



NEW MEXICO EDUCATIONAL  
RETIREMENT BOARD  
MEMBER HANDBOOK 2023



# New Mexico Retirement Agencies

## Contact Information

### New Mexico Educational Retirement Board (NMERB)

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**Email:**

Member.Help@erb.nm.gov

**Toll Free:** 1-866-691-2345

**By Mail:**

P.O. Box 26129

Santa Fe, NM 87502

**Website:** [www.erb.nm.gov](http://www.erb.nm.gov)

**Santa Fe - Main Office**

701 Camino De Los Marquez  
Santa Fe, NM 87505

Phone: 505-827-8030

Main Fax: 505-827-1855

Payroll Fax: 505- 989-1330

Monday – Friday

8:00AM – 5:00PM

**Albuquerque Office**

8500 Menaul Blvd. Suite B-450  
Albuquerque, NM 87112

Phone: 505-888-1560

Fax: 505-830-2976

Monday – Friday

8:00AM – 5:00PM

### New Mexico Retiree Health Care Authority (NMRHCA)

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**NMRHCA Customer Service****Email:**

customerservice@rhca.nm.gov

**Toll Free:** 1-800-233-2576

**Website:** [www.nmrhca.org](http://www.nmrhca.org)

**Albuquerque Office**

6300 Jefferson St NE, Suite 150  
Albuquerque, NM 87109

Phone: 1-800-233-2576

**Santa Fe Office**

33 Plaza La Prensa  
Santa Fe, NM 87507

Phone: 1-800-233-2576 or  
1-505-476-7340

### Public Employees Retirement Association of NM (PERA)

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**PERA Member Services Email:**

PERA-memberservices@state.  
nm.us

**Toll Free:** 1-800-342-3422

**Website:** [www.nmpera.org](http://www.nmpera.org)

**Santa Fe Office**

33 Plaza La Prensa  
Santa Fe, NM 87507

Phone: 505-476-9300

Fax: 505-954-0370

**Albuquerque Office**

6300 Jefferson St. NE, STE#100  
Albuquerque, NM 87109

Phone: 505-383-6550

Fax: 505-954-0370

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## Welcome!

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Whether you are just starting out as an educational employee or preparing to retire after a rewarding career, this Member Handbook is designed to provide answers to many of the questions you may have about your retirement benefits.

The New Mexico Educational Retirement Board (NMERB) is charged with providing secure retirement benefits to active and retired employees of New Mexico public schools, institutions of higher learning and certain employees at state agencies who work in educational programs. Our professional staff is dedicated to providing you with the information you need during your career, and to assist you with any issues that arise during your retirement.

In 1925, the New Mexico Legislature passed a bill that created New Mexico's first pension plan for public employees. Today's plan administered by NMERB, a descendant of that landmark legislation, manages a multi-billion dollar investment portfolio, serving close to 200,000 active, inactive, and retired members.

The NMERB website at [www.erb.nm.gov](http://www.erb.nm.gov) provides members with general information about the ERA and online access to their accounts. Information about board meetings, investment performance, and new legislation are updated frequently. An online calculator helps you estimate retirement benefits. We recommend you visit the site regularly to stay informed about NMERB and your benefits.

NMERB members are our priority, and we are committed to providing you with a professional customer service experience. If you do not find the answer you are looking for in this Member Handbook, visit the NMERB website at [www.erb.nm.gov](http://www.erb.nm.gov).

## How to Contact NMERB

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### Email:

[Member.Help@erb.nm.gov](mailto:Member.Help@erb.nm.gov)

**Toll Free:** 1-866-691-2345

### By Mail:

P.O. Box 26129,  
Santa Fe, NM 87502

### Days and Hours:

Monday – Friday  
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### Santa Fe - Main Office

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Albuquerque, NM 87112

Phone: 505-888-1560

Fax: 505-830-2976

## Purpose of the Member Handbook

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The NMERB Member Handbook summarizes information from the ERA, NMERB regulations and policies that affect NMERB members, retirees, and their retirement benefits. Although there is a lot of useful information in the Member Handbook, it is only a summary. Information in the Member Handbook does not replace or override the provisions of the ERA, NMERB regulations or policies.

This Member Handbook is a general summary of the benefit provisions administered by the New Mexico Educational Retirement Board (NMERB) and may not address all situations. The New Mexico Legislature has the authority to make statutory changes to the Educational Retirement Act (ERA) that may affect your benefits and any decisions you make concerning your career or retirement. We make every effort to inform you. These changes are on the NMERB website at [www.erb.nm.gov](http://www.erb.nm.gov).

This Member Handbook is not a contract and does not create contractual obligation on behalf of NMERB or its Board of Trustees. In all situations, the Educational Retirement Act, and the rules and policies of the NMERB, control and override any statements or information made in this Member Handbook. Statements of fact or law made by NMERB or any of its staff or the staff of any of its contributing employers (local administrative units) does not preclude the NMERB from acting in accordance with applicable statutes, rules and policies.

## Glossary of Member Handbook Terms

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ARP - Alternate Retirement Plan

COLA - Cost of Living Adjustments

DBP - Defined Benefit Plan

Employees - "Members"

Employers - "Local Administrative Units" or LAU's or NMERB Employers

ERA - Education Retirement Act

FAS - Final Average Salary or Annual Average Salary

FTE - Full Time Equivalent

USERRA - Uniformed Services Employment and Re-employment Rights Act

Vested - meaning that you are guaranteed a pension benefit when you meet the age and service requirements for normal retirement



## Governing Authority

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The New Mexico Educational Retirement Board is the statutory entity responsible for administering the ERA.

The ERA is administered by an Executive Director who reports to NMERB Board. The Board is made up of nine (9) members;

- The Secretary of the Public Education Department or designee,
- The Secretary of the Higher Education Department or designee,
- The State Treasurer or designee,
- Two (2) members appointed by the Governor,
- One (1) member elected by the New Mexico National Education Association,
- One (1) member elected by the New Mexico Association of University Professors,
- One (1) member elected by the American Federation of Teachers New Mexico, and
- One (1) member elected by the New Mexico Association of Educational Retirees.

A professional staff of approximately 90 employees oversees the plan's investments, provides education and outreach about the plan to NMERB members, processes pension payments, receives contributions from employers, processes retirement refund and disability applications, maintains members' records, provides administrative service support for the agency, and responds to inquiries from active, inactive, and retired NMERB members.



## Membership

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Membership in the NMERB plan is a condition of employment. You automatically become a member of the NMERB plan when you begin employment with any entity covered by the NMERB. Employees covered under the NMERB plan are referred to as “members” and employers are referred to as “local administrative units.” In this Member Handbook, they are also referred to as “NMERB employers.” As a member, contributions towards the fund are deducted from your earnings each pay period. After five years of service you become vested in the plan. Vesting means that you are guaranteed a pension benefit when you meet the age and service requirements for normal retirement for your plan of membership. As an NMERB vested member, you are eligible to receive a monthly benefit in retirement. Upon hire, you must complete an NMERB Pre-retirement Beneficiary Designation form and return it to the NMERB to ensure that a beneficiary is designated for your employee contributions.

The NMERB Annual Comprehensive Financial Report, available on the NMERB website, includes a list of all participating employers. Links to the ERA and regulations followed by the ERA can be found in the Legislation section of the NMERB website (<https://www.erb.nm.gov/legislation/>).

**If you are a substitute, intern, student, or work 25% or less of a full time equivalent (FTE) position, you are not eligible to participate in the NMERB plan.**

Individuals who work more than 25% of FTE for the following entities are covered by the ERA's retirement plans:

- Public schools (including public charter schools, i.e., chartered by the local school board or the NM Secretary of Public Education)
- Universities
- Junior and community colleges
- Public technical and vocational institutions
- New Mexico School for the Deaf
- New Mexico School for the Visually Handicapped
- Regional Education Cooperatives
- New Mexico Activities Association

Certain employees at state agencies that provide an educational program (i.e., Department of Corrections, Public Education Department, Department of Health, Division of Vocational Rehabilitation, Educational Retirement Board). This applies only if the employee filling a position is required to be a certified educator. Other employees at these agencies participate in the New Mexico Public Employees Retirement Association (NMPERA) plan.



# DEFINED BENEFIT PLAN

## Defined Benefit Plan

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NMERB provides a defined benefit retirement plan funded by contributions from both the employee and the employer for the majority of NMERB members. The retirement benefit is determined by a formula applied to the member's salary history and years of qualified service credit.

The Defined Benefit Plan (DBP) uses the following formula to determine your pension benefit if you are under Tier 1, Tier 2 or Tier 3: **Final Average Salary (FAS) x service credit x .0235 = annual benefit**

If you are under Tier 4, the DBP will use a tiered multiplier – please see "[TIER 4: Membership began on or after July 1, 2019](#)" on page 14 for the tiered multiplier: **Final Average Salary (FAS) x service credit x tiered multiplier = annual benefit**

The DBP provides a stable monthly pension payment for the life of the retiree. It also offers members two options to provide lifetime benefits to a surviving beneficiary after the retiree's death. NMERB DBP is administered as a qualified plan under the Internal Revenue Code, Section 401(a). In a qualified plan, employee contributions are deducted pre-tax; federal and state income taxes are deferred until the member receives monthly retirement benefits or their contributions are withdrawn.

## Alternative Retirement Plan

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The NMERB also administers the Alternative Retirement Plan (ARP), a defined contribution retirement program available to certain faculty and professional employees regularly employed at New Mexico universities and colleges. Retirement benefits in a defined contribution plan are determined solely by the balance in an individual participant's account at retirement. See the section entitled "[Alternative Retirement Plan: University & College Faculty and Select Staff](#)" on page 29 for additional information. You can also visit [www.erb.nm.gov](http://www.erb.nm.gov) and select ARP under the Active Members tab.

### Retirement Tip

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*Create an MyNMERB Account to monitor your progress at each stage of your career. A set-up tutorial for your MyNMERB Account is available on the NMERB website or contact Member Services for assistance.*





# RETIREMENT

## Contributions

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Members of the Defined Benefit Plan and participants in the Alternative Retirement Plan contribute a percentage of their salary (set by statute) to the retirement plans. NMERB employers also contribute to the NMERB retirement plans at a rate set by statute.

For current employee and employer rates, refer to the Reference Tables (<https://www.erb.nm.gov/employers/reference-tables/>) in the Employment section of the NMERB website.

## Earned Service Credit

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Members of NMERB's Defined Benefit Plan accumulate service credit for each calendar quarter of employment with an NMERB employer and make contributions to that plan. Members who take a paid sabbatical, or paid leave of absence, continue to make contributions and therefore continue to earn service credit.

Members who take an unpaid sabbatical, or unpaid leave of absence, do not earn service credit. Members are required to render at least sixteen (16) days of service in a paid position working more than 25% of an FTE in a calendar quarter to earn service credit.

### **Purchase of Earned Service Credit based on Accumulated Sick Leave**

Up to one year of earned service credit may be purchased by the member and credited to an active member's accumulated years of service.

Restrictions apply, please see [www.erb.nm.gov](http://www.erb.nm.gov) and select the Active Members tab for requirements about purchasing service credit. Application form available on the NMERB website.

## Allowed Service Credit

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The NMERB also allows certain types of service credit to be purchased and credited to an active member's accumulated years of service. "Allowed" service credit will be included in the computation of retirement benefits. While these purchases will increase your monthly benefit upon retirement, these purchases may not change your retirement eligibility date. See the section entitled "Retirement Eligibility: Age and Benefits" for additional information.

You may purchase up to five years of allowed service credit if you have served in the U.S. Military or

the Commissioned Corps of the Public Health Service. Service credit for previous active duty may be purchased after five years of employment with an NMERB employer. The cost to the member is calculated by multiplying the average NMERB salary of 5 years immediately previous to the purchase x the combined current employee + employer contribution rates = the cost of 1 year purchase. To qualify for this type of allowed service credit, you must have received an honorable discharge and provide the NMERB with a copy of your DD-214 to request a cost calculation.

Members that are eligible to purchase up to five years of this type of allowed service credit may also purchase up to five years of the allowed service credit listed below, for a total of 10 years of allowed service credit.

You may purchase up to five years of allowed service credit if you worked for any of the following institutions:

- Accredited public school or higher learning institution anywhere in the U.S.
- U.S. Military dependents' school
- Federal educational program in New Mexico
- Accredited private school or higher learning institution in New Mexico.

In order to purchase allowed service credit for working at one of the above institutions, you must submit an application to purchase allowed service credit with NMERB; your former employer must verify your employment. Application forms are available on the Forms page of the NMERB website (<https://www.erb.nm.gov/forms/>).

The cost to purchase this type of allowed service credit is based on an actuarial cost that reflects your length of service and current earnings. For an estimated cost of an allowed service credit purchase, please create and/or login to your MyNMERB account on our website, [www.erb.nm.gov](http://www.erb.nm.gov), or contact the NMERB.

## Payment

There are three options for payment in full when purchasing service credit:

- A lump sum payment to the NMERB
- A rollover or transfer of retirement contributions from another retirement plan (such as a 401(a) plan, a tax-sheltered annuity 403(b) plan, or an IRA) to the NMERB to the extent allowed by the IRS
- A combination of both of the above mentioned services

There are no payment plans available. A rollover, or transfer, from another retirement plan directly to the NMERB plan should avoid adverse tax consequences that may result from withdrawing those funds and then paying them to the NMERB plan.

We recommend that you consult with a tax advisor regarding the tax implications of a rollover or other transfer. NMERB cannot provide tax advice and is not responsible for adverse tax effects of the rollover or transfer method chosen by an individual.

## Military Service

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NMERB is in full compliance with the federal Uniformed Services Employment and Re-Employment Rights Act (USERRA) which ensures that individuals who serve in the Armed Forces, Reserves, National Guard, or other “uniformed services” are:

- Not disadvantaged in civilian careers because of their service,
- Promptly reemployed in civilian jobs upon return from duty, and
- Not discriminated against in employment based on past, present, or future military service.

If you are employed by an NMERB employer and engage in US Military Service that interrupts your employment, including being called to active duty while in the National Guard or Reserves, your pension rights under the NMERB Defined Benefit Plan are preserved under the terms of USERRA. This means that for the purposes of service credit, you will be treated as if you had no break in employment with the NMERB employer. To receive this type of allowed service credit, you must return to that employment within eighteen months following honorable discharge. While you are on active duty, neither you, nor your NMERB employer, makes contributions to the plan. This “free military” period relieves you from making contributions while you are away from your civilian career. Please contact NMERB upon return to your NMERB employer for information on applying for this service credit.

## Terminating Employment

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If you terminate employment with an NMERB employer, you may leave your contributions in the NMERB plan. If you resume working for an NMERB employer at a later time, you will resume earning service credit and making contributions.

If you terminate employment with an NMERB employer and are vested (you have five years of earned service credit), you may apply for retirement when you satisfy one of the retirement eligibility rules. See ["Deferred Retirement" on page 17](#) for more information on deferring your retirement.

## Required Minimum Distribution

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As a qualified retirement plan under federal tax law, ERB must comply with minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code. Federal regulations require that ERB members, even inactive, non-vested members, begin to receive “distributions” by a “required beginning date.” ERB members, who do not begin to take distributions by the federally mandated required beginning date, may owe a federal excise tax of 50 percent of the amount that you should have received as a required minimum distribution in a tax year.

## Refunds and Rollovers

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If you terminate your employment with an NMERB employer prior to retirement, you are entitled to request a withdrawal of your member contributions. NMERB recommends that you ask questions about your options and consider the information before acting.

If you opt to withdraw your member contributions, you must withdraw the entire amount. Employer contributions are not refundable. When you withdraw your contributions, you forfeit your service credit and your tier status. The Request for Refund and/or Rollover form is available on the NMERB website.

If you are requesting your funds within 90 days of termination, your employer must certify that you are no longer working.

Members who choose to withdraw their contributions from the NMERB plan receive a lump sum payment plus interest. The interest rate is based on the five year Treasury Note rate as of March 31 of each year. Check the NMERB website at [www.erb.nm.gov](http://www.erb.nm.gov) for the current rate. NMERB does not pay interest on contributions paid in prior to July 1, 1971.

Refunded contributions may be directly rolled over into an IRA, or other qualified plan, without penalty. If the refund is not transferred directly to another qualified retirement plan, it is subject to federal income tax and a 10% penalty for early withdrawal. NMERB is required to withhold 20% of the total payment, including interest, for income taxes. We recommend that you consult with your tax advisor before requesting a refund or transferring contributions to another qualified retirement plan. NMERB cannot offer tax advice and is not liable for the tax consequences of a refund or rollover.

If a member dies prior to retirement, contributions are refunded to his or her beneficiary with interest. If a retired member who opted not to elect survivor benefits (i.e., if the member chose Option A "Straight Life" Benefit) dies before his or her contributions have been paid out, the beneficiary will receive a refund for the remainder of his or her contributions at the interest rate established by NMERB. If the beneficiary is under the age of 18, payment will not be made until the minor has reached age 18 or until the court appoints a guardian of the minor's estate.

## Withdrawn Service Credit

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If you have withdrawn your contributions from NMERB's Defined Benefit Plan, you have the right to reinstate withdrawn years of service credit for the amount withdrawn plus interest for the period during which funds were withdrawn at the current rate set by NMERB. You may purchase a portion of your withdrawn service credit, up to and including all of your withdrawn service. This applies to both active and inactive members; however, you may not reinstate withdrawn credit service credit after you have retired.

If you received a refund of your contributions and have no service credit on or after July 1, 2010, and decide you want to reinstate service credit for your contributions to the Defined Benefit Plan, you will be subject to the latest retirement eligibility rules in place at the time of your purchase. For a review of the rules, please see "Retirement Eligibility: Age and Benefits". You may not request a refund after the

effective date of your retirement.

There are three options for payment when buying back service credit:

- A lump sum payment, including interest, to the NMERB to buy back all or part of your withdrawn service,
- A roll-over or transfer of retirement contributions from another retirement plan (such as a 401(a) plan, a tax-sheltered annuity 403(b) plan, or an IRA) to the NMERB to the extent allowed by the IRS,
- A combination of both of the above.

There are no payment plans available to purchase withdrawn service credit. If a member decides to withdraw contributions again or dies prior to retirement, interest the member paid on restored contributions is not refundable. If you are interested in purchasing your withdrawn service credit, please contact NMERB for a cost calculation.

### ***Retirement Tip***

*DocuSign forms are available for select forms for the convenience of Members. It is a fast and secure way to submit information.*

*DocuSign forms are found on the various forms pages of the NMERB Website.*



**ARE YOU  
READY?**

## Retirement Eligibility: Age & Benefits

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### When am I vested?

Being vested means you have earned five years (20 full quarters) or more of service credit with the NMERB.

If you are vested, but terminate employment before qualifying for retirement, you may leave your accumulated member contributions with NMERB and receive a pension when you satisfy retirement eligibility requirements. Service credit with the New Mexico Public Employees Retirement Association (NMPERA) may count toward retirement eligibility under Reciprocity with the NMERB plan if you have left your contributions on account with NMPERA.

For information on Reciprocity please see the section entitled NMERB/NMPERA Reciprocity below.

### TIER 1: Membership Prior to July 1, 2010

If your NMERB membership began before July 1, 2010, and you have not withdrawn all of your contributions, you are eligible to retire on the earliest date you meet any of the following criteria:

1. **“25 and Out”** – Earned service credits + allowed service credits = 25 or more years. There is no minimum age requirement.
2. **“Rule of 75”** – Your age + earned service credits = 75 or more. Under the Rule of 75, allowed service credits are used to calculate your retirement benefit but do not count toward eligibility. If you retire under this rule, are under age 60, and have less than 25 years of earned service credit, your retirement benefit will be permanently reduced by:
  - 0.6% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to age 60 but after the 55th birthday (equal to 2.4% per year). For example, if you are six months past your 59th birthday, the reduction in benefits is 1.2%.
  - 1.8% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to age 55 (equal to 7.2% for each year under age 55).
3. **“65 and 5”** – If you are at least 65 years old and have five or more years of earned service credit, you are eligible for retirement.

COLA begins at age 65.

## **TIER 2: Membership began on or after July 1, 2010, but prior to July 1, 2013**

If your NMERB membership began on or after July 1, 2010, but prior to July 1, 2013 or if you were employed before July 1, 2010, terminated your employment and subsequently withdrew all of your contributions, you must meet one of the following requirements to be eligible for retirement:

1. **“30 and Out”** – Earned service credits = 30 or more years. There is no minimum age required. Under Tier 2 “30 and Out,” allowed service credit is not used to determine eligibility for retirement but is used to calculate retirement benefits.
2. **“Rule of 80”** – Your age + earned service credits = 80 or more. As in the Rule of 75, allowed service credits are used to calculate your retirement benefit but do not count toward eligibility. If you retire under this rule, are under age 65, and have less than 30 years of earned service credit, your retirement benefit will be permanently reduced by:
  - 0.6% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to age 65 but after the 60th birthday (equal to 2.4% per year), plus
  - 1.8% for each  $\frac{1}{4}$  year, or portion thereof, that the retirement occurs prior to age 60 (equal to 7.2% per year).
3. **“67 and 5”** – If you are at least 67 years old and have five or more years of earned service credit, you are eligible for retirement.

COLA begins at age 65.

## **TIER 3: Membership began on or after July 1, 2013, but prior to July 1, 2019**

If your NMERB membership began on or after July 1, 2013, but prior to July 1, 2019 or you were employed before July 1, 2013, terminated your employment and subsequently withdrew all of your contributions and returned to work for an NMERB employer on or after July 1, 2013, you must meet one of the following requirements to be eligible for retirement:

1. **“30 and Out”** – Earned service credits = 30 or more years. Soft minimum retirement age of 55: those who retire younger than age 55 with 30 years of service credit will have a reduction in benefits to the actuarial equivalent of the member retiring at age 55. Under Tier 3 “30 and Out,” allowed service credit is not used to determine eligibility for retirement but is used to calculate retirement benefits.
2. **“Rule of 80”** – Your age + earned service credits = 80 or more. As in the Rule of 75, allowed service credits are used to calculate your retirement benefit but do not count toward eligibility. If you retire under this rule, are under age 65, and have less than 30 years of earned service credit, your retirement benefit will be permanently reduced by:
  - 0.6% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to the member’s 65th birthday but after the 60th birthday (equal to 2.4% per year), plus
  - 1.8% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to the member’s 60th birthday (equal to 7.2% per year).
3. **“67 and 5”** – If you are at least 67 years old and have five or more years of earned service credit, you are eligible for retirement.

COLA begins at age 67.

#### TIER 4: Membership began on or after July 1, 2019

If your NMERB membership began on or after July 1, 2019, or you were employed before July 1, 2019, terminated your employment and subsequently withdrew all of your contributions and returned to work for an NMERB employer on or after July 1, 2019, you must meet one of the following requirements to be eligible for retirement:

1. **“30 and Out”** – Earned service credits = 30 or more years. Soft minimum retirement age of 58: those who retire younger than age 58 with 30 years of service credit will have a reduction in benefits to the actuarial equivalent of the member retiring at age 58. Under Tier 4 “30 and Out,” allowed service credit is not used to determine eligibility for retirement but is used to calculate retirement benefits.
2. **“Rule of 80”** – Your age + earned service credits = 80 or more. As in the Rule of 75, allowed service credits are used to calculate your retirement benefit but do not count toward eligibility. If you retire under this rule, are under age 65, and have less than 30 years of earned service credit, your retirement benefit will be permanently reduced by:
  - 0.6% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to the member’s 65th birthday but after the 60th birthday (equal to 2.4% per year), plus
  - 1.8% for each  $\frac{1}{4}$  year, or portion thereof, that retirement occurs prior to the member’s 60th birthday (equal to 7.2% per year).
3. **“67 and 5”** – If you are at least 67 years old and have five or more years of earned service credit, you are eligible for retirement.

**New Tiered Multipliers apply to all Tier 4 members**, please see next page for full explanation of the retirement calculation.

**COLA** begins at age 67.

#### New Tiered Multipliers

The retirement benefit of employees who fall under Tier 4 will be calculated using tiered multipliers. The Tiered Multipliers will only apply to those NMERB Members hired on or after July 1, 2019 or members who refunded all contributions prior to July 1, 2019 and then repurchased their service credit on or after July 1, 2019.

A pension for Tier 4 members will be calculated using a graduated multiplier. The pension factor changes for every ten years of service up to year 30 and then remains at 2.4% thereafter:

Years of Service	Multiplier
10 or less	1.35%
10.25 to 20	2.35%
20.25 to 30	3.35%
30.25 plus	2.4%

#### For example:

A member who retired with 15 years of service would calculate their benefit for the first ten years of



service using the multiplier of 1.35% (10yrs x 1.35% = 13.5), and the second five years (after 10 years) using the multiplier of 2.35% (5yrs x 2.35% = 11.75) such that 15 years of service will provide a cumulative benefit of 25.25% (13.5 + 11.75) of a member's final average salary (FAS).

**Another example:**

A member who retired with 32 years of service would calculate their benefit for the first ten years of service using the multiplier of 1.35% (10yrs x 1.35%= 13.5), the second ten years using the multiplier of 2.35% (10yrs x 2.35%=23.5), the third ten years using the multiplier of 3.35% (10yrs x 3.35%= 33.5), and the last two years with the multiplier of 2.4% (2yrs x 2.4%=4.8), such that 32 years of service will provide a cumulative benefit of 75.3% (13.5 + 23.5 + 33.5 + 4.8) of a member's final average salary (FAS).

NMERB's goal is to encourage longer careers by providing more generous benefits to the educational employees who serve the longest. This also supports the sustainability of the fund by providing fewer generous benefits for those members who have shorter NMERB careers, and who make fewer contributions to the fund.

## When to Retire

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Retirement is a big decision, and there are many factors to consider – practical, personal and, of course, financial as you plan for a secure retirement. Just because you have met the eligibility requirements does not mean you must retire. Your decision should be based on your individual circumstances. The NMERB DBP pension has no earnings cap, the longer you work the higher your monthly benefit will be.

As you weigh your options, we suggest that you consider not only your NMERB pension but also any Social Security benefits and other sources of income you are entitled to, as well as factors like inflation, health care costs, and other expenses you may face.

Social Security includes retirement, disability and survivor benefits. In order to receive Social Security benefits, you must file an application with the Social Security Administration at [www.ssa.gov](http://www.ssa.gov), by telephone at (800) 772-1213, or by making an appointment to visit any Social Security office.

When you have met the eligibility requirements with NMERB and are ready to retire, complete the application found on the Forms page of the NMERB website (<https://www.erb.nm.gov/forms/>). We recommend that you begin this process approximately 90 days prior to your planned retirement date in order to avoid any interruption in your income.

If you are still employed by an NMERB employer, your employer must complete the Employer Certification portion of your retirement application. If you have not worked for an NMERB employer within the last six months, you only need to complete the member Information section of the application for retirement benefits.

## Calculating Retirement Benefits

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Benefits are based on three components – your average annual salary (often referred to as your final average salary or “FAS”), your earned and allowed service credit, and a 2.35% factor under Tier 1, Tier 2 or Tier 3.

Final Average Salary (FAS) x service credit x .0235 = annual benefit

If you are under Tier 4 the DBP will use a tiered multiplier – please see page 11 for the tiered multiplier  
Final Average Salary (FAS) x service credit x tiered multiplier = annual benefit

### Final Average Salary

- Your average fiscal annual earnings for the last 20 calendar service quarters (60 months) prior to retirement or
- Your highest average fiscal annual earnings for any 20 consecutive calendar quarters

The NMERB Benefits Calculator is available on the NMERB website at [www.erb.nm.gov](http://www.erb.nm.gov). Login to your MyNMERB account to calculate an “unofficial” estimate of your annual and monthly retirement benefits. We strongly recommend that you contact NMERB one year prior to your expected retirement date to request an official benefit estimate. At this time a benefit analyst will complete a thorough audit on your account to verify that your accumulated service credit information and salary history are accurate.

Remember, the age at which you retire can affect the benefits that you will receive. See the section entitled ["Retirement Eligibility: Age & Benefits" on page 12](#).

Under New Mexico law, benefits earned under the Educational Retirement Act are community property. As such, benefits may be subject to a division due to a legal separation or a divorce. See the section entitled ["Community Property Rights" on page 22](#).

## Anti-spiking

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Applies only to members whose final average salary is greater than \$60,000 and who retire on or after July 1, 2019 (regardless of Tier status).

- The \$60,000 threshold will be adjusted in accordance with any annual increase in the consumer price index (CPI).
- Applies only to portions of the Final Average Salary earned after July 1, 2019.
- Salary increases from year-to-year (in the Final Average Salary calculation) cannot be greater than 30%. If salary increase is greater than 30%, the salary increase over 30% is ignored in calculation of Final Average Salary.

## Effective Date of Retirement

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The effective retirement date for active members is the first day of the month following the last month in which you were employed and have an approved application.

The exception to this rule is if you are employed on a nine or ten month contract based on the academic school year. In that case, your effective retirement date is set by state statute as July 1, if you terminate your employment in May.

For example, if you worked through July 15, your retirement date is August 1. However, you must submit your retirement application to NMERB by the last day of the month prior to your retirement date. If you plan on retiring as of August 1, you must submit your application by July 31. If your application is received by NMERB after July 31, but before August 31, your effective retirement date will be September 1.

Note: Spring is NMERB's peak retirement season. If you are planning a July 1 effective retirement date, we encourage you to submit your Retirement Application as early as January to prevent an unanticipated change in income.

## Deferred Retirement

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If you are vested, having five or more years of service credit, or have reciprocity with NMPERA that combines to equal five years of service, you may leave your account in an inactive status until you reach retirement age and apply for your monthly benefit.

If you are eligible to retire, there is no advantage in deferring retirement beyond age 60, as the benefit does not increase beyond that age when you are in an inactive status. Furthermore, if you become eligible for benefits but delay applying for retirement, you will forgo those benefits you would have otherwise received between the date of eligibility and the date your retirement application is received by NMERB.

The retirement date for inactive members is the first day of the month following date of receipt of the retirement application.

## Pension Payments

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Pension benefits are paid to retirees on the last business day of the month via direct deposit into your account at your bank or qualified credit union. For new retirees, the retirement benefit paid during the first six to nine months may be estimated. The benefit amount may require an adjustment once your actual final earnings have been reported by your NMERB employer. All new retirees are required to submit a direct deposit authorization form.

## Benefit Options

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When you retire, you must choose one of three beneficiary payment options. Your choice is irrevocable; it may not be changed after you retire and begin receiving retirement benefits. There are two exception scenarios listed at the end of this section.

### **Option A: Straight Life Benefit**

If you select this option, your monthly benefit is the full amount due you under the “**FAS x service credit x .0235 (Tier 1, 2 & 3)**” or “**FAS x service credit x Tiered Multiplier (Tier 4)**” formula. Option A is a life only annuity; meaning your pension payments end upon your death. There is no monthly survivor benefit under this option. In limited instances, your beneficiary or estate will receive the balance of your contributions to the plan if they have not been fully distributed to you in retirement benefits prior to your death. Generally, retiree contributions are exhausted within three to five years after retirement starts.

### **Option B: Joint 100% Survivor Benefit**

Under Option B, your monthly benefit is reduced to provide a designated beneficiary with a 100% survivor's benefit for the remainder of his or her life. The monthly benefit is based on your age and your beneficiary's age at the time of your retirement. If you plan on selecting a non-spouse as your beneficiary, they cannot be more than ten years younger than you. If your beneficiary dies before you, upon receipt of their death certificate, your monthly benefit will increase to the amount you would have received under Option A: Straight Life Benefit.

### **Option C: Joint 50% Survivor Benefit**

Under Option C, your monthly benefit is reduced to provide a designated beneficiary with a 50% survivor's benefit for the rest of his or her life. If your beneficiary dies before you, upon receipt of their death certificate, your monthly benefit will increase to the amount you would have received under Option A: Straight Life Benefit.

If you select Option B or C, you may name only one beneficiary and your beneficiary must be a person or, effective June 16, 2023, a supplemental needs trust. A supplemental needs trust is a third-party irrevocable trust that is authorized by the federal Social Security Act for the sole benefit and lifetime of a trust beneficiary who is disabled and is created for the purpose of providing, accounting for or receiving supplemental assets that do not supplant, impair or diminish any benefits or assistance of any federal, state or other government entity for which the beneficiary would otherwise be eligible. You may not name other types of trusts or other entities as the beneficiary. Prior to retirement, you may change your beneficiary at any time. Keep the information about your designated beneficiary current on your NMERB account.

Because both Options B and C provide for payments to your beneficiary after your death, your benefit will be reduced based on actuarial data. In Option B or C, you are choosing a lifetime benefit for the beneficiary in the event he or she outlives you.

Speak to an NMERB benefit specialist if you have questions about your options or would like to receive benefit estimates for each option.

Please notify NMERB immediately of a member's or a beneficiary's death. Make sure family members are aware of this important obligation.

### **Changing Beneficiaries**

NMERB retirees receiving pension benefits under either Option B or C who have a living designated beneficiary, other than a current or former spouse, may exercise a onetime irrevocable option to either designate a new beneficiary or receive future pension benefits under Option A pursuant to Section 22-11-29(E) NMSA 1978.

If you contemplate a change in beneficiaries under Options B or C, there is a \$100 processing fee incurred for calculating a new annuity amount regardless of whether you proceeded to make the contemplated change or not.

Note that new beneficiary designation and the amount of the pension benefit will be subject to court orders regarding division of community property and child support obligations provided for in Section 22-11-42(B) NMSA 1978.

## **Disability Benefits**

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You may be eligible for disability benefits under NMERB's Defined Benefit Plan if:

- a. You have accumulated ten or more years of earned service credit,
- b. You are totally disabled and unable to continue your employment, and
- c. You are unable to obtain and retain other gainful employment commensurate with your education, background, and experience.

In order to qualify for disability benefits, you must first contact NMERB and request a Disability Benefit Application form. Staff will verify that you have ten or more years of earned service credit with NMERB and will send you the following forms:

- Request for NMERB's Disability Benefit Application Form along with an
- Option B form, to designate a survivor beneficiary; and estimate of disability benefits.

Once you have completed and returned the required forms and documents, including proof of age for both you and your designated beneficiary (acceptable documents: birth certificate, baptismal, driver's license and passport, certificate of Degree of Indian or Alaskan Native Blood (CDIB). NMERB will forward your request to NMERB's Disability Evaluation Service provider (DES Provider). Within one to two business days the DES Provider will send you a Disability Application.

You may file an application for disability benefits prior to the termination of your employment. If you are determined to be disabled, the effective date of disability benefit will be either the first day of the month following termination of employment or the first day of the month following filing your application with NMERB, whichever is later.

If you are receiving disability benefits and you have not been designated as permanently disabled, your case is subject to review by NMERB. This review will be made at least annually and, at the discretion of NMERB, may be required more frequently. If NMERB determines you are able to return to work, your disability benefits will cease. If your physical condition improves significantly, you are required to report your improved condition within 30 days. Failure to do so may result in legal penalties.

If you are receiving disability benefits when you turn age 60, New Mexico law requires your status to change to "retired." Your disability benefit becomes a retirement benefit. The benefit you receive after the disability benefit is converted will be the same amount as the prior disability benefit. The amount will not be recalculated based on the retirement benefit formula. If you have not already selected a beneficiary payment option (see "Benefit Options"), the NMERB will send you a form to do so. If you do not receive that form within 90 days of your 60th birthday, please contact NMERB.

## Death Prior to Retirement

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When you have five years of earned service credit, you are vested in the defined benefit plan. If you die before you retire, the defined benefit plan provides the beneficiary you named on your Pre-retirement Beneficiary Designation form either an option for a lump sum benefit or a lifetime benefit under Option B. However, if you name as your beneficiary either (i) more than one person, or (ii) a trust, or (iii) someone who is not your spouse, the beneficiary (ies) receives a lump sum benefit. Prior to retirement, you may change your beneficiary at any time by submitting a new Beneficiary Designation Form. The form is on the Forms page of the NMERB website (<https://www.erb.nm.gov/forms/>).

If an NMERB member who chose Option B coverage dies prior to retirement, the benefit is computed as of the first day of the month following the date of death. The beneficiary may elect to begin receiving monthly benefits the month after the member's death, or benefits may be deferred up to the deceased member's 60th birthday. If a deceased member under age 60 had less than 25 years of service, deferring the benefit until that member's 60th birthday provides a larger benefit payment to the beneficiary because survivor benefits are also subject to the age related reduction of benefits. See the section entitled "[Retirement Eligibility: Age & Benefits](#)" on page 12.

For example, if you are the beneficiary of a member whose employment began prior to July 1, 2010, did not withdraw contributions, and died at age 42 with 15 years of earned service, the survivor benefit is reduced by 2.4% for each full year under age 60 (0.6% for each  $\frac{1}{4}$  year or portion thereof) and 7.2% (1.8% for each  $\frac{1}{4}$  year or portion thereof) for each year under age 55: (5 years x 2.4%) + (13 years x 7.2%) = 12% + 93.6%, or 105.6% penalty.

The deduction exceeds 100% so the beneficiary receives no payment. If the beneficiary waits until the deceased member's 50th birthday: (5 years x 2.4%) + (5 years x 7.2%) = 12% + 36%, or 48% penalty.

When a non-retired member dies, their beneficiary has the right to withdraw the deceased member's contributions plus interest in a lump sum payment in lieu of a monthly payment. If an NMERB member chooses not to participate in Option B coverage and dies prior to retirement, his or her beneficiary, or estate, will receive the member's contributions plus interest.



## Cost of Living Adjustment

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You may receive an annual Cost of Living Adjustment (COLA) to your retirement or disability benefit in accordance with the following schedule:

- If you joined NMERB prior to July 1, 2013 (i.e., members in Tier 1 and Tier 2), you may begin receiving a COLA on July 1 of the year in which you reach age 65 or July 1 of the year following your effective retirement date, whichever date is later.
- If you joined NMERB on or after July 1, 2013 (i.e., members in Tier 3 and Tier 4) you may begin receiving a COLA on July 1 of the year in which you reach age 67 or July 1 of the year following your effective retirement date, whichever date is later.

If you are eligible for a COLA, the amount depends on the annual change in the Consumer Price Index (“CPI”). If there is no increase in the CPI, or the CPI is negative, a COLA is not paid; however, if the CPI is negative, retirement benefits will not be decreased.

When the Educational Retirement Fund is fully funded (i.e., the funded ratio is 100%), if the increase in the CPI is less than 2%, the COLA will be the same amount as the increase in the CPI. If the increase in the CPI is 2% or greater, the COLA will be one-half of the CPI increase, except that it will not exceed 4% or be less than 2%. However, until the Educational Retirement Fund is 100% funded, the COLA will be reduced as shown in the examples below. The reduction is tied to the median annual retirement benefit. The median benefit is recalculated after the end of each fiscal year (i.e., after June 30 each year).

When the funded ratio is 90% or less, the COLA for retirees whose annuity is at or below the median who have 25 or more years of service credit at retirement will be reduced by 10%. For retirees whose annuity is either (i) greater than the median or (ii) who have less than 25 years of service credit at retirement, the COLA will be reduced by 20%. When the funded ratio exceeds 90% but is less than 100%, the COLA for retirees who had 25 or more years of service credit at retirement whose annuity is equal to or less than the median adjusted annuity will be reduced by 5%. For all other retirees, it will be reduced by 10%. When the funded ratio is 100%, the COLA reduction ceases.

The following examples are based on a 2% annual increase in the CPI:

Funded ratio is 90% or less

- Retirees with benefits at or below the median and with 25 or more years of service, the COLA would be 1.8%.
- For all other retirees, the COLA would be 1.6%.

Funded ratio exceeds 90% and is less than 100%

- Retirees with benefits at or below the median and with 25 or more years of service, the COLA would be 1.9%.
- For all other retirees, the COLA would be 1.8%.

Funded ratio is 100% or greater

- For all retirees, the COLA would be 2%. The reduction ceases.

## Community Property Rights

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New Mexico is a community property state, which means that assets and property acquired during a marriage are considered to be jointly owned by both spouses. In the event of divorce, this applies to retirement benefits under the ERA.

NMERB retirement benefits cannot be divided unless NMERB receives a copy of an acceptable domestic relations order (DRO) endorsed by the court that directs the NMERB on how the member's retirement benefits will be divided between the member and the member's former spouse. Even with a DRO, payments of retirement or disability benefits cannot be made to a former spouse until the benefit payment is due to the member. In other words, if a member is not eligible to retire at the time of divorce, NMERB cannot pay the non-member spouse his or her interest in the retirement account. No benefits can be divided unless NMERB is served with a DRO and the benefits are eligible for distribution to the NMERB member. Orders dividing retirement benefits are subject to review and approval by NMERB to ensure the order complies with the law and can be administered. Be sure to provide NMERB with a DRO to avoid a delay in benefit payments.

NMERB can provide on request, an account statement, history of accumulated quarterly salary and contributions, and beneficiary information to members going through a divorce. Members can download a model order with attorney instructions from the Forms page of the NMERB website (<https://www.erb.nm.gov/forms/>) to help them draft an acceptable court order in compliance with the ERA. Other than through acceptable DROs, properly prepared court orders for child support or liens from the IRS, member benefits cannot be assigned or attached by any legal process.

## Taxes, Other Deductions

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Your retirement benefits are subject to state and federal income tax. However, contributions that were previously taxed, including contributions made prior to July 1983 and service credit purchased with after-tax dollars, will not be subject to additional taxation. If you request withholding, the NMERB will compute the amount of your taxable income and withhold state and federal taxes at your direction from your pension payments.

You may also opt to have dues to the National Education Association (NEA) and the New Mexico Association of Educational Retirees (NMAER) withheld from your benefit payment. Membership with these retiree organizations is optional. The NMERB will issue an IRS Form 1099R annually reporting your



retirement benefit for tax purposes. Your Form 1099R will be mailed to you at the address on file with the NMERB. Please keep your address information current with the NMERB to ensure proper delivery of your Form 1099R and other documents that NMERB may send from time to time. A copy of the Form 1099R will also be filed with the IRS.

## Statements

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You may review your NMERB account statement by creating a MyNMERB account. Click the MyNMERB login box on the [www.erb.nm.gov](http://www.erb.nm.gov) homepage. NMERB no longer sends account statements to members, however the information is available in your MyNMERB account. Review your account statement carefully and bring any discrepancy to the attention of your employer's payroll department and NMERB.

## NM Retiree Health Care Authority

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Many NMERB members can choose to receive health, dental, vision, long-term care and life insurance coverage through the New Mexico Retiree Health Care Authority (NMRHCA). The NMRHCA provides subsidized health insurance premiums for both Medicare and pre-Medicare eligible retirees.

To qualify for NMRHCA coverage, you must have retired from a participating NMRHCA employer. A list of participating employers may be obtained from the NMRHCA. For information and to apply for coverage, please contact the NMRHCA directly.

The University of New Mexico, New Mexico State University, New Mexico Tech, San Juan College and Clovis Community College are not NMRHCA contributing employers. If you were employed by any of these institutions at the time of your retirement, you may qualify for continuing health benefits through your employer. Please contact those employers directly regarding the health care benefits that they may provide. The NMERB does not have information about their retiree health care benefits.

### Customer Service Email:

[customerservice@rhca.nm.gov](mailto:customerservice@rhca.nm.gov)

**Toll Free:** 1-800-233-2576

**Website:** [www.nmrhca.org](http://www.nmrhca.org)

### Albuquerque Office

6300 Jefferson St NE, Suite 150  
Albuquerque, NM 87109

Phone: 1-800-233-2576

### Santa Fe Office

33 Plaza La Prensa, Suite 101  
Santa Fe, NM 87507

Phone: 1-505-476-7340

## NMERB / NMPERA Reciprocity

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The Public Employees Retirement Reciprocity Act (Section 10-13A-1, NMSA 1978) requires service credit earned under the New Mexico Public Employees Retirement Act (NMPERA) and the Educational Retirement Act (ERA) to be combined for purposes of determining retirement eligibility and benefits. However, the service credit earned under each system, will be calculated using the formula for that system. You must file your retirement application with the system where you were most recently employed. The system for which you worked previously must then verify your qualified employment. Members will receive their monthly benefit payment directly from each retirement system in two separate direct deposits.

Service credit for the NMPERA and NMERB Defined Benefit Plan is calculated based on the rules and formulas in each plan that were in effect at the time of employment. NMERB members who believe they are eligible for credit under NMPERA should contact an NMERB benefits specialist at least six months prior to retirement to request an analysis of service credit due under the Public Employees Retirement Reciprocity Act.



## Working after Retirement

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NMERB retirees who work for an NMERB employer after retirement are subject to the provisions of the ERA and NMERB rules addressing the subject. **An NMERB retiree who is in violation of those requirements will have their retirement suspended and will be required to pay back all retirement benefits received during the period of ineligibility. When benefits are suspended, a retiree will be placed back in active status and may earn additional service credit and may have a higher average annual salary for calculation of benefits upon re-retirement. However, such a retiree will be required to re-apply for retirement.**

Prior to beginning to work, employees must:

- Apply for one of four options under Return to Work (“RTW”)
- Receive pre-approval from NMERB before returning to work
- Provide their employer with a copy of their approval prior to beginning to work

If approved, the NMERB retiree will continue to receive their monthly retirement benefit.

NMERB retirees working under one of the RTW options do not earn service credit. An NMERB retiree may voluntarily suspend their retirement benefit at any time, go back to work, pay contributions to earn additional service credit and re-retire in the future.

### **Option 1: Return to Work 36 Months Program – RTW Application required**

Effective May 18, 2022, NMERB retirees may return to employment under the Return to Work 36 Months Program without affecting their retirement benefit for a period of no more than 36 consecutive or nonconsecutive months. The retiree must complete a 90 consecutive day layout period after the date of retirement. There is no limit on earnings or FTE under this program. Retirees must pay nonrefundable employee contributions to the NMERB fund and cannot earn or purchase service credit for the period of this employment. Their employer must pay the employer contributions.

### **Option 2: Return to Work 12 Consecutive Month Layout Program – RTW Application required; Program sunsets January 1, 2024.**

The Return to Work (RTW) 12 Consecutive Month Layout Program allows NMERB retirees to return to employment with an NMERB employer and continue to receive their monthly benefit payment.

Members who retired after January 1, 2001 must complete a twelve consecutive month break in service, or layout. The twelve consecutive month period can occur any time after retirement; it does not have to

be immediately prior to applying for this program. During the layout, the member cannot be employed by or render any service to an NMERB employer. "Rendering service" includes any work, whether full or part-time, substitute teaching, voluntarily performing duties that would otherwise be, or in the past have been, performed by a paid employee or independent contractor, or performing duties for an NMERB employer as an independent contractor or as an employee of an independent contractor. An NMERB employer includes any entity incorporated, formed or otherwise organized by, or subject to the control of an NMERB employer, regardless of whether the entity is created for profit or nonprofit purposes.

During the twelve consecutive month layout, you may be employed by or provide services to non-NMERB employers, including employers covered by the New Mexico Public Employees Retirement Association (NMPERA) unless you have a license issued by the New Mexico Public Education Department at the time of commencement of employment and are working in a position that requires such a license for a New Mexico agency that has an education program (i.e. Department of Corrections, Public Education Department, Department of Health, Division of Vocational Rehabilitation and Educational Retirement Board).

If you initially retired after January 1, 2001, and later suspended retirement to earn more service credit, you must complete the twelve consecutive month layout each time you re-retire to be eligible for the RTW 12 Consecutive Month Layout Program. The only exception to the break in service or layout requirement is for members who retired before January 1, 2001, who have not suspended their benefits. If you are in that category, you do not need to fulfill the twelve consecutive month layout period. However, if you retired before January 1, 2001, then subsequently suspended your retirement to earn additional service credit, and then re-retired, you must complete a 90-day layout before qualifying for the RTW Program in addition to the required twelve month layout for the exception. The retiree must submit a RTW Application, and upon approval provide a copy of the approval to their employer prior to working.

There is no limit on earnings or FTE for retirees working under this program. The retiree and their employer must pay nonrefundable contributions.

If you are providing services to an NMERB employer as an independent contractor or are employed by an NMERB employer under the Return to Work 0.25 FTE or Less program, the Return to Work Less Than \$15,000 Per Year program, or the Return to Work 36 Months program, you must complete a twelve consecutive month layout before you may apply for the RTW 12 Consecutive Months Layout Program.

**IMPORTANT NOTE:** The RTW 12 Consecutive Month Layout program authorized by Section 22-11-25.1(A) NMSA 1978 and 2.82.5.15 NMAC will sunset effective January 1, 2024. As of December 31, 2023, this program will no longer be available for new participants.

This program is only available to retired members who have: completed or will complete the 12-month layout; submitted a RTW application; received NMERB approval; provided a copy of the approved application to their employer; and began working **on or before December 31, 2023**. Those participating in this program on December 31, 2023 may continue until they withdraw from the program. On or after January 1, 2024, an NMERB retiree withdrawing from the program will not be allowed to submit an application to return to this program.

Please view the RTW Comparison Table (<https://www.erb.nm.gov/rtw-comparison-table/>) on the NMERB website for additional information on the various return to work programs available to NMERB retirees.

### **Option 3: Return to Work 0.25 FTE or Less – RTW Application required**

The Return to Work 0.25 FTE or Less program allows an NMERB retiree to work an amount equal to 25% or less of the FTE of the position in which they are employed. FTE refers to the number of hours, or classes for higher education, worked that add up to a full time employee. The definition of FTE varies by position. NMERB employers determine the FTE for a particular position and what 25% of FTE is for that position. There is no layout period under this program, however the retiree must submit a RTW Application, and upon approval provide a copy of the approval to their employer prior to beginning employment. No contributions required of either the employer or employee.

If you work for more than one NMERB employer, you must notify each NMERB employer about your other NMERB employer jobs. The FTEs from all your NMERB employers will be combined--the total FTE cannot exceed 0.25 FTE. Retirees who exceed the 0.25 FTE limit will have their retirement suspended and will be required to pay back all retirement benefits received during the period of ineligibility and will be returned to active status. An employee returned to active status must pay nonrefundable contributions at the same rate as active members, will earn service credit and be required to reapply for retirement in the future.

### **Option 4: Return to Work Less Than \$15,000 – RTW Application required**

The RTW Less Than \$15,000 Per Year program allows an NMERB retiree to work for an NMERB employer with limited salary per fiscal year. The retiree must lay out 90 consecutive days after their retirement date and submit a RTW Application. If approved, the retiree must provide a copy of the approval to their employer prior to beginning employment. No contributions are required by the employer or the employee.

If you work for more than one NMERB employer, you must notify each NMERB employer about your other NMERB employer jobs. Your gross earnings from all your NMERB employers will be combined - the total earned must be less than \$15,000 per fiscal year (July 1 thru June 30). Earnings include all forms of cash remuneration including bonuses and payouts for annual and sick leave. Reimbursements and allowances for expenses are excluded from the calculation of earnings.

Retirees must keep track of their gross earnings. **It is your responsibility to keep track of your earnings to avoid exceeding the maximum allowed.** Retirees who exceed the \$15,000 limit will be returned to active status. **An employee returned to active status must pay nonrefundable contributions at the same rate as active members, will earn service credit, and be required to reapply for retirement in the future.**

Remember that time worked under the Return to Work Less Than \$15,000 Per Year program does not qualify as a break in service for the twelve consecutive month layout required for the RTW 12 Consecutive Month Layout Program.

An NMERB retiree who wishes to resume employment for an NMERB employer (i.e., “Return to Work”) is responsible for ensuring that the following criteria are met before resuming employment. Requirements prior to resuming employment:

- Apply for one of the RTW programs,
- Receive approval from NMERB, and
- Provide employer with a copy of NMERB’s approval.

If approved, the NMERB retiree can begin employment under the approved provision while still receiving monthly retirement benefits.

Please note that for those retirees who fail to satisfy the requirements under the Educational Retirement Act and NMERB rules regarding Returning to Work after Retirement, their pension benefits will be suspended and any benefits received during the ineligible return to work period must be paid back to NMERB, including interest.

## NMPERA Retirees

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NMPERA Retirees will not earn service credit while they work for NMERB employers. For information regarding whether NMPERA allows their retirees to work for an NMERB Employer or information about NMPERA retirements, please contact NMPERA directly by email [PERA-Memberservices@state.nm.us](mailto:PERA-Memberservices@state.nm.us) or call 1-800-342-3422.

## Independent Contractors

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If you provide services to an NMERB employer as an independent contractor, your earnings will have no impact on your pension. However, it is critical that both you and the employer follow IRS rules and regulations that distinguish between employees and independent contractors. Both NMERB retirees and their NMERB employers must complete the Independent Contractor Determination application, available at [www.erb.nm.gov](http://www.erb.nm.gov), and submit it to NMERB for review and approval prior to providing services to an NMERB employer. Remember that time worked as an independent contractor for an NMERB employer does not count toward the layout period required for the RTW programs.

If you are an NMERB retiree and are considering providing services to an NMERB employer through a third party contractor, such as a temporary staffing company or educational services company, you must submit an Independent Contractor Determination Application and be approved by NMERB prior to providing services to an NMERB employer.

## Non-NMERB Employment

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If you work for an employer that is not covered by the Educational Retirement Act, your earnings will have no impact on your pension. This means you may work for any city, state, county or federal government, private school, Bureau of Indian Affairs School, public school outside New Mexico, or private-sector employer (including a private school) without losing your benefit.

## Suspending Retirement

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If you have retired under the NMERB Defined Benefit Plan, you may suspend your retirement and resume fulltime employment with an NMERB employer at any time. Suspending retirement is not the same as the Return to Work Program. You must notify NMERB of this change in status in writing. The first day of the month following your written notification to NMERB, NMERB will stop paying the retirement benefit and you will again be a contributing member of NMERB when employed by an NMERB employer.

During re-employment after suspending retirement, you will earn more service credit and you might increase the final average salary on which your retirement benefit is calculated when you re-retire. When you decide to retire again, your benefit will be recalculated. In no case will your benefit be less than it was when you retired the first time.

If you previously selected Option B “Joint 100% Survivor Benefit” or Option C “Joint 50% Survivor Benefit” to provide survivor benefits to your beneficiary, your retirement option will not be changed if you decide to suspend your benefits and resume working. For example, if you chose Option C with a 50% survivor benefit for your beneficiary when you retired the first time, your benefits will be recalculated at the Option C level when you re-retire. If you die after suspending your benefits and going back to work, your beneficiary will receive monthly benefits under Option C. If your beneficiary precedes you in death, your benefits will revert to the Option A “Straight Life” benefit.

## Alternative Retirement Plan: University & College Faculty and Select Staff

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Qualifying faculty and professional employees of New Mexico public universities and community colleges have the option of participating in the Alternative Retirement Plan (ARP), a defined contribution plan. They can opt to participate in either NMERB’s DBP or ARP during the first 90 days of employment if they are in an eligible position.

In a defined contribution plan, participants have individual accounts with an ARP service provider (vendor). The current ARP vendors are TIAA and Fidelity. Benefits are based on contributions plus any investment gains or losses. ARP participants direct their own investments, and retirement benefits are tied to the value of the assets in the account at retirement. Upon retirement, ARP participants have three options:

- A monthly annuity based on the retiree's estimated life span,
- Payments received over a fixed term of years, or
- Lump sum payment. Contribution rates for ARP participants are the same as those for DBP members. Refer to NMERB's website at [www.erb.nm.gov](http://www.erb.nm.gov) for current employee and employer contribution rates.

If you terminate your employment with a New Mexico university or community college, you may roll over the ARP account balance to another qualified retirement plan or withdraw the balance. If the distribution is not transferred directly from your ARP account into another qualified retirement plan, it is subject to federal and state income tax and a 10% penalty for early withdrawal prior to age 59 1/2. Contact your ARP vendor for information on rollovers, distributions, and IRS requirements. NMERB cannot provide advice on the tax consequences of distributions.

As a result of legislative changes in 2009, ARP participants may switch to the NMERB Defined Benefit Plan (DBP). After you have made contributions to the ARP for seven years, you have a 120-day window to enroll in the DBP. Eligibility begins on the first day of the month after the date on which you have made seven years of contributions to the ARP. The seven-year mark is the only opportunity you will have to switch to the DBP. If you make the change, you cannot switch back to the ARP.

If you switch to the DBP, the money in your ARP account must remain there until you terminate employment. It cannot be moved into your DBP account. You must contribute to the DBP for five years to vest in the DBP and be eligible for retirement benefits. You cannot purchase service credit for the time in which you were enrolled in the ARP; however, the seven years of participation in the ARP will count toward eligibility requirements to retire under the DBP.

### **ARP Post-Retirement Work**

NMERB requirements governing working after retirement for an NMERB employer (to any of the RTW programs described previously) apply to all persons who retire under either the DBP or the ARP. ARP retirees are required to comply with the NMERB program requirements for working after retirement. This includes the requirement under the RTW Program that a retired participant make non-refundable contributions to the Educational Retirement Fund as would be required by Section 22-11-21 NMSA 1978 as if the retired participant were a non-retired employee.

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## Thinking About Retirement?

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It is never too early to start planning for your retirement. Familiarize yourself with your retirement plan details, monitor legislative changes, and stay in touch with NMERB. We urge you to create an online MyNMERB account so that you may monitor your personal account. Click the MyNMERB login box on the home page of our website [www.erb.nm.gov](http://www.erb.nm.gov) to create or access your account. You may use the benefit calculator in your MyNMERB account at any time to estimate your retirement benefits.

It is very important to keep the mailing address on your NMERB account current. Change of Address forms may be found in the Forms section on the homepage. Please review your MyNMERB account carefully and bring any disputed information to the attention of your employer's payroll department and NMERB.

We suggest you contact NMERB one year before your planned retirement date to request a formal estimate to ensure you have received credit for all NMERB earned service credit as well as any service credit purchases that you have made. The Request for Benefit Estimate form can be found in the Forms section on the homepage of our website.

One year before your planned retirement date, be sure to provide documentation of your date of birth as well as your beneficiary's date of birth if you plan to select Option B or C. Birth certificates, passports or baptismal certificates are acceptable documentation.

Approximately 90 days before your planned retirement date, request a Retirement Application form from your employer's personnel office or download one from NMERB's website. You complete Section 1 and your employer completes Section 2. Forward the application to NMERB prior to the last day of the month prior to your retirement date to ensure the effective retirement date.

### **For inactive members considering retirement**

If you have not been employed by an NMERB employer for six months or more from when you apply for your retirement benefits, you may send your Retirement Application directly to NMERB (complete only page 1). NMERB should receive the application approximately 90 days prior to your planned retirement date.

### **Once You Retire**

Your relationship with NMERB does not end. You are encouraged to create a MyNMERB account to access your information as a retiree. You can view your monthly benefit amount and your Retiree

Annual Statement in your account. Your IRS Form 1099R is mailed to the home address we have on file for your account, so it is important to keep your contact information up to date.

**Please keep in mind the NMERB Member Handbook is general information.**

The NMERB Member Handbook is intended solely as a convenient guide regarding NMERB procedures and benefits. The information in this Handbook is general and may not apply to every situation. Changes in the Educational Retirement Act and NMERB rules may make some information obsolete. In all situations, the provisions of the Educational Retirement Act and NMERB rules control and override any statement or information contained in this Handbook. This Handbook is not a contract. It is not intended to and cannot be considered to create any contractual obligation on the part of NMERB. Every individual's account is unique. For information and/or questions specific to your account, please email NMERB at [Member.Help@erb.nm.gov](mailto:Member.Help@erb.nm.gov) or use the contact information provided on the "[Welcome page](#)".

# Your Retirement Notes

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