

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

345H0539

## SENATE BILL NO. 144

Introduced by: Senators Vitter, Albers, and McCracken and Representative Adelstein

1 FOR AN ACT ENTITLED, An Act to provide certain financial and employment protections to  
2 members of the South Dakota National Guard.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 33-17 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If any member of the South Dakota National Guard is ordered to active duty service by the  
7 Governor of the State of South Dakota or the President of the United States, the member has  
8 all protections afforded to persons serving on federal active duty by the Soldiers and Sailors Civil  
9 Relief Act, 54 Stat. 1178, 50 App. U.S.C.A. 501-548 and 560-591, as amended to January 1,  
10 2002, and by the Uniformed Services Employment and Reemployment Rights Act, 108 Stat.  
11 3149, 38 U.S.C.A. 4301 to 4333, as amended to January 1, 2002.

12 Section 2. That § 33-17-15 be repealed.

13 ~~—33-17-15. Any person who is a duly qualified member of a reserve component of the armed~~  
14 ~~forces, who is a member of the ready reserve, who is a member of an organized unit, and who,~~  
15 ~~in order to receive military training with the armed forces of the United States not to exceed~~



1 ~~fifteen days in any one calendar year, or who in order to perform active service in the South~~  
2 ~~Dakota National Guard in the service of this or any other state pursuant to chapter 33-9 or~~  
3 ~~chapter 33-15, leaves a position other than a temporary position in the employ of any employer,~~  
4 ~~and who shall give evidence defining date of departure and to the extent reasonably possible date~~  
5 ~~of return for purposes of military training or active service as provided above prior to the date~~  
6 ~~of departure and who shall further give evidence of the satisfactory completion of such training~~  
7 ~~or duty immediately thereafter, and who is still qualified to perform the duties of such position,~~  
8 ~~shall be entitled to be restored to his previous or a similar position with the same status, pay, and~~  
9 ~~seniority, provided also that such seniority shall continue to accrue during such period of absence~~  
10 ~~for military training or duty and such period of absence for military training or duty shall be~~  
11 ~~construed as an absence with leave and within the discretion of the employer said leave may be~~  
12 ~~with or without pay.~~

13 ~~—Active military service as used in this section is hereby defined as any service ordered by the~~  
14 ~~Governor of the State of South Dakota or the President of the United States.~~

15 ~~—Such absence for military training shall not affect the employee's right to receive normal~~  
16 ~~vacation, sick leave, bonus, advancement, and other advantages of his employment normally to~~  
17 ~~be anticipated in his particular position.~~

18 ~~—If any employer fails to comply with any of the provisions of this section, the employee may,~~  
19 ~~at his election, bring an action at law for damages for such noncompliance, or apply to the circuit~~  
20 ~~court for such equitable relief as may be just and proper under the circumstances.~~