

## 1 SENATE BILL NO. 195

2 INTRODUCED BY M. CAFERRO

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT APPLYING THE EMPLOYMENT PROTECTIONS FOR MEMBERS  
5 OF MONTANA'S NATIONAL GUARD TO MEMBERS OF THE NATIONAL GUARD IN ANOTHER STATE WHO  
6 ARE EMPLOYED IN MONTANA; AND AMENDING SECTIONS 10-1-1002, 10-1-1003, 10-1-1005, AND  
7 10-1-1009, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 10-1-1002, MCA, is amended to read:

12 **"10-1-1002. Purpose -- legislative intent.** The purpose of this part is to recognize the importance of  
13 the service performed by Montana national guard members and the national guard members of other states who  
14 are employed in Montana and to protect the employment rights of national guard members who may be called  
15 to state active duty when there is a state emergency or disaster. The legislature also supports the efforts and  
16 sacrifices of the employers of Montana national guard members and the national guard members of other states  
17 who are employed in Montana and intends that this part will provide a means for national guard members and  
18 employers to work cooperatively to resolve any workplace issues."

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20 **Section 2.** Section 10-1-1003, MCA, is amended to read:

21 **"10-1-1003. Definitions.** Unless the context requires otherwise, as used in this part, the following  
22 definitions apply:

23 (1) "Department" means the department of labor and industry established in 2-15-1701.

24 (2) "Elected official" means an official duly elected or appointed to any state or local judicial, legislative,  
25 or executive elective office of the state, a district, or a political subdivision of the state, including a school district  
26 or any other local district.

27 (3) (a) "Employer" means any public or private person or entity providing employment in Montana.

28 (b) The term does not include the United States.

29 (4) "Federally funded military duty" means duty, including training, performed pursuant to orders issued  
30 under Title 10 or 32 of the United States Code and the time period, if any, required pursuant to a licensed

1 physician's certification to recover from an illness or injury incurred while performing the duty.

2 (5) "Member" means a member of the state's organized militia provided for in 10-1-103 or a member of  
3 the national guard of another state.

4 (6) "Military service" includes both federally funded military duty and state active duty.

5 (7) (a) "State active duty" means duty performed by a member when a disaster or an emergency has  
6 been declared by the proper authority of the state of Montana pursuant to Article VI, section 13, of the Montana  
7 constitution or pursuant to the authority of the governor of any other state to include the time period, if any,  
8 required pursuant to a licensed physician's certification to recover from an illness or injury incurred while  
9 performing the active duty.

10 (b) The term does not include federally funded military duty."  
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12 **Section 3.** Section 10-1-1005, MCA, is amended to read:

13 **"10-1-1005. Prohibition against employment discrimination.** An employer may not deny employment,  
14 reemployment, reinstatement, retention, promotion, or any benefit of employment or obstruct, injure, discriminate  
15 against, or threaten negative consequences against a person with regard to employment because of the person's  
16 membership, application for membership, or potential application for membership in the ~~state organized militia~~  
17 national guard of Montana or any other state or because the person may exercise or has exercised a right or may  
18 claim or has claimed a benefit under this part."  
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20 **Section 4.** Section 10-1-1009, MCA, is amended to read:

21 **"10-1-1009. Paid military leave for public employees.** (1) An employee of the state or of any political  
22 subdivision, as defined in 2-9-101, who is a member of the ~~organized militia of this state~~ national guard of  
23 Montana or any other state or who is a member of the organized or unorganized reserve corps or military forces  
24 of the United States and who has been an employee for a period of at least 6 months must be given leave of  
25 absence with pay accruing at a rate of 120 hours in a calendar year, or academic year if applicable, for performing  
26 military service.

27 (2) Military leave may not be charged against the employee's annual vacation time.

28 (3) Unused military leave must be carried over to the next calendar year, or academic year if applicable,  
29 but may not exceed a total of 240 hours in any calendar or academic year."  
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