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**HOUSE BILL 239**

**45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002**

**INTRODUCED BY**

**James G. Taylor**

**AN ACT**

**RELATING TO LAW ENFORCEMENT; INCREASING THE RATE OF  
DISTRIBUTION FOR TRIBAL POLICE DEPARTMENTS FROM THE LAW  
ENFORCEMENT PROTECTION FUND; AMENDING SECTIONS OF THE NMSA  
1978.**

**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**

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1 by 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  
5 officers to enforce state laws in New Mexico, including the  
6 power to 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  
15 shall be set forth in a written agreement to be executed  
16 between the chief of the [~~New Mexico~~] state police and the  
17 tribe or pueblo 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  
21 of Indian affairs, shall submit proof of adequate public  
22 liability and property damage insurance for vehicles operated  
23 by the peace officers and police professional liability  
24 insurance from a company licensed to sell insurance in the  
25 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  
4 law enforcement academy;

5 (3) the chief of the [~~New Mexico~~] state  
6 police shall have the authority to suspend any commission  
7 granted pursuant to Subsection B of this section for reasons  
8 solely 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  
11 chief of the [~~New Mexico~~] state police shall suspend the  
12 agreement on five days' notice, which suspension shall last  
13 until the chief is satisfied that the violation has been  
14 corrected and will not recur;

15 (5) the goldenrod-colored officer's second  
16 copy of any citation issued pursuant to a commission  
17 authorized by this section shall be submitted within five days  
18 to the 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  
23 reservation shall be cited into tribal court;

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

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1 court or other tribal authority which that court or authority  
2 would not otherwise have;

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

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1 the southerly boundary of Hospah 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 right of  
17 way of Navajo road 3003 intersects the westerly side of the  
18 right-of-way line of state road 371; thence, northerly along  
19 the west side of the right of way of state road 371 to the  
20 southerly side of the right of way of Navajo road 36; thence,  
21 westerly along the southerly side of the right of way of  
22 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

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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; and

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

23 ~~(10) as consideration for law enforcement~~  
24 ~~services rendered for the state by tribal or pueblo police~~  
25 ~~officers who are commissioned peace officers pursuant to this~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24           A.   Annually on or before April 15, the division  
25 shall [~~(+)~~] consider and determine the relative needs as

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1 requested by tribal, municipal and university police and  
2 county sheriff's departments for money in the fund pursuant to  
3 the provisions of Subsection B of this section. [and

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

7 B. The division shall determine the rate of  
8 distribution of money in the fund to each tribal, municipal  
9 and university police and county sheriff's department as  
10 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  
14 recently completed decennial census; provided that the  
15 population of any county shall not include the population of  
16 any municipality within that county that has a municipal  
17 police department. The rate of distribution to which a  
18 municipal police or county sheriff's department is entitled is  
19 the following:

20	CLASS	POPULATION	AMOUNT
21	1	0 to 20,000	\$20,000
22	2	20,001 to 160,000	30,000
23	3	160,001 to 1,280,000	40,000;

24 (2) university police departments shall be  
25 entitled to a rate of distribution of seventeen thousand

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1 dollars (\$17,000); [~~and~~]

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

13 [~~(3)~~] (4) municipal and university police and  
14 county sheriff's departments shall be entitled, unless  
15 allocations are adjusted pursuant to the provisions of  
16 Subsection C of this section, to six hundred dollars (\$600)  
17 for each police officer or sheriff's deputy employed full time  
18 by his department who has been certified by the New Mexico law  
19 enforcement academy as a police officer or has been authorized  
20 to act as a New Mexico peace officer pursuant to the  
21 provisions of Section 29-1-11 NMSA 1978.

22 C. After distributions are determined in  
23 accordance with [~~Paragraph (2) of~~] Subsection A and Paragraphs  
24 (1) and (2) of Subsection B of this section, if the balance in  
25 the fund is insufficient to permit the total allocations

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1 provided by [~~Paragraph (3)~~] Paragraphs (3) and (4) of  
2 Subsection B of this section, the division shall reduce that  
3 allocation to the maximum amount permitted by available  
4 money. "

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

7 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION  
8 FUND. --

9 A. Annually on or before July 31, the state  
10 treasurer shall distribute from the fund the amounts certified  
11 by the division to be distributed to [~~municipalities,~~  
12 ~~universities and counties~~] governmental entities. Payments  
13 shall be made to the treasurer of the appropriate governmental  
14 entity unless otherwise specified in Subsection C of this  
15 section.

16 B. The state treasurer is authorized to redirect a  
17 distribution to the New Mexico finance authority in an amount  
18 certified by the division, pursuant to an ordinance or a  
19 resolution passed by the municipality or county and a written  
20 agreement of the municipality or county and the New Mexico  
21 finance authority.

22 C. Annually on or before July 31, the state  
23 treasurer shall distribute from the [~~excess~~] money [~~remaining~~]  
24 in the fund [~~after distributions pursuant to Subsection A of~~  
25 ~~this section are made~~] money certified by the division to be

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1 distributed to tribes [~~and pueblos~~]. Payment shall be made to  
2 the chief financial officer of the tribe [~~or pueblo~~]. If  
3 necessary, the fund may be decreased below the level of one  
4 hundred thousand dollars (\$100,000) to enable payment to the  
5 tribes [~~and pueblos~~]. If insufficient money remains in the  
6 fund to fully compensate the tribes [~~and pueblos~~], a report  
7 shall be made to the New Mexico office of Indian affairs and  
8 to an appropriate interim committee of the legislature that  
9 reviews issues having impact on tribes [~~and pueblos in New~~  
10 ~~Mexico~~] by September 1 of the year of the shortfall. "