

**HOUSE BILL No. 2154**

By Committee on Veterans, Military and Homeland Security

1-28

1 ~~AN ACT concerning employment; relating to private sector employers;~~  
2 ~~pertaining to certain veterans~~ **military matters; amending K.S.A. 48-**  
3 **517 and K.S.A. 2014 Supp. 76-729 and repealing the existing**  
4 **sections.**

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) As used in this section, "veteran" shall have the  
8 meaning ascribed to it in K.S.A. 73-201, and amendments thereto.

9 (b) There is hereby established a permissive preference in private  
10 employment for veterans.

11 (c) A private employer may adopt an employment policy that gives  
12 preference in hiring to a veteran, provided that the veteran meets the  
13 requirements of the vacant position.

14 (d) Such employment policy shall be:

15 (1) In writing; and

16 (2) applied consistently to all decisions regarding initial employment.

17 (e) The veteran shall submit a form DD-214 of the veteran **{proof of**  
18 **such veteran's military service and honorable discharge or general**  
19 **discharge under honorable conditions}** to a private employer with such  
20 veterans preference employment policy to establish eligibility for the  
21 preference.

22 ***Sec. 2. K.S.A. 48-517 is hereby amended to read as follows: 48-517.***

23 ***(a) Any person employed in the state of Kansas who is called or ordered***  
24 ***to state active duty by the this state, or any other state, whether such***  
25 ***person is a member of the Kansas army national guard, Kansas air***  
26 ***national guard, the Kansas state guard or other military force of this***  
27 ***state, or any other state, and who gave notice thereof to the person's***  
28 ***employer, upon satisfactory performance of and release and return from***  
29 ***such military duty or recovery from disease or injury resulting therefrom***  
30 ***from such military duty, under honorable conditions, shall be reinstated***  
31 ***in or restored to the position of employment, except a temporary***  
32 ***position, which the person held at the time the person was called to state***  
33 ***active duty. The person shall report to the person's place of employment***  
34 ***within 72 hours after release from duty or recovery from disease or***

1 ~~injury resulting therefrom~~ *from such military duty, as the case may be,*  
2 *and the person's employer or the employer's successor in interest,*  
3 *whether an agency of the state, a political subdivision of the state or a*  
4 *private employer, shall reinstate or restore the person in the same*  
5 *position which the person left at the time of the person's call to duty at*  
6 *no less compensation than that which the person was receiving at the*  
7 *time of the person's call to duty or to a position of like seniority, status*  
8 *and pay. However, if the person is not qualified to perform the duties of*  
9 *the same position by reason of disability sustained during the person's*  
10 *call to duty but is qualified to perform another position in the employ of*  
11 *the employer or the employer's successor, the employer or the employer's*  
12 *successor in interest shall employ such person in another position, the*  
13 *duties of which the person is qualified to perform, that will provide like*  
14 *seniority, status and pay or the nearest approximation thereof consistent*  
15 *with the circumstances of the case. Any person called to state active duty*  
16 *shall receive, upon release under honorable conditions from state active*  
17 *duty, documentation of honorable such person's service to the this state or*  
18 *any other state, as provided by the adjutant general in a memorandum*  
19 *certified by such person's commanding officer.*

20 *(b) Any person who is restored to the person's position in*  
21 *accordance with the provisions of subsection (a) shall be considered as*  
22 *having been on temporary leave of absence during the period for which*  
23 *the person is called to state active duty, shall be restored without loss of*  
24 *seniority, shall be entitled to participate in any benefits offered by the*  
25 *employer pursuant to established rules and practices relating to*  
26 *employees on leave of absence in effect with the employer at the time the*  
27 *person was called to duty as provided herein in this section and shall not*  
28 *be discharged from the person's position without cause within one year*  
29 *after restoration to the position.*

30 *(c) It is understood and declared to be the intent of this section that*  
31 *any person who is restored to a position in accordance with the*  
32 *provisions of subsections (a) and (b) shall be restored in such manner as*  
33 *to give the person such status in the person's employment as the person*  
34 *would have enjoyed if the person had continued in such employment*  
35 *continuously from the time of the person's answering the call to state*  
36 *active duty until the time of the person's restoration to such employment.*

37 *(d) An application on behalf of a person claiming to be entitled to*  
38 *any right or benefit under this section may be made to the attorney*  
39 *general. If the attorney general is reasonably satisfied that the person is*  
40 *entitled to the right or benefit sought, the attorney general may appear*  
41 *on behalf of and act as attorney for the person on whose behalf the*  
42 *application is submitted and may commence an action in the district*  
43 *court of the county for appropriate relief for the person. The district*

1 *court of the county where the employer of a person claiming a right or*  
2 *benefit under this section, or the successor in interest to such employer,*  
3 *maintains a place of business shall have jurisdiction of any action filed*  
4 *by or on behalf of such person. If the court determines that the employer*  
5 *or the employer's successor in interest has failed to comply with the*  
6 *provisions of this section, the court may order the employer or the*  
7 *employer's successor in interest to: (1) Comply with the provisions of*  
8 *this section; and (2) compensate the person for any loss of wages or*  
9 *benefits suffered by reason of the failure of the employer or employer's*  
10 *successor in interest to comply with the provisions of this section. In*  
11 *addition, the court may order the employer or the employer's successor*  
12 *in interest to pay the person an additional amount equal to the amount*  
13 *authorized by subsection (d)(2) if the court determines that the employer*  
14 *or the employer's successor in interest willfully failed to comply with the*  
15 *provisions of this section. No fees or court costs shall be taxed against*  
16 *any person commencing an action under this subsection. The employer*  
17 *or the employer's successor in interest shall be deemed the only*  
18 *necessary party defendant to any such action.*

19 *(e) In any case in which two or more persons who are entitled to be*  
20 *restored to a position under the provisions of this section or of any law*  
21 *relating to similar reemployment or reinstatement benefits left the same*  
22 *position in order to enter ~~the state~~ this state's or any other state's call to*  
23 *active duty, the person who left the position first shall have the prior*  
24 *right to be restored thereto, without prejudice to the reemployment rights*  
25 *of the other person or persons to be restored.*

26 *(f) Upon request, the adjutant general shall provide technical*  
27 *assistance to any person claiming to be entitled to any right or benefit*  
28 *under this section during the course of an investigation subsequent to a*  
29 *claim as provided in subsection (d) and, when appropriate, to the*  
30 *employer or employer's successor in interest. The adjutant general shall*  
31 *place an investigating officer on state active duty orders to investigate the*  
32 *person's claim and attempt to resolve the claim by making reasonable*  
33 *efforts to ensure that the employer or employer's successor in interest*  
34 *complies with the provisions of this section. If such efforts are not*  
35 *successful, the adjutant general shall notify the person of the results of*  
36 *the investigation and the person's entitlement to proceed as provided by*  
37 *subsection (d).*

38 *(g) (1) An employer or an employer's successor in interest shall not*  
39 *be required to reemploy a person under this section if:*

40 *(A) The circumstances of the employer or the employer's successor*  
41 *in interest have so changed as to make reemployment of the person*  
42 *impossible or unreasonable;*

43 *(B) reemployment of the person would impose an undue hardship*

1 *on the employer or the employer's successor in interest; or*

2 *(C) the employment from which the person leaves to serve in*  
3 *military duty is for a brief, nonrecurrent period and there is no*  
4 *reasonable expectation that such employment will continue indefinitely*  
5 *or for a significant period.*

6 *(2) As used in subsection ~~(f)~~(g)(1), "undue hardship" means*  
7 *actions requiring significant difficulty or expense, when considered in*  
8 *light of:*

9 *(A) The nature and cost of the action needed under this act;*

10 *(B) the overall financial resources of the facility or facilities*  
11 *involved in the provision of the action~~;~~, the number of persons employed*  
12 *at such facility~~;~~, the effect on expenses and resources, or the impact*  
13 *otherwise of such action upon the operation of the facility;*

14 *(C) the overall financial resources of the employer or the*  
15 *employer's successor in interest; the overall size of the business of the*  
16 *employer or the employer's successor in interest with respect to the*  
17 *number of employees~~;~~, the number, type and location of its facilities; and*

18 *(D) the type of operation or operations of the employer or the*  
19 *employer's successor in interest, including the composition, structure*  
20 *and functions of the work force of such employer or successor in*  
21 *interest~~;~~, the geographic separateness, administrative, or fiscal*  
22 *relationship of the facility or facilities in question to the employer or*  
23 *successor in interest.*

24 *New Sec. 3. (a) (1) A current member of the armed forces of the*  
25 *United States or the member's spouse or dependent child who is enrolled*  
26 *or has been accepted for admission at a postsecondary educational*  
27 *institution as a postsecondary student shall be deemed to be a resident of*  
28 *the state for the purpose of tuition and fees for attendance at such*  
29 *postsecondary educational institution.*

30 *(2) A person is entitled to pay tuition and fees at an institution of*  
31 *higher education at the rates provided for Kansas residents without*  
32 *regard to the length of time the person has resided in the state if the*  
33 *person files a letter of intent to establish residence in the state with the*  
34 *postsecondary educational institution at which the person intends to*  
35 *register, lives in the state while attending the postsecondary educational*  
36 *institution and the person is eligible for benefits under the federal post-*  
37 *9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et*  
38 *seq., or any other federal law authorizing educational benefits for*  
39 *veterans.*

40 *(b) As used in this section:*

41 *(1) "Armed forces" means the army, navy, marine corps, air force,*  
42 *coast guard, Kansas army or air national guard or any branch of the*  
43 *military reserves of the United States;*

1       (2) *"Postsecondary educational institution" means the same as*  
2 *provided in K.S.A. 74-3201b, and amendments thereto; and*

3       (3) *"Veteran" means a person who has been separated from the*  
4 *armed forces and was honorably discharged or received a general*  
5 *discharge under honorable conditions.*

6       (c) *This section shall be part of and supplemental to chapter 48 of*  
7 *the Kansas Statutes Annotated, and amendments thereto.*

8       Sec. 4. *K.S.A. 2014 Supp. 76-729 is hereby amended to read as*  
9 *follows: 76-729. (a) (1) Persons enrolling at the state educational*  
10 *institutions under the control and supervision of the state board of*  
11 *regents who, if such persons are adults, have been domiciliary residents*  
12 *of the state of Kansas or, if such persons are minors, whose parents have*  
13 *been domiciliary residents of the state of Kansas for at least 12 months*  
14 *prior to enrollment for any term or session at a state educational*  
15 *institution are residents for fee purposes. A person who has been a*  
16 *resident of the state of Kansas for fee purposes and who leaves the state*  
17 *of Kansas to become a resident of another state or country shall retain*  
18 *status as a resident of the state of Kansas for fee purposes if the person*  
19 *returns to domiciliary residency in the state of Kansas within 60 months*  
20 *of departure. All other persons are nonresidents of the state of Kansas*  
21 *for fee purposes.*

22       (2) *The provisions of this subsection shall be applicable to any*  
23 *person enrolling at a state educational institution from and after July 1,*  
24 *2006. Any person who (A) qualifies as a resident of the state of Kansas*  
25 *for fee purposes under the provisions of this subsection, (B) attended a*  
26 *state educational institution during academic year 2006-2007, and (C)*  
27 *paid fees as if such person was not a resident of the state of Kansas, may*  
28 *apply to such state educational institution to be reimbursed in an*  
29 *amount equal to the difference between the amount the person paid in*  
30 *fees and the amount the person would have paid if such person had been*  
31 *treated as a resident of the state of Kansas. Such reimbursement shall be*  
32 *paid by the state educational institution at which such person was*  
33 *enrolled during academic year 2006-2007.*

34       (3) *The provisions of this subsection shall not apply to a person*  
35 *who is deemed a resident for fee purposes pursuant to K.S.A. 2014 Supp.*  
36 *76-731a, and amendments thereto.*

37       (b) *The state board of regents may authorize the following persons,*  
38 *or any class or classes thereof, and their spouses and dependents to pay*  
39 *an amount equal to resident fees:*

40       (1) *Persons who are employees of a state educational institution;*

41       (2) ~~persons who are in military service;~~

42       (3) ~~persons who are domiciliary residents of the state, who were in~~  
43 ~~active military service prior to becoming domiciliary residents of the state;~~

1 who were present in the state for a period of not less than two years during  
2 their tenure in active military service, whose domiciliary residence was  
3 established in the state within 30 days of discharge or retirement from  
4 active military service under honorable conditions, but whose domiciliary  
5 residence was not timely enough established to meet the residence  
6 duration requirement of subsection (a);

7 ~~(4)~~ *persons having special domestic relations circumstances;*

8 ~~(5)(3)~~ *persons who have lost their resident status within six months*  
9 *of enrollment;*

10 ~~(6)(4)~~ *persons who are not domiciliary residents of the state, who*  
11 *have graduated from a high school accredited by the state board of*  
12 *education within six months of enrollment, who were domiciliary*  
13 *residents of the state at the time of graduation from high school or*  
14 *within 12 months prior to graduation from high school, and who are*  
15 *entitled to admission at a state educational institution pursuant to K.S.A.*  
16 *72-116, and amendments thereto;*

17 ~~(7)(5)~~ *persons who are domiciliary residents of the state, whose*  
18 *domiciliary residence was established in the state for the purpose of*  
19 *accepting, upon recruitment by an employer, or retaining, upon transfer*  
20 *required by an employer, a position of full-time employment at a place of*  
21 *employment in Kansas, but the domiciliary residence of whom was not*  
22 *timely enough established to meet the residence duration requirement of*  
23 *subsection (a), and who are not otherwise eligible for authorization to*  
24 *pay an amount equal to resident fees under this subsection;*

25 ~~(8)~~ *persons who have graduated from a high school accredited by the*  
26 *state board of education within six months of enrollment and who, at the*  
27 *time of graduation from such a high school or while enrolled and in*  
28 *attendance at such a high school prior to graduation therefrom, were*  
29 *dependents of a person in military service within the state; if the person,*  
30 *whose dependent is eligible for authorization to pay an amount equal to*  
31 *resident fees under this provision, does not establish domiciliary residence*  
32 *in the state upon retirement from military service, eligibility of the*  
33 *dependent for authorization to pay an amount equal to resident fees shall*  
34 *lapse; and*

35 ~~(9)~~ *persons who have retired or have been honorably discharged from*  
36 *military service, had a permanent change of station order for active duty in*  
37 *Kansas during such military service and live in Kansas at the time of*  
38 *enrollment.*

39 ~~(c)(1)~~ *The state board of regents shall authorize the following class*  
40 *of persons to pay an amount equal to resident fees: Any dependent or*  
41 *spouse of a person in military service who is reassigned from Kansas to*  
42 *another duty station so long as such dependent or spouse continues to*  
43 *reside in Kansas.*

1       ~~(2) So long as a person remains continuously enrolled, exclusive of~~  
2 ~~summer sessions, a person who qualifies to pay resident fees by virtue of~~  
3 ~~being a spouse or dependent of a person in military service shall not lose~~  
4 ~~such status because of a divorce or the death of a spouse Pursuant to~~  
5 ~~section 1, and amendments thereto, a veteran, an active duty member of~~  
6 ~~the armed forces and the spouse and dependent child of such veteran or~~  
7 ~~active duty member of the armed forces shall be deemed residents of the~~  
8 ~~state for fee purposes.~~

9       ***(d) As used in this section:***

10       ***(1) "Parents" means and includes natural parents, adoptive***  
11 ***parents, stepparents, guardians and custodians.***

12       ***(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-***  
13 ***3051, and amendments thereto.***

14       ***(3) "Custodian" means a person, agency or association granted***  
15 ***legal custody of a minor under the revised Kansas code for care of***  
16 ***children.***

17       ***(4) "Domiciliary resident" means a person who has present and***  
18 ***fixed residence in Kansas where the person intends to remain for an***  
19 ***indefinite period and to which the person intends to return following***  
20 ***absence.***

21       ***(5) "Full-time employment" means employment requiring at least***  
22 ***1,500 hours of work per year.***

23       ***(6) "Dependent" means: (A) A birth child, adopted child or***  
24 ***stepchild; or***

25       ***(B) any child other than the foregoing who is actually dependent in***  
26 ***whole or in part on the person in military service and who is related to***  
27 ***such individual by marriage or consanguinity.***

28       ~~***(7) "Military service" means: (A) Any active service in any armed***~~  
29 ~~***service of the United States; or (B) membership in the Kansas army or air***~~  
30 ~~***national guard.***~~

31       ***(8) "Academic year" means the twelve-month period ending June***  
32 ***30.***

33       ***Sec. 5. K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 are hereby***  
34 ***repealed.***

35       ~~***Sec. 6.***~~ ***This act shall take effect and be in force from and after its***  
36 ***publication in the statute book.***