

NEW MEXICO EDUCATIONAL RETIREMENT BOARD

ACTION SUMMARY

December 11, 2015

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

**REGULAR MEETING**

**December 11, 2015**

**1. ROLL CALL: 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 Room, 6201 Uptown Boulevard, N.E., Ste. 203, Albuquerque, New Mexico. A quorum was present.

**Members Present:**

Ms. Mary Lou Cameron, Chairwoman  
Mr. H. Russell Goff, Vice Chairman  
Mr. Hipolito J. Aguilar, Secretary  
The Hon. Tim Eichenberg, State Treasurer  
Mr. Larry Magid  
Dr. Beulah M. Woodfin

**Members Excused:**

None.

**Staff Present:**

Ms. Jan Goodwin, Executive Director  
Mr. Rick Scroggins, Deputy Director  
Mr. Bob Jacksha, CIO  
Mr. Chris Bulman, General Counsel  
Mr. Roderick Ventura, Deputy General Counsel  
Ms. Dianne Rossbach, CFO  
Ms. Monica Lujan, Member Services Director  
Ms. Lealia Nelson, Outreach Coordinator  
Ms. Margaret Riquelmy, Executive Assistant

**Others Present:**

Mr. Allan Martin, NEPC  
Ms. Lisa Todd, Moss Adams  
Mr. Kory Hoggan, Moss Adams  
Ms. Judith Beatty, Recorder

**b. Approval of Agenda**

Mr. Goff moved approval of the agenda, as published. Dr. Woodfin seconded the motion, which passed unanimously by voice vote. [Not present during the vote: Mr. Aguilar.]

**c. Approval of Minutes – October 23, 2015**

Mr. Goff moved approval of the minutes of the October 23, 2015 meeting, as submitted. Dr. Woodfin seconded the motion, which passed unanimously by voice vote. [Not present during the vote: Mr. Aguilar.]

**Introduction of New Staff Members**

Ms. Goodwin introduced new staff members Monica Lujan, Member Services Director; and Lealia Nelson, Outreach Coordinator. Ms. Nelson stated that the NMERB has a new newsletter, which is posted on the website under Publications.

**e. Introduction of Guests**

Guests: Fred K. Rose, UNM Retiree Association; Tim Cunningham, AFT Retiree; and Elaine Phelps, UNM.

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

[Deferred until appointment of new board member by the Governor.]

**3. CONSENT AGENDA**

**a. Board Travel**

Mr. Goff and Mr. Magid indicated that they would be attending the NEPC conference in Scottsdale on January 11-12, 2016.

Chairwoman Cameron stated that she attended the Southwest Institutional Investor Forum in Scottsdale on October 28. This is not a nonprofit organization, so she would like to be reimbursed for her expenses.

Dr. Woodfin moved approval of Board Travel for Mr. Goff and Mr. Magid to the NEPC conference on January 11-12, and for Chairwoman Cameron to the Institutional Investor Forum on October 28. Mr. Eichenberg seconded the motion, which passed unanimously by voice vote.

**4. OPEN MEETINGS ACT RESOLUTION FOR 2016**

Mr. Bulman asked the Board to approve the Open Meetings Act Resolution for 2016, an annual requirement.

Mr. Aguilar moved for adoption. Dr. Woodfin seconded the motion, which passed unanimously by voice vote.

5. EXECUTIVE SESSION: 9:15 a.m.

a. Presentation of Audit Report (session closed pursuant to NMSA 1978, §12-6-5)

Chairwoman Cameron moved that the Board go into executive session to hear the presentation of the Audit Report, as permitted by Section 12-6-5 of the State Audit Act. Mr. Eichenberg seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

Chairwoman Cameron moved that the Board come out of executive session. The only matter discussed during executive session was the Audit Report, as permitted by the State Audit Act. Mr. Aguilar seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

6. ACTION FROM EXECUTIVE SESSION: 9:50 a.m.

Mr. Eichenberg moved to accept the Audit Report, with the changes, as discussed. Dr. Woodfin seconded the motion, which passed unanimously by voice vote.

7. AUDIT COMMITTEE REPORT: MARY LOU CAMERON, BOARD CHAIR

Chairwoman Cameron provided a summary of yesterday's meeting of the Audit Committee, with the following highlights:

-- The Audit Committee met yesterday to hear a presentation by REDW on its first completed internal audit program. REDW, which was hired in March 2015, presented its audit plan to the Audit Committee on June 12, 2015.

-- As background, after Dianne Rossbach moved over from the Internal Auditor position to assume the CFO duties in spring 2014, NMERB was not successful in recruiting a viable replacement Internal Auditor after advertising the job multiple times. NMERB subsequently issued an RFP in late 2014, identifying REDW as top candidate.

-- One of REDW's first actions as internal auditor was to deal with benefit payments and refunds, focusing on evaluating the process for confirming NMERB retiree eligibility and ensuring that benefit payments were calculated correctly and paid accurately. REDW also assessed the process for

refunding member contributions. This work was finalized in October 2015, and REDW identified eight observations involving potential risk. Most dealt with the processes being used and identified areas for improvement.

Chairwoman Cameron stated that it is important that the Board members, as fiduciaries of the fund, be aware of the results of this type of examination of the processes being performed by NMERB staff and the risks those processes include. This is the reason for independent professional reviews. While this report identifies some areas that can be improved, it does not identify any cause for great alarm.

-- The Audit Committee will continue to monitor and update the Board on the results of the reports on the various areas examined by REDW as they proceed with their work plan.

## **8. INVESTMENT REPORTS**

### **a. September Quarterly Performance Report**

NEPC consultant Allan Martin presented this report, with the following highlights:

- Market value was \$10,920,418,820 at September 30.
- Over the past five years, the fund returned 7.6 percent per annum, gross of fees, outperforming the policy index by 1 percent.
- Over the past three years, the fund returned 7.0 percent per annum, outperforming the policy index by 1.3 percent. Over the past three years, the fund has reduced its volatility on an absolute and relative basis, resulting in a three-year Sharpe Ratio of 1.5 percent, which ranks in the 13th percentile.
- For the year ending September 30, 2015, the fund experienced a net investment gain of \$71.5 million, which includes a net investment loss of \$375.4 million during the third calendar quarter. Assets decreased from \$11.2 billion 12 months ago to \$10.9 billion on September 30, with \$331.3 million in net distributions during the year. The fund returned 0.6 percent, outperforming the policy index by 1.5 percent.

Mr. Martin noted that the month of October returned all of the NMERB's third quarter losses. While it was a difficult quarter for most public funds, the NMERB, as a very risk-averse fund, did relatively well. The markets that exist in equities and bonds are no longer as attractive, but at least the NMERB is positioned to do better and hopefully achieve positive results going forward.

Mr. Jacksha noted that the price of oil fell below \$36 a barrel today.

Mr. Martin said the asset liability study, which is scheduled to go to the Board for review in February or March, should be done "sooner rather than later."

Mr. Martin commented that there are no major manager concerns; they are doing what the NMERB hired them to do. The NMERB's portfolio positioning is conservative, which NEPC feels is very

appropriate, because in the next year there will be many ups and downs in the equity markets without the strong upward movement that was seen previously.

Mr. Martin commented that anything short of 7.75 percent is disappointing. He said, "I think we're going to get about as much as we can out of the markets, and I think we have managers that can add value, but it's going to be a challenging period. And you deal with it by recognizing it and holding the course, or you can consider lowering your assumed rate, which has consequences in terms of contributions. Your 7.75 percent is almost the new normal; two or three years ago, the median for all public funds was 8 percent, and there has been a gradual movement to 7.75 and 7.5 percent." He noted that CalPERS will be lowering their rate below 7 percent, which will force contribution increases.

Mr. Jacksha noted that NEPC will be doing annual reevaluation of markets and projections in January or February.

Mr. Jacksha reviewed NMERB performance in the September 30 TUCS report.

**b. Investment Committee Report**

Mr. Jacksha reported on the December 10 Investment Committee meeting. Although the agenda was properly noticed, he said he neglected to indicate that an investment being recommended in AE Industrial Private Equity was an action item. The committee did have a discussion and heard a presentation, but could not vote. The committee will take a formal vote on Monday, December 14. AE Industrial Private Equity is a fund that invests in industries related to aerospace and power generation.

**c. Investment Committee Governance**

Mr. Jacksha said this is a topic the Investment Committee has discussed a couple of times, which flowed out of the NEPC's annual conference, where some other funds presented on their structures of governance and how they do approvals on investments. At New Mexico PERA, for example, everything is done at the board level, including manager selection and investments. At the other end of the spectrum is the Wisconsin pension fund, where staff does all of those approvals and reports back to the board. In the middle are funds such as NMERB, which have investment committees making such decisions.

Mr. Jacksha said that the Investment Committee suggested that the Board hold a half-day retreat. Mr. Martin had suggested bringing in a speaker from another pension fund.

Mr. Goff stressed that any change being made should be in the interest of being more effective. This is especially important given an increasingly challenging environment for investors.

The Board tentatively scheduled the retreat on February 25 at 1:00 p.m. The Investment Committee would hold its regular meeting that morning.

**d. Investments Operations Best Practice Review Project**

Mr. Jacksha informed the Board that staff has been having some discussions with State Street, the custody bank. This came out of the NMERB bringing core fixed income in house, which has created more work with reconciliations and transactions; because some systems are not talking to each other, more work has to be done manually. He said State Street has an internal consulting group that they have

assigned to work with staff, and this has grown from the fixed income area into the whole operations area. State Street has suggested some improvements, which includes using some more systems rather than doing things manually. He said staff anticipates adopting some recommendations but not others, but the result will be that things will be more efficient and more effective in the operations area.

e. Other Investment Reports

None.

[Break.]

9. 2016 LEGISLATIVE PROPOSAL: JAN GOODWIN, EXECUTIVE DIRECTOR

Ms. Goodwin stated that, in an effort to improve NMERB's long-term sustainability, staff has been looking to identify any possible contributions that the NMERB could theoretically collect, and what would be necessary to do that. Two main areas were identified.

Ms. Goodwin said the first category is the Return to Work Rule Exception retirees. The RTW program has been in place for many years, and as part of that program, which has a mandatory twelve consecutive month layout, both the employee and employer make contributions. She said the RTW Rule Exception allows people to begin working immediately after retirement, but there is a cap on their earnings: the greater of .25 FTE or \$15,000, whichever is greater. There are currently no contributions collected from either the employer or employee on this.

Ms. Goodwin said the second category is PERA Return to Work retirees. These are people who have retired from PERA and are now working for an NMERB employer. Because PERA and NM ERB have reciprocity, there is a good argument to make that PERA retirees do benefit by having the ERB fund provide good long-term sustainability.

Ms. Goodwin stated that, in 2003, possibly as part of the PERA legislation that was enacted on Return to Work, it established that NMERB employers were responsible for paying the employer contributions on those PERA retirees. Currently, there is nothing being collected from the PERA retirees.

Ms. Goodwin stated that, for the Return to Work Exception people, there is a possible total of \$1.4 million that could be collected. Approximately \$2 million could be collected from the employers. About \$2 million could be collected from the PERA retirees.

Ms. Goodwin stated that, in order to make collecting the employee contributions on the Return to Work Rule Exception less of a financial burden for the retirees, and to ease the agency's burden for administering the rule, staff was looking at allowing all of those people to work up to a maximum of .33 FTE. The current cap of the greater of 0.25 FTE or \$15,000 would no longer be applicable. For many people, having that increase in the amount that they would be able to work would basically offset the contributions that they are currently not paying, so they would end up with the same take home amount.

Ms. Goodwin said the actuaries were consulted on this proposal and stated that this would get the NMERB to 100 percent funding approximately three years sooner than would otherwise be the case.

Ms. Goodwin said the NMERB has been working with the stakeholders on this for the past several months, but there is not complete consensus within the group on how to proceed. She said APS is concerned about the increased employer expense, which the NMERB has estimated would not be a substantial amount and would not place an excessive economic burden on the schools. She added that the Superintendents Association is in favor of this proposal.

Responding to Mr. Aguilar, Ms. Goodwin said approximately 1,600 people fall under the Return to Work Rule Exception. She added that administering these exceptions takes up a great deal of staff time because it requires staff to monitor the earnings of the retirees. She said the proposal is to eliminate this altogether and streamline the process.

Ms. Goodwin said that, because it is difficult to hire substitute teachers, no employee contribution would be taken on classroom substitutes, but the employer contribution would be collected.

Responding to Mr. Goff, Ms. Goodwin said the Governor's Office is currently evaluating this proposal to determine whether it should be added to the Governor's call in the upcoming 30-day legislative session.

Ms. Goodwin said this proposal would not take effect until July 1, 2017, giving plenty of advance time for people to make any changes.

#### Summary:

##### **Part One:** [Amending NMSA 1978 § 22-11-25.1]

Collect contributions for all compensation earned by ERB retirees at ERB employers who are currently working through the Return to Work Exception rule:

- Retiree pays employee contribution (\$1.2 million annually)
- Employer pays employer contribution (\$1.7 million annually)
- Will allow all retirees to work at level up to a maximum of .33 FTE without any layout
- Will eliminate need for RTW Exception rule

##### **Part Two:** [Amending NMSA 1978 § 22-11-25.2]

Collect contributions for all compensation earned by PERA retirees working for NMERB employers.

- PERA retirees pay employee contribution (\$2.0 million)
- Employer already pays employer contribution (\$3.0 million)

The floor was opened to public comment.

Elaine Phelps, University of New Mexico, said it is premature to make a change on the PERA retiree portion of the proposal. UNM really depends on these retirees in their workforce; for example, about half of their police force is made up of PERA retirees. She suggested moving forward with the other parts of the proposal and then determining what effect there has been on solvency. She added that, at the very least, any current PERA retirees who are working for UNM should be grandfathered in.



Tim Cunningham, a member of the stakeholder group and representing AFT retirees, said Return to Work employees take the place of full time employees who would be making contributions, and from a retiree's perspective, those people should also be making contributions. Another aspect of this is that their COLA is frozen, and they have to get to 100 percent funding in order to get it back to where it was.

There were no more speakers from the floor.

Chairwoman Cameron said she received a call from Charles Boyer, NEA New Mexico, who said his main concern was that the school districts would hire less-qualified substitute teachers because "they will be cheaper and will not have to pay any ERB contributions."

Mr. Magid commented that Return to Work Exception people would be taking the place of full time employees who would be making contributions. As fiduciaries of the fund, he said Board members have to look at that first.

Dr. Woodfin said another aspect the Board needs to look at is intergenerational equity. While the reduction in COLA will affect the retirees, the rest of the burden of achieving 100 percent funding falls on the shoulders of the current employees. If there are some changes in this Return to Work program, it will help the fund and spread the burden a bit more equitably.

Addressing Ms. Phelps' comments, Ms. Goodwin said she understood UNM's position on wanting to grandfather in their public safety people, but her concern is that this is almost 40 percent of the contributions the NMERB would be collecting, and that would take years to make up. Secondly, NMSU, which also relies on public safety employees, is in favor of having the PERA retirees make contributions.

Ms. Goodwin noted that Ellen Bernstein, AFT, is not in favor of doing anything right now because this is a difficult budget time.

Mr. Aguilar said he agreed with the proposal that Return to Work Rule Exception retirees going back to work for NMERB should be required to pay a contribution, but expressed concern about an equity issue for NMERB retirees going to work for PERA because they would not have to pay an employee contribution.

Ms. Goodwin responded that her job as Executive Director and fiduciary is to identify and collect any possible contributions to help with long-term sustainability, and her proposal does that.

Responding to Mr. Eichenberg, Ms. Goodwin said PERA is considering the same proposal but has not gone very far in investigating how much money they could potentially collect.

**For discussion purposes, Dr. Woodfin moved that the Board approve the proposal for recommendation to the Governor for inclusion in the call for the legislative session. Mr. Magid seconded the motion.**

Board members discussed dividing the question to separately address the statutory changes that would be made (§ 22-11-25.1 and § 22-11-25.2).

Mr. Aguilar asked representative Elaine Phelps if UNM is opposed to this because it will make it more difficult to recruit retirees, and Ms. Phelps responded yes. In the last stakeholder meeting, a UNM retiree who had been on the safety police force indicated she thought it would create a recruitment issue.

**Mr. Aguilar moved an amendment to consider the same motion language, but to separate the two issues into separate votes. Mr. Goff seconded the amendment.**

Mr. Eichenberg asked Ms. Phelps and Mr. Cunningham if this would change their support.

Ms. Phelps responded yes. She said UNM does not have issues with Part One of the proposal, but has issues with Part Two.

Mr. Cunningham responded that, as a retiree looking down the road and retiring from PERA or NMERB, and the new rule is in place, if he knows in advance that those are the conditions of his employment, then "it is what it is." He said there might be some discomfort initially, but it is for the benefit of the fund.

Ms. Goodwin said she wished to point out that all of the colleagues of PERA retirees at UNM are paying employee contributions, so they are having a benefit that their NMERB colleagues are not.

Ms. Goodwin said the underlying philosophy of this proposal is "if you're getting a public pension and you're collecting a salary, then you should be paying member contributions."

**A motion by Mr. Goff to call the question passed unanimously by voice vote.**

**The motion to separate the question passed unanimously by voice vote.**

**The motion to approve the proposal for § 22-11-25.1 for recommendation to the Governor for inclusion in the call for the legislative session passed unanimously by voice vote.**

**The motion to approve the proposal for § 22-11-25.2 for recommendation to the Governor for inclusion in the call for the legislative session passed unanimously by voice vote.**

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

Ms. Lujan presented the October-November retirement summary report, which had a grand total of 266 retirements during this period.

**Mr. Goff moved for approval. Dr. Woodfin seconded the motion, which passed unanimously by voice vote.**

Ms. Lujan presented a handout with graphics showing retirements by type over a two year period from October 2013 through October 2015. Mr. Scroggins then presented some information on retirement eligibility assumptions of active employees as of June 20, 2015.

**11. DISABILITY ACTIONS: RICK SCROGGINS, EXECUTIVE DIRECTOR**

Mr. Scroggins presented the results of the November 18 Medical Review Committee meeting.

Mr. Goff moved for approval of the actions recommended by the Medical Review Committee and Director. Dr. Woodfin seconded the motion, which passed unanimously by voice vote.

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

a. RHCA Update

Ms. Goodwin stated that new premium levels will go into effect in January, as is the case every January. New this year is that there will be a Wellness Plan for retirees. If retirees do a health risk assessment and then do some follow up, which can be getting an education about a disease that they have, or taking healthy cooking lessons, for instance, they can get a gift certificate.

Ms. Goodwin reported that the NMRHCA is also looking to move ahead on some increased contribution legislation to increase both their employer and employee contribution rates.

b. Other

None.

13. DISCUSSION OF NON-U.S. SECURITIES LITIGATION

Mr. Ventura and Mr. Bulman made this presentation on investor concerns regarding non-U.S. securities fraud cases and the NMERB's participation in class action litigation.

14. EXECUTIVE SESSION: 12:30 p.m. - 1:00 p.m.

a. Discussion of pending or threatened litigation (session closed pursuant to NMSA 1978, § 10-15-1(H)(7))

Chairwoman Cameron moved that the Board go into executive session to discuss pending or threatened litigation, as permitted by Section 10-15-1(H)(7) of the Open Meetings Act. Mr. Eichenberg seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

Chairwoman Cameron moved that the Board come out of executive session. The only matter discussed during executive session was pending or threatened litigation, as permitted by Section 10-15-1(H)(7) of the Open Meetings Act. Mr. Goff seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

15. ACTION FROM EXECUTIVE SESSION

None.

16. EXECUTIVE SESSION: 1:00 p.m. – 1:20 p.m.

- a. Discussion of limited personnel matters (session closed pursuant to NMSA 1978, Section 10-15-1(H)(2))
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Chairwoman Cameron moved that the Board go into executive session to discuss limited personnel matters, as permitted by Section 10-15-1(H)(2) of the Open Meetings Act. Dr. Woodfin seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

Chairwoman Cameron moved that the Board come out of executive session. The only matters discussed during executive session were limited personnel matters, as permitted by Section 10-15-1(H)(2) of the Open Meetings Act. Dr. Woodfin seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Aguilar; Mr. Eichenberg; Mr. Magid; Dr. Woodfin.

Against: None.

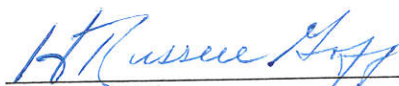
17. ACTION FROM EXECUTIVE SESSION

None.

18. NEXT MEETING: FRIDAY, FEBRUARY 26, 2016 – ALBUQUERQUE

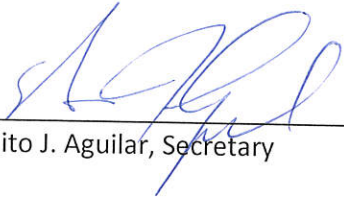
19. ADJOURN

Its business completed, the Educational Retirement Board adjourned the meeting at 1:25 p.m.



Mary Lou Cameron, Chairperson

ATTEST:



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Hipolito J. Aguilar, Secretary

