MINUTES OF THE

NEW MEXICO EDUCATIONAL RETIREMENT BOARD

October 19, 2018

1. a. ROLL CALL: QUORUM PRESENT

A meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:00 a.m. in the John Milne Community Board Room, Albuquerque Public Schools, 6400 Uptown Boulevard, Albuquerque, New Mexico.

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

Members Excused:
None

Staff Present:
Ms. Jan Goodwin, Executive Director
Mr. Rick Scroggins, Deputy Director
Mr. Roderick Ventura, General Counsel
Ms. Susanne Roubidoux, Deputy General Counsel
Mr. G. Alan Myers, Public Securities & Debt Portfolio Manager
Ms. Liz Lorang, Executive Assistant
Ms. Monica Lujan, Member Services Director
Ms. Lealia Nelson, Outreach Coordinator
Ms. Norma Henderson, Chief Financial Officer

Others Present:
Mr. Ryan Falls, Gabriel Roeder Smith
Ms. Judith Beatty, Board 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 – August 24, 2018**

Mr. Goff moved for approval of the August 24 minutes, as submitted. Mr. Magid seconded the motion, which passed unanimously.

d. **Introduction of Guests**

Chairwoman Cameron welcomed staff and guests.

2. CONSENT AGENDA

a. **Board Travel**

No requests.

3. APPROVAL OF 2019 BOARD MEETING DATES

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

4. ERB COMMITTEE APPOINTMENTS

a. **ARP Committee Appointments**

Chairwoman Cameron recommended the appointments of Larry Magid, Dr. Donald Duszynski and David Craig.

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

b. **Evaluation Committee Appointments**

Chairwoman Cameron recommended the appointments of Mary Lou Cameron, Chair; Russell Goff; and Larry Magid.

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

c. **Investment Committee Appointments**

Chairwoman Cameron recommended the appointments of Mary Lou Cameron, Russell Goff and Larry Magid.

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

d. Audit Committee Appointments

Chairwoman Cameron recommended the appointments of Mary Lou Cameron, Tim Eichenberg and Russell Goff.

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

5. THE IMPORTANCE OF SUSTAINABILITY FOR THE ERB: RYAN FALLS, GABRIEL ROEDER SMITH & COMPANY

Mr. Falls made this presentation, with the following highlights:

-- The ERB's 61-year funding period means the ERB plan will be fully funded at that point, but only if all of the assumptions that have been made hold true throughout that period, which is a long time to expect that nothing will change.

-- A "sustainable" retirement system can provide retirement benefits indefinitely, but that means eliminating the plan's unfunded liability. The benefits only cost about 13-14 percent of pay, but the ERB is putting in 25-30 percent of pay between its members and employers, so a lot of that money has been directed to eliminating the unfunded liability.

-- The board's current funding policy is to eliminate the unfunded liability (UAAL) by June 30, 2042. This requires an employer contribution of 20.19 percent. Employers currently contribute 13.90 percent of pay, which is not enough to even cover the interest on the UAAL. Without the right contribution rates and set of assumptions, the ERB will fall further and further behind, making it harder and harder to catch up.

-- The plan is at risk of a one-time shock event. One bad market cycle, with returns at 0 percent for just one year, would send the plan down a path of running out of money. If there were one year at -2.75 percent, the plan would be depleted in 77 years. This is a very narrow margin.

-- Negative amortization occurs with the UAAL increases from one year to the next because the interest charges on the unfunded liability are larger than the amortization payments contributed against that liability. To actually make payments against the unfunded liability as opposed to the interest, the plan would need a funding period of 20 years. For the ERB, it will be more than 40 years before it starts making payments against the principal.

-- Total expected contribution for FY2018 is $668 million; however, the first $370 million is allocated to normal cost.

-- UAAL at June 30, 2017 was $7.4 billion. At 7.25 percent per year, interest on the UAAL for FY2018 is $533 million.

-- The ERB is anticipating that the funding period will go up from 61 years after the actuarial valuation is completed next year, primarily because payroll growth was less than expected.

Mr. Falls reviewed slide #10, which detailed three proposals previously considered: Jan Goodwin's proposal, Proposal A, and Proposal B.

-- <u>Jan's proposal</u>: Tiered multiplier for new hires (lower aggregate multiplier) and 10-year COLA suspension. Minimum retirement age is 60 and funding period is 23 years. This proposal just makes it over the finish line to be fully funded in 2042.

-- <u>Proposal A</u>: Tiered multiplier, but with no decrease in the aggregate multiplier, and a 5-year COLA suspension. Minimum retirement age is 58 and funding period is 28 years. There would be a $1.8 billion UAAL in 2042.

-- <u>Proposal B:</u> The biggest change is a 1 percent cap on the COLA until the plan is 100 percent funded. Same tiered multiplier and age minimum as Proposal B.

Mr. Falls reviewed a "Best Practice" slide, strongly recommending that the ultimate reform process include further automatic adjustments if or when necessary, in order to get ERB back on track when it falls behind its funding goals. He said the 1 percent cap on the COLA would automatically be lifted once the plan was fully funded.

In conclusion, Mr. Falls said, "I can't say it enough. I would strongly encourage automatic adjustments with whatever final package we come up with, to allow us to not have to come do this again if the changes we make are only incremental and we don't go as far as we need to. No one wants to go through this again."

Dr. Duszynski questioned why it was so important to eliminate the plan's unfunded liability and why was there so much "hysteria" around it. He asked if the UAAL wasn't just a "magic number"; for example, would other actuaries come up with the same thing using ERB data.

Mr. Falls responded that he would expect another actuarial firm to come up with the same number using the ERB's assumptions. He said they might offer different advice, however.

Mr. Falls commented that the problem is that the ERB has promised benefits that it doesn't have enough money to pay for. He said one small setback in the investment markets, or one small bump in the economy, would send the plan down a road of running out of money. He said the plan is right on the cusp of having that happen. He said another issue is that the ERB cannot expect the same investment returns that it was getting ten years ago, when it was assumed the fund would earn 8 percent going forward.

Responding to Dr. Duszynski, Mr. Jacksha said the fund had a balance of $13 billion in August.

Dr. Duszynski stated that, when he joined the board about two years ago, the balance was at $11.1 billion, so the ERB's checking account is getting bigger and it is paying out less than it is taking in thanks to investment returns. He said current retirees are wondering why the ERB is saying the sky is falling given these numbers. He pointed out that the fund will continue to accrue money if it's managed well. He agreed that the plan would have a real problem if everyone retired today, but that isn't going to happen.

Mr. Falls responded that the ERB is paying out more in benefits every month than it is getting in contributions. Investment earnings have to make up the difference. He also pointed out that the ERB hasn't felt the full effect of the Baby Boom yet.

Ms. Goodwin stated that, looking at it from her perspective as Executive Director, she has six reasons why the ERB should reach 100 percent funding as soon as possible: 1) any reductions in the COLA can then cease; 2) the contributions can go down; 3) the state's credit rating, which Moody's downgraded as a direct result of the unfunded liability; 4) when the plan is 100 percent funded or close to that, any downturn in the market would have much less effect on the plan; 5) until the plan is 100 percent funded, the ERB has to be in compliance with GASB-68, which means it has to apportion out to all of its participating employers their proportionate share of the unfunded liability, which affects their credit rating, as well; and 6) it is just good public policy to be 100 percent funded.

Ms. Goodwin additionally noted that the ERB has had to change two very important actuarial assumptions, which is why it is back here today: 1) going to generational mortality (life expectancy); and 2) lowering the inflation assumption in the 2016 experience study from 3 percent to 2.5 percent, which has had a direct impact on the long-term investment earnings assumptions and wage increases, among other impacts. She stressed that the ERB has to be mindful of changes in the environment and it cannot put its head in the sand.

Dr. Duszynski responded that he continued to feel that a lot of this is fabricated. Ms. Goodwin said she would strongly disagree.

6. <u>2019 LEGISLATIVE PROPOSAL: JAN GOODWIN, EXECUTIVE DIRECTOR</u>

Chairwoman Cameron stated that, in order for there to be enough time for all speakers, she would impose a time limit of two minutes for comment. She also requested that only one person speak on behalf of each group.

Ms. Goodwin reviewed a summary of the proposed legislation, on page 62 of the board book. She said this is a product of work done with the stakeholder groups over the last several months. Unlike the process six years ago, when there was consensus on every item, this time there are some disagreements within the stakeholder groups. The following stakeholder groups were involved in this process: NM Retirees Association, UNM, CNM, Santa Fe Community College, NEA, New Mexico Association of Educational Retirees, AFSCME, AFT and CWA.

Element 1: Tiered multiplier. This is being done because over 65 percent of the retirees are retiring with less than a 25-year work history. This means that long-term employees are effectively subsidizing the shorter-term career members. In order to address this and to have greater equity, there will be a multiplier of 1.35 for the first 10 years of someone's career, 2.35 for the following 10 years of their career, and 3.35 for the next 10 years of their career. Any years in excess of 30 will have a 2.4 percent multiplier. This means that if someone works a 30-year career at an ERB employer, their final multiplier will be 2.35, the same as it is today, but there will be a lower benefit for people who work shorter careers. [For first tiered multiplier, all of the groups were in favor with the exception of AFT, AFT Retirees, and CWA.]

Element 2: Employer Contribution. Increasing the employer contribution by 1 percent per year for three years. [All members were in favor with the exception of CNM and AFT. An email received from CWA this morning also indicated that they were not in support.]

Responding to Mr. Eichenberg, Ms. Goodwin said CNM is concerned about the expense to the employers, as every 1 percent in the employer contribution rate has a cost of $26 million based on current payroll levels, so 3 percent would cost $78 million.

Ms. Goodwin said she was not certain why AFT said they wouldn't support this; initially, they supported it and then they decided that they weren't going to support any element of the ERB proposal.

AFT representative Therese Saunders noted comments by Mr. Falls this morning regarding assumptions that were used to come up with the 61-year funding period. She said the expected restitution to the fund from the lawsuit settlement for the state's non-payment of contributions from 2009-2011 would change the assumptions. She asked that the board delay making a decision on its legislative proposal until after the November 6 election, when the ERB would have a more accurate basis for the assumptions, as otherwise it would be presenting a flawed proposal. She also stated that the climate would change with the incoming administration, and that some legislative candidates have said they oppose any reduction in benefits.

Ms. Goodwin explained that the restitution number was incorporated into the assumptions, and it would reduce the funding period by two years. The concern is that the legislature could decide not to do the restitution. Ms. Saunders responded that she realized that, but reiterated that AFT feels there will be some significant changes with the incoming administration and that the proposal should be delayed.

Mr. Craig asked what the PERA employer contribution rate is, and Ms. Goodwin responded that the State General Plan 3, which is what state employees belong to, is 16.99 percent. The ERB's is 13.9 percent. Mr. Craig asked if the ERB proposal would bring its plan into parity with PERA's employer contribution rate, and Ms. Goodwin responded that it would, on a going-forward basis.

Ms. Goodwin said Mr. Falls discussed the importance of having a reset provision for contributions. The ERB would try to work with the legislature and LFC on incorporating such a reset; however, UNM and Santa Fe Community College indicated they were not comfortable with the reset provision because of the uncertainty for funding.

<u>Element 3</u>: Anti-spiking. That would be language similar to SB 86 from 2013. Any salary increases over 30 percent would have to be in effect for several years before being a component of the final average salary. [All stakeholders with the exception of CWA and AFT were in agreement with this.]

Responding to Mr. Eichenberg, Ms. Goodwin said CWA feels that the investment fees the ERB pays are too high and have created the situation it finds itself in today.

<u>Element 4</u>: Return to Work. The board's RTW exception rule will be eliminated. Layout for all retirees would change from 12 months to 6 months, as this will be actuarially neutral. Retirees who work .25 FTE or less will not be subject to the 6-month layout. Retirees and employers will pay contributions, and retirees may still suspend retirement benefit and work to earn more service credit. [All stakeholders were in favor with the exception of CWA and AFT.]

<u>Element 5</u>: PERA Retirees. All PERA retirees who work for an ERB employer will pay member contributions, as will their employers. ERB will support PERA legislation to accomplish the same thing with ERB retirees that go to work for a PERA employer. [All stakeholders were in favor with the exception of CWA and AFT.]

<u>Element 6</u>: Minimum Retirement Age of 58 for new employees hired on or after July 1, 2019. As with the minimum retirement age put in place in 2013 at age 55, this will be a "soft" minimum retirement age, meaning that their benefit will be actuarially reduced if they retire before they reach age 58. [All stakeholders were in favor with the exception of CWA and AFT.]

<u>Element 7</u>: COLA. Institute a 1 percent cap on the COLA until the plan is fully funded. There would be the same hold harmless provision for retirees with 25 or more years of service and whose benefit is below the median benefit for all retirees. [Stakeholders in favor were CNM, NM Association of Educational Retirees and APS. AFSCME is generally in favor but wanted to hold off until the board meeting today. Against this are UNM Retirees, NEA, UNM, SF Community College, AFT, AFT Retirees, and CWA.]

<u>Element 8</u>: Substitute Teachers. Substitute teachers treated as all other employees, and if working more than .25 FTE they would be members and pay contributions, as would their employer. [All stakeholders were in favor of this with the exception of CWA. AFT had said this was a very important provision for them; however, they have said they oppose all elements of the proposal.]

Element 9: Restitution to the Fund for the AFSCME settlement. As part of the settlement, the ERB has agreed to work with the unions to get an appropriation so the fund will be made whole for the contribution swap as well as the delay to contributions. That would be $248 million, which would require a special appropriation. That would reduce the funding period by approximately two years.

Chairwoman Cameron said that, in Deming, they are seeing more and more school employees hired by a third party. She asked how this plan includes them. In her local district, a third party hires all of the education assistants.

Ms. Goodwin responded that if a school district is using an employment agency to hire people who work in the schools and is paying them, those people are employees of that hiring agent and they are not ERB members. She said they need to be paid directly by the school to be ERB members.

Chairwoman Cameron commented that this is taking a large number of people out of the plan. Ms. Goodwin responded that she felt this was an opportunity to educate those people who are working for those hiring agency and let them know that, if they work directly for the employer, they would be able to earn very important retirement benefits and would probably have better health insurance coverage through the school district than they would through the hiring agent.

Mr. Craig said he was concerned about the provision for substitute teachers, as there was recently a change in the funding formula by which many job classes will be eliminated that were traditionally funded through the funding formula and the calculation of the training and experience index. He said there is a four-year phase-in to a teacher cost index that only considers regular classroom teachers, and there has been a big push by a lot of entities that are questioning whether substitute teachers should be in the calculation. If the ERB opens up and enrolls long-term substitute teachers in an ERB benefit, there is a potential for funding to the school districts to be reduced based on a different SEG calculation and also increase the cost of the employer share of the calculations. Mr. Craig added that he also has a philosophical concern about expanding benefits for long-term substitutes when there should be benefits for full-time employees, and there could be the unintended consequence of creating an incentive structure to keep in place long-term substitutes in the classroom. He said he could not support this proposal.

Ms. Goodwin responded that the ERB rule on substitutes states that long-term substitutes are ERB members and it excludes short-term substitutes. She added, however, that many short-term substitutes work longer than .25 FTE, and essentially work for the entire school year, and sometimes for many years. The ERB is trying to treat everyone the same.

Mr. Craig clarified that he was concerned about the expansion for those who are not already covered. He said he understood the concerns of the ERB and the stakeholders, but had a fundamental problem with the idea of creating an incentive for employers to keep long-term substitutes in those roles instead of hiring full time staff.

Chairwoman Cameron opened up the floor for public comment.

Carol Stephens stated that she was a retired CPA, and was retired from UNM as the director for policy. She has also served as past president of UNM Retirees Association. She thanked the board members for their service to educators and teachers in New Mexico. She said she strongly disagreed with the proposal to reduce the COLA. The decision to retire is difficult, driven by careful financial planning based on promises made by the ERB and the State of New Mexico. When ERB changes the promise, the retiree cannot take steps to recover the lost income taken by ERB. She stressed that those most adversely impacted by the cut will not be around to benefit from their sacrifice once the COLA is reinstated years from now. She commented that attacking the COLA seemed like a "low hanging fruit solution." She said she recently spoke with a retiree who has stage 4 cancer with a pension of $17,028, whose COLA will not fall under the ERB's protected group because she was unable to work 25 years. She said some people have not been able to work the 25 years because of medical circumstances that were beyond their control, so it is not always a choice. She said, "One thing you might consider is for that group, it says under the median and 25 years. Some people are significantly under the median and have had to retire through no choice of their own." Ms. Stephens cited the following statement from a report by the Economic Policy Institute: "Eliminating the COLA is an inefficient and inequitable way to reduce costs because it disproportionally affects older retirees who have often exhausted their savings and usually have higher medical costs and medical expenses."

Charles Bowyer, executive director, NEA New Mexico, stated that changing the COLA of current retirees is essentially telling them that the factors they used in making their retirement decisions were no longer relevant "and a promise is broken." He said that promise was broken in 2013, not because this board or the stakeholders wanted that to happen, but because the administration in the Governor's Office insisted on it in order to get legislation approved. He said he did not want that to happen again. He said the ERB could stand to have an additional three years added to its 61-year funding period.

Lawrence Straus stated that he was the longest-serving member of UNM's Department of Anthropology with 41 years, and recently retired, but continues to work as editor for UNM's flagship journal, The Journal of Anthropological Research. Dr. Straus said he strongly opposed further reductions of the COLA. He said retirees are first and foremost the victims of inflation. He said employees of UNM and the state's other institutions have suffered through many years with no increases in salary, with loyalty rewarded with pats on the back and very little in the way of remuneration. He commented that it was a well-known fact that UNM and the other institutions are at the bottom of the pack in peer institution salary comparisons.

Elaine Cowden, stakeholder for AFT retirees, said the previous speakers have expressed her opinion already, but she has spoken with many retirees in AFT and there have been two main responses. She said people either pointed out that they wouldn't live long enough to see any change in their favor, or else they said they relied on the COLA to pay for annual rent increases.

This concluded public comment.

Chairwoman Cameron asked Ms. Goodwin what her thoughts were regarding the comments. Ms. Goodwin responded that the board, as fiduciary of the fund, has to come up with a plan that meets the funding policy, which is to be fully funded within 24 years. She said something that equally shares the burden is the most desirable goal. While some speakers have noted the possibility that a new governor will feel differently about employer contribution increases, in order to eliminate the COLA, the ERB would have to increase the proposed 3 percent employer contribution increase by another 4 percent ($104 million per year) in order to have the same funding period.

Responding to Mr. Eichenberg, Ms. Goodwin said the board decided in 2012 that they wanted to be fully funded by 2042, a goal reaffirmed by board a few months ago. She said it is important to get out of the negative amortization situation as soon as possible, as this is something that Moody's and Standard and Poor's are looking at in their credit rating decisions, and they are downgrading those funds that are making treadwater payments, such as those that are in negative amortization. This includes states, universities and municipalities; and several New Mexico entities have been downgraded because of that.

Mr. Eichenberg added that another reason for the downgrade is the Governor's refusal to consider any kind of tax increase, which raised the bar and gave Standard & Poor's no other option but to downgrade.

Ms. Goodwin responded that, in May, Moody's specifically stated that the primary reason for the downgrade of the state's GO bond rating was the unfunded pension liabilities.

Mr. Eichenberg moved to defer this decision to the December meeting. Mr. Magid seconded the motion.

Mr. Eichenberg said he thought it would be important to know who the next governor was going to be before taking any action.

Mr. Goff suggested that a special meeting be scheduled before the November 26 IPOC meeting, when this plan is scheduled to be presented.

Mr. Eichenberg amended his motion to defer this decision until after the general election, when Ms. Goodwin has had an opportunity to meet with the stakeholders as well as the incoming administration regarding their stance on the sustainability of the ERB; and if necessary, to hold a special board meeting in November prior to the IPOC meeting.

Mr. Magid accepted the amendment as friendly.

The motion passed, with Mr. Craig dissenting.

7. INVESTMENT REPORTS: BOB JACKSHA, CIO

a. Sudan Divestment Policy

Alan Myers, Public Securities & Debt Portfolio Manager, stated that he made a presentation at the Investment Committee regarding the ERB's investment policy. At the current time, the ERB is restricted from investing in any companies that do business in Sudan. Within the last year, the U.S. Government has lifted sanctions on Sudan based on improvement in the country's humanitarian conditions. He noted that the State of Colorado and Colorado PERA have lifted sanctions, as has Georgia.

Mr. Myers said the Investment Committee has asked the board to consider approval.

Mr. Craig commented that he did not believe in divestment as a way to enact social change as a whole, so supported this action.

Mr. Eichenberg moved for approval. Mr. Craig seconded the motion, which passed unanimously.

b. Investment Committee Report

Mr. Jacksha stated that the committee met yesterday, and approved a $100 million investment in Riverstone Credit Partners II, which invests in energy through credit instruments. The only other action item was acceptance of the proxy report, which the committee does quarterly. The committee will next meet on December 6.

c. Other Investment Reports

None.

8. IT EQUIPMENT DISPOSAL LIST: LAWRENCE ESQUIBEL, CHIEF INFORMATION OFFICER

Mr. Scroggins presented this report on behalf of Mr. Esquibel.

Mr. Scroggins presented a list of IT associated items that are obsolete and the ERB wishes to dispose of. All assurances have been made that the hard discs of the computer equipment have been wiped twice. No information is stored anywhere in this equipment.

Mr. Craig said he assumed that if any of this equipment has to go to the State Auditor's Office for approval, the ERB would take care of that. Mr. Scroggins responded that IT staff is aware of that policy, but he did not believe any equipment from this particular list required the SAO's approval.

Mr. Goff moved approval of disposal of the IT equipment, as listed. Mr. Craig seconded the motion, which passed unanimously.

9. DISABILITY RETIREMENTS: RICK SCROGGINS, DEPUTY DIRECTOR

Mr. Scroggins reviewed the Disability Retirement Report for the months of August and September 2018.

-- Nine new claims were approved, and one was disapproved.

-- Three applications sent out, but no action has been taken.

-- Of the seven periodic reviews, three were approved, and four applications were sent out, with further action pending.

-- There was one COLA application, but no decision has been made.

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

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

Ms. Lujan presented the August-September retirement summary.

Ms. Lujan stated that there were eight disability applications processed for members under age 60, 19 reciprocity retirement applications, and 294 regular retirement applications, for a total of 321 retirements for the period.

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

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

a. Retiree Health Care Update

[None.]

b. Agency Activities

Ms. Goodwin stated that the Departmental Activity Report reflects activities by the ERB since the last board meeting.

c. Other

Ms. Goodwin noted that, according to statute, all board members are required to have eight hours of training each year. At the December board meeting, she will provide a form for all members to complete.

Chairwoman Cameron reported that she and Ms. Goodwin attended the NCTR conference two weeks ago, when Ms. Goodwin was elected to a three-year term to the executive committee.

12. NEXT MEETING: FRIDAY, DECEMBER 7, 2018 – ALBUQUERQUE

Chairman Cameron stated that this meeting would be held at the ERB's new location at 8500 Menaul Boulevard in the meeting room.

13. ADJOURN

Its business completed, the Educational Retirement Board adjourned the meeting at 11:00 a.m.

Mary Lou Cameron

Mary Lou Cameron, Chairwoman

ATTEST:

Larry Magid, Secretary