

THE HOUSE OF REPRESENTATIVES
Wednesday, February 27, 2008

Committee Substitute for
House Concurrent
Resolution No. 1049

COMMITTEE SUBSTITUTE FOR HOUSE CONCURRENT RESOLUTION NO. 1049 -
By: BANZ AND TIBBS of the House.

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

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

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

5 WHEREAS, the Uniformed Services Former Spouses' Protection Act, 10 U.S.C.,
6 Section 1408(c), provides that a court may treat disposable retired pay payable to a
7 member either as property solely of the member or as property of the member and his
8 spouse; and

9 WHEREAS, since Congress enacted the Uniformed Services Former Spouses'
10 Protection Act in 1982, state courts have struggled with interpreting the law in light of
11 state domestic relations laws; and

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

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

8 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
9 REPRESENTATIVES OF THE 2ND SESSION OF THE 51ST OKLAHOMA
10 LEGISLATURE, THE SENATE CONCURRING THEREIN:

11 THAT the Oklahoma Legislature recognizes the inequities created through the
12 interpretation and application of the Uniformed Services Former Spouses' Protection Act
13 that are detrimental to our military members.

14 THAT, in honor of the military member's past and continuing obligation to the
15 defense of our country, equitable division of the military retirement pay must include the
16 following considerations for review by the state court in determining classification of the
17 pay as marital or separate property: the ability of the former spouse to support himself or
18 herself; the education and experience of the former spouse received during the marriage;
19 any criminal activity, abuse, or nonconformance to military lifestyle of the former spouse;
20 the combat service of the military member; the disability status of the military member;
21 and any career detriment received by the former spouse due to the military member's
22 service.

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

5 THAT the Oklahoma Legislature memorializes the members of Congress to either
6 sponsor or support current legislation that would repeal or amend the current law in a
7 fashion that creates workable criteria to allow for a more equitable result for our military
8 members.

9 THAT copies of this resolution be sent to the Oklahoma Congressional Delegation,
10 the Oklahoma Veterans Council, the Oklahoma National Guard, and the Oklahoma
11 Department of Veterans Affairs.

12 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02-26-08 - DO PASS, As
13 Amended and Coauthored.