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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 1st Session, 2023**

<b>Bill Number</b>	<u>SB492</u>	<b>Sponsor</b>	<u>Munoz</u>
<b>Tracking Number</b>	<u>.223993.2</u>	<b>Committee Referrals</b>	<u>SEC/SFC</u>
<b>Short Title</b>	<u>Educational Retirees Returning to Work</u>		
<b>Analyst</b>	<u>Hoxie</u>	<b>Original Date</b>	<u>2/22/2023</u>
		<b>Last Updated</b>	<u></u>

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## **BILL SUMMARY**

### Synopsis of Bill

Senate Bill 492 (SB492) amends Section 22-11-25.1 NMSA 1978, the return-to-work program for educational retirees receiving pension benefits from the Educational Retirement Board (ERB). SB492 would amend the program to allow a retired educational employee to return to work after a 90-day layout period and extend the number of months that an educational retiree may return to work from 36 months to 60 months. SB492 does not change any other provisions of the return-to-work program for educational retirees.

## **FISCAL IMPACT**

The bill does not contain an appropriation.

ERB notes “retirees who participate in the return-to-work program and their employers must pay nonrefundable contributions, thereby offsetting the fiscal impact to the fund.”

## **SUBSTANTIVE ISSUES**

**Retirees Returning to Work.** Laws Chapter 20 (HB73) created a return-to-work program under the Educational Retirement Act, supplementing several existing programs that allow retired educational employees to return to an educational employer while still receiving retirement benefits. As designed, public pension funds are intended to replace the income an individual loses when leaving the workforce by providing a steady stream of payments in retirement. As a result, pension plans and regulations from the Internal Revenue Service (IRS) generally prohibit payment from the pension system to an active employee. However, return-to-work programs have been designed to allow retired workers to return to employment to address a shortage of teachers without violating IRS prohibitions. SB492 amends the current 36-month (3 year) limit on the return-to-work program to a 60-month (5 year) limit, allowing educational retirees to return to the educator workforce to address current teacher shortages for a longer period. According to ERB, there are currently 75 educational retirees who have taken advantage of the existing return-to-work program.

## ADMINISTRATIVE IMPLICATIONS

ERB notes monitoring and tracking the 36 consecutive or nonconsecutive months of employment under current statute has been difficult in some circumstances due to how employers report employment information to ERB. Consequently, the agency may need to develop procedures for tracking nonconsecutive months of employment.

## OTHER SIGNIFICANT ISSUES

**Educator Workforce.** While a strong educator workforce is foundational to public education systems, reports indicate New Mexico faces challenges in staffing all schools with diverse, well-prepared educators who stay in the profession. Skillful educators with robust knowledge are the most important in-school influence on student learning, with the largest positive impact on the academic achievement of students of color and those from low-income families. This research is especially important to consider in New Mexico, where census data shows 77 percent of students are students of color and 24.7 percent of children live below the poverty line. Historically, New Mexico has experienced sizeable shortages in certified teachers, specifically teachers certified in high-need subject areas. These existing challenges were exacerbated by the Covid-19 pandemic and the “great resignation.” Many school and district leaders have noted increases in teacher burnout and pandemic-induced departures from teachers who may have otherwise remained in the profession. While teacher openings decreased between the 2021-2022 school year and the 2022-2023 school year, the NMSU New Mexico Educator Vacancy Report—commonly known as “the SOAR Report”—indicated there were 690 teacher vacancies in the beginning of the 2022-2023 school year. Across the state, teacher vacancies continue to be a challenge in high-need subject areas, including mathematics, science, and special education. Provisions of SB492 could allow additional experienced teachers to reenter classrooms in New Mexico for a period of up to 60 months.

## RELATED BILLS

SB492 relates to SB20 Educational Retirement Board Changes, which allows eligible employees of Southeast New Mexico College to participate in alternative retirement plans offered by ERB and amends statute to align the age of which distribution of pension benefits must begin with federal law. SB20 also amends the Procurement Code to allow ERB to enter into a professional services contract to operate the agency’s pension administration system for more than the four years currently allowed by law.

SB492 relates to HB189/aHEC Educational Retirement Changes which allows eligible employees of Southeast New Mexico College to participate in alternative retirement plans offered by ERB and amends statute to align the age of which distribution of pension benefits must begin with federal law.

## SOURCES OF INFORMATION

- LESC Files
- Educational Retirement Board

**EH/cf/de/mb**