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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/19/09  
**LAST UPDATED** 03/02/09    **HB** \_\_\_\_\_

**SPONSOR**    Garcia, M J

**SHORT TITLE**    Alternative Educational Retirement Plans    **SB** 572/aSFC/aSFI#1

**ANALYST**    Haug

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relationship HB 525

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Educational Retirement Board (ERB)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of SFI Amendment #1

Senate Floor Amendment #1 restores language included in the original bill on page 6, line 1.

#### Synopsis of SFC Amendment

The Senate Finance Committee Amendment adds the emergency clause and strikes the one remaining instance of “irrevocable” on page 2, line 14.

#### Synopsis of Original Bill

Senate Bill 572 would amend the Educational Retirement Act in the following ways:

Members who elected to participate in the Alternative Retirement Program (ARP) will be allowed a one time opportunity to change to the regular ERB defined benefit (DB) plan. The option will be available to existing and future participants who have paid a cumulative total of seven years of contributions to the ARP. An election to transfer to the DB plan must be made within 120 days from the date a participant becomes eligible to make the election. If a participant elects to join the DB plan, all funds in the member’s ARP account will remain on

deposit in that plan. Participants who elect to change to the DB plan will not be able to purchase service credit for the time they were enrolled in the DB plan and the participant would not less than 5 years contributory employment in the DB plan to be eligible for retirement benefits under ERA.

The ERB would approve the positions at qualifying educational institutions eligible for participation in the ARP.

The choices available to a participant in the ARP for receiving benefits would be broadened. Currently, participants can only receive a life time income (a/k/a an annuity). The bill would allow participants who retire to receive payments over a fixed term of years, or a lump sum payout. Participants who terminate employment will be allowed to transfer their accounts to another eligible retirement plan or withdraw the balance as permitted by the Internal Revenue Code.

The number of eligible vendors is increased from two to five and allows the ERB to solicit proposals for a wider variety of benefits.

## **FISCAL IMPLICATIONS**

The ERB states that SB 572 should have no significant fiscal impact on the ERB.

## **SIGNIFICANT ISSUES**

The ERB states:

The Educational Retirement Act allows certain new employees at New Mexico's universities and community colleges to make an irrevocable choice to participate in the ARP which is a defined contribution plan, rather than the DB plan.

The ARP is oriented towards mobile professionals in higher education who do not anticipate completing their careers in New Mexico or who anticipate changing careers at some point. Currently, new employees at colleges and universities eligible to participate in the ARP must make an irrevocable choice to participate in the ARP within 90 days of being hired. After electing to join ARP, a number of participants find they do not leave New Mexico and wish to join DB plan, which is currently not allowed. Generally this occurs when the participant achieves tenure or at about seven years into their career. SB 572 would allow participants the opportunity to move to the DB plan if they determine that they will complete their careers in New Mexico and would like to obtain the retirement benefits from the DB plan.

SB 572 also would allow vendors to offer participants the wider variety of retirement products that are permitted under the Internal Revenue Code; currently they are only allowed to offer annuities. In addition, participants would be able to roll their accounts over to another eligible plan or withdraw the balance upon terminating employment. This increases the portability of the ARP to participants who change employment. SB 572 also would increase the number of vendors the ERB can contract with to provide benefits to participants.

Currently the ARP has approximately 1600 participants, of which over 1200 are employed at UNM and NMSU. SB 572 will make the ARP more attractive to those potential participants who do not anticipate spending their entire careers in higher education in New Mexico. Enhancing the ARP could enable it to be a more attractive recruiting tool for those colleges and universities that are competing to attract mobile professionals in higher education.

The HED reports that it supports SB572 as it provides more options for faculty and staff without affecting the actuarial soundness of the Educational Retirement Fund. The option to change plans in the seventh year is fortuitously timed to allow faculty to make this choice soon after receiving tenure. For an untenured professor, the alternative plans (such as TIAA/CREF) are appealing because they are portable. If professors do not receive tenure, they can take the plan with them to their next academic position. However, after receiving tenure, the faculty member could reevaluate the available plans under the provisions of SB572 and decide whether to switch into the ERB regular plan. The provision providing additional options for receiving retirement benefits is consistent with practices in other states.

## **RELATIONSHIP**

Senate Bill 572 is related to House Bill 525 which is closely similar but omits the term “roll over” in the options available at termination of employment. Senate Bill 572 specifies that lifetime income can be used only if held in an annuity contract while House Bill 525 omits “if held in an annuity contract”.

## **TECHNICAL ISSUES**

Page 2, line 14 contains a remaining unstruck “irrevocable” which may be unintentional.

## **OTHER SUBSTANTIVE ISSUES**

The HED points out that not all faculty receive tenure after their sixth year. Some might be given an additional year extension prior to tenure or might receive tenure earlier. It might be beneficial to tie the deadline to tenure if the goal of SB572 is to allow faculty members to make this decision immediately after they pass that threshold.

GH/mc:svb