

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 202

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

AN ACT

RELATING TO LAW ENFORCEMENT; CHANGING THE CURRENT AMOUNTS
DISTRIBUTED FROM THE LAW ENFORCEMENT PROTECTION FUND; PROVIDING
DISTRIBUTIONS FROM THE LAW ENFORCEMENT PROTECTION FUND TO THE
DEPARTMENT OF PUBLIC SAFETY TO OFFSET COSTS INCURRED DUE TO
CERTAIN SPECIAL DEPLOYMENTS; REQUIRING CERTIFIED LAW
ENFORCEMENT OFFICERS WHO WORK AS SCHOOL RESOURCE OFFICERS TO BE
SPECIFICALLY TRAINED FOR THOSE POSITIONS; ALLOWING SCHOOL
DISTRICT POLICE DEPARTMENTS THAT HAVE FULL-TIME SCHOOL RESOURCE
OFFICERS TO RECEIVE FUNDING FROM THE LAW ENFORCEMENT PROTECTION
FUND.

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

SECTION 1. [NEW MATERIAL] LAW ENFORCEMENT OFFICERS AS
SCHOOL RESOURCE OFFICERS--TRAINING REQUIRED.--

A. As used in this section, "school resource

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underscored material = new
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1 officer" means a commissioned and certified law enforcement
2 officer who is designated to be responsible for school safety
3 and crime prevention and the appropriate response to crimes in
4 public schools and has completed the training specified in
5 Subsection B of this section.

6 B. A law enforcement officer who is or will be
7 assigned as a school resource officer shall receive specific
8 training for the duty, including instruction on the following:

9 (1) the differences in successful law
10 enforcement when conducted inside a school environment,
11 including understanding the adolescent brain, crisis management
12 and de-escalation techniques;

13 (2) tools to be a positive role model for
14 youth, including mentoring and informal counseling techniques;

15 (3) the school resource officer's role and
16 responsibilities to school personnel and students and their
17 families and strategies for connecting students and families to
18 appropriate resources that will assist students to succeed in
19 school, including strategies for mitigating truancy;

20 (4) a variety of instructional techniques as
21 well as classroom management tools to provide law-related
22 education to students;

23 (5) an understanding of adolescent development
24 and adolescent mental health disorders and treatment; and

25 (6) identification and response to students

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1 who are suspected of having a mental health need, including
 2 critical skills and capacity for appropriately responding to
 3 behavior issues that are typically observed among adolescents
 4 with mental health needs.

5 C. Beginning with the 2021-2022 school year, a law
 6 enforcement officer who:

7 (1) is assigned as a school resource officer
 8 shall complete the training required in Subsection B of this
 9 section within twelve months of being assigned as a school
 10 resource officer; or

11 (2) was serving as a school resource officer
 12 prior to the 2021-2022 school year and who has not received
 13 specific training for the position of school resource officer
 14 shall complete the training required in Subsection B of this
 15 section no later than July 1, 2022.

16 D. The school resource officer training shall be
 17 provided by or approved by the New Mexico law enforcement
 18 academy in consultation with the public education department.

19 **SECTION 2.** Section 29-13-2 NMSA 1978 (being Laws 1983,
 20 Chapter 289, Section 2, as amended) is amended to read:

21 "29-13-2. PURPOSE OF ACT.--The purpose of the Law
 22 Enforcement Protection Fund Act is to provide for the equitable
 23 distribution of money to state police, municipal police,
 24 university police, tribal police, [~~and~~] county sheriff's and
 25 school district police departments for use in the maintenance

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1 and improvement of those departments in order to enhance the
2 efficiency and effectiveness of law enforcement services and to
3 sustain at a reasonable level the payments available to the
4 surviving eligible family members of a peace officer killed in
5 the line of duty."

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

8 "29-13-2.1. DEFINITIONS.--As used in the Law Enforcement
9 Protection Fund Act:

10 A. "academy" means the New Mexico law enforcement
11 academy;

12 B. "division" means the local government division
13 of the department of finance and administration;

14 C. "fund" means the law enforcement protection
15 fund;

16 D. "governmental entity" means the academy, the
17 department of public safety, a municipality, a county, a
18 university, a tribe or a [~~county~~] school district;

19 E. "school district police department" means a
20 department of commissioned law enforcement officers who are
21 charged with preventing, investigating and solving crimes on
22 school district property;

23 [~~E.~~] F. "tribal police department" means the police
24 department of a tribe that has entered into an agreement with
25 the department of public safety pursuant to Section 29-1-11

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1 NMSA 1978;

2 ~~[F-]~~ G. "tribe" means an Indian nation, tribe or
3 pueblo located wholly or partly in New Mexico; and

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

7 **SECTION 4.** Section 29-13-4 NMSA 1978 (being Laws 1993,
8 Chapter 179, Section 6, as amended by Laws 2017, Chapter 1,
9 Section 2 and by Laws 2017, Chapter 35, Section 3) is amended
10 to read:

11 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
12 DISTRIBUTION.--

13 A. Annually on or before April 15, the division
14 shall consider and determine the relative needs as requested by
15 tribal, municipal, school district and university police
16 departments, county sheriff's departments, the department of
17 public safety and the academy for money in the fund in the
18 succeeding fiscal year pursuant to the provisions of
19 ~~[Subsection]~~ Subsections C and E of this section.

20 B. As necessary during the year, the division shall
21 transfer an amount from the fund to the peace officers', New
22 Mexico mounted patrol members' and reserve police officers'
23 survivors fund that enables the balance of the peace officers',
24 New Mexico mounted patrol members' and reserve police officers'
25 survivors fund to be maintained at a minimum balance of three

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1 hundred fifty thousand dollars (\$350,000).

2 C. The division shall determine the rate of
3 distribution of money in the fund as follows:

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

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

17 entitled to a rate of distribution of forty-five thousand
18 dollars (\$45,000);

19 (2) university police departments shall be
20 entitled to a rate of distribution of [~~seventeen thousand~~
21 ~~dollars (\$17,000)] forty-five thousand dollars (\$45,000);~~

22 (3) the academy shall be entitled to a rate of
23 distribution of twenty-four thousand five hundred dollars
24 (\$24,500) to carry out the purposes of Section [~~1 of this 2017~~
25 ~~act]~~ 29-7-7.7 NMSA 1978;

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1 (4) tribal police departments shall be
2 entitled, unless allocations are adjusted pursuant to the
3 provisions of Subsection D of this section, to [~~six hundred~~
4 ~~dollars (\$600)~~] one thousand dollars (\$1,000) for each
5 commissioned peace officer in the tribe. To be counted as a
6 commissioned peace officer for the purposes of this paragraph,
7 a commissioned peace officer shall have been assigned to duty
8 and have worked in New Mexico for no fewer than two hundred
9 days in the calendar year immediately prior to the date of
10 payment. Payments shall be made for only those divisions of
11 the tribal police departments that perform services in New
12 Mexico. A tribal police department shall not be eligible for
13 any disbursement under the fund if commissioned peace officers
14 cite non-Indians into the tribal court for civil or criminal
15 citations; [~~and~~]

16 (5) municipal, school district and university
17 police and county sheriff's departments shall be entitled,
18 unless allocations are adjusted pursuant to the provisions of
19 Subsection D of this section, to [~~six hundred dollars (\$600)~~]
20 one thousand dollars (\$1,000) for each police officer or
21 sheriff's deputy employed full time by that department who has
22 been certified by the academy, or by a regional law enforcement
23 training facility in the state certified by the director of the
24 academy, as a police officer or has been authorized to act as a
25 New Mexico peace officer pursuant to the provisions of Section

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1 29-1-11 NMSA 1978; and

2 (6) municipal police, sheriff's and school
3 district police departments that assign officers as school
4 resource officers shall be entitled to one thousand dollars
5 (\$1,000) for each assigned school resource officer's training
6 pursuant to Section 1 of this 2020 act.

7 D. After distributions are determined in accordance
8 with Subsection A, Subsection B and Paragraphs (1), (2), [~~and~~]
9 (3) and (6) of Subsection C of this section, if the balance in
10 the fund is insufficient to permit the total allocations
11 provided by Paragraphs (4) and (5) of Subsection C of this
12 section, the division shall reduce that allocation to the
13 maximum amount permitted by available money.

14 E. After all distributions have been made in
15 accordance with Subsections A through D of this section, and if
16 the balance in the fund is sufficient, the department of public
17 safety shall be entitled to a rate of distribution of not more
18 than two million dollars (\$2,000,000)."

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

21 "29-13-5. DETERMINATION OF NEEDS--REVIEW.--No later than
22 May 1 of each year, the division shall notify in writing each
23 affected municipal police, school district police, university
24 police, tribal police and county sheriff's department, the
25 department of public safety and the academy of its

1 determination of money to be distributed pursuant to the
 2 provisions of Section 29-13-4 NMSA 1978. Any affected
 3 governmental entity may appeal that determination by filing a
 4 notice of appeal with the secretary of finance and
 5 administration no later than May 15. If an appeal is filed,
 6 the secretary of finance and administration shall review the
 7 determination of the division in an informal and summary
 8 proceeding and shall certify the result of the appeal to the
 9 division no later than June 30, and the division shall adjust
 10 its determination accordingly. If no appeal is filed, the
 11 original determination of the division shall be final and
 12 binding and not subject to further review."

13 SECTION 6. Section 29-13-7 NMSA 1978 (being Laws 1983,
 14 Chapter 289, Section 7, as amended) is amended to read:

15 "29-13-7. EXPENDITURE LIMITATION--CONTROL.--

16 A. Except as provided for the academy and the
 17 department of public safety in [~~Subsection~~] Subsections B and C
 18 of this section, amounts distributed from the fund shall be
 19 expended only for the following:

20 (1) the repair and purchase of law enforcement
 21 apparatus and equipment, including the financing and
 22 refinancing thereof, that meet minimum nationally recognized
 23 standards;

24 (2) the purchase of law enforcement equipment,
 25 including protective vests, for police dogs;

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1 (3) expenses associated with advanced law
2 enforcement planning and training;

3 (4) maintaining the balance of the peace
4 officers', New Mexico mounted patrol members' and reserve
5 police officers' survivors fund at a minimum amount of three
6 hundred fifty thousand dollars (\$350,000);

7 (5) complying with match or contribution
8 requirements for the receipt of federal funds relating to
9 criminal justice programs;

10 (6) no more than fifty percent of the
11 replacement salaries of municipal and county law enforcement
12 personnel of municipalities or counties [~~rated as class 1 in~~
13 ~~Paragraph (1) of Subsection C of Section 29-13-4 NMSA 1978~~]
14 participating in basic law enforcement training; and

15 (7) contingent upon the availability of
16 funding and until June 30, 2021, a law enforcement officer
17 retention payment in the amount of seven thousand five hundred
18 dollars (\$7,500); provided that:

19 (a) the distribution is requested by a
20 municipality or county law enforcement agency that on January
21 1, 2018 had a staffing vacancy rate of at least ten percent to
22 retain a law enforcement officer who is certified in accordance
23 with the Law Enforcement Training Act and has at least twenty
24 years of actual service credit earned under a municipal police
25 member coverage plan as determined by the public employees

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1 retirement association;

2 (b) the municipality or county law
3 enforcement agency provides seven thousand five hundred dollars
4 (\$7,500) in matching funds to the law enforcement officer; and

5 (c) the distribution and the matching
6 funds paid to a law enforcement officer shall not constitute
7 the officer's base salary or wages and shall not be considered
8 to be salary or otherwise be used to determine a pension for
9 the purposes of the Public Employees Retirement Act.

10 B. For the academy, amounts distributed from the
11 fund shall be expended only for providing tourniquet and trauma
12 kits and training on the use of tourniquet and trauma kits
13 pursuant to Section 29-7-7.7 NMSA 1978.

14 C. The amount distributed to the department of
15 public safety:

16 (1) shall:

17 (a) be used only to offset overtime-pay-
18 related expenses incurred directly by the department of public
19 safety from the special deployment of state patrol officers or
20 other emergency assistance to counties or municipalities in
21 response to critical circumstances as authorized by the
22 governor; and

23 (b) not be expended to hire new
24 personnel; and

25 (2) may be expended for costs, including

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