

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>SB421</u>	Sponsor	<u>Trujillo</u>
Tracking Number	<u>.230854.1</u>	Committee Referrals	<u>SEC/SJC</u>
Short Title	<u>Educational Retirement Board Changes</u>		
Analyst	<u>Montoya</u>	Original Date	<u>2/21/2025</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 421 (SB421) would amend the Education Retirement Act (Section 22-11-6 NMSA 1978), by adding a new subsection allowing the Education Retirement Board (ERB) to purchase, acquire, or hold real property, and build or own a building and make related improvements on said property.

FISCAL IMPACT

SB421 does not contain an appropriation.

SUBSTANTIVE ISSUES

ERB Office Construction. On January 15, 2024, ERB commenced the [construction](#) of a new office complex in Santa Fe on three acres of land it already owns. ERB reports the \$15.8 million project aims to consolidate ERB staff in a single location and reduce reliance on leased office space. Completion of the project is anticipated by April 2025. ERB has encountered barriers when attempting to connect to Santa Fe’s municipal water system. According to [news reports](#), ERB filed a lawsuit in November with the 1st District Court to compel the City of Santa Fe to provide water service to ERB’s new building. The city is refusing service until ERB submits its building plans for approval. ERB argued it was exempt from this requirement as a state entity.

In December 2024, the City of Santa Fe issued a response challenging the court’s jurisdiction and claimed ERB failed to follow proper legal procedures, including naming the General Services Division in the suit. On February 6, 2025, ERB filed a motion for judgment based on pleadings, with a court hearing expected. Despite the legal dispute, ERB and city officials have been in communication. ERB officials anticipate securing water access by April 2025. SB241 may provide clarity and affirm ERB’s independent control over its new facility and property, reducing the risk of challenges such as the one it is currently navigating.

Expansion of Authority. SB421 would grant ERB the authority to directly manage and invest in real property, thereby potentially reducing reliance on leases and mitigating potential legal disputes. ERB is currently allowed to own real estate within its investment portfolio, which is governed by the Uniform Prudent Investor Act (Section 45-7-601 NMSA 1978 through Section 45-7-612 NMSA 1978). This act establishes a standard of care for trustees, emphasizing prudent investment strategies. SB241 could grant ERB greater autonomy and flexibility in real estate management.

Real Property. The terms "real property" and "real estate" are often used interchangeably but have distinct meanings. Real estate refers to land and any physical improvements, such as buildings, as well as natural elements such as trees, water, and minerals. Real property includes both the physical land and improvements, as well as the legal rights associated with ownership, known as the bundle of rights. This bundle of rights includes possession (the right to occupy the property), control (the right to determine its use), enjoyment (the right to use it without interference), exclusion (the right to refuse others' uses), and disposition (the right to sell or transfer the property). There are legal restrictions and exemptions that may limit these rights.

ADMINISTRATIVE IMPLICATIONS

SB241 would grant ERB greater autonomy in future property transactions, potentially reducing the risk of legal issues and clarifying ownership and jurisdiction over property it owns and operates.

RELATED BILLS

Relates to Senate Bill 75, Educational Retirement Changes, which proposes changes to the ERB system, including investing unclaimed member contributions, ensuring annuity adjustments for disabled members over 60, extending the service credit payment deadline to 90 days, and allowing information sharing with the Public Employees Retirement Board for administration.

Relates to Senate Bill 133, Educational Retirees Returning to Work, which would raise the maximum salary a retired member can earn without suspending retirement benefits when returning to work, increasing the threshold from \$15 thousand to \$25 thousand. It would also extend the current 36 month return-to-work (RTW) period to 60 months.

Relates to House Bill 254, Ed. Retirees Returning to Work Time Period, which would extend the current 36 month RTW period to 84 months.

Relates to House Bill 251, Ed. Retirement Beneficiary Changes, which proposes additional beneficiary designation options for retired ERB members.

Relates to House Bill 454, Educational Retirement Changes, which would propose annual, non-compounding payments to retired members in FY26 and FY27 and make a \$60 million appropriation to fund the proposed distributions.

SOURCES OF INFORMATION

- LESC Files
- Educational Retirement Board (ERB)