

1 AN ACT

2 RELATING TO MILITARY AFFAIRS; INCREASING THE RANK REQUIRED TO
3 BE APPOINTED ADJUTANT GENERAL; REMOVING THE POSITION OF VICE
4 DEPUTY ADJUTANT GENERAL; CHANGING WHO MAY CONVENE A
5 COURT-MARTIAL.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. Section 20-1-5 NMSA 1978 (being Laws 1987,
9 Chapter 318, Section 5) is amended to read:

10 "20-1-5. ADJUTANT GENERAL--APPOINTMENT AND DUTIES.--In
11 case of a vacancy, the governor shall appoint as the adjutant
12 general of New Mexico for a term of five years an officer who
13 for three years immediately preceding the appointment as the
14 adjutant general of New Mexico has been federally recognized
15 as an officer in the national guard of New Mexico and who
16 during service in the national guard of New Mexico has
17 received federal recognition in the rank of colonel or
18 higher. The adjutant general shall not be removed from
19 office during the term for which appointed, except for cause
20 to be determined by a court-martial or efficiency board
21 legally convened for that purpose in the manner prescribed by
22 the national guard regulations of the United States
23 department of defense. The adjutant general shall have the
24 military grade of major general and shall receive the same
25 pay and allowances as is prescribed by federal law and

1 regulations for members of the active military in the grade
2 of major general, unless a different rate of pay and
3 allowances is specified in the annual appropriations bill.

4 The adjutant general shall:

5 A. prepare and publish, by order of the governor,
6 such orders, rules and regulations, consistent with law, as
7 are necessary to maintain the military forces in a state of
8 efficiency in conformity with the needs of the state and the
9 federal defense requirements;

10 B. supervise the receipt, preservation, repair,
11 distribution, issue and collection of all arms and military
12 equipment of the state;

13 C. supervise all personnel, organizations,
14 facilities, equipment, supplies and funds of the military
15 forces;

16 D. maintain records of all members of the military
17 forces and keep on file in the adjutant general's offices
18 copies of all orders, reports, regulations and communications
19 received and issued by the adjutant general;

20 E. perform such other duties as may be required by
21 the commander-in-chief; and

22 F. have a seal of office."

23 SECTION 2. Section 20-3-2 NMSA 1978 (being Laws 1987,
24 Chapter 318, Section 17) is amended to read:

25 "20-3-2. DEPARTMENT STRUCTURE--AUTHORITY OF ADJUTANT

1 GENERAL.--

2 A. The department of military affairs is composed
3 of:

4 (1) the office of the adjutant general;

5 (2) three subordinate military divisions:

6 (a) the army national guard division;

7 (b) the air national guard division;

8 and

9 (c) the state defense force division;

10 (3) one subordinate civil division, the
11 civil air patrol division; and

12 (4) four subordinate support agencies:

13 (a) the selective service office;

14 (b) the state armory board;

15 (c) the state programs office; and

16 (d) the United States property and
17 fiscal office and such other agencies, administrative staffs
18 and clerical staffs necessary for departmental operation that
19 the adjutant general may by regulation prescribe.

20 B. The adjutant general is the military chief of
21 staff to the governor and is the head of the department of
22 military affairs.

23 C. The adjutant general shall prescribe policies,
24 rules and procedures for the orderly functioning of the
25 department of military affairs, which may include subordinate

1 organizational structures and lines of authority.

2 D. The adjutant general may employ such
3 administrative, technical, clerical and other personnel as
4 the adjutant general deems necessary and may fix the
5 compensation of exempt personnel subject to the concurrence
6 of the department of finance and administration.

7 E. The adjutant general may make expenditures from
8 appropriations or from other funds available to the adjutant
9 general for all purposes within Chapter 20 NMSA 1978.

10 F. The adjutant general is authorized to accept
11 through the United States property and fiscal officer such
12 equipment, supplies, arms, facilities and personnel support
13 funding as may be authorized and appropriated by federal law.

14 G. The adjutant general shall be furnished
15 suitable buildings, facilities, supplies and equipment for
16 conducting the business of the department of military affairs
17 to include the proper storage, repair and issuance of
18 military property.

19 H. The adjutant general may appoint as assistant
20 adjutants general one officer from each of the three military
21 divisions in the department of military affairs. The
22 officers appointed shall hold the rank of brigadier general
23 during such appointment. The qualifications of each person
24 so appointed shall meet the specific standards required for
25 such appointment within Chapter 20 NMSA 1978 and any

1 applicable federal standards or requirements. Once
2 appointed, the assistant adjutants general shall serve at the
3 pleasure of the adjutant general; their performance will be
4 reviewed annually, in January, by the adjutant general; and
5 if relieved, an assistant adjutant general shall revert to
6 the rank previously held or to such higher rank to which
7 promoted and federally recognized while serving as assistant
8 adjutant general. The adjutant general may designate one
9 federally recognized assistant adjutant general as deputy
10 adjutant general. The deputy adjutant general shall serve on
11 full-time active status for the state. In the incapacity or
12 absence from the state of the adjutant general, the deputy
13 adjutant general shall act in the adjutant general's stead.
14 In the incapacity or absence from the state of both the
15 adjutant general and the deputy adjutant general, the
16 governor may call any assistant adjutant general to active
17 service for the state. The assistant adjutants general shall
18 perform all duties that may be required of them by the
19 adjutant general. The adjutant general may delegate in
20 writing to any of the assistant adjutants general such
21 authorities and responsibilities as the adjutant general
22 deems appropriate, consistent with the constitutions, laws
23 and regulations of the state and of the United States.
24 Assistant adjutants general, when on active status for the
25 state, shall receive the same pay and allowances as are

1 prescribed by federal law and regulations for members of the
2 active military in the grade of brigadier general, unless a
3 different rate of pay and allowances are specified in a
4 general appropriation act of the New Mexico legislature.

5 I. The adjutant general shall appoint individuals
6 to serve as director of the one civil division and as head of
7 each of the four support agencies, except as stated in
8 Section 20-9-1 NMSA 1978. The qualifications of each person
9 so appointed shall meet the specific standards required for
10 such appointment within Chapter 20 NMSA 1978 and any
11 applicable federal standards or requirements.

12 J. There shall be allowed to the adjutant general
13 a contingent and entertainment fund of two thousand five
14 hundred dollars (\$2,500) annually, plus such additional
15 appropriations for carrying out the functions of the office
16 as the legislature shall deem proper."

17 SECTION 3. Section 20-12-4 NMSA 1978 (being Laws 1987,
18 Chapter 318, Section 89) is amended to read:

19 "20-12-4. CONVENING AUTHORITIES--NONJUDICIAL PUNISHMENT
20 AUTHORITIES.--

21 A. A general, special or summary court-martial may
22 be convened by the governor or by the adjutant general.

23 B. A special or summary court-martial may be
24 convened by the assistant adjutant general of the army
25 national guard, as to all members of the army national guard;

1 by the commanding general of any brigade-level headquarters,
2 as to members of the commanding general's command; by the
3 assistant adjutant general of the air national guard, as to
4 all members of the air national guard; by the assistant
5 adjutant general of the state defense force, as to all
6 members of the state defense force; and to the commanders of
7 such equivalent level commands as may be organized in the
8 future.

9 C. A summary court-martial may be convened by a
10 battalion commander, group commander or equivalent, as to all
11 members of the commander's command.

12 D. Nonjudicial punishment authority is conferred
13 upon all general, special or summary court-martial convening
14 authorities and upon company, battery and squadron commanders
15 or equivalent, as to members of their command."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2018. _____

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