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FISCAL IMPACT REPORT

SPONSOR <u>Stewart/Wirth</u>	LAST UPDATED <u>2/20/2025</u>	ORIGINAL DATE <u>2/6/2025</u>
SHORT TITLE <u>Educational Retirees Returning to Work</u>	BILL NUMBER <u>Senate Bill 133/aSEC</u>	ANALYST <u>Hanika-Ortiz</u>

REVENUE* (dollars in thousands)

Type	FY25	*FY26	*FY27	*FY28	*FY29	Recurring or Nonrecurring	Fund Affected
Contributions		(\$2,220.0 to \$3,100.0)	(\$2,227.0 to \$3,133.0)	(\$2,233.0 to \$3,167.0)	(\$2,233.0 to \$3,167.0)	Recurring	ERB Trust Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Conflicts with House Bill 254 and Relates to Senate Bills 165, 251, and 292

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Independent Community Colleges (NMICC)
 Central New Mexico Community College (CNMCC)
 New Mexico Highlands University (NMHU)
 New Mexico Institute of Mining and Technology (NMIMT)
 University of New Mexico (UNM)
 Educational Retirement Board (ERB)
 New Mexico Public Schools Insurance Authority (NMPSIA)
 Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Bill 133 (SB133) increases the time a retiree may work after retirement to 60 months, from 36 months, without suspending retirement benefits. Pursuant to an existing provision, these months do not have to be served consecutively.

Synopsis of Original Senate Bill 133

Senate Bill 133 amends Section 22-11-25.1 NMSA 1978 of the Educational Retirement Act to raise the maximum amount a retiree may earn per year from work after retirement with an affiliated employer, from \$15 thousand to \$25 thousand, without suspending retirement benefits.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The Educational Retirement Board (ERB) reported that return-to-work pay under the \$15 thousand salary cap exception was \$2.7 million in 2024. If the salary cap is increased to \$25 thousand, ERB estimates the fund would lose \$220 thousand per year, from contributions that would have been made from hiring a non-retired employee member. Further, under ERB's normal return-to-work program, there is no salary cap, but both employee and employer contributions must be made. If reemployed retirees decide to work under the return-to-work salary exception, because of the increase, they will no longer need to make non-refundable contributions to the fund, nor would their employers, and the fund would lose \$1.1 million per year in contributions to pay down the unfunded liability. ERB's trust fund grows through a combination of payroll contributions and compounded interest, a delicate balance.

The Senate Education Committee (SEC) amendment to SB133 would increase the bill's fiscal impact by extending the time a retiree may work after retirement to 60 months, from 36 months. ERB's analysis of House Bill 254, which also increases the time a retiree may work after retirement, but to 84 months from 36 months (48 months), reports the negative impact on assets available to cover promised benefits, was \$4 million in year one, increasing with payroll growth. ERB cautioned that this amount should not be considered an upper limit on the impact to plan funding, as any changes to retirement rates from increasing benefits are not known for several years. This analysis assumes that increasing the time limit by 24 months would have an approximate \$2 million fiscal impact.

SIGNIFICANT ISSUES

Under normal circumstances, ERB retirees wait 90 consecutive days before reentering the workforce with an ERB-affiliated employer. These retirees may work for up to 36 non-consecutive months while continuing to receive retirement benefits. During the reemployment period, both retirees and employers must make non-refundable contributions to ensure the fund remains stable.

To address workforce shortages in education, particularly in STEM fields and special education, ERB established return-to-work exceptions to allow retired educational employees that collect retirement benefits to re-enter the workforce, while ensuring the pension system remains stable. Institutions report that they rehire retirees under two return-to-work exceptions: the maximum salary provision that this bill seeks to change, and the less than .25 FTE time worked provision. Since the \$15 thousand maximum salary provision was implemented, return-to-work faculty and other staff pay has increased. Although well-intentioned, a higher threshold may incentivize more active educational members to retire earlier than they might have and return to employment, since they could earn up to \$25 thousand per year without making contributions and still collect their retirement benefits.

The Public Education Department emphasized that New Mexico faces a persistent educator workforce crisis. The proposed cap is less than a full-time salary for educational assistants (\$30,000) and teachers (\$50,000 to \$70,000). The New Mexico Educator Vacancy Report counts 1,259 vacancies. By increasing the salary cap, access to experienced, qualified teachers in public schools may increase. In addition to teachers, retirees may also work in custodial, food service and teaching assistant positions.

ADMINISTRATIVE IMPLICATIONS

Within resources, ERB can modify its information technology system to account for the change.

OTHER SUBSTANTIVE ISSUES

Return-to-work programs help retirees stay engaged and contribute their expertise in a temporary, part-time or flexible capacity. One of the critical aspects of return-to-work programs is that the re-employment provisions must not have a negative impact on the trust fund. Article XX, Section 22 of the New Mexico Constitution prohibits the Legislature from enacting any law that increases the benefits paid unless adequate funding is provided. This section also assigns ERB the sole and exclusive power to adopt actuarial assumptions, using an independent actuary.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill as amended by SEC conflicts with House Bill 254 Educational Retirees Returning to Work Time Period, which increases the time a retiree may work after retirement to 84 months.

This bill relates to Senate Bill 165 Return to Work for Lifeguards, which adds conditions under the Public Employees Retirement Act, alongside other public safety positions.

This bill relates to Senate Bill 251 Certain Retirees Returning to Work, which expands definition of “peace officer” under the Public Employees Retirement Act.

This bill relates to Senate Bill 292 Protective Service Workers Returning to Work, which adds conditions under the Public Employees Retirement Act, alongside other public safety positions.

AHO/hj/sgs