

1 SENATE BILL 33

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Benny Shendo, Jr.

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10 AN ACT

11 RELATING TO LAW ENFORCEMENT; ALLOWING CERTIFIED AND
12 COMMISSIONED TRIBAL AND PUEBLO POLICE AND BUREAU OF INDIAN
13 AFFAIRS LAW ENFORCEMENT OFFICERS TO ENFORCE NEW MEXICO LAW
14 WITHOUT COMMISSION AGREEMENTS; LIMITING STATE OR LOCAL
15 LIABILITY.

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

18 SECTION 1. Section 29-1-11 NMSA 1978 (being Laws 1972,
19 Chapter 8, Section 1, as amended) is amended to read:

20 "29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE
21 OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO
22 PEACE OFFICERS [~~AUTHORITY AND PROCEDURE FOR COMMISSIONED PEACE~~
23 OFFICERS] .--

24 A. [~~All persons who are duly~~] Commissioned officers
25 of the police [~~or sheriff's~~] department of [~~any~~] a New Mexico

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1 Indian nation, tribe or pueblo or who are law enforcement
2 officers employed by the bureau of Indian affairs and ~~[are]~~
3 assigned in New Mexico and who are ~~[when commissioned under~~
4 ~~Subsection B of this section]~~ certified by the New Mexico law
5 enforcement academy or a basic law enforcement training program
6 approved by the academy are recognized and authorized to act as
7 New Mexico peace officers. These officers have all the powers
8 of New Mexico peace officers to enforce state laws ~~[in New~~
9 ~~Mexico]~~, including the power to make arrests for violation of
10 state laws.

11 ~~[B. The chief of the New Mexico state police is~~
12 ~~granted authority to issue commissions as New Mexico peace~~
13 ~~officers to members of the police or sheriff's department of~~
14 ~~any New Mexico Indian nation, tribe or pueblo or a law~~
15 ~~enforcement officer employed by the bureau of Indian affairs to~~
16 ~~implement the provisions of this section. The procedures to be~~
17 ~~followed in the issuance and revocation of commissions and the~~
18 ~~respective rights and responsibilities of the departments shall~~
19 ~~be set forth in a written agreement to be executed between the~~
20 ~~chief of the New Mexico state police and the Indian nation,~~
21 ~~tribe or pueblo or the appropriate federal official.~~

22 ~~G. The agreement referred to in Subsection B of~~
23 ~~this section shall contain the following conditions:~~

24 ~~(1) the Indian nation, tribe or pueblo, but~~
25 ~~not the bureau of Indian affairs, shall submit proof of~~

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1 ~~adequate public liability and property damage insurance for~~
2 ~~vehicles operated by the peace officers and police professional~~
3 ~~liability insurance from a company licensed to sell insurance~~
4 ~~in the state;~~

5 ~~(2) each applicant for a commission shall~~
6 ~~successfully complete four hundred hours of basic police~~
7 ~~training that is approved by the director of the New Mexico law~~
8 ~~enforcement academy;~~

9 ~~(3) the chief of the New Mexico state police~~
10 ~~shall have the authority to suspend any commission granted~~
11 ~~pursuant to Subsection B of this section for reasons solely~~
12 ~~within the chief's discretion;~~

13 ~~(4) if any provision of the agreement is~~
14 ~~violated by the Indian nation, tribe or pueblo or any of its~~
15 ~~agents, the chief of the New Mexico state police shall suspend~~
16 ~~the agreement on five days' notice, which suspension shall last~~
17 ~~until the chief is satisfied that the violation has been~~
18 ~~corrected and will not recur;~~

19 ~~(5) the goldenrod-colored officer's second~~
20 ~~copy of any citation issued pursuant to a commission authorized~~
21 ~~by this section shall be submitted within five days to the~~
22 ~~chief of the New Mexico state police;~~

23 ~~(6) any citation issued pursuant to a~~
24 ~~commission authorized by this section]~~

25 B. Each police officer commissioned by a New Mexico

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1 Indian nation, tribe or pueblo or the bureau of Indian affairs
2 shall be liable for any acts of that officer acting within the
3 scope of the officer's employment or authority when acting as a
4 New Mexico peace officer. Neither the state nor any political
5 subdivision shall be liable for acts or failures to act by such
6 peace officer. The New Mexico Indian nation, tribe or pueblo
7 or the bureau of Indian affairs shall submit proof to the risk
8 management division of the general services department of
9 adequate public liability and property damage insurance for
10 motor vehicles operated by the peace officer and police
11 professional liability insurance from a company licensed to
12 sell insurance in New Mexico. Citations shall be to a
13 magistrate court of New Mexico; except that ~~[any]~~ citations
14 issued to Indians within the exterior boundaries of an Indian
15 reservation shall be cited into tribal court.

16 ~~[(7) the agreement or any commission issued~~
17 ~~pursuant to it shall not confer any authority on a tribal court~~
18 ~~or other tribal authority that the court or authority would not~~
19 ~~otherwise have;~~

20 ~~(8)]~~ C. The authority conferred ~~[by any agreement~~
21 ~~entered into]~~ pursuant to the provisions of this section shall
22 be coextensive with the exterior boundaries of the tribal or
23 pueblo officer's reservation except that an officer
24 ~~[commissioned under this section]~~ may proceed in hot pursuit of
25 an offender beyond the exterior boundaries of the officer's

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1 reservation [~~and~~].

2 D. The authority conferred in [~~any~~] a written
3 agreement between the chief of the New Mexico state police and
4 the Navajo Nation may extend beyond the exterior boundaries of
5 the Navajo reservation to and including the area enclosed by
6 the following description:

7 Beginning at a point where the southern
8 boundary line of the Navajo Nation reservation
9 intersects the western right-of-way line of US 491,
10 and running thence; southerly along the western
11 right-of-way line of US 491 to the northerly city
12 limits of Gallup; thence, easterly along the
13 northerly city limits of Gallup to the northern side
14 of the right of way of I-40; thence, in an easterly
15 direction along the northerly side of the right of
16 way of I-40 to the northerly limits of the village
17 of Prewitt; thence, in a straight line between the
18 northerly boundary of the village of Prewitt to the
19 southerly boundary of Ambrosia Lake; thence in a
20 straight line between the southerly boundary of
21 Ambrosia Lake to the southerly boundary of Hospah;
22 thence, east along a straight line from the
23 southerly boundary of Hospah to the southern
24 boundary of Torreon; thence along the easterly side
25 of the right of way of state road 197 to the

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1 westerly city limits of Cuba; thence, north along
2 the westerly side of the right of way of state road
3 44 to the southerly boundary of the Jicarilla Apache
4 Nation reservation; thence, westerly along the
5 southerly boundary of the Jicarilla Apache Nation
6 reservation to the southwest corner of that
7 reservation; thence, northerly along the westerly
8 boundary of the Jicarilla Apache Indian reservation
9 to a point where the westerly boundary of the
10 reservation intersects the southerly side of the
11 right of way of state road 44; thence, northerly
12 along the southerly side of the right of way of
13 state road 44 to its intersection with the northerly
14 side of the right of way of Navajo road 3003;
15 thence, along the northerly side of the right of way
16 of Navajo road 3003 to a point where the northerly
17 side of the right of way of Navajo road 3003
18 intersects the westerly side of the right-of-way
19 line of state road 371; thence, northerly along the
20 west side of the right of way of state road 371 to
21 the southerly side of the right of way of Navajo
22 road 36; thence, westerly along the southerly side
23 of the right of way of Navajo road 36 to the eastern
24 border of the Navajo Nation reservation; thence,
25 along the eastern and southerly borders of the

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1 Navajo Nation reservation to the point of beginning.

2 E. The municipalities of Cuba and Gallup and the
3 villages of Thoreau and Prewitt are excluded from the grant of
4 authority that may be conferred in ~~[any]~~ the written agreement
5 entered into pursuant to the provisions of this ~~[section]~~
6 subsection and Subsection D of this section; provided, however,
7 ~~[any]~~ a written agreement may include under ~~[such]~~ the grant of
8 authority the communities of Ambrosia Lake, Hospah, Torreon,
9 Lybrook, Nageezi, Counselors and Blanco Trading Post and those
10 communities commonly known as the Wingate community; the Navajo
11 Nation Blue Water ranch area of the Thoreau community; the
12 Prewitt community, exclusive of the village of Prewitt; the
13 Haystack community; the Desidero community; the Sand Springs
14 community; the Rincon Marquis community; the Charley Jesus
15 Arviso and the Castillo community; and state road 264 beginning
16 at the point where it intersects US 491 and ending where state
17 road 264 intersects the Arizona-New Mexico state line. ~~[and~~
18 ~~(9)]~~ The chief of the New Mexico state police or the chief's
19 designee and the ~~[Indian nation, tribe or pueblo or the~~
20 ~~appropriate federal official]~~ Navajo Nation shall be required
21 to meet at least quarterly or more frequently at the call of
22 the chief of the New Mexico state police to discuss the status
23 of the agreement and invite other law enforcement or other
24 officials to attend as necessary.

25 ~~[D.]~~ F. Nothing in this section impairs or affects

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1 the existing status and sovereignty of an Indian nation, tribe
2 or pueblo as established under the laws of the United States.

3 ~~[E-]~~ G. All persons who are duly commissioned
4 federal law enforcement officers employed by the federal bureau
5 of investigation; drug enforcement administration; bureau of
6 alcohol, tobacco and firearms; United States secret service;
7 United States customs service; immigration and naturalization
8 service; United States marshals service; postal inspection
9 service; United States probation department; and United States
10 pretrial services agency; and other appropriate federal
11 officers whose primary duty is law enforcement related, who are
12 assigned in New Mexico and who are required to be designated by
13 the county sheriff on a case-by-case basis in the county in
14 which they are working, are recognized and authorized to act as
15 New Mexico peace officers and have all the powers of New Mexico
16 peace officers to enforce state laws in New Mexico, including
17 the power to make arrests for violation of state laws. The
18 department of public safety shall maintain a registry that
19 lists the name and affiliated federal agency of every federal
20 law enforcement officer recognized and authorized to act as a
21 New Mexico peace officer pursuant to the provisions of this
22 subsection. This subsection shall not be construed to impose
23 liability upon or to require indemnification by the state for
24 any act performed by a federal law enforcement officer pursuant
25 to this subsection.

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1 ~~[F.]~~ H. The provisions of Subsection ~~[E]~~ G of this
2 section regarding designation of federal law enforcement
3 officers by a county sheriff do not apply to federal law
4 enforcement officers who are duly commissioned officers of a
5 police ~~[or sheriff's]~~ department for an Indian nation, tribe or
6 pueblo in New Mexico or who are federal law enforcement
7 officers employed by the bureau of Indian affairs.

8 ~~[G. Nothing in this section limits, impairs or~~
9 ~~nullifies the authority of county sheriffs to appoint pursuant~~
10 ~~to Chapter 4, Article 41 NMSA 1978 duly commissioned state or~~
11 ~~federally certified officers who are employees of a police or~~
12 ~~sheriff's department of an Indian nation, tribe or pueblo in~~
13 ~~New Mexico or who are federal law enforcement officers employed~~
14 ~~by the bureau of Indian affairs as deputy sheriffs authorized~~
15 ~~to enforce New Mexico criminal and traffic law.]"~~

16 SECTION 2. That version of Section 29-7-7 NMSA 1978
17 (being Laws 1981, Chapter 114, Section 6, as amended) that is
18 effective July 1, 2023 is amended to read:

19 "29-7-7. DEFINITIONS.--For the purpose of the Law
20 Enforcement Training Act:

21 A. "academy" means the New Mexico law enforcement
22 academy;

23 B. "basic law enforcement training" means a course
24 consisting of not less than four hundred hours of instruction
25 in basic law enforcement training as required by the Law

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1 Enforcement Training Act;

2 C. "board" means the law enforcement certification
3 board;

4 D. "conviction" means an adjudication of guilt or a
5 plea of no contest and includes convictions that are suspended
6 or deferred;

7 E. "council" means the New Mexico law enforcement
8 standards and training council;

9 F. "director" means the director of the division;

10 G. "division" means the New Mexico law enforcement
11 academy of the department of public safety;

12 H. "in-service law enforcement training" means a
13 course of instruction required of all certified peace officers
14 and designed to train and equip all police officers in the
15 state with specific law enforcement skills and to ensure the
16 continuing development of all police officers in the state.

17 The training and instruction shall be kept current and may be
18 conducted on a regional basis at the discretion of the
19 director;

20 I. "law enforcement agency" means an agency of the
21 state or local political subdivision of the state that employs
22 certified law enforcement officers or the police department of
23 a tribe that has entered into an agreement with the department
24 of public safety pursuant to Section 29-1-11 NMSA 1978;

25 J. "police officer" means ~~[any]~~ a commissioned

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1 employee of a law enforcement agency that is part of or
2 administered by the state or any political subdivision of the
3 state; a commissioned police officer of an Indian nation, tribe
4 or pueblo; and ~~[includes any]~~ an employee of a missile range
5 civilian police department, who is a graduate of the law
6 enforcement academy, a recognized certified regional law
7 enforcement training facility or other law enforcement training
8 approved by the academy and who is currently certifiable by the
9 academy, which employee is responsible for the prevention and
10 detection of crime or the enforcement of the penal or traffic
11 or highway laws of this state. The term specifically includes
12 deputy sheriffs. Sheriffs are eligible to attend the academy
13 and are eligible to receive certification as provided in the
14 Law Enforcement Training Act. As used in this subsection,
15 "commissioned" means an employee of a law enforcement agency
16 who is authorized by a sheriff or chief of police to apprehend,
17 arrest and bring before the court all violators within the law
18 enforcement agency's jurisdiction; and

19 K. "certified regional law enforcement training
20 facility" means a law enforcement training facility within the
21 state certified by the director, with the approval of the
22 academy's board of directors, that offers basic law enforcement
23 training and in-service law enforcement training that is
24 comparable to or exceeds the standards of the programs of the
25 academy."

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.