

LFC Requester:	Charlene Cerny
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Date February 23 , 2015

Prepared: _____

Bill No: House Bill 435a

Original **Amendment** **X**

Correction **Substitute**

Sponsor: Rep. Eliseo Lee Alcon

Agency Code: Attorney General's Office

Short Title: PTSD Treatment for 1980
Riot Officers

Person Writing Analysis: Joseph M. Spindle , AAG

Phone: 1 800
525-
6519

Email jspindle@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: House Bill 435 seeks to create a fund to compensate correctional officers suffering from post-traumatic stress disorder (PTSD) resulting from their experience in the 1980 penitentiary riot. The Judiciary Committee amendments to House Bill 435 replace the eligibility requirement of a diagnosis of PTSD with a rebuttable presumption that PTSD occurred. Furthermore, the deadline for application for the \$100,000 payment is extended six months.

FISCAL IMPLICATIONS:

Note: N/A

SIGNIFICANT ISSUES: The Judiciary Committee amendments to House Bill 435 effectively shift the burden of establishing a diagnosis of PTSD from the claimant to a rebuttable presumption reviewable by the secretary of corrections. Generally in administrative law, a claimant has the burden of establishing eligibility for compensation. It is unclear under the amendments to Bill 435, whether the claimant need establish anything to receive compensation. In fact the only requirements placed on the eligible parties are that they provide information necessary to establish their identity, presence at the riot and details of previous compensation. The claimant need not establish they suffered PTSD. In fact, a claimant possesses a rebuttable presumption that they suffered PTSD if they were involved in the 1980 penitentiary riot. This presumption need not even be reviewed, unless the secretary of corrections “determines a review is necessary.” In practice, these amendments make virtually every corrections officer present at the riot eligible for a \$100,000 payment.

Furthermore, the amendments by the Judiciary Committee eliminate a clause in subsection (C) that appeared to offset damages. This clause required a reduction of the \$100,000 payment by whatever compensation the claimant had already received relating to their experiences in the riot. By eliminating this clause, it appears that all claimants will receive \$100,000 regardless as to whether they were compensated in the past.

PERFORMANCE IMPLICATIONS

Note: N/A

ADMINISTRATIVE IMPLICATIONS

Note: N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

Note: N/A

TECHNICAL ISSUES

Note: N/A

OTHER SUBSTANTIVE ISSUES

Note: N/A

ALTERNATIVES

Note: N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

Note: N/A