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FISCAL IMPACT REPORT

SPONSOR: Cravens DATE TYPED: 3/7/03 HB _____
 SHORT TITLE: Continuing Education for Active Military Duty SB SJM 82
 ANALYST: Maloy

APPROPRIATION

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

SOURCES OF INFORMATION

Responses Received From
 Boards and Commissions, Regulation and Licensing Department

SUMMARY

Synopsis of Bill

Senate Joint Memorial 82 proposes that the various state boards, commissions and other authorities with the power to waive certain licensure requirements be requested to do so for those New Mexicans who are members of the New Mexico national guard and the armed forces reserves who are called to duty.

Significant Issues

1. The memorial recognizes the “dedicated, earnest and patriotic” service of thousands of New Mexicans through the national guard and reserves, and the significant sacrifice these men and women make in leaving their families, jobs and homes to protect their country in the war on terror.
2. The memorial also recognizes that such service of their country makes New Mexicans who, in their civilian lives, are required to meet certain licensing requirements (such as a minimum number of hours of continuing education) “hard pressed to meet those requirements”.
3. The memorial notes that many New Mexicans who will be called to serve will ultimately be performing similar skills fighting the war on terror as they perform in civilian life.
4. Does this memorial need to be expanded to cover more than national guard and reserve per-

sonnel? Is there an instance where active military personnel would need the same “waiver”? For instance, does a full-time army physician who is sent to the Middle East need a waiver of any kind? Or, is that physician exempted from state licensing requirements because of his federal military standing?

5. The memorial notes that certain professional and occupational licensure requirements set in statute cannot be administratively waived, but that others can be administratively waived because they are enacted through regulation.

The attached chart shows a breakdown of boards administratively attached to the Regulation and Licensing Department that can and cannot issue such waivers due to the licensing requirement being in rule or regulation vs. in statute. This document was prepared by the Department’s Boards and Commissions Division.

With regard to the distinction between licensing requirements being in rule or regulation vs. in statute, can the legislature enact a new law to allow waiver for those licensing requirements that are in statute?

There exists a general legal maxim providing that specific statutes govern over general statutes. The individual boards and commissions enabling acts are specific. However, can a specific statute governing military service and state licensure can be enacted to preempt the enabling acts of the boards and commissions?

6. The memorial states: “New Mexicans who in their civilian lives are required to meet certain requirements, such as a minimum number of hours of continuing education, to maintain their professional and occupational licenses . . .” **Does the memorial need to be more broad in identifying specific “requirements” that those in service may be hard pressed to meet while overseas? For instance, should all licensing requirements, such as renewals, etc., be waived?** Should a distinction be made for waivers for licensees that will cease to conduct business while in service (a one-person shop) and licensees whose business will continue while in service (bigger companies)?

FISCAL IMPLICATIONS

There will be minimal fiscal implications for the state with SJM 82. Many boards and commissions operate with Other State Funds. Fees for continuing education are not paid to the state. Typically, such fees are paid to private education entities.

Finally, *if* the waiver is expanded to cover other license requirements besides continuing education requirements (see bullet 6 above), there may be some impact to the general fund through some entities that do not operate with OSF.

SJM/prr/lis