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FISCAL IMPACT REPORT

SPONSOR Ponce DATE TYPED 1/28/04 HB 107

SHORT TITLE Exempt NMMI From Public Education Dept. Rules SB _____

ANALYST Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
		No Fiscal Impact			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Military Institute (NMMI)
 New Mexico Department of Public Education (PED)
 Commission on Higher Education (CHE)

SUMMARY

Synopsis of Bill

House Bill 107 exempts NMMI from any state law requirement to provide special education programs for students with disabilities, and makes clarifying language changes.

Significant Issues

The PED analysis states that:

A state administrative hearing officer ruled in October 2003 that the high school program at NMMI is subject to the same state and federal laws and regulations governing special education as school districts and other state-supported educational programs in New Mexico. That ruling is now under review by an administrative appeal officer and it does not appear that a decision will be issued before the Legislature adjourns on February 19. The administrative appeal decision can be appealed to a state or federal district court.

OTHER SUBSTANTIVE ISSUES

While this bill makes it clear that state law does not require NMMI to provide special education and related services for high school students with disabilities, a remaining legal question, which the New Mexico Legislature cannot resolve, would be whether the federal IDEA requires NMMI to provide special education in any event because it is predominantly state-funded. On the other hand, as the PED reports, NMMI receives federal funds for its ROTC program, and, arguably, is subject to the provisions of IDEA.

In its analysis, NMMI argues that being compelled to provide programs for students with special needs would change the school's mission to the point that it would no longer be a military school. Moreover, the NMMI analysis states, students with special needs would not be able to meet required physical and military performance standards and could not receive full benefit of the school's physical and educational programs.

POSSIBLE QUESTIONS

1. How many students with special needs have applied for admission to NMMI during the past five to ten years?
2. Can this state law supersede the federal law (IDEA)?
3. What plans does the school have if the administrative appeals officer rules that NMMI must accept students with special needs?

RLG/njw