

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE
HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 49

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO THE FIRE PROTECTION FUND; PROVIDING ELIGIBILITY FOR
INDIAN NATIONS, TRIBES AND PUEBLOS; PROVIDING ELIGIBILITY FOR
FIRE STATIONS REGARDLESS OF JURISDICTIONAL LINES; PROVIDING FOR
FIRE PROTECTION SERVICE ACCESS JURISDICTIONAL LINES; MAKING AN
APPROPRIATION.

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

Section 1. Section 59A-53-2 NMSA 1978 (being Laws 1984,
Chapter 127, Section 973, as amended) is amended to read:

"59A-53-2. PURPOSE.--It is the purpose of the Fire
Protection Fund Law to provide for distribution of funds from
the fire protection fund referred to in Section 59A-6-5 NMSA
1978 to [~~incorporated cities, towns and villages~~]
municipalities and to tribal and county fire districts, in
proportion to their respective needs, for use in operation,

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1 maintenance and betterment of local fire departments, to the
2 end that the hazard of loss by fire and fire insurance rates
3 may be reduced and the public safety thereby promoted."

4 Section 2. A new section of the Fire Protection Fund Law
5 is enacted to read:

6 "[NEW MATERIAL] DEFINITIONS.--As used in the Fire
7 Protection Fund Law:

8 A. "marshal" means the state fire marshal as
9 further identified in Chapter 59A, Article 52 NMSA 1978;

10 B. "municipality" means an incorporated city, town
11 or village; and

12 C. "tribe" means a federally recognized Indian
13 nation, tribe or pueblo located wholly or partly in New
14 Mexico."

15 Section 3. Section 59A-53-3 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 974, as amended) is amended to read:

17 "59A-53-3. DETERMINATION AND CERTIFICATION OF NEEDS.--

18 A. Annually, on or before the last day of May, the
19 marshal shall consider and determine, in [~~his~~] the marshal's
20 reasonable discretion, the relative needs of [~~incorporated~~
21 ~~cities, towns and villages~~] municipalities and tribal and
22 county fire districts for money in the fire protection fund,
23 based upon the information available to [~~him~~] the marshal, and
24 shall certify to the state treasurer the names of the
25 [~~incorporated cities, towns, villages~~] municipalities and

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1 tribal and county fire districts that [~~he~~] the marshal
 2 determines need the assistance of a distribution from the money
 3 in the fire protection fund, and the amount required by each,
 4 in accordance with the provisions of Chapter 59A, Article 53
 5 NMSA 1978. In making this determination and certification, the
 6 marshal [~~will~~] shall consider the intent and purpose of that
 7 article that no [~~incorporated city, town or village~~]
 8 municipality or tribal or county fire district shall receive
 9 money distributed from the fire protection fund merely for the
 10 purpose of accumulation when the money is not required to
 11 accomplish the purposes of that article.

12 B. In making a determination and certification of
 13 needs, the marshal shall consider and provide for any debt
 14 obligations of existing or previously existing fire departments
 15 or fire districts.

16 [~~C. For the purposes of Chapter 59A, Article 53~~
 17 ~~NMSA 1978, "marshal" means the state fire marshal, as further~~
 18 ~~identified in Chapter 59A, Article 52 NMSA 1978.]"~~

19 Section 4. Section 59A-53-4 NMSA 1978 (being Laws 1984,
 20 Chapter 127, Section 975, as amended) is amended to read:

21 "59A-53-4. CRITERIA FOR DETERMINATION OF NEEDS--MUNICIPAL
 22 FIRE DEPARTMENT.--

23 A. In making the determination of needs pursuant to
 24 Section 59A-53-3 NMSA 1978, the marshal shall first determine
 25 that each [~~incorporated~~] municipality to be certified has

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1 maintained an official fire department created by and regulated
2 in accordance with a duly enacted ordinance for a period of at
3 least one year prior to the date of certification and possesses
4 fire equipment and apparatus in serviceable condition to
5 respond to a fire incident. The marshal shall also determine
6 the number of fire stations and substations [~~located in each~~
7 ~~municipality~~] to be certified and shall certify to the state
8 treasurer the amount to be distributed to each municipality for
9 the purpose of maintaining each fire station and each
10 substation, if any, that meets the requirements of the marshal
11 and the requirements of this section. Unless adjusted pursuant
12 to Section 59A-53-5.1 NMSA 1978, the amounts distributed in a
13 fiscal year for a class insurance rating shall equal the
14 following:

class	main station	substation
number 1	\$ 82,592	\$30,606
number 2	77,086	28,780
number 3	70,919	26,724
number 4	64,751	24,667
number 5	61,667	22,612
number 6	58,584	20,555
number 7	55,501	19,530
number 8	52,418	18,502
number 9	39,058	15,425
number 10	34,944	none.

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1 B. Any municipality may permit its fire department
 2 to service an area adjacent and contiguous to its corporate
 3 limits but within the corporate limits of another municipality
 4 or a county or tribal area; provided that the other
 5 municipality, county or tribe consents, by resolution or law
 6 duly adopted or enacted, to the service and to the boundaries
 7 of the other area serviced. Before commencement of service, a
 8 plat showing the geographic limits and boundaries of the
 9 additional area to be serviced shall be filed with and approved
 10 by the marshal. A municipality may apply for fire protection
 11 fund eligibility for any fire station located within the
 12 additional area to be serviced.

13 C. Any municipality may apply for fire protection
 14 fund eligibility for a fire station located at a municipally
 15 owned airport, whether located outside or within its corporate
 16 limits."

17 Section 5. Section 59A-53-5 NMSA 1978 (being Laws 1989,
 18 Chapter 312, Section 5, as amended) is amended to read:

19 "59A-53-5. ESTABLISHMENT OF [COUNTY] FIRE DISTRICTS.--

20 A. The county commissioners of any county or any
 21 tribe may establish one or more [county] fire districts [~~within~~
 22 ~~the county but outside the corporate limits of any~~
 23 ~~municipality~~]. The marshal shall determine the number of fire
 24 stations and substations [~~located in each county fire district~~]
 25 to be certified and shall certify to the state treasurer the

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1 amount to be distributed to each [county] fire district for the
2 purpose of maintaining each fire station and each substation,
3 if any, that meets the requirements of the marshal and the
4 requirements of this section. Unless adjusted pursuant to
5 Section 59A-53-5.1 NMSA 1978, the amounts distributed in a
6 fiscal year for a class insurance rating shall equal the
7 following:

8 class	main station	substation
9 number 1	\$ 82,592	\$ 30,606
10 number 2	77,086	28,780
11 number 3	70,919	26,724
12 number 4	64,751	24,667
13 number 5	61,667	22,612
14 number 6	58,584	20,555
15 number 7	55,501	19,530
16 number 8	52,418	18,502
17 number 9	39,058	15,425
18 number 10	34,944	none.

19 B. Additionally, prior to the disbursement of any
20 funds, the following must be established to the satisfaction of
21 the marshal:

22 (1) the [county] fire district has maintained
23 an official fire department for a period of at least one year,
24 established and governed by appropriate resolution of the board
25 of county commissioners [~~of the county in which the county fire~~

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1 ~~district is located~~ or by tribal law of the tribe, and
 2 possesses fire apparatus and equipment in serviceable condition
 3 to respond to a fire incident;

4 (2) the geographic limits and boundaries of
 5 the [county] fire district have been clearly defined and
 6 established [~~by the board of county commissioners of the county~~
 7 ~~in which the county fire district is located, and~~], a plat
 8 showing the geographic limits and boundaries has been accepted
 9 [~~by the board of county commissioners~~] and filed as part of the
 10 official record of proceedings of the board of county
 11 commissioners or by the tribe and a certified copy thereof
 12 filed with the marshal; and

13 (3) there is available within the geographic
 14 limits and boundaries of the [county] fire district an adequate
 15 water supply to be used in connection with the firefighting
 16 facilities of the [county] fire district.

17 C. The county commissioners of any county may
 18 permit a county fire district [~~located in the county~~] to
 19 service an area adjacent and contiguous to the district but
 20 within another county, municipality or tribal area; provided
 21 that the county commissioners of the other county [~~shall~~], or
 22 the municipality or tribe, consent by resolution or law duly
 23 adopted or enacted to the service and to the boundaries of the
 24 other area serviced. Before commencement of service, a plat
 25 showing the geographic limits and boundaries of the county fire

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1 district and of the additional area to be serviced shall be
2 filed with and approved by the marshal. [~~The county~~
3 ~~commissioners of either the county in which the county fire~~
4 ~~district is located or of the county in which the area being~~
5 ~~serviced is located may terminate the service but only with the~~
6 ~~approval of the marshal.~~] Any county may apply for fire
7 protection fund eligibility for any fire station located within
8 the additional area to be serviced.

9 D. If a tribe applies for fire protection fund
10 eligibility for a tribal fire district that the tribe permits
11 to service an area adjacent and contiguous to the district but
12 outside the exterior boundaries of the tribal area, prior to
13 the disbursement of any funds, the following must be
14 established to the satisfaction of the marshal:

15 (1) the county commissioners of the county, or
16 the municipality or tribe, has consented, by resolution or law
17 duly adopted or enacted, to the service and to the boundaries
18 of the other area to be serviced; and

19 (2) a plat showing the geographic limits and
20 boundaries of the tribal fire district and of the additional
21 area to be serviced has been filed and approved by the
22 marshal."

23 Section 6. A new section of the Fire Protection Fund Law
24 is enacted to read:

25 "[NEW MATERIAL] FIRE STATIONS AND FIRE PROTECTION SERVICES

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1 ACROSS JURISDICTIONAL LINES.--

2 A. Nothing in the Fire Protection Fund Law shall be
 3 construed to prohibit fire protection fund eligibility to a
 4 municipal, tribal or county fire station or substation that
 5 otherwise meets the requirements of the marshal and the
 6 requirements of the Fire Protection Fund Law but is not located
 7 within that municipality, tribe or county.

8 B. Nothing in the Fire Protection Fund Law shall be
 9 construed to prohibit mutual aid agreements, memoranda of
 10 understanding or joint powers agreements between
 11 municipalities, tribes or counties to provide fire protection
 12 services across jurisdictional lines."

13 Section 7. Section 59A-53-6 NMSA 1978 (being Laws 1984,
 14 Chapter 127, Section 977, as amended) is amended to read:

15 "59A-53-6. APPEAL AND REVIEW OF DETERMINATION.--The
 16 marshal shall promptly notify each [~~incorporated city, town,~~
 17 ~~village~~] municipality and tribal and county fire district
 18 affected of [~~his~~] the marshal's determination of needs, and [~~an~~
 19 ~~incorporated city, town, village~~] a municipality or tribal or
 20 county fire district may appeal from the determination of the
 21 marshal to the commission, within ten days after the
 22 determination of needs. The commission shall review the
 23 determination of the marshal in such informal and summary
 24 proceedings as it deems proper and shall certify to the state
 25 treasurer annually, on or before the last day of June, the

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1 results of all appeals from the determinations of the marshal.
2 The certification by the commission, or by the marshal if no
3 appeal is taken, shall be final and binding on all concerned
4 and not subject to any further review."

5 Section 8. Section 59A-53-7 NMSA 1978 (being Laws 1984,
6 Chapter 127, Section 978, as amended) is amended to read:

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

8 A. Annually on or before the last day of July, the
9 state treasurer shall distribute from the money in the fire
10 protection fund, to each [~~incorporated~~] municipality and tribal
11 and [to each] county fire district, the amount the marshal or
12 the commission, as the case may be, has certified to the state
13 treasurer. Payment shall be made to the treasurer of any
14 [~~incorporated~~] municipality, to the person responsible for the
15 administration of the assets and liability of any tribe and to
16 the county treasurer of the county in which any county fire
17 district is located for credit to the county fire district.

18 B. The state treasurer is authorized to redirect a
19 distribution to the New Mexico finance authority in the amount
20 the marshal or the commission, as the case may be, has
21 certified to the state treasurer pursuant to an ordinance, a
22 law or a resolution passed by the municipality, tribe or county
23 and a written agreement of the municipality, tribe or county in
24 which any county fire district is located and the New Mexico
25 finance authority.

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1 C. In addition to the distributions made pursuant
 2 to Subsections A and B of this section, upon certification by
 3 the marshal that the balance of the firefighters' survivors
 4 fund is less than fifty thousand dollars (\$50,000), the state
 5 treasurer shall distribute an amount from the fire protection
 6 fund to the firefighters' survivors fund so that the balance of
 7 the firefighters' survivors fund equals fifty thousand dollars
 8 (\$50,000)."

9 Section 9. Section 59A-53-8 NMSA 1978 (being Laws 1984,
 10 Chapter 127, Section 979, as amended) is amended to read:

11 "59A-53-8. EXPENDITURE OF FIRE PROTECTION FUND MONEY.--
 12 Any amount [~~to~~] distributed from the fire protection fund to
 13 [~~any incorporated~~] a municipality or tribal or [~~to any~~] county
 14 fire district shall be expended only for the maintenance of its
 15 fire department, the purchase, construction, maintenance,
 16 repair and operation of its fire stations, including
 17 substations, fire apparatus and equipment, and the financing or
 18 refinancing thereof, the payment of insurance premiums on fire
 19 stations, substations, fire apparatus and equipment and
 20 insurance premiums for injuries or deaths of firefighters as
 21 otherwise provided by law. Provided, however, that no money
 22 shall be expended from the fund for any purpose relating to the
 23 water supply systems of [~~any incorporated~~] a municipality or
 24 tribal or county fire district [~~nor~~] or for the improvement or
 25 construction of the systems [~~nor~~] or for purchase, rental,

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1 installation or maintenance of fire hydrants ~~[nor]~~ or for any
2 other appurtenances relating to the distribution or use of the
3 water supply system. Funds ~~[se]~~ distributed from the fire
4 protection fund to ~~[any incorporated]~~ a municipality or tribal
5 or ~~[any]~~ county fire district may also be expended for the
6 expense of ~~[any]~~ firefighters for attending ~~[any]~~ fire schools
7 and conventions approved by the marshal."

8 Section 10. Section 59A-53-9 NMSA 1978 (being Laws 1984,
9 Chapter 127, Section 980, as amended) is amended to read:

10 "59A-53-9. LIMITATIONS ON EXPENDITURES.--No amount so
11 distributed from the fire protection fund to ~~[any incorporated~~
12 ~~city, town or village or to any]~~ a municipality or tribal or
13 county fire district shall be expended in connection with the
14 construction, purchase or equipment of any fire station or
15 substation in addition to those existing upon the date of
16 distribution by the state treasurer, during the year following
17 such distribution, without the prior written approval of the
18 marshal."

19 Section 11. Section 59A-53-10 NMSA 1978 (being Laws 1984,
20 Chapter 127, Section 981, as amended) is amended to read:

21 "59A-53-10. PURCHASE OF LAND OR BUILDINGS.--No amount so
22 distributed from the fire protection fund to ~~[any incorporated~~
23 ~~city, town or village or to any]~~ a municipality or tribal or
24 county fire district shall be expended or obligated for the
25 purchase of land or the construction of buildings for fire

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1 stations or substations unless all obligations previously
 2 incurred for those purposes and to be paid from money
 3 distributed from the fire protection fund by the [~~city, town,~~
 4 ~~village~~] municipality or tribal or county fire district [~~shall~~]
 5 have been fully paid and satisfied; and no amount shall be
 6 expended or obligated for the construction of buildings for
 7 fire stations or substations unless the [~~city, town, village~~]
 8 municipality or tribal or county fire district proposing to
 9 expend or obligate for that purpose money distributed from the
 10 fire protection fund holds fee simple title, not encumbered by
 11 any lien, to the land on which it proposes to construct any
 12 such building; provided, however, that this provision shall not
 13 prohibit construction or location of a fire station or
 14 substation on tribal lands or on land donated in whole or in
 15 part to the [~~city, town, village~~] municipality or county fire
 16 district for the purpose, and use of fire protection fund money
 17 for the construction or location, where the donor has reserved
 18 right of reversion of the land under stated conditions, if the
 19 use of money is approved by the marshal in advance and after
 20 full investigation and determination that the use would be
 21 appropriate and reasonable."

22 Section 12. Section 59A-53-11 NMSA 1978 (being Laws 1984,
 23 Chapter 127, Section 982, as amended) is amended to read:

24 "59A-53-11. VOUCHERS.--

25 A. Amounts so distributed from the fire protection

.181753.2

1 fund to [~~any incorporated city, town or village or to any~~] a
2 municipality or county fire district shall be expended under
3 the direction of the chief of the fire department of the [~~city,~~
4 ~~town, village~~] municipality or county fire district, upon duly
5 executed vouchers approved as required by law [~~and~~].

6 B. Amounts so distributed from the fire protection
7 fund to a tribal fire district shall be expended under the
8 direction of the chief executive of the tribe in which the
9 tribal fire district is located or the chief executive's
10 designee.

11 C. In no event is any amount to be expended for any
12 purpose [~~which~~] that does not relate directly to the permitted
13 purposes specifically stated in Sections 59A-53-8 and 59A-53-9
14 NMSA 1978."

15 Section 13. Section 59A-53-12 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 983, as amended) is amended to read:

17 "59A-53-12. PROMULGATION OF RULES [~~AND REGULATIONS~~].--The
18 marshal has authority to promulgate, modify, amend and revoke
19 from time to time rules [~~and regulations~~], including those for
20 mutual aid among and between fire departments; provided that no
21 such rules [~~and regulations~~] shall allow any fire department to
22 extend its service in any manner that would jeopardize the fire
23 insurance rates within its [~~city, town, village and~~]
24 municipality or county fire district, as [~~he~~] the marshal may
25 determine, in [~~his~~] the marshal's discretion, to be necessary,

.181753.2

1 advisable or proper to accomplish the objectives of the Fire
 2 Protection Fund Law. Among other things, these rules [~~and~~
 3 ~~regulations~~] shall include, but not be limited to, a list of
 4 firefighting equipment, apparatus and other items [~~which~~] that
 5 may properly be purchased by [~~any incorporated city, town or~~
 6 ~~village or by any~~] a municipality or tribal or county fire
 7 district from funds distributed from the fire protection fund,
 8 and standards of quality, construction and performance to be
 9 met by major firefighting appliances, training requirements,
 10 firefighting protective clothing and equipment standards, and
 11 by fire stations and substations, proposed to be purchased or
 12 constructed by [~~any city, town, village or~~] a municipality or
 13 tribal or county fire district from money distributed from the
 14 fire protection fund. All rules [~~and regulations~~] shall be
 15 filed and published as required by law. [~~Regulations~~] Rules of
 16 this nature heretofore promulgated by the superintendent and
 17 now in effect shall continue in effect until hereafter revoked
 18 or modified. Nothing in this section shall be construed to
 19 grant regulatory authority over the Volunteer Firefighters
 20 Retirement Act to the marshal."

21 Section 14. Section 59A-53-13 NMSA 1978 (being Laws 1984,
 22 Chapter 127, Section 984, as amended) is amended to read:

23 "59A-53-13. LIABILITY FOR UNAUTHORIZED EXPENDITURE.--

24 [~~Any~~] A. Except as provided in Subsection B of this
 25 section, a person who shall expend, or direct or permit the

.181753.2

1 expenditure of, any money distributed from the fire protection
2 fund for purposes not expressly authorized by Chapter 59A,
3 Article 53 NMSA 1978 or by rules [~~and regulations~~] duly
4 promulgated by the marshal pursuant to that article shall be
5 personally liable to the state of New Mexico for the full
6 amount of the money wrongfully expended, together with interest
7 thereon and costs. An action to recover the amount of any
8 wrongful expenditure may be commenced by the attorney general
9 or the district attorney in the county in which the wrongful
10 expenditure was made, upon the filing with the officer of a
11 verified statement describing the wrongful expenditure.

12 B. A tribe seeking money distributed from the fire
13 protection fund shall enter into a joint powers agreement
14 pursuant to the Joint Powers Agreements Act with the marshal.
15 The joint powers agreement shall state the proper procedure to
16 recover any money distributed to that tribe from the fire
17 protection fund and expended for purposes not expressly
18 authorized by Chapter 59A, Article 53 NMSA 1978 or by rules
19 duly promulgated by the marshal pursuant to that article."

20 Section 15. Section 59A-53-14 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 985, as amended) is amended to read:

22 "59A-53-14. CLOSURE OF FIRE DEPARTMENT.--

23 A. If any fire department operated by [~~any~~
24 ~~incorporated city, town or village~~] a municipality or [~~by any~~
25 county fire district should go out of existence or for any

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1 reason cease to operate and function for a period of ninety
2 days, title to all firefighting equipment and apparatus paid
3 for in whole with distributions from the fire protection fund
4 and held by or for the benefit of the fire department shall
5 vest in the marshal and all money distributed from the fire
6 protection fund and held by or for the fire department shall
7 revert to the fire protection fund. Any person having custody
8 or control of any such firefighting equipment and apparatus
9 shall forthwith deliver it as directed by the marshal, and any
10 person having custody or control of the money shall forthwith
11 remit it to the state treasurer, who shall again deposit the
12 money in the state treasury to the credit of the fire
13 protection fund. An action to recover the possession and
14 control of [~~such~~] the firefighting equipment and apparatus, or
15 the money, may be commenced by the attorney general or the
16 district attorney in the county in which the equipment and
17 apparatus or money are situate upon the filing with the officer
18 of a verified statement of the circumstances.

19 B. Notwithstanding the provisions of Subsection A
20 of this section, money distributed from the fire protection
21 fund needed to pay debt service on bonds or other obligations
22 issued by or on behalf of a fire department or fire district
23 may be used to pay such debt service, and the marshal and the
24 state treasurer shall continue to make distributions from the
25 fire protection fund for and on behalf of the fire department

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1 or fire district until the bonds or other obligations are paid
2 in full.

3 C. If any fire district operated by a tribe should
4 go out of existence or for any reason cease to operate any
5 function for a period of ninety days, title to all firefighting
6 equipment and apparatus paid for in whole with distributions
7 from the fire protection fund and held by or for the benefit of
8 the fire district shall vest in the marshal, and all money
9 distributed from the fire protection fund and held by or for
10 the fire district shall revert to the fire protection fund. A
11 joint powers agreement between a tribe and the marshal shall
12 state the proper procedure to recover the possession and
13 control of the firefighting equipment and apparatus or the
14 money from that tribe."

15 Section 16. Section 59A-53-16 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 987, as amended) is amended to read:

17 "59A-53-16. NEW FIRE DEPARTMENTS.--Whenever the marshal,
18 after the last day of May in any year, determines that [~~any~~
19 ~~incorporated city, town or village~~] a municipality or tribal or
20 county fire district, operating a new fire department, has met
21 the requirements of Chapter 59A, Article 53 NMSA 1978 for the
22 first time, [~~he~~] the marshal may certify to the state treasurer
23 the name of the [~~city, town, village~~] municipality or tribal or
24 county fire district and the amount required, on the same basis
25 as provided in that article, but not to exceed an amount

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1 commensurate with the period of time for which such pro rata
 2 distribution is made; and distribution of the amount certified
 3 shall be made as otherwise provided in that article."

4 Section 17. Section 59A-53-18 NMSA 1978 (being Laws 2006,
 5 Chapter 103, Section 7) is amended to read:

6 "59A-53-18. FIRE PROTECTION GRANT FUND--CREATED--USES.--
 7 The "fire protection grant fund" is created in the state
 8 treasury. The fund shall consist of transfers, distributions,
 9 appropriations, gifts, grants, donations and bequests made to
 10 the fund. Income from the fund shall be credited to the fund,
 11 and money in the fund shall not revert or be transferred to any
 12 other fund at the end of a fiscal year. Money in the fund is
 13 appropriated to the fire protection grant council for the
 14 purposes of making distributions approved by the council for
 15 the critical needs of municipal fire departments and tribal and
 16 county fire districts. Expenditures from the fund shall be
 17 made on warrant of the secretary of finance and administration
 18 pursuant to vouchers signed by the marshal."

19 Section 18. Section 59A-53-19 NMSA 1978 (being Laws 2006,
 20 Chapter 103, Section 8, as amended) is amended to read:

21 "59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

22 A. The "fire protection grant council" is created.
 23 Subject to the requirements of Subsection B of this section,
 24 the council shall consist of:

- 25 (1) [~~a~~] one representative of the New Mexico

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1 municipal league;

2 (2) [~~a~~] one representative of the New Mexico
3 association of counties;

4 (3) two members appointed by the public
5 regulation commission who shall serve at the pleasure of the
6 commission;

7 (4) three members, one from each congressional
8 district, appointed by the governor who shall serve at the
9 pleasure of the governor; [~~and~~]

10 (5) one representative of a tribe with a fire
11 department appointed by the governor, who shall serve at the
12 pleasure of the governor; and

13 (6) the marshal, who shall serve as a
14 nonvoting advisory member. The council shall elect a chair and
15 vice chair from its membership.

16 B. No appointee to the council shall be a member of
17 the public regulation commission, the superintendent of
18 insurance or any other employee of the commission.

19 C. The public members shall receive per diem and
20 mileage as provided in the Per Diem and Mileage Act and shall
21 receive no other compensation, perquisite or allowance.

22 D. The council shall develop criteria for assessing
23 the critical needs of municipal fire departments and tribal and
24 county fire districts for fire apparatus and equipment,
25 communications equipment, equipment for wildfires, fire station

.181753.2

1 construction or expansion or equipment for hazardous material
2 response.

3 E. Applications for grant assistance from the fire
4 protection grant fund shall be made by fire districts to the
5 council in accordance with the requirements of the council.
6 Using criteria developed by the council, the council shall
7 evaluate applications and prioritize those applications most in
8 need of grant assistance from the fund. To the extent that
9 money in the fund is available, the council shall award grant
10 assistance for those prioritized applications.

11 F. In awarding grant assistance, the council may
12 require conditions and procedures necessary to ensure that the
13 money is expended in the most prudent manner."

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~~[bracketed material]~~ = delete