

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 111

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

INTRODUCED BY

John Arthur Smith and Stuart Ingle

AN ACT

RELATING TO FISCAL SOLVENCY; REVERTING BALANCES OF THE  
INSURANCE OPERATIONS FUND, FIRE PROTECTION FUND, FIRE  
PROTECTION GRANT FUND AND LAW ENFORCEMENT PROTECTION FUND AT  
THE END OF EACH FISCAL YEAR; REQUIRING PERIODIC ALLOTMENTS  
DURING A FISCAL YEAR FROM THOSE FUNDS; MAKING NO TRANSFERS FROM  
THE FIRE PROTECTION FUND TO THE FIRE PROTECTION GRANT FUND FOR  
FISCAL YEAR 2017 OR 2018.

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

**SECTION 1.** Section 29-13-3 NMSA 1978 (being Laws 1983,  
Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE [~~DIVISION~~]  
COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is  
created in the state treasury the "law enforcement protection  
fund". Ten percent of all money received for fees, licenses,

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
[bracketed material] = delete

1 penalties and taxes from life, general casualty and title  
2 insurance business pursuant to the New Mexico Insurance Code,  
3 except for money received from the health insurance premium  
4 surtax imposed by Subsection C of Section 59A-6-2 NMSA 1978,  
5 shall be paid monthly to the state treasurer and credited to  
6 the fund. On or before June 30 of each year, the state  
7 treasurer shall transfer to the general fund any balance in the  
8 law enforcement protection fund in excess of one hundred  
9 thousand dollars (\$100,000) that is not obligated [~~and that is~~  
10 ~~in excess of the amount certified by the division to be~~  
11 ~~distributed from that fund]~~ for expenses in that current fiscal  
12 year."

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

17 "29-13-4. DETERMINATION OF NEEDS AND RATE OF  
18 DISTRIBUTION.--

19 A. Annually on or before April 15, the division  
20 shall consider and determine the relative needs as requested by  
21 tribal, municipal and university police and county sheriff's  
22 departments for money in the fund in the succeeding fiscal year  
23 pursuant to the provisions of Subsection C of this section.

24 B. As necessary during the year, the division shall  
25 transfer an amount from the law enforcement protection fund to

.205838.1

1 the peace officers', New Mexico mounted patrol members' and  
2 reserve police officers' survivors fund that enables the  
3 balance of the [~~peace officers' survivors~~] latter fund to be  
4 maintained at a minimum balance of three hundred fifty thousand  
5 dollars (\$350,000).

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

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

18	CLASS	POPULATION	AMOUNT
19	1	0 to 20,000	\$20,000
20	2	20,001 to 160,000	30,000
21	3	160,001 to 1,280,000	40,000;

22 (2) university police departments shall be  
23 entitled to a rate of distribution of seventeen thousand  
24 dollars (\$17,000);

25 (3) tribal police departments shall be

.205838.1

underscored material = new  
[bracketed material] = delete

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

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

23 D. After distributions are determined in accordance  
24 with Subsection A, Subsection B and Paragraphs (1) and (2) of  
25 Subsection C of this section, if the balance in the fund is

.205838.1

underscored material = new  
[bracketed material] = delete

1 insufficient to permit the total allocations provided by  
2 Paragraphs (3) and (4) of Subsection C of this section, the  
3 division shall reduce that allocation to the maximum amount  
4 permitted by available money."

5 SECTION 3. Section 29-13-6 NMSA 1978 (being Laws 1983,  
6 Chapter 289, Section 6, as amended by Laws 2002, Chapter 78,  
7 Section 6 and by Laws 2002, Chapter 92, Section 4) is amended  
8 to read:

9 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION  
10 FUND.--

11 A. [~~Annually on or before July 31~~] Based on a  
12 periodic allotment approved by the division for the current  
13 fiscal year, the state treasurer shall distribute from the fund  
14 the amounts certified by the division to be distributed to  
15 governmental entities and [~~the transfer shall distribute money~~  
16 ~~from the law enforcement protection fund to~~] the peace  
17 officers', New Mexico mounted patrol members' and reserve  
18 police officers' survivors fund as required in Section 29-13-4  
19 NMSA 1978. Payments shall be made [~~to~~] by the treasurer [~~of~~]  
20 to the appropriate governmental entity or fund unless otherwise  
21 specified in Subsection C of this section.

22 B. The state treasurer is authorized to redirect a  
23 distribution to the New Mexico finance authority in an amount  
24 certified by the division, pursuant to an ordinance or a  
25 resolution passed by the municipality or county and a written

underscored material = new  
[bracketed material] = delete

1 agreement of the municipality or county and the New Mexico  
2 finance authority.

3 C. [~~Annually on or before July 31~~] Based on a  
4 periodic allotment approved by the division for the current  
5 fiscal year, the state treasurer shall distribute from the  
6 money in the fund money certified by the division to be  
7 distributed to tribes. Payment shall be made to the chief  
8 financial officer of the tribe. If necessary, the fund may be  
9 decreased below the level of one hundred thousand dollars  
10 (\$100,000) to enable payment to the tribes. If insufficient  
11 money remains in the fund to fully compensate the tribes, a  
12 report shall be made to the [~~New Mexico office of~~] Indian  
13 affairs department and to an appropriate interim committee of  
14 the legislature that reviews issues having impact on tribes by  
15 September 1 of the year of the shortfall."

16 SECTION 4. Section 59A-6-5 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 105, as amended) is amended to read:

18 "59A-6-5. DISTRIBUTION OF [~~DIVISION~~] OFFICE  
19 COLLECTIONS.--

20 A. All money received by the [~~division~~] office of  
21 superintendent of insurance for fees, licenses, penalties and  
22 taxes shall be paid daily by the superintendent to the state  
23 treasurer and credited to the "insurance department suspense  
24 fund" except as provided by [~~(1)~~] the Law Enforcement  
25 Protection Fund Act [~~and~~

.205838.1

1                                   ~~(2) Section 59A-6-1.1 NMSA 1978]~~.

2                   B. The superintendent may authorize the refund of  
3 money erroneously paid as fees, licenses, penalties or taxes  
4 from the insurance department suspense fund under request for  
5 refund made within three years after the erroneous payment. In  
6 the case of premium taxes erroneously paid or overpaid in  
7 accordance with law, refund may also be requested as a credit  
8 against premium taxes due in any annual or quarterly premium  
9 tax return filed within three years of the erroneous or excess  
10 payment.

11                   C. If required by a compact to which New Mexico has  
12 joined pursuant to law, the superintendent shall authorize the  
13 allocation of premiums collected pursuant to Section 59A-14-12  
14 NMSA 1978 to other states that have joined the compact pursuant  
15 to an allocation formula agreed upon by the compacting states.

16                   D. The "insurance operations fund" is created in  
17 the state treasury. The fund shall consist of the  
18 distributions made to it pursuant to Subsection E of this  
19 section. The legislature shall annually appropriate from the  
20 fund to the division those amounts necessary for the division  
21 to carry out its responsibilities pursuant to the Insurance  
22 Code and other laws. Any balance in the fund at the end of a  
23 fiscal year [~~greater than one-half of that fiscal year's~~  
24 ~~appropriation~~] shall revert to the general fund.

25                   E. At the end of every month, after applicable

.205838.1

underscored material = new  
[bracketed material] = delete

1 refunds are made pursuant to Subsection B of this section and  
2 after any allocations have been made pursuant to Subsection C  
3 of this section, the treasurer shall make the following  
4 transfers from the balance remaining in the insurance  
5 department suspense fund:

6 (1) to the "fire protection fund", that part  
7 of the balance derived from property and vehicle insurance  
8 business;

9 (2) to the insurance operations fund, that  
10 part of the balance derived from the fees imposed pursuant to  
11 Subsections A and E of Section 59A-6-1 NMSA 1978 other than  
12 fees derived from property and vehicle insurance business; and

13 (3) to the general fund, the balance remaining  
14 in the insurance department suspense fund derived from all  
15 other kinds of insurance business."

16 SECTION 5. Section 59A-53-5.2 NMSA 1978 (being Laws 2007,  
17 Chapter 152, Section 1, as amended) is amended to read:

18 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE  
19 PROTECTION FUND.--

20 A. For each fiscal year, the amount to be  
21 distributed by the marshal pursuant to Sections 59A-53-4,  
22 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire  
23 protection fund to the superintendent for the purpose of making  
24 the following distributions:

25 ~~[B. For the purposes of Subsections C and D of this~~

.205838.1



underscored material = new  
[bracketed material] = delete

1 ~~section, the "remaining balance in the fire protection fund"~~  
2 ~~shall be calculated on June 30 of each year and shall equal the~~  
3 ~~balance of the fund on that date less the sum of]~~

4 (1) the total amount to be distributed during  
5 the ~~[succeeding]~~ fiscal year pursuant to Sections 59A-53-4,  
6 59A-53-5 and 59A-53-5.1 NMSA 1978; ~~[and]~~

7 (2) the total amount of other appropriations  
8 from the fire protection fund for the ~~[succeeding]~~ fiscal year;

9 (3) on June 30, 2017, no distribution shall be  
10 made to the fire protection grant fund; and

11 (4) beginning in fiscal year 2019, periodic  
12 allotments not to exceed forty and two-tenths percent of the  
13 projected remaining balance in the fire protection fund shall  
14 be distributed to the fire protection grant fund.

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

19 ~~(1) on June 30, 2007, six and seven-tenths~~  
20 ~~percent;~~

21 ~~(2) on June 30, 2008, thirteen and four-tenths~~  
22 ~~percent;~~

23 ~~(3) on June 30, 2009, thirteen and four-tenths~~  
24 ~~percent;~~

25 ~~(4) on June 30, 2010, thirteen and four-tenths~~

.205838.1

underscored material = new  
[bracketed material] = delete

1 percent;

2 ~~(5) on June 30, 2011, thirteen and four-tenths~~  
3 percent;

4 ~~(6) on June 30, 2012, thirteen and four-tenths~~  
5 percent;

6 ~~(7) on June 30, 2013, twenty and one-tenth~~  
7 percent;

8 ~~(8) on June 30, 2014, twenty-six and eight-~~  
9 ~~tenths percent;~~

10 ~~(9) on June 30, 2015, thirty-three and five-~~  
11 ~~tenths percent; and~~

12 ~~(10) on June 30, 2016, and on each subsequent~~  
13 ~~June 30, forty and two-tenths percent.~~

14 ~~D.]~~ B. On June 30 of each year, the remaining  
15 balance in the fire protection fund [~~less the amount to be~~  
16 ~~transferred on that date pursuant to Subsection C of this~~  
17 ~~section]~~ shall be transferred to the general fund."

18 SECTION 6. Section 59A-53-7 NMSA 1978 (being Laws 1984,  
19 Chapter 127, Section 978, as amended) is amended to read:

20 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

21 A. [~~Annually on or before the last day of July]~~  
22 Based on periodic allotments approved by the marshal, the  
23 state treasurer shall distribute from the money in the fire  
24 protection fund, to each municipality and county fire  
25 district, the amount that the marshal or the public

.205838.1

underscored material = new  
[bracketed material] = delete

1 regulation commission, as the case may be, has certified to  
2 the state treasurer. Payment shall be made to the treasurer  
3 of any municipality and to the county treasurer of the county  
4 in which any county fire district is located for credit to  
5 the county fire district.

6 B. The state treasurer is authorized to redirect  
7 a distribution to the New Mexico finance authority in the  
8 amount that the marshal or the public regulation commission,  
9 as the case may be, has certified to the state treasurer  
10 pursuant to an ordinance or a resolution passed by the  
11 municipality or county and a written agreement of the  
12 municipality or county in which any county fire district is  
13 located and the New Mexico finance authority.

14 C. In addition to the distributions made pursuant  
15 to Subsections A and B of this section, upon certification by  
16 the marshal that the balance of the firefighters' survivors  
17 fund is less than two hundred fifty thousand dollars  
18 (\$250,000), the state treasurer shall distribute an amount  
19 from the fire protection fund to the firefighters' survivors  
20 fund so that the balance of the firefighters' survivors fund  
21 equals two hundred fifty thousand dollars (\$250,000)."

22 SECTION 7. Section 59A-53-18 NMSA 1978 (being Laws  
23 2006, Chapter 103, Section 7, as amended) is amended to read:

24 "59A-53-18. FIRE PROTECTION GRANT FUND--CREATED--  
25 USES.--The "fire protection grant fund" is created in the

.205838.1

underscoring material = new  
~~[bracketed material]~~ = delete

1 state treasury. The fund shall consist of transfers,  
2 distributions, appropriations, gifts, grants, donations and  
3 bequests made to the fund. [~~Income from the fund shall be~~  
4 ~~credited to the fund, and~~] Money in the fund shall [~~not~~]  
5 revert [~~or be transferred to any other~~] to the general fund  
6 at the end of a fiscal year. Money in the fund is  
7 appropriated to the fire protection grant council for the  
8 purposes of making distributions approved by the council for  
9 the critical needs of municipal fire departments and county  
10 fire districts. Expenditures from the fund shall be made on  
11 warrant of the secretary of finance and administration  
12 pursuant to vouchers signed by the marshal."

13 - 12 -  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25