

<b>LFC Requester:</b>	<b>Anne Hanika-Ortiz</b>
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**AGENCY BILL ANALYSIS  
2018 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

Check all that apply:

Original     Amendment      
Correction     Substitute   

Date    1/26/2018

Bill No:    HB85

**Sponsor:** Representative Dennis J. Roch  
SICK LEAVE FOR  
EDUCATIONAL RETIREMENT  
CREDIT

**Agency Code:**    924

**Person Writing Analysis:**    Ashley Eden

**Short Title:**    \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
None			

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
	Indeterminate (See Fiscal Implications Below)		Recurring	Educational Retirement

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	\$25.0			\$25.0	Nonrecurring	Educational Retirement Board Operations

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **None as of 1/18/2018**

Duplicates/Relates to Appropriation in the General Appropriation Act: **None as of 1/18/2018**

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 85 (HB-85) allows for educational retirement program members to convert unused sick leave to earned service credit and provides for the Educational Retirement Board (ERB) to promulgate rules to implement the conversion. HB-85 also provides that the cost to members for the conversion of sick leave to earned service credit is the actuarial present value set by the ERB.

HB-85 also sets parameters limiting the number of sick days that can be converted to six days per year and a total of four calendar quarters of earned service.

**FISCAL IMPLICATIONS**

Provisions contained in House Bill 85 would increase revenue to the Education Retirement Fund on an annual basis as members convert their unused sick leave balances to earned service credit. The amount would vary each year depending on the number of sick days converted. This could be significant in the early years as members take advantage of the change in statutory provisions.

In order to implement the provisions of HB-85 as it pertains to the calculation of the actuarial present value, members will have to pay to convert unused sick leave to earned service credit, and the ERB will need to update a number of IT systems. It is projected to cost up to \$25 thousand for the conversion in the first year. Ongoing costs for maintaining the systems are included in the ERB's ongoing operating budget.

Local Administrative Units (school districts, charter schools, universities, community colleges, the Children, Youth and Families Department, the Corrections Department, the Public Education Department, the New Mexico Activities Association and Regional Education Cooperatives) would be required to provide verification to the ERB of a member's unused sick leave. These entities, depending on size, may be required to acquire or make modifications to IT systems in order to meet the requirements of HB-85. The cost to these administrative units to meet this requirement is unknown at this time.

**SIGNIFICANT ISSUES**

The amount of service credit a member would be eligible to purchase under this program would be dependent on the amount of unused sick leave a member had available. Many of the different local administrative units appear to have different leave and accrual policies. Some school districts grant general leave to employees and do not differentiate between annual leave and sick leave. Others pay out for unused leave each year, and some allow multi-year accrual. These differences may not provide for a uniform process to convert sick leave to earned service credit. (See “alternatives” below)

HB-85 provides that eight hours of sick leave would equal one day of sick leave and further provides parameters governing the number of sick days that would be needed to convert to quarters of service credit. These are:

<b>Amount of Unused Sick Leave Needed to Convert to Earned Service Credit</b>
38 - 82 days of sick leave can be converted to one quarter of earned service credit
83 - 127 days of sick leave can be converted to two quarters of earned service credit
128 - 172 days of sick leave can be converted to three quarters of earned service credit
173 days or more of sick leave can be converted to four quarters of earned service credit

At present, the Educational Retirement Act allows for the purchase of “allowed” service credit under certain conditions. A good example of this would be a member who was previously employed in a public school in another state is eligible to purchase service credit. This is also the case for members who have previously worked in accredited private schools in the state. These members are eligible to purchase service credit for the time they worked in the private schools. These purchases are designated as “allowed service credit” rather than “earned service credit”.

It does not appear that the provisions of HB-85 would have an adverse effect on the Educational Retirement Fund or its actuarial status. Since the bill provides that a member will pay an amount equal to the actuarial present value to have unused sick leave converted to earned service credit and the cost would be determined by the board, the actuarial effect on the fund is zero at the time the conversion is made. This provision is similar to the “allowed service credit” provisions noted above.

**PERFORMANCE IMPLICATIONS**

None to the PED

**ADMINISTRATIVE IMPLICATIONS**

HB-85 provides for the board to establish rules governing the payments for converting unused sick leave to earned service credit. The PED would have to work with DFA to set up parameters in SHARE to align with these rules.

Given that a number of state agencies, school districts, charter schools, and institutions of higher education among others would have to make similar changes after the ERB promulgates rules, the July 1, 2018 implementation may be too aggressive. The PED recommends that a one-year delay be included for implementation to allow all involved entities time to make the needed changes to ensure a seamless implementation.

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

Duplicates/Conflicts with/Companion to/Relates to: None as of 1/18/2018

Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 1/18/2018

## **TECHNICAL ISSUES**

The ERB notes the following technical issues:

Section 1, paragraph A (page 2, lines 1-3) allows a maximum limit of converting unused sick leave to earned service credit of “six days of unused sick leave per year of contributory employment”. Yet, section 1, paragraph B (page 2, lines 10-11) provides that one would need thirty-eight to eighty-two days of sick leave to obtain just one quarter of earned service credit. These two provisions may need to be clarified since it appears contradictory to limit the conversion of service credit to six days of sick leave per year, but then require at least thirty-eight days of sick leave to obtain one quarter of earned service credit.

Further, requiring a minimum of 38 days of sick leave to purchase one quarter of earned service credit may cause confusion since an NMERB member currently receives one quarter of credit for each calendar quarter in which the member has earnings from regular employment and renders services for a minimum of 16 days (2.82.4.8 NMAC).

## **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

At present, Section 10-11-7 (H) provides that members of the Public Employees Retirement Association (PERA) may purchase up to one year of service credit by paying the “full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association”. This option, also known as purchasing “air time”, is only afforded to PERA members. This could be an option that might be made available to ERB members and would provide an even playing field to all members leaving aside the differences in leave type or accrual rates among the local administrative units. It would also equalize opportunity for members between the two retirement associations.

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

The retirement program would continue as currently set out in statute.

## **AMENDMENTS**