

<b>LFC Requester:</b>	<b>Jorgensen</b>
-----------------------	------------------

**AGENCY BILL ANALYSIS  
2022 REGULAR SESSION**

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

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

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{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** January 31, 2022

**Bill No:** SB172

**Sponsor:** Sen. Munoz

**Agency Name and Code Number:** PED - 924

**Short Title:** Retirees Returning to Work

**Person Writing** John Sena  
**Phone** 505-570-7816    **Email:** John.sena@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		(\$12,900.0)	(\$12,900.0)	(\$25,800.0)	Recurring	Educational Retirement Fund

(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 172 (SB172) proposes to create a new pathway for retired members of the Education Retirement Board (ERB) to return to work without suspension of their retirement benefits. To maintain eligibility, retired members cannot render services to a school, school district, or charter school for 90 days after the date of their retirement and must not be employed for more than 36 consecutive or nonconsecutive months.

**FISCAL IMPLICATIONS**

The true fiscal impact of SB172 depends on the number of retired ERB members that choose to return to work. If 1,000 retired ERB members return to work as the result of the bill, PED staff estimate the net impact to the Educational Retirement Fund would be \$12.9 million, given that retired members would begin receiving benefits that they were not originally eligible to receive.

Retirees who return to work under the provisions of SB172 would be required to pay into the Educational Retirement Fund, slightly lessening the fiscal impact to the fund.

While some provisions of Section 22-11-25.1 NMSA 1978 sunset in 2024, the provisions of SB172 would be exempt from the 2024 sunset, creating the new return-to-work pathway indefinitely. For this reason, the fiscal impact to the Educational Retirement Fund would recur annually.

Any fiscal impact to the Educational Retirement Fund broadens ERB’s unfunded liability, or the extent to which the fund is able to pay the retirement benefits of its members. In 2021, the legislature passed and the Governor signed SB42, Increase Ed Retirement Contributions, which increased employer contributions to the Educational Retirement Fund to 16.15 percent in FY23. ERB staff estimated the 16.15 percent rate would allow ERB to pay the unfunded liability by the end of FY66. SB172 would extend ERB’s unfunded liability by an indeterminate number of years.

**SIGNIFICANT ISSUES**

New Mexico, like many states across the country, is facing an educator workforce crisis. New Mexico State University’s Southwest Outreach Academic Research (SOAR)

Evaluation and Policy Center in the fall of 2021 reported more than 1,000 teacher vacancies across the state. Nearly 300 of those vacancies were for special education teachers, while there were 279 elementary teacher vacancies, 197 high school teacher vacancies, and 179 middle school teacher vacancies. Across all grade levels, the demand was highest for math teachers, with 84 vacancies, followed by 77 science vacancies and 56 English language arts vacancies. The Covid-19 pandemic has exacerbated these vacancies, and anecdotal reports from teachers indicate more vacancies now than since the SOAR report was published. SB172 may serve to decrease these vacancies by lowering the barriers between qualified educators and the classroom.

Current statute allows retired ERB members to return to work and continue receiving benefits if they have not rendered services to a local administrative unit for 90 days, they did not create a formal or informal agreement to return after their retirement, and they return to earn a salary less than \$15 thousand per year. SB172 would create a new ERB return to work provision allowing for retired educational employees to return to work for up to three years at any salary.

Employees become members of the ERB system after serving in a variety of “local administrative units,” including public schools, school districts, charter schools, universities, community colleges, the New Mexico School for the Deaf, and the New Mexico School for the Blind and Visually Impaired. Many ERB members are educators, but many are also custodians, maintenance staff, food service personnel, and other administrative and operational positions. SB172 would allow any ERB member to return to work in any capacity for up to three years.

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

N/A

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

Duplicates HB73/aHEC, Educational Retirees Returning to Work.

#### **TECHNICAL ISSUES**

N/A

#### **OTHER SUBSTANTIVE ISSUES**

N/A

#### **ALTERNATIVES**

N/A

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

N/A

## **AMENDMENTS**

N/A