

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: HJR 11a

49th Legislature, 1st Session, 2009

Short Title: War Veteran College Scholarship, CA

Sponsor(s): Representative Edward C. Sandoval and Others

Analyst: Pamela Herman

Date: March 3, 2009

AS AMENDED

The House Education Committee amendment:

- **strikes language naming “Operation Enduring Freedom or Operation Iraqi Freedom” and replaces it with “any United States military campaign or armed conflict as defined by Congress or by Presidential Executive Order”; and**
- **strikes “January 1, 2009” and inserts in lieu thereof “August 1, 1990” as the starting date after which the award of “any other campaign medal” will qualify a veteran for the proposed scholarship.**

Original Bill Summary:

HJR 11 proposes to put to the voters an amendment to Article IX, Section 14 of the New Mexico Constitution to create a new exception to the “anti-donation clause.” If approved, the amendment would allow the state to establish a veterans’ scholarship program for military war veterans of recent armed conflicts in the Middle East or the global war on terror who are students at state public postsecondary educational institutions.

HJR 11 proposes to amend the state Constitution to provide that the anti-donation clause in Article IX, Section 14 would not prohibit the state from creating a veterans’ scholarship program as follows:

- recipients must be students at postsecondary institutions under the exclusive control of the state;
- they must have exhausted all educational benefits offered by the US Department of Defense or the US Department of Veterans Affairs;
- the scholarships would exempt recipients from payment of tuition; and
- a military war veteran is defined as any person who:
 - has been honorably discharged from the US armed forces;
 - was a resident of New Mexico at the original time of entry into the armed forces, or has lived in the state for 10 or more years; and
 - has been awarded one of the following:
 - a southwest Asia service medal;
 - a global war on terror service medal;
 - an Iraq campaign medal;
 - an Afghanistan campaign medal;

- any other medal issued for service in the US armed forces in support of Operation Enduring Freedom or Operation Iraqi Freedom; or
- any other campaign medal issued for service after January 1, 2009 in the US armed forces during periods of armed conflict as defined by Congress or by Executive Order.

HJR 11 requires that the proposed amendment be submitted to the people for their approval or rejection at the next general election, or any special election that may be called for that purpose prior to the general election.

Fiscal Impact:

HJR 11 does not make an appropriation.

Fiscal Issues:

If the New Mexico Constitution is amended as proposed in HJR 11, there would be no fiscal impact to the state until a scholarship such as that permitted by the amendment were created in law and funded by a legislative appropriation. One avenue to achieve that end would be to amend current law and agency rule governing the existing “Vietnam Veterans Scholarship Fund” to include the veterans named in HJR 11.

According to the Legislative Finance Committee (LFC) Report to the 49th Legislature, First Session, approximately \$26.6 million was appropriated to the Higher Education Department (HED) for FY 09 for all student financial aid programs.

- In its 2009 Report to the Legislature, LFC showed allocations for Vietnam veterans’ scholarships – a program created in law in 1985 (see “Issues” below) – of \$92,000 for FY 08 and \$113,600 for FY 09. The LFC reports a zero fund balance for this program for FY 08.
- However, a 2008 LFC review of HED financial aid programs indicated a decline in awards of Vietnam veterans’ scholarships¹, as follows:
 - in academic year 2004-2005, \$27,811 was awarded to 19 recipients;
 - in academic year 2005-2006, \$21,349 to 17 recipients; and
 - in academic year 2006-2007, \$18,789 to 10 recipients.
- In contrast, HED states in its agency bill analysis for HJR 11 that each year, the Legislature appropriates \$75,000 to support approximately 70 Vietnam veterans.

Technical Issue:

The House Education Committee Amendment Number 2 contains typographical errors. The amendment should read, “On page 5, line 23, strike ‘January 1, 2009’ and insert in lieu thereof ‘August 1, 1990’.”

¹ A veteran of the armed forces who was age 20 at the termination of the Vietnam conflict in April 1975 would now be approximately 57 years old.

Issues:

Article IX, Section 14 of the New Mexico Constitution is one of the sections known as the “anti-donation clause.” It prohibits the state and its political subdivisions from making “any donation to or in aid of any person” and contains a list of exceptions to the prohibition.

- HJR 11 would add an exception to the anti-donation clause in Article IX, Section 14 to permit creation of a new veterans’ scholarship program.
- To create a “Gulf War Veterans’ Scholarship,” legislation would be required.
- A constitutional amendment in 1971 created an exception to the anti-donation clause in Article IX similar to that proposed in HJR 11, allowing a veterans’ scholarship program for Vietnam conflict veterans.
- A non-reverting Vietnam Veterans’ Scholarship Fund was created by the Legislature in the state Treasury in 1985, to be administered by the Commission on Higher Education (now HED). The statute establishes criteria for awards from the fund and provides that a Vietnam veteran may apply to the Veterans Services Department for a scholarship. The department determines eligibility and certifies approved applicants to HED.
- HED and the Department of Veterans Services, in their bill analyses, indicate that any scholarship program established as permitted by HJR 11 would be administered similarly to the Vietnam veterans’ scholarships.

According to HED’s bill analysis, upon discharge “other than dishonorable,” veterans are eligible to receive federal educational benefits through either the Montgomery GI Bill, worth \$30,000 for a period up to 10 years, or the 9/11 GI Bill, worth \$40,000 for a period up to 15 years.

- HED observes that these GI Bill benefits are not available beyond the 10- or 15-year period after discharge, creating a barrier for many veterans who choose to pursue higher education after their eligibility period has passed.
- HED also notes that, because of the requirement to first exhaust federal veterans’ educational benefits before receiving the state aid that would become permissible pursuant to HJR 11, the state scholarship would most likely be used to finish degrees and would not require a full four-year scholarship.
- The Department of Veterans Services states in its bill analysis that, according to US Veterans Administration estimates, there are approximately 13,000 veterans in New Mexico who could qualify for this program.

Related Bills:

HJR 1 *Veteran Organization Property Taxes, CA*
HJR 4 *National Guard Property Tax Exemption, CA*
HJR 13 *Use of Public Resources, CA*
SJR 5 *Anti-Donation Exemption for Non-Profits, CA*