

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 42 & 149

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

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

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

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

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

20 (1) the tribe or pueblo, but not the bureau of
21 Indian affairs, shall submit proof of adequate public liability
22 and property damage insurance for vehicles operated by the
23 peace officers and police professional liability insurance from
24 a company licensed to sell insurance in the state;
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1 (2) each applicant for a commission shall
2 successfully complete four hundred hours of basic police
3 training that is approved by the director of the New Mexico law
4 enforcement academy;

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

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

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

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

24 (7) the agreement or any commission issued
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1 pursuant to it shall not confer any authority on a tribal court
2 or other tribal authority which that court or authority would
3 not otherwise have;

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

14 Beginning at a point where the southern boundary line of
15 the Navajo Indian reservation intersects the western
16 right-of-way line of US 666, and running thence; southerly
17 along the western right-of-way line of US 666 to the northerly
18 city limits of Gallup; thence, easterly along the northerly
19 city limits of Gallup to the northern side of the right-of-way
20 of I-40; thence, in an easterly direction along the northerly
21 side of the right-of-way of I-40 to the northerly limits of the
22 village of Prewitt; thence, in a straight line between the
23 northerly boundary of the village of Prewitt to the southerly
24 boundary of Ambrosia Lake; thence in a straight line between
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1 the southerly boundary of Ambrosia Lake to the southerly
2 boundary of Hospah; thence, east along a straight line from the
3 southerly boundary of Hospah to the southern boundary of
4 Torreon; thence along the easterly side of the right-of-way of
5 state road 197 to the westerly city limits of Cuba; thence,
6 north along the westerly side of the right-of-way of state road
7 44 to the southerly boundary of the Jicarilla Apache Indian
8 reservation; thence, westerly along the southerly boundary of
9 the Jicarilla Apache Indian reservation to the southwest corner
10 of that reservation; thence, northerly along the westerly
11 boundary of the Jicarilla Apache Indian reservation to a point
12 where the westerly boundary of the reservation intersects the
13 southerly side of the right-of-way of state road 44; thence,
14 northerly along the southerly side of the right-of-way of state
15 road 44 to its intersection with the northerly side of the
16 right-of-way of Navajo road 3003; thence, along the northerly
17 side of the right-of-way of Navajo road 3003 to a point where
18 the northerly side of the right-of-way of Navajo road 3003
19 intersects the westerly side of the right-of-way line of state
20 road 371; thence, northerly along the west side of the
21 right-of-way of state road 371 to the southerly side of the
22 right-of-way of Navajo road 36; thence, westerly along the
23 southerly side of the right-of-way of Navajo road 36 to the
24 eastern border of the Navajo Indian reservation; thence, along
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1 the eastern and southerly borders of the Navajo Indian
2 reservation to the point of beginning.

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

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

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

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

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

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

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

7 "29-13-2.1. DEFINITIONS. -- As used in the Law Enforcement
8 Protection Fund Act:

9 A. "division" means the local government division
10 of the department of finance and administration;

11 B. "fund" means the law enforcement protection
12 fund;

13 C. "governmental entity" means a municipality,
14 university, tribe or ~~pueblo or a~~ county;

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

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

21 ~~[E.]~~ F. "university" means a four-year post-
22 secondary educational institution listed in Article 12, Section
23 11 of the constitution of New Mexico. "

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

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

A. Annually on or before April 15, the division shall ~~[(1)]~~ consider and determine the relative needs as requested by tribal, municipal and university police and county sheriff's departments for money in the fund pursuant to the provisions of Subsection B of this section ~~[and~~

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

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

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

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

4 (2) tribal police departments and university
 5 police departments shall be entitled to a rate of distribution
 6 of [~~seventeen thousand dollars (\$17,000); and~~] twenty thousand
 7 dollars (\$20,000);

8 (3) tribal and pueblo police departments shall
 9 be entitled, unless allocations are adjusted pursuant to the
 10 provisions of Subsection C of this section, to six hundred
 11 dollars (\$600) for each commissioned peace officer in the tribe
 12 or pueblo. To be counted as a commissioned peace officer for
 13 the purposes of this paragraph, a commissioned peace officer
 14 shall have been assigned to duty and have worked in New Mexico
 15 for no fewer than two hundred days in the calendar year
 16 immediately prior to the date of payment. Payments shall be
 17 made for only those divisions of the tribal or pueblo police
 18 departments that perform services in New Mexico; and

19 [~~(3)~~] (4) municipal and university police and
 20 county sheriff's departments shall be entitled, unless
 21 allocations are adjusted pursuant to the provisions of
 22 Subsection C of this section, to six hundred dollars (\$600) for
 23 each police officer or sheriff's deputy employed full time by
 24 his department who has been certified by the New Mexico law
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1 enforcement academy as a police officer or has been authorized
2 to act as a New Mexico peace officer pursuant to the provisions
3 of Section 29-1-11 NMSA 1978.

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

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

14 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION
15 FUND. --

16 A. Annually on or before July 31, the state
17 treasurer shall distribute from the fund the amounts
18 certified by the division to be distributed to
19 [~~municipalities, universities and counties~~] governmental
20 entities. Payments shall be made to the treasurer of the
21 appropriate governmental entity unless otherwise specified in
22 Subsection C of this section.

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

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

20 Section 5. EMERGENCY. --It is necessary for the public
 21 peace, health and safety that this act take effect
 22 immediately.