

1 AN ACT

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

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

13 "29-13-3. DISTRIBUTION OF CERTAIN INSURANCE
14 COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There
15 is created in the state treasury the "law enforcement
16 protection fund". Ten percent of all money received for
17 fees, licenses, penalties and taxes from life, general
18 casualty and title insurance business pursuant to the New
19 Mexico Insurance Code, except for money received from the
20 health insurance premium surtax imposed by Subsection C of
21 Section 59A-6-2 NMSA 1978, shall be paid monthly to the state
22 treasurer and credited to the fund. On or before June 30 of
23 each year, the state treasurer shall transfer to the general
24 fund any balance in the law enforcement protection fund in
25 excess of one hundred thousand dollars (\$100,000) that is not

1 obligated for expenses in that current fiscal year."

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

6 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
7 DISTRIBUTION.--

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

14 B. As necessary during the year, the division
15 shall transfer an amount from the law enforcement protection
16 fund to the peace officers', New Mexico mounted patrol
17 members' and reserve police officers' survivors fund that
18 enables the balance of the latter fund to be maintained at a
19 minimum balance of three hundred fifty thousand dollars
20 (\$350,000).

21 C. The division shall determine the rate of
22 distribution of money in the fund to each tribal, municipal
23 and university police and county sheriff's department as
24 follows:

25 (1) all municipal police and county

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

9	CLASS	POPULATION	AMOUNT
10	1	0 to 20,000	\$20,000
11	2	20,001 to 160,000	30,000
12	3	160,001 to 1,280,000	40,000;

13 (2) university police departments shall be
14 entitled to a rate of distribution of seventeen thousand
15 dollars (\$17,000);

16 (3) tribal police departments shall be
17 entitled, unless allocations are adjusted pursuant to the
18 provisions of Subsection D of this section, to six hundred
19 dollars (\$600) for each commissioned peace officer in the
20 tribe. To be counted as a commissioned peace officer for the
21 purposes of this paragraph, a commissioned peace officer
22 shall have been assigned to duty and have worked in New
23 Mexico for no fewer than two hundred days in the calendar
24 year immediately prior to the date of payment. Payments
25 shall be made for only those divisions of the tribal police

1 departments that perform services in New Mexico. A tribal
2 police department shall not be eligible for any disbursement
3 under the fund if commissioned peace officers cite non-
4 Indians into the tribal court for civil or criminal
5 citations; and

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

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

22 **SECTION 3.** Section 29-13-6 NMSA 1978 (being Laws 1983,
23 Chapter 289, Section 6, as amended by Laws 2002, Chapter 78,
24 Section 6 and by Laws 2002, Chapter 92, Section 4) is amended
25 to read:

1 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION
2 FUND.--

3 A. Based on a periodic allotment approved by the
4 division for the current fiscal year, the state treasurer
5 shall distribute from the fund the amounts certified by the
6 division to be distributed to governmental entities and the
7 peace officers', New Mexico mounted patrol members' and
8 reserve police officers' survivors fund as required in
9 Section 29-13-4 NMSA 1978. Payments shall be made by the
10 treasurer to the appropriate governmental entity or fund
11 unless otherwise specified in Subsection C of this section.

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

18 C. Based on a periodic allotment approved by the
19 division for the current fiscal year, the state treasurer
20 shall distribute from the money in the fund money certified
21 by the division to be distributed to tribes. Payment shall
22 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

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

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

7 "59A-6-5. DISTRIBUTION OF OFFICE COLLECTIONS.--

8 A. All money received by the office of
9 superintendent of insurance for fees, licenses, penalties and
10 taxes shall be paid daily by the superintendent to the state
11 treasurer and credited to the "insurance department suspense
12 fund" except as provided by the Law Enforcement Protection
13 Fund Act.

14 B. The superintendent may authorize the refund of
15 money erroneously paid as fees, licenses, penalties or taxes
16 from the insurance department suspense fund under request for
17 refund made within three years after the erroneous payment.
18 In the case of premium taxes erroneously paid or overpaid in
19 accordance with law, refund may also be requested as a credit
20 against premium taxes due in any annual or quarterly premium
21 tax return filed within three years of the erroneous or
22 excess payment.

23 C. If required by a compact to which New Mexico
24 has joined pursuant to law, the superintendent shall
25 authorize the allocation of premiums collected pursuant to

1 Section 59A-14-12 NMSA 1978 to other states that have joined
2 the compact pursuant to an allocation formula agreed upon by
3 the compacting states.

4 D. The "insurance operations fund" is created in
5 the state treasury. The fund shall consist of the
6 distributions made to it pursuant to Subsection E of this
7 section. The legislature shall annually appropriate from the
8 fund to the division those amounts necessary for the division
9 to carry out its responsibilities pursuant to the Insurance
10 Code and other laws. Any balance in the fund at the end of a
11 fiscal year shall revert to the general fund.

12 E. At the end of every month, after applicable
13 refunds are made pursuant to Subsection B of this section and
14 after any allocations have been made pursuant to Subsection C
15 of this section, the treasurer shall make the following
16 transfers from the balance remaining in the insurance
17 department suspense fund:

18 (1) to the "fire protection fund", that part
19 of the balance derived from property and vehicle insurance
20 business;

21 (2) to the insurance operations fund, that
22 part of the balance derived from the fees imposed pursuant to
23 Subsections A and E of Section 59A-6-1 NMSA 1978 other than
24 fees derived from property and vehicle insurance business;
25 and

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

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

6 "59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE
7 PROTECTION FUND.--

8 A. For each fiscal year, the amount to be
9 distributed by the marshal pursuant to Sections 59A-53-4,
10 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the
11 fire protection fund to the superintendent for the purpose of
12 making the following distributions:

13 (1) the total amount to be distributed
14 during the fiscal year pursuant to Sections 59A-53-4,
15 59A-53-5 and 59A-53-5.1 NMSA 1978;

16 (2) the total amount of other appropriations
17 from the fire protection fund for the fiscal year;

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

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

24 B. On June 30 of each year, the remaining balance
25 in the fire protection fund shall be transferred to the

1 general fund."

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

4 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

5 A. Based on periodic allotments approved by the
6 marshal, the state treasurer shall distribute from the money
7 in the fire protection fund, to each municipality and county
8 fire district, the amount that the marshal or the public
9 regulation commission, as the case may be, has certified to
10 the state treasurer. Payment shall be made to the treasurer
11 of any municipality and to the county treasurer of the county
12 in which any county fire district is located for credit to
13 the county fire district.

14 B. The state treasurer is authorized to redirect a
15 distribution to the New Mexico finance authority in the
16 amount that the marshal or the public regulation commission,
17 as the case may be, has certified to the state treasurer
18 pursuant to an ordinance or a resolution passed by the
19 municipality or county and a written agreement of the
20 municipality or county in which any county fire district is
21 located and the New Mexico finance authority.

22 C. In addition to the distributions made pursuant
23 to Subsections A and B of this section, upon certification by
24 the marshal that the balance of the firefighters' survivors
25 fund is less than two hundred fifty thousand dollars

1 (\$250,000), the state treasurer shall distribute an amount
2 from the fire protection fund to the firefighters' survivors
3 fund so that the balance of the firefighters' survivors fund
4 equals two hundred fifty thousand dollars (\$250,000)."

5 SECTION 7. Section 59A-53-18 NMSA 1978 (being Laws
6 2006, Chapter 103, Section 7, as amended) is amended to read:

7 "59A-53-18. FIRE PROTECTION GRANT FUND--CREATED--
8 USES.--The "fire protection grant fund" is created in the
9 state treasury. The fund shall consist of transfers,
10 distributions, appropriations, gifts, grants, donations and
11 bequests made to the fund. Money in the fund shall revert to
12 the general fund at the end of a fiscal year. Money in the
13 fund is appropriated to the fire protection grant council for
14 the purposes of making distributions approved by the council
15 for the critical needs of municipal fire departments and
16 county fire districts. Expenditures from the fund shall be
17 made on warrant of the secretary of finance and
18 administration pursuant to vouchers signed by the marshal."

19 SECTION 8. TEMPORARY PROVISION--PERIODIC ADJUSTMENTS
20 FOR FISCAL YEAR 2018.--

21 A. In making a determination and certification of
22 needs pursuant to Section 59A-53-3 NMSA 1978 and
23 distributions pursuant to Sections 59A-53-4 and 59A-53-5.1
24 NMSA 1978 for fiscal year 2018, the state fire marshal shall
25 coordinate with the department of finance and administration,

1 New Mexico finance authority, office of the state treasurer,
2 New Mexico municipal league and New Mexico association of
3 counties to:

4 (1) develop a schedule for making periodic
5 allotments that takes into consideration documented financial
6 hardship of county fire districts and municipalities as a
7 result of transitioning from a one-time distribution to
8 periodic allotments;

9 (2) ensure that any debt obligations of
10 existing or previously existing fire departments or fire
11 districts are met on a timely basis;

12 (3) ensure the ongoing operations of fire
13 departments and fire districts by providing technical
14 assistance to counties and municipalities on transitioning to
15 an accrual accounting basis for the fire protection fund;

16 (4) submit the final determination and
17 certification of needs and schedule for periodic allotments
18 to the legislative finance committee by July 1, 2017; and

19 (5) by June 30, 2018, ensure that county
20 fire districts and municipalities have fully transitioned to
21 operating on an accrual accounting basis.

22 B. In making distributions pursuant to Subsection
23 B of Section 29-13-6 and Subsection B of Section 59A-53-7
24 NMSA 1978, the state treasurer shall ensure that any debt
25 obligations to the New Mexico finance authority are met and

1 are in accordance with Section 6-4-6 NMSA 1978.

2 C. Nothing in this 2017 act shall be construed to
3 impair any debt obligation pledged for repayment from the law
4 enforcement protection fund or the fire protection fund.”

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