

LFC Requester:	Joseph Simon
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO [AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 02/06/2025 *Check all that apply:*  
**Bill Number:** SB75 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Figueroa **Agency Name and Code** State Ethics Commission (410)  
**Short Title:** Educational Retirement Changes **Number:** \_\_\_\_\_  
**Person Writing** Jessica Randall  
**Phone:** 505-859-9625 **Email** jessica.randall@sec.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>	Indeterminate	Indeterminate	Indeterminate			Educational Ret. Fund
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(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis Senate Bill 75, as amended, makes several changes to the Educational Retirement Act NMSA 1978, §§ 22-11-1 to -55 (1991, as amended through 2023) (“ERA”). Changes include elimination of the ERA’s restrictions on the receipt of gifts by Education Retirement Board (“ERB”) members and employees; providing that unclaimed member contributions be added to the educational retirement fund; changing the rate and age requirement for retired members receiving an annuity based on disability status; and increasing the time required for members who wish to purchase “military time” as credit toward their years of service and eliminating the requirement of lump sum payment for the same.

**FISCAL IMPLICATIONS**

The fiscal impact on the State Ethics Commission (“SEC”) is unlikely. The SEC is tasked with enforcement of the Gift Act *see* NMSA 1978, § 10-16B-5 (2019); NMSA 1978 § 10-16G-9(A) (providing that the Commission has enforcement jurisdiction over the compliance provisions of certain statutes, including the Gift Act). The elimination of Section 2-11-5.1 from the ERA has no impact on the SEC’s enforcement of the Gift Act, nor does it change the range of public officials or employees subject to the requirements of the Gift Act.

**SIGNIFICANT ISSUES**

The initial version of Senate Bill 75 simply amended the ERA’s gift restrictions. The amended version of SB75 entirely repeals Section 22-11-5.1 of the ERA, the statute which places restrictions on receipts of gifts by ERB members and employees. Currently, Section 22-11-5.1(A)-(D) prohibits ERB members and employees from receiving anything of value whether directly or indirectly from any person who has a contract with the ERB, is a potential contractor with the ERB, who is authorized to invest public funds as provided by law, or is otherwise an agent, entity or employer of the above-described persons. With the exception of food or beverage given in a place of public accommodation that is consumed at the time of receipt, and does not exceed in value \$50.00, not to exceed the aggregate of \$150.00 in a calendar year. § 22-11-5.1 (A)-(D) (2017).

The Gift Act, NMSA 1978, §§ 10-16B-1 to -5 (2007, as amended through 2019), prohibits state officers, employees (and their family members) from accepting from restricted donors anything with a market value greater than \$250, with an aggregate limit of \$1,000 in a calendar year. §10-16B-3(A) & (B). In turn “state officer or employee” means “any person who has been elected to, appointed to or hired for any state office and received compensation in the form of salary or is eligible for per diem or mileage.” § 10-16B-2(E). And therefore, includes ERB members and employees.

By deleting Section 22-11-5.1 entirely from the ERA, Amended SB75 remedies concerns noted in the Commission's agency analysis of the original bill regarding the interaction between the additional proscriptions described in Section 2-11-5.1 and the Gift Act. As described in the first analysis concerning SB75, ERB members are subject to the Gift Act, irrespective of the restrictions in Section 2-11-5.1 and by deleting those unique proscriptions from the ERA has ameliorated those concerns.

#### **PERFORMANCE IMPLICATIONS**

#### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

#### **AMENDMENTS**