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FISCAL IMPACT REPORT

SPONSOR Sariñana/Martinez, A/Alcon **LAST UPDATED** 3/14/23
ORIGINAL DATE 1/30/23
SHORT TITLE Active Duty Nat'l Guard as State Employees **BILL NUMBER** House Bill 116
ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$750.0	\$750.0	\$1,500.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Department of Military Affairs (DMA)

New Mexico Attorney General (NMAG)

State Personnel Office (SPO)

SUMMARY

Synopsis of House Bill 116

House Bill 116 authorizes the Adjutant General of DMA to employ members of the New Mexico National Guard on state active duty to prepare, mitigate, or respond to any type of disaster. They may be employed on a full-time or seasonal basis, within DMA's appropriated budget.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

The House Appropriations and Finance Committee substitute for House Bills 2 and 3, as amended by the Senate Finance Committee, includes a general fund appropriation to the national guard support program of DMA for personnel which includes \$750 thousand for state active duty operations.

SIGNIFICANT ISSUES

DMA advises that the benefit of having a consistent team of state active-duty soldiers for rapid response and ongoing prevention efforts has been demonstrated throughout the pandemic and emergencies of the past three years. It comments that the authority granted in this bill will allow for more agility and quicker response times, along with the ability to collaborate with other agencies to plan and mitigate catastrophic situations statewide. DMA notes as well that HB116 should reduce the number of executive orders required to support long-term state active-duty missions.

SPO recommends that the bill require National Guard members to be employed only in term or temporary positions to avoid any argument that they are career status employees who can only be dismissed from their positions for just cause. It explains:

Term positions are positions created for a special project or a state or federally funded program with a designated duration which may be expired due to reduction or loss of funding or when the special project or program ends with 14 calendar days' written notice to the employee and without right of appeal to the State Personnel Board. Temporary positions are positions created for a duration of less than one year which may be expired with 24 hours' written notice and without right of appeal to the State Personnel Board.

RELATIONSHIP

HB 116 relates to the House Appropriations and Finance Committee substitute for HB 2 and 3, as amended by the Senate Finance Committee, which contains a \$750 thousand general fund appropriation in DMA's operating budget for this activity.

OTHER SUBSTANTIVE ISSUES

DMA suggests HB116 may also benefit both public and private employers, who will not face shortages of employees when guardsmen are called up on continual state active duty orders due to lengthy emergencies or disasters.

MD/al/ne/rl/hg