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## FISCAL IMPACT REPORT

SPONSOR Payne ORIGINAL DATE 2/16/2017  
LAST UPDATED 2/23/2017 HB \_\_\_\_\_

SHORT TITLE Militia Activation for Cybersecurity Threats SB 380/aSJC/ec

ANALYST Rogers

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$35.2	\$70.3	\$70.3	\$175.8	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Military Affairs (DMA)

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee amendment to Senate Bill 380 makes clear that no member of the State Defense Force would be activated to counter cybersecurity threats, only members of the National Guard.

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The bill seeks to allow the Governor to activate members of the National Guard to State Active Duty status to address cybersecurity threats in non-emergency situations.

### FISCAL IMPLICATIONS

DMA states because the bill would allow for the call-up of National Guard members in non-emergency situations, the department's emergency funds could not be used to fund these activations. 20-1-6(A) NMSA 1978 requires the state to pay the compensation and reasonably required equipment, supplies, housing, subsisting, protecting, materials, transportation of personnel called to State Active Duty. Unless funds from the DMA budget are identified for this effort, no National Guardsman would be called up to protect critical infrastructure and state

information systems from cybersecurity threats. If not just a cybersecurity threat, but a cyberattack were to occur causing an “emergency” as defined by NMSA 20-2-3(A), then guardsmen could be called up using emergency funds of the state. DMA budget should be adjusted or increased to fund this effort.

The agency estimates it will cost up to \$70.3 thousand to respond to cybersecurity situations. DMA calculated the fiscal impact by assuming a two man team assigned for a six month period; the worst case scenario. A two man team for six months of service would be paid \$46.5 thousand in total for their time. Additionally, the department would pay \$15 thousand for housing, \$8 thousand of per diem (if allotted), and \$756 for the use of two computers.

### **SIGNIFICANT ISSUES**

In response to the amendment, DMA explains there is currently no member of the State Defense Force who has gone through the requisite training to be able to respond to cybersecurity threats. DMA does not anticipate a member of the State Defense Force receiving the requisite training in the foreseeable future.

DMA explains the state’s “information systems and critical infrastructure, like many other states, are under constant cybersecurity threats from sophisticated organizations. These threats may not rise to the level of an ‘emergency’ or ‘imminent threat thereof’ as defined in NMSA 20-2-3(A) requiring Governor action to call out the guard. However, they do pose a serious threat to the State. The National Guard has trained members who are able to confront these threats and hopefully stop them before they rise to the level of an ‘emergency’. This bill would allow members of the National Guard to identify and protect critical infrastructure such as nuclear materials, power grids, communications, financial services, and information systems with protected personal identifier information such as financial account numbers, taxpayer identification numbers, medical information, social security numbers, birthdates, etc.”

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The bill relates to HB 15, “Data Breach Notification Act” which requires certain notification to persons affected by a security breach and provides civil penalties. This bill tries to help combat the threat of a security breach of personal identifying information addressed in HB 15.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The State would have to wait until a cybersecurity threat has risen to the level of an “emergency” or an “imminent threat thereof” before members of the National Guard could be called out to protect critical infrastructure or state information systems.

TR/al/jle