

# *Online Member Handbook*

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*Please keep in mind*

This member handbook is a general summary of the benefit provisions administered by the New Mexico Educational Retirement Board (ERB) 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 of these changes in a timely way via the ERB website at [www.nmerb.org](http://www.nmerb.org).

This member handbook is not a contract and does not create any contractual obligation on the part of ERB or its Board of Trustees.

In all situations, the provisions of the Educational Retirement Act, and the rules and policies of the ERB, control and override any statements or information made in this handbook. Statements of fact or law made by ERB or any of its staff or the staff of any of its contributing employers (local administrative units) does not preclude the ERB from acting in accordance with applicable statutes, rules and policies.

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## *Welcome*

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Whether you are just starting out in the classroom 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 (ERB) 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 to make sound decisions about your retirement 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 the state's first pension plan for public servants. Today's ERB, a descendant of that landmark legislation, manages a multi-billion dollar portfolio, serving approximately 61,000 active members, 34,000 inactive members and 40,000 retirees.

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

ERB members are our first priority, and we are committed to providing you with exemplary customer service. If you do not find the answer you are looking for in this handbook or on our website at [www.nmerb.org](http://www.nmerb.org), please contact us:

- Send an email to [ERB-memberhelp@state.nm.us](mailto:ERB-memberhelp@state.nm.us),
  - Call toll-free **866-691-2345**, or
- Visit our offices where ERB benefit specialists will assist you.

## *Governing Authority*

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The Educational Retirement Board is the statutory entity responsible for administering the New Mexico Educational Retirement Act (ERA) to provide secure retirement benefits to teachers, administrators and other employees within the state's public school systems, institutions of higher learning and educational agencies.

The ERB is administered by an Executive Director who reports to the Educational Retirement Board. The Board's membership is made up of the Secretary of the Public Education Department, the State Treasurer, two members appointed by the Governor, one member elected by the New Mexico National Education Association, one member elected by the New Mexico Association of University Professors and one member elected by the New Mexico Association of Educational Retirees.

A professional staff of approximately 60 employees oversees the plan's investments, provides education and outreach about the plan to ERB members, processes pension payments and responds to inquiries from active, inactive, and retired ERB members.

## *Membership*

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Membership in the ERB plan is a condition of employment. You automatically become a member of the ERB plan when you begin employment with any entity covered by the ERA. Employees covered under the ERB plan are referred to as "members" and employers are referred to as "local administrative units." In this handbook, they are also referred to as "ERB employers." As a member, contributions toward your retirement are deducted from your earnings each pay period. After five years of service you will become vested in the plan. As an ERB vested member you will receive a certain payout at retirement, according to a fixed formula dependent on your salary and years of employment.

You must complete an ERB Beneficiary Designation Form 42 before a notary and return it to the ERB to ensure that a beneficiary is designated for your employee contributions.

The ERB Annual Report, available on the ERB website, includes a list of all participating employers. Links to the ERA and regulations followed by the ERB can be found at [www.nmerb.org](http://www.nmerb.org) under the tab "Educational Retirement Act" at the top of the home page.

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

Individuals who work more than 25% of a FTE for the following entities are covered by the ERB'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

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- 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 Public Employees Retirement Association (PERA) plan.

## Defined Benefit Plan

The ERB provides a defined benefit retirement plan funded by contributions from both the employee and the employer for the majority of ERB members. The retirement benefit is determined by a formula applied to the member's salary history and years of qualified service. The Defined Benefit Plan (DBP) uses the following formula to determine your pension benefit:

$$\text{Average annual salary} \times \text{service credit} \times .0235 = \text{annual benefit}$$

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.

The ERB Defined Benefit Plan 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

The ERB 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. Unlike a defined benefit plan, retirement benefits in a defined contribution plan are determined solely by the balance in an individual participant's account at retirement. See section entitled "Alternative Retirement Plan for University and College Faculty" for additional information.

## Contributions

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. ERB employers also contribute to the ERB retirement plans at a rate set by statute. Please see [www.nmerb.org](http://www.nmerb.org) for current employee and employer contribution rates.

## Earned & Allowed Service Credit

### Earned Service Credit

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

Members who take an *unpaid* sabbatical, or leave of absence, do not earn service credit. Members are required to render at least sixteen (16) days of service in a calendar quarter to earn service credit.

### Allowed Service Credit

The ERA 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. See the section entitled "Retirement Eligibility: Age and Benefits" for additional information.

You may purchase up to five years of service credit if you have served in the U.S. military, the Commissioned Corps of the Public Health Service, or worked for any of the following institutions:

- Public school or higher learning institution anywhere in the US
- U.S. Military dependents' school
- federal educational program in New Mexico
- accredited private school or higher learning institution in New Mexico

Members eligible to combine military service or service in the

Commissioned Corps of the Public Health Service with the other categories listed, may purchase a maximum of ten years of service credit. For additional information on military service, please see the section entitled "Military Service."

In order to purchase service credit, file an application with ERB; your former employer must verify your employment. Application forms are available on the ERB website.

The cost to purchase allowed service credit is based on an actuarial cost that reflects your length of service and current earnings. Please contact the ERB for an estimated cost to purchase allowed service credit.

There are two options for purchasing allowed service credit:

- A lump sum payment to the ERB, or
- 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 ERB's Defined Benefit Plan to the extent allowed by the Internal Revenue Service.

A rollover, or transfer, from another retirement plan directly to the ERB plan should avoid adverse tax consequences that may result from withdrawing those funds and then paying them to the ERB plan. Consult with a tax advisor on the potential tax effects of a rollover or other transfer. The ERB 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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Members who previously served in the military or the Commissioned Corps of the Public Health Service may purchase up to five years of allowed service credit in the ERB Defined Benefit Plan. Service credit for active duty may be purchased after five years of employment by an ERB employer. The cost to the

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member is the combined employee and employer contributions at the current contribution rates. To qualify for allowed service credit, you must have received an honorable discharge and provide the ERB with a copy of your DD-214. ERB 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 ERB 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 ERB 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 ERB employer. To receive this 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 ERB employer, makes contributions to the plan. This “free military” period relieves you from making contributions while you are away from your civilian career.

### *Terminating Employment*

If you terminate employment with an ERB employer, you may leave your contributions in the ERB plan. If you resume working for an ERB employer at a later time, you will resume adding to your existing service credit and contributions.

If you terminate employment with an ERB 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.

### *Refunds and Rollovers*

If you terminate your employment with an ERB employer prior to retirement, you are entitled to request a withdrawal of your member contributions. If you opt to withdraw your member contributions, you must withdraw the entire amount. The Request for Refund and/or Rollover form is available on the ERB website.

If you are requesting your funds within 90 days of termination, your employer must certify that you are no longer working. Employer contributions based on your earnings are not refundable.

Members who choose to withdraw their contributions from the ERB 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 ERB website at [www.nmerb.org](http://www.nmerb.org) for the current rate. ERB 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. ERB is required to withhold 20% of the total payment, including interest, for income taxes. Consult with your tax advisor before requesting a refund or transferring contributions to another qualified retirement plan. ERB 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

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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 ERB. 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.

If you have taken a refund but wish to reinstate credit for your contributions to the Defined Benefit Plan, you may pay the Educational Retirement Board the withdrawn amount plus interest for the period during which the funds were withdrawn. Check the ERB website for the current interest rate.

If you received a refund of your contributions and have no service credit as of July 1, 2010, and decide you want to reinstate credit for your contributions to the Defined Benefit Plan, you will be subject to the new retirement eligibility rules. For a complete discussion of the new rules, please see “Retirement Eligibility: Age and Benefits”. You may not request a refund after the effective date of your retirement.

### “Buying Back” Service Credit

If you have withdrawn your contributions from ERB’s Defined Benefit Plan, you have the right to “buy back” years of service credit up to the amount withdrawn plus interest at the current rate set by ERB. This applies to both active and inactive members; however, you may not “buy back” service credit after you have retired. There are two options to buy back service credit:

- lump sum payment, including interest, to the ERB to buy back all or part of your withdrawn service, or
- rollover or transfer from another retirement plan, including a 401(a) plan, a tax-sheltered annuity 403(b) plan, or an IRA, to the extent allowed by the IRS.

If a member decides to withdraw contributions again or dies prior to retirement, interest the member paid on restored contributions is not refundable.

### Retirement Eligibility: Age & Benefits

#### **When am I vested?**

Vesting means you have earned five or more years of service credit with the ERB. Service credit with the Public Employees Retirement Association (PERA) does not count toward vesting in the ERB plan. If you are vested, but terminate employment before qualifying for retirement, you may leave your accumulated member contributions with ERB and receive a pension when you satisfy retirement eligibility requirements.

#### **Retirement eligibility is determined by your start date.**

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

If your ERB 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

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benefit will be reduced by:

- 0.6% for each ¼ year, or portion thereof, that retirement occurs prior to age 60 but after the 55th birthday (equal to 2.4% per year), plus
  - 1.8% for each ¼ year, or portion thereof, that retirement occurs prior to age 55 (equal to 7.2% for each year under age 55). For example, if you are six months past your 59th birthday, the reduction in benefits is 1.2%.
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.
  4. **COLA** begins at age 65.

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

If you are first employed by an ERB employer *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 retire under this rule, are under age 65, and have less than 30 years of earned service credit, your retirement benefit will be reduced by:
  - 0.6% for each ¼ 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 ¼ 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.
4. **COLA** begins at age 65.

### **TIER 3: Membership Beginning on or after July 1, 2013**

If your ERB membership began on or after July 1, 2013, or you were employed before July 1, 2013, terminated your employment and subsequently withdrew all of your contributions and returned to work for an ERB 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 reduced by:
  - 0.6% for each ¼ 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

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- 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.
  4. COLA begins at age 67.

When you have met the eligibility requirements and are ready to retire, complete the *Retirement Application* found at [www.nmerb.org](http://www.nmerb.org). We recommend that you begin this process 60-90 days prior to your planned retirement date in order to avoid any interruption in your income. If you plan to retire in July, ERB suggests you start the process six months prior to your retirement date. If you are still employed by an ERB employer, your employer must submit your *Retirement Application* to ERB along with a *Certification of Termination*. If you have not worked for an ERB employer within the last six months, you only need to complete the Member Information page of the *Retirement Application*.

## When to Retire

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.

As you weigh your options, we suggest that you consider not only your ERB 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.

## Calculating Retirement Benefits

Benefits are based on three components – your average annual salary (sometimes referred to as your *final average salary* or “FAS”) annualized by fiscal year, your earned and allowed service credit, and a 2.35% factor.

$$\text{Average Annual Salary} \times \text{service credit} \times .0235 = \text{annual benefit}$$

Your average annual salary is the higher of:

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

The **ERB Benefits Calculator** – available on the ERB website at [www.nmerb.org](http://www.nmerb.org) – may be used to calculate an “unofficial” estimate of your annual and monthly retirement benefits. Note that the online calculator does *not* annualize earnings; it only provides an “unofficial” estimate of your retirement benefit. For an official estimate, including annualized earnings, please contact ERB. We recommend that members contact ERB two years prior to your expected retirement date to make sure that your accumulated service

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credit information and salary history are accurate.

Remember, the age at which you retire can affect the benefits that you will receive. See “Retirement Eligibility: Age and Benefits.”

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.”

## Effective Date of Retirement

The effective date of your retirement is the first day of the month following the last month in which you earned a salary. For example, if you worked through July 15, your retirement date is August 1. However, you must submit your retirement application to ERB 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 ERB after July 31, your effective retirement date is September 1.

The only 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. If you are planning a July 1 effective retirement date, you should submit your retirement application in January to ensure no interruption in income.

It is important to complete all required paper work well in advance of submitting the actual application to retire. An early start will help the process go smoothly. If you miss a deadline, your application will be cancelled and you must begin the process again.

Recommended Retirement Timeline - July 1 Retirees		
Step	Description	Month
1	Complete Section 1 of the Application for Retirement and give the form to your employer to complete Section 2.	January
2	Employer mails completed application to ERB. ERB audits the application and mails a retirement packet that includes: <ul style="list-style-type: none"><li>• Post Retirement information and instruction Sheet 2</li><li>• Final Selection of Benefit Form</li><li>• Estimate of Benefit</li><li>• Authorization Agreement for Direct Deposit Services</li><li>• State and Federal Tax Deduction Form</li><li>• Post Retirement Employment Notice</li></ul>	February/ March
3	Complete the Selection of Benefit, Direct Deposit Authorization, and Tax Deduction form. Return them to ERB.	April
4	ERB places you on the benefit payroll.	July
5	First benefit payment is sent on the last business day of the month.	July

## *Pension Payments*

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 amount during the first six months may be estimated. The benefit amount may be recalculated once your actual final earnings have been reported by your ERB employer.

As of July 1, 2015 all new retirees are required to execute a direct deposit authorization form.

## *Benefit Options*

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 are receiving retirement benefits. There are two exceptions 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*” formula. Option A is a life only annuity; your pension payments end upon your death. There is no monthly survivor benefit under this option. However, 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 paid out 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. Your beneficiary may not be a non-spouse who is more than ten years younger than you. If your beneficiary dies before you, the “pop up” feature increases your monthly benefit 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. Like Option B, if your beneficiary dies before you, the “pop up” feature increases your monthly benefit to the amount you would have received under the 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. You may not name a trust or other entity as the beneficiary. Prior to retirement, you may change your beneficiary at any time. Keep the information about your designated beneficiary current on your ERB account.

Because both Options B and C provide for payments to your beneficiary after your death, state statute requires that your benefit amount be reduced based on actuarial data to ensure total payments over the life of the benefit are the same as they would be under the Option A “Straight Life” Benefit. In Option B or C, you are choosing a lifetime benefit for the beneficiary in the event he or she outlives you. The “premium” for this protection is a reduced benefit during your lifetime.

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

Notify ERB immediately of a member’s or a beneficiary’s death. Make sure family members are aware of this important obligation.

**Changing Beneficiaries.** ERB retirees receiving pension benefits under either Option B or C who have a living designated beneficiary, other than a current or former spouse, will have the option to exercise a one-time irrevocable option to deselect that beneficiary and designate another beneficiary or to receive future pension benefits under Option A pursuant to Section 22-11-29(E) NMSA 1978.

There is a \$100 processing fee to name a new beneficiary in this specific manner. The 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*

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

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

In order to qualify for disability benefits, file a *Disability Application* with the ERB, including a full description of the disability (diagnosis and prognosis) by your physician(s). You may be required to undergo a medical examination by physicians appointed by the ERB. The exam itself would be paid for by ERB; however, you would be responsible for transportation and other costs associated with this exam.

You may file a disability benefits application prior to the termination of your employment. If you are found 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 ERB, 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 ERB. This review will be made at least annually and, at the discretion of ERB, may be required more frequently. If ERB 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 can carry a legal penalty.

If you are receiving disability benefits when you turn 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 ERB will send you a form to do so. If you do not receive that form within 90 days of your 60th birthday, please contact ERB.

## *Death Prior to Retirement*

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 Beneficiary Designation Form 42 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

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change your beneficiary at any time by submitting a new Form 42. The form is on the ERB website at [www.nmerb.org](http://www.nmerb.org).

If an ERB member who chose Option B 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 "Retirement Eligibility: Age & Benefits".

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 ¼ year or portion thereof) and 7.2% (1.8% for each ¼ year or portion thereof) for each year under age 55:

$$(5 \text{ years} \times 2.4\%) + (13 \text{ years} \times 7.2\%) = 12\% + 93.6\%, \text{ or } 105.6\% \text{ penalty}$$

The deduction exceeds 100% so the beneficiary receives no payment. If the beneficiary waits until the deceased member's 50th birthday:

$$(5 \text{ years} \times 2.4\%) + (5 \text{ years} \times 7.2\%) = 12\% + 36\%, \text{ or } 48\% \text{ penalty}$$

If the beneficiary defers payment until the deceased member's 60<sup>th</sup> birthday, there is no penalty, and the monthly benefit is based on the "FAS x years of service credit x .0235".

When a member dies his or her 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 ERB member chooses not to participate in Option B and dies prior to retirement, his or her beneficiary, or estate, will receive the member's contributions plus interest.

## Cost of Living Adjustment

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 ERB 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 ERB on or after July 1, 2013 (i.e., members in Tier 3) 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).

## Online ERB Member Handbook

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*

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.

ERB retirement benefits cannot be divided unless ERB receives a copy of an acceptable domestic relations order endorsed by the court (also known as a qualified domestic relations order or a “QDRO”) that directs the ERB on how the member’s retirement benefits will be divided between the member and the member’s former spouse. Even with a QDRO, 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, ERB cannot pay the non-member spouse his or her interest in the retirement account. No benefits can be divided unless ERB is served with a QDRO and the benefits are eligible for distribution to the ERB member. Orders dividing retirement benefits are subject to review and approval by ERB to ensure the order complies with the law and can be administered. Be sure to provide ERB with a QDRO to avoid a delay benefit payments.

ERB 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 at the ERB website, [www.nmerb.org](http://www.nmerb.org), to help them draft an acceptable court order in compliance with the Educational Retirement Act. Other than through acceptable QDROs, 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*

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

You may also opt to have insurance premiums for the New Mexico Retiree Health Care Authority (NMRHCA) and dues to the National Education Association (NEA) and the New Mexico Association of Educational Retirees (NMAER) withheld from your benefit payment.

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

## *A Statement About Statements*

ERB periodically sends account statements and other correspondence to members. If you are still employed by an ERB employer, your annual statement is sent to your employer. If you are retired or no longer work for an ERB employer, the annual statement will be mailed to the address on file for your account. Review your annual statement carefully and bring discrepancies both to the attention of an ERB benefit specialist and your employer payroll department.

## *N.M Retiree Health Care Authority*

Many ERB members can opt 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.

In order 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. The University of New Mexico, New Mexico State University, San Juan College and Clovis Community College are not NMRHCA employers. If you worked for 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 ERB does not have information about their retiree health care benefits.

For more information, please contact the NMRHCA directly.

[www.nmhrca.org](http://www.nmhrca.org) · (800)-233-2576

**ALBUQUERQUE**  
4308 Carlisle Blvd., NE, Suite 104  
Albuquerque, NM 87107  
(505)-222-6400

**SANTA FE**  
810 W. San Mateo, Suite D  
Santa Fe, NM 87505  
(800)-233-2576

## *ERA / PERA Reciprocity*

The Public Employees Retirement Reciprocity Act (Section 10-13A-1, NMSA 1978) requires service credit earned under the Public Employees Retirement Act (PERA) and the Educational Retirement Act (ERA) to be combined for purposes of determining retirement eligibility and benefits. You must file your retirement application with the system where you were most recently employed. The system for which you worked earlier must then verify your qualified employment. The last retirement system to which you made contributions will be responsible for paying your retirement benefits, regardless of which New Mexico public retirement system you contributed to for the longer period of time.

Service credit for the PERA and ERB Defined Benefit Plan is calculated based on the rules and formulas in each plan that were in effect at the time of employment. ERB members who believe they are eligible for credit under PERA should contact an ERB 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*

ERB retirees who work for an ERB employer after retirement are subject to the provisions of the Educational Retirement Act and the ERB rules addressing this area. An ERB retiree who does not satisfy those requirements will be required to suspend retirement benefits. A retiree who suspends benefits will earn additional service credit and may have a higher average annual salary for calculation of benefits upon re-retirement.

ERB retirees who resume employment for an ERB employer after retirement can apply to the Return to Work Program (the "RTW Program") and continue to receive retirement benefits without any earnings limitation. Alternatively, ERB retirees may work for an ERB employer under the Return to Work Exception (the "RTW Exception") and earn the greater of \$15,000 or 25% of the salary for the full time equivalent (FTE) of the position in which the retiree is working. Retirees working under the RTW Exception can continue to receive retirement benefits so long as they do not exceed the earnings limits. The RTW Exception is discussed further in the sub-section "*Greater of .25 FTE or \$15,000 RTW Exception.*"

ERB retirees who return to work for a non-ERB employer after retirement will not be subject to the ERB requirements governing working for an ERB employer after retirement and their benefits will therefore not be affected.

### **Return to Work Program**

The Return to Work (RTW) Program allows ERB retirees to go back to work for an ERB employer without having to suspend retirement benefits if they satisfy the requirements. (The RTW Program is separate from the Greater of 0.25 FTE or \$15,000 RTW Exception discussed below.) The retiree must complete a *Return to Work Application* and submit it to ERB for approval before beginning work for an ERB employer again. The application can be found on the ERB website. Once in the RTW Program, retirees can choose to work full or part-time with no restrictions on the income they earn.

Retirees working under the RTW Program must pay nonrefundable contributions to ERB equal to the contributions paid by non-retired members. Their employers also pay employer contributions.

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.

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

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 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.

During the twelve consecutive month layout period, you may work for non-ERB employers, including employers covered by the Public Employees Retirement Association (PERA) unless you are a licensed educator 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 are working for an ERB employer as a contractor or under the Greater than 0.25 FTE or \$15,000 RTW Exception, you must complete a twelve consecutive month layout before you may apply for the RTW Program.

### **Greater of 0.25 FTE or \$15,000 RTW Exception**

You may work for an ERB employer after retirement without qualifying or applying for the RTW Program, but your earnings are limited. Under the Greater of 0.25 FTE or \$15,000 RTW Exception, you may earn the greater of \$15,000 per fiscal year or an amount equal to 25% of the salary for the full-time equivalency (FTE) of the position in which you are employed. FTE refers to the number of hours worked that add up to a full time employee. The definition of FTE varies by position. ERB employers determine what the FTE is for a particular position and what 25% of FTE is for that position. The salary for the Greater of 0.25 FTE or \$15,000 RTW Exception is calculated for a July 1 through June 30 fiscal year, and is based on the full time compensation for the position you work after retirement, not on your salary before retirement.

If you work for more than one ERB employer, you are obligated to notify each ERB employer about your ERB employer jobs. The salaries will be combined to determine whether you are in compliance with the Greater of 0.25 FTE or \$15,000 RTW Exception.

If you earn more in a fiscal year than is allowed under the Greater of 0.25 FTE or \$15,000 RTW Exception, you will lose your retirement status and forfeit retirement benefits. This change will be effective the first day of the month in which ERB employer earnings exceed, or are deemed to exceed, the greater of \$15,000 or the salary for 0.25 FTE.

## Online ERB Member Handbook

Retirees should keep track of their earnings and check with their ERB employer regarding the specific amount of hours, classes, etc. allowed for the 0.25 leg of the RTW Exception. It is your responsibility to keep track of your earnings to avoid exceeding the maximum allowed. ERB neither monitors retiree RTW earnings, nor notifies retirees that RTW earnings may exceed the .25 RTW limitations. Employees who exceed the earnings or .25 FTE workload limit will be returned to active status. An employee returned to active status must pay nonrefundable contributions at the same rate as active members.

Consider applying for the RTW Program if you qualify, even if you only intend to work under the Greater of 0.25 FTE or \$15,000 RTW Exception. Once your application is approved, if your earnings exceed the allowable limit, you will not lose your retirement status or forfeit retirement benefits. If you have not applied and been approved for the RTW Program, you run the risk of losing benefits if your earnings exceed the allowable limits.

Remember that time worked under the Greater of 0.25 FTE or \$15,000 RTW Exception does not qualify as a break in service for the twelve consecutive month layout required for the RTW Program.

### *Independent Contractors*

If you provide services to an ERB 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 ERB retirees and their ERB employers must complete the *Independent Contractor Determination* application, available at [www.nmerb.org](http://www.nmerb.org), and submit them to ERB for review and approval. Remember that time worked as an independent contractor for an ERB employer does not count toward the twelve consecutive month layout required for the RTW Program.

### *Non-ERA Employment*

If you work for an employer that is not covered by the ERA, 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*

If you have retired under the ERB Defined Benefit Plan, you may suspend your retirement and resume full-time employment with an ERB employer at any time. Suspending retirement is not the same as the Return to Work Program. You must notify ERB of this change in status in writing. Upon your date of hire, ERB will stop paying the retirement benefit and you will again be a contributing member of the ERB.

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 predeceases you, your benefits will revert to the Option A “Straight Life” benefit.

# *Alternative Retirement Plan: University & College Faculty*

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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 ERB’s Defined Benefit Plan 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-CREF and Fidelity. Benefits are based on contributions plus investment earnings. 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
- a lump sum payment.

Contribution rates for ARP participants are the same as those for Defined Benefit Plan members. Refer to ERB’s website at [www.nmerb.org](http://www.nmerb.org) for current employee and employer contribution rates.

ERB employers pay a 3% contribution rate to cover the actuarial impact on the Defined Benefit Plan attributable to employees participating in the ARP.

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. Contact your ARP vendor for information on rollovers and distributions, and IRS requirements. ERB cannot provide advice on the tax consequences of distributions.

As a result of legislative changes in 2009, ARP participants now have the opportunity to switch to the ERB Defined Benefit Plan. After you have made contributions to the ARP for seven years, you have a 120-day window to enroll in the Defined Benefit Plan. 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 Defined Benefit Plan. If you make the change, you cannot switch back to the ARP.

If you opt to move to the DBP, the money in your ARP account will remain there. You must contribute to the Defined Benefit Plan for five years to vest in the plan 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 ERB Defined Benefit Plan.

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### *ARP Post-Retirement Work*

ERB requirements governing post-retirement work for an ERB employer (i.e., the RTW Program and the RTW Exception) apply to all persons who retire under either the Defined Benefit Plan or the ARP. Federal law prohibits the suspension of ARP retirement benefits; however, ARP retirees are still required to comply with the requirements for the RTW Program and the RTW Exception. This includes the requirement under the RTW Program that a participant pay non-refundable contributions to the Educational Retirement Fund in an amount equal to the member contribution that an active member pays. ARP Retirees who do not qualify for the RTW Program may work for an ERB employer under the RTW Exception subject to the RTW earnings and FTE percentage limitations.

If an ARP retired participant exceeds the allowed limits under either of the two RTW exception subcategories, the participant will not be eligible for the exception. The ARP participant will be returned to active status and required pay nonrefundable contributions at the same rates as active members.

## *Thinking About Retirement?*

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 ERB. We are here to assist you.

ERB sponsors frequent retirement seminars throughout New Mexico to help you make informed decisions about your retirement. Check the ERB website [www.nmerb.org](http://www.nmerb.org) for the schedule of upcoming seminars and to register online to view your account data.

ERB members periodically receive account statements and other correspondence. If you are still employed by an ERB employer, your annual statement is sent to your employer. If you are retired or no longer work for an ERB employer, ERB mails an annual statement to the address on file for your account. It is very important to keep the address on your ERB account current. Please review the annual statement carefully and bring any disputed information to the attention of an ERB benefit specialist and your employer's payroll department.

We suggest you contact ERB two years before your planned retirement date to ensure you have received credit for all ERB earned service credit as well as military, federal, or out-of-state credits to which you are entitled.

One year before your planned retirement date, be sure you can document 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. You may also want to provide an ERB benefit specialist with specific information about your planned retirement date, your current salary, and your beneficiary's birth date (if applicable) to receive an estimate of your benefit payment. You may use the online benefits calculator at [www.nmerb.org](http://www.nmerb.org) for an unofficial estimate.

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

**For members considering retirement** If you have not been employed by an ERB employer for six months or more when you apply for your retirement benefits, you may send your *Retirement Application* directly to ERB (complete only page 1). ERB should receive the application six months prior to your

## Online ERB Member Handbook

planned retirement date.

### **For Retirees Only**

Obviously, your relationship with ERB does not end when your career as an educator comes to a close. In addition to a monthly benefit payment for the rest of your life, you will receive timely communications, such as the annual statement for your account and a Form 1099 for income tax reporting purposes. Please review both documents carefully.

Your annual statement and IRS Form 1099 are mailed to the home address we have on file for your account, so it is important to keep your contact information up to date.

## ***In Conclusion***

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We encourage both active and inactive members to utilize the ERB website at [www.nmerb.org](http://www.nmerb.org).

You can review your personal account information at [MyNMERB](#), keep up with legislative changes to the ERA, download important forms, access ERB publications, and access ERB financial reports and investment policies.

We also welcome your phone calls and visits to our offices where the professional staff is happy to assist you. On behalf of the Educational Retirement Board, thank you for your service to New Mexico's educational institutions and, most importantly, to the students of New Mexico.

### **Ways to Contact ERB:**

**Email: [ERB-memberhelp@state.nm.us](mailto:ERB-memberhelp@state.nm.us)**

**Fax: (505)-830-2976**

**Albuquerque Office: (505)-888-1560**

**Santa Fe Office: (505)-827-1855**

or

**Toll free: (866) 691-2345**