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HOUSE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE USE OF FORCE ACT;
ESTABLISHING THE SPECIAL USE OF FORCE UNIT AS A DIVISION IN THE
OFFICE OF THE ATTORNEY GENERAL; REQUIRING EXCESSIVE USE OF
FORCE CASES TO BE BROUGHT TO A HEARING IN DISTRICT COURT;
MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Use of Force Act".

SECTION 2. [NEW MATERIAL] DEFINITION.--As used in the Use
of Force Act, "excessive use of force case" means a case that
arises out of an action taken by a law enforcement officer
while the officer was acting in the officer's official
capacity, including:

- A. a shooting by a law enforcement officer;

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1 B. an allegation of assault, battery or homicide by
2 a law enforcement officer; or

3 C. any other allegation of the use of excessive
4 force brought against a law enforcement officer.

5 **SECTION 3. [NEW MATERIAL] ESTABLISHMENT OF SPECIAL USE OF**
6 **FORCE UNIT.--**

7 A. The "special use of force unit" is established
8 as a division of the office of the attorney general.

9 B. Notwithstanding any other provision of law, the
10 special use of force unit has exclusive powers of investigation
11 and prosecution of alleged excessive use of force cases by law
12 enforcement officers in the state.

13 C. The attorney general shall ensure the allocation
14 of sufficient staff and resources to the special use of force
15 unit as may be required to ensure the swift and competent
16 investigation and prosecution of excessive use of force cases.

17 **SECTION 4. [NEW MATERIAL] EXCESSIVE USE OF FORCE CASES IN**
18 **DISTRICT COURT.--**An excessive use of force case shall be
19 presented in a preliminary hearing or inquiry before the
20 district court in the judicial district in whose jurisdiction
21 the incident occurred for a determination of probable cause and
22 shall not be presented to a grand jury.

23 **SECTION 5. APPROPRIATION.--**One million five hundred
24 thousand dollars (\$1,500,000) is appropriated from the general
25 fund to the office of the attorney general for expenditure in

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1 fiscal year 2018 to establish the special use of force unit.
2 Any unexpended or unencumbered balance remaining at the end of
3 fiscal year 2018 shall revert to the general fund.

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