



New Mexico Educational Retirement Board

Legal Analysis and Constitutionality of Altering Cost-of-Living Adjustments

Investments and Pensions Oversight Committee

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History of ERB Retirement Benefits

YEAR	RETIREMENT ELIGIBILITY	MULTIPLIER	COLA	Life expectancy * at age 65	
				Males	Females
1962	30 years of service with actuarial reduction if younger than age 60	1.5% first \$4,000 of Final Average Salary (FAS) and 1% thereafter	Ad Hoc	13.2	17.4
	Age 60 with 15 years of service				
1965	30 years of service with actuarial reduction if younger than age 60	SAME	Ad Hoc	13.2	17.4
	Age 60 with 15 years' service				
	Age 65 with 10 years of service				
1971	35 years of service	1.50%	Ad Hoc	13.8	18.6
	30 years of service with actuarial reduction if younger than age 60				
	Age 60 with 15 years of service				
	Age 65 with 5 years of service				
1974	35 years of service	1.5% for years before July 1, 1957	Ad Hoc	13.8	18.6
	Rule of 75 with reduction if younger than age 60				
	Age 65 with 5 years of service	2% for years after July 1, 1957			
1979	SAME	SAME	Based on change in CPI, capped at 2%. Can decrease - but not below original retirement benefit. Begins after 4 years of retirement.	13.8	18.6
1981	30 years of service	SAME	SAME	14.6	19.1
	Rule of 75 with reduction if younger than age 60				
	Age 65 with 5 years of service				
1984	25 years of service	SAME	Based on change in CPI, capped at 4%. On average, 2%. Begins the later of age 65 or one year following retirement.	14.6	19.1
	Rule of 75 with reduction if younger than age 60				
	Age 65 with 5 years of service				

*From 1960 through 1999, the stated life expectancies are based on the life expectancies of Social Security at the time (<https://www.ssa.gov/history/lifeexpect.html>). Beginning in 2000, life expectancies are based on the actuarial valuation assumption for NMERB.



History of ERB Retirement Benefits

YEAR	RETIREMENT ELIGIBILITY	MULTIPLIER	COLA	Life expectancy* at age 65	
				Males	Females
1987	SAME	2.15%	SAME	14.6	19.1
1991	SAME	2.35%	SAME	15.3	19.6
2010	SAME	SAME	Elimination of negative COLA	19.6	22.4
2010	Hired prior to 7/1/2010: SAME Hired after 7/1/2010: 30 years of service Rule of 80 with reduction if younger than 65 Age 67 with 5 years of service	SAME	SAME	19.6	22.4
2013	Hired after 6/30/2013: Actuarially reduced benefit if member retires with 30 years of service and is younger than age 55	SAME	Hired after 7/1/2013: COLA begins at later of age 67 or one year following retirement <u>Until ERB is > 90% funded:</u> Retirees with benefits at or below the median AND with 25 or more years' service have a 10% COLA reduction from statutory COLA formula. All other retirees have a 20% COLA reduction. <u>ERB Funding >90% <100%</u> Retirees with benefits at or below the median AND with 25 or more years' service have a 5% COLA reduction from statutory COLA formula. All other retirees have a 10% COLA reduction. <u>ERB Funding=100%</u> COLA reductions cease.	20.2	23.1

*From 1960 through 1999, the stated life expectancies are based on the life expectancies of Social Security at the time (<https://www.ssa.gov/history/lifeexpect.html>). Beginning in 2000, life expectancies are based on the actuarial valuation assumption for NMERB.



History of Retirement Benefits

YEAR	RETIREMENT ELIGIBILITY	MULTIPLIER	COLA	Life expectancy* at age 65	
				Males	Females
2019	Hired after 6/30/2019: Actuarially reduced benefit if member retires with 30 years of service and is younger than age 58	1.35% for .25 - 10 years 2.35% for 10.25 - 20 years 3.35% for 20.25 - 30 years 2.4% for years in excess of 30	<p><i>Hired after 7/1/2013: COLA begins at later of age 67 or one year following retirement</i></p> <p><i>Until ERB is > 90% funded: Retirees with benefits at or below the median AND with 25 or more years' service have a 10% COLA reduction from statutory COLA formula. All other retirees have a 20% COLA reduction.</i></p> <p><i>ERB Funding >90% <100% Retirees with benefits at or below the median AND with 25 or more years' service have a 5% COLA reduction from statutory COLA formula. All other retirees have a 10% COLA reduction.</i></p> <p><i>ERB Funding=100% COLA reductions cease.</i></p>	20.2	23.1

*From 1960 through 1999, the stated life expectancies are based on the life expectancies of Social Security at the time (<https://www.ssa.gov/history/lifeexpect.html>). Beginning in 2000, life expectancies are based on the actuarial valuation assumption for NMERB.



COLAs over time

New Mexico Educational Retirement Board COLA History Since 1990

COLA Effective July 1,	COLA for disability retirements eligible for adjustment	COLA for members with 25 years of service at retirement and receiving less than median adjusted annuity	COLA for all remaining members eligible for adjustment	Monthly median adjusted annuity
2019	2.0%	1.80%	1.60%	\$ 1,627.76
2018	2.0%	1.80%	1.60%	1,611.45
2017	1.3%	1.17%	1.04%	1,605.46
2016	0.1%	0.09%	0.08%	1,586.22
2015	1.6%	1.44%	1.28%	1,566.22
2014	1.5%	1.35%	1.20%	1,543.06
2013	2.0%	1.80%	1.60%	1,504.20
2012	2.0%	same	same	N/A
2011	1.6%	same	same	N/A
2010	0.0%	same	same	N/A
2009	2.0%	same	same	N/A
2008	2.0%	same	same	N/A
2007	2.0%	same	same	N/A
2006	2.0%	same	same	N/A



COLAs over time-continued

New Mexico Educational Retirement Board COLA History Since 1990

COLA Effective July 1,	COLA for disability retirements eligible for adjustment	COLA for members with 25 years of service at retirement and receiving less than median adjusted annuity	COLA for all remaining members eligible for adjustment	Monthly median adjusted annuity
2005	2.0%	same	same	N/A
2004	2.0%	same	same	N/A
2003	1.6%	same	same	N/A
2002	2.0%	same	same	N/A
2001	2.0%	same	same	N/A
2000	2.0%	same	same	N/A
1999	1.6%	same	same	N/A
1998	2.0%	same	same	N/A
1997	2.0%	same	same	N/A
1996	2.0%	same	same	N/A
1995	2.0%	same	same	N/A
1994	2.0%	same	same	N/A
1993	2.0%	same	same	N/A
1992	2.1%	same	same	N/A
1991	2.7%	same	same	N/A
1990	2.4%	same	same	N/A



2013 Legislation

Goal: Achieve 100% funding within 30 years

- Minimum retirement age of 55 for new members for those retiring with 30 years of service
- Increased member contribution to 10.7% for those with salary greater than \$20,000
- COLA begins at later of age 67 or one year following retirement for new members

2013 Legislation, continued

- COLA is reduced for all current and future retirees
 - Until ERB is >90% funded: Retirees with benefits at or below the median AND with 25 or more years' service have a 10% COLA reduction. All other retirees have a 20% COLA reduction.
 - ERB is >90% <100% funded: Retirees with benefits at or below the median AND with 25 or more years' service have a 5% COLA reduction. All other retirees have a 10% COLA reduction.

Bartlett v. Cameron 2014-NMSC-002

- Educational retirees sought writ of mandamus against ERB to compel ERB to pay them an annual COLA adjustment to their retirement benefits, calculated according to statutes in effect at the time of retirees' date of maturity of their rights instead of the current statutes.
- Retirees argued they were entitled to an annual COLA based on the COLA formula in effect on the date of their retirement, for the entirety of their retirement.

Court Challenge

Bartlett v. Cameron 2014-NMSC-002 (con't)

- New Mexico Supreme Court denied the writ and held that:
 - COLA was not a retirement benefit, such that any future COLA did not create a constitutionally protected property right prior to the COLA being paid;
 - None of the provisions of the Educational Retirement Act defining retirees' rights to retirement benefits included COLA as part of the right to retirement benefits;
 - Any future COLA is “merely a year-to-year expectation” that, until paid, does not create a property right under the Constitution.

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