

Legislative Review

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Legislative Education Study Committee

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Legislative Education Study Committee

- Permanent bipartisan, bicameral interim education committee of NM Legislature
- 27 legislative members
- Statutory authority for K-12 public education (policy and finance) and for teacher preparation programs in NM postsecondary institutions
- 12 permanent staff

School Athletics Equity Act

- Title IX (1972): federal law that prohibits discrimination on basis of sex in any federally-funded education program or activity.
- *School Athletics Equity Act* (2009): added a new section to state law to require that:
 - ✓ each public school that has an athletics program for grades 7-12 “operate its program in a manner that does not discriminate against students or staff on basis of gender.”
 - ✓ each school report certain data regarding enrollment, participation, staffing, funding sources, and benefits and services to Public Education Department each year.
- In the 2011 interim, the Legislative Education Study Committee (LESC) formed a work group to address concerns about the extensive nature of the requirements and the challenges that school officials faced in complying with those requirements.
- LESL recommendations:
 - ✓ eliminate revenue, expenditure, and benefits/services requirements for grades 7 and 8 – (state law amended);
 - ✓ require data to be reported by program rather than by team (state law amended); and
 - ✓ draft reporting guidelines for schools – (workgroup working on draft)

State Revenue Estimate

- \$272 million or 4.8 percent increase in “new money” for FY 14.
- However, “new money” will be reduced to \$198 million because of:
 - ✓ 1.5 percent employee/employer retirement swap ends in FY 14(Laws of 2009);
 - ✓ .075 percent employer contribution suspension ends in FY 14; and
 - ✓ Replace 50 percent Tobacco Settlement Funds with General Fund
- For public schools:
 - ✓ \$89 million (if based on 45 percent of total recurring appropriations for state government)
- Election results will have effect on available dollars.

ERB (Employee Contributions)

Current

Over \$20K:

- 9.4 percent of salary

Under \$20K:

- 7.9 percent of salary

Proposed

Over 20K:

- 10.7 percent of salary

Under \$20K:

- 10.7 percent of salary
(exemption ?)

ERB (Retirement Eligibility)

Current

Membership prior to July 1, 2010

- 25 yrs of service, regardless of age;
- Rule of 75: age + service; OR
- At age 65 with 5 yrs service

Membership after July 1, 2010

- 30 yrs of service, regardless of age;
- Rule of 80: age + service; OR
- At age 67 with 5 yrs service

Proposed

- Minimum retirement age of 55

Cost-of-Living Adjustment (COLA)

Current

- $\frac{1}{2}$ the Consumer Price Index (CPI) beginning at age 65 capped @ 4%;
- But, if CPI less than 2%, then equals CPI; and
- Annual decreases prohibited if there is decrease in CPI

Proposed

- Beginning at age 67

LESC School Transportation Subcommittee

- Representative Roberto Gonzales, Chair
- Representative Dennis Roch
- Representative George Dodge
- Senator Howie Morales
- Senator Linda Lovejoy
- Senator Cynthia Nava
- Representatives: 2 bus contractors; 2 districts (Las Cruces & Farmington)

LESC School Transportation Subcommittee

- Organizational meeting – August 21
- Next meeting – October 15-16, Rio Rancho
- Focus Issues:
 - ✓ Fuel costs;
 - ✓ Bus replacements/rental fees;
 - ✓ Site characteristics
- Other issues discussed: charter schools

LESC Virtual School Discussion

- No provisions in current law – operational or capital outlay
- NM Virtual Academy has opened in Farmington (locally chartered)
- Preliminary enrollment = 354 students
- 28 or 8 percent from San Juan County
- 226 or 92 percent from 26 other counties
- 113 or 32 percent from Bernalillo County

Selected Virtual School Issues

- Operational
 - ✓ State Equalization Guarantee (SEG) Funding
 - ✓ Percent from district
 - ✓ Administrative management of charter school
- Capital Outlay
 - ✓ Brick and Mortar School Building
 - ✓ Lease Assistance
- 3“A”s: Accountability/Audit/Authentication

Need Information

LESC Staff Office
State Capitol North, Room 200
325 Don Gaspar
Santa Fe, NM 87501
505.986.4591

<http://www.nmlegis.gov/lcs/lesc/lescdefault.aspx>

COMPARISON OF ERA AND PERA BENEFITS

Category	ERA	PERA – State General Member Plan 3
Membership Eligibility	<ul style="list-style-type: none"> • Regular/Defined Benefit Plan¹ – All public school and university employees working more than 0.25 of Full Time Equivalent (FTE) are eligible for membership in ERB; • Alternative Retirement Plan (ARP) – Certain two- and four-year community college, university faculty, professional employees, persons who perform research, and other services pursuant to a contract between a local administrative unit (LAU) and the federal government may choose within the first 90 days of employment to join the ARP, a defined contribution plan²; after seven years (84 months) of contributing to the ARP, participants may elect to switch to the defined benefit plan as new members; service credit may be purchased for ARP service; and educationally certified employees in certain state agencies with an educational component may choose either ERB or PERA plan, unless they possess a current teaching certificate. 	<p>All employees of PERA affiliates must be members of PERA <u>excluding</u> the following:</p> <ul style="list-style-type: none"> • seasonal and temporary employees; • part-time employees working less than 20 hours in a 40-hour pay period or less than 40 hours in an 80-hour pay period; • student employees; • elected officials; • retired legislative workers; and • retired members from ERB.
Retirement Eligibility	<p><u>Initial membership prior to July 1, 2010:</u></p> <ul style="list-style-type: none"> • 25 years of service, regardless of age; • Rule of 75: age + service = 75; or • age 65 with 5 years of service. <p><u>Initial membership after July 1, 2010:</u></p> <ul style="list-style-type: none"> • 30 years of service, regardless of age; • Rule of 80: age + service = 80; or • age 67 with 5 years of service. 	<ul style="list-style-type: none"> • 25 years of service, regardless of age; • age 65, with 5 years of service; • age 64 with 8 years of service; • age 63 with 11 years of service; • age 62 with 14 years of service; • age 61 with 17 years of service; or • age 60 with 14 years of service.
Contributions <i>Contribution percentages through June 30, 2011.</i>	<p><u>Over \$20k</u></p> <ul style="list-style-type: none"> • Member: 9.4% of salary • Employer: 10.9% of salary • Total: 20.3% <p><u>Under \$20k</u></p> <ul style="list-style-type: none"> • Member: 7.9% of salary • Employer: 12.4% of salary • Total: 20.3% 	<p><u>Over \$20k</u></p> <ul style="list-style-type: none"> • Member: 8.92% of salary • Employer: 15.09% of salary • Total: 24.01% <p><u>Under \$20k</u></p> <ul style="list-style-type: none"> • Member: 7.42% of salary • Employer: 16.59% of salary • Total: 24.01%

¹ A defined benefit plan provides retired employees with a fixed monthly annuity based primarily on the employee's salary history and years of service. Under this plan, the employer bears the investment risk.

² A defined contribution plan guarantees that an employer makes a predetermined fixed contribution into an account established by the employer for the employee. An employee may then elect or be required to also contribute some of his compensation. In a defined contribution plan, the employee bears the investment risk of meeting the employee's retirement income goals.

Category	ERA	PERA – State General Member Plan 3
Cost-of-Living Adjustment (COLA)	<ul style="list-style-type: none"> • ½ the Consumer Price Index (CPI) beginning at age 65 capped @ 4%; • if CPI is less than 2%, then equals CPI; and • minimum @ 0%. 	<ul style="list-style-type: none"> • 3%; implementation depends on retirement date with a minimum of approximately 2.5 calendar years after retirement.
Withdrawn Service Credit and Forfeited Service Credit	<p style="text-align: center;"><u>Withdrawn Service Credit</u></p> <ul style="list-style-type: none"> • Upon terminating employment, a member may withdraw his or her contribution plus interest (the interest rate is determined annually by the Board). • The cost to purchase withdrawn service is 8% from the date of withdrawal to the date of purchase. 	<p style="text-align: center;"><u>Forfeited Service Credit</u></p> <ul style="list-style-type: none"> • Service credit for which a member withdrew – or forfeited – employee contributions and interest in the past can be purchased by paying the total of the amount withdrawn plus interest from the date the contributions were withdrawn to the date of purchase. <p>5.25% - Interest prior to 12/31/83 10.0% - Interest: 1/1/84 - 12/31/01 8.0% - Interest: 1/1/02 to present</p>
Allowed Time and Air Time	<p style="text-align: center;"><u>Allowed Time</u> (no provision for air time)</p> <ul style="list-style-type: none"> • Members can purchase up to five years of service from private educational service or public educational service in another state. • Cost is actuarial. For example, a 50-year old with 20 years of earned service making \$40,000 would pay \$26,459 for one year of allowed service. 	<p style="text-align: center;"><u>Air Time</u>³</p> <ul style="list-style-type: none"> • Members must be vested with five years of earned service credit to be eligible to purchase up to 12 months of “air time” permissive service credit. • Cost is full actuarial value. A 50-year old with 20 years of earned service making \$40,000 would pay an estimated \$18,222 for one year of air time.
Military Service Credit	<ul style="list-style-type: none"> • Members vested with five years of earned service credit can purchase up to five years of non-intervening military service credit at any time. • Cost is a total of the employee and employer contribution rate (20.3% in FY 10), multiplied by the average of the highest 60 consecutive months of salary for each month of military service credit purchased. 	<ul style="list-style-type: none"> • Members vested with five years of earned service credit can purchase up to five years of non-intervening military service credit at any time. • Cost is a total of the employee and employer contribution rate (24.01% for State General Member Plan 3), multiplied by the average of the highest 36 consecutive months of salary for each month of military service credit purchased.
Miscellaneous Service Credit	<ul style="list-style-type: none"> • ERB does not allow the purchase of any service credit other than the allowed time, military service, and withdrawn service discussed above. 	<p>PERA provides for purchasing the following additional service credit:</p> <ul style="list-style-type: none"> • service prior to affiliating with PERA; • civilian prisoner of war; • cooperative work study programs; and • employment with a utility company, library, museum, transit company, or by a nonprofit organization taken over by a PERA-affiliated public employer.

³ Air time is service credit that is not tied to employment with a PERA affiliate.

Category	ERA	PERA – State General Member Plan 3
Retirees Returning to Work	<ul style="list-style-type: none"> • 12-month layout period prior to applying for the return-to-work program. Retirees may <u>not</u> work for, contract with, or volunteer in a typically paid position for an ERB employer during the 12 month layout period; • employers make employer and employee contributions (FY 10 only); • members who retired before 1/1/2001 may return to work without a layout; • members who retired before 1/1/2001 but suspend their pensions must layout for 90 days; • a retiree may earn the greater of \$15,000 or 0.25 FTE with an ERB employer and maintain his or her pension; and • retirees may work as independent contractors but must follow IRS code. 	<p>Effective July 1, 2010, a retiree is eligible to return to work for a PERA affiliate as long as the following conditions have been met:</p> <ul style="list-style-type: none"> • the retiree must complete a 12-month break in service from the date of retirement; • the retiree cannot be retained as an independent contractor with the employer from which he or she retired during the 12-month break in service; and • no contributions are made by the employee or employer when a retiree suspends his or her pension and returns to work. <p><u>Retirees re-employed before July 1, 2010</u></p> <ul style="list-style-type: none"> • retirees who were re-employed by a PERA affiliate before July 1, 2010 were grandfathered in under the laws in place when they were re-employed; • re-employed retirees who were grandfathered in must begin paying the employee contribution portion on their salary; • the employer will continue to pay the employer contribution amount on behalf of the employee; and • employee contributions made during reemployment are nonrefundable and stay in the PERA fund.
Benefit Calculation	<p>Final average salary of highest five consecutive years of service X Years of service X .0235</p> <p>No maximum benefit. 80% benefit is reached after 34 years of service.</p>	<p>Final average salary of highest three consecutive years of service X Years of service X .03</p> <p>Benefit maximizes at 80% with 26 years and eight months of service.</p>