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SENATE BILL 82

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED by

Steven P. Neville and William "Bill" R. Rehm

AN ACT

RELATING TO LAW ENFORCEMENT; AUTHORIZING A SCHOOL DISTRICT TO ESTABLISH A POLICE FORCE WITH JURISDICTION WITHIN THE BOUNDARIES OF THE SCHOOL DISTRICT; REQUIRING SPECIALIZED TRAINING; PROVIDING FOR A DISTRIBUTION TO A SCHOOL DISTRICT POLICE FORCE FROM THE LAW ENFORCEMENT PROTECTION FUND; ELIMINATING THE AUTHORITY AND THE DISTRIBUTION PROVIDED IN THIS ACT ON JULY 1, 2015; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2002; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of Chapter 29 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LOCAL SCHOOL BOARD AUTHORIZED TO ESTABLISH POLICE FORCE--QUALIFICATIONS AND AUTHORITY--JURISDICTION-- REPORT TO LEGISLATURE.--

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1           A. A local school board may establish a police  
2 force and adopt policies and rules applicable to the police  
3 force.

4           B. The superintendent of a school district,  
5 pursuant to authority granted by the local school board, may  
6 employ and assign duties to police officers for the school  
7 district.

8           C. Police officers employed by a school district:

9                   (1) shall be New Mexico certified law  
10 enforcement officers;

11                   (2) shall have the powers of peace officers  
12 within the exterior boundaries of the school district;

13                   (3) shall at all times while on duty carry  
14 commissions of office issued by the local school board;

15                   (4) shall be required to participate in  
16 ongoing, specialized training that focuses on working  
17 appropriately and effectively with children and adolescents,  
18 with such training to be provided by the school district at no  
19 cost to the officers;

20                   (5) may enforce all applicable laws within the  
21 exterior boundaries of the school district; and

22                   (6) may make arrests for violations of law,  
23 but no arrest is valid unless the arresting police officer is,  
24 at the time of the arrest, wearing a distinctive:

25                           (a) badge issued by the local school

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1 board and bearing the name of the school district; and

2 (b) uniform prescribed and issued by the  
3 local school board.

4 D. A school district that establishes a police  
5 force shall report to the appropriate interim legislative  
6 committee on the operations of the police force, including  
7 policies, procedures, practices, training programs, discipline  
8 of students, school safety and oversight by the local school  
9 board and superintendent. The school district shall provide a  
10 full report within one year of establishing the police force  
11 and, thereafter, upon request of the committee chair.

12 E. As used in this section, "local school board"  
13 means the policy-setting body of a public school district."

14 SECTION 2. Section 29-13-2 NMSA 1978 (being Laws 1983,  
15 Chapter 289, Section 2, as amended) is amended to read:

16 "29-13-2. PURPOSE OF ACT.--

17 A. Until June 30, 2015, the purpose of the Law  
18 Enforcement Protection Fund Act is to provide for the equitable  
19 distribution of money to municipal police, university police,  
20 school district police, tribal police and county sheriff's  
21 departments for use in the maintenance and improvement of those  
22 departments in order to enhance the efficiency and  
23 effectiveness of law enforcement services and to sustain at a  
24 reasonable level the payments available to the surviving  
25 eligible family members of a peace officer killed in the line

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1 of duty.

2 B. As of July 1, 2015, the purpose of the Law  
3 Enforcement Protection Fund Act is to provide for the equitable  
4 distribution of money to municipal police, university police,  
5 tribal police and county sheriff's departments for use in the  
6 maintenance and improvement of those departments in order to  
7 enhance the efficiency and effectiveness of law enforcement  
8 services and to sustain at a reasonable level the payments  
9 available to the surviving eligible family members of a peace  
10 officer killed in the line of duty."

11 SECTION 3. Section 29-13-2.1 NMSA 1978 (being Laws 1993,  
12 Chapter 179, Section 4, as amended) is amended to read:

13 "29-13-2.1. DEFINITIONS.--As used in the Law Enforcement  
14 Protection Fund Act:

15 A. "division" means the local government division  
16 of the department of finance and administration;

17 B. "fund" means the law enforcement protection  
18 fund;

19 C. "governmental entity" means:

20 (1) until June 30, 2015, a municipality,  
21 university, school district, tribe or a county; and

22 (2) as of July 1, 2015, a municipality,  
23 university, tribe or a county;

24 D. "tribal police department" means the police  
25 department of a tribe that has entered into an agreement with

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1 the department of public safety pursuant to Section 29-1-11  
2 NMSA 1978;

3 E. "tribe" means an Indian nation, tribe or pueblo  
4 located wholly or partly in New Mexico; and

5 F. "university" means a four-year post-secondary  
6 educational institution listed in Article 12, Section 11 of the  
7 constitution of New Mexico."

8 SECTION 4. Section 29-13-4 NMSA 1978 (being Laws 1993,  
9 Chapter 179, Section 6, as amended by Laws 2002, Chapter 78,  
10 Section 5 and by Laws 2002, Chapter 92, Section 3) is amended  
11 to read:

12 "29-13-4. DETERMINATION OF NEEDS AND RATE OF  
13 DISTRIBUTION.--

14 A. Until June 30, 2015, annually on or before April  
15 15, the division shall consider and determine the relative  
16 needs as requested by tribal, municipal, school district and  
17 university police and county sheriff's departments for money in  
18 the fund pursuant to the provisions of Subsection [G] D or E of  
19 this section.

20 B. As of July 1, 2015, annually on or before April 15,  
21 the division shall consider and determine the relative needs as  
22 requested by tribal, municipal and university police and county  
23 sheriff's departments for money in the fund pursuant to the  
24 provisions of Subsection D or E of this section.

25 [~~B. As necessary during the year~~]

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1           C. Annually on or before April 15, the division shall  
2 [~~transfer~~] determine an amount to be transferred from the [~~law~~  
3 ~~enforcement-protection~~] fund to the peace officers' survivors  
4 fund that enables the balance of the peace officers' survivors  
5 fund to be maintained at a minimum balance of three hundred  
6 fifty thousand dollars (\$350,000).

7           [~~C.~~] D. Until June 30, 2015, the division shall  
8 determine the rate of distribution of money remaining in the  
9 fund to each tribal, municipal, school district and university  
10 police and county sheriff's department as follows:

11           (1) all municipal police and county sheriff's  
12 departments shall be rated by class pursuant to this paragraph  
13 in accordance with populations established by the most recently  
14 completed decennial census; provided that the population of any  
15 county shall not include the population of any municipality  
16 within that county that has a municipal police department. The  
17 rate of distribution to which a municipal police or county  
18 sheriff's department is entitled is the following:

19	CLASS	POPULATION	AMOUNT
20	1	0 to 20,000	\$20,000
21	2	20,001 to 160,000	30,000
22	3	160,001 to 1,280,000	40,000;

23           (2) school district and university police  
24 departments shall be entitled to a rate of distribution of  
25 seventeen thousand dollars (\$17,000);

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1                   (3) tribal police departments shall be  
2 entitled, unless allocations are adjusted pursuant to the  
3 provisions of Subsection [~~G~~] F of this section, to six hundred  
4 dollars (\$600) for each commissioned peace officer in the  
5 tribe. To be counted as a commissioned peace officer for the  
6 purposes of this paragraph, a commissioned peace officer shall  
7 have been assigned to duty and have worked in New Mexico for no  
8 fewer than two hundred days in the calendar year immediately  
9 prior to the date of payment. Payments shall be made for only  
10 those divisions of the tribal police departments that perform  
11 services in New Mexico. [~~No~~] A tribal police department shall  
12 not be eligible for any disbursement under the fund if  
13 commissioned peace officers cite non-Indians into the tribal  
14 court for civil or criminal citations; and

15                   (4) municipal, school district and university  
16 police and county sheriff's departments shall be entitled,  
17 unless allocations are adjusted pursuant to the provisions of  
18 Subsection [~~D~~] F of this section, to six hundred dollars (\$600)  
19 for each police officer or sheriff's deputy employed full time  
20 by [~~his~~] the officer's or deputy's department who has been  
21 certified by the New Mexico law enforcement academy as a police  
22 officer or has been authorized to act as a New Mexico peace  
23 officer pursuant to the provisions of Section 29-1-11 NMSA  
24 1978.

25                   E. As of July 1, 2015, the division shall determine

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1 the rate of distribution of money remaining in the fund to each  
2 tribal, municipal and university police and county sheriff's  
3 department as follows:

4 (1) all municipal police and county sheriff's  
5 departments shall be rated by class pursuant to this paragraph  
6 in accordance with populations established by the most recently  
7 completed decennial census; provided that the population of any  
8 county shall not include the population of any municipality  
9 within that county that has a municipal police department. The  
10 rate of distribution to which a municipal police or county  
11 sheriff's department is entitled is the following:

<u>CLASS</u>	<u>POPULATION</u>	<u>AMOUNT</u>
<u>1</u>	<u>0 to 20,000</u>	<u>\$20,000</u>
<u>2</u>	<u>20,001 to 160,000</u>	<u>30,000</u>
<u>3</u>	<u>160,001 to 1,280,000</u>	<u>40,000;</u>

16 (2) university police departments shall be  
17 entitled to a rate of distribution of seventeen thousand  
18 dollars (\$17,000);

19 (3) tribal police departments shall be  
20 entitled, unless allocations are adjusted pursuant to the  
21 provisions of Subsection F of this section, to six hundred  
22 dollars (\$600) for each commissioned peace officer in the  
23 tribe. To be counted as a commissioned peace officer for the  
24 purposes of this paragraph, a commissioned peace officer shall  
25 have been assigned to duty and have worked in New Mexico for no

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1 fewer than two hundred days in the calendar year immediately  
2 prior to the date of payment. Payments shall be made for only  
3 those divisions of the tribal police departments that perform  
4 services in New Mexico. A tribal police department shall not  
5 be eligible for any disbursement under the fund if commissioned  
6 peace officers cite non-Indians into the tribal court for civil  
7 or criminal citations; and

8 (4) municipal and university police and county  
9 sheriff's departments shall be entitled, unless allocations are  
10 adjusted pursuant to the provisions of Subsection F of this  
11 section, to six hundred dollars (\$600) for each police officer  
12 or sheriff's deputy employed full time by the officer's or  
13 deputy's department who has been certified by the New Mexico  
14 law enforcement academy as a police officer or has been  
15 authorized to act as a New Mexico peace officer pursuant to the  
16 provisions of Section 29-1-11 NMSA 1978.

17 ~~[D-]~~ F. After distributions are determined in  
18 accordance with Subsection A or B, Subsection ~~[B]~~ C and  
19 Paragraphs (1) and (2) of Subsection ~~[G]~~ D or E of this  
20 section, if the balance in the fund is insufficient to permit  
21 the total allocations provided by Paragraphs (3) and (4) of  
22 Subsection ~~[G]~~ D or E of this section, the division shall  
23 reduce that allocation to the maximum amount permitted by  
24 available money."

25 SECTION 5. Section 29-13-5 NMSA 1978 (being Laws 1983,

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1 Chapter 289, Section 5, as amended) is amended to read:

2 "29-13-5. DETERMINATION OF NEEDS--REVIEW.--

3 A. Until June 30, 2015, no later than May 1 of each  
4 year, the division shall notify in writing each affected  
5 municipal police, school district police, university police,  
6 tribal police and county sheriff's department of its  
7 determination of money to be distributed pursuant to the  
8 provisions of Section 29-13-4 NMSA 1978. Any affected  
9 department may appeal that determination by filing a notice of  
10 appeal with the secretary of finance and administration no  
11 later than May 15. If an appeal is filed, the secretary of  
12 finance and administration shall review the determination of  
13 the division in an informal and summary proceeding and shall  
14 certify the result of the appeal to the division no later than  
15 June 30, and the division shall adjust its determination  
16 accordingly. If no appeal is filed, the original determination  
17 of the division shall be final and binding and not subject to  
18 further review.

19 B. As of July 1, 2015, no later than May 1 of each  
20 year, the division shall notify in writing each affected  
21 municipal police, university police, tribal police and county  
22 sheriff's department of its determination of money to be  
23 distributed pursuant to the provisions of Section 29-13-4 NMSA  
24 1978. Any affected department may appeal that determination by  
25 filing a notice of appeal with the secretary of finance and

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1 administration no later than May 15. If an appeal is filed,  
2 the secretary of finance and administration shall review the  
3 determination of the division in an informal and summary  
4 proceeding and shall certify the result of the appeal to the  
5 division no later than June 30, and the division shall adjust  
6 its determination accordingly. If no appeal is filed, the  
7 original determination of the division shall be final and  
8 binding and not subject to further review."

9 SECTION 6. DELAYED REPEAL.--Section 1 of this act is  
10 repealed effective July 1, 2015.

11 SECTION 7. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2012.