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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/09  
 LAST UPDATED 03/06/09    **HB** 457

SPONSOR Rodella

SHORT TITLE Law Enforcement Protection Fund Distribution    **SB** \_\_\_\_\_

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$4,273.6	Recurring	Law Enforcement Protection Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 379 and Senate Bill 225. Please see the narrative.

### REVENUE

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$4,273.6)	(\$5,683.6)	Recurring	General Fund
	\$4,273.6	\$5,683.6	Recurring	Law Enforcement Protection Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
 Indian Affairs Department (IAD)  
 Department of Public Safety (DPS)  
 Higher Education Department (HED)  
 New Mexico Municipal League

#### No Response

Association of Counties

### SUMMARY

#### Synopsis of Bill

House Bill 457 amends Section 29-13-4 NMSA 1978 to increase the amount of funds distributed

to qualifying law enforcement agencies at both the department level and for each certified law enforcement officer employed by a department from the Law Enforcement Protection Fund. It also adds new language to allow for future increases in the amount distributed to a department if additional fund become available.

**FISCAL IMPLICATIONS**

This bill would double the current distribution from the Law Enforcement Protection Fund at the department level for all three classes of municipal police and county sheriff’s departments. County populations are defined to exclude municipalities in that county that have a municipal police department. According to the definition, Class 1 departments would receive a distribution of \$40,000, Class 2 departments would receive a distribution of \$60,000, and Class 3 departments would receive a distribution of \$80,000.

It would increase the per-certified officer distribution applicable to tribal police departments, municipal and university police departments and sheriff’s departments from \$600 to \$1,000. It would increase the department level distribution in the future as greater amount of funds are available for distribution.

Section 29-13-3 NMSA 1978 requires that any balance in the Law Enforcement Protection Fund that exceeds \$100.0 be transferred to the General Fund at the end of the fiscal year. The DFA Local Government Division provided the revenue table above showing the estimated \$4.274 million decrease in revenue to the General Fund, and also the tables below showing the impact of the new distribution formula for both distributions and reversions to the General Fund. These estimates do not take into account any increase in current police forces or the impact of House Bill 379. The small table on the right titled “LEPF GF Reversion shows the estimated reversions before the impact of House Bill 457, and these amounts will be reduced by the new distribution amounts.

**SUMMARY OF HB457 IMPACT ON FY2008-2009 DISTRIBUTIONS**

BASE DISTRIBUTION				
ENTITY TYPE	ORIGINAL AMT.	REVISED AMT.	HB457 IMPACT	% CHANGE
Counties	\$760,000	\$1,520,000	\$760,000	100.00%
Municipalities	\$1,880,000	\$3,760,000	\$1,880,000	100.00%
Tribal Police	n/a	n/a	n/a	n/a
University Police	\$102,000	\$204,000	\$102,000	100.00%
<b>TOTALS</b>	<b>\$2,742,000</b>	<b>\$5,484,000</b>	<b>\$2,742,000</b>	<b>100.00%</b>

PER OFFICER DISTRIBUTION				
ENTITY TYPE	ORIGINAL AMT.	REVISED AMT.	HB457 IMPACT	% CHANGE
Counties	\$651,000	\$1,085,000	\$434,000	66.67%
Municipalities	\$1,467,600	\$2,446,000	\$978,400	66.67%
Tribal Police	\$134,400	\$224,000	\$89,600	66.67%
University Police	\$44,400	\$74,000	\$29,600	66.67%
<b>TOTALS</b>	<b>\$2,297,400</b>	<b>\$3,829,000</b>	<b>\$1,531,600</b>	<b>66.67%</b>

TOTAL LEPF DISTRIBUTION				
ENTITY TYPE	ORIGINAL AMT.	REVISED AMT.	HB457 IMPACT	% CHANGE
Counties	\$1,411,000	\$2,605,000	\$1,194,000	84.62%
Municipalities	\$3,347,600	\$6,206,000	\$2,858,400	85.39%
Tribal Police	\$134,400	\$224,000	\$89,600	66.67%
University Police	\$146,400	\$278,000	\$131,600	89.89%
<b>TOTALS</b>	<b>\$5,039,400</b>	<b>\$9,313,000</b>	<b>\$4,273,600</b>	<b>84.80%</b>

LEPF GF Reversion	estimate
FY09	\$7,299,266
FY10	\$8,107,552
FY11	\$8,860,389
FY12	\$9,659,164
FY13	\$10,506,580
FY14	\$11,319,200

This bill also amends section 29-13-4 NMSA 1978 to specify that for fiscal year 2010 and thereafter, a formula shall be applied that could allow higher distributions. The Local Government Division of DFA will first calculate the distributions based on department class and the number of commissioned officers. The Local Government Division will then apply a formula to determine if the receipts to the fund in the previous year minus that year’s transfer, plus the distribution calculated under section C for the previous year. If this amount is greater than the first calculated distribution then it is the amount to be used.

The formula proposed in Subsection E of the bill will have an immediate and permanent effect on the general fund by (1) reducing the reversions to the general fund by the amount of the proposed distribution increase, and (2) capping the any further increases in reversions by allocating all increases in revenue to the Law Enforcement Protection fund.

The cap on reversions to the general fund would reduce the state’s revenue estimates as follows.

Law Enforcement Protection Fund	FY10	FY11	FY12	FY13
Feb 09 Reversion Estimate	\$8.11 million	\$8.86 million	\$9.66 million	\$10.51 million
HB 457 Impact	(\$4.87 million)	(\$5.68 million)	(\$6.58 million)	(\$7.43 million)
Adjusted Reversion Estimate	(\$3.24 million)	(\$3.18 million)	(\$3.08 million)	(\$3.08 million)

Over the next four years this is a cumulative decrease in general fund revenues of approximately \$24.56 million.

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

According to the February 2009 revenue estimate, fiscal year 2010 recurring revenue will only support a base expenditure level that is \$575 million less than the fiscal year 2009 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

**SIGNIFICANT ISSUES**

The New Mexico Municipal League states that this legislation is a priority of its membership. The distribution levels in the Law Enforcement Protection Fund have not been adjusted since the year 2000. As demands for law enforcement services increase there is a need for more officers and related equipment. Advances in equipment that can be utilized by officers, for the protection of the public and themselves, require the purchase of that equipment. After purchase advanced training of the officers in its use is required. As new officers are hired and are required to attend an academy for certification, funds are necessary to pay remaining officers during the absence of the new officers.

The Law Enforcement Protection Fund is limited in the amount of the distribution that can be used for salaries for replacement of officer absent due to being at the academy. It further limits the uses of the funds to certain activities.

The Indian Affairs Department notes that the Law Enforcement Protection Fund was created to promote efficient and effective law enforcement by providing equitable funding to municipal, university, and tribal police and county sheriff's departments (NMSA 29-13-2). The Law Enforcement Protection Fund also provides for the Peace Officers' Survivors Fund ("Peace Fund") which supports families of peace officers killed in the line of duty. A NM tribal police department is entitled to distributions from the Protection Fund, provided that the Nation, Tribe, or Pueblo's law enforcement officers are also commissioned by the Chief of NM State Police to enforce state laws as a New Mexico Peace Officer (NMSA 29-1-11A).

### **RELATIONSHIP**

The Indian Affairs Department notes that House Bill 457 relates to SB 225 Law Enforcement for Tribal Entities, sponsored by Sen. Linda Lovejoy. Senate Bill 225 would appropriate \$250,000 to the New Mexico Department of Finance and Administration, Local Government Division, for expenditure in FY10 to provide law enforcement assistance to tribal entities in Cibola, McKinley and San Juan counties.

House Bill 457 relates to House Bill 379, which proposes to distribute money from the Law Enforcement Protection fund to police forces established by a local school board of a local school district.

### **OTHER SUBSTANTIVE ISSUES**

The HED states that inquiry to various New Mexico postsecondary campus police offices resulted in two responses indicating the funding will impact a security force of five at New Mexico Highlands University and 10 at New Mexico Institute of Mining and Technology (New Mexico Tech).

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The formula for the distribution of the Law Enforcement Protection Fund will remain at levels specified in Section 29-13-4 NMSA 1978 as last amended in 2002.

CH/svb:mc