

MINUTES OF THE
NEW MEXICO EDUCATIONAL RETIREMENT BOARD
TELEPHONIC/VIRTUAL MEETING

October 16, 2020

1. a. ROLL CALL: QUORUM PRESENT

A Regular Meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:00 a.m. via teleconference. A quorum was established following roll call.

Members Present:

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

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. Elena Cardona, Deputy General Counsel
Mr. Robert Shulman, Assistant General Counsel
Ms. Liz Lorang, Executive Assistant, Board Liaison
Ms. Monica Lujan, Member Services Director
Mr. Pete Werner, Fixed Income Portfolio Manager
Ms. Francine Jacquez, Portfolio Manager, Public Securities & Credit
Ms. Karla Leyba, Member Services Bureau Chief

Others Present:

Mr. Allan Martin, Investment Advisor, NEPC
Mr. Connor Jorgenson, LFC Analyst
Ms. Judith Beatty, Board Recorder

b. Approval of Agenda

Ms. Roubidoux requested that Items 10 (Executive Session) and 11 (Action from Executive Session) be deleted, as attorney Mark T. Baker cannot be present to advise the board.

Mr. Magid moved approval of the agenda, as amended. Dr. Duszynski seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, and Dr. Duszynski voting in favor. [Not present for the vote: Mr. Delgado.]

c. Approval of Minutes: August 14, 2020

Dr. Duszynski moved approval of the August 14 minutes, as submitted. Ms. Cameron seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, and Dr. Duszynski voting in favor. [Not present for the vote: Mr. Delgado.]

d. Introduction of Guests

Chairman Gluckstern stated that today's agenda does not provide for public comment; therefore, the board will not accept oral public comments during the meeting. On behalf of the board, however, he thanked everyone who was online and elsewhere who submitted written comments on the issue of divestment in particular. He said all of these comments would become part of all of this meeting's written record. The board decided to accept written comments rather than verbal comments so board members could hear from more members of the public than would have been possible during a public comment session. He thanked everyone for all of their comments.

2. CONSENT AGENDA: BOARD TRAVEL

None.

3. APPROVAL OF 2021 BOARD MEETING DATES

Ms. Cameron moved approval of the 2021 NMERB calendar. Dr. Duszynski seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, and Dr. Duszynski voting in favor. [Not present for the vote: Mr. Delgado.]

4. ERB COMMITTEE APPOINTMENTS

a. Alternative Retirement Plan (ARP) Committee Appointments

Chairman Gluckstern recommended the following appointments: Larry Magid, Chairman; Don Duszynski; Russell Goff.

Mr. Goff moved for approval. Mr. Magid seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, Mr. Delgado, and Dr. Duszynski voting in favor.

b. Audit Committee Appointments

Chairman Gluckstern recommended the following appointments: Mary Lou Cameron, Chairwoman; Adan Delgado; Tim Eichenberg.

Mr. Goff moved for approval. Dr. Duszynski seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, Mr. Delgado, and Dr. Duszynski voting in favor.

c. Evaluation Committee Appointments

Chairman Gluckstern recommended the following appointments: Russell Goff; Larry Magid; Steven Gluckstern.

Mr. Magid moved for approval. Mr. Goff seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, Mr. Delgado, and Dr. Duszynski voting in favor.

d. Investment Committee Appointments

Chairman Gluckstern recommended the following appointments: Steven Gluckstern; Russell Goff, Chairman; Larry Magid.

Dr. Duszynski moved for approval. Ms. Cameron seconded the motion, which passed by unanimous roll call vote, with Chairman Gluckstern, Mr. Goff, Mr. Magid, Ms. Cameron, Mr. Collins, Mr. Delgado, and Dr. Duszynski voting in favor.

5. DISCUSSION OF DIVESTMENT OPTIONS: JAN GOODWIN, EXECUTIVE DIRECTOR

Ms. Goodwin said she provided board members with a very extensive package to review, feeling it was very important for the board to be informed. The materials include what divestment is, how it works, and whether or not it is effective. From the materials she has been able to find, most experts have decided that, unless it involves 20 percent of a company's shares, divestment is not effective. What is more effective is engagement or lobbying, and in New Mexico, there is extensive use of private prisons, much more than in other states, and if people are very concerned about New Mexico no longer using private prisons, it has to start with the New Mexico entities that are making contracts with private prisons. Those entities are the state and different counties.

Ms. Goodwin stated that the NMERB also did a survey of other public pension plans and what different states are doing, and thanked General Counsel Susanne Roubidoux and Deputy General Counsel Elena Cardona for doing a lot of the work involved. From the research, most states don't have divestment policies, and it is just the very large public pension plans like CalSTRS, CalPERS, and the New York funds that have gotten into having divestment policies because they have the staff and resources to do that. She explained that doing either divestment or ESG (Environmental, Social and Governance) investing requires a sizable commitment of staff time and money to do this right. She said the NMERB Board of Trustees must decide what its appropriate role is in this.

Ms. Goodwin noted that CalSTRS has an ESG policy with about 40 different factors that help them decide what they will and will not invest in, and spends a substantial amount of money annually to manage this. This would have to be taken into consideration if the NMERB Board of Trustees decides it wants to proceed in this direction.

Ms. Goodwin thanked Nathan Sax and analyst Duncan Manning, members of Bob Jacksha's staff, for their report on private prisons and specific information on GEO Group, which is the only private prison company in the NMERB portfolio. CoreCivic was removed from the S&P 400 because their market cap fell below their limits, and it is also possible that GEO Group will be removed from the S&P 400.

Ms. Goodwin said the section on the board's responsibility provides helpful information. She said many people would say the board's primary responsibility, as fiduciary, is to ensure adequate investment returns in order to pay the retirement benefits, and the board has to have a reason for deviating from that.

Ms. Goodwin said the report includes a laundry list of options that the board can consider ranging from the most resource-intensive to the least. She reminded the board that the NMERB isn't CalSTRS with a \$200 billion portfolio. The NMERB's portfolio is \$13 billion with a staff of 70 people.

Chairman Gluckstern commented that, while the trustees are bound by their fiduciary responsibility, that is subject to interpretation. Their job is not to set social policy to ensure that the funds the NMERB has are adequate to meet its obligations. That said, there are larger funds than the NMERB's that believe there is a responsibility in that investing, generally couched in terms of an analysis that says companies in the long run ("that's with a capital L") who deal with these issues in ways that reflect societal demands and societal views will perform better, so that funds that do divest or take certain classes of industries and say they are not going to invest do that under the rationale that those companies will not fare well in the long run because of the positions they take. He said he personally agrees with that, and would be willing to look at policies that would allow the board to impose certain standards. He is not willing to pick and choose between individual stocks without any policy, however, so the board needs to think about what it hopes to achieve and how it is doing that. That is a much larger decision than the divestment of a single stock, so after it adopts such a policy, it would then apply that generally to all stocks and decide which are and are not appropriate. He stressed that the trustees are not stock pickers, and its holdings in the Geo Group are by accident of its position in the S&P 400.

Mr. Magid said he feels this lobbying event is misdirected because the board won't have any effect at all on any prison system by divesting from any stocks it might hold in those systems. The only people that can affect this are the people that hire these prison systems, and the state is egregious in hiring because it does more hiring than anybody else. He said the legislature, counties, or cities that employ these private prisons are the place to start, as divestment won't make a bit of difference, in his opinion.

Dr. Duszynski thanked all of the people who assembled the information in this report, since it made the board's job a lot easier. He also thanked the hundreds of people in the New Mexico educational community who took the time and effort in this. He agreed with everything that has been said and written regarding private prisons, and thinks the board and he have

listened to everybody and have all agonized over the human component of this, “but I think it’s time for you to listen to what our position is.” Dr. Duszynski said the New Mexico Constitution is very specific regarding the retirement system trust funds “to be administered and invested for the sole and exclusive benefit of the members, retirees, and other beneficiaries of that system, and trust funds shall never be used or diverted for any other purpose.” He said it goes on to say that “a trustee shall invest and manage trust assets as a prudent investor, and that individual assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as part of the overall investment strategy.” He said these are the constraints that the trustees have been sworn to follow. The NMERB also has a very tight investment policy that states that “NMERB believes that the New Mexico Legislature is best suited to consider whether divestment is appropriate, and that the NMERB will implement the divestment mandates passed by the New Mexico Legislature and signed into law by the Governor.”

Dr. Duszynski said he admires all the energy that has been put in, but he thinks this divestment campaign has many shortfalls. For instance, if the NMERB sells the stock at a lower price than what the NMERB paid for it, it will present a great opportunity for someone else to buy it that doesn’t care about private prisons and who will sell it for a profit, and the GEO Group will not be hurt. He said that, while the NMERB’s divestment of private prisons would signal its disapproval of them, it wouldn’t affect their existence. By divesting instead of exercising an alternative, the NMERB would lose any leverage it might have over the process because divesting is a passive decision with no effect on the GEO Group. If the NMERB doesn’t sell the stock but instead enlists the passionate army of stakeholders to engage GEO Group, it might be able to improve their policies for those people that are incarcerated. He said that, if they don’t agree to negotiate, these people can lobby the legislature to end investment in private prisons, which has happened in California and at least eight other states. Dr. Duszynski expressed concern about the NMERB opening a really dangerous Pandora’s box by divesting from the S&P 400 Index, because other ESG groups may use this as a wedge in the future to put pressure on the NMERB Board of Trustees to begin divesting from their own specific causes such as gasoline, birth control, abortion, etc.

Dr. Duszynski also pointed out that the passion of the activist stakeholders might have been put to better use had they written and lobbied the New Mexico Legislature to help shore up the ERB fund, from which they directly benefit, by lobbying to reduce the actuarial liability by getting a one-time distribution from the state, by increasing employer contributions as they have been promising for years, to treat the NMERB with the same respect and action that the legislators give PERA and bring the retirees into parity with PERA employees and retirees.

Mr. Jacksha noted that the NMERB owns approximately 0.02 percent of the outstanding stock of GEO Group, so would agree that a decision to divest would not be impactful on the operations of GEO Group or private prisons in general.

Ms. Cameron stated that it is the members who pay into the fund and they are also the ones who work with students every day and see what happens to children and the lack of success when children are put into prison-like situations. She noted that prisons where there are children have a high rate of positive tests, because in a group like that children are not separated, and there are deaths because of the conditions they live in. Board members recently received a letter from someone representing one of the prison agencies, which she believes was GEO, discussing how they treat their prisoners as well as matters such as cleanliness and

education. Ms. Cameron said she paid into the fund for 40 years, and is also a member of the board elected by members who have certain expectations of board members. She said California has a very good divestment policy, and she feels the NMERB should set a policy and look at its investments and rules and what it wants in terms of setting more social and economic goals to make the policy more specific. She commented that the board has been working on this for a year, but whatever the board does, it needs to engage directly with these private prisons as well as the members who are concerned about where their contributions are going.

Mr. Goff said he appreciated the time people took in communicating with the board. He found the emails very informative and helpful. He thanked Dr. Duszynski for his impassioned comments a few minutes ago, which he thought were well taken.

Mr. Goff stated that the one thing that tugs at him more than anything else is the board's fiduciary role. In addition to that, in looking at alternatives, he is concerned about the costs involved and lack of staff resources.

Mr. Delgado commented that the NMERB isn't just any pension fund, but is a pension fund that represents educators, and the members have shown a very strong distaste over the idea of investing in private prisons. He said this is a reflection of the type of people who go into education and have a passion for children, and he does not believe the NMERB has the luxury of washing its hands of this issue by citing its fiduciary responsibilities as the reason.

Mr. Delgado agreed with the comment by Chairman Gluckstern about the long-term financial impact on the fund in terms of people not only in New Mexico but also across the country who are turning against the idea of private prisons and profiting off of them. He said it is time for the NMERB to take action and that it doesn't have to be complicated. While he does worry about the idea of a slippery slope, he also thinks the NMERB has a team of very bright people who can think their way through this.

Mr. Collins commented that this is obviously a big issue, just given the size of the package the NMERB prepared for today's meeting, and obviously this isn't something the board can simply ignore. He said this is a difficult situation, and he would never be in favor of anything that would be in violation of the law or the board's fiduciary duties. Because this is an issue that isn't going to go away and will continue to crop up in the future, he would recommend the NMERB figure this out by crafting a policy to deal with it and move forward.

Dr. Duszynski asked if staff knows what the absolute cost to the fund would be if the NMERB were to divest from GEO Group.

Mr. Jacksha responded that the cost to divest is minimal. Right now, the NMERB invests in the S&P 400, so it would become the "S&P 399." Staff talked to the software provider, who indicated they could write a subroutine to the software that would match the NMERB's holdings to the portfolio index, and would do this at no charge. He said it would take staff a little bit of extra time each month to rebalance the portfolio to keep it in line. From the standpoint of the effect on the portfolio, the cost would be minimal, as the size of this holding is .08 percent of the S&P 400, and it would not affect diversification, either.

Chairman Gluckstern said he was not prepared to vote on actual divestment today, but suggested the board begin the process by discussing the range of options detailed on pages 510-511 in the board book.

Mr. Delgado moved that the board adopt option VI.g [amend current divestment policy to expressly provide for divestment from private prisons], based on clear evidence that the support of private prison stocks is antithetical to educators' values and there are significant indications that declining public acceptance of private prisons is likely to have a negative impact on the health of our pension investments, and that the NMERB eliminate private prisons from its investment portfolio. Ms. Cameron seconded the motion.

Ms. Roubidoux explained that the NMERB investment policy would have to be amended to state that the NMERB investment policy is to invest in the S&P 399. The divestment policy would also have to be changed, since the existing policy simply states that the NMERB will follow the divestment decisions made by the New Mexico legislature and signed by the Governor.

Mr. Delgado amended his motion to include Ms. Rubidoux's recommendation that both policies would have to be amended to allow for the elimination of private prisons from the investment portfolio. Ms. Cameron agreed to the amendment.

The motion, as amended, passed on the following roll call vote:

For: Ms. Cameron; Mr. Collins; Mr. Delgado; Mr. Goff.

Against: Chairman Gluckstern; Mr. Magid.

Abstaining: Dr. Duszynski

Dr. Duszynski said he had abstained because he felt the board's action was illegal.

Chairman Gluckstern commented that, now the board has opened up the issue to changes in policy and taking positions on individual stocks, he would ask the NMERB team to work with him to look at a larger examination of the policy. At either the next meeting or the following meeting, he would like to see a comprehensive policy brought before the board on ESG issues inasmuch as the board has begun to go down that slope.

6. INVESTMENT REPORTS

a. Staff Selection Committee Procedural Discussion

Mr. Jacksha reviewed the process being followed by the Staff Selection Committee, on page 581, which held its first meeting yesterday. He suggested that just one board member attend each meeting to avoid quorum issues.

Mr. Jacksha said staff would continue to distribute recommendation reports to the board and will make a report to the board, which includes sending board members a summary of the steps taken in the due diligence. He asked if board members would prefer having this done at

the Investment Committee meeting rather than at the board meetings, as is the current practice.

Mr. Goff said he would like Mr. Jacksha to continue presenting those reports at the board meetings. He added that Mr. Jacksha did an excellent job at yesterday's meeting, which was extremely well organized, with a lot of detail on the behind-the-scenes work done in the due diligence process. He commended Mr. Jacksha and the committee.

b. Staff Selection Committee Report

Mr. Jacksha reviewed the action taken at yesterday's Staff Selection Committee (SSC) meeting:

- Bain Capital Fund VIII: This is the third Bain Capital Fund the NMERB has invested in. SSC approved a commitment of \$50 million for the private equity portfolio.
- Edison Partners VII: The SSC approved a commitment of \$20 million.
- ILS Fund 1609 Fund: Added \$25 million for the diversifying assets portfolio.

Ms. Jacquez reviewed the following action taken:

- GT NM Investment Guidelines: The SSC approved four investment guideline changes for an opportunistic credit investment in GT NM, the NMERB fund of one, managed by GoldenTree Asset Management LP.

C. Other Investment Reports

Mr. Jacksha reported on this morning's Investment Committee meeting actions:

- Mark Canavan and Caledon reviewed the Q2 infrastructure report.
- Voted to accept the Proxy Voting Report.
- Reviewed the Q3 commission reports.

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

Ms. Leyba presented the August-September status report of disability claims. She said there was one disability in process; 12 pending requests for information; one expert review; 36 letters sent; seven cases closed; and 18 pending periodic review, for a grand total of 75. NMERB is working with Maximus Federal on a portal that will allow members to log in check case status.

Mr. Goff moved for approval. Mr. Magid seconded the motion, which passed unanimously on the following roll call vote: Chairman Gluckstern; Mr. Goff; Mr. Magid; Ms. Cameron; Mr. Collins; Mr. Delgado; Dr. Duszynski.

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

Ms. Lujan reported that there were 21 reciprocities and 380 regular retirements processed for the August-September period, for a grand total of 411 applications. She noted that September numbers are in line with previous years.

Mr. Goff recalled that there was a lot of discussion that the NMERB would see an increased number of employees retiring when school started, and asked Ms. Lujan if that is reflected in the numbers. Ms. Lujan responded that there is quite an influx in estimates, but the numbers are otherwise fairly consistent.

Ms. Cameron moved for approval. Mr. Delgado seconded the motion, which passed unanimously on the following roll call vote: Chairman Gluckstern; Mr. Goff; Mr. Magid; Ms. Cameron; Mr. Collins; Mr. Delgado; Dr. Duszynski.

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

a. Retiree Healthcare Update

Ms. Goodwin reported that, with the pandemic, the NMRHCA has been very limited in their ability to go out and meet with members during the switch enrollment period, but they are having open enrollment now.

b. Agency Activities

Ms. Goodwin said it has been a busy couple of months, and staff continues to take care of the members while working from home.

Ms. Goodwin noted that New Mexico Congressman Ben Ray Luján called on behalf of his mother, who is an NMERB retiree, to request a 1099 form. Although she wasn't available to take the call, Raul Duran and Daniel Roybal were able to get them a copy of the 1099 form within minutes. Ms. Goodwin said she followed up with the Congressman later, and he was very impressed with staff and the team and how everyone sprang into action to take care of his mother's needs. Ms. Goodwin commented that she is extremely proud of NMERB staff.

c. Other

Ms. Goodwin said a stakeholder group meeting is scheduled on Monday to review the final BBER report, which has been sent to board members. Yesterday, she and Rod Ventura briefed Senator Mimi Stewart on the report, which the Senator found jaw dropping. She has promised, and will honor her commitment to the NMERB, to work on increasing the employer contribution rate and is having the NMERB work with the LCS to do that. It will be presented at the November IPOC meeting and the December LFC meeting for endorsement.

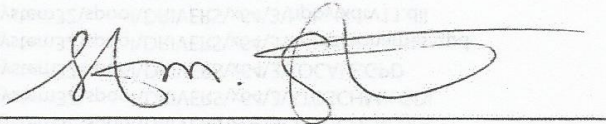
Chairman Gluckstern said he was very excited about the response to the BBER report. He commented that it is truly shocking to see how PERA employees are treated in the end versus employees who are covered by the NMERB. One of the most important roles for the trustees is to

advocate for the members, and there is a lot of work to be done to help bring them up to par with how PERA employees are treated.

Dr. Duszynski suggested that the NMERB contact all of the individuals who wrote emails calling for divestment from private prisons and share the BBER report with them, and then ask them to put in the same sort of passion and time to help the NMERB get this done in the legislature. Chairman Gluckstern thanked Dr. Duszynski for this excellent suggestion.

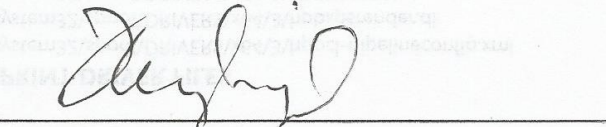
12. **NEXT MEETING: FRIDAY, DECEMBER 4, 2020 – ALBUQUERQUE OR VIRTUAL MEETING**

13. **ADJOURN: 10:30 a.m.**



Steven Gluckstern, Chairman

ATTEST:



Larry Magid, Secretary