

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 FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/09

SPONSOR HHGAC LAST UPDATED \_\_\_\_\_ HB 942/HHGACS

SHORT TITLE Public Peace, Health, Safety and Welfare SB \_\_\_\_\_

ANALYST Weber

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Nonrecurring	Public Liability

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

No Responses Received From

General Services Department (GSD)

Attorney General Office (AGO)

### SUMMARY

#### Synopsis of Bill

House Health and Government Affairs Committee substitute for House Bill 942 amends in 31-1-2 NMSA 1978 the definition of “police officer, law enforcement officer peace officer or officer to include a commissioned member of the New Mexico Mounted patrol who is assisting a law enforcement agency in accordance with 29-6-4 or 29-6-5 NMSA 1978” or who is called into service by the governor in accordance with Section 29-6-6 NMSA 1978”. The bill then makes the same change in 41-4-3 NMSA 1978, the Tort Claims Act (TCA).

### FISCAL IMPLICATIONS

GSD indicates there may be some additional tort claims for RMD to defend and pay from the public liability fund. Since the mounted patrol has limited duties and limited numbers, these additional tort claims are expected to be relatively few.

### SIGNIFICANT ISSUES

GSD states The New Mexico mounted patrol would already be covered as public employees under Section 41-4-3(F) (3) of the TCA, because “persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation” are already

included in the definition of “public employee.” Being covered as a public employee under the TCA has somewhat different consequences than being covered as police officers under the TCA. The State waives sovereign immunity for police officers committing certain constitutional torts, whereas it does not waive sovereign immunity for the same torts committed by other public employees. This is not an important issue, because the additional tort liability exposure is anticipated to be minor in either case, but is simply noted.

## **OTHER SUBSTANTIVE ISSUES**

The following information is from the New Mexico Mounted Patrol web site.

The New Mexico Mounted Patrol (NMMP) is a unique state agency created by New Mexico State Statute in 1941. The Mounted Patrol is one of the largest police agencies in New Mexico with the entire agency comprised of all part-time/volunteer commissioned Peace Officers and civilians. The New Mexico Mounted Patrol is comprised of troops located throughout the State of New Mexico.

The purpose of the Mounted Patrol is to assist in the enforcement of law by cooperating with all law enforcement agencies and regulatory bodies of the state of New Mexico when requested by them and under their direction and control; to act as an official body guard to the governor of New Mexico or to distinguished visitors upon the call of the governor (NM State Statute 1978 Section 29-6). Mounted Patrol Troopers are not New Mexico State Policemen (NMSP) however; The New Mexico Mounted Patrol and its “Troopers” may be called upon to assist any law enforcement or authorized regulatory agency and serve anywhere in the state. Upon request for support and on duty, Mounted Patrol Troopers become an agent, assume the authority and accept the control of the agency for which they work.

The New Mexico Mounted Patrol normally *does not take the place* of the full-time salaried police officer but to augment all law enforcement entities and appropriate regulatory bodies throughout the state. Troopers work on a daily basis performing an array of law enforcement, emergency management and home land security duties. The New Mexico Mounted Patrol has many specially trained officers who augment specialized teams, to include; SWAT, Rapid Water Rescue, Hovercraft, Dive Team, Bomb Team, Narcotics, DUI, Crime Scene Investigations and much more.

The authority vested to the New Mexico Mounted Patrol is outlined in the Laws of the State of New Mexico New Mexico State Statutes 1978 Sections 29-6-1 to 29-6-6.

The New Mexico Mounted Patrol’s dedication to the State of New Mexico, its citizens, the law enforcement community and homeland security is best summed up by "*The Ultimate in Community Service and An Unequaled Value in Law Enforcement.*"

The New Mexico Mounted Patrol (NMMP) consists of approximately 160 officers in 20 active troops situated throughout the State of New Mexico.

### Active Troop Locations:

#### North Zone - Northwest District

Farmington, Española, Santa Fe, Albuquerque, Grants, Moriarty

North Zone - Northeast District

Las Vegas, Raton, Roy, Santa Fe, Tucumcarri

South Zone – Southwest District

Ruidoso, Clovis, Hobbs, Lovington, Roswell, Artesia

South Zone - Southeast District

Alamogordo, Las Cruces, Deming

The NMMP has an administrative staff of approximately 12 staff members. The internal control, management, supervision and power of the organization is vested in a board of directors composed of not less than one member from each troop of the NMMP elected by the members of the organization. The Chief of the Mounted Patrol is duly elected by the members of the NMMP with the Deputy Chiefs appointed by the Board of Directors and the District Captains and State Staff appointed by the Chief.

**TECHNICAL ISSUES**

GSD identified a technical issue in the original substitute that appears to be corrected in this version. The second substitute does correctly include Section 29-6-6 NMSA 1978 in the definition. However, the reference to Section 29-6-5 may be extraneous since it protects mounted patrol members with workers compensation coverage when acting under the authority of a law enforcement agency and does not contribute to the definition of law enforcement officer.

MW/mt