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SENATE BILL 144

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO MILITARY AFFAIRS; ESTABLISHING THE ADJUTANT
GENERAL' S SALARY EQUIVALENT WITH A CABINET LEVEL POSITION AND
ESTABLISHING SPECIFIC QUALIFICATIONS FOR HIS APPOINTMENT AND
CONFIRMATION; CHANGING THE DEPUTY ADJUTANT GENERAL TO AN EXEMPT
EMPLOYEE OF THE STATE; REPEALING THE PROVISION FOR HONORARY
PROMOTION ON RETIREMENT.

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

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

"20-1-5. ADJUTANT GENERAL-- APPOINTMENT AND DUTIES. -- [~~In~~
~~case of a vacancy, the governor shall appoint as the adjutant~~
~~general of New Mexico for a term of five years an officer who~~
~~for three years immediately preceding his appointment as the~~
~~adjutant general of New Mexico has been federally recognized as~~

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1 ~~an officer in the national guard of New Mexico and who during~~
2 ~~his service in the national guard of New Mexico has received~~
3 ~~federal recognition in the rank of major or higher. The~~
4 ~~adjutant general shall not be removed from office during the~~
5 ~~term for which appointed, except for cause to be determined by~~
6 ~~a court martial or efficiency board legally convened for that~~
7 ~~purpose in the manner prescribed by the national guard~~
8 ~~regulations of the United States department of defense. The~~
9 ~~adjutant general shall have the military grade of major general~~
10 ~~and shall receive the same pay and allowances as is prescribed~~
11 ~~by federal law and regulations for members of the active~~
12 ~~military the grade of major general, unless a different rate of~~
13 ~~pay and allowances is specified in the annual appropriations~~
14 ~~bill.]~~

15 A. The governor shall nominate and, by and with the
16 consent of the senate, appoint the adjutant general of New
17 Mexico. The appointee shall be a federally recognized officer
18 of the rank of lieutenant colonel or higher who has served as a
19 commander in the New Mexico national guard for at least three
20 years preceding nomination. The officer must have served as a
21 federally recognized officer in the New Mexico national guard
22 for at least five years preceding nomination. The term of
23 appointment shall be for five years. The adjutant general
24 shall have the military grade of major general and shall
25 receive a salary equivalent to a cabinet level position.

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1 The adjutant general may not be removed from office except for
2 cause to be determined by a court martial or the state
3 efficiency board in accordance with Section 20-4-1 NMSA 1978.

4 The state efficiency board shall consist of three members,
5 appointed by the governor to evaluate the adjutant general and
6 the New Mexico national guard.

7 B. The adjutant general shall:

8 [A.-] (1) prepare and publish, by order of the
9 governor, such orders, rules and regulations, consistent with
10 law, as [are] necessary to maintain the military forces in a
11 state of [efficiency] readiness in conformity with the needs of
12 the state and the federal defense requirements;

13 [B.—supervise] (2) govern the receipt,
14 preservation, repair, distribution, issue and collection of all
15 [arms] armaments and military equipment of the state;

16 [C.—supervise] (3) command all personnel,
17 organizations, facilities, equipment, supplies and
18 administration of funds of the military forces;

19 [D.-] (4) maintain records of all members of
20 the military forces and [keep] maintain on file in his offices
21 copies of all orders, reports, regulations and communications
22 [received and] issued and received by him;

23 [E.-] (5) perform such other duties as [may be
24 required of him] assigned by the [commander-in-chief] governor;
25 and

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1 [F-] G. have a seal of office. "

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

4 "20-3-2. DEPARTMENT STRUCTURE--AUTHORITY OF ADJUTANT
5 GENERAL. --

6 A. The department of military affairs is composed
7 of:

- 8 (1) the office of the adjutant general;
- 9 (2) three subordinate military divisions:
 - 10 (a) the army national guard division;
 - 11 (b) the air national guard division; and
 - 12 (c) the state defense force division;
- 13 (3) one subordinate civil division, the civil
14 air patrol division; and
- 15 (4) four subordinate support agencies:
 - 16 (a) the selective service office;
 - 17 (b) the state armory board;
 - 18 (c) the state programs office; and
 - 19 (d) the United States property and
20 fiscal office and such other agencies, administrative staffs
21 and clerical staffs necessary for departmental operation, which
22 the adjutant general may by regulation prescribe.

23 B. The adjutant general is the military chief of
24 staff to the governor and is the head of the department of
25 military affairs.

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1 C. The adjutant general shall prescribe policies,
2 rules and procedures for the orderly functioning of the
3 department of military affairs, which may include subordinate
4 organizational structures and lines of authority.

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

10 E. The adjutant general is accountable for and may
11 make expenditures from appropriations or from other funds
12 available to him for all purposes within Chapter 20 NMSA 1978.

13 F. The adjutant general is accountable for and is
14 authorized to accept through the United States property and
15 fiscal officer such equipment, supplies, [~~arms~~] armaments,
16 facilities and personnel support funding as may be authorized
17 and appropriated by federal law.

18 G. The adjutant general shall be furnished suitable
19 buildings, facilities, supplies and equipment for conducting
20 the business of the department of military affairs, [~~to~~
21 ~~include~~] including the proper storage, repair and issuance of
22 military property.

23 H. The adjutant general may appoint as assistant
24 adjutants general one officer from each of the three military
25 divisions in the department of military affairs. The officers

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1 [so] appointed shall hold the rank of brigadier general during
2 [~~such appointment~~] their appointments. The qualifications of
3 each [~~person so~~] officer appointed shall [~~meet~~] conform to the
4 specific standards required for [~~such~~] the appointment within
5 Chapter 20 NMSA 1978 and [~~any~~] applicable federal standards [~~or~~
6 ~~requirements. Once appointed, the~~] and requirements. Assistant
7 adjutants general shall serve at the pleasure of the adjutant
8 general; their performance [~~with~~] shall be reviewed annually,
9 in January, by the adjutant general; and if relieved, an
10 assistant adjutant general shall revert to the rank previously
11 held or to [~~such~~] the higher rank to which promoted and
12 federally recognized while serving as assistant adjutant
13 general. The adjutant general may designate, by order, one
14 federally recognized assistant adjutant general as deputy
15 adjutant general and another federally recognized assistant
16 adjutant general as vice-deputy adjutant general. The deputy
17 adjutant general shall serve [~~on~~] as a full-time [~~active status~~
18 ~~for~~] exempt employee of the state. His salary shall be
19 determined by the adjutant general and approved by the
20 governor. In case of the incapacity or absence from the state
21 of the adjutant general, the deputy adjutant general shall act
22 in his stead. In case of the incapacity or absence from the
23 state of both the adjutant general and the deputy adjutant
24 general, the governor may call upon the vice-deputy adjutant
25 general to [~~active service for~~] be a full-time, exempt employee

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1 of the state. The assistant adjutants general shall perform
2 all duties [~~that may be required of~~] assigned to them by the
3 adjutant general. The adjutant general may delegate in writing
4 to any of the assistant adjutants general such authorities and
5 responsibilities as he deems appropriate, consistent with the
6 constitutions, laws and regulations of the state and of the
7 United States. [~~Assistant adjutants general, when on active~~
8 ~~status for the state, shall receive the same pay and allowances~~
9 ~~as is prescribed by federal law and regulations for members of~~
10 ~~the active military in the grade of brigadier general, unless a~~
11 ~~different rate of pay and allowances are specified in a general~~
12 ~~appropriation act of the New Mexico legislature.~~]

13 I. The adjutant general shall appoint individuals
14 to serve as director of the one civil division and as head of
15 each of the four support agencies, except as stated in Section
16 20-9-1 NMSA 1978. The qualifications of each person [sø]
17 appointed shall meet the specific standards required for such
18 appointment within Chapter 20 NMSA 1978 and any applicable
19 federal standards or requirements.

20 J. There shall be allowed to the adjutant general a
21 contingent and entertainment fund of [~~twenty-five hundred~~] two
22 thousand five hundred dollars (\$2,500) annually, plus such
23 additional appropriations for carrying out the functions of his
24 office as the legislature shall deem proper. "

25 Section 3. Section 20-4-1 NMSA 1978 (being Laws 1987,

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1 Chapter 318, Section 18) is amended to read:

2 "20-4-1. STANDARDS FOR APPOINTMENT, PROMOTION,
3 TERMINATION. --

4 A. The standards for commissioning, warranting,
5 enlisting; for promotion and demotion in grade or rank; and for
6 assignment, transfer, discharge and retirement of members of
7 the national guard shall be established by regulations
8 promulgated by the adjutant general. Such regulations shall
9 substantially conform [~~these requirements~~] to the laws and
10 regulations of the United States relating to the national guard
11 of the United States.

12 B. The regulations concerning discharge shall
13 include a provision that a commissioned or warrant officer
14 [~~can~~] shall be discharged only:

15 (1) upon removal of federal recognition by the
16 national guard bureau;

17 (2) upon transfer by request of the officer to
18 another military reserve component of the United States;

19 (3) upon resignation duly accepted by the
20 governor;

21 (4) for absence without leave for more than
22 ninety days;

23 (5) upon recommendation of a [~~federal~~
24 ~~recognition board or other~~] state efficiency board approved by
25 the governor; [~~or~~]

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1 (6) after a state or federal court-martial
2 imposing a sentence of dismissal [~~if the sentence of dismissal~~
3 ~~is approved by the governor~~]; or
4 (7) upon removal of state recognition by the
5 governor.

6 C. Discharge certificates shall reflect the
7 character of the member's service. They shall conform as
8 closely as practicable to discharge certificates of the United
9 States military [~~forces~~]. "

10 Section 5. REPEAL. -- Section 20-2-8 NMSA 1978 (being Laws
11 1987, Chapter 318, Section 15) is repealed.