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## FISCAL IMPACT REPORT

SPONSOR: Saavedra DATE TYPED: 02/18/03 HB 285/aHGUAC

SHORT TITLE: Adjutant General Appointment and Salary SB \_\_\_\_\_

ANALYST: Collard

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 144  
Relates to HB 149

### SOURCES OF INFORMATION

Responses Received From  
Department of Military Affairs

### SUMMARY

#### Summary of HGUAC Amendment

The House Government and Urban Affairs Committee amends House Bill 285 by changing the requirements of the adjutant general to be a federally recognized officer of the rank of lieutenant colonel or higher who has served during the previous five years as an officer in the New Mexico national guard. Additionally, the amendment makes technical changes to reference correct sections of NMSA 1978. The amendment also relinquishes the sole power of the governor to appoint the state efficiency board. The amendment requires federally recognized officers of the rank of major general or higher to be appointed by the chief of the national guard bureau at the request of the governor. The state efficiency board is one mean by which the adjutant general could be removed from office. Finally, the amendment relinquishes the sole right of the governor to dismiss the adjutant general from office.

The Department of Military Affairs notes these amendments preserve the military chain of command, while still allowing the governor to direct the forces under his control.

Synopsis of Original Bill

House Bill 285 establishes the adjutant general's salary to be equal with a cabinet level position. It also establishes specific qualifications for his appointment and confirmation. Finally, the bill changes the deputy adjutant general to an exempt employee of the state and repeals the provision for honorary promotion on retirement.

Significant Issues

Qualifications for the adjutant general include:

- ? A federally recognized officer of the rank of lieutenant colonel or higher;
- ? Has served as a commander in the New Mexico national guard for at least three years preceding the nomination;
- ? Has served as a federally recognized officer in the New Mexico national guard for at least five years preceding the nomination; and
- ? Shall have the military grade of major general

**FISCAL IMPLICATIONS**

The Department of Military Affairs notes this bill elevates the office of the adjutant general to a cabinet level position in terms of pay. The cabinet level pay can vary from \$86.6 to \$100.0. The current adjutant general salary is \$87.1. The deputy adjutant general position would become an exempt position subject to pay established by the adjutant general and the governor.

**DUPLICATION and RELATIONSHIP**

House Bill 285 duplicates Senate Bill 144. House Bill 285 is similar to House Bill 149, addressing some of the same legislation changes to the Department of Military Affairs, but in greater detail than House Bill 149.

**OTHER SUBSTANTIVE ISSUES**

The Department of Military Affairs indicates a legislative conflict because Section 20-1-5 NMSA 1978 states that the only method of removal of an adjutant general is by a court marshal or through an efficiency board. The added change to Senate Bill 144, Section 20-4-1(7) NMSA 1978, could allow the Governor the power to remove an adjutant general from office, creating another mechanism to relieve or replace an adjutant general. This change would conflict with statutory procedures in Section 20-1-5.

The department also notes the deletion of Section 20-4-1(B)(5) is contrary to existing federal regulations pertaining to the National Guard as the National Guard Regulations clearly provide that federal recognition boards are a proper mechanism to determine continued service for commissioned officers and warrant officers, or to eliminate the same for non-performance or other reasons established by regulation.