 4 years of paid tuition out of the general fund directly to a unit of the Montana university system for:

(a) a veteran who enlisted in the U.S. armed forces while a resident of Montana and who served with the U.S. armed forces in a combat zone during the war on terror and was honorably discharged from federal active duty after [the effective date of section 1]; or

(b) a veteran's spouse or child, in a case in which the veteran:

(i) was killed during service in the war on terror in a combat zone after September 18, 2001; or

(ii) was determined by the U.S. department of veterans affairs to have a disability or a combination of disabilities rated at 100% as a result of service in a combat zone during the war on terror and was honorably discharged from federal active duty after [the effective date of section 1]. A veteran who is 100% disabled may either personally use the tuition benefit or assign the benefit to a spouse or to one or more children who are under 20 years of age and who were dependent on the veteran at the time of the veteran's discharge from military service.

(2) The tuition benefit is in addition to other benefits provided by the state, including those described in 10-1-121 and 20-25-421.

NEW SECTION. Section 3. Limits on tuition benefit. (1) To receive a tuition benefit:

(a) the veteran shall apply for the benefit within 5 years after being honorably discharged from federal active duty with the U.S. armed forces;

(b) the veteran's spouse shall apply for the benefit within 5 years after the veteran's death or, in the case of a 100% disabled veteran assigning the benefit to the spouse, within 5 years after the date of determination of 100% disability by the U.S. department of veterans affairs; or

(c) the veteran's child may apply until the child reaches 20 years of age.

(2) The tuition benefit must be used within 5 years after application for benefits.

(3) The tuition benefit may not be used for graduate study.

NEW SECTION. Section 4. Procedure for applying for tuition benefit -- rulemaking. (1) The veteran, the veteran's spouse, or the veteran's child shall provide a notarized copy of the veteran's U.S. department of defense form 214 (DD-214) to be used to determine eligibility for the benefit. The form must be presented to the registrar's office at the unit of the university system for which a tuition benefit is being sought.

(2) The board of regents shall adopt rules to implement procedures for:

(a) obtaining reimbursement from the state for the tuition benefits;

(b) keeping a record of the use of the tuition benefit provided for in [section 2]; and

(c) reporting to the legislature in 2005 on the use of the tuition benefit.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 25, part 4, and the provisions of Title 20, chapter 25, part 4, apply to [sections 1 through 4].

NEW SECTION. Section 6. Effective dates. (1) [Sections 1, 4, and this section] are effective on passage and approval.

(2) [Sections 2 and 3] are effective July 1, 2003.

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