

## Department of Planning and Budget 2022 Fiscal Impact Statement

**1. Bill Number:** SB719ER

**House of Origin**    ☐ Introduced        ☐ Substitute        ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute        ☒ Enrolled

**2. Patron:** Cosgrove

**3. Committee:** Passed both houses

**4. Title:** Department of Military Affairs; health care insurance premiums for Virginia National Guard.

**5. Summary:** The proposed legislation provides that if the Governor has declared a state of emergency that activated the Virginia National Guard or the Virginia Defense Force, then the Department of Military Affairs (DMA) is authorized to pay, for any service member who has served under such activation for a period at least 14 consecutive days, the portion of the premium for such service member's health care coverage previously paid by the service member's employer, provided that the service member provides satisfactory evidence to DMA demonstrating that (i) immediately prior to being called to state active duty, the service member was employed and received health care coverage through his employer, (ii) the employer paid a premium to maintain the service member's health care coverage, and (iii) as a result of the service member's state active duty status, the employer is no longer paying such premium. Furthermore, the bill establishes that any payment made by DMA pursuant to the section shall cover only the portion of the premium previously paid by the service member's employer from day 15 of the service member's state active duty until the date the service member is discharged from state active duty. Such payments may also cover dependents of the service member. The proposed legislation also permits DMA to use the sum sufficient identified in the relevant state of emergency declaration for any payment authorized by the section. The bill also requires DMA to establish policies, procedures, and protocols to implement and record any payment authorized by the section. Lastly, the bill requires DMA to report to the Secretary of Veterans and Defense Affairs all payments made pursuant to the section, on or before November 1, 2022, and annually thereafter. The bill also includes a clause stating that nothing in the section shall create a legal cause of action against the Commonwealth or DMA.

**6. Budget Amendment Necessary:** No. Item 479 of the introduced budget includes \$500,000 in FY 2023 from the general fund to cover the cost of the employer portion of health care insurance premiums incurred by members of the National Guard or a Service Member of the Virginia Defense Force.

**7. Fiscal Impact Estimates:** Final (see Item 8 below).

**8. Fiscal Implications:** Currently, members of the Virginia National Guard (VANG) are activated to State Active Duty (SAD) missions when the Governor declares a state of

emergency. These missions are generally supported using sum sufficient authority. DMA reports that SAD missions are difficult to forecast, as they are solely contingent on the frequency and severity of future/unpredicted natural disasters and emergency declarations and the nature of the response which is appropriate to each emergency. Service members who are ordered into SAD status due to a declared emergency function as part-time state employees, and take a temporary leave of absence without civilian pay from their full-time civilian employers. According to DMA, most employers do continue to fund their portion of the health insurance premium while VANG are on state active duty. As SAD is not a federal duty status, DMA is concerned there could be occasional “gaps” in healthcare coverage and other benefits for Guardsmen on duty. Currently, the Commonwealth does not extend eligibility for state health care insurance coverage or employer-provided premium payments when these service members are on SAD orders. Therefore, such service members may be at risk of incurring illnesses and injuries during their state service that will result in out-of-pocket expenses.

The agency reports that an average SAD mission for declared emergencies and natural disasters requires approximately 150 Soldiers of varying ranks and specialties, and that such missions generally last approximately 4-5 days. In 2020 in response to the social justice protests and demonstrations, an average of 900 service members were on SAD for 15 days.

The introduced budget provides \$500,000 in the first year from the general fund to cover the cost of the employer portion of health insurance premiums incurred by members of the National Guard or a Service Member of the Virginia Defense Force when certain circumstances are met.

**9. Specific Agency or Political Subdivisions Affected:** The Department of Military Affairs; Secretary of Veterans and Defense Affairs.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill is identical to HB642. Item 479 C. of the introduced budget provides:

*C. Included in this appropriation is \$500,000 the first year from the general fund to cover the cost of employer portion of health care insurance premiums incurred by members of the National Guard or a Service Member of the Virginia Defense Force when the following circumstances are met i) a state of emergency has been declared by the Governor; ii) the declaration of a state of emergency activated the Virginia National Guard or the Virginia Defense Force; and iii) a Service Member was called to State Active Duty under the declaration of state of emergency for greater than 14 days. To obtain relief, the Service Member must demonstrate that immediately prior to being called to State Active Duty, the Service Member was employed; and the Service Member received health care insurance coverage through his or her employer; and the employer paid an insurance premium to maintain the Service Member's health care insurance coverage; and as a result of the Service Member's State Active Duty status during the declared state of emergency, the employer is no longer paying an insurance premium to maintain the Service Member's health care insurance*

*coverage. Any payment made by the Department for health care insurance premiums pursuant to this Directive shall cover only the employer portion of the health care insurance premiums from day 15 of the State Active Duty until the date the Service Member is discharged from State Active Duty. Such payments by the Department may cover insurance premiums where the same health insurance plan covers both the Service Member and his or her family. Any balances remaining from the appropriation identified in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to support the program in the subsequent fiscal year. The Department shall establish policies, procedures, and protocols to implement and record any payment authorized by this Item. On or before November 1, 2022, and annually thereafter, the Department shall report to the Governor, the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Finance, the Secretary of Veterans and Defense Affairs, and the Director, Department of Planning and Budget all payments made pursuant to this Item.*