



LFC Requester: Simon

**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2026 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: January 17 2026

Bill No: HB40

Committee Referrals: HPREF

Agency Name and Code: PED - 924

Sponsor: Borrego

PED Lead Analyst: David Craig

Phone: (505) 670-7550 **Email:** .David.Craig@ped.nm.gov

Short Title: TEMPORARY ERB
MEMBER PAYMENT

PED Policy Senior Manager: denise terrazas

Phone: (505) 470-5303 **Email:** denise.terrazas@ped.nm.gov

SECTION II: FISCAL IMPACT

(Parenthesis () Indicate Expenditure Decreases)

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY27	FY28		
\$65,500	None	Nonrecurring	General Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY27	FY28	FY29		
None	None	None	N/A	NFA

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	N/A	NFA

Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 40 (HB40) amends [Section 22-11-31 NMSA 1978](#), to provide a temporary, annual, non-compounding additional payment to Educational Retirement Board (ERB) retirees receiving an annuity during FY27 and FY28. The amount is calculated each fiscal year as two percent of annual annuity payments, inclusive of prior cost-of-living adjustments.

The bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the legislature enacting them, unless a later date is specified. If enacted, this bill would become effective May 20, 2026.

FISCAL IMPLICATIONS

The bill appropriates \$65.5 million from the general fund to the ERB for expenditure in fiscal year 2027 and subsequent fiscal years to provide adequate funding to cover the temporary, additional, non-compounding payments; any unexpended balance remaining at the end of a fiscal year shall not revert to the general fund.

Article 20, Section 22, Subsection C of the New Mexico Constitution provides that the Legislature shall not enact a law that increases retirement system benefits or changes a retirement plan's funding formula unless adequate funding is provided. To know if the bill would meet the constitutional requirement, the ERB actuarial analysis would be needed to estimate total costs of the temporary benefit increase.

SIGNIFICANT ISSUES

The additional payment in fiscal year 2027 does not increase the base used to calculate the fiscal year 2028 additional payment. Instead, the payment is recalculated each year using the annuity amount (including prior COLAs) as described in the bill.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

The Secretary of Public Education (or a qualified designee) is a statutory member of the ERB Board; however, the Public Education Department has no direct administrative role in implementing ERB annuity payments; implementation would occur through ERB.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.