

This is an emergency amendment to 10.2.4 NMAC, Sections 2, 3, 7, 8, & 9, effective 5/10/2024

10.2.4.2 SCOPE: All law enforcement agencies eligible to receive funding from the law enforcement retention fund for the purpose of providing a retention differential disbursement to ~~[eligible]~~ full-time certified law enforcement officers employed by that law enforcement agency.
[10.2.4.2 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to Sections 9-19-6 E. and 9-19-14 NMSA 1978 of the Department of Public Safety Act, as amended by 2024 HB 193. Section 9-19-14, as amended creates a law enforcement retention fund in the state treasury and requires the Department to develop rules, forms, standards, procedures and related training for law enforcement agencies to report retention information when seeking monies to provide retention differential disbursements to eligible full-time certified law enforcement officers within the law enforcement agency's employ.
[10.2.4.3 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.7 DEFINITIONS: This rule adopts the definitions found in Section 9-19-2 NMSA 1978, ~~[and]~~ Subsection M of Section 9-19-14 NMSA 1978 and 2024 HB 193, as if fully set forth herein. In addition to the definitions adopted, the following terms have the following meaning:

A. "Certified" means an individual certified as a peace officer pursuant to the Law Enforcement Training Act, Section 29-7-1 to 29-7-16 NMSA 1978.

B. "Date of hire" means the month, date and year the individual was hired by a law enforcement agency for the purpose of serving as a full-time certified law enforcement officer with that agency.

~~[B.]~~ **C.** "DPS" means the department of public safety.

~~[C.]~~ **D.** "Eligible law enforcement agency" means an agency eligible to receive monies from the LERF because the agency:

(1) has, prior to June 1 of the reporting fiscal year, made a request for monies from the DPS and included in that request the information on which the agency is required to report under Section 9-19-14 H NMSA 1978 and this rule;

(2) is, at the time of submitting the request for monies to DPS in compliance with that portion of the Law Enforcement Training Act that requires every law enforcement agency to submit a quarterly report to the director of the law enforcement academy and the New Mexico law enforcement standards and training council; and

(3) has, at the time of submitting the request for monies to DPS, submitted the agency's most current roster of full-time certified law enforcement officers, including commission dates, to the New Mexico law enforcement academy.

E. "Eligible officer" means [an officer who has remained employed as a law enforcement officer with the same law enforcement agency one year and one day after reaching four, nine, fourteen and nineteen years of consecutive service from the law enforcement officer's date of hire with that law enforcement agency] a full-time certified law enforcement officer employed by any law enforcement agency, who after completing four, nine, 10, 14, or 20 or more years of service since the law enforcement officer's initial date of hire, remains employed for one additional year with the law enforcement agency by whom the officer was employed at the time the officer completed four, nine, 14, or 20 or more years of service and who is in compliance with the in-service training and reporting requirements of the Law Enforcement Training Act.

~~[D.]~~ **F.** "Employer tax liability" means the employer contribution for payroll taxes outlined in the Federal Insurance Contribution Act for Social Security and/or Medicare. This does not include any employer contributions for retirement or other benefit plans.

~~[E.]~~ **G.** "Law enforcement academy" means the New Mexico law enforcement academy created by Section 29-7-2 NMSA 1978 or any of the satellite academies certified by the New Mexico law enforcement [academy board] standards and training council, its predecessors, or successors.

~~[F.]~~ **H.** "Law enforcement retention fund" means a fund in the state treasury, consisting of money appropriated by the legislature, federal money granted to the state for the purposes of the fund, income from investment of the fund and money otherwise accruing to the fund. Money in the fund does not revert to any other fund at the end of the fiscal year. The fund is administered by DPS to provide monies to law enforcement agencies

who request the funds for the purpose of providing retention differential disbursements to full-time certified law enforcement officers within the agency's employ who meet ~~[statutorily prescribed]~~ requirements prescribed by statute and by this rule.

~~[G.]~~ **L.** "LERF" means law enforcement retention fund.

~~[H.]~~ **J.** "Portal" means the electronic system through which law enforcement agencies annually report to the DPS the data required by this rule in order ~~[for the law enforcement agency]~~ to receive funding from the law enforcement retention fund for the purpose of providing retention differential disbursements to eligible officers employed by that agency.

~~[I.]~~ **K.** "PRDD" means the amount of the projected retention differential disbursement stated in dollars and cents to be paid to the eligible officer.

~~[J.]~~ **L.** "Reporting fiscal year" means the fiscal year in which the law enforcement agency is reporting to DPS the information set forth in Subsection A of 10.2.4.9 NMAC.

~~[K.]~~ **M.** "Salary" means the base hourly rate of pay of the full-time certified law enforcement officer for two thousand eighty hours, excluding overtime, any percentage pay increases or multiple components of pay.

~~[L.]~~ **N.** "Years of service" means the number of ~~[consecutive]~~ years, months and days, beginning with the date of hire, a full-time certified law enforcement officer is employed by a law enforcement agency for the purpose of serving as a full-time certified law enforcement officer with a ~~[single]~~ law enforcement agency.

[10.2.4.7 NMAC - N, 4/25/2023 ; A/E 5/10/2024]

10.2.4.8 CALCULATION OF THE PROJECTED FIVE PERCENT RETENTION DIFFERENTIAL DISBURSEMENT BY THE REPORTING LAW ENFORCEMENT AGENCY: The salary used by the law enforcement agency to calculate the five percent retention differential disbursement for those officers projected to be eligible officers in the upcoming fiscal year, shall be the salary of the officer on the date the officer reached four, nine, 14 or 19 or 20 or more years of ~~[consecutive]~~ service with the law enforcement agency requesting the retention differential disbursement.

[10.2.4.8 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.9 REPORTING REQUIREMENTS FOR AGENCIES SEEKING RETENTION DIFFERENTIAL DISBURSEMENTS

A. Every law enforcement agency seeking monies from the LERF for retention differential disbursements for full-time certified law enforcement officers within its employ, who are projected to be eligible officers in the upcoming fiscal year, shall annually report to DPS the following information:

(1) The full legal name and date of hire of the full-time certified law enforcement officer projected to be an eligible officer in the upcoming fiscal year, the PRDD for ~~[that]~~ each officer, the amount of the annual salary on which the PRDD was calculated and the amount of the employer tax liability attributable to the PRDD. The amount of the employer tax liability shall specify the amount attributable to Social Security and the amount attributable to Medicare;

(2) The aggregate number of full-time certified law enforcement officers employed by the law enforcement agency during each of the five fiscal years immediately preceding the reporting fiscal year. For any officer employed less than a full fiscal year, the law enforcement agency shall report the number of months and days the officer was employed, identifying the officer without personally identifying information (e.g. Officer # 1, Officer # 2, etc.).

(3) For each officer included in Paragraph (2) of Subsection A above, the number of years (or partial years) of service of each full-time certified law enforcement officer with the reporting agency.

(4) The number of full-time certified law enforcement officers that left the employ of the law enforcement agency during the fiscal year immediately preceding the reporting fiscal year. The number of years of service with the reporting law enforcement agency of each departing officer [and], the ~~[stated reasons why each law enforcement officer left the employ of the law enforcement agency]~~ agency's reason for each involuntary departure and the officer's stated reason, if any, for each voluntary departure.

(5) The number of applicants to the full-time certified law enforcement agency for a position as a law enforcement officer during the fiscal year immediately preceding the reporting fiscal year.

(6) The number of applicants to the law enforcement agency for a position as a full-time certified law enforcement officer in the fiscal year immediately preceding the reporting fiscal year, who attended a law enforcement academy.

(7) The number of full-time certified law enforcement officers within the reporting agency's employ who received one or more certifications during the fiscal year immediately preceding the reporting fiscal year.

(8) The number of full-time certified law enforcement officers added to the law enforcement agency by way of lateral transfer during the fiscal year immediately preceding the reporting fiscal year and the years of service of each added officer at each previous law enforcement agency if known to the reporting agency.

(9) Any changes to compensation, recruiting, retention or benefits of full-time certified law enforcement officers implemented by the law enforcement agency during the fiscal year immediately preceding the reporting fiscal year.

(10) The number of full-time certified law enforcement officers that are projected to become eligible for a retention differential disbursement in the upcoming fiscal year, and the projected amount of the retention differential disbursement including any employer tax liabilities for each eligible officer.

(11) Any other information requested by DPS that is used for determining retention rates, unless disclosure of such information is otherwise prohibited by law.

B. The information in Subsection A above shall be reported to the DPS for the upcoming fiscal year no later than May 31.

C. The information in Subsection A above shall be reported to the DPS through the electronic portal, unless DPS advises the applying law enforcement agencies that a different reporting method should be used.

D. In order to receive funding for retention differential disbursements, the law enforcement agency must, at the time of the request, be in compliance with the in-service officer training and reporting requirements of the New Mexico Law Enforcement Training Act set forth in Section 29-7-7.1 NMSA 1978 and 29-7-7.2 NMSA 1978.

E. In order to receive funding for retention differential disbursements, the law enforcement agency must have submitted the agency's most current roster of full-time certified law enforcement officers, including commission dates, to the New Mexico law enforcement academy no later than April 1 of the reporting fiscal year.
[10.2.4.9 NMAC - N, 4/25/2023; A/E 5/10/2024]