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HOUSE BILL 386

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Patricio Ruiloba and William "Bill" R. Rehm and Sander Rue

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING FOR A DISTRIBUTION FROM
THE LAW ENFORCEMENT PROTECTION FUND TO THE LAW ENFORCEMENT
TRAINING AND RECRUITING FUND FOR USE BY THE NEW MEXICO LAW
ENFORCEMENT ACADEMY TO SUPPORT LAW ENFORCEMENT AGENCIES
STATEWIDE WITH PLANNING, TRAINING, EQUIPMENT AND SUPPLIES;
MAKING AN APPROPRIATION.

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

SECTION 1. Section 29-7-12 NMSA 1978 (being Laws 1981,
Chapter 114, Section 12, as amended) is amended to read:

"29-7-12. CHARGES--FUND CREATED--USE.--

A. The division shall not charge local public
bodies or New Mexico Indian tribes or pueblos for any expenses
associated with providing basic law enforcement training
programs to applicants for certification seeking commission

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1 pursuant to the provisions of the Law Enforcement Training Act.
2 The division may charge state agencies and institutions and
3 federal agencies and shall charge civilian participants for the
4 cost of providing basic law enforcement training programs,
5 which charges shall be specified in a tuition and fee schedule
6 promulgated by the board and shall not exceed the actual cost
7 of providing the training programs.

8 B. The division may charge state agencies and
9 institutions, local public bodies, New Mexico Indian tribes and
10 pueblos and federal agencies and shall charge civilian
11 participants for the cost of providing advanced training
12 programs, which charges shall be specified in a tuition and fee
13 schedule promulgated by the board and shall not exceed the
14 actual cost of providing the training programs.

15 C. The division may charge for the rental or other
16 use of the academy's facility, personnel and equipment, which
17 charges shall be specified in a tuition and fee schedule
18 promulgated by the board and shall not exceed the actual cost
19 of the facility, personnel or equipment.

20 D. The "law enforcement training and recruiting
21 fund" is created in the state treasury. Money received by the
22 division for activities specified in this section and
23 distributions from Section 29-13-6 NMSA 1978 shall be deposited
24 in the fund. The department of public safety shall administer
25 the fund, and money in the fund is appropriated to the division

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1 to offset the operational costs of the division, except that
2 money distributed to the fund from the law enforcement
3 protection fund pursuant to Section 29-13-6 NMSA 1978 shall be
4 accounted for separately and used on a statewide basis only for
5 planning, training, equipment and supply purposes as provided
6 in Paragraphs (1) through (3) of Subsection A of Section
7 29-13-7 NMSA 1978. Money in the fund shall be nonreverting.
8 Money shall be expended on warrants issued by the secretary of
9 finance and administration upon vouchers signed by the
10 secretary of public safety or the secretary of public safety's
11 authorized representative.

12 E. As used in this section, "local public body"
13 means all political subdivisions of the state and their
14 agencies, instrumentalities and institutions."

15 SECTION 2. Section 29-13-2 NMSA 1978 (being Laws 1983,
16 Chapter 289, Section 2, as amended) is amended to read:

17 "29-13-2. PURPOSE OF ACT.--The purpose of the Law
18 Enforcement Protection Fund Act is to provide for the equitable
19 distribution of money to municipal police, university police,
20 tribal police and county sheriff's departments for use in the
21 maintenance and improvement of those departments in order to
22 enhance the efficiency and effectiveness of law enforcement
23 services, to provide resources for planning, training,
24 equipment and supplies to the academy to support law
25 enforcement agencies statewide and to sustain at a reasonable

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1 level the payments available to the surviving eligible family
2 members of a peace officer killed in the line of duty."

3 SECTION 3. Section 29-13-2.1 NMSA 1978 (being Laws 1993,
4 Chapter 179, Section 4, as amended) is amended to read:

5 "29-13-2.1. DEFINITIONS.--As used in the Law Enforcement
6 Protection Fund Act:

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

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

11 ~~[B.]~~ C. "fund" means the law enforcement protection
12 fund;

13 ~~[C.]~~ D. "governmental entity" means the academy, a
14 municipality, university, tribe or a county;

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

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

21 ~~[F.]~~ G. "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 4. Section 29-13-4 NMSA 1978 (being Laws 1993,
25 Chapter 179, Section 6, as amended by Laws 2002, Chapter 78,

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1 Section 5 and by Laws 2002, Chapter 92, Section 3) is amended
2 to read:

3 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
4 DISTRIBUTION.--

5 A. Annually on or before April 15, the division
6 shall consider and determine the relative needs as requested by
7 the academy and tribal, municipal and university police and
8 county sheriff's departments for money in the fund pursuant to
9 the provisions of Subsection C of this section.

10 B. As necessary during the year, the division shall
11 transfer an amount from the [~~law enforcement protection~~] fund
12 to the peace officers', New Mexico mounted patrol members' and
13 reserve police officers' survivors fund that enables the
14 balance of the peace officers', New Mexico mounted patrol
15 members' and reserve police officers' survivors fund to be
16 maintained at a minimum balance of three hundred fifty thousand
17 dollars (\$350,000).

18 C. The division shall determine the rate of
19 distribution of money remaining in the fund [~~to each tribal,~~
20 ~~municipal and university police and county sheriff's~~
21 ~~department~~] as follows:

22 (1) all municipal police and county sheriff's
23 departments shall be rated by class pursuant to this paragraph
24 in accordance with populations established by the most recently
25 completed decennial census; provided that the population of any

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1 county shall not include the population of any municipality
2 within that county that has a municipal police department. The
3 rate of distribution to which a municipal police or county
4 sheriff's department is entitled is the following:

5	CLASS	POPULATION	AMOUNT
6	1	0 to 20,000	\$20,000
7	2	20,001 to 160,000	30,000
8	3	160,001 to 1,280,000	40,000;

9 (2) university police departments shall be
10 entitled to a rate of distribution of seventeen thousand
11 dollars (\$17,000);

12 (3) tribal police departments shall be
13 entitled, unless allocations are adjusted pursuant to the
14 provisions of Subsection [E] D of this section, to six hundred
15 dollars (\$600) for each commissioned peace officer in the
16 tribe. To be counted as a commissioned peace officer for the
17 purposes of this paragraph, a commissioned peace officer shall
18 have been assigned to duty and have worked in New Mexico for no
19 fewer than two hundred days in the calendar year immediately
20 prior to the date of payment. Payments shall be made for only
21 those divisions of the tribal police departments that perform
22 services in New Mexico. [~~No~~] A tribal police department shall
23 not be eligible for any disbursement under the fund if
24 commissioned peace officers cite non-Indians into the tribal
25 court for civil or criminal citations; and

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

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

19 E. After distributions are determined in accordance
20 with Subsection A, Subsection B and Paragraphs (1) and (2) of
21 Subsection C of this section, if no reduction in allocation is
22 required pursuant to Subsection D of this section and there is
23 a balance in the fund in excess of five million one hundred
24 thousand dollars (\$5,100,000), the academy shall be entitled to
25 a distribution of two hundred fifty thousand dollars (\$250,000)

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1 from the excess money or as much of that amount as is permitted
2 by available excess money."

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

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

21 SECTION 6. Section 29-13-6 NMSA 1978 (being Laws 1983,
22 Chapter 289, Section 6, as amended by Laws 2002, Chapter 78,
23 Section 6 and by Laws 2002, Chapter 92, Section 4) is amended
24 to read:

25 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION

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1 FUND.--

2 A. Annually on or before July 31, the state
3 treasurer shall distribute from the fund the amounts certified
4 by the division to be distributed to governmental entities and
5 ~~[the transfer shall distribute money from the law enforcement~~
6 ~~protection fund]~~ to the peace officers', New Mexico mounted
7 patrol members' and reserve police officers' survivors fund as
8 required in Section 29-13-4 NMSA 1978. Payments shall be made
9 to the treasurer of the appropriate governmental entity or
10 fund, and in the case of the academy to the law enforcement
11 training and recruiting fund, unless otherwise specified in
12 Subsection C of this section.

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

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

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

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

8 "29-13-7. EXPENDITURE LIMITATION--CONTROL.--

9 A. Except for the academy to which only Paragraphs
10 (1) through (3) of this subsection apply, amounts distributed
11 from the fund shall be expended only for the following:

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

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

18 (3) expenses associated with advanced law
19 enforcement planning and training;

20 (4) maintaining the balance of the peace
21 officers', New Mexico mounted patrol members' and reserve
22 police officers' survivors fund at a minimum amount of three
23 hundred fifty thousand dollars (\$350,000);

24 (5) complying with match or contribution
25 requirements for the receipt of federal funds relating to

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1 criminal justice programs; and

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

7 B. Amounts distributed from the fund shall be
8 expended only pursuant to approved budgets and upon duly
9 executed vouchers approved as required by law."

10 SECTION 8. Section 29-13-9 NMSA 1978 (being Laws 1983,
11 Chapter 289, Section 9, as amended) is amended to read:

12 "29-13-9. EXPENDITURES OF MONEY DISTRIBUTED FROM THE LAW
13 ENFORCEMENT PROTECTION FUND--WRONGFUL EXPENDITURE.--

14 A. Amounts distributed from the fund shall be
15 expended only for the specific purposes for which they are
16 distributed and shall not be distributed for accumulation,
17 except as provided for the peace officers', New Mexico mounted
18 patrol members' and reserve police officers' survivors fund and
19 the law enforcement training and recruiting fund.

20 B. Any person who expends or directs or permits the
21 expenditure of any money distributed from the fund for purposes
22 other than those expressly authorized by the Law Enforcement
23 Protection Fund Act shall be personally liable to the state for
24 the amount of money wrongfully expended and interest and costs.
25 An action to recover the amount of any wrongful expenditure may

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1 be commenced by the attorney general or the district attorney
2 upon the filing with that officer of a verified statement
3 describing the wrongful expenditure."

4 SECTION 9. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2017.

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