

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 216

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LEONARD TSOSIE

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT IN INDIAN COUNTRY; CREATING A
FUND; PERMITTING COMMISSIONING OF STATE LAW ENFORCEMENT
OFFICERS BY INDIAN NATIONS; AMENDING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] INTERGOVERNMENTAL LAW
ENFORCEMENT FUND- - CREATED- - ADMINISTRATION- - DISTRIBUTION. - -

A. There is created in the state treasury the
"intergovernmental law enforcement fund" to be administered by
the New Mexico office of Indian affairs.

B. All balances in the fund are appropriated to
the New Mexico office of Indian affairs for payment to tribal
law enforcement departments whose enforcement jurisdiction is
located in whole or in part within the state in exchange for

Underscored material = new
[bracketed material] = del etc

1 enforcement of New Mexico law in Indian country on non-Indian
2 offenders.

3 C. Beginning July 1, 1998, and for each quarter
4 thereafter, tribal law enforcement departments that wish to
5 receive disbursements from the fund shall maintain records
6 documenting the following activities in each quarter:

7 (1) the officer-hours expended to enforce
8 state law, including time spent in cooperation with state or
9 local law enforcement agencies to provide court testimony or
10 to investigate alleged crimes perpetrated by non-Indians; and

11 (2) the costs of calibrating equipment used
12 to determine the concentration of alcohol in blood or breath
13 or of maintaining or acquiring any equipment or supplies
14 required by the state to be used to enforce state law above
15 and beyond the equipment or supplies already used to enforce
16 tribal law.

17 D. Documentation maintained according to
18 Subsection C of this section shall be submitted to the New
19 Mexico office of Indian affairs within fifteen days following
20 the last day of the quarter in which the activities occurred.
21 The chief of the tribal law enforcement department compiling
22 the documented data shall certify that the documented officer-
23 hours and other charges are true and accurate. Disbursements
24 shall be made by the New Mexico office of Indian affairs by
25 the fifteenth day of the second month following the end of

. 120216. 1

Underscored material = new
[bracketed material] = delete

1 each quarter. Documentation pursuant to this section shall be
2 submitted in a timely manner to generate payment from the
3 fund.

4 E. To determine the distribution to a tribal law
5 enforcement department from the fund for any quarter, the New
6 Mexico office of Indian affairs shall:

7 (1) determine for each tribal law enforcement
8 department an individual total of costs expended by each
9 tribal law enforcement department in calibrating equipment
10 used to determine the concentration of alcohol in blood or
11 breath or to maintain or acquire any equipment or supplies
12 required by the state to be used to enforce state law, add the
13 individual totals for all tribal law enforcement departments
14 that submitted data to generate a composite total and deduct
15 the composite total from the amount of money in the fund;

16 (2) calculate the individual tribal law
17 enforcement department percentage of the total officer-hours
18 submitted by dividing the officer-hours submitted by a tribal
19 law enforcement department by the total number of officer-
20 hours submitted by all tribes and agencies of the bureau of
21 Indian affairs and then multiplying each tribal law
22 enforcement department's percentage by the balance remaining
23 in the fund after the composite total is deducted according to
24 the provisions of Paragraph (1) of this subsection; and

25 (3) add the amounts determined in Paragraphs

Underscored material = new
[bracketed material] = delete

1 (1) and (2) of this subsection for each tribal law enforcement
2 department to determine the distribution to that tribe or
3 agency for the quarter for which the data was submitted.

4 F. Disbursements from the fund shall be made by
5 warrant drawn by the secretary of finance and administration
6 pursuant to vouchers signed by the executive director of the
7 New Mexico office of Indian affairs or his authorized
8 representative.

9 G. As used in this section:

10 (1) "bureau of Indian affairs" means the
11 bureau of Indian affairs of the federal department of the
12 interior;

13 (2) "fund" means the intergovernmental law
14 enforcement fund;

15 (3) "officer-hours" means the number of hours
16 worked by tribal or bureau of Indian affairs agency law
17 enforcement officers who are certified pursuant to the
18 provisions of Section 29-1-11 NMSA 1978 or deputized by a
19 county sheriff to enforce state law rounded to the closest
20 quarter hour;

21 (4) "tribal law enforcement department" means
22 a bureau of Indian affairs agency or any subunit of a tribal
23 government that enforces tribal or state laws and has officers
24 that are certified New Mexico peace officers pursuant to
25 Section 29-1-11 NMSA 1978 or officers that are deputized to

. 120216. 1

Underscored material = new
[bracketed material] = delete

1 enforce state law by a county sheriff; and

2 (5) "tribe" means an Indian nation, tribe or
3 pueblo located in whole or in part in New Mexico.

4 Section 2. A new section of Chapter 12, Article 2 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] DEFINITION. -- For statutory purposes the
7 term "Indian country" means:

8 A. all land within the limits of any reservation
9 of an Indian nation, tribe or pueblo under the jurisdiction of
10 the United States government, notwithstanding the issuance of
11 any patent and including rights-of-way running through the
12 reservation;

13 B. all dependent Indian communities within the
14 borders of New Mexico whether within the original or
15 subsequently acquired territory;

16 C. all Indian allotments, the Indian titles to
17 which have not been extinguished, including rights-of-way
18 running through the allotments; and

19 D. any lands, title to which is either held by the
20 United States in trust for the benefit of any Indian nation,
21 tribe, pueblo or tribal member or is held by any Indian
22 nation, tribe, pueblo or tribal member subject to a
23 restriction by the United States against alienation."

24 Section 3. A new section of Chapter 29 NMSA 1978 is
25 enacted to read:

Underscored material = new
[bracketed material] = delete

1 " [NEW MATERIAL] NEW MEXICO STATE POLICE OFFICERS-- COUNTY
2 SHERIFF' S OFFICERS-- AUTHORIZATION TO ACT AS LAW ENFORCEMENT
3 OFFICERS FOR AN INDIAN NATION. --

4 A. A state law enforcement officer who is assigned
5 to patrol a state, county or interstate highway that is
6 located in Indian country is, when commissioned pursuant to
7 the provisions of Subsection B of this section, authorized to
8 act as a peace officer of an Indian nation. For purposes of
9 Section 41-4-3 NMSA 1978, a state law enforcement officer
10 acting pursuant to this section is acting within the scope of
11 his duties.

12 B. The chief of a law enforcement department of an
13 Indian nation, upon written authorization by the governing
14 body of that Indian nation, may issue a commission as a peace
15 officer of that Indian nation to a state law enforcement
16 officer. The procedures to be followed regarding the
17 commission shall be set forth by the governing body of the
18 Indian nation. The authority granted to a peace officer to
19 enforce laws of an Indian nation regarding revocation of
20 commissions and the respective rights and responsibilities of
21 the departments shall be set forth in a written agreement
22 executed by the chief of the law enforcement department of the
23 Indian nation or other representative of the governing body of
24 the Indian nation and the chief of the state police or the
25 county sheriff. Terms and conditions of the commissions

Underscored material = new
[bracketed material] = delete

1 issued pursuant to this section shall be determined by each
2 Indian nation issuing a commission to a state law enforcement
3 officer.

4 C. As used in this section:

5 (1) "Indian nation" means an Indian nation,
6 tribe or pueblo located in whole or in part in New Mexico;

7 (2) "peace officer" means a state law
8 enforcement officer who is commissioned by an Indian nation to
9 enforce the law of that Indian nation; and

10 (3) "state law enforcement officer" means a
11 duly commissioned member of the New Mexico state police or an
12 officer in a county sheriff's department. "

13 Section 4. Section 29-1-11 NMSA 1978 (being Laws 1972,
14 Chapter 8, Section 1, as amended) is amended to read:

15 "29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE
16 OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO
17 PEACE OFFICERS--AUTHORITY, PAYMENT AND PROCEDURE FOR
18 COMMISSIONED PEACE OFFICERS. --

19 A. All persons who are duly commissioned officers
20 of the [~~police or sheriff's~~] law enforcement department of
21 [~~any New Mexico~~] an Indian [~~tribe or pueblo~~] nation or who are
22 law enforcement officers employed by the bureau of Indian
23 affairs and are assigned in New Mexico are, when commissioned
24 under Subsection B of this section, recognized and authorized
25 to act as New Mexico peace officers. These officers have all

Underscored material = new
[bracketed material] = delete

1 the powers of New Mexico peace officers to enforce state laws
2 in New Mexico, including the power to make arrests for
3 violation of state laws.

4 B. The chief of the New Mexico state police is
5 granted authority to issue commissions as New Mexico peace
6 officers to members of [~~the police or sheriff's~~] a law
7 enforcement department of [~~any New Mexico~~] an Indian [~~tribe or~~
8 ~~pueblo~~] nation or a law enforcement officer employed by the
9 bureau of Indian affairs to implement the provisions of this
10 section. The procedures to be followed in the issuance and
11 revocation of commissions and the respective rights and
12 responsibilities of the departments shall be set forth in a
13 written agreement to be executed between the chief of the New
14 Mexico state police and the [~~tribe or pueblo~~] Indian nation or
15 the appropriate federal official.

16 C. The agreement referred to in Subsection B of
17 this section shall contain the following conditions:

18 (1) [~~the tribe or pueblo, but not the bureau~~
19 ~~of Indian affairs~~] an Indian nation whose law enforcement
20 officers are not subject to coverage by the Federal Tort
21 Claims Act shall submit proof of adequate public liability and
22 property damage insurance for vehicles operated by the peace
23 officers and police professional liability insurance from a
24 company licensed to sell insurance in the state;

25 (2) each applicant for a commission shall

Underscored material = new
[bracketed material] = delete

1 successfully complete four hundred hours of basic police
2 training that is approved by the director of the New Mexico
3 law enforcement academy;

4 (3) the chief of the New Mexico state police
5 shall have the authority to suspend any commission granted
6 pursuant to Subsection B of this section for reasons solely
7 within his discretion;

8 (4) if any provision of the agreement is
9 violated by the [~~tribe or pueblo~~] Indian nation or any of its
10 agents, the chief of the New Mexico state police shall suspend
11 the agreement on five days' notice, which suspension shall
12 last until the chief is satisfied that the violation has been
13 corrected and will not recur;

14 (5) the goldenrod-colored officer's second
15 copy of any citation issued pursuant to a commission
16 authorized by this section shall be submitted within five days
17 to the chief of the New Mexico state police;

18 (6) any citation issued pursuant to a
19 commission authorized by this section shall be to a magistrate
20 court of New Mexico; except that any citations issued to
21 [~~Indians~~] an Indian person within the exterior boundaries of
22 an Indian reservation shall be cited into tribal court;

23 (7) the agreement or any commission issued
24 pursuant to it shall not confer any authority on a tribal
25 court or other tribal authority which that court or authority

Underscored material = new
[bracketed material] = del ete

1 would not otherwise have;

2 (8) the authority conferred by any agreement
3 entered into pursuant to the provisions of this section shall
4 be coextensive with the exterior boundaries of the
5 reservation; except that an officer commissioned under this
6 section may proceed in hot pursuit of an offender beyond the
7 exterior boundaries of the reservation, and the authority
8 conferred in any written agreement between the chief of the
9 New Mexico state police and [~~the Navajo tribe~~] an Indian
10 nation may extend beyond [~~the~~] its exterior boundaries; [~~of~~
11 ~~the Navajo reservation to and including the area enclosed by~~
12 ~~the following description:~~

13 ~~Beginning at a point where the southern boundary line of~~
14 ~~the Navajo Indian reservation intersects the western~~
15 ~~right-of-way line of US 666, and running thence; southerly~~
16 ~~along the western right-of-way line of US 666 to the northerly~~
17 ~~city limits of Gallup; thence, easterly along the northerly~~
18 ~~city limits of Gallup to the northern side of the right-of-way~~
19 ~~of I-40; thence, in an easterly direction along the northerly~~
20 ~~side of the right-of-way of I-40 to the northerly limits of~~
21 ~~the village of Prewitt; thence, in a straight line between the~~
22 ~~northerly boundary of the village of Prewitt to the southerly~~
23 ~~boundary of Ambrosia Lake; thence in a straight line between~~
24 ~~the southerly boundary of Ambrosia Lake to the southerly~~
25 ~~boundary of Hosphah; thence, east along a straight line from~~

Underscored material = new
[bracketed material] = delete

1 ~~the southerly boundary of Hoshpah to the southern boundary of~~
2 ~~Torreon; thence along the easterly side of the right-of-way of~~
3 ~~state road 197 to the westerly city limits of Cuba; thence,~~
4 ~~north along the westerly side of the right-of-way of state~~
5 ~~road 44 to the southerly boundary of the Jicarilla Apache~~
6 ~~Indian reservation; thence, westerly along the southerly~~
7 ~~boundary of the Jicarilla Apache Indian reservation to the~~
8 ~~southwest corner of that reservation; thence, northerly along~~
9 ~~the westerly boundary of the Jicarilla Apache Indian~~
10 ~~reservation to a point where the westerly boundary of the~~
11 ~~reservation intersects the southerly side of the right-of-way~~
12 ~~of state road 44; thence, northerly along the southerly side~~
13 ~~of the right-of-way of state road 44 to its intersection with~~
14 ~~the northerly side of the right-of-way of Navajo road 3003;~~
15 ~~thence, along the northerly side of the right-of-way of Navajo~~
16 ~~road 3003 to a point where the northerly side of the~~
17 ~~right-of-way of Navajo road 3003 intersects the westerly side~~
18 ~~of the right-of-way line of state road 371; thence, northerly~~
19 ~~along the west side of the right-of-way of state road 371 to~~
20 ~~the southerly side of the right-of-way of Navajo road 36;~~
21 ~~thence, westerly along the southerly side of the right-of-way~~
22 ~~of Navajo road 36 to the eastern border of the Navajo Indian~~
23 ~~reservation; thence, along the eastern and southerly borders~~
24 ~~of the Navajo Indian reservation to the point of beginning.~~

25 The municipalities of Cuba and Gallup and the villages of

Underscored material = new
[bracketed material] = delete

1 ~~Thoreau and Prewitt are excluded from the grant of authority~~
2 ~~that may be conferred in any written agreement entered into~~
3 ~~pursuant to provisions of this section; provided, however, any~~
4 ~~written agreement may include under such grant of authority~~
5 ~~the communities of Ambrosia Lake, Hospah, Torreon, Lybrook,~~
6 ~~Nageezi, Counselors and Blanco Trading Post and those~~
7 ~~communities commonly known as the Wingate community; the~~
8 ~~Navajo Tribe blue water ranch area of the Thoreau community;~~
9 ~~the Prewitt community, exclusive of the village of Prewitt;~~
10 ~~the Haystack community; the Desidero community; the Sand~~
11 ~~Springs community; the Rincon Marquis community; the Charley~~
12 ~~Jesus Arviso and the Castillo community; and state road 264~~
13 ~~beginning at the point where it intersects US 666 and ending~~
14 ~~where state road 264 intersects the Arizona New Mexico state~~
15 ~~line]~~

16 (9) the chief of the New Mexico state police
17 or his designee and ~~[the tribe or pueblo]~~ a representative of
18 a law enforcement department of each Indian nation having
19 officers commissioned pursuant to this section or the
20 appropriate federal official shall be required to meet at
21 least ~~[quarterly]~~ two times per calendar year or more
22 frequently at the call of the chief of the New Mexico state
23 police or the head of a law enforcement department of an
24 Indian nation or the bureau of Indian affairs to discuss the
25 status of the agreement and invite other law enforcement or

Underscored material = new
[bracketed material] = delete

1 other officials to attend as necessary; and

2 (10) as consideration for law enforcement
3 services rendered for the state by [~~tribal or pueblo police~~]
4 law enforcement officers who are commissioned peace officers
5 pursuant to this section, each [~~tribe or pueblo~~] Indian nation
6 shall receive from the law enforcement protection fund three
7 hundred dollars (\$300) for each commissioned peace officer in
8 the [~~tribe or pueblo~~] law enforcement department of the Indian
9 nation or of the bureau of Indian affairs. To be counted as a
10 commissioned peace officer for the purposes of this paragraph,
11 a commissioned peace officer shall have been assigned to duty
12 and have worked in New Mexico for no fewer than [~~two hundred~~]
13 one hundred thirty days in the calendar year immediately prior
14 to the date of payment. Payments shall be made for only those
15 divisions of the [~~tribal or pueblo police~~] Indian nation law
16 enforcement departments or the bureau of Indian affairs that
17 perform services in New Mexico. [~~No Indian nation, tribe or~~
18 ~~pueblo police department shall be eligible for any~~
19 ~~disbursement under the fund if officers of that department~~
20 ~~cite non-Indians into the court of that Indian nation, tribe~~
21 ~~or pueblo. This eligibility requirement would apply to either~~
22 ~~civil or criminal citations issued by an Indian nation, tribe~~
23 ~~or pueblo police department.~~]

24 D. Nothing in this section impairs or affects the
25 existing status and sovereignty of [~~tribes and pueblos of~~

Underscored material = new
[bracketed material] = delete

1 ~~Indians]~~ Indian nations as established under the laws of the
2 United States.

3 E. All persons who are duly commissioned federal
4 law enforcement officers employed by the federal bureau of
5 investigation; drug enforcement administration; bureau of
6 alcohol, tobacco and firearms; United States secret service;
7 United States customs service; immigration and naturalization
8 service; United States marshals service; postal inspection
9 service; United States probation department; United States
10 pretrial services agency; and other appropriate federal
11 officers whose primary duty is law enforcement related, who
12 are assigned in New Mexico and who are required to be
13 designated by the county sheriff on a case-by-case basis in
14 the county in which they are working, are recognized and
15 authorized to act as New Mexico peace officers and have all
16 the powers of New Mexico peace officers to enforce state laws
17 in New Mexico, including the power to make arrests for
18 violation of state laws. The department of public safety
19 shall maintain a registry that lists the name and affiliated
20 federal agency of every federal law enforcement officer
21 recognized and authorized to act as a New Mexico peace officer
22 pursuant to the provisions of this subsection. This
23 subsection shall not be construed to impose liability upon or
24 to require indemnification by the state for any act performed
25 by a federal law enforcement officer pursuant to this

. 120216. 1

Underscored material = new
[bracketed material] = delete

1 subsection.

2 F. The provisions of Subsection E of this section
3 regarding designation of federal law enforcement officers by a
4 county sheriff do not apply to federal law enforcement
5 officers who are duly commissioned officers of a police or
6 sheriff's department for an Indian [~~tribe or pueblo~~] nation in
7 New Mexico or who are federal law enforcement officers
8 employed by the bureau of Indian affairs.

9 G. As used in this section:

10 (1) "Indian nation" means an Indian nation,
11 tribe or pueblo located in whole or in part in New Mexico; and

12 (2) "law enforcement department" means any
13 agency of an Indian nation that employs law enforcement
14 officers who received training at a law enforcement academy
15 and meet the education requirements for obtaining a commission
16 as a New Mexico peace officer pursuant to this section. "

17 Section 5. APPROPRIATION. -- One millions dollars
18 (\$1,000,000) is appropriated from the general fund to the
19 intergovernmental law enforcement fund for expenditure in
20 fiscal year 1999 for the purpose of reimbursing tribal law
21 enforcement departments for enforcing state law. Any
22 unexpended or unencumbered balance remaining at the end of
23 fiscal year 1999 shall revert to the general fund.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 January 31, 1998

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 216

13
14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 INDIAN & CULTURAL AFFAIRS COMMITTEE.
17

18
19 Respectfully submitted,

20
21
22
23
24 _____
25 Manny M. Aragon, Chairman

Underscored material = new
~~[bracketed material]~~ = delete

Adopted _____ Not Adopted _____

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

(Chief Clerk)

(Chief Clerk)

Date _____

S0216CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5 February 10, 1998

6
7 Mr. President:

8
9 Your INDIAN & CULTURAL AFFAIRS COMMITTEE, to whom has
10 been referred

11
12 SENATE BILL 216

13
14 has had it under consideration and reports same with recommendation
15 that it DO PASS, and thence referred to the JUDICIARY
16 COMMITTEE.

17
18 Respectfully submitted,

19
20
21
22
23 _____
24 John Pinto, Chairman
25

Underscored material = new
[bracketed material] = delete

Adopted _____ Not Adopted _____

1 (Chief Clerk) (Chief Clerk)

2

3

4 Date _____

5

6

7 The roll call vote was 6 For 0 Against

8 Yes: 6

9 No: 0

10 Excused: Carraro, Kysar, Davis

11 Absent: None

12

13

14 S0216IC1

15

16

17

18

19

20

21

22

23

24

25

FORTY-THIRD LEGISLATURE

SB 216/a

SECOND SESSION, 1998

February 13, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 216

has had it under consideration and reports same with recommendation
that it DO PASS, amended as follows:

1. On page 5, lines 19 through 23, strike Subsection D in its
entirety. ,

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

%%%

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 3 Against

Yes: 4

No: Payne, Stockard, Vernon

Excused: McSorley

Absent: None

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

%%%

Page 22

S0216JU1

Underscored material = new
~~[bracketed material]~~ = delete

. 120216. 1