

HOUSE BILL 40

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

## INTRODUCED BY

Cynthia Borrego

## 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

•233018•1SA

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

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

.233018.1SA

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

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

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

[E.-] D. Beginning on July 1, 2013 and on each July 1 thereafter:

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

underscored material = new  
[bracketed material] = delete

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

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

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

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

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

.233018.1SA

underscored material = new  
[bracketed material] = delete

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

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

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

.233018.1SA

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

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

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

underscored material = new  
[bracketed material] = delete

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

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

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

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

underscored material = new  
[bracketed material] = delete

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

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

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

[E.] F. A member who:

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

.233018.1SA

underscored material = new  
[bracketed material] = delete

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

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

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

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

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

SECTION 2. APPROPRIATION.--Sixty-five million five .233018.1SA

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.

8 - 10 -  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

underscored material = new  
[bracketed material] = delete