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HOUSE BILL 435

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Eliseo Lee Alcon

AN ACT

RELATING TO CORRECTIONS; PROVIDING FOR COMPENSATION FOR
PENITENTIARY OF NEW MEXICO CORRECTIONAL OFFICERS WHO ARE OR
WERE SUFFERING FROM POSTTRAUMATIC STRESS DISORDER RESULTING
FROM THEIR INVOLVEMENT IN AND EXPERIENCE DURING THE FEBRUARY
1980 PENITENTIARY RIOT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ CORRECTIONAL OFFICERS--1980
PRISON RIOT--POSTTRAUMATIC STRESS DISORDER--COMPENSATION--
APPROPRIATION.--

A. A correctional officer who was employed and
physically present at the penitentiary of New Mexico during the
riot that occurred from February 2 to February 4, 1980, or, if
deceased, the deceased's personal representative or other
appropriate person as determined by the secretary of

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1 corrections, and who has been or was diagnosed with
2 posttraumatic stress disorder resulting from the officer's
3 involvement in and experience during the riot, may be entitled
4 to compensation as provided in this section.

5 B. The corrections department shall:

6 (1) identify surviving correctional officers,
7 or, if any are deceased, the deceased's personal representative
8 or other appropriate person as determined by the secretary of
9 corrections, who were physically present at the penitentiary of
10 New Mexico at the beginning of the riot and who were involved
11 in and experienced any aspect of the riot;

12 (2) provide those correctional officers
13 identified or personal representatives or other appropriate
14 persons with notice of their potential eligibility for
15 compensation as provided in this section; and

16 (3) create an application process and form
17 that shall:

18 (a) require information necessary to
19 establish the correctional officer's identity and the officer's
20 presence at the penitentiary of New Mexico during the riot;

21 (b) provide details of any compensation
22 that the correctional officer or the officer's estate received
23 from the officer's involvement in and experience during the
24 riot;

25 (c) require a certified diagnosis from

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1 an appropriate licensed health care provider that the
2 correctional officer is currently suffering from or suffered
3 from posttraumatic stress disorder as a result of the officer's
4 involvement and experience during the riot;

5 (d) set a reasonable deadline, but no
6 later than December 31, 2015, for a correctional officer or
7 other person receiving notice of potential eligibility for
8 compensation to submit an application to the secretary of
9 corrections for compensation pursuant to this section;

10 (e) establish a method of independent
11 review of the posttraumatic stress disorder diagnosis to
12 confirm eligibility for compensation;

13 (f) require a waiver and release from
14 further claims against the state for a correctional officer's
15 involvement in and experience during the riot if the
16 correctional officer or other person receives compensation
17 pursuant to this section; and

18 (g) provide for an informal hearing at
19 which a correctional officer applicant, a personal
20 representative or other appropriate person may be represented
21 by counsel or other person of the applicant's choice if the
22 secretary of corrections decides that more information from the
23 applicant is needed before the secretary can make a decision on
24 the application.

25 C. If the secretary of corrections decides that the

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1 diagnosis submitted with the application substantiates that the
2 correctional officer is currently suffering from or suffered
3 from posttraumatic stress disorder resulting from the officer's
4 involvement in and experience during the riot and that the
5 application is appropriate in all other respects, the secretary
6 shall pay to the correctional officer, a personal
7 representative or other appropriate person one hundred thousand
8 dollars (\$100,000); provided that if the correctional officer
9 or the officer's estate received any compensation for the
10 officer's involvement in and experience during the riot, the
11 payment amount shall be reduced to the difference between the
12 amount that the officer previously received and one hundred
13 thousand dollars (\$100,000), but if the previous compensation
14 was greater than one hundred thousand dollars (\$100,000), no
15 payment shall be made.

16 SECTION 2. APPROPRIATION.--One million five hundred
17 thousand dollars (\$1,500,000) is appropriated from the general
18 fund to the corrections department for expenditure in fiscal
19 year 2016 to carry out the purposes of Section 1 of this act;
20 provided that no more than one hundred thousand dollars
21 (\$100,000) shall be used for administration. Any unexpended or
22 unencumbered balance remaining at the end of fiscal year 2016
23 shall revert to the general fund.