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HOUSE BILL 101

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING FOR A DISTRIBUTION FROM THE LAW ENFORCEMENT PROTECTION FUND TO CERTIFIED REGIONAL LAW ENFORCEMENT TRAINING FACILITIES AND THE NEW MEXICO LAW ENFORCEMENT ACADEMY FOR TRAINING; INCREASING THE DISTRIBUTION FROM THE FUND; INCREASING THE DISTRIBUTION TO THE PEACE OFFICERS' SURVIVORS FUND; MAKING AN APPROPRIATION.

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

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

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

A. "academy" means the New Mexico law enforcement academy;

~~[A.]~~ B. "division" means the local government

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1 division of the department of finance and administration;
2 [B-] C. "fund" means the law enforcement protection
3 fund;

4 [G-] D. "governmental entity" means a municipality,
5 university, tribe or a county;

6 E. "regional facility" means a certified regional
7 law enforcement training facility within the state certified by
8 the director of the academy pursuant to the Law Enforcement
9 Training Act;

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

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

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

19 SECTION 2. Section 29-13-4 NMSA 1978 (being Laws 1993,
20 Chapter 179, Section 6, as amended by Laws 2002, Chapter 78,
21 Section 5 and by Laws 2002, Chapter 92, Section 3) is amended
22 to read:

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

25 A. Annually on or before April 15, the division
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1 shall consider and determine the relative needs as requested by
2 tribal, municipal and university police [~~and~~], county sheriff's
3 departments, regional facilities and the academy for money in
4 the fund pursuant to the provisions of Subsection C of this
5 section.

6 B. As necessary during the year, the division shall
7 transfer an amount from the [~~law enforcement protection~~] fund
8 to the peace officers' survivors fund that enables the balance
9 of the peace officers' survivors fund to be maintained at a
10 minimum balance of [~~three hundred fifty thousand dollars~~
11 ~~(\$350,000)~~] seven hundred fifty thousand dollars (\$750,000).

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

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

24	CLASS	POPULATION	AMOUNT
25	1	0 to 20,000	[\$20,000] <u>\$40,000</u>

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1 2 20,001 to 160,000 ~~[30,000]~~ \$50,000

2 3 160,001 to 1,280,000 ~~[40,000]~~ \$60,000;

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

6 (3) ~~[tribal police departments shall be~~
7 ~~entitled, unless allocations are adjusted pursuant to the~~
8 ~~provisions of Subsection C of this section, to six hundred~~
9 ~~dollars (\$600) for each commissioned peace officer in the~~
10 ~~tribe.]~~ the remaining balance of the fund, after the
11 allocations specified in Paragraphs (1) and (2) of this
12 subsection, shall be divided so that an equal amount is granted
13 to each tribal, municipal and university police and county
14 sheriff's department for each officer in those agencies. The
15 determination of the number of officers in each agency shall be
16 as follows:

17 (a) tribal police departments shall
18 receive a per officer allocation for each commissioned peace
19 officer in the tribe. To be counted as a commissioned peace
20 officer for the purposes of this paragraph, a commissioned
21 peace officer shall have been assigned to duty and have worked
22 in New Mexico for no fewer than two hundred days in the
23 calendar year immediately prior to the date of payment.
24 Payments shall be made for only those divisions of the tribal
25 police departments that perform services in New Mexico. ~~[No]~~ A

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1 tribal police department shall not be eligible for any
2 disbursement under the fund if commissioned peace officers cite
3 non-Indians into the tribal court for civil or criminal
4 citations; and

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

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

22 SECTION 3. Section 29-13-5 NMSA 1978 (being Laws 1983,
23 Chapter 289, Section 5, as amended) is amended to read:

24 "29-13-5. DETERMINATION OF NEEDS--REVIEW.--No later than
25 May 1 of each year, the division shall notify in writing each

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1 affected municipal police, university police, tribal police
2 [~~and~~], county sheriff's department and regional facility and
3 the academy of its determination of money to be distributed
4 pursuant to the provisions of Section 29-13-4 NMSA 1978. Any
5 affected department or regional facility or the academy may
6 appeal that determination by filing a notice of appeal with the
7 secretary of finance and administration no later than May 15.
8 If an appeal is filed, the secretary of finance and
9 administration shall review the determination of the division
10 in an informal and summary proceeding and shall certify the
11 result of the appeal to the division no later than June 30, and
12 the division shall adjust its determination accordingly. If no
13 appeal is filed, the original determination of the division
14 shall be final and binding and not subject to further review."

15 SECTION 4. Section 29-13-6 NMSA 1978 (being Laws 1983,
16 Chapter 289, Section 6, as amended by Laws 2002, Chapter 78,
17 Section 6 and by Laws 2002, Chapter 92, Section 4) is amended
18 to read:

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

21 A. Annually on or before July 31, the state
22 treasurer shall distribute ten percent of the balance of the
23 fund before the distributions mandated in Subsections B through
24 D of this section as follows:

25 (1) twenty-five percent of the ten percent of

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1 the balance remaining in the fund shall be distributed to the
2 academy; and

3 (2) seventy-five percent of the ten percent of
4 the balance remaining in the fund shall be distributed equally
5 among the regional facilities.

6 ~~[A.]~~ B. Annually on or before July 31, the state
7 treasurer shall distribute from the fund the amounts certified
8 by the division to be distributed to governmental entities and
9 ~~[the transfer shall distribute money from the law enforcement~~
10 ~~protection fund to]~~ the peace officers' survivors fund as
11 required in Section 29-13-4 NMSA 1978. Payments shall be made
12 to the treasurer of the appropriate governmental entity or fund
13 unless otherwise specified in Subsection ~~[G]~~ D of this section.

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

20 ~~[G.]~~ D. Annually on or before July 31, the state
21 treasurer shall distribute from the money in the fund money
22 certified by the division to be distributed to tribes. Payment
23 shall be made to the chief financial officer of the tribe. If
24 necessary, the fund may be decreased below the level of one
25 hundred thousand dollars (\$100,000) to enable payment to the

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1 tribes. If insufficient money remains in the fund to fully
2 compensate the tribes, a report shall be made to the [~~New~~
3 ~~Mexico office of~~] Indian affairs department and to an
4 appropriate interim committee of the legislature that reviews
5 issues having impact on tribes by September 1 of the year of
6 the shortfall."

7 SECTION 5. Section 29-13-7 NMSA 1978 (being Laws 1983,
8 Chapter 289, Section 7, as amended) is amended to read:

9 "29-13-7. EXPENDITURE LIMITATION--CONTROL.--

10 A. Except as provided for regional facilities and
11 the academy in Subsection B of this section, amounts
12 distributed from the fund shall be expended only for the
13 following:

14 (1) the repair and purchase of law enforcement
15 apparatus and equipment, including the financing and
16 refinancing thereof, that meet minimum nationally recognized
17 standards;

18 (2) the purchase of law enforcement equipment,
19 including protective vests, for police dogs;

20 (3) expenses associated with advanced law
21 enforcement planning and training;

22 (4) maintaining the balance of the peace
23 officers' survivors fund at a minimum amount of [~~three hundred~~
24 ~~fifty thousand dollars (\$350,000)~~] seven hundred fifty thousand
25 dollars (\$750,000);

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1 (5) complying with match or contribution
2 requirements for the receipt of federal funds relating to
3 criminal justice programs; and

4 (6) no more than fifty percent of the
5 replacement salaries of municipal and county law enforcement
6 personnel of municipalities or counties rated as Class 1 in
7 Paragraph (1) of Subsection B of Section 29-13-4 NMSA 1978
8 participating in basic law enforcement training.

9 B. For regional facilities and the academy, amounts
10 distributed from the fund shall be expended only for providing
11 basic, advanced or in-service law enforcement training and for
12 the purchase of equipment directly related to that training.

13 [~~B.~~] C. Amounts distributed from the fund shall be
14 expended only pursuant to approved budgets and upon duly
15 executed vouchers approved as required by law."

16 SECTION 6. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2016.

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