

LESC bill analyses are available on the New Mexico Legislature website ([www.nmlegis.gov](http://www.nmlegis.gov)). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**57th Legislature, 2nd Session, 2026**

<b>Bill Number</b>	<u>HB40</u>	<b>Sponsor</b>	<u>Borrego/Stefanics/Sanchez, J.L.</u>
<b>Tracking Number</b>	<u>.233018.1SA</u>	<b>Committee Referrals</b>	<u>HEC/HAFC</u>
<b>Short Title</b>	<u>Temporary ERB Member Payment</u>		
<b>Analyst</b>	<u>Montoya</u>	<b>Original Date</b>	<u>1/26/2026</u>
		<b>Last Updated</b>	

---

## **BILL SUMMARY**

### Synopsis of Bill

House Bill 40 (HB40) would add language to the Educational Retirement Act (Section 22-11-31 NMSA 1978) to provide an additional annual, temporary, non-compounding annuity payment in FY27 and FY28 to retired Education Retirement Board (ERB) members. HB40 defines the methodology for calculating the proposed annuity amounts as follows: for each fiscal year, the annual annuity payment, including all cost-of-living adjustments (COLAs) applied prior to that fiscal year, would be multiplied by 2 percent.

HB40 does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or May 20, 2026.

## **FISCAL IMPACT**

HB40 appropriates \$65.5 million from the general fund to the educational retirement board for expenditure in FY27 and subsequent years to cover the cost of the proposed temporary, additional, non-compounding benefits. Any unexpended or unencumbered balance remaining at the end of FY27 shall not revert to the general fund.

Neither the LESC, executive, Legislative Finance Committee (LFC), nor Public Education Department (PED) FY27 budget recommendations contain a specific appropriation for the COLAs proposed in HB40.

## **SUBSTANTIVE ISSUES**

**Cost of Living Adjustments.** The temporary annual payments proposed in HB40 would be in addition to the COLAs ERB members currently receive under Section 22-11-31 NMSA 1978 and would not be included in the statutory COLA calculation for future retiree benefits.

COLAs are annual, cumulative increases to eligible retirement benefits intended to help offset the effects of inflation on a retired ERB member's benefits. COLAs begin on July 1 after one of the

following events: when a member retires or when a retiree reaches retirement age (age 65 for retirement tiers 1 and 2, or age 67 for retirement tiers 3 and 4), whichever happens later. See **Table 1: ERB Membership Tiers** for a description of membership eligibility at each tier. ERB members with disability benefits become eligible beginning July 1 of the third full year after disability approval.

**Table 1: ERB Membership Tiers**

Tier	Membership
1	Employees joining the ERB system before July 1, 2010.
2	Employees joining the ERB system on or after July 1, 2010, but prior to July 1, 2013.
3	Employees joining the ERB system on or after July 1, 2013, but prior to July 1, 2019.
4	Employees joining the ERB system on or after July 1, 2019.

Source: ERB

The base COLA, outlined in Section 22-11-31 NMSA 1978, equals one-half of the annual increase in the Consumer Price Index (CPI), capped at 4 percent. If the annual CPI increase is less than 2 percent, the base COLA rate will be equal to that increase. The actual COLA paid is dependent on the ERB system's funded status, with reduced adjustments applicable in the event the ERB pension plan is less than 100 percent funded, with slightly higher percentages for members with longer service records and receiving benefit payments less than the median ERB annuity amount. See **Table 2: Modified COLA Percentages Based on ERB Funded Ratio** for an illustration of the effects the ERB plan's funded ratio may have on COLA percentages. As of June 30, 2025, the ERB's funded ratio (a percentage measuring a plan's financial health that divides its total actuarial assets by its total liabilities, or promised benefits) was 67.8 percent, an increase from 64.8 percent in the prior fiscal year. This increasing funded ratio indicates the ERB plan is becoming more solvent.

**Table 2: Modified COLA Percentages Based on ERB Funded Ratio**

Funded Ratio	Effect*
100 Percent or More	Retirees receive the full base COLA.
Between 90 Percent and 100 Percent	Retirees who have more than 25 years of service and receive a benefit at or below the median income amount of all ERB annuities, not including disability member payments will receive <b>95 percent</b> of the base COLA. All other eligible retirees will receive <b>90 percent</b> of the base COLA.
Less Than 90 Percent	Retirees who have more than 25 years of service and receive a benefit at or below the median income amount of all ERB annuities, not including disability member payments will receive <b>90 percent</b> of the base COLA. All other eligible retirees will receive <b>80 percent</b> of the base COLA.

\*The COLA modifications illustrated above do not apply to ERB retired members on disability status in accordance with Section 22-11-35 NMSA 1978 or members retired pursuant to Section 22-11-38 NMSA 1978

Source: Sections 22-11-31 through 22-11-38 NMSA 1978

**Potential Impacts on Current Retirees.** The proposed additional payments in HB40 could help mitigate the effects of inflation on fixed retirement income for retired ERB members. Increased

annuity income may support greater financial stability for retirees, particularly those with limited alternative sources of retirement income.

A 2024 [study](#) from the Center for Retirement Research at Boston College found high inflation can reduce the value of retirees' income and savings, especially for those who depend on fixed payments like pensions. Because many pension benefits do not fully increase to account for rising prices, retirees may find their money does not stretch as far over time. The study also notes some retirees respond by spending more of their savings to keep up with costs, which can leave them with less money later in retirement.

While retirees with larger investments may be better protected, research shows inflation reduces real income and wealth for most retirees. By providing additional resources for retirees, HB40 could contribute to improved short-term income adequacy and reduced financial pressure associated with rising living costs, while maintaining consistency with the broader statutory structure governing ERB retirement benefits.

## **ADMINISTRATIVE IMPLICATIONS**

According to ERB, implementation of HB40 would have a minimal administrative impact.

## **RELATED BILLS**

Relates to House Bill 41 (HB41), Temporary PERA Member Payment, which would amend state statute to authorize annual, non-compounding temporary payments in FY27 and FY28. HB41 includes a non-reverting \$75 million appropriation from the general fund to the Public Employees Retirement Association to support those proposed temporary annual payments.

## **SOURCES OF INFORMATION**

- LESC Files
- Educational Retirement Board (ERB)
- New Mexico Higher Education Department (NMHED)
- New Mexico Independent Community Colleges (NMICC)
- New Mexico Institute of Mining and Technology (NMIMT)
- Public Education Department (PED)
- Public Employee Retirement Association (PERA)

**MAM/clh/mca/jkh**