ACT No. 606

HOUSE BILL NO. 123

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BY REPRESENTATIVE MIKE JOHNSON

2	To amend and reenact R.S. 29:26.1(B)(6)-(11), (C)(3)(b), (D)(1), and (E)(2) and to enact
3	R.S. 29:26.1(B)(12), relative to the Louisiana National Guard; to provide for
4	definitions; to provide for disability claims and death benefits; to provide for
5	availability of disability and death benefits; to provide for subsequent disabilities;
6	and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 29:26.1(B)(6)-(11), (C)(3)(b), (D)(1), and (E)(2) are hereby amended
9	and reenacted and R.S. 29:26.1(B)(12) is hereby enacted to read as follows:
10	§26.1. National Guard death and disability benefits
11	* * *
12	B. Definitions. As used in this Section, the following terms shall have the
13	following meanings unless a different meaning is clearly required by context:
14	* * *
15	(6) "Guardsman or guardsmen" means a person who was an officer or
16	enlisted member of the Louisiana National Guard and, for purposes of this Section's
17	disability benefits, who was discharged or released from all periods of federal and
18	state service under honorable or general under honorable conditions.
19	(7) "Initial rating decision" means the first disability rating decision by the
20	United States Department of Veterans Affairs on the guardsman's first-filed claim
21	for service-connection of injuries.

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(8) (9) "Period of activation" means service during any declared national emergency or contingency operations as defined by 10 U.S.C. 101(a)(13), or during any state emergency declared by the governor of the state of Louisiana, within any of the following:

- (a) That period, subsequent to September 11, 2001, for which the governor of the state of Louisiana orders a guardsman into state active service pursuant to R.S. 29:7.
- (b) That period, subsequent to September 11, 2001, for which the president of the United States orders a guardsman into active military duty, pursuant to 32 U.S.C. 502(f)(1).
- (c) That period, subsequent to September 11, 2001, for which the president of the United States orders a guardsman to federal active duty pursuant to 10 U.S.C. 12301, 12302, or 12303.
- (9) (10) "Qualifying claim" means an application for benefits by a guardsman or beneficiary for a qualifying death or disability incurred during a period of activation in the line of duty, and meeting the documentation requirements of this Section.

(10) (11) "Qualifying disability" means a one hundred percent permanent total disability rating, or a permanent and total unemployability disability rating as determined by the United States Department of Veterans Affairs and certified by the Louisiana secretary of veterans affairs in a final adjudication of the initial rating decision or as determined or certified by the proper state entity that adjudicates such claims for guardsmen in accordance with the workers' compensation law of this state. A qualifying disability shall be certified by the Louisiana secretary of veterans affairs or his designee. As provided for in this Paragraph, the initial rating decision shall not apply to a United States Department of Veterans Affairs rating decision which predates service in the Louisiana National Guard.

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(11) (12) "Qualifying subsequent examination disability" means after initial examination or rating, the guardsman's initial injuries progressed or worsened the initial rating decision, the combination of service-connected ratings of all injuries the guardsman incurred during a period of activation, as well as any other injuries service-connected on a secondary basis to those injuries incurred during a period of activation, reaches a causing the guardsman to receive one hundred percent permanent total disability rating, or a permanent and total unemployability disability rating as determined by the United States Department of Veterans Affairs.

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(3) Each claim for a disability benefit shall include all of the following documentation:

* * *

(b) A disability The guardsman's initial rating decision and any subsequent rating decisions reached by the United States Department of Veterans Affairs and certified by the Louisiana secretary of veterans affairs or his designee.

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D. Benefits available. (1) During periods of activation, subsequent to September 11, 2001, of a guardsman ordered by the governor or by the president of the United States, benefits in a lump-sum amount of two hundred fifty thousand dollars for a qualifying death, one hundred thousand dollars for a qualifying disability, and fifty thousand dollars for qualifying subsequent examination disability shall be paid by the state to a guardsman or his beneficiary, when such death or disability occurs during a period of activation in the line of duty as required by this Section. Such benefits shall be paid only when funds are available, having been appropriated for the purpose.

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1 E. 2 3 (2) A qualifying disability or qualifying subsequent disability shall be 4 determined by the United States Department of Veterans Affairs or by the proper 5 state entity that adjudicates such claims for guardsmen in accordance with the workers' compensation law of this state and certified by the secretary of the 6 7 Louisiana Department of Veterans Affairs or his designee. 8 SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: _____