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FISCAL IMPACT REPORT

SPONSOR <u>Padilla/Pope</u>	LAST UPDATED <u>3/16/2023</u>
SHORT TITLE <u>Nat'l Guard Death Benefit Act</u>	ORIGINAL DATE <u>2/9/2023</u>
	BILL NUMBER <u>Senate Bill 210ec/aSHPAC/aSFC/aHAFC</u>
	ANALYST <u>Hanika-Ortiz</u>

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DMA (death benefits)	No fiscal impact	No fiscal impact.	No fiscal impact			DMA operating

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Duplicates an appropriation in the GAA of 2023 as amended by SFC for this purpose.

Sources of Information

LFC Files

Responses Received From
 Department of Military Affairs (DMA)

SUMMARY

Synopsis of HAFC Amendment to Senate Bill 210

The House Appropriations and Finance Committee Amendment to Senate Bill 210 with emergency clause and as amended by the Senate Finance Committee strikes the appropriation.

Synopsis of SFC Amendment to Senate Bill 210

The Senate Finance Committee Amendment to Senate Bill 210 adds an emergency clause. The bill would now become effective immediately on signature by the governor.

Synopsis of SHPAC Amendment to Senate Bill 210

The Senate Health and Public Affairs Committee Amendment to Senate Bill 210 clarifies that the supplemental death benefit of \$500 thousand will be paid to the service member's beneficiary or beneficiaries as designated by that service member on a form to be provided by the DMA.

Synopsis of Original Senate Bill 210

Senate Bill 210 (SB210) creates the "national guard death benefit act" (act) and appropriates \$2

million from the general fund to DMA to implement the provisions in the act. The bill creates the non-reverting “national guard death benefit fund” to pay death benefits, administered by DMA. In addition to other death benefits, the surviving beneficiary or beneficiaries will be paid \$500 thousand in total from the “national guard benefit fund” as a supplemental death benefit whenever a member of the National Guard or State Defense Force Division is killed on duty.

FISCAL IMPLICATIONS

The appropriation of \$2 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund. This bill also creates a fund, the non-reverting “national guard death benefit fund,” and provides for continuing appropriations in the form of gifts, donations, bequests, investment earnings, and any other appropriations made to the fund. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, because earmarking reduces the ability of the Legislature to establish spending priorities.

The House Appropriations and Finance Committee Substitute for House Bills 2 & 3 as amended by the Senate Finance Committee (General Appropriation Act of 2023) includes a nonrecurring general fund appropriation of \$2 million to DMA for the national guard death benefit fund.

The bill has the potential to require additional general fund appropriations when/if the money in the fund is expended, to continue to pay the \$500 thousand death benefit to surviving families.

SIGNIFICANT ISSUES

According to DMA, the bill establishes parity for New Mexico National Guard members when they are killed responding to state emergencies, similar to other first responders such as firefighters, peace officers, mounted patrol members, and reserve police officers. Currently, if a member of the National Guard or State Defense Force dies while on active duty, they have no death benefit available to them beyond the service member’s group life insurance, which is low cost term coverage that service members can elect to participate in through payroll deductions.

PERFORMANCE IMPLICATIONS

The bill requires the adjutant general to determine whether a member was killed while on active duty. The firefighters’ supplemental death benefit statute, for instance, creates a “firefighters’ survivors supplemental death benefits review committee” to aid in making those determinations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates an appropriation in the GAA of 2023 as amended by SFC for this purpose.

Relates to Senate Bill 250, which proposes to increase the survivors benefit provided to the family of a firefighter killed in the line of duty from \$250 thousand to \$1 million.

OTHER SUBSTANTIVE ISSUES

Section 10-11B-5 NMSA 1978 currently provides a \$250 thousand firefighters’ supplemental

death benefit to families of firefighters killed in the line of duty. Effective July 1, 2023, Section 29-4A-5 NMSA 1978 will provide a \$1 million survivors' benefit to families of peace officers, mounted patrol members, and reserve police officers in the state killed in the line of duty.

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