

## NOTICE OF PUBLIC HEARING ON PROPOSED NEW PERMANENT RULE

**Public Notice.** The New Mexico Department of Public Safety ["DPS"] gives notice that it will hold a public hearing via Microsoft Teams on Tuesday, November 29, 2022, at 9:00 a.m. on the proposed new permanent rule 10.2.4 NMAC LAW ENFORCEMENT RETENTION FUND REPORTING, MONITORING AND ADMINISTRATION. The members of the public may attend the Microsoft Teams meeting on a computer, mobile device or telephone. The videoconference's Meeting ID and Password, videoconference link and telephone number are:

**Join Microsoft Teams Meeting on your computer or mobile app** <https://tinyurl.com/rn5bnu27>

**Or call in (audio only)**

+1 (505) 312-4308

Phone Conference ID: 140 050 985#

**Purpose of the proposed permanent rule.** The purpose of this public hearing is to receive public comment and input on a proposed new rule 10.2.4 NMAC *Law Enforcement Retention Fund Reporting, Monitoring and Administration*. This rule sets forth procedures : 1) for law enforcement agencies to follow in reporting (or requesting a waiver of the requirement to report) law enforcement officer retention information to DPS in order to obtain monies from the Law Enforcement Retention Fund ["LERF"] to provide retention differential disbursements to eligible officers; 2) that DPS will follow in calculating, disbursing and, in the event of a shortfall in monies in the LERF, reducing the amount of money disbursed to law enforcement agencies for retention differential disbursements for eligible law enforcement officers; and 3) for law enforcement agencies to follow in returning unused monies to the DPS or in appealing DPS's calculation of the retention differential disbursement DPS intends to distribute to the requesting law enforcement agencies.

**Legal authority authorizing the proposed permanent rule.** The proposed permanent rule is promulgated pursuant to Subsection G of Section 29-11A-5, NMSA 1978 and Paragraph (3) of Subsection H of Section 9-19-4, NMSA 1978.

**Summary of the full text of the proposed permanent rule.** The proposed permanent rule defines the officers eligible to receive retention differential disbursements from the LERF as those officers who remain employed with the same law enforcement agency "one year and one day after reaching four, nine, 14 or 19 years of service" with that agency. Law enforcement agencies who seek retention differential disbursements for their eligible officers must request monies for the same in the fiscal year in which the officers complete four, nine, 14 or 19 consecutive years of service. The rule sets forth the information the law enforcement agency must report to DPS in order to receive monies from the LERF for retention differential disbursements and requires the agency to submit the required information no later than May 31. Assuming sufficient funds are available in the LERF to satisfy all requests, the DPS will calculate and disburse to the requesting law enforcement agency an amount equal to five per cent of the officer's salary on the date the officer completed four, nine, 14 or 19 consecutive years of service with the requesting law enforcement agency, together with an amount equal to the employer's tax liability for the disbursement. DPS will disburse the LERF monies to the law enforcement agencies on December 15 of the fiscal year in which the officers are projected to be eligible for the same. The law enforcement agency in receipt of disbursed funds will place them in an interest bearing account and disburse the monies no sooner than the date the officer attains eligibility and no later than 30 days following the date of eligibility or the date the law enforcement agency receives the disbursement from DPS, whichever occurs last. The law enforcement agency disbursing funds is required to report the date of disbursement and the date of payment of the employer taxes on the DPS portal. Within 60 days after the end of the fiscal year in which monies from the LERF are disbursed by DPS to a law enforcement agency for retention differential disbursements and no later than August 31, any law enforcement agency which has not disbursed all monies provided, shall return the same to the DPS, together with any interest earned on the funds, in the form of a check. The law enforcement agency shall also report to the DPS the names of those officers who received a retention differential disbursement, the names of those officer who were projected to, but who did not receive a retention differential disbursement, the amounts returned, broken down by retention differential disbursement, employer tax and interest earned, and the reason any retention differential disbursement was not made. In the event that there are insufficient monies in the LERF to fully fund all the retention differential disbursement requests, the DPS will reduce the amount to be disbursed to each law enforcement agency on a pro

rata basis to an amount permitted by the monies available in the LERF. The rule also sets forth a process by which a law enforcement agency may seek reconsideration and review of the DPS calculation of each retention differential disbursement and the employer taxes thereon.

**Copies of the Rule.** Copies of the rule may be obtained at all DPS district, field, ports of entry, and regional offices, at the DPS website at <https://www.dps.nm.gov/public-information/rule-making/> on the sunshine portal, or by contacting Jason Greenlee, Chief Legal Counsel, at 505.467.9629 or [jason.greenlee@state.nm.us](mailto:jason.greenlee@state.nm.us).

**Comment on the rule.** Interested persons may comment on the proposed permanent rule, at the hearing or by submitting written statements to DPS Sylvia M. Serna, Administrative Services Director at 4491 Cerrillos Rd., P.O. Box 1628 (87504-1628) or by e-mail at [sylviam.serna@state.nm.us](mailto:sylviam.serna@state.nm.us). All mailed statements must be received by November 29, 2022. Early submission of written statements is encouraged. Interested persons may also comment in writing at the public hearing.

**Permanent rule.** The proposed rule will be a permanent rule.

**Reasonable Accommodation.** Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing, including a reader, amplifier, qualified sign language interpreter or any form of auxiliary aid or service are asked to contact Sylvia M. Serna by telephone at 505.629.6865 or by e-mail at [sylviam.serna@state.nm.us](mailto:sylviam.serna@state.nm.us) as soon as possible and no later than November 18, 2022. DPS requires at least ten calendar days advance notice to provide special accommodations.