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HOUSE BILL 40

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Cynthia Borrego and Elizabeth "Liz" Stefanics
and Joseph L. Sanchez and Nicole Chavez and Tara L. Lujan

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING A TEMPORARY,
ADDITIONAL, NON-COMPOUNDING PAYMENT TO RETIRED MEMBERS UNDER
THE EDUCATIONAL RETIREMENT ACT; MAKING AN APPROPRIATION.

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

SECTION 1. Section 22-11-31 NMSA 1978 (being Laws 1979,
Chapter 333, Section 2, as amended) is amended to read:

"22-11-31. COST-OF-LIVING ADJUSTMENT--ELIGIBILITY--
BASED ON FUNDED RATIO--ADDITIONAL CONTRIBUTIONS.--

A. For the purposes of this section:

(1) "adjustment factor" means a multiplicative
factor computed to provide an annuity adjustment pursuant to
the provisions of Subsection B of this section;

(2) "annuity" means any benefit payable under
the Educational Retirement Act or the Public Employees

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1 Retirement Reciprocity Act as a retirement benefit, disability
2 benefit or survivor benefit;

3 (3) "calendar year" means the full twelve
4 months beginning January 1 and ending December 31;

5 (4) "consumer price index" means the average
6 of the monthly consumer price indexes for a calendar year for
7 the entire United States for all items as published by the
8 United States department of labor;

9 (5) "funded ratio" means the ratio of the
10 actuarial value of the assets of the fund to the actuarial
11 accrued liability of the educational retirement system;

12 (6) "median adjusted annuity" means the median
13 value of all annuities and retirement benefits paid pursuant to
14 Section 22-11-29 or 22-11-30 NMSA 1978, as calculated each
15 fiscal year; provided, however, that the benefits paid to a
16 member pursuant to Section 22-11-38 NMSA 1978 shall not be
17 included in the median adjusted annuity calculation;

18 (7) "next preceding calendar year" means the
19 full calendar year immediately prior to the preceding calendar
20 year; and

21 (8) "preceding calendar year" means the full
22 calendar year preceding the July 1 on which a benefit is to be
23 adjusted.

24 B. On or after July 1, 1984:

25 (1) the annuity of a member who retires

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1 pursuant to Subsection A of Section 22-11-23 NMSA 1978 or
2 Subsection A of Section 22-11-23.1 NMSA 1978 shall be adjusted
3 annually and cumulatively commencing on July 1 of the year in
4 which a member attains the age of sixty-five years or on July 1
5 following the year a member retires, whichever is later; and

6 (2) the annuity of a member who retires
7 pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 shall
8 be adjusted annually and cumulatively commencing on July 1 of
9 the year in which the member attains the age of sixty-seven
10 years or on July 1 following the year the member retires,
11 whichever is later.

12 C. During fiscal years 2027 and 2028, a retired
13 member receiving an annuity pursuant to the Educational
14 Retirement Act shall receive an annual, non-compounding,
15 additional payment. The amount of the payment shall be
16 determined each fiscal year by multiplying the amount of annual
17 annuity payments, inclusive of all cost-of-living adjustments
18 prior to that fiscal year, by two percent.

19 [~~C.~~] D. Beginning on July 1, 2013 and on each July
20 1 thereafter:

21 (1) if the funded ratio of the fund as
22 reported by the board's actuary in the actuarial valuation
23 report for the next preceding fiscal year is one hundred
24 percent or greater, the annuity adjustments provided for under
25 Subsection B of this section shall be adjusted by applying an

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1 adjustment factor based on the percentage increase of the
2 consumer price index between the next preceding calendar year
3 and the preceding calendar year. The adjustment factor shall
4 be applied as follows:

5 (a) if the percentage increase of the
6 consumer price index is less than two percent in absolute
7 value, the adjustment factor shall be the same amount as the
8 percentage increase of the consumer price index; and

9 (b) if the percentage increase of the
10 consumer price index is two percent or greater in absolute
11 value, the adjustment factor shall be one-half of the
12 percentage increase; except that the adjustment shall not
13 exceed four percent in absolute value nor be less than two
14 percent in absolute value;

15 (2) if the funded ratio of the fund as
16 reported by the board's actuary in the actuarial report for the
17 next preceding fiscal year is greater than ninety percent but
18 less than one hundred percent, except for a member who is on
19 disability status in accordance with Section 22-11-35 NMSA 1978
20 and whose benefit is adjusted as provided in Subsection [G] H
21 of this section or a member who is retired pursuant to Section
22 22-11-38 NMSA 1978, the adjustment factor provided for in
23 Subsection B of this section shall be applied as follows:

24 (a) if the percentage increase in the
25 consumer price index is less than two percent in absolute

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1 value, for a member who has twenty-five or more years of
2 service credit at retirement and whose annuity is less than or
3 equal to the median adjusted annuity for the fiscal year next
4 preceding the adjustment date, the adjustment factor shall be
5 ninety-five percent of the adjustment factor determined
6 pursuant to Subparagraph (a) of Paragraph (1) of this
7 subsection;

8 (b) if the percentage increase in the
9 consumer price index is less than two percent in absolute
10 value, for a member who has less than twenty-five years of
11 service credit at retirement and whose annuity is less than or
12 equal to the median adjusted annuity for the fiscal year next
13 preceding the adjustment date, and for a member whose annuity
14 is greater than the median adjusted annuity for the fiscal year
15 next preceding the adjustment date, the adjustment factor shall
16 be ninety percent of the adjustment factor determined pursuant
17 to Subparagraph (a) of Paragraph (1) of this subsection;

18 (c) if the percentage increase in the
19 consumer price index is greater than or equal to two percent in
20 absolute value for a member who has twenty-five or more years
21 of service credit at retirement and whose annuity is less than
22 or equal to the median adjusted annuity for the fiscal year
23 next preceding the adjustment date, the adjustment factor shall
24 be ninety-five percent of the adjustment factor determined
25 under Subparagraph (b) of Paragraph (1) of this subsection; and

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1 (d) if the percentage increase in the
2 consumer price index is greater than or equal to two percent in
3 absolute value, for a member who has less than twenty-five
4 years of service credit at retirement and whose annuity is less
5 than or equal to the median adjusted annuity for the fiscal
6 year next preceding the adjustment date, and for a member whose
7 annuity is greater than the median adjusted annuity for the
8 fiscal year next preceding the adjustment date, the adjustment
9 factor shall be ninety percent of the adjustment factor
10 determined under Subparagraph (b) of Paragraph (1) of this
11 subsection;

12 (3) if the funded ratio of the fund as
13 reported by the board's actuary in the actuarial valuation
14 report for the next preceding fiscal year is ninety percent or
15 less, except for a member who is on disability status in
16 accordance with Section 22-11-35 NMSA 1978 and whose benefit is
17 adjusted as provided in Subsection ~~[G]~~ H of this section or a
18 member who is retired pursuant to Section 22-11-38 NMSA 1978,
19 the adjustment factor provided for in Subsection B of this
20 section shall be applied as follows:

21 (a) if the percentage increase in the
22 consumer price index is less than two percent in absolute
23 value, for a member who has twenty-five or more years of
24 service credit at retirement and whose annuity is less than or
25 equal to the median adjusted annuity for the fiscal year next

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1 preceding the adjustment date, the adjustment factor shall be
2 ninety percent of the adjustment factor determined pursuant to
3 Subparagraph (a) of Paragraph (1) of this subsection;

4 (b) if the percentage increase in the
5 consumer price index is less than two percent in absolute
6 value, for a member who has less than twenty-five years of
7 service credit at retirement and whose annuity is less than or
8 equal to the median adjusted annuity for the fiscal year next
9 preceding the adjustment date, and for a member whose annuity
10 is greater than the median adjusted annuity for the fiscal year
11 next preceding the adjustment date, the adjustment factor shall
12 be eighty percent of the adjustment factor determined pursuant
13 to Subparagraph (a) of Paragraph (1) of this subsection;

14 (c) if the percentage increase in the
15 consumer price index is greater than or equal to two percent in
16 absolute value for a member who has twenty-five or more years
17 of service credit at retirement and whose annuity is less than
18 or equal to the median adjusted annuity for the fiscal year
19 next preceding the adjustment date, the adjustment factor shall
20 be ninety percent of the adjustment factor determined under
21 Subparagraph (b) of Paragraph (1) of this subsection; and

22 (d) if the percentage increase in the
23 consumer price index is greater than or equal to two percent in
24 absolute value, for a member who has less than twenty-five
25 years of service credit at retirement and whose annuity is less

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1 than or equal to the median adjusted annuity for the fiscal
2 year next preceding the adjustment date, and for a member whose
3 annuity is greater than the median adjusted annuity for the
4 fiscal year next preceding the adjustment date, the adjustment
5 factor shall be eighty percent of the adjustment factor
6 determined under Subparagraph (b) of Paragraph (1) of this
7 subsection; and

8 (4) an annuity shall not be decreased if there
9 is a decrease in the consumer price index between the next
10 preceding calendar year and the preceding calendar year.

11 ~~[D.]~~ E. A retired member whose benefit is subject
12 to adjustment under the provisions of the Educational
13 Retirement Act in effect prior to July 1, 1984 shall have the
14 member's annuity readjusted annually and cumulatively under the
15 provisions of that act in effect prior to July 1, 1984 until
16 July 1 of the year in which the member attains the age of
17 sixty-five years, when the member shall have the annuity
18 readjusted annually and cumulatively under the provisions of
19 this section.

20 ~~[E.]~~ F. A member who:

21 (1) retires pursuant to Subsection A of
22 Section 22-11-23 NMSA 1978 or Subsection A of Section
23 22-11-23.1 NMSA 1978 after attaining the age of sixty-five
24 years shall have the member's annuity adjusted as provided in
25 Subsections B and ~~[G.]~~ D of this section commencing on July 1 of
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1 the year following the member's retirement; or

2 (2) retires pursuant to Subsection A of
3 Section 22-11-23.2 NMSA 1978 after attaining the age of sixty-
4 seven years shall have the member's annuity adjusted as
5 provided in Subsections B and ~~[E]~~ D of this section commencing
6 on July 1 of the year following the member's retirement.

7 ~~[F-]~~ G. A retired member who returns to work and
8 suspends retirement shall be subject to the provisions of this
9 section as they exist at the time of the member's latest
10 retirement.

11 ~~[G-]~~ H. Benefits of a member who is on a disability
12 status in accordance with Section 22-11-35 NMSA 1978 or a
13 member who is certified by the board as disabled at regular
14 retirement shall be adjusted in accordance with Subsections B
15 and ~~[E]~~ D of this section; provided that:

16 (1) the benefits shall be adjusted annually
17 and cumulatively commencing on July 1 of the third full year
18 following the year in which the member was approved by the
19 board for disability or retirement; and

20 (2) upon attaining the age of sixty years, a
21 member on a disability status who is receiving an annuity
22 adjustment pursuant to this section shall continue to receive
23 the annuity adjustment at the rate of benefits received for the
24 disability."

25 SECTION 2. APPROPRIATION.--Sixty-five million five

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1 hundred thousand dollars (\$65,500,000) is appropriated from the
2 general fund to the educational retirement board for
3 expenditure in fiscal year 2027 and subsequent fiscal years to
4 provide adequate funding to cover the cost of the temporary,
5 additional, non-compounding payments. Any unexpended balance
6 remaining at the end of a fiscal year shall not revert to the
7 general fund.