

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Trujillo, J ORIGINAL DATE 02/25/15  
 LAST UPDATED \_\_\_\_\_ HB 434  
 SHORT TITLE Veterans Safe Funeral Escort Act SB \_\_\_\_\_  
 ANALYST Cerny

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Indeterminate likely Insignificant	Indeterminate likely Insignificant	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		≥ \$ 69.0	≥\$ 66.0	≥\$ 135.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (AGO)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

House Bill 434 establishes a new act titled “Veterans Safe Funeral Escort Act” which allows for non-law enforcement funeral escorts for military veterans.

A funeral escort is defined as a person or entity that provides escort services for funeral processions and is affiliated with a national veterans’ organization. A military veteran is defined as a person who has served as an active duty member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard.

The act specifies that a motor vehicle with lighted headlights, driving in a funeral procession, has the right of way at an intersection and may proceed through the intersection if the funeral procession is headed by a lead funeral escort vehicle displaying flashing lights or by an emergency vehicle. It allows a person operating a motor vehicle as a funeral escort vehicle to direct traffic at intersections immediately preceding and during the passage of a funeral procession. All vehicles shall yield the right of way to approaching emergency vehicles giving an audible or visible signal. A lead funeral escort vehicle is required to exercise due caution with regard to crossing traffic in an intersection. It also makes an exception to the speed limit by allowing a funeral escort vehicle to exceed the posted speed limit by 15 miles per hour when overtaking a funeral procession in order to control traffic at intersections in advance of the procession.

The act mandates that both the lead funeral escort vehicle and last funeral escort vehicle shall be marked with the words “Funeral Escort” clearly visible to traffic. Funeral escort vehicles may not bear markings similar to those vehicles used by law enforcement or federal government. Additionally, they shall not utilize words, emblems, seals or other insignia that could cause a reasonable person to confuse it with a law enforcement vehicle. A non-law enforcement motor vehicle serving as funeral escort vehicle shall be equipped with, and utilize amber, red or white lights when participating in a funeral procession.

HB 434 requires all vehicles participating in a funeral procession to follow in a single file as closely as is practical and safe, to have lighted headlights and to proceed at or below any posted speed limit. It also states that a person who is not part of a funeral procession may pass the procession on the left side only if the procession is driving on a two lane highway traveling in the same direction and the passing can be accomplished safely.

HB 434 mandates that a person driving a funeral escort vehicle must be certified and issued a permit by the DPS, which will develop and implement a training program to instruct on the procedures necessary to safely escort a funeral procession through intersections. It also requires the Secretary of Public Safety to promulgate rules establishing the curriculum for training and allows him or her to establish a reasonable fee for participation in the training program. After successfully completing the training program, a person shall receive a permit to operate a motor vehicle as a funeral escort vehicle, which shall be carried whenever operating a funeral escort vehicle. The Secretary of Public Safety is responsible for approving or disapproving in writing all uniforms, badges, patches or insignia worn by an operator of a funeral escort vehicle.

A person can only operate a funeral escort vehicle if previously asked by a military veteran whose funeral, memorial service or disposition is being conducted, or by a member of the immediate family of the deceased military veteran.

Lastly, the act mandates that a funeral service practitioner shall not be liable for death, personal injury or property damage suffered in the course of a funeral procession unless it is directly caused by a negligent or intentional act of a funeral service practitioner or an employee or agent thereof.

## **FISCAL IMPLICATIONS**

HB 434 carries no appropriation. However, it has a fiscal impact on DPS.

The proposed bill requires the Secretary of Department of Public Safety to develop and implement a training program in motor vehicle safety and traffic control safety which shall include instructions on the procedures necessary to safely escort a funeral procession. The curriculum, the facility to hold the training, the materials and the officer instructor's time will all have a financial impact to DPS.

DPS analysis states:

Using current training for law enforcement officers as a baseline, it is estimated that such a training would be five days in length, require one instructor per 3 participants, and require the use of DPS vehicles, fuel, supplies etc. Each class would be limited to no more than 15 participants per class. The cost of instructors, fuel and supplies is estimated to be \$6,000 per class. The cost to develop the curriculum would be \$3,000. There are approximately 82 funeral homes in New Mexico. Assuming each funeral home would need at least two trained escort permitted, the initial number of attendees would be 164, requiring 11 classes, or a total of \$66,000 in training costs. This is based upon instructors being available during regular work hours to provide these services. With the shortage of officers, it is possible that overtime may be required to fulfill the need, increasing the cost.

Costs will be recurring as new escort personnel require training. Also, it is unknown exactly how many individuals will desire training, as an open-market competitive environment may increase demand.

Some of these operational costs would be offset by fees charged for the training, but that revenue is indeterminate and likely to be insignificant.

### **SIGNIFICANT ISSUES**

HB 434 would permit individuals who are not law enforcement officers, but who receive training from DPS, to serve as escorts for military veteran funerals. In doing so, in the absence of a law enforcement officer, such individuals would direct vehicular and pedestrian traffic at intersections preceding and during a funeral procession. Such individuals would drive lead funeral escort vehicles that are not law enforcement vehicles. As long as these vehicles are driven with headlights on, and equipped with signage and flashing amber, red or white lights, they would have the right-of-way regardless of traffic signals.

DPS analysis states:

Allowing private citizens to act in a Law Enforcement Agency capacity is never a safe or sound decision.

Having the Secretary of DPS sign off that citizens, not officers experienced in traffic safety, can safely escort funeral processions after a single training experience would be highly negligent in nature given the severity and probability for loss of life.

This bill if enacted would displace the liability from those directly involved in performing the funeral escort to the Department which would be responsible to train and certify while not having actually performing the funeral procession. Potentially, the State

could be liable for millions of dollars if a tort claim is won due to the death or serious injury ensuing from an accident caused by insufficient escort services.

The bill does not address the liability of individuals certified as funeral escorts who are neither funeral service practitioners or their employees or agents; for example, someone who may have been asked by the deceased's family to serve in this role. The bill specifies that a person may operate a motor vehicle as a funeral escort only if previously requested by a military veteran whose funeral is being conducted, or by a member of that person's immediate family.

The bill requires that the lead and last escort vehicle be marked with the words "funeral escort" clearly visible to oncoming and crossing traffic. This presents a safety factor to the general public because the bill provides no direction on the type of vehicle or the specific identifications on the marking, leaving it open to interpretations and making enforcement nearly impossible.

HB 434 tasks the DPS with creation of a certification and training program for funeral escorts. DPS analysis states:

Putting together a class for people to attend does not prepare or overcome the liability associated with such actions being taken and no continued oversight of the training would be available. It takes constant and real life training to take place by professionals to maintain safe and efficient practices. To safely provide escort services requires intensive training in traffic management, analyzing traffic flows, and clearly marked vehicles with lighting systems that demand the surrounding traffic's attention.

The proposed bill provides no guidance on the maintenance of the certification. For example, how long does certification last? How often must the certification be renewed? Who maintains the certification?

## **ADMINISTRATIVE IMPLICATIONS**

The proposed bill requires a permit to be issued by DPS. This will require developing the permit, issuing the permit and maintaining records of the permit. This new procedure will have a financial impact to DPS that is unknown but, according to DPS, "likely to be burdensome."

## **TECHNICAL ISSUES**

The bill does not define "immediate family members."

As written, the definition of military veterans does not specifically include the National Guard or the Reserves. It might be helpful to specify whether or not the act applies to them.

## **ALTERNATIVES**

Require the escort to take place utilizing local Law Enforcement with protections afforded from the point of departure to the point of destination within the state of New Mexico.