

Investments & Pensions Oversight Committee

Representative Cynthia Borrego, Chair
Senator Roberto “Bobby” J. Gonzales, Vice Chair

Educational Retirement Board Updates

November 5, 2025

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Discussion Items

- Accomplishments and Outlook
- New Office Building
- Pension Administration System Modernization Project
- Actuarial Condition
- Key Valuation Results
- Investment Results
- Independent Contract Arrangements
- Return-to-Work Programs

Accomplishments and Outlook

Legislative

- SB75 - Educational Retirement Changes (Figueroa)
- HB251 - Ed. Retirement Beneficiary Changes (Hall, Mirabal Moya, Baca, Terrazas & Cullen)
- SB133 - Educational Retirees Returning to Work (Stewart, Wirth & Figueroa)

Operations

- FY25 Average Vacancy Rate - 7%
- Average number of days to fill vacant positions - 21.5
- Number of member and retiree seminars attended - 36
- FY25 Investment Return - 9.8%

FY26/FY27 Priorities

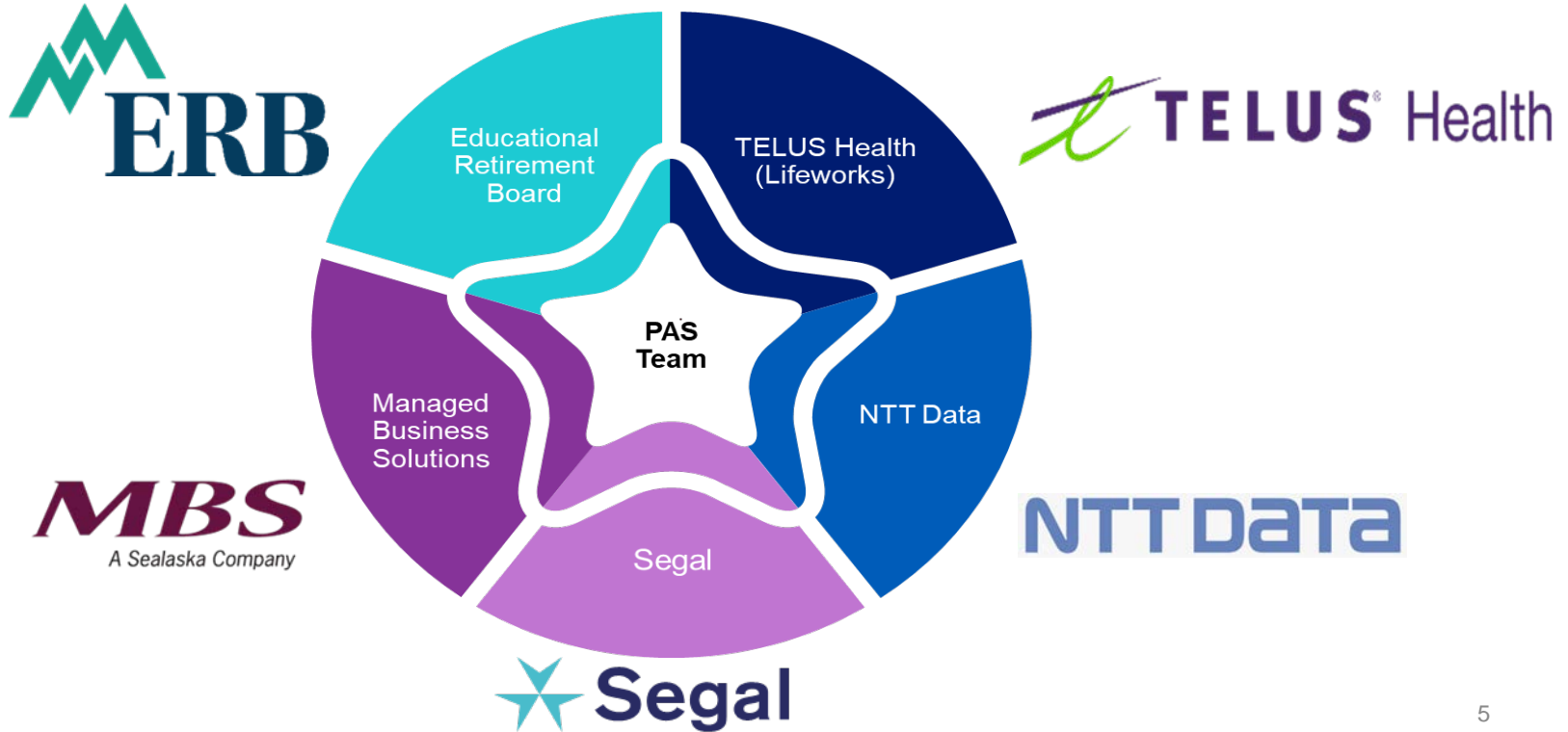
- Office relocation
- Pension Administration System Modernization Project
- Website Update
- Lawsuit conclusion

New Office Building



Pension Administration System Modernization Project

- New Pension Administration System – Spring/Summer 2027



Actuarial Condition - Financing Objectives

- The Board of Trustees' funding policy aims to eliminate the unfunded actuarial accrued liability (UAAL) by June 30, 2049 (24 years from June 30, 2025).
- The amortization period, also referred to as the funding period, is the number of years expected to completely eliminate the UAAL, assuming that ERB's experience exactly follows all the actuarial assumptions/
- The financial condition of the fund improved from 2024 to 2025, primarily due to better than assumed asset experience.
- During the last fiscal year, the UAAL decreased from \$9.4 billion to \$8.8 billion.
- The plan is expected to be fully funded by June 30, 2044. Therefore, the Board's funding policy is currently being met. These expectations reflect currently scheduled statutory contribution, anticipated future cost-of-living adjustments based on the plan's projected funded status, and new hire benefits in place for Tier 4 members.

Key Valuation Results

	June 30, 2025	June 30, 2024	Difference
Active Members	64,274	62,970	1,304
Retirees & Beneficiaries	56,764	55,706	1,058
Retiree Payroll	\$ 1,437,061,890	\$ 1,380,637,422	\$ 56,424,468
Average Annual Benefit	\$ 26,722	\$ 26,171	\$ 551
Member Contributions	\$ 453,872,084	\$ 435,808,030	\$ 18,064,054
Employer Contributions	\$ 802,437,237	\$ 770,384,190	\$ 32,053,047
Member Contribution Refunds	\$ 78,247,786	\$ 67,049,122	\$ 11,198,664
Active Member Payroll	\$ 4,045,292,965	\$ 3,866,489,836	\$ 178,803,129
Participating Employers	220	220	-
Actuarial Value of Assets	\$ 18,638,431,074	\$ 17,232,005,190	\$ 1,406,425,884
Funding Period	19 years	22 years	3 years
Funded Ratio	67.8%	64.8%	3.0%

TOTAL FUND PERFORMANCE DETAIL

	Allocation		Performance (%)								
	% of Portfolio	Market Value (\$)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	Inception (%)	Inception Date
Total Fund	100.0	18,821,770,302	1.8	2.4	7.9	9.7	8.6	9.7	8.5	9.0	Jul-83
<i>Policy Index</i>			<u>1.1</u>	<u>1.8</u>	<u>6.7</u>	<u>8.9</u>	<u>8.5</u>	<u>8.5</u>	<u>8.2</u>	-	
Over/Under			0.7	0.6	1.2	0.8	0.1	1.2	0.3	-	
60% MSCI ACWI (Net) / 40% FTSE WGBI			2.0	2.1	11.4	10.5	11.5	5.8	6.9	-	Jul-83
60% S&P 500 Index/40% FTSE U.S. Broad Investment-Grade Bond			1.7	3.0	8.6	10.8	12.8	8.5	9.6	9.7	Jul-83
S&P 500 Index			2.0	4.3	10.8	15.9	19.5	14.7	14.6	11.6	Jul-83
FTSE U.S. Broad Investment-Grade Bond			1.2	1.0	5.0	3.2	3.0	-0.7	1.8	6.6	Jan-80
Total Fund Ex Parametric Overlay	99.6	18,738,094,861	1.8	2.3	7.9	9.7	8.5	9.8	8.6	9.0	Jul-83
<i>Policy Index</i>			<u>1.1</u>	<u>1.8</u>	<u>6.7</u>	<u>8.9</u>	<u>8.5</u>	<u>8.5</u>	<u>8.2</u>	-	
Over/Under			0.6	0.6	1.1	0.8	0.1	1.3	0.3	-	
60% MSCI ACWI (Net) / 40% FTSE WGBI			2.0	2.1	11.4	10.5	11.5	5.8	6.9	-	Jul-83
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S&P 500 Index			2.0	4.3	10.8	15.9	19.5	14.7	14.6	11.6	Jul-83
FTSE U.S. Broad Investment-Grade Bond			1.2	1.0	5.0	3.2	3.0	-0.7	1.8	6.6	Jan-80
U.S. Equity Composite	16.5	3,111,928,949	2.3	4.5	9.7	14.1	18.0	14.2	13.8	11.7	Jan-85
<i>Russell 3000 Index</i>			<u>2.3</u>	<u>4.6</u>	<u>10.6</u>	<u>15.8</u>	<u>18.8</u>	<u>14.1</u>	<u>14.0</u>	<u>11.7</u>	
Over/Under			0.0	-0.1	-0.9	-1.8	-0.8	0.0	-0.1	0.1	
U.S. Large Cap Equity Composite	13.2	2,478,178,036	2.0	4.3	10.8	16.0	19.6	14.8	14.7	8.7	Aug-99
<i>S&P 500 Index</i>			<u>2.0</u>	<u>4.3</u>	<u>10.8</u>	<u>15.9</u>	<u>19.5</u>	<u>14.7</u>	<u>14.6</u>	<u>8.2</u>	
Over/Under			0.0	0.0	0.0	0.1	0.0	0.0	0.1	0.5	
S&P 500 Index Fund	13.2	2,478,178,036	2.0	4.3	10.8	16.0	19.6	14.8	14.7	7.9	Jan-00
<i>S&P 500 Index</i>			<u>2.0</u>	<u>4.3</u>	<u>10.8</u>	<u>15.9</u>	<u>19.5</u>	<u>14.7</u>	<u>14.6</u>	<u>7.9</u>	
Over/Under			0.0	0.0	0.0	0.1	0.0	0.0	0.1	0.0	
U.S. Small/Mid Cap Equity Composite	3.4	633,750,913	3.4	5.1	5.3	6.8	12.0	12.4	9.8	8.0	Aug-99
<i>NMERB Small/Mid Cap Equity Blended Index</i>			<u>5.2</u>	<u>7.3</u>	<u>7.8</u>	<u>10.0</u>	<u>11.3</u>	<u>11.2</u>	<u>9.8</u>	<u>8.5</u>	
Over/Under			-1.8	-2.2	-2.5	-3.2	0.7	1.3	-0.1	-0.6	
S&P 400 Mid-Cap	3.4	633,750,913	3.4	5.1	5.3	6.8	12.0	12.4	-	8.9	Nov-17
<i>Russell 2500 Index</i>			<u>5.2</u>	<u>7.3</u>	<u>7.8</u>	<u>10.0</u>	<u>11.3</u>	<u>11.2</u>	<u>-</u>	<u>8.9</u>	
Over/Under			-1.8	-2.2	-2.5	-3.2	0.7	1.3	-	0.0	

1 - Total Fund market value includes \$200,258.61 from Legacy Assets.

2 - U.S. Small/Mid Cap Equity Composite includes the performance history of the U.S. Small Cap Equity Composite through November 2011.

3 - NMERB Small/Mid Cap Equity Blended Benchmark is the Russell 2000 Index through November 2011 and the Russell 2500 Index from December 2011 - forward.

Note: Performance shown is net of fees.

Independent Contractors - Background

- ERB's primary responsibility is to safeguard the long-term financial security of the retirement fund.
- Recent updates to the independent contractor review process were implemented to strengthen compliance with state and federal regulations and to provide clearer guidance on independent contractor arraignments.
- These updates are essential to preserving the fund's integrity and stability for current and future retirees.
- Under state law and ERB's administrative code, a retired member may return to service with a Local Administrative Unit (LAU) in one of two ways:
 - Through a return-to-work program under 22-11-25.1 NMSA 1978, or
 - As an approved independent contractor under 2.82.2 and 2.82.5 NMAC

Independent Contractors - ERB Responsibility

- As fiduciaries of a qualified retirement plan under section 401(a) of the IRS code, ERB must ensure compliance with federal laws that grant important tax exemptions and protections.
- This obligation extends to any retired ERB member providing services to an LAU, regardless of the mechanism used to provide those services.
- Per 2.82.2 NMAC the following factors shall be considered in determining whether an individual qualifies as an independent contractor:
 1. Registration with the New Mexico department of taxation and revenue to pay gross receipts tax;
 2. The existence of a written contract with the local administrative unit setting forth the services to be provided and the compensation to be paid;
 3. Whether the person receives benefits such as paid annual or sick leave, health insurance and other benefits that the local administrative unit provides its regular employees or is paid as an employee by the local administrative unit;
 4. Whether the person satisfies internal revenue service guidelines for determining that an individual is an independent contractor rather than an employee;

Independent Contractors - ERB Responsibility Cont.

- If a retiree receives benefits outside of an approved program or without meeting independent contractor standards, ERB would not be meeting its fiduciary obligations to all members.
- RTW programs allow retirees to provide any type of service to an LAU within program limits.
- Independent contractor arrangements require closer review - a genuine independent contractor is in business for themselves and provide services not ordinarily performed by employees.
- If ERB determines an arrangement does not meet this standard, the work may still proceed - but only through employment, either by an active member or through an approved return-to-work program.
- These safeguards may create challenges for retirees and administrators, but they are critical to protecting the retirement fund.
- ERB's mission remains to ensure a secure retirement for all members, and every decision we make is guided by that responsibility.

Return to Work Programs

Question	RTW .25 FTE or less	RTW less than \$25,000	*RTW Program	RTW 60 Months
Must retirement benefit be suspended to participate?	No	No	No	No
Application required prior to beginning employment?	✓	✓	✓	✓
Employee Contribution Required	No	No	✓	✓
Employer Contribution Required	No	No	✓	✓
Are contributions made during time working in RTW program refundable?	N/A	N/A	No	No
Layout Period Required?	No	90 days from Retirement Date	12 consecutive months from Retirement Date	90 days from Retirement Date
Can I purchase service credit while working under a RTW provision or for time worked in the RTW program?	No	No	No	No
Must employer and employee make contributions to RHCA while working under a RTW provision?	✓	✓	✓	✓
Are there any penalties for violating the RTW program rules?	Yes, the retiree will be required to pay back all pension payments plus interest received during the period of ineligibility.			
Do RTW provisions apply to retirees who participated in the Alternative Retirement Plan (ARP)?	✓	✓	✓	✓

Return to Work Reminders

- All retirees receiving an ERB pension are required to seek and obtain approval to return to work prior to services being rendered
- ERB does not pre-approve Return to Work arrangements
- ERB will not accept a Return to Work application prior to a members first day of retirement
 - Retirement must be “bona fide” - explicit understanding between employee and employer that they are not separating from service with the employer are not legitimately retired
 - Such retirements violate section 401(a) of the Internal Revenue Service Code
- Return to Work violations may result in the suspension of benefit payments and the recoupment of funds paid during period of ineligibility
- Return to Work Applications: [Retired Members Forms & Documents | NM Educational Retirement Board](#)
 - D. A retired member may return to employment with a local administrative unit only if the member submits an application to return to work, on a form prescribed by the board, the board approves the application and the applicant complies with other application rules promulgated by the board.

Return to Work Rule Changes (2024)

- References to return-to-work 12-month layout removed (no longer available)
- Created “safe harbor” for qualified retirees who return to employment without prior approval
- Retirees approved to return-to-work under 1 of 3 programs may change programs once per fiscal year in the month of July
- Provided clarifying language notifying members that return-to-work violations may be appealed
- Requires local administrative units (LAUs) to create, maintain and publicize to staff an internal return to work policy consistent with applicable statutes and rules
- Allows ERB to assess monetary penalties against LAUs for errors in their monthly wage report (effective July 1, 2025)

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