

HOUSE BILL 86

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LAW ENFORCEMENT; CREATING THE LAW ENFORCEMENT
RETENTION FUND; PROVIDING A RETENTION DIFFERENTIAL DISBURSEMENT
TO CERTAIN LAW ENFORCEMENT OFFICERS; PROVIDING REPORTING
REQUIREMENTS; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Department of Public
Safety Act is enacted to read:

"[NEW MATERIAL] LAW ENFORCEMENT RETENTION FUND--CREATED--
RETENTION DIFFERENTIAL DISBURSEMENT--REPORTING.--

.221267.4AIC February 7, 2022 (12:44pm)

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A. The "law enforcement retention fund" is created in the state treasury. The fund consists 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 shall not revert to any other fund at the end of a fiscal year. The department shall administer the fund, and money in the fund is appropriated to the department to provide:

- (1) retention differential disbursements for law enforcement officers meeting certain levels of tenure; and
- (2) support for disbursement administration processes and reporting compliance.

B. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of public safety.

C. Contingent on the completion of reporting requirements provided in Subsection ~~HAFC~~→~~F~~←~~HAFC~~ ~~HAFC~~→~~G~~←~~HAFC~~ of this section, the department shall determine and distribute annually the amount necessary to provide to a law enforcement agency for the purpose of providing a retention differential disbursement to law enforcement officers employed by that law enforcement agency. A law enforcement agency shall expend funding received for no other purpose than that permitted by this section, and any unexpended balance received by a law enforcement agency pursuant to this section at the end of a

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fiscal year shall revert to the law enforcement retention fund. The department shall monitor the use of funding and ensure the proper reversions to the law enforcement retention fund.

HAFC→~~D. A law enforcement officer shall receive a retention differential disbursement in the amount of five percent of the law enforcement officer's salary upon completion of five years of service and for every five years of service completed thereafter, up to twenty years of service; provided that the retention differential disbursement shall be calculated based on the salary of the law enforcement officer on those dates.~~←HAFC

HAFC→D. A law enforcement officer shall receive a retention differential disbursement in the amount of five percent of the law enforcement officer's salary upon reaching years of service of four, nine, fourteen and nineteen years from the anniversary of the law enforcement officer's date of hire with that law enforcement agency; provided that:

(1) the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year; and

(2) the retention differential disbursement shall be calculated based on the salary of the law enforcement officer on those dates.

E. After the calculations for retention

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differential disbursements are made in accordance with Subsection D of this section, if the balance in the fund is insufficient to permit the total disbursements provided by Subsection D of this section, the department shall reduce that allocation to the maximum amount permitted by available money in the fund. ←H AFC

H AFC →E. ←H AFC F. ←H AFC The amount provided for a retention differential disbursement shall include the amount of employer tax liabilities, which shall be paid by the employer at the time the retention differential disbursement is provided to the law enforcement officer.

H AFC →F. ←H AFC G. ←H AFC To receive funding pursuant to Subsection C of this section, a law enforcement agency shall make that request to the department prior to June 1 of each fiscal year, and in that request, the agency shall report the following:

(1) the number of 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;

(2) the number of law enforcement officers employed by the law enforcement agency for the last five years;

(3) the number of years of service of each law enforcement officer employed by the law enforcement agency;

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(4) the number of law enforcement officers that left the employ of the law enforcement agency in the last year and the stated reasons why each law enforcement officer left the employ of the law enforcement agency;

(5) the number of years of service of each law enforcement officer that left the employ of the law enforcement agency in the last year;

(6) the number of applicants to the law enforcement agency in the last year;

(7) the number of applicants to the law enforcement agency in the last year that attended a law enforcement academy;

(8) the number of law enforcement officers that received one or more certifications in the last year;

(9) the number of law enforcement officers added to the law enforcement agency via lateral transfer and the years of service of each law enforcement officer at each previous law enforcement agency;

(10) any changes to compensation, recruiting, retention or benefits implemented by the law enforcement agency in the last year; and

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

HAFC→G.←HAFC H.←HAFC The department shall:

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(1) provide forms, standards and procedures and related training to law enforcement agencies as necessary for the agencies to report retention information;

(2) maintain the privacy and security of information in accordance with applicable state and federal laws; and

(3) adopt and promulgate rules as necessary to implement the provisions of this section.

HAFC→**H.**←HAFC **I.**←HAFC The annual report and other statistical data reports generated by the department shall include an evaluation of a program's efficacy in law enforcement retention and shall be made available to law enforcement agencies and the public.

HAFC→**I.**←HAFC **J.**←HAFC The department shall provide monthly reports to the department of finance and administration and the legislative finance committee about expenditures from the law enforcement retention fund, including an itemized list of expenditures and the balance remaining in the fund.

HAFC→**J.**←HAFC **K.**←HAFC The department may waive reporting information required by a law enforcement agency pursuant to Subsection HAFC→**F.**←HAFC HAFC→**G.**←HAFC of this section; provided that the department shall provide an explanation of its decision in writing.

HAFC→**K.**←HAFC **L.**←HAFC The department shall submit an annual report providing information collected pursuant to

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Subsection HAFc→F←HAFc HAFc→G←HAFc of this section to the governor and the legislature no later than December 15 of each year.

HAFc→L.←HAFc M.←HAFc As used in this section:

(1) "law enforcement agency" means HAFc→the police department of a municipality, the sheriff's office of a county, the New Mexico state police division of the department, a university police department←HAFc HAFc→an agency of the state or local political subdivision of the state that employs certified law enforcement officers←HAFc or the police department of a tribe that has entered into an agreement with the department of public safety pursuant to Section 29-1-11 NMSA 1978;

(2) "law enforcement officer" means a full-time salaried public employee of a law enforcement agency, or a certified part-time salaried police officer employed by a law enforcement agency, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes; and

(3) "retention differential disbursement" means the amount disbursed from the law enforcement retention fund based on a law enforcement officer's service at a law enforcement agency but is not considered salary for the purpose of calculating retirement benefits."