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FISCAL IMPACT REPORT

SPONSOR Papen DATE TYPED 2/09/04 HB _____

SHORT TITLE National Guard Member Rights and Benefits SB 181/aSJC

ANALYST Collard

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 348

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SJC Amendments

The Senate Judiciary Committee amendments to Senate Bill 181 change the Federal Soldiers and Sailors Civil Relief Act of 1940 to the Servicemember’s Civil Relief Act. It also specifies the Servicemember’s Civil Relief Act is applicable for homeland security roles and is applicable “in addition to and different from any federally funded unit training, assembly, or drill pursuant to 20-4-7 NMSA 1978.” Finally, the amendment provides the rights, benefits and protections of the Uniformed Services Employment and Reemployment Rights Act of 1994 to servicemembers ordered to federal or state active duty for 30 or more consecutive days.

Synopsis of Original Bill

Senate Bill 181 protects New Mexico National Guard members under the Federal Soldiers and Sailors Civil Relief Act of 1940 if they are called to active duty for 30 or more consecutive days for a federally funded duty performed in an operational role for homeland security purposes.

Significant Issues

The Department of Veteran’s Services indicates this bill will protect the National Guard members while they are performing important duties.

FISCAL IMPLICATIONS

There are no significant fiscal implications associated with this bill.

DUPLICATION

Senate Bill 181 duplicates House Bill 348.

TECHNICAL ISSUES

The Department of Military Affairs proposes the following amendment for clarity:

“[NEW MATERIAL] SOLDIERS AND SAILORS ACT BENEFITS—UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT—FEDERAL OR STATE ACTIVE DUTY.—

A. The rights, benefits and protections of the federal Soldier’s and Sailor’s Civil Relief Act of 1940, 50 U.S.C. 501, shall apply to a member of the national guard 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(f). The federally funded duty referenced herein is in addition to and different from the fifteen working days and one weekend a month federally funded requirement for training or other duty pursuant to Section 20-4-7 NMSA 1978.

OTHER SUBSTANTIVE ISSUES

The Department of Military Affairs notes the following State Soldier’s and Sailor’s Civil Relief Act provisions would apply to benefit New Mexico National Guard Service members:

- Reduction of Interest Rate to 6% on revolving credit debt (Credit cards, loans, mortgages).
- Eviction protection for leased or rented housing property, provided the rent or lease does not exceed \$1,200 per month.
- Early termination of pre-service lease or rental property used for dwelling, professional, business, agricultural or other similar purposes, if (a) the lease or rental agreement was entered into prior to the commencement of service and (b) the leased or rented property has been occupied for the above purposes by the service member and/or the dependents.
- Civil court proceedings may be stayed if the same materially affect the service member’s ability to defend or prosecute a claim. (There is no stay in criminal matters, or administrative hearings, child support determinations, or proceedings where the service member is a witness but is not a real party in interest.)
- Installment contracts or auto leases may also be implicated, even if a pre-service debt, if the service member’s duty has materially affected the service member’s ability to pay such installment contract debt or auto leasehold debt.

The following Uniformed Services Employment and Reemployment Rights Act (USERRA) provisions would apply to New Mexico National Guard service members:

- Non-discrimination in employment to members of the New Mexico National Guard when performing either extended state active duty or federally funded homeland security duty, pursuant to 32 U.S.C. Section 502(f).