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## FISCAL IMPACT REPORT

SPONSOR: Rawson DATE TYPED: 02/28/01 HB \_\_\_\_\_  
 SHORT TITLE: Educational Retirement Act Exemption SB 580  
 ANALYST: Eaton

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Educational Retirement Board (ERB)

### SUMMARY

#### Synopsis of Bill

This bill would create a narrow exception to the Educational Retirement Act for a few employees of the physical science laboratory at New Mexico State University (NMSU). It would allow such exemption for current NMSU physical science laboratory employees who are already members of another qualifying retirement plan pursuant to the Internal Revenue Code. It would also allow new NMSU physical science laboratory employees to elect to exempt themselves within nine months of hire if they can show that they belong to another qualifying plan.

#### Significant Issues

ERB takes issue that the payments would include the employer's share plus interest. This is a major conflict with and policy shift from the basic definition of the current plan as defined in the Educational Retirement Act. The current ERA retirement plan, similar to the PERA plan is a defined benefit plan in which the employer's share is never the property of the employee.

Counsel to the ERB assert that this is in direct opposition to the New Mexico Constitution Article 20 Section 22, which states that the fund shall only be used for the sole benefit of its members and beneficiaries. Diverting employer contributions from the fund to persons exempted from this act would be a violation.

### FISCAL IMPLICATIONS

This bill has no fiscal impact. The Educational Retirement Board (ERB) state that this bill would require at least two FTEs to administer its requirements at a cost of \$64,000 per year on a recurring basis.

**OTHER SUBSTANTIVE ISSUES**

The Educational Retirement Board (ERB) report that currently, the ERA provides for an alternate retirement plan for research personnel employed by NMSU. This alternative plan has been part of ERA statutes since 1991 when NMSU had requested such a plan to assist them with employees on federal grants. The qualifying members of the lab at NMSU hired after 1991 had access to the alternative plan, which provides for the similar option as presented in this bill.

The ERB report that this bill's plan is not actuarially sound as some part of the funds targeted for future benefits could be used for these members' personal accounts and as such, is also in violation of New Mexico Constitution Article 20 Section 22.

JBE/ar