

1 HOUSE BILL 191

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Gail Armstrong and Rebecca Dow and Jack Chatfield and  
5 David M. Gallegos and Roberto "Bobby" J. Gonzales  
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10 AN ACT

11 RELATING TO VOLUNTEER FIREFIGHTERS; INCREASING TRANSFERS FROM  
12 THE FIRE PROTECTION FUND TO THE FIRE PROTECTION GRANT FUND;  
13 REQUIRING THE FIRE PROTECTION GRANT COUNCIL TO GRANT A  
14 PERCENTAGE OF THE FIRE PROTECTION GRANT FUND FOR RECRUITMENT  
15 AND RETENTION PROGRAMS FOR VOLUNTEER FIREFIGHTERS, FOR  
16 ASSISTANCE TO VOLUNTEER FIRE DEPARTMENTS AND FOR OTHER  
17 PURPOSES; MAKING AN APPROPRIATION.  
18

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

20 SECTION 1. Section 59A-52-26 NMSA 1978 (being Laws 2013,  
21 Chapter 80, Section 1) is amended to read:

22 "59A-52-26. VOLUNTEER FIREFIGHTERS--STIPEND.--To the  
23 extent consistent with the federal Fair Labor Standards Act of  
24 1938 in order to maintain volunteer status, a volunteer  
25 firefighter may be paid a stipend by a public agency to perform

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1 the services for which the firefighter volunteered if:

2 A. the stipend represents only actual expenses for  
3 recruitment and retention, reasonable benefits or a nominal  
4 fee; and

5 B. the services are not the same type of services  
6 that the volunteer is employed to perform for the same public  
7 agency paying the stipend."

8 SECTION 2. Section 59A-53-5.2 NMSA 1978 (being Laws 2007,  
9 Chapter 152, Section 1, as amended) is amended to read:

10 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE  
11 PROTECTION FUND.--

12 A. For each fiscal year, the amount to be  
13 distributed by the marshal pursuant to Sections 59A-53-4,  
14 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire  
15 protection fund to the [~~superintendent~~] public regulation  
16 commission for the purpose of making the [~~following~~]  
17 distributions.

18 [~~(1) the total amount to be distributed during~~  
19 ~~the fiscal year pursuant to Sections 59A-53-4, 59A-53-5 and~~  
20 ~~59A-53-5.1 NMSA 1978;~~

21 [~~(2) the total amount of other appropriations~~  
22 ~~from the fire protection fund for the fiscal year;~~

23 [~~(3) on June 30, 2017, no distribution shall be~~  
24 ~~made to the fire protection grant fund; and~~

25 [~~(4) beginning in fiscal year 2019, periodic~~

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1 ~~allotments not to exceed forty and two-tenths percent of the~~  
2 ~~projected remaining balance in the fire protection fund shall~~  
3 ~~be distributed to the fire protection grant fund.~~

4 ~~B. On June 30 of each year, the remaining balance~~  
5 ~~in the fire protection fund shall be transferred to the general~~  
6 ~~fund.]~~

7 B. For the purposes of Subsection C of this  
8 section, the "remaining balance in the fire protection fund"  
9 shall be calculated on June 30 of each year and shall equal the  
10 balance of the fund on that date less the sum of:

11 (1) the total amount to be distributed during  
12 the succeeding fiscal year pursuant to Sections 59A-53-4,  
13 59A-53-5 and 59A-53-5.1 NMSA 1978; and

14 (2) the total amount of other appropriations  
15 from the fire protection fund for the succeeding fiscal year.

16 C. On the following dates, the following  
17 percentages of the remaining balance in the fire protection  
18 fund shall be transferred from the fire protection fund to the  
19 fire protection grant fund:

20 (1) on June 30, 2020, seventy-three and  
21 seven-tenths percent;

22 (2) on June 30, 2021, eighty and four-tenths  
23 percent;

24 (3) on June 30, 2022, eighty-seven and one-  
25 tenth percent;

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1                   (4) on June 30, 2023, ninety-three and eight-  
2 tenths percent; and  
3                   (5) on June 30, 2024, and on each subsequent  
4 June 30, one hundred percent."

5           SECTION 3. Section 59A-53-19 NMSA 1978 (being Laws 2006,  
6 Chapter 103, Section 8, as amended) is amended to read:

7           "59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

8           A. The "fire protection grant council" is created.  
9 Subject to the requirements of Subsection B of this section,  
10 the council shall consist of:

11                   (1) a representative of the New Mexico  
12 municipal league;

13                   (2) a representative of ~~[the]~~ New Mexico  
14 ~~[association of]~~ counties;

15                   (3) two members appointed by the public  
16 regulation commission who shall serve at the pleasure of the  
17 commission;

18                   (4) three members, one from each congressional  
19 district, appointed by the governor who shall serve at the  
20 pleasure of the governor; and

21                   (5) the marshal, who shall serve as a  
22 nonvoting advisory member. The council shall elect a chair and  
23 vice chair from its membership.

24           B. No appointee to the council shall be a member or  
25 employee of the public regulation commission or the office of

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1 superintendent of insurance.

2 C. The public members are entitled to receive per  
3 diem and mileage as provided in the Per Diem and Mileage Act  
4 and shall receive no other compensation, perquisite or  
5 allowance.

6 D. The council shall develop criteria for assessing  
7 the critical needs of municipal fire departments and county  
8 fire districts or county fire departments for:

- 9 (1) fire apparatus and equipment;
- 10 (2) communications equipment;
- 11 (3) equipment for wildfires;
- 12 (4) fire station construction or expansion;
- 13 (5) equipment for hazardous material response;

14 and

15 (6) stipends for volunteer firefighters in  
16 underserved areas.

17 E. In addition to the grants authorized in  
18 Subsection D of this section, each fiscal year no less than  
19 twenty percent of the money available in the fire protection  
20 grant fund shall be used by the council to grant assistance for  
21 volunteer firefighter recruitment and retention programs that  
22 give priority to underserved areas as determined by the  
23 council.

24 [~~E.~~] F. Applications for grant assistance from the  
25 fire protection grant fund shall be made by municipal fire

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1 departments and county fire districts to the council in  
2 accordance with the requirements of the council. Using  
3 criteria developed by the council, the council shall evaluate  
4 applications and prioritize those applications most in need of  
5 grant assistance from the fund. To the extent that money in  
6 the fund is available, the council shall award grant assistance  
7 for those prioritized applications.

8 ~~[F.]~~ G. In awarding grant assistance, the council  
9 may require conditions and procedures necessary to ensure that  
10 the money is expended in the most prudent manner.

11 ~~[G.]~~ H. When considering applications for grant  
12 assistance ~~[to pay stipends to]~~ for recruitment and retention  
13 programs for volunteer firefighters in underserved areas, the  
14 council shall:

- 15 (1) define "underserved area";
- 16 (2) ensure the proposed stipends will comply  
17 with the federal Fair Labor Standards Act of 1938 and United  
18 States department of labor requirements for maintaining  
19 volunteer status;
- 20 (3) require a basic level of training before a  
21 volunteer may receive a stipend;
- 22 (4) consider whether the fire district  
23 requires a service commitment from its volunteer firefighters  
24 in exchange for stipends; and
- 25 (5) weight the applications against other

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criteria or requirements determined by the council."