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HOUSE BILL 306

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO DEPUTIZATION OF TRIBAL OFFICERS; ALLOWING SHERIFFS TO COMMISSION OFFICERS OF THE POLICE DEPARTMENT OR SHERIFF'S OFFICE OF ANY NEW MEXICO INDIAN NATION, TRIBE OR PUEBLO OR WHO ARE LAW ENFORCEMENT OFFICERS EMPLOYED BY THE FEDERAL BUREAU OF INDIAN AFFAIRS AND ARE ASSIGNED IN NEW MEXICO TO ACT AS DEPUTY SHERIFFS.

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

SECTION 1. A new section of Chapter 4, Article 41 NMSA 1978 is enacted to read:

"[NEW MATERIAL] AUTHORIZATION OF TRIBAL AND PUEBLO POLICE OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO DEPUTY SHERIFFS--AUTHORITY AND PROCEDURE FOR COMMISSIONED DEPUTY SHERIFFS.--

A. All persons who are duly commissioned officers

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1 of the police department or sheriff's office of any New Mexico  
2 Indian nation, tribe or pueblo or who are law enforcement  
3 officers employed by the bureau of Indian affairs and are  
4 assigned in New Mexico are, when commissioned under Subsection  
5 B of this section, recognized and authorized to act as deputy  
6 sheriffs. These officers have all the powers of deputy  
7 sheriffs to enforce state laws in New Mexico, including the  
8 power to make arrests for violation of state laws.

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

20 C. The agreement referred to in Subsection B of  
21 this section shall contain the following conditions:

22 (1) the Indian nation, tribe or pueblo, but  
23 not the bureau of Indian affairs, shall submit proof of  
24 adequate public liability and property damage insurance for  
25 vehicles operated by the peace officers and police professional

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1 liability insurance from a company licensed to sell insurance  
2 in the state;

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

7 (3) the sheriff shall have the authority to  
8 suspend any commission granted pursuant to Subsection B of this  
9 section for reasons solely within the sheriff's discretion;

10 (4) if any provision of the agreement is  
11 violated by the Indian nation, tribe or pueblo or any of its  
12 agents, the sheriff shall suspend the agreement on five days'  
13 notice, which suspension shall last until the sheriff is  
14 satisfied that the violation has been corrected and will not  
15 recur;

16 (5) the goldenrod-colored officer's second  
17 copy of any citation issued pursuant to a commission authorized  
18 by this section shall be submitted within five days to the  
19 sheriff;

20 (6) any citation issued pursuant to a  
21 commission authorized by this section shall be to a magistrate  
22 court of New Mexico; except that any citations issued to  
23 Indians within the exterior boundaries of an Indian reservation  
24 shall be cited into tribal court;

25 (7) the agreement or any commission issued

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1 pursuant to it shall not confer any authority on a tribal court  
2 or other tribal authority that the court or authority would not  
3 otherwise have;

4 (8) the authority conferred by any agreement  
5 entered into pursuant to the provisions of this section shall  
6 be coextensive with the exterior boundaries of the reservation;  
7 except that an officer commissioned under this section may  
8 proceed in hot pursuit of an offender beyond the exterior  
9 boundaries of the reservation, and the authority conferred in  
10 any written agreement between the sheriff and the Navajo Nation  
11 may extend beyond the exterior boundaries of the Navajo  
12 reservation to and including the area enclosed by the following  
13 description:

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

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1 boundary of Hospah; thence, east along a straight line from the  
2 southerly boundary of Hospah to the southern boundary of  
3 Torreon; thence, along the easterly side of the right of way of  
4 state road 197 to the westerly city limits of Cuba; thence,  
5 north along the westerly side of the right of way of state road  
6 44 to the southerly boundary of the Jicarilla Apache Nation  
7 reservation; thence, westerly along the southerly boundary of  
8 the Jicarilla Apache Nation reservation to the southwest corner  
9 of that reservation; thence, northerly along the westerly  
10 boundary of the Jicarilla Apache Indian reservation to a point  
11 where the westerly boundary of the reservation intersects the  
12 southerly side of the right of way of state road 44; thence,  
13 northerly along the southerly side of the right of way of state  
14 road 44 to its intersection with the northerly side of the  
15 right of way of Navajo road 3003; thence, along the northerly  
16 side of the right of way of Navajo road 3003 to a point where  
17 the northerly side of the right of way of Navajo road 3003  
18 intersects the westerly side of the right-of-way line of state  
19 road 371; thence, northerly along the west side of the right of  
20 way of state road 371 to the southerly side of the right of way  
21 of Navajo road 36; thence, westerly along the southerly side of  
22 the right of way of Navajo road 36 to the eastern border of the  
23 Navajo Nation reservation; thence, along the eastern and  
24 southerly borders of the Navajo Nation reservation to the point  
25 of beginning; and

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1 (9) the sheriff or the sheriff's  
2 designee and the Indian nation, tribe or pueblo or the  
3 appropriate federal official shall be required to meet at least  
4 quarterly or more frequently at the call of the sheriff to  
5 discuss the status of the agreement and invite other law  
6 enforcement or other officials to attend as necessary.

7 D. Nothing in this section impairs or affects the  
8 existing status and sovereignty of an Indian nation, tribe or  
9 pueblo as established under the laws of the United States."

10 SECTION 2. Section 4-41-10 NMSA 1978 (being Laws 1891,  
11 Chapter 63, Section 4, as amended) is amended to read:

12 "4-41-10. RIGHT TO CARRY ARMS--DEPUTIES--APPOINTMENT.--

13 A. All sheriffs shall at all times be considered as  
14 in the discharge of their duties and be allowed to carry arms  
15 on their persons. On the appointment of any regular or  
16 permanent deputy sheriff, it shall be the duty of the sheriff  
17 to file one notice of the appointment in the office of the  
18 county clerk of the sheriff's county and one notice of the  
19 appointment in the office of the clerk of the district court of  
20 that county, and each of the sheriff's deputies shall file an  
21 oath of office in the office of the county clerk.

22 B. Any sheriff is hereby authorized at any time to  
23 appoint respectable and orderly persons as special deputies to  
24 serve any particular order, writ or process or when in the  
25 opinion of any sheriff the appointment of special deputies is

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1 necessary and required for the purpose of preserving the peace,  
2 and it shall not be necessary to give or file any notice of  
3 such special appointment; however, the provision authorizing  
4 the carrying of concealed arms shall not apply to such persons.

5 [~~Provided~~]

6 C. No person shall be eligible to appointment as a  
7 deputy sheriff unless the person is a citizen of the United  
8 States of America. There shall be no additional fees or per  
9 diem paid by the counties for any additional deputies other  
10 than as provided by law.

11 D. The commissioning as a deputy sheriff of an  
12 officer of the police department or sheriff's office of any New  
13 Mexico Indian nation, tribe or pueblo or who are law  
14 enforcement officers employed by the bureau of Indian affairs  
15 and are assigned in New Mexico shall be as provided for in  
16 Section 1 of this 2013 act."

17 **SECTION 3.** Section 29-1-11 NMSA 1978 (being Laws 1972,  
18 Chapter 8, Section 1, as amended) is amended to read:

19 "29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE  
20 OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO  
21 PEACE OFFICERS--AUTHORITY AND PROCEDURE FOR COMMISSIONED PEACE  
22 OFFICERS.--

23 A. All persons who are duly commissioned officers  
24 of the police or sheriff's department of any New Mexico Indian  
25 nation, tribe or pueblo or who are law enforcement officers

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1 employed by the bureau of Indian affairs and are assigned in  
2 New Mexico are, when commissioned under Subsection B of this  
3 section, recognized and authorized to act as New Mexico peace  
4 officers. These officers have all the powers of New Mexico  
5 peace officers to enforce state laws in New Mexico, including  
6 the power to make arrests for violation of state laws.

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

18 C. The agreement referred to in Subsection B of  
19 this section shall contain the following conditions:

20 (1) the Indian nation, tribe or pueblo, but  
21 not the bureau of Indian affairs, shall submit proof of  
22 adequate public liability and property damage insurance for  
23 vehicles operated by the peace officers and police professional  
24 liability insurance from a company licensed to sell insurance  
25 in the state;

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1 (2) each applicant for a commission shall  
2 successfully complete four hundred hours of basic police  
3 training that is approved by the director of the New Mexico law  
4 enforcement academy;

5 (3) the chief of the New Mexico state police  
6 shall have the authority to suspend any commission granted  
7 pursuant to Subsection B of this section for reasons solely  
8 within the chief's discretion;

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

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

19 (6) any citation issued pursuant to a  
20 commission authorized by this section shall be to a magistrate  
21 court of New Mexico; except that any citations issued to  
22 Indians within the exterior boundaries of an Indian reservation  
23 shall be cited into tribal court;

24 (7) the agreement or any commission issued  
25 pursuant to it shall not confer any authority on a tribal court

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1 or other tribal authority that the court or authority would not  
2 otherwise have;

3 (8) the authority conferred by any agreement  
4 entered into pursuant to the provisions of this section shall  
5 be coextensive with the exterior boundaries of the reservation;  
6 except that an officer commissioned under this section may  
7 proceed in hot pursuit of an offender beyond the exterior  
8 boundaries of the reservation, and the authority conferred in  
9 any written agreement between the chief of the New Mexico state  
10 police and the Navajo Nation may extend beyond the exterior  
11 boundaries of the Navajo reservation to and including the area  
12 enclosed by the following description:

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

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1 southerly boundary of Hospah to the southern boundary of  
2 Torreon; thence, along the easterly side of the right of way of  
3 state road 197 to the westerly city limits of Cuba; thence,  
4 north along the westerly side of the right of way of state road  
5 44 to the southerly boundary of the Jicarilla Apache Nation  
6 reservation; thence, westerly along the southerly boundary of  
7 the Jicarilla Apache Nation reservation to the southwest corner  
8 of that reservation; thence, northerly along the westerly  
9 boundary of the Jicarilla Apache Indian reservation to a point  
10 where the westerly boundary of the reservation intersects the  
11 southerly side of the right of way of state road 44; thence,  
12 northerly along the southerly side of the right of way of state  
13 road 44 to its intersection with the northerly side of the  
14 right of way of Navajo road 3003; thence, along the northerly  
15 side of the right of way of Navajo road 3003 to a point where  
16 the northerly side of the right of way of Navajo road 3003  
17 intersects the westerly side of the right-of-way line of state  
18 road 371; thence, northerly along the west side of the right of  
19 way of state road 371 to the southerly side of the right of way  
20 of Navajo road 36; thence, westerly along the southerly side of  
21 the right of way of Navajo road 36 to the eastern border of the  
22 Navajo Nation reservation; thence, along the eastern and  
23 southerly borders of the Navajo Nation reservation to the point  
24 of beginning.

25 The municipalities of Cuba and Gallup and the villages of

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1 Thoreau and Prewitt are excluded from the grant of authority  
2 that may be conferred in any written agreement entered into  
3 pursuant to provisions of this section; provided, however, any  
4 written agreement may include under such grant of authority the  
5 communities of Ambrosia Lake, Hospah, Torreon, Lybrook,  
6 Nageezi, Counselors and Blanco Trading Post and those  
7 communities commonly known as the Wingate community; the Navajo  
8 Nation Blue Water ranch area of the Thoreau community; the  
9 Prewitt community, exclusive of the village of Prewitt; the  
10 Haystack community; the Desidero community; the Sand Springs  
11 community; the Rincon Marquis community; the Charley Jesus  
12 Arviso and the Castillo community; and state road 264 beginning  
13 at the point where it intersects US 491 and ending where state  
14 road 264 intersects the Arizona-New Mexico state line; and

15 (9) the chief of the New Mexico state police  
16 or the chief's designee and the Indian nation, tribe or pueblo  
17 or the appropriate federal official shall be required to meet  
18 at least quarterly or more frequently at the call of the chief  
19 of the New Mexico state police to discuss the status of the  
20 agreement and invite other law enforcement or other officials  
21 to attend as necessary.

22 D. Nothing in this section impairs or affects the  
23 existing status and sovereignty of an Indian nation, tribe or  
24 pueblo as established under the laws of the United States.

25 E. All persons who are duly commissioned federal

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

25 F. The provisions of Subsection E of this section

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

7 G. Nothing in this section limits, impairs or  
8 nullifies the authority of county sheriffs to appoint pursuant  
9 to [~~Chapter 4, Article 41 NMSA 1978~~] Section 1 of this 2013 act  
10 duly commissioned state or federally certified officers who are  
11 employees of a police department or sheriff's [~~department~~]  
12 office of an Indian nation, tribe or pueblo in New Mexico or  
13 who are federal law enforcement officers employed by the bureau  
14 of Indian affairs as deputy sheriffs authorized to enforce New  
15 Mexico criminal and traffic law."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2013.