

**CHAPTER 273—H.F.No. 3664**

*An act relating to the military; expanding eligibility for the salary differential program for state employees ordered into active military service; permitting military personnel stationed outside Minnesota to use state parks without fee while home on leave; providing leave without pay to family members of soldiers wounded or killed while in active service, and for family members of deployed soldiers to attend send-off or homecoming ceremonies; establishing a policy statement supportive of military service; providing certain job protections for persons ordered into active military service; adding cross-references; directing institutions of higher education to provide credit for military training and experience for veterans; clarifying law governing renewal of occupational licenses and professional certifications during and following active military service; authorizing National Guard security guard employees to carry certain weapons; authorizing the placement of plaques honoring certain veterans in the Court of Honor; amending Minnesota Statutes 2004, sections 85.053, by adding a subdivision; 190.055; 326.56; 609.67, subdivisions 3, 5; 626.88, subdivision 1; Minnesota Statutes 2005 Supplement, sections 43A.183; 192.502, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 181; 190; 197.*

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

Section 1. Minnesota Statutes 2005 Supplement, section 43A.183, is amended to read:

**43A.183 PAYMENT OF SALARY DIFFERENTIAL ~~FOR~~ TO RESERVE FORCES WHO ~~REPORTED~~ REPORT FOR ACTIVE SERVICE.**

Subdivision 1. Payment required. ~~(a) Each agency head shall pay to each eligible member of the National Guard or other reserve component of the United States armed forces an amount equal to the person's salary differential for each month or portion of month that the person is ordered to serve in active military service. The person's salary differential is calculated as~~

This payment may be made only to a person for whom the amount in subdivision 2, paragraph (b), clause (1), is greater than the amount in subdivision 2, paragraph (b), clause (2). Payments must be made at the intervals at which the member received pay as a state employee, except that any back pay due under this section may be paid as a lump sum. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve. An eligible member may apply for the salary differential benefits authorized under this section prior to, during, or following the person's active service on or after May 29, 2003.

Subd. 2. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Salary differential" means the difference between:

(1) the person's monthly total gross earnings as an active state employee, excluding any overtime pay received but including all other earnings, averaged over the last three full months of the person's active state employment prior to reporting to active ~~military~~ service, and including any additional salary or earnings adjustments that the person would have received at any time during the person's ~~military~~ authorized leave from state employment had the person been serving as an active state employee during that time; and

(2) the person's monthly base pay in active ~~military~~ service.

~~This payment may be made only to a person for whom the amount in clause (1) is greater than the amount in clause (2). Payments must be made at the intervals at which the member received pay as a state employee, except that any back pay due under this section may be paid as a lump sum. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve. An eligible member of the National Guard or other reserve component of the United States armed forces may apply for the pay differential benefits authorized under this section prior to, during, or following the person's active military service on or after May 29, 2003.~~

~~(b) An eligible member of the reserve components (c) "Eligible member" means:~~

~~(1) any member of the National Guard or other reserve component of the United States armed forces is a reservist or National Guard member who was an employee of the state of Minnesota at the time the member took military leave under section 192.261 to report for active military service; and~~

~~(2) any member of any other nonmilitary reserve component of the uniformed services of the United States who was an employee of Minnesota at the time the member took properly authorized leave from state employment under substantially comparable federal or state authority ordering the person to report for federal or state active service.~~

~~(c) For purposes of this section, an employee of the state is (d) "State employee" means an employee of the executive, judicial, or legislative branch of state government or an employee of the Minnesota State Retirement System, the Public Employee Retirement Association, or the Teachers Retirement Association.~~

~~(d) For purposes of this section, the term (e) "Active service" has the meaning given in section 190.05, subdivision 5, for military members, and includes substantially comparable service for reserve members of other nonmilitary components of the uniformed services of the United States, but excludes service performed exclusively for purposes of:~~

~~(1) basic ~~combat~~ training, advanced individual training, annual training, and periodic inactive duty training;~~

~~(2) special training periodically made available to reserve members;~~

~~(3) service performed in accordance with section 190.08, subdivision 3; and~~

~~(4) service performed as part of the active guard/reserve program pursuant to United States Code, title 32, section 502(f), or other applicable authority, as well as substantially comparable service by members of other nonmilitary components of the uniformed services of the United States.~~

**Subd. 3. Health and dental coverage.** ~~(e)~~ The agency head must continue the employee's enrollment in health and dental coverage, and the employer contribution toward that coverage, until the employee reports for active ~~military~~ service. If the employee had elected dependent coverage for health or dental coverage as of the time that the employee reported for active service, the agency head must offer the employee the option to continue the dependent coverage at the employee's own expense. The agency head must permit the employee to continue participating in any pretax account in which the employee participated when the employee reported for active service, to the extent of employee pay available for that purpose. An employee who has opted to continue a permitted benefit may cancel that continuation at any time during the person's ~~military authorized~~ leave from state employment by written notification from the employee, or from the employee's designated attorney-in-fact under a power of attorney, to the agency head or the commissioner of employee relations.

**Subd. 4. Notice.** ~~(f)~~ The agency head must periodically inform in writing all agency personnel who are or may be members of the reserve component of the United States armed forces or any other

nonmilitary reserve component of the uniformed services of the United States of the benefits provided under this section and of the procedures relevant to securing those benefits, including, but not limited to, any procedures regarding the continuation and discontinuation of any optional deductions. It will suffice to meet this requirement if the agency head posts the information on the agency Web site in a highly recognizable manner that can be easily found and understood by the employees to whom it might apply.

Upon being ordered to active ~~duty~~ service, the employee must notify the agency head of that order in a timely manner and must provide to the agency head the name of and contact information for the employee's designated attorney-in-fact under a power of attorney. Prior to the commencement of the employee's military authorized leave from state employment, the agency head must ensure the agency's receipt of that information and immediately convey that information to the commissioners of finance and employee relations, including any subsequent change in that designation by the employee. When communicating with the employee during the person's military leave, the agency head and the commissioners of finance and employee relations must immediately provide a copy of the communication to the employee's designated attorney-in-fact. Those officials must also honor requests for information or other appropriate directives from that designee on behalf of the employee during the employee's military leave.

Subd. 5. **Procedures.** ~~(g)~~ The commissioners of employee relations and finance shall adopt procedures required to implement this section. The procedures are exempt from chapter 14.

Subd. 6. **Exclusion.** ~~(h)~~ This section does not apply to a judge, legislator, or constitutional officer of the executive branch.

**EFFECTIVE DATE.** This section is effective for Minnesota state employees serving in active service on or after July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 85.053, is amended by adding a subdivision to read:

Subd. 8. **Military personnel on leave; exemption.** (a) The provisions of this section requiring a state park permit and regulating its display do not apply to a motor vehicle being used by a person who is serving in active military service in any branch or unit of the United States armed forces and who is stationed outside Minnesota, during the period of active service and for 90 days immediately thereafter, if the person notifies the park attendant on duty or other designee of the commissioner of the person's military status at the time of usage. It is sufficient notice for the eligible person to temporarily affix to the inside of the windshield of the vehicle in a visible manner the person's current military orders to carry in the person's possession current military identification attesting to the person's active or recent military status.

(b) For purposes of this section, "active service" has the meaning given under section 190.05, subdivision 5c, when performed outside Minnesota.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 3. **[181.947] LEAVE FOR IMMEDIATE FAMILY MEMBERS OF MILITARY PERSONNEL INJURED OR KILLED IN ACTIVE SERVICE.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Active service" has the meaning given in section 190.05, subdivision 5.

(c) "Employee" means a person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for an employer.

(d) "Employer" means a person or entity located or doing business in this state and having one or more employees, and includes the state and all political or other governmental subdivisions of the state.

(e) "Immediate family member" means a person's parent, child, grandparents, siblings, or spouse.

Subd. 2. **Unpaid leave required.** An employer must grant up to ten working days of a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

Subd. 3. **Notice.** An employee must give as much notice to the employee's employer as practicable of the employee's intent to exercise the leave guaranteed by this section.

Subd. 4. **Relationship to other leave.** The length of leave provided under this section may be reduced by any period of paid leave provided by the employer. Nothing in this section prevents an employer from providing leave benefits in addition to those provided in this section or otherwise affects an employee's rights with respect to other employment benefits.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to the immediate family members of military personnel injured or killed on or after that date, as well as to the immediate family members of military personnel who, on the effective date, are recovering from injuries that occurred prior to that date.

#### Sec. 4. **[181.948] LEAVE TO ATTEND MILITARY CEREMONIES.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meaning given in this subdivision.

(b) "Active service" has the meaning given in section 190.05, subdivision 5.

(c) "Employee" means a person who performs services for compensation, in whatever form, for an employer. Employee does not include an independent contractor.

(d) "Employer" means a person or entity located or doing business in this state and having one or more employees, and includes the state and all political or other governmental subdivisions of the state.

(e) "Immediate family member" means a person's grandparent, parent, legal guardian, sibling, child, grandchild, spouse, fiancée, or fiancée.

Subd. 2. **Unpaid leave required.** Unless the leave would unduly disrupt the operations of the employer, an employer shall grant a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency. The employer may limit the amount of leave provided under this subdivision to the actual time necessary for the employee to attend a send-off or homecoming ceremony for the mobilized service member, not to exceed one day's duration in any calendar year.

#### Sec. 5. **[190.001] POLICY STATEMENT.**

In recognition of the necessity of maintaining a strong military force for the protection and survival of this state and nation and of free and democratic allied societies throughout the world, and of the numerous and varied sacrifices required of military personnel and their families both in peacetime and war, and of the exemplary character, courage, leadership, and training of United States armed forces personnel of all generations, it is the policy of the state of Minnesota to promulgate, implement, and maintain laws, policies, rules, and procedures, insofar as is practicable and beneficial to the people of this state and within available resources as may exist at any time, that encourage, recognize, and reward honorable military service to this state and nation, whether in regular active service or in the National Guard or other reserve component service, during both peacetime and war. This includes, but is not limited to, policies supportive of the physical and mental health needs of returning veterans.

Sec. 6. Minnesota Statutes 2004, section 190.055, is amended to read:

**190.055 PROTECTIONS.**

(a) A person called or ordered to active service, as defined in section 190.05, subdivision 5a or 5b, has all the protections afforded to persons in the military service of the United States under:

(1) the ~~Soldiers and Sailors Civil Relief Act of 1940~~ Service Members Civil Relief Act, United States Code, Appendix 50, sections 501 to 548, and 560 to 591, as amended; at any time; and

(2) the Uniformed Services Employment and Reemployment Rights Act, United States Code, title 38, sections 4301 to 4333, as amended at any time.

(b) The acts referenced in paragraph (a), clauses (1) and (2), may be cited as the "SCRA" and "USERRA," respectively.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2005 Supplement, section 192.502, is amended by adding a subdivision to read:

Subd. 3. **Unpaid leave to attend military ceremonies.** Employees are entitled to unpaid leave, as required by section 181.948, to attend the send-off or homecoming ceremony of an immediate family member who, as a member of the United States armed forces, has been mobilized for active military service in support of a war or other national emergency.

Sec. 8. Minnesota Statutes 2005 Supplement, section 192.502, is amended by adding a subdivision to read:

Subd. 4. **Unpaid leave for families of injured or deceased military members.** Employees are entitled to unpaid leave, as required by section 181.947, when an immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to the immediate family members of military personnel injured or killed on or after that date, as well as to the immediate family members of military personnel who, on the effective date, are recovering from injuries that occurred prior to that date.

Sec. 9. **[197.775] HIGHER EDUCATION FAIRNESS.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of veterans affairs.

(c) "State college or university" means a unit of the University of Minnesota or Minnesota State Colleges and Universities.

Subd. 2. **Recognition of courses.** (a) Minnesota State Colleges and Universities must recognize courses and award educational credits for courses that were part of a veteran's military training or service if the courses meet the standards of the American Council on Education or equivalent standards for awarding academic credits.

(b) The University of Minnesota and private colleges and universities in Minnesota are encouraged to recognize courses and award educational credits for courses that were part of a veteran's military training or service if the courses meet the standards of the American Council on Education or equivalent standards for awarding academic credits.

Subd. 3. **Tuition status.** A state college or university must treat a veteran as a Minnesota resident for purposes of determining the veteran's undergraduate tuition rate. A state college or university must treat a veteran as a Minnesota resident for purposes of determining the veteran's graduate school tuition rate if the veteran was a Minnesota resident on entering military service and starts attending the state college or university graduate program within two years of completing military service.

Subd. 4. **Delayed payment of tuition.** A state college or university may not assess late fees or other late charges for veterans who are eligible to receive federal educational assistance and who have applied for that assistance but not yet received it, nor may they prevent these students from registering for a subsequent term because of outstanding tuition charges that arise from delayed federal payments. The state college or university may request without delay the amount of tuition above expected federal educational assistance and may require payment of the full amount of tuition owed by the veteran within 30 days of receipt of the expected federal educational assistance.

Sec. 10. Minnesota Statutes 2004, section 326.56, is amended to read:

**326.56 LICENSES, CERTIFICATES OF REGISTRATION; RENEWALS.**

Subdivision 1. **Definitions.** For the purposes of this section the terms defined in this subdivision shall have the meanings ascribed to them.

(1) "Active military service" has the meaning given in section 190.05, subdivision 5.

(2) "Employment essential to the prosecution of any a war and or to the national defense" means employment by the federal government of the United States of America, or any of its agencies, or any by a federal government contractor under the United States of America, or subcontractor under such contractor, in work connected with the prosecution of a war or for the defense of the United States ~~of America and others of the United Nations during war or its allies.~~

~~(2)~~ (3) "Outside of the United States" means outside of the territorial limits of the 50 states of the United States and the District of Columbia.

Subd. 2. **Trade licenses or registrations, renewals; exemption of members of for armed forces and certain essential employees.** Notwithstanding any other provision of statutes, any person required by law to be licensed or registered by the state of Minnesota in order to carry on or practice a trade, employment, occupation or profession in the within this state of Minnesota who is also required by law to renew the license or certificate of registration at stated intervals and to pay a fee for such renewal on or before a specified date, or be subject to revocation of the license or certificate or other penalties, and who has since the enactment by the Congress of the United States of the Selective Service and Training Act of 1940 entered, or shall hereafter enter, the armed forces of the United States of America been ordered into active military service, or who has since the enactment of said act been engaged, or shall hereafter be engaged, in employment; outside of the United States; essential to the prosecution of any a war or to the national defense, whose license or certificate of registration was effective at the time of the person's entry into the armed forces active military service or engagement in the employment aforesaid, is hereby exempted from the payment of all renewal fees and from the filing of any application for renewal, which but for this section would have been required as a condition of the renewal of the license or certificate, during the time the person has been in such armed forces active military service or in such that employment, and from any penalties for nonpayment or late payment, and is hereby exempted from further payment of such renewal fees and from the making of any application for renewal during the period the person shall remain in such armed forces active military service or is engaged in such the employment, and for a further period of six months from discharge from the armed forces, if a member thereof, or from the date of return within the boundaries of the United States if engaged in the employment hereinbefore referred to thereafter. The license or certificate in the meantime shall remain in full force and effect, and if it has been canceled or revoked since the date of

~~the enactment of the Selective Service and Training Act of 1940 solely on the ground basis of nonpayment of renewal fees, or failure to apply for a renewal, it shall be reinstated upon the application of the licensee or registrant or any one on the licensee's or registrant's by anyone on the person's behalf without the payment of any penalties or costs. Any such person may within six months from the date of release from the armed forces of the United States, if the person has been a member of such armed forces active military service, or from the date of return within the boundaries of the United States if the person has been engaged in the essential employment hereinbefore referred to, make application for a renewal of the license or certificate without penalty and in the same manner as if the person had made application therefor at the time or time specified by existing laws, irrespective of whether the license or certificate has expired or is due to expire within that time period.~~

Sec. 11. Minnesota Statutes 2004, section 609.67, subdivision 3, is amended to read:

Subd. 3. **Uses permitted.** The following persons may own or possess a machine gun or short-barreled shotgun provided the provisions of subdivision 4 are complied with:

- (1) law enforcement officers for use in the course of their duties;
- (2) chief executive officers of correctional facilities and other personnel thereof authorized by them and persons in charge of other institutions for the retention of persons convicted or accused of crime, for use in the course of their duties;
- (3) persons possessing machine guns or short-barreled shotguns which, although designed as weapons, have been determined by the superintendent of the Bureau of Criminal Apprehension or the superintendent's delegate by reason of the date of manufacture, value, design or other characteristics to be primarily collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and are not likely to be used as weapons;
- (4) manufacturers of ammunition who possess and use machine guns for the sole purpose of testing ammunition manufactured for sale to federal and state agencies or political subdivisions; ~~and~~
- (5) dealers and manufacturers who are federally licensed to buy and sell, or manufacture machine guns or short-barreled shotguns and who either use the machine guns or short-barreled shotguns in peace officer training under courses approved by the Board of Peace Officer Standards and Training, or are engaged in the sale of machine guns or short-barreled shotguns to federal and state agencies or political subdivisions; ~~and~~
- (6) persons employed by the Minnesota National Guard as security guards, for use in accordance with applicable federal military regulations.

Sec. 12. Minnesota Statutes 2004, section 609.67, subdivision 5, is amended to read:

Subd. 5. **Exceptions.** This section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties or to security guards employed by the Minnesota National Guard for use in accordance with applicable federal military regulations.

Sec. 13. Minnesota Statutes 2004, section 626.88, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed pursuant to sections 626.84 to 626.863 charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has full power of arrest, and shall

also include Minnesota state troopers, state conservation officers, park police, constables, and University of Minnesota police officers.

(c) "Security guard" means any person who is paid a fee, wage or salary to perform one or more of the following functions:

(1) prevention or detection of intrusion, unauthorized entry or activity, vandalism or trespass on private property;

(2) prevention or detection of theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protection of individuals from bodily harm; ~~or~~

(5) prevention or detection of intrusion, unauthorized entry or activity, vandalism, or trespass on Minnesota National Guard facilities, including, but not limited to, Camp Ripley and Air National Guard air bases; or

~~(5)~~ (6) enforcement of policies and rules of the security guard's employer related to crime reduction insofar as such enforcement falls within the scope of security guard's duties.

The term "security guard" does not include: (i) auditors, accountants, and accounting personnel performing audits or accounting functions; (ii) employees of a firm licensed pursuant to section 326.3381 whose duties are primarily administrative or clerical in nature; (iii) unarmed security personnel; (iv) personnel temporarily employed pursuant to statute or ordinance by political subdivisions to provide protective services at social functions; (v) employees of air or rail carriers.

#### Sec. 14. MEMORIAL PLAQUES.

Subdivision 1. Memorial plaque honoring military war dogs and their handlers. A memorial plaque may be placed in the Court of Honor on the Capitol grounds to recognize the valiant service to our nation by the thousands of brave military war dogs and their handlers who served honorably as members of the United States armed forces during all of our nation's wars and during peacetime. The plaque must be furnished by a person or organization other than the Department of Veterans Affairs and must be approved by the commissioner of veterans affairs and the Capitol Area Architectural and Planning Board.

Subd. 2. Memorial plaque honoring Medal of Honor recipients. A memorial plaque may be placed in the Court of Honor on the Capitol grounds to recognize those Minnesotans who have received the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the armed services of the United States. The plaque must be furnished by a person or organization other than the Department of Veterans Affairs and must be approved by the commissioner of veterans affairs and the Capitol Area Architectural and Planning Board.

EFFECTIVE DATE. This section is effective the day following final enactment.

#### Sec. 15. REVISOR'S INSTRUCTION.

The revisor of statutes shall insert a first grade header after Minnesota Statutes, section 181.946, that reads "LEAVE FOR FAMILIES OF MOBILIZED MILITARY MEMBERS."



Presented to the governor May 22, 2006

Signed by the governor June 1, 2006, 9:45 p.m.