RELATING TO THE NATIONAL GUARD; PROVIDING EMPLOYMENT PROTECTION FOR NATIONAL GUARD MEMBERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 20-4-7.1 NMSA 1978 (being Laws 2004, Chapter 37, Section 1) is amended to read:

"20-4-7.1. SERVICEMEMBERS CIVIL RELIEF ACT
BENEFITS--UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT
RIGHTS ACT--FEDERAL OR STATE ACTIVE DUTY.--

A. The rights, benefits and protections of the federal Servicemembers Civil Relief Act shall apply to a member of the national guard of this state or any other state or territory of the United States ordered to state active duty for a period of thirty or more consecutive state duty days or to any federally funded duty performed in an operational role for homeland security in accordance with 32 U.S.C. 502. The federally funded duty is in addition to and different from any federally funded unit training, assembly or drill pursuant to Section 20-4-7 NMSA 1978.

B. The rights, benefits and protections of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 shall apply to a member of the national guard of this state or any other state or territory of the United States ordered to federal or state active duty."

SECTION 2. Section 28-15-1 NMSA 1978 (being Laws 1941, Chapter 10, Section 1, as amended) is amended to read:

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"28-15-1. REEMPLOYMENT OF PERSONS IN ARMED FORCES. -- Any person who, after having given advance written or verbal notice of an obligation or intention to perform service in the uniformed services to the person's employer, unless notice is precluded by military necessity or is otherwise impossible or unreasonable, since July 1, 1940, has left or leaves a position the person has held, other than a temporary position, in the employ of any employer to enter the armed forces of the United States, an organized reserve or the national guard of this state or any other state or territory of the United States and who serves on active duty and is honorably discharged or released from active duty to complete the person's remaining service in a reserve component or is entitled to a certificate of service, or who terminates service without dishonor, has not had a cumulative period of absence in excess of five years by reason of service in the uniformed services, and is still qualified to perform the duties of that position and makes application for reemployment within ninety days after the person is relieved from training and service, or from hospitalization and convalescence continuing after discharge for a period of not more than two years, shall be reemployed as follows:

A. if the person's position was in the employ of a HB 83 $\,$ Page 2

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private employer, the employer shall restore the person to that position or to a position of like seniority, status and pay unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so; or

B. if the person's position was in the employ of the state or any political subdivision thereof, the person shall be deemed to meet all the requirements of the Personnel Act as well as all residency requirements or other provisions of law and shall be restored to that position or to a position of like seniority, status and pay."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017. HB 83

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