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HOUSE BILL 379

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO LAW ENFORCEMENT; AUTHORIZING A LOCAL SCHOOL DISTRICT WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND TO ESTABLISH A POLICE FORCE WITH JURISDICTION WITHIN THE BOUNDARIES OF THE SCHOOL DISTRICT; PROVIDING FOR A DISTRIBUTION TO A LOCAL SCHOOL DISTRICT POLICE FORCE FROM THE LAW ENFORCEMENT PROTECTION FUND; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2002.

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

Section 1. A new section of Chapter 29 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LOCAL SCHOOL BOARD AUTHORIZED TO ESTABLISH POLICE FORCE--QUALIFICATIONS AND AUTHORITY--JURISDICTION.--

A. A local school board of a school district may establish a police force and adopt policies and rules

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1 applicable to the police force.

2 B. The superintendent of a school district,  
3 pursuant to authority granted by the local school board, may  
4 employ and assign duties to police officers for the school  
5 district.

6 C. Police officers employed by a school district:

7 (1) shall be New Mexico certified law  
8 enforcement officers;

9 (2) shall have the powers of peace officers  
10 within the exterior boundaries of the school district;

11 (3) shall at all times while on duty carry  
12 commissions of office issued by the local school board;

13 (4) may enforce all applicable laws within the  
14 exterior boundaries of the school district; and

15 (5) may make arrests for violations of law,  
16 but no arrest is valid unless the arresting police officer is,  
17 at the time of the arrest, wearing a distinctive:

18 (a) badge issued by the local school  
19 board and bearing the name of the school district; and

20 (b) uniform prescribed and issued by the  
21 local school board.

22 D. As used in this section, "school district" means  
23 a local public school district with a population of more than  
24 two hundred thousand in the last federal decennial census."

25 Section 2. Section 29-13-2 NMSA 1978 (being Laws 1983,

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1 Chapter 289, Section 2, as amended) is amended to read:

2 "29-13-2. PURPOSE OF ACT.--The purpose of the Law  
3 Enforcement Protection Fund Act is to provide for the equitable  
4 distribution of money to municipal police, university police,  
5 public school district police, tribal police and county  
6 sheriff's departments for use in the maintenance and  
7 improvement of those departments in order to enhance the  
8 efficiency and effectiveness of law enforcement services and to  
9 sustain at a reasonable level the payments available to the  
10 surviving eligible family members of a peace officer killed in  
11 the line of duty."

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

14 "29-13-2.1. DEFINITIONS.--As used in the Law Enforcement  
15 Protection Fund Act:

16 A. "division" means the local government division  
17 of the department of finance and administration;

18 B. "fund" means the law enforcement protection  
19 fund;

20 C. "governmental entity" means a municipality,  
21 university, tribe or a county;

22 D. "public school district" means a local school  
23 district with a population of more than two hundred thousand in  
24 the last federal decennial census;

25 [~~D.~~] E. "tribal police department" means the police

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1 department of a tribe that has entered into an agreement with  
2 the department of public safety pursuant to Section 29-1-11  
3 NMSA 1978;

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

6 ~~[F-]~~ G. "university" means a four-year post-  
7 secondary educational institution listed in Article 12, Section  
8 11 of the constitution of New Mexico."

9 Section 4. Section 29-13-4 NMSA 1978 (being Laws 1993,  
10 Chapter 179, Section 6, as amended by Laws 2002, Chapter 78,  
11 Section 5 and by Laws 2002, Chapter 92, Section 3) is amended  
12 to read:

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

15 A. Annually on or before April 15, the division  
16 shall consider and determine the relative needs as requested by  
17 tribal, municipal, public school district and university police  
18 and county sheriff's departments for money in the fund pursuant  
19 to the provisions of Subsection C of this section.

20 B. ~~[As necessary during the year]~~ Annually on or  
21 before April 15, the division shall ~~[transfer]~~ determine an  
22 amount to be transferred from the ~~[law enforcement protection]~~  
23 fund to the peace officers' survivors fund that enables the  
24 balance of the peace officers' survivors fund to be maintained  
25 at a minimum balance of three hundred fifty thousand dollars

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1 (\$350,000).

2 C. The division shall determine the rate of  
3 distribution of money remaining in the fund to each tribal,  
4 municipal, public school district and university police and  
5 county sheriff's department as follows:

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

14	CLASS	POPULATION	AMOUNT
15	1	0 to 20,000	\$20,000
16	2	20,001 to 160,000	30,000
17	3	160,001 to 1,280,000	40,000;

18 (2) public school district and university  
19 police departments shall be entitled to a rate of distribution  
20 of seventeen thousand dollars (\$17,000);

21 (3) tribal police departments shall be  
22 entitled, unless allocations are adjusted pursuant to the  
23 provisions of Subsection [€] D of this section, to six hundred  
24 dollars (\$600) for each commissioned peace officer in the  
25 tribe. To be counted as a commissioned peace officer for the

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1 purposes of this paragraph, a commissioned peace officer shall  
2 have been assigned to duty and have worked in New Mexico for no  
3 fewer than two hundred days in the calendar year immediately  
4 prior to the date of payment. Payments shall be made for only  
5 those divisions of the tribal police departments that perform  
6 services in New Mexico. ~~[No]~~ A tribal police department shall  
7 not be eligible for any disbursement under the fund if  
8 commissioned peace officers cite non-Indians into the tribal  
9 court for civil or criminal citations; and

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

20 D. After distributions are determined in accordance  
21 with Subsection A, Subsection B and Paragraphs (1) and (2) of  
22 Subsection C of this section, if the balance in the fund is  
23 insufficient to permit the total allocations provided by  
24 Paragraphs (3) and (4) of Subsection C of this section, the  
25 division shall reduce that allocation to the maximum amount

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1 permitted by available money."

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

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

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

24 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION  
25 FUND.--

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

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

15           C. Annually on or before July 31, the state  
16 treasurer shall distribute from the money in the fund money  
17 certified by the division to be distributed to tribes. Payment  
18 shall be made to the chief financial officer of the tribe. If  
19 necessary, the fund may be decreased below the level of one  
20 hundred thousand dollars (\$100,000) to enable payment to the  
21 tribes. If insufficient money remains in the fund to fully  
22 compensate the tribes, a report shall be made to the [~~New~~  
23 ~~Mexico office of~~] Indian affairs department and to an  
24 appropriate interim committee of the legislature that reviews  
25 issues having impact on tribes by September 1 of the year of

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1 the shortfall."

2 Section 7. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2009.

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