

MINUTES OF THE
NEW MEXICO EDUCATIONAL RETIREMENT BOARD

REGULAR MEETING

December 6, 2019

1. a. ROLL CALL: QUORUM PRESENT

A Regular Meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:10 a.m. at the NMERB offices at 8500 Menaul Boulevard, Suite A-319, Albuquerque, New Mexico. A quorum was present.

Members Present:

Ms. Mary Lou Cameron, Chairwoman
Mr. H. Russell Goff, Vice Chairman
Mr. Larry Magid, Secretary
Mr. Sam Collins, Deputy State Treasurer
Mr. Adan Delgado, Deputy Secretary, PED
Dr. Donald W. Duszynski
Mr. Steven Gluckstern

Members Excused:

None.

Staff Present:

Ms. Jan Goodwin, Executive Director
Mr. Rod Ventura, Deputy Director
Mr. Bob Jacksha, Chief Investment Officer
Ms. Susanne Roubidoux, General Counsel
Ms. Kay Chippeaux, CIO, Public Markets & Credit
Mr. Lawrence Esquibel, Chief Information Officer
Ms. Liz Lorang, Executive Assistant, Board Liaison
Ms. Monica Lujan, Director, Member Services
Ms. Karla Leyba, Bureau Chief, Member Services

Others Present:

Mr. Allan Martin, Investment Advisor, NEPC
Mr. Ryan Falls, Actuary, Gabriel Roeder Smith
Ms. Judith Beatty, Board Recorder

[See sign-in sheet.]

b. Approval of Agenda

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

c. Approval of Minutes: October 18, 2019

The last paragraph on page 11 was corrected to say, "...will pay contributions effective July 1, ~~2019~~ 2020."

Mr. Goff moved approval of the October 18 minutes, as amended. Mr. Gluckstern seconded the motion, which passed unanimously.

d. Introduction of Guests

Chairwoman Cameron welcomed guests.

2. CONSENT AGENDA: BOARD TRAVEL

a. NEPC Public Fund Workshop – Tempe, Arizona: February 4-5, 2020

Mr. Magid, Mr. Goff, and Mr. Delgado requested to attend this workshop.

b. Other travel

Mr. Magid requested to attend the Pension Bridge conference in April 2020 in San Francisco.

Mr. Goff moved approval of these board travel requests. Mr. Magid seconded the motion, which passed unanimously.

**3. OPEN MEETINGS ACT RESOLUTION FOR 2020:
SUSANNE ROUBIDOUX, GENERAL COUNSEL**

Ms. Roubidoux requested approval of the Open Meetings Act Resolution for 2020. She said there were no changes to the resolution from last year.

Mr. Delgado moved adoption of the Open Meetings Act Resolution for 2020, as presented. Mr. Magid seconded the motion, which passed unanimously.

**4. JUNE 30, 2019 ACTUARIAL VALUATION REPORT:
RYAN FALLS, GABRIEL ROEDER SMITH & COMPANY**

Mr. Falls presented this report, with the following highlights:

- In 2018, funding period was 70 years. HB 360 shortened it to 47 years.
- The fair market value of the fund increased from \$12,970 million to \$13,545 million as of June 30, 2019, representing a return of 8.1% (net of administrative and investment expenses). This is a very strong return relative to the ERB's peers.
- Total contributions of \$710 million, compared to \$679 million last year.
- Total distributions – benefit payments, refunds, and administrative expenses – totaled \$1,174 million.
- In November 2018, the board established a goal of eliminating the UAAL by June 30, 2049. To meet that goal, employer contribution would have to be 19.01%, a shortfall of 4.86% from the current employer contribution rate of 14.15%

Mr. Falls said next steps are to begin an actuarial experience study following completion of this evaluation and to make additional modifications to ERB to improve sustainability. While the reforms during the last legislative session were helpful, they do not meet the board's funding goals.

Mr. Falls said he has talked a lot about the idea of working with the state and the membership to come up with tools that would allow the fund to automatically adapt to changing market conditions in difficult market years. While the fixed contribution rate model seems easy because it just runs itself, the ERB has had to go to the legislature in past years to request increases in contribution rates from employers and members to try to fix the problem. He suggested that the ERB would not have to continually approach the legislature to ask for changes if it had adaptive funding policy benefit provisions in place.

Mr. Goff pointed out that another change to HB 360 is under discussion that could affect fund solvency.

Ms. Goodwin said HB 360 requires that short-term substitute teachers pay contributions. Because the ERB has collected contributions from long-term substitutes and their employers for years, it also wanted to identify the people who were working as short-term substitutes, many of whom worked the entire school year. She said it was probably less than \$2 million a year between the employee and employer, but if the legislature were also to remove the long-term substitutes, the present value of all of those future contributions would be significant. She pointed out that the ERB is doing everything within its power to keep the employer contribution as low as possible, but if the legislature is contemplating such a move, then she would advocate for the position that the state replace the funding that would be lost.

Mr. Magid moved to accept the June 30, 2019 Actuarial Valuation Report, as presented. Mr. Goff seconded the motion, which passed unanimously.

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

a. **Total Portfolio Report for Q3 2019**

[Presenter: Allan Martin, NEPC]

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

- Over the past five years, the fund returned 7.0% per annum.
- Over the past three years, the fund returned 8.2% per annum.
- For the year ending 9/30/19, the fund experienced a net investment gain of \$777.2 million, which includes a net investment gain of \$155.6 million during the quarter. Assets increased from \$13.1 billion 12 months ago to \$13.3 billion on 9/3/19, with \$490 million in net distributions during the year. The fund returned 6.1%, outperforming the policy index by 32 basis points and ranking in the 3rd percentile of its peers.

b. **Investment Committee Report**

Mr. Jacksha reported that the Investment Committee met this morning and addressed two action items:

- Approved a two-year contract extension for PGIM, which manages part of the ERB's emerging market debt portfolio.
- Made a recommendation to the board on a Divestment Policy, which the board will address at this meeting.

c. **Other Investment Reports**

None.

6. **ALTERNATIVE RETIREMENT PLAN: LARRY MAGID, COMMITTEE CHAIR**

a. **ARP Committee Report**

Mr. Magid reported on yesterday's meeting of the ARP Committee. Cammack director Farhad Mirzada and chief investment officer Denise Burns presented a 9/30/19 due diligence review, reviewed the assets in the plan, and presented an economic analysis of the fund investments.

Mr. Magid said Cammack also updated the committee on the fee-leveling project, which was approved in April, where all participants pay an equal portion of the plan's administrative fees or other qualified expenses. The plan is moving forward and should be implemented in Q1 of 2020. Mr. Magid said approximately \$1 million will be refunded to plan participants.

Mr. Magid said the committee also approved a recommendation to amend the ARP Operations Manual, changing the ARP employer remittance to ERB to 3.25 percent from 3.00 percent.

b. Amendments to ARP Operations Manual: Susanne Roubidoux, General Counsel

Ms. Roubidoux stated that the ARP Committee approved recommending a change to the ARP Operations Manual, which was necessitated by HB 360, which amended §22-11-49(B) of the Educational Retirement Act. As of July 1, 2019, the provision specifies the percentage of the employer contribution remittance that comes directly to the ERB fund shall be 3.25 percent of the annual salary of each participant rather than 3.0 percent. She said three sections of the Operations Manual are affected. The amendment states:

NOW, THEREFORE, BE IT RESOLVED:

1. Sections II(A) (Fund Administration), III (Contributions) and VI (Reporting) of the Manual are amended to delete "three percent (3%) and replace with "three and one-fourth percent (3.25%)" or "3.25%" as indicated on Attachment A.

2. All other articles and provisions of the Manual are unchanged.

Mr. Magid moved approval of the proposed amendments to the ARP Operations Manual, as presented. Dr. Duszynski seconded the motion, which passed unanimously.

[Five-minute break.]

7. UPDATE ON NMERB ACTIVITY AT INVESTMENTS & PENSIONS OVERSIGHT COMMITTEE: JAN GOODWIN, EXECUTIVE DIRECTOR; ROD VENTURA, DEPUTY DIRECTOR

Ms. Goodwin reported that, on Wednesday, the ERB went before the Investments & Pensions Oversight Committee (IPOC) to gain their endorsement on the stakeholder group's proposal for legislation that the board endorsed at the October meeting. IPOC unanimously endorsed the proposal, and Representative Tomás Salazar agreed to be the bill sponsor.

Chairwoman Cameron said she listened to the proceedings and commented that a lot of the legislators on the IPOC appreciate Ms. Goodwin's experience and knowledge as well as her ability to readily answer all of the questions posed by legislators.

8. DISABILITY RETIREMENTS: KARLA LEYBA, MEMBER SERVICES BUREAU CHIEF

Ms. Leyba presented this report. She stated that there were only four disability retirees in October.

Ms. Leyba reported that the ERB has selected Maximus Federal Services, which is based in Falls Church, Virginia, as its new disability claim reviewer. This four-year contract will begin in January 2020.

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

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

Ms. Lujan reported that 246 retirements were approved for the October and November period, broken down as follows: 5 disability applications under age 60; 15 reciprocities; and 226 regular members.

Mr. Gluckstern moved for approval. Dr. Duszynski seconded the motion, which passed unanimously.

10. UPDATE ON SECURITY, ANTI-FRAUD MEASURES AT NMERB: LAWRENCE ESQUIBEL, CHIEF INFORMATION OFFICER; AND ROD VENTURA, DEPUTY DIRECTOR

Mr. Ventura said this update was being presented today because of two incidents that took place about two months ago, and to discuss what security measures the ERB has taken and will be taking to address such incidents and protect the ERB from further breach attempts.

Mr. Ventura said that, on October 8, the ERB received a direct deposit form from a member who retired in 2008. The ERB receives about 175-200 direct deposit forms every month and examines each one before approving it. There was nothing strange in appearance about this form, as it had the member's name, proper address, and a bank (the American Express Bank in Salt Lake City) that seemed to have signed off on it. However, after the ERB made all of its deposits on the last day of the month, the retiree did not see the amount show up in their bank account and reported it to the ERB. As it turned out, this member had not filled out the direct deposit form, and the American Express Bank was not the member's bank. When contacted by the ERB, the American Express Bank said it did not accept payment into that bank account because the Office of Foreign Assets Control (OFAC) had flagged the account. DFA subsequently issued a paper check to the retiree.

Mr. Ventura reported that, just a few days later, the ERB received another direct deposit form for another member. Luckily for the ERB, Selina Herrera, who was on the team that analyzed the first direct deposit form, also happened to analyze the second direct deposit form. Ms. Herrera observed that the fax number on form was the same number as that on the first form, the handwriting was very similar, and both forms lacked a call-back phone number. In addition, the bank signature authorization (which was for Citibank) was in block letters. Mr. Ventura said Ms. Herrera followed up by calling the member, who confirmed that he didn't send in a direct deposit form.

Mr. Ventura said PERA has also received falsified direct deposit forms, and in August, DFA sent an email to state agency CFOs alerting them about this kind of fraud that DFA had also received regarding direct deposit of state employee pay. He said fraud is now widespread in the U.S., with more than 500 schools hit with ransomware attacks, including school systems in New Mexico.

Mr. Esquibel discussed security measures taken by the ERB to encrypt member data. The ERB is also in the process of encrypting images, which involves scanning every form that members send in. This project began in August and should be completed by the end of the calendar year. In addition, all new employees are required to undergo a training through KnowBe4, and all employees must undergo an annual training. Mr. Esquibel discussed other security measures taken by the ERB, including upgrading all of the servers.

Ms. Goodwin said the ERB has a cyber liability insurance policy. Through that policy, the ERB has an incident team, so is prepared in the event there is an incident.

Mr. Ventura noted that the ERB no longer accepts direct deposit forms by fax or email, and will only accept forms that are snail-mailed to the office or brought in by the member. Those forms will be carefully examined.

Responding to Mr. Delgado, Mr. Esquibel said he would be asking DoIT's permission to allow the ERB to go into the AWS Cloud. New Mexico has no cloud strategy at this point, and there are no cloud-based positions within SPO, which is a concern for the ERB. He said he feels it would be beneficial to work with Higher Education to bring in some interns to help develop a cloud strategy.

Board members asked Mr. Ventura to pass on their thanks and recognition of Selina Herrera for her good work in catching a fraud attempt and taking action on it, thus avoiding a potential loss to the member.

**11. DIVESTMENT POLICY: JAN GOODWIN, EXECUTIVE DIRECTOR; AND
SUSANNE ROUBIDOUX, GENERAL
COUNSEL**

Ms. Goodwin stated that the Investment Committee met this morning, evaluated two divestment policy proposals, and endorsed Proposal "A," which recognizes that the board is responsible for administering a retirement benefit, is a fiduciary of the fund, and is not in a position to decide which companies the ERB should be divesting from. The policy suggests that the New Mexico Legislature is best suited to consider whether divestment is appropriate.

Chairwoman Cameron said she felt very sympathetic about this request, having spent 42 years in education making sure that children were not harmed or mistreated, so this was very personal for her. She stated that she had no problem with Proposal "A," but there were elements of Proposal "B" that she would like to be involved in, although not as part of a divestment policy or in her role as fiduciary.

Responding to Mr. Goff, Ms. Goodwin said the Dreamers Project has been requesting that the board divest from Core Civic and GEO Group. They presented their case to her in July, at which time she stated that, if the board were to start divesting, it could put it on a very slippery slope. The Dreamers Project has been working with active and retired ERB members and made a presentation to the Santa Fe Board of Education two weeks ago, which directed Superintendent Veronica Garcia to send the ERB Board of Trustees a letter encouraging it to divest. The ERB has not yet received that letter.

Ms. Goodwin said she also met with the Albuquerque Interfaith Group over the summer and suggested to them that selling shares in the two companies would have no impact on the condition of the facilities, but if the ERB were to engage with management and work together with other public pension funds or groups like the Council on Institutional Investors, and brought pressure on the management of the companies, that might result in the desired changes. She also told them about efforts this past proxy season to have the GEO Group write a report on conditions, and Core Civic volunteered to do that. In addition, Mr. Jacksha sent them information they requested on how to get a resolution before the boards of directors of companies for the next proxy season.

Mr. Delgado said his thoughts were closely aligned with Chairwoman Cameron's comments. As someone who has spent more than 20 years in education in an effort to improve children's lives, it is difficult for him to divorce himself from this issue and focus solely on his duties as fiduciary. He stated that he needed more time to educate himself on the issue of divestment, including the effects of divesting from individual companies from the S&P 400 index, before voting on this policy.

Responding to Dr. Duszynski, Mr. Jacksha said the Investment Committee opted to choose Proposal "A," a pared-down version of Proposal "B," which cites the important issues facing the U.S. and the world each day, and states that the ERB will engage in discussions with company management "where necessary or desirable as a mechanism to effect change in these areas." He said leaving this language out of Proposal "A" didn't

mean it precluded the ERB from doing those things. Ms. Goodwin added that the initial proposal reviewed by the board was very similar to Proposal "B," and the board had directed staff to come up with a shorter and cleaner version.

Responding to Chairwoman Cameron, Ms. Roubidoux stated that there was nothing in her responsibilities as fiduciary that would preclude her from engaging in dialogue with different groups on any issues cited in Proposal "B."

Chairwoman Cameron noted that one of the groups, New Mexico NEA, which she represents, stated that they believe in divestment but without causing any harm to the fund.

Mr. Goff moved to accept Proposal "A." Mr. Magid seconded the motion, which passed, with Chairwoman Cameron in abstention and Mr. Delgado voting against the motion.

12. DIRECTOR'S REPORT: JAN GOODWIN, EXECUTIVE DIRECTOR

a. Retiree Healthcare Update

Ms. Goodwin stated that the NMRHCA is going to be working on legislation this year to try to improve their funded ratio, which is about 15 percent. They have a long history of not being properly funded, and the hope is that the legislature will be supportive with the necessary funding.

b. Agency Activities

Ms. Goodwin referred the Activity Report by Department, summarizing all the different projects the ERB has been working on over the last couple of months.

c. Other

None.

13. EXECUTIVE SESSION: 12:15 p.m.

a. Deliberations regarding the Hearing Officer's Order to Vacate Hearing and Dismiss Appeal of Helen Sanchez, Case No. ERB 20-01 (session closed pursuant to NMSA 1978, Section 10-15-1(H)(3); Attorney General's Office

b. Update to Board on personnel actions: Chief Financial Officer, General Counsel, Deputy Director (session closed pursuant to NMSA 1978, Section 10-15-1(H)(2).

c. Pending Litigation: Possible legal action enforcing Educational Retirement Act. (session closed pursuant to NMSA 1978, Section 10-15-1(H)(7)

Chairwoman Cameron moved that the board go into executive session for the purpose of deliberating on the appeal of Helen Sanchez under Section 10-15-1(H)(3) of the Open Meetings Act; discussing an update on personnel actions for the Chief Financial Officer, General Counsel and Deputy Director under Section 10-15-1(H)(2) of the Open Meetings Act; and discussing possible legal action enforcing the Educational Retirement Act under Section 10-15-1(H)(7) of 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. Collins; Mr. Delgado; Dr. Duszynski; Mr. Gluckstern.

Against: None.

14. ACTION FROM EXECUTIVE SESSION: 1:40 p.m.

Chairwoman Cameron moved that the board come out of executive session. The only matters discussed in executive session were the administrative appeal of Helen Sanchez; the update on personnel actions for the Chief Financial Officer, General Counsel and Deputy Director; and possible legal action enforcing the Educational Retirement Act. Dr. Duszynski seconded the motion, which passed on the following roll call vote:

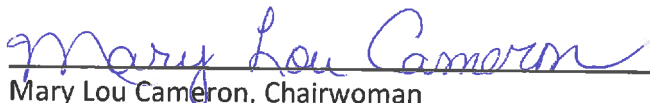
For: Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Collins; Dr. Duszynski.

Against: None.

Mr. Goff moved that the board ratify the Hearing Officer's decision on the appeal of Helen Sanchez. Mr. Magid seconded the motion, which passed unanimously.

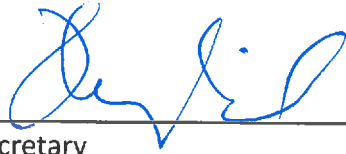
15. NEXT MEETING: FRIDAY, FEBRUARY 14, 2020 – SANTA FE

Its business completed, the Educational Retirement Board adjourned the meeting at 1:45 p.m.



Mary Lou Cameron, Chairwoman

ATTEST:



Larry Magid, Secretary