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HOUSE BILL 42

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

James R. Madalena

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

**RELATING TO LAW ENFORCEMENT; INCREASING THE CONSIDERATION PAID
TO TRIBES FOR ENFORCEMENT OF STATE LAW; AMENDING SECTIONS OF
THE NMSA 1978; DECLARING AN EMERGENCY.**

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

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

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

**A. All persons who are duly commissioned officers
of the police or sheriff's department of any New Mexico Indian
tribe or pueblo or who are law enforcement officers employed
by the bureau of Indian affairs and are assigned in New Mexico**

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1 are, when commissioned under Subsection B of this section,
2 recognized and authorized to act as New Mexico peace officers.
3 These officers have all the powers of New Mexico peace
4 officers to enforce state laws in New Mexico, including the
5 power to make arrests for violation of state laws.

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

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

19 (1) the tribe or pueblo, but not the bureau
20 of Indian affairs, shall submit proof of adequate public
21 liability and property damage insurance for vehicles operated
22 by the peace officers and police professional liability
23 insurance from a company licensed to sell insurance in the
24 state;

25 (2) each applicant for a commission shall

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 or any of its agents, the
10 chief of the New Mexico state police shall suspend the
11 agreement on five days' notice, which suspension shall last
12 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 within the exterior boundaries of an Indian
22 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

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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 may extend beyond
10 the exterior boundaries of the Navajo reservation to and
11 including the area enclosed by the following description:

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

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

24 The municipalities of Cuba and Gallup and the villages of
25 Thoreau and Prewitt are excluded from the grant of authority

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

15 (9) the chief of the New Mexico state police
16 or his designee and the tribe or pueblo or the appropriate
17 federal official shall be required to meet at least quarterly
18 or more frequently at the call of the chief of the New Mexico
19 state police to discuss the status of the agreement and invite
20 other law enforcement or other officials to attend as
21 necessary [~~and~~

22 ~~(10) as consideration for law enforcement~~
23 ~~services rendered for the state by tribal or pueblo police~~
24 ~~officers who are commissioned peace officers pursuant to this~~
25 ~~section, each tribe or pueblo shall receive from the law~~

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

16 D. Nothing in this section impairs or affects the
17 existing status and sovereignty of tribes and pueblos of
18 Indians as established under the laws of the United States.

19 E. All persons who are duly commissioned federal
20 law enforcement officers employed by the federal bureau of
21 investigation; drug enforcement administration; bureau of
22 alcohol, tobacco and firearms; United States secret service;
23 United States customs service; immigration and naturalization
24 service; United States marshals service; postal inspection
25 service; United States probation department; United States

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1 pretrial services agency; and other appropriate federal
2 officers whose primary duty is law enforcement related, who
3 are assigned in New Mexico and who are required to be
4 designated by the county sheriff on a case-by-case basis in
5 the county in which they are working, are recognized and
6 authorized to act as New Mexico peace officers and have all
7 the powers of New Mexico peace officers to enforce state laws
8 in New Mexico, including the power to make arrests for
9 violation of state laws. The department of public safety
10 shall maintain a registry that lists the name and affiliated
11 federal agency of every federal law enforcement officer
12 recognized and authorized to act as a New Mexico peace officer
13 pursuant to the provisions of this subsection. This
14 subsection shall not be construed to impose liability upon or
15 to require indemnification by the state for any act performed
16 by a federal law enforcement officer pursuant to this
17 subsection.

18 F. The provisions of Subsection E of this section
19 regarding designation of federal law enforcement officers by a
20 county sheriff do not apply to federal law enforcement
21 officers who are duly commissioned officers of a police or
22 sheriff's department for an Indian tribe or pueblo in New
23 Mexico or who are federal law enforcement officers employed by
24 the bureau of Indian affairs. "

25 Section 2. Section 29-13-2.1 NMSA 1978 (being Laws 1993,
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1 Chapter 179, Section 4, as amended) is amended to read:

2 "29-13-2.1. DEFINITIONS. --As used in the Law Enforcement
3 Protection Fund Act:

4 A. "division" means the local government division
5 of the department of finance and administration;

6 B. "fund" means the law enforcement protection
7 fund;

8 C. "governmental entity" means a municipality,
9 university, tribe or ~~[pueblo or a]~~ county;

10 D. "tribal police department" means ~~[any tribal or~~
11 ~~pueblo]~~ the police department of a tribe that has entered into
12 an agreement with the department of public safety pursuant to
13 Section 29-1-11 NMSA 1978; ~~[and]~~

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

16 ~~[E.]~~ F. "university" means a four-year post-
17 secondary educational institution listed in Article 12,
18 Section 11 of the constitution of New Mexico. "

19 Section 3. Section 29-13-4 NMSA 1978 (being Laws 1993,
20 Chapter 179, Section 6, as amended) is amended to read:

21 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
22 DISTRIBUTION. --

23 A. Annually on or before April 15, the division
24 shall ~~[(1)]~~ consider and determine the relative needs as
25 requested by tribal, ~~municipal~~ and university police and

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1 county sheriff's departments for money in the fund pursuant to
2 the provisions of Subsection B of this section [~~and~~

3 ~~(2) calculate the amount of consideration due~~
4 ~~a tribal police department pursuant to the provisions of~~
5 ~~Paragraph (10) of Subsection C of Section 29-1-11 NMSA 1978].~~

6 B. The division shall determine the rate of
7 distribution of money in the fund to each municipal and
8 university police and county sheriff's department as follows:

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

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

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

25 (3) tribal, municipal and university police

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1 and county sheriff's departments shall be entitled, unless
2 allocations are adjusted pursuant to the provisions of
3 Subsection C of this section, to six hundred dollars (\$600)
4 for each police officer or sheriff's deputy employed full time
5 by his department who has been certified by the New Mexico law
6 enforcement academy as a police officer or has been authorized
7 to act as a New Mexico peace officer pursuant to the
8 provisions of Section 29-1-11 NMSA 1978.

9 C. After distributions are determined in
10 accordance with [~~Paragraph (2) of~~] Subsection A and
11 Paragraphs (1) and (2) of Subsection B of this section, if
12 the balance in the fund is insufficient to permit the total
13 allocations provided by Paragraph (3) of Subsection B of
14 this section, the division shall reduce that allocation to
15 the maximum amount permitted by available money. "

16 Section 4. Section 29-13-6 NMSA 1978 (being Laws 1983,
17 Chapter 289, Section 6, as amended) is amended to read:

18 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION
19 FUND. --

20 A. Annually on or before July 31, the state
21 treasurer shall distribute from the fund the amounts
22 certified by the division to be distributed to
23 [~~municipalities, universities and counties~~] governmental
24 entities. Payments shall be made to the treasurer of the
25 appropriate governmental entity unless otherwise specified

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1 in Subsection C of this section.

2 B. The state treasurer is authorized to redirect
3 a distribution to the New Mexico finance authority in an
4 amount certified by the division, pursuant to an ordinance
5 or a resolution passed by the municipality or county and a
6 written agreement of the municipality or county and the New
7 Mexico finance authority.

8 C. Annually on or before July 31, the state
9 treasurer shall distribute from the [excess] money
10 [remaining] in the fund [~~after distributions pursuant to~~
11 ~~Subsection A of this section are made~~], money certified by
12 the division to be distributed to tribes [~~and pueblos~~].
13 Payment shall be made to the chief financial officer of the
14 tribe [~~or pueblo~~]. If necessary, the fund may be decreased
15 below the level of one hundred thousand dollars (\$100,000)
16 to enable payment to the tribes [~~and pueblos~~]. If
17 insufficient money remains in the fund to fully compensate
18 the tribes [~~and pueblos~~], a report shall be made to the New
19 Mexico office of Indian affairs and to an appropriate
20 interim committee of the legislature that reviews issues
21 having impact on tribes [~~and pueblos in New Mexico~~] by
22 September 1 of the year of the shortfall. "

23 Section 5. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect
25 immediately.

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