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## FISCAL IMPACT REPORT

SPONSOR: Fidel DATE TYPED: 2/11/03 HB

SHORT TITLE: Adjutant General Appointment Amendments SB 395

ANALYST: Collard

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 149 and SB 144 in some requirements  
Conflicts with SB 144 in salary

### SOURCES OF INFORMATION

SB 144

Responses Received From  
Department of Military Affairs

### SUMMARY

#### Synopsis of Bill

Senate Bill 395 amends the requirements for appointment of adjutant general and the provisions for discharge of a commissioned or warrant officer. Senate Bill 395 has an emergency clause to make it applicable upon signature of the Governor.

#### Significant Issues

The Department of Military Affairs indicates the first significant change is the eligibility appointment criteria for the adjutant general. Currently, anyone appointed adjutant general must have been a federally recognized officer in the New Mexico national guard for three years. The proposed bill lengthens the time to five years. The bill also adds termination of a commissioned or warrant officer by the Governor.

**FISCAL IMPLICATIONS**

There is no appropriation or significant fiscal impact associated with this bill.

**DUPLICATION AND CONFLICT**

Senate Bill 395 duplicates Senate Bill 144 in requiring that the adjutant general is a federally recognized officer in the New Mexico national guard for at least five years preceding the nomination at the rank of major or higher.

Senate Bill 395 conflicts with Senate Bill 144 in salary. Senate Bill 395 states the adjutant general “shall receive the same pay and allowance as is prescribed by federal law and regulations for members of the active military in the grade of major general, unless a different rate of pay and allowances is specified in the annual appropriations bill.” Senate Bill 144 establishes the adjutant general’s salary to be equal with a cabinet level position.

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 395, 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.

**KBC/njw**