

House Bill 165

By: Representatives Porter of the 143<sup>rd</sup>, Hugley of the 133<sup>rd</sup>, Smyre of the 132<sup>nd</sup>, Randall of the 138<sup>th</sup>, Ashe of the 56<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 3 of Chapter 2 of Title 38 of the Official Code of Georgia  
2 Annotated, relating to pay, pensions, and allowances for military personnel, so as to provide  
3 for financial assistance grants to families of residents of this state who are members of the  
4 Georgia National Guard or reserve forces or reserve components of the armed forces of the  
5 United States and who have been engaged in military duty for extended periods for the  
6 defense and protection of the United States and the State of Georgia; to define certain terms;  
7 to create the Commission on Helpful Economic Relief for Our Exceptional Soldiers  
8 (HEROES) and provide for its members, powers, and duties; to create the Helpful Economic  
9 Relief for Our Exceptional Soldiers (HEROES) Trust Fund and provide for its sources of  
10 funding and administration; to provide for applications on behalf of minor family members;  
11 to provide for rules and regulations; to provide a contingent effective date; to provide for  
12 contingent refund of voluntary contributions; to provide for contingent automatic repeal; to  
13 repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Part 3 of Article 3 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated,  
17 relating to pay, pensions, and allowances for military personnel, is amended by designating  
18 the existing provisions of said part as Subpart 1 thereof and adding a new Subpart 2 to read  
19 as follows:

20 "Subpart 2  
21 38-2-260.

22 As used in this subpart, the term:

- 23 (1) 'Commission' means the Commission on Helpful Economic Relief for Our  
24 Exceptional Soldiers (HEROES) established under Code Section 38-2-261.  
25 (2) 'Family member' means a person who is:

1 (A) The husband, wife, child, or other dependent of a service member who is engaged  
2 in the performance of ordered military duty;

3 (B) Enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in  
4 accordance with applicable military regulations; and

5 (C) A resident of this state.

6 (3) 'Financial assistance grant' means funds awarded to a family member based upon  
7 criteria and amounts established by the commission under this subpart.

8 (4) 'Ordered military duty' means any military duty performed in the service of this state  
9 or the United States, including but not limited to attendance at any service school or  
10 schools conducted by the armed forces of the United States, for a period of 90  
11 consecutive days or longer by a service member pursuant to orders issued by competent  
12 state or federal authority.

13 (5) 'Service member' means a resident of this state who is a voluntary member of the  
14 National Guard or any reserve force or reserve component of the armed forces of the  
15 United States.

16 (6) 'Trust fund' means the Helpful Economic Relief for Our Exceptional Soldiers  
17 (HEROES) Trust Fund established under Code Section 38-2-262.

18 38-2-261.

19 (a) There is created the Commission on Helpful Economic Relief for Our Exceptional  
20 Soldiers (HEROES). The commission shall be composed of the adjutant general, the  
21 commissioner of veterans service, and three citizens who have served and been honorably  
22 discharged from the Georgia National Guard to be appointed by and serve at the pleasure  
23 of the adjutant general.

24 (b) The members of the commission shall receive no compensation for their services on the  
25 commission but shall be reimbursed for actual expenses incurred while discharging the  
26 duties imposed upon them by this subpart.

27 (c) For administrative purposes the commission shall be attached to the Department of  
28 Defense of the State of Georgia. The department shall provide staff support to the  
29 commission, utilizing personnel and funds available to the department.

30 38-2-262.

31 (a) There is established the Helpful Economic Relief for Our Exceptional Soldiers  
32 (HEROES) Trust Fund to consist of any voluntary contributions to such trust fund and  
33 other moneys acquired for the use of such trust fund by any fundraising or other  
34 promotional techniques deemed appropriate by the commission or Department of Defense  
35 of the State of Georgia and all interest thereon.

1 (b)(1) The Department of Defense of the State of Georgia shall administer the trust fund.

2 (2) All balances in the trust fund shall be deposited in an interest-bearing account.

3 (3) The department shall expend moneys held in the trust fund in accordance with the  
4 provisions of this subpart.

5 (4) The department shall prepare by February 1 of each year an accounting of the funds  
6 received into and expended from the trust fund. The report shall be a public record and  
7 made available to the commission, members of the General Assembly, and members of  
8 the public on request.

9 38-2-263.

10 (a) In addition to those moneys described in subsection (a) of Code Section 38-2-262, the  
11 trust fund shall also consist of any moneys appropriated thereto by the General Assembly  
12 and any federal moneys deposited therein for the use of such trust fund.

13 (b) Within the trust fund, funds appropriated by the General Assembly and interest thereon  
14 shall be segregated from all other moneys in the trust fund. Funds appropriated to the trust  
15 fund and interest thereon shall be made available in each fiscal year for grants to family  
16 members according to the criteria, priority, and amounts set by the commission and rule  
17 and regulation of the Department of Defense of the State of Georgia.

18 (c) Balances in the trust fund shall not lapse but shall be carried forward each year so that  
19 no part thereof shall be deposited in the general fund.

20 38-2-264.

21 (a) Each Georgia income tax return form for taxable years beginning on or after January  
22 1, 2007, shall contain appropriate language, to be determined by the state revenue  
23 commissioner, offering the taxpayer the opportunity to voluntarily contribute to the trust  
24 fund by either donating all or any part of any tax refund due, by authorizing a reduction in  
25 the refund check otherwise payable, or by contributing any amount over and above any  
26 amount of tax owed by adding that amount to the taxpayer's payment. The instructions  
27 accompanying the income tax return form shall contain a description of the purposes for  
28 which the trust fund was established and the intended use of moneys received from the  
29 contributions. Each taxpayer required to file a state income tax return who desires to  
30 contribute to the trust fund may designate such contribution as provided in this Code  
31 section on the appropriate income tax return form.

32 (b) The Department of Revenue shall determine annually the total amount so contributed,  
33 withhold therefrom a reasonable amount for administering the voluntary contribution  
34 program, and transmit the balance to the department for deposit in the trust fund; provided,  
35 however, the amount retained for administrative costs shall not exceed \$50,000.00 per year.

1 If in any tax year the administrative costs of the Department of Revenue for collecting  
2 contributions pursuant to this Code section exceed the sum of such contributions, the  
3 administrative costs which the Department of Revenue is authorized to withhold from such  
4 contributions shall not exceed the sum of such contributions.

5 38-2-265.

6 (a) Subject to the provisions of this subpart and availability of funds in the trust fund, the  
7 commission shall provide financial assistance grants to family members. The commission  
8 shall be responsible for determining the amount of financial assistance grants awarded, the  
9 criteria for granting the awards, and the process to apply for the grants of financial  
10 assistance.

11 (b) In the development of criteria for the amount and award of grants of financial assistance  
12 by the commission, the following factors shall be included:

13 (1) The financial need of the family member;

14 (2) The disparity between the amounts of the service member's military salary and  
15 civilian salary;

16 (3) Whether the service member incurred service connected injury, illness, or death or is  
17 considered missing in action (MIA) or a prisoner of war (POW);

18 (4) The length of the period during which the service member has been engaged in  
19 ordered military duty;

20 (5) The availability of financial assistance from other governmental sources to the family  
21 member; and

22 (6) The availability of funds in the Helpful Economic Relief for Our Exceptional Soldiers  
23 (HEROES) Trust Fund.

24 38-2-266.

25 The legal guardian or custodian of a minor family member shall be entitled to apply for  
26 grants on behalf of the minor family member.

27 38-2-267.

28 (a) Code Sections 38-2-263 through 38-2-266 shall become effective on January 1, 2007,  
29 conditioned upon the ratification at the state-wide general election held in November, 2006,  
30 of an amendment to Article III, Section VI, Paragraph VI of the Constitution of Georgia  
31 authorizing the General Assembly to provide by law for financial assistance grants to  
32 families of residents of this state who are members of the Georgia National Guard or  
33 reserve forces or reserve components of the armed forces of the United States and who

1 have been engaged in military duty for extended periods and the creation of a nonlapsing  
2 trust fund for such purpose.

3 (b) If such an amendment to the Constitution is not so ratified, then:

4 (1) Code Sections 38-2-263 through 38-2-266 shall not become effective;

5 (2) Moneys voluntarily contributed to the trust fund pursuant to subsection (a) of Code  
6 Section 38-2-262, with any interest accrued, shall be refunded to the voluntary  
7 contributors thereof not later than December 31, 2006; and

8 (3) This entire subpart shall stand repealed on January 1, 2007.

9 38-2-268.

10 The Department of Defense of the State of Georgia may promulgate such rules and  
11 regulations as are reasonable and necessary to implement the provisions of this subpart."

12 **SECTION 2.**

13 All laws and parts of laws in conflict with this Act are repealed.