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SENATE BILL 16

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Carlos R. Cisneros

FOR THE MILITARY AND VETERANS' AFFAIRS COMMITTEE

AN ACT

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

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~~ the appointment as
the adjutant general of New Mexico has been federally
recognized as an officer in the national guard of New Mexico
and who during ~~his~~ service in the national guard of New

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1 Mexico has received federal recognition in the rank of [~~major~~
2 colonel or higher. The adjutant general shall not be removed
3 from office during the term for which appointed, except for
4 cause to be determined by a court-martial or efficiency board
5 legally convened for that purpose in the manner prescribed by
6 the national guard regulations of the United States department
7 of defense. The adjutant general shall have the military grade
8 of major general and 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 major general, unless a
11 different rate of pay and allowances is specified in the annual
12 appropriations bill. The adjutant general shall:

13 A. prepare and publish, by order of the governor,
14 such orders, rules and regulations, consistent with law, as are
15 necessary to maintain the military forces in a state of
16 efficiency in conformity with the needs of the state and the
17 federal defense requirements;

18 B. supervise the receipt, preservation, repair,
19 distribution, issue and collection of all arms and military
20 equipment of the state;

21 C. supervise all personnel, organizations,
22 facilities, equipment, supplies and funds of the military
23 forces;

24 D. maintain records of all members of the military
25 forces and keep on file in [~~his~~] the adjutant general's offices

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1 copies of all orders, reports, regulations and communications
2 received and issued by ~~him~~ the adjutant general;

3 E. perform such other duties as may be required ~~of~~
4 ~~him~~ by the commander-in-chief; and

5 F. have a seal of office."

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

8 "20-3-2. DEPARTMENT STRUCTURE--AUTHORITY OF ADJUTANT
9 GENERAL.--

10 A. The department of military affairs is composed
11 of:

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

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1 [which] that the adjutant general may by regulation prescribe.

2 B. The adjutant general is the military chief of
3 staff to the governor and is the head of the department of
4 military affairs.

5 C. The adjutant general shall prescribe policies,
6 rules and procedures for the orderly functioning of the
7 department of military affairs, which may include subordinate
8 organizational structures and lines of authority.

9 D. The adjutant general may employ such
10 administrative, technical, clerical and other personnel as [he]
11 the adjutant general deems necessary and may fix the
12 compensation of exempt personnel subject to the concurrence of
13 the department of finance and administration.

14 E. The adjutant general may make expenditures from
15 appropriations or from other funds available to [him] the
16 adjutant general for all purposes within Chapter 20 NMSA 1978.

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

21 G. The adjutant general shall be furnished suitable
22 buildings, facilities, supplies and equipment for conducting
23 the business of the department of military affairs to include
24 the proper storage, repair and issuance of military property.

25 H. The adjutant general may appoint as assistant

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

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1 be required of them by the adjutant general. The adjutant
2 general may delegate in writing to any of the assistant
3 adjutants general such authorities and responsibilities as [he]
4 the adjutant general deems appropriate, consistent with the
5 constitutions, laws and regulations of the state and of the
6 United States. Assistant adjutants general, when on active
7 status for the state, shall receive the same pay and allowances
8 as [~~is~~] are prescribed by federal law and regulations for
9 members of the active military in the grade of brigadier
10 general, unless a different rate of pay and allowances are
11 specified in a general appropriation act of the New Mexico
12 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 so
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~~
22 ~~dollars (\$2,500)] two thousand five hundred dollars (\$2,500)
23 annually, plus such additional appropriations for carrying out
24 the functions of [~~his~~] the office as the legislature shall deem
25 proper."~~

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

3 "20-12-4. CONVENING AUTHORITIES--NONJUDICIAL PUNISHMENT
4 AUTHORITIES.--

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

7 B. A special or summary court-martial may be
8 convened by the assistant adjutant general of the army national
9 guard, as to all members of the army national guard; by the
10 commanding general of [~~the 111th air defense artillery brigade~~]
11 any brigade-level headquarters, as to members of [~~his~~] the
12 commanding general's command; [~~by the commanding officer of~~
13 ~~troop command, as to all members of his command~~] by the
14 assistant adjutant general of the air national guard, as to all
15 members of the air national guard; by the assistant adjutant
16 general of the state defense force, as to all members of the
17 state defense force; and to the commanders of such equivalent
18 level commands as may be organized in the future.

19 C. A summary court-martial may be convened by a
20 battalion commander, group commander or equivalent, as to all
21 members of [~~his~~] the commander's command.

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

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