

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE CONCURRENT
6 RESOLUTION NO. 1049

By: Banz

7 COMMITTEE SUBSTITUTE

8 A Concurrent Resolution recognizing the inequities
9 created by the current federal law entitled the
10 Uniformed Services Former Spouses' Protection Act;
11 specifying considerations for courts to review when
12 dividing military retirement pay; memorializing the
13 Congress of the United States to support certain
14 legislation; and directing distribution.

15 WHEREAS, our men and women of the military continually and
16 loyally answer the call to duty and protect and serve our great
17 nation; and

18 WHEREAS, it is our nation's and this state's duty to protect our
19 men and women of the military; and

20 WHEREAS, the Uniformed Services Former Spouses' Protection Act,
21 10 U.S.C., Section 1408(c), provides that a court may treat
22 disposable retired pay payable to a member either as property solely
23 of the member or as property of the member and his spouse; and
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1 WHEREAS, since Congress enacted the Uniformed Services Former
2 Spouses' Protection Act in 1982, state courts have struggled with
3 interpreting the law in light of state domestic relations laws; and

4 WHEREAS, enforcement loopholes, differing court interpretations,
5 amendments to the Act, and the changing role of women in society all
6 create situations where application of this Act in military divorce
7 results in inequities, costly hearings, numerous rehearings, and
8 even imprisonment; and

9 WHEREAS, there is a growing concern that the current
10 interpretation and application of the Uniformed Services Former
11 Spouses' Protection Act will increasingly impede the military's
12 ability to recruit much needed members for service.

13 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES
14 OF THE 2ND SESSION OF THE 51ST OKLAHOMA LEGISLATURE, THE SENATE
15 CONCURRING THEREIN:

16 THAT the Oklahoma Legislature recognizes the inequities created
17 through the interpretation and application of the Uniformed Services
18 Former Spouses' Protection Act that are detrimental to our military
19 members.

20 THAT, in honor of the military member's past and continuing
21 obligation to the defense of our country, equitable division of the
22 military retirement pay must include the following considerations
23 for review by the state court in determining classification of the
24 pay as marital or separate property: the ability of the former

1 spouse to support himself or herself; the education and experience
2 of the former spouse received during the marriage; any criminal
3 activity, abuse, or nonconformance to military lifestyle of the
4 former spouse; the combat service of the military member; the
5 disability status of the military member; and any career detriment
6 received by the former spouse due to the military member's service.

7 THAT courts should consider terminating payments of retired pay
8 upon the remarriage of former spouses, base division of payment on
9 length of service and pay grade at the time of divorce and not at
10 the time of retirement, and not provide payments of disability pay
11 to former spouses, except for child support.

12 THAT the Oklahoma Legislature memorializes the members of
13 Congress to either sponsor or support current legislation that would
14 repeal or amend the current law in a fashion that creates workable
15 criteria to allow for a more equitable result for our military
16 members.

17 THAT copies of this resolution be sent to the Oklahoma
18 Congressional Delegation, the Oklahoma Veterans Council, the
19 Oklahoma National Guard, and the Oklahoma Department of Veterans
20 Affairs.

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22 51-2-10235 SAB 02/21/08

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