

**NEW MEXICO EDUCATIONAL RETIREMENT BOARD**

**ACTION SUMMARY**

**December 8, 2017**

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**MINUTES OF THE**  
**NEW MEXICO EDUCATIONAL RETIREMENT BOARD**  
**REGULAR MEETING**

**December 8, 2017**

**1. CALL TO ORDER: QUORUM PRESENT**

A Regular Meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:00 a.m. in the Educational Retirement Board Conference Room, 6201 Uptown Boulevard, N.E., Ste. 203, Albuquerque, New Mexico.

**Members Present:**

Ms. Mary Lou Cameron, Chairwoman  
Mr. H. Russell Goff, Vice Chairman  
Mr. Larry Magid, Secretary  
Mr. David Craig  
Dr. Donald W. Duszynski  
The Hon. Tim Eichenberg, State Treasurer

**Members Excused:**

None.

**Staff Present:**

Mr. Rick Scroggins, Deputy Director  
Mr. Bob Jacksha, CIO  
Mr. Roderick Ventura, General Counsel  
Ms. Susanne Roubidoux, Deputy General Counsel  
Ms. Norma Henderson, CFO  
Mr. Alan Myers, Public Securities & Debt Portfolio Manager  
Ms. Monica Lujan, Member Services Director  
Ms. Lealia Nelson, Outreach Coordinator  
Ms. Liz Lorang, Executive Assistant  
Mr. Lawrence Esquibel, Chief Information Officer

**Others Present:**

Ms. Patricia J. Turner, Contract Attorney  
Mr. Allan Martin, NEPC  
Mr. Sam Austin, NEPC  
Ms. Judith Beatty, Recorder  
[See sign-in sheet.]

**b. Approval of Agenda**

**Mr. Goff moved approval of the agenda, as published. Mr. Magid seconded the motion, which passed unanimously.**

**c. Approval of Minutes – October 20, 2017**

**Dr. Duszynski moved approval of the minutes of the October 20, 2017, meeting, as submitted. Mr. Magid seconded the motion, which passed unanimously.**

**d. Approval of Minutes – November 9, 2017**

**Mr. Goff moved approval of the minutes of the November 9, 2017, meeting, as submitted. Mr. Magid seconded the motion, which passed unanimously.**

**e. Introduction of Guests**

Chairwoman Cameron welcomed staff and guests

Michael Pineschi stated that he was representing UNITE HERE, the hotel hospitality workers union, and wished to share growing labor concerns with Brookfield Asset Management, of which the NMERB is a client. He was present with Juniel Acosta.

Mr. Ventura said Messrs. Pineschi and Acosta met with him this morning to address their concerns. He suggested that they be given a few minutes to share their concerns with the board.

Mr. Pineschi said Brookfield Asset Management owns five union hotels across North America, with members represented by UNITE HERE. In August, Brookfield agreed to a fair process at the Hyatt Santa Rosa, California, allowing workers to decide, without fear, on the question of joining a union. He said Brookfield also owns the Hard Rock Hotel & Casino Las Vegas, where workers are organizing and valets joined the Teamsters in 2009. The Hard Rock has settled charges of violating labor law, but workers there do not have a first contract. In September, UNITE HERE filed two rounds of unfair labor practice charges against the Hard Rock, alleging that the hotel, in anti-union communications to its workers, promised to work on solving workplace challenges and giving employees the impression that it would be futile to engage in collective bargaining. He said the union is very disappointed that the Hard Rock would engage in these activities against workers, especially in Las Vegas, where the standard is the same one that the workers in Santa Rosa had. He asked the board to urge Brookfield to agree to the Las Vegas standard at the Hard Rock.

Hard Rock employee Juniel Acosta said he has worked as a housekeeper at the Hard Rock for the last four years; and he and his partner both work hospitality jobs and have been together for the past nine years, and have a two year old adopted daughter. He said he and his coworkers are asking the Hard Rock to allow workers to decide whether or not they want to join a union, which is the same process that many of the 57,000 union members had when they joined the union in Las Vegas. He stated that management does not treat him or his coworkers with dignity or respect. Mr. Acosta said rents in Las Vegas are rising, and insurance at the Hard Rock is very expensive for him, and it is often very difficult to pay bills. He asked the board to urge Brookfield to agree to the same process for the Hard Rock in Las

Vegas that was allowed for the workers in Santa Rosa. In addition, he requested that Brookfield include worker retention in the event it sells the Hard Rock.

Mr. Pineschi provided copies of a letter to Brookfield's chairman signed by Congressman Ruben Kihuen and U.S. Senator Catherine Cortez Masto, as well as a list of "responsible" and "irresponsible" hotel managers.

Mr. Eichenberg suggested that "Public Comment" be added to the board's regular meeting agenda.

Mr. Jacksha clarified that Brookfield manages a public REIT portfolio for the NMERB, so the NMERB is not an owner of the Hard Rock.

Mr. Eichenberg asked Mr. Pineschi what UNITE HERE is requesting from the NMERB. Mr. Pineschi responded that they would like the NMERB to encourage engagement with Brookfield the way Blackstone and others have in order to mitigate risk associated with labor disputes, as this is beneficial to everyone.

Mr. Eichenberg asked Chairwoman Cameron what NEA's position is on investments like this. Chairwoman Cameron responded that no one has come to her with an official position on this, but speaking as an NEA representative and not the chair of the NMERB, NEA believes that all employees should have the right to organize if they so choose; and beyond that, all employees should be treated fairly and equitably.

Responding to Mr. Eichenberg, Mr. Pineschi said he is a researcher and studied economics and development in graduate school, and started doing private equity research three years ago with a focus on transparency issues and labor issues.

**2. CONSENT AGENDA**

**a. Board Travel**

Mr. Magid and Vice Chair Goff indicated that they would be attending the NEPC conference in Tempe next month.

**Mr. Eichenberg moved for approval. Dr. Duszynski seconded the motion and it passed unanimously.**

**3. SWEARING IN OF NEW BOARD MEMBER**

None.

**4. OPEN MEETINGS ACT RESOLUTION FOR 2018:  
SUSANNE ROUBIDOUX, DEPUTY GENERAL COUNSEL**

Ms. Roubidoux stated that this is an annual requirement of the board. The Open Meetings Act being proposed for 2018 contains the same provisions that were approved in last year's resolution.

Mr. Eichenberg moved to accept the Open Meetings Act resolution for 2018, as presented. Mr. Magid seconded the motion and it passed unanimously.

**5. INVESTMENT REPORTS: BOB JACKSHA, CIO**

**a. Investment Policy Revisions**

Mr. Jacksha stated that a memo in today's board package details five proposed changes to the NMERB Investment Policy Statement (IPS), all of which were reviewed and approved by the Investment Committee at the November 9 meeting.

Mr. Jacksha also stated that he and NEPC advisor Allan Martin discussed an additional proposed change at yesterday's Investment Committee meeting. As the board will recall, the asset allocation was changed last year to add a new category called Diversifying Assets, and kept the index at 60 percent equities and 40 percent bonds. Because the purpose of this asset class is to diversify from equities and bonds, a more appropriate index would be LIBOR + 200 basis points. They would propose this as an additional change.

Mr. Jacksha said the other five changes were:

1. Change the date of the policy to reflect the changes and the annual review.
2. Add a reference to the Transparency Policy, which will require management fee disclosures on the NMERB website.
3. Change the source for the Sudan Company Report to reflect the current organization producing this report and to allow for future changes in successor organizations.
4. Delete the publication year for the *Code of Ethics & Standards of Professional Conduct* published by the CFA Institute as the 2010 publication is no longer current, and NMERB staff will be complying with the most current edition.
5. The Investment Committee approved internal management of the small and mid-cap U.S. equities allocation, and the NMERB has begun passively managing these assets against the S&P 400 Index. We would like to use the Russell 2500 Index as the benchmark as it has a high return correlation to the S&P 400 and has a better fit based on market cap distribution.

Responding to Mr. Craig, Mr. Martin said the S&P 400 does not include stocks with negative earnings. By choosing that index, the NMERB is trying to capture "quality bias," as the Russell 2500 looks at market capitalization regardless of individual performance. An historical analysis shows that these two indices are .92 percent correlated, but the S&P 400 has done better, so the hope is that there will be outperformance in the long run.

**Mr. Goff moved approval of the revised policy, as presented today. Mr. Magid seconded the motion and it passed unanimously.**

**b. NEPC General Consultant Contract Adjustment**

Mr. Jacksha asked that this item be postponed to the February meeting.

**c. Total Portfolio Report for Q3 2017**

Mr. Martin presented the report, with the following highlights:

- The fund is up 3 percent for the quarter.
- Over the past 5 years, the fund returned 8.3 percent per annum, outperforming actuarial assumed rate of 7.25 percent.
- Over past three years, the fund returned 7.1 percent per annum.
- For the year ending 9/30/17, the fund experienced a net investment gain of \$1.30 billion, which includes a net investment gain of \$365.6 million during the quarter. Assets increased from \$11.7 billion 12 months ago to \$12.6 billion (an all-time high) on 9/30/17, with \$401 million in net distributions during the year. The fund returned 11.1 percent.

Mr. Martin presented an overview of the NMERB's asset classes.

Mr. Martin highlighted the NMERB's performance in real estate, private equity and real assets (inflation linked assets). For real estate, the NMERB is performing in the top 6 percent of the peer group and in the top 10 percent for private equity. It is performing in the top third of its peer groups in real assets, which is fairly good performance given that this is a relatively new asset class for the NMERB and not all of the assets in the portfolio been put to work at this point.

Mr. Jacksha stated that the REIT Index Fund is down to \$100 million, and the plan has always been to use that to fund private real estate investments over time. The NMERB has now sold out of that index completely. Some of the money is in cash and will be used in January for the Diversifying Assets allocation.

Mr. Jacksha pointed out that, in private real estate, the NMERB has consistently ranked #1 in the peer universe used by NEPC.

**d. Investment Committee Report**

Mr. Jacksha highlighted activity at yesterday's Investment Committee:

- Approved \$35 million investment in BP Energy II for the natural resources portfolio. Returns on BP Energy I, in which the NMERB is invested, are currently at 40+ percent.
- Approved a \$50 million investment in Raith Fund II. The NMERB is an investor in Raith Fund I, which returns currently at 17-19 percent. Raith invests in distressed real estate.
- Approved a \$100 million investment in EIG Fund XVII for the new Diversifying Assets-Other category. EIG invests in mezzanine-like investments in project finance for energy projects.
- Approved a \$100 million investment in ILS, which is in the reinsurance business.
- Committee accepted the proxy voting report for the quarter, and reviewed the quarterly commission reports.

e. Other Investment Reports

None.

6. AMENDMENT TO TRANSPARENCY POLICY: ROD VENTURA, GENERAL COUNSEL

Mr. Ventura requested approval of one amendment to the Transparency Policy under Item 2 (Investment Related Documents), making it consistent with the Investment Policy Statement revisions made earlier.

- Management fees and expenses directly paid by NMERB to alternative investments.

Mr. Ventura said he would correct the effective date of the policy to reflect it as December 8, 2017.

Dr. Duszynski moved to accept the amendment to the Transparency Policy, as presented. Mr. Eichenberg seconded the motion, which passed unanimously.

7. LEGISLATIVE PROPOSAL FOR CYBERSECURITY SPECIAL EXCEPTIONS TO THE OPEN MEETINGS ACT AND THE INSPECTION OF PUBLIC RECORDS ACT: ROD VENTURA, GENERAL COUNSEL

Mr. Ventura presented a discussion draft of a bill “exempting from public disclosure certain information concerning public security.” This has received the endorsement of the Investments and Pensions Oversight Committee, and NMERB is awaiting a decision from the Governor’s Office to include this in the upcoming 30-day legislative session. The NMERB has also reached out to the Foundation for Open Government.

Mr. Ventura asked for board approval of this legislative proposal.

Mr. Goff moved approval of the legislative proposal for cyber security exceptions to the Open Meetings Act and the Inspection of Public Records Act. Mr. Eichenberg seconded the motion, which passed unanimously.

8. UPDATE ON NMERB ACTIVITY AT INVESTMENTS & PENSIONS OVERSIGHT COMMITTEE: ROD VENTURA, GENERAL COUNSEL

Mr. Ventura discussed topics covered by the NMERB in presentations before the Investments and Pensions Oversight Committee over the past several months. These topics included statutory updates; highlights of the fund as of June 30, 2016; the strategic; agency-wide risk identification; improving the financial condition of the fund; building strong and effective relationships with stakeholders; the NMERB’s internally managed assets; staffing challenges; the experience study; a new building to house the NMERB; the Return to Work program and CES litigation; the basics of the fund (by Allan Martin); GASB 67 and 68 and the actuarial evaluation; and the proposed cybersecurity act.

**9. DISABILITY RETIREMENTS: RICK SCROGGINS, DEPUTY DIRECTOR**

Mr. Scroggins reported that there were 5 approved, 10 in process and 1 non-compliant new disability claims, 9 approved and 7 in process periodic claims, and 1 in process disability COLA claim for the months of November and December, 2017.

Mr. Magid noted that the Department of Labor is taking a hard look at benefits that aren't claimed. He asked if there is a process for this with ARP and NMERB.

Mr. Scroggins responded that one of the problems the NMERB faces is that people will leave employment and then leave the state, or die, and in many cases the NMERB has no contact information for them. The NMERB has submitted an IT project request for FY19 to improve efforts in that area. This would include developing improved tracking information.

Mr. Ventura added that, for ARP, the carriers are obligated to do that already through the contracts the NMERB has with them.

Mr. Scroggins said inactive people who have left employment do not typically contact the NMERB unless they are seeking a refund, which tends to happen in the first three to five months after separation. He said about 47,000 people are inactive and have not contacted the NMERB for a refund.

**Mr. Magid moved for approval of the disability retirements presented today. Dr. Duszynski seconded the motion and it passed unanimously.**

**10. AGE & SERVICE RETIREMENTS: MONICA LUJAN, DIRECTOR OF MEMBER SERVICES**

Ms. Lujan presented this report. A grand total of 313 retirements were processed for the two-month period between 10/01/2017 and 11/30/2017.

**Mr. Goff moved for approval. Mr. Magid seconded the motion, which passed unanimously.**

**11. DIRECTOR'S REPORT: RICK SCROGGINS, DEPUTY DIRECTOR**

Mr. Scroggins presented this report for Ms. Goodwin, who was attending the executive committee meeting of NCTR.

**a. Retiree Healthcare Update**

Mr. Scroggins reported that new health insurance premiums would go into effect in January. The agency continues its efforts to keep costs down and to help control the quality of the benefits provided to retirees. The NMRHCA has completed its financial audit and has begun work on GASB 74 and 75.

Mr. Scroggins said the NMRHCA is working with the NMERB to identify Return to Work retirees covered by NMRHCA health insurance coverage who can be insured through their employer, in which case they would be required to remove themselves from NMRHCA coverage. They are also doing the same thing with disability benefit recipients.



Mr. Scroggins said the NMRHCA's Wellness Committee continues to be active and continues to reach out and contact members with health tips and advice.

**b. Agency Activities**

The NMERB Executive Director's Departmental Activity Report was in the packet.

Mr. Scroggins reported that the CAFR was submitted to the State Auditor's Office on the deadline, and the NMERB received a number of very positive reports and comments from the auditors on the quality of information and the support received from staff. He recognized CFO Norma Henderson for her efforts.

Mr. Scroggins also reported that the NMERB has received the Public Pension Coordinating Council Recognition Award for Administration 2017.

Mr. Scroggins stated that the NMERB has four vacancies at the current time and has extended an offer on one of them, in Investments. It is in the process of attempting to fill the remaining three positions.

**c. State Tour**

Mr. Scroggins reported that the State Tour has been completed. Turnout was lower than expected, but staff received positive comments from participants. He said the most impressive turnout was in Las Vegas, thanks to Representative Tomás Salazar, chairman of the Investments and Pensions Oversight Committee, who requested that the NMERB add Las Vegas to the tour and attended the presentation. The presentation was filmed and is available on the NMERB website.

Mr. Scroggins said the NMERB plans to post a survey for people to fill out and give their thoughts on the different questions and topics raised on the tour. Chairwoman Cameron suggested waiting to post the survey until the legislative session is over in mid-February, as other items may come up that could be included.

Mr. Goff said he attended the Albuquerque tour and thought Ms. Goodwin and Mr. Scroggins did an excellent job. About fifty people were in attendance, and it was a good meeting.

Dr. Duszynski thanked Ms. Goodwin and Mr. Scroggins for meeting with the UNM Retirees Association, who were "enthralled" by the presentation and heard a lot of very good information.

**d. Other**

Mr. Scroggins said the State Auditor's Office has proposed a rule change that also may affect NMERB, PERA, the State Treasurer's Office and the SIC. Last year, Senate Bill 2 was proposed to address some changes in reporting requirements and identification of specific areas, particularly relating to investment management fees. The NMERB helped develop that legislation and supported it, and the NMERB Board approved it. Although it passed the House and Senate, it was not signed by the Governor. The State Auditor's Office is now attempting to adopt some of that as a rule change, but has expanded it to include some levels of detail that the NMERB will not be able to meet because of some contractual restrictions. The NMERB is preparing a response to the State Auditor's Office.

Mr. Scroggins reported that the contract with Gabriel Roeder Smith is scheduled to expire in April. The NMERB is developing an RFP, and he would welcome contact from members of the board who would like to serve on the RFP committee.

Mr. Eichenberg noted that the NMERB is continuing to work on IPRA requests related to articles published by International Business Times. He said they received a great deal of material from the State Investment Council last month. He asked that the NMERB also send to him what it is sending to them under their IPRA requests. If any board members are interested in seeing those materials, he would be happy to fill out an IPRA request for them.

Mr. Craig said he was very pleased that Mr. Scroggins was working with NMRHCA Executive Director Dave Archuleta, who faces significant challenges on the management of that agency, particularly with respect to money issues and cash flows related to retiree healthcare.

Mr. Jacksha said Allan Martin mentioned that he had some items that might be of interest that about what is going on with the tax legislation in Washington that may affect retirement issues.

Mr. Martin stated that, under the Senate bill, but not under the House bill, there is a provision to attach unrelated business income taxes to retirement asset returns. He said it isn't clear whether it would attach to all of the returns, but the bill in the Senate version is also retroactive, while the House version is silent. If this provision survives, the NMERB will see a significant tax applied to the earnings before they are paid out to retirees. He pointed out that, while retirees pay taxes when they get the benefit, this would apply a tax to the accumulation of assets to pay those benefits.

Mr. Ventura said the NMERB has been in contact with its tax counsel. If the provision makes it through the final version, the board will receive a fuller briefing on the next board agenda.

**12. REQUEST FOR APPROVAL FOR THE DISPOSAL OF IT LEGACY HARDWARE:  
LAWRENCE ESQUIBEL, CHIEF INFORMATION OFFICER**

Mr. Esquibel requested board approval to dispose of some legacy and obsolete hardware that the IT Department no longer needs.

**Mr. Eichenberg moved for approval. Mr. Magid seconded the motion.**

Responding to Mr. Craig, Mr. Esquibel stated that the NMERB routinely provides its list of disposable assets to the State Auditor's Office. He said they do come in and look through it, but generally ask for very little.

**The motion passed unanimously.**

**13. EXECUTIVE SESSION: 11:25 a.m.**

- a) Pending Litigation – (session closed pursuant to NMSA 1978, Section 10-15-1(H)(7) (i) *Cooperative Educational Services v. NMERB and Jan Goodwin*, Case No. D-101-CV-2017-02205)

- b) Director's report regarding requests to seek lead plaintiff status in securities class action lawsuits
- c) Limited Personnel Matters – (session closed pursuant to NMSA 1978, Section 10-15-1(H)(2) Compensation of Executive Director, Deputy Director, General Counsel and Chief Investment Officer and agency practices in regard to compensation

Chairwoman Cameron moved that the board go into executive session pursuant to Section 10-15-1(H)(7) of the Open Meetings Act for purposes of discussing pending litigation, and Section 10-15-1(H)(2) for purposes of discussing limited personnel matters. Mr. Magid seconded the motion, which passed on the following roll call vote:

**For:** Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Craig; Dr. Duszynski; Mr. Eichenberg.

**Against:** None.

[Executive session concluded at 1:42 p.m.]

Chairwoman Cameron moved that the board come out of executive session, and the only items discussed during executive session were pending litigation and limited personnel matters, as set forth in the Open Meetings Act. Mr. Magid seconded the motion, which passed on the following roll call vote:

**For:** Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Craig; Dr. Duszynski; Mr. Eichenberg.

**Against:** None.

#### 14. ACTION FROM EXECUTIVE SESSION

[Presenter: Contract attorney Patricia J. Turner]

Ms. Turner presented the following motions for discussion:

-- To rescind all board motions pending, not effectuated, related to salary adjustments for the Executive Director, the Deputy Director, the Chief Investment Officer, and the General Counsel.

**Mr. Eichenberg so moved. Mr. Magid seconded the motion, which passed unanimously.**

-- To increase the salary range of the Executive Director, Jan Goodwin, to pay range 70, and increase her annual salary, effective December 16, 2017, to \$220,000 per year.

**Mr. Magid so moved. Dr. Duszynski seconded the motion, which passed by voice vote, with Mr. Craig voting against the motion.**

-- To increase the salary range of Deputy Director Rick Scroggins to pay range 46, and increase his annual salary, effective December 16, 2017, to \$179,000 per year.

**Mr. Eichenberg so moved. Mr. Goff seconded the motion, which passed unanimously.**

-- To increase the salary range of the Chief Investment Officer, Bob Jacksha, to pay range 60, and increase his salary, effective December 16, 2017, to \$260,000 per year.

**Dr. Duszynski so moved. Mr. Magid seconded the motion, which passed unanimously.**

-- To increase the salary of the General Counsel, Rod Ventura, effective December 16, 2017, to \$130,000 per year.

**Dr. Duszynski so moved. Mr. Goff seconded the motion, which passed unanimously.**

**15. NEXT MEETING: FEBRUARY 16, 2018 – ALBUQUERQUE**

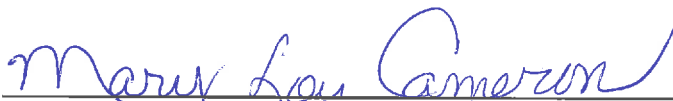
Mr. Eichenberg asked that future agendas include: 1) Public Comment and 2) Old Business/New Business.

Mr. Ventura said he would suggest that the board have a discussion about adding a Public Comment period. For instance, the board might want to ask people to notify the NMERB 72 hours in advance so they can be added to the agenda. Mr. Eichenberg agreed that the board should discuss this first.


Mr. Scroggins announced that the State Auditor's Office approved the CAFR for release a few minutes ago, which speaks to CFO Norma Henderson's very good work.

**16. ADJOURN**

Its business completed, the Educational Retirement Board adjourned the meeting at 1:50 p.m.

  
\_\_\_\_\_  
Mary Lou Cameron, Chairwoman

ATTEST:

  
\_\_\_\_\_  
Larry Magid, Secretary