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## FISCAL IMPACT REPORT

SPONSOR Trujillo LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/19/2025  
BILL  
SHORT TITLE Educational Retirement Board Powers NUMBER Senate Bill 421  
ANALYST Hanika-Ortiz

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
Educational Retirement Board (ERB)

## SUMMARY

### Synopsis of Senate Bill 421

Senate Bill 421 (SB421) amends Section 22-11-6 NMSA 1978 as it relates to powers of the Educational Retirement Board (ERB) to enforce the Educational Retirement Act. The bill proposes that the board may “purchase, acquire or hold real property and build or own a building and related improvements located thereon.”

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The ERB reported no fiscal impact from this bill.

## SIGNIFICANT ISSUES

Both the Educational Retirement Board (ERB) and the Public Employees Retirement Association have authority over their investment decisions, which presumably includes real estate holdings. The board’s fiduciary duties include ensuring all decisions contribute to the fund’s long-term health and stability. This bill would make clear in law the board’s authority to own and hold real property, including the authority to build, maintain, and own a building.

The Board of Finance (BOF) reviews and approves significant real estate transactions for the state, with some exceptions. The Capitol Buildings Planning Commission is also involved in real estate transactions, particularly for planning office space. Outside of state agencies and schools, however, the level of involvement in terms of oversight of real estate acquisitions for ERB is not explicitly stated. After the Capitol Buildings Planning Commission reviews and the approves, most transactions involving large sums or long-term leases require additional legislative approval.

## **ADMINISTRATIVE IMPLICATIONS**

In 2023, ERB awarded a contract to build an office building on three acres of land it owns. Since then, ERB has become embroiled in a legal dispute with the City of Santa Fe over the project, centering on whether ERB, as a state agency, must comply with local regulations, particularly for water access and permitting. ERB believes it is exempt from local regulations; the city says otherwise. In general, state agencies may be exempt from local regulations, citing “sovereign immunity,” however, conflicts may arise depending upon the impact on nearby infrastructure. The \$15.8 million building will be ready to occupy in April.

AHO/r/SL2