



**MINUTES OF THE
NEW MEXICO EDUCATIONAL RETIREMENT BOARD OF TRUSTEES
REGULAR MEETING
June 23, 2023**

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. at the Albuquerque Public Schools Headquarters, 6400 Uptown Boulevard, N.E., Albuquerque, New Mexico. A quorum was established following roll call.

Members Present:

Mr. H. Russell Goff, Chair
Ms. Mary Lou Cameron, Vice Chair
Mr. Larry Magid, Secretary
Mr. John Kreienkamp, designee for Hon. Laura Montoya, NM State Treasurer
Dr. Donald W. Duszynski
Dr. Matías Fontenla
Mr. Antonio Ortiz

Members Excused:

Mr. Max Baca
Mr. Mario Suazo

Staff Present:

Mr. David Archuleta, Executive Director
Mr. Randall Cherry, Deputy General Counsel
Mr. Lawrence Esquibel, Deputy Director
Mr. Bob Jacksha, Chief Investment Officer
Mr. Steve Neel, Deputy Chief Investment Officer
Ms. Renada Peery-Galon, ASD Director/Chief Financial Officer
Ms. Susanne Roubidoux, General Counsel
Mr. Robert Shulman, Assistant General Counsel
Ms. Jenna Vigil, Benefit Services Bureau Chief
Ms. Monica Lujan, Member Services Director

Mr. Rick Scroggins, Assistant Director
Ms. Ariana Wakefield, Executive Assistant

Others Present:

Mr. Sam Austin, Investment Advisor, NEPC
Ms. Judith Beatty, Board Recorder

b. Approval of Agenda

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

c. Approval of Minutes

- **April 21, 2023**

Dr. Duszynski moved approval of the minutes of the April 21, 2023, meeting. Mr. Kreienkamp seconded the motion, which passed unanimously.

d. Introduction of Guests

Chairman Goff welcomed guests and staff.

2. SWEARING IN OF NEW BOARD MEMBERS

a. Laura M. Montoya, State Treasurer

Deferred.

3. CONSENT AGENDA: BOARD TRAVEL

Mr. Magid requested approval to attend the Pension Bridge conference in Chicago, July 24 – 26.

4. FY24 OPERATING BUDGET: RENADA PEERY-GALON, ASD DIRECTOR/CFO

a. FY24 Budget Adoption

Ms. Peery-Galon reviewed the proposed FY24 operating budget.

Mr. Magid moved adoption of the FY24 budget. Dr. Fontenla seconded the motion, which passed unanimously.

b. FY24 Organizational Chart

Ms. Peery-Galon reviewed the proposed FY24 organizational chart.

Mr. Kreinekamp moved for approval. Ms. Cameron seconded the motion, which passed unanimously.

5. PRE-PROPOSAL CONFERENCE & NEW BUILDING UPDATE: LAWRENCE ESQUIBEL, DEPUTY DIRECTOR

Mr. Esquibel reviewed the building update on pages 49-66, which included renderings of the building's external and internal features.

Mr. Esquibel said a pre-proposal meeting was held on June 14 in the PERA Building. Three general contractors were in attendance: Enterprise Building; HB Construction; and T.A. Cole & Sons. Megan Mannila, the NMERB's procurement manager, guided them through the RFP process. Questions from the contractors are due by June 22, and responses will be delivered by June 29. Proposals are due on July 13 at 3:00 p.m., and the Evaluation Committee will meet on July 14-19 to score the proposals. A contractor will be selected on the 19th, and the plan is to have a contract in place by July 31. Construction should take 18 months with completion scheduled in April 2025.

Dr. Duszynski asked Mr. Esquibel to discuss security features in the building design. He said he works with groups that try to plan meetings, and people are increasingly interested in whether or not there is a safe room somewhere.

Mr. Esquibel responded that visitors would come through the front door into the lobby. A security door will prevent them from accessing any area of the building, including the boardroom, which is off to the right side of the lobby.

Mr. Archuleta said employees would only have access through the side of the building on each end. The doors are locked and accessed with a keycard. There is no safe room; and outside of the design that the group had come up with, there wasn't any way to incorporate one.

6. ALTERNATIVE RETIREMENT PLAN COMMITTEE: LARRY MAGID, CHAIR

a. ARP Committee Report – June 15, 2023, Meeting

Mr. Magid reported on actions taken by the ARP Committee at its June 15 meeting:

- Discussed the SECURE ACT 2.0. The only impact on the ARP is increasing the required minimum distribution (RMD) age to 73. RMDs are handled by TIAA and Fidelity, which have upgraded their systems to incorporate the change.

- Evaluated the target funds in the plan. Committee will continue to monitor; CAPTRUST will make recommendations at the next ARP meeting.
- Removed from Watchlist: DFA Emerging Markets I. Remaining on Watch: Oakmark International Institutional, PIMCO Total Return Instl, and T Rowe Price Blue Chip Growth I.
- Approved extending term of RecordKeeping Services Agreements with TIAA and Fidelity for an additional four years.
- Approved one-year term for Retirement Plan Advisory Services Agreement with CAPTRUST.
- Approved amendments to ARP Operations Manual to add Southeast New Mexico College to list of ARP Institutions.
- Scheduled next meeting on December 7, 2023.

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

Ms. Roubidoux stated that the legislature turned New Mexico State University – Carlsbad branch into an independent community college named Southeast New Mexico College (SENMCM) effective 7/1/2021, but the bill failed to add SENMCM to the list of ARP Institutions in the ERA. This meant SENMCM employees could not participate in the ARP. Senate Bill 20, passed in the 2023 Legislature and signed by the Governor, added SENMCM to the list of ARP Institutions in the ERA.

Ms. Roubidoux said the ARP Operations Manual includes the same list of ARP Institutions, so it must be amended to include SENMCM. Ms. Roubidoux reviewed the proposed amendments to the manual. Ms. Roubidoux stated that the ARP Committee reviewed and approved the amendments at their June 15 meeting and that amendments to the Manual must also be approved by the Board.

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

7. RETIREMENTS: MONICA LUJAN, MEMBER SERVICES DIRECTOR; JENNA VIGIL, MEMBER SERVICES BUREAU CHIEF

a. Disability Retirements

Ms. Vigil reported that a total of 10 disability cases have been reviewed during CY 2023, including 6 cases during April-May period.

b. Age and Service

Ms. Lujan reported that, during the April-May period, the NMERB received and accepted 16 reciprocity applications and 489 normal retirement applications, for a total of 505 applications for the bimonthly period. A chart reflecting NMERB retirements since 2019 shows that the April-May numbers demonstrate a consistent pattern with the exception of the July 2021 retirement period.

Ms. Lujan noted that 47 members are retiring with 30 or more years of service, and one member is retiring with 49 years of service. Her retirement benefit will be approximately 115 percent of her final average salary. The retirement benefit is calculated by multiplying the member service credit by 2.35 percent. This example showcases the potential benefit when a member chooses to wait and draw their benefit after accumulating extensive service credit rather than retiring early and then returning to work.

Dr. Duszynski recalled that, at the last meeting, Max Baca had reviewed the list of applicants from last year and observed that 77 of them were less than 50 years of age when they retired, and he was concerned about what kind of implications that might have in the future in regard to either people coming back quarter time or returning to work years later. In the list provided by Ms. Lujan today, Dr. Duszynski noted about 30 percent of people retiring were between 31 and 60. He wondered if it would be useful to start indicating age brackets of retirees so the NMERB could ascertain whether or not this is a trend.

Ms. Lujan responded that she thought this was a good idea and would follow up.

Dr. Fontenla moved for approval of Items a, and b. Ms. Cameron seconded the motion, which passed unanimously.

c. July Retirement Season Update

Ms. Lujan reported that, for all applications received through June 9, there was a negative difference of 41 retirements compared to 2022. As of today, 833 applications have been received with only one week remaining.

8. EXECUTIVE DIRECTOR'S UPDATE: DAVID ARCHULETA, EXECUTIVE DIRECTOR

a. Retiree Health Care Authority

- Gerry Washburn, superintendent of Carlsbad Municipal Schools, was appointed to the board.

- At the June meeting, the board voted to approve Southeast New Mexico College as an eligible participant to the program, with access to health coverage commencing on January 1, 2024.

b. Agency Activities

Mr. Archuleta reviewed highlights from the NMERB Departmental Activity Report for the April-May period.

- The final contract to develop and implement a new Pension Administration System has been approved. Lifeworks, a human resource and technology company, was selected. Last year, Lifeworks was acquired by TELUS Health and began operating under the TELUS Health name in 2023
- NMERB launched a new employee appreciation program recognizing the outstanding efforts of employees on a quarterly basis. Winners will receive 8 hours of administrative leave along with recognition in the Round the Roundhouse and the NMERB website.
- NMERB staff met with the Public Regulation Commission staff to discuss and begin planning the timeline of events leading to the sale of the Santa Fe office in FY25.
- Human Resources held a rapid hire event on April 25-26, which attracted interest in 60 applicants. Offers were made to 12 candidates, 11 of which accepted and have begun employment.
- Member Services continues to struggle with the number of phone calls it receives. There were 3,853 calls that were handled on the caller's initial call, or 25.82% of the total number, which is well below targeted performance. However, there is only one vacant position in the Call Center at this point, which is the best it has been in a year. It is expected that the numbers will have significantly improved in the August report.

c. Return to Work Programs Review

Mr. Archuleta said he was asked at the last meeting to look into opportunities for improving the Return to Work (RTW) process.

Mr. Archuleta noted that all retirees must sign and submit a 2-page document acknowledging their understanding of RTW rules and procedures. The document includes what the penalties are for violating RTW rules and laws. What governs the process is section 401(a) of the Internal Revenue Service Code. This means retirement has to be bona fide and not some informal agreement where the employer agrees to hold the employee's position open so they can come back at some point in time.

Mr. Archuleta stated that about 4,000 people reported to the NMERB last fiscal year that they were actively participating in a RTW program. Of that number, 56 were in violation of the RTW rules, with 38 failing to file a RTW application and 18 exceeded the \$15,000 earnings limit.

Ms. Cameron asked if there are penalties for employers. Mr. Archuleta responded that the obligation is currently only on the member, as there is no enforcement tool for employers.

Mr. Archuleta reviewed potential changes for consideration:

- Notify members after half of the \$15,000 earnings limit has been reported to the NMERB. [Implemented July 1, 2023]
- Limit enrollment to one of 3 retirement program options within 12-month period. [Would require a rule change.]
- Modify Returning to Work After Retirement Acknowledgement Form to require members to initial each statement certifying that they have read and understand (1) their RTW options; (2) the RTW process; and (3) consequences for failing to comply with requirements.
- Modify Employee Data Form requiring LAU to verify, if there are RTW applications, that they have actually received approval from the NMERB.
- Send out additional notices to every single retiree on a semi-annual/annual basis reminding them of the penalty if they return to work without an application. This would require the mailing of 45,000 notices each time.
- Create a single RTW option, i.e., active, retired, or RTW 36 months with all participants and employers paying contributions.
- Developing a YouTube video.

Dr. Fontenla commented that it seemed wrong to him that the onus is entirely on the member without any responsibility borne by the LAU. He said the programs are complicated for members and keep changing, and it seems like too much given that the NMERB is supposed to be serving the members. He agreed that simplifying the law would make sense.

Mr. Archuleta responded that, while one potentially recommended change was to modify the employee data form requiring the LAU to verify that an RTW application has been approved by the NMERB, getting them to do that consistently across all employers would be a challenge.

Responding to Chairman Goff, Mr. Archuleta said there were 155 people approved in the 90-day program (as of yesterday).

9. BOARD SELF EVALUATION PROCESS: RUSSELL GOFF

Chairman Goff said the Self Evaluation form was in the packet for review. He asked members to fill in the forms and turn them in. In addition, in the next few weeks, he would be sending out an evaluation form regarding Mr. Archuleta.

10. INVESTMENT REPORTS: BOB JACKSHA, CIO

a. Q1 Investment Report

Investment Advisor Sam Austin Presented the Q1 Investment Report, with the following highlights:

- Over the past 5 years, the fund returned 7.6 percent per annum.
- Over the past 3 years, the fund returned 11.5 percent per annum.
- For the year ending March 31, 2023, the fund experienced a net investment loss of 2.0% or \$319.4 million, which includes a net investment gain of \$428.9 million during the quarter. Assets decreased from \$16.4 billion 12 months ago to \$15.7 billion on March 31, 2023, with \$413.7 million in net distributions during the year.

b. Staff Selection Committee Report

Mr. Jacksha and Mr. Neel reviewed actions taken at the SSC's May Meeting:

- Approved a contract extension of two years for BlackRock Non-US Developed Markets Equity Index [EAFE Equity Index Fund].
- Approved a \$50 million commitment to Industry Ventures Secondary Fund X for the Private Equity portfolio. The firm is focused on secondary opportunities in venture growth. The NMERB has been invested in the organization for about 12 years in six of their funds. They have done remarkably well.

c. Investment Committee Report

Mr. Jacksha reviewed items addressed by the Investment Committee at its meeting this morning:

- Reviewed Q4 performance reports for Infrastructure s well as Real Estate and Natural Resources. Both programs are doing well.
- Accepted the Q1 Proxy Voting Report.
- Reviewed the Q1 2023 Commission Report.
- Reviewed the Derivatives Report. The NMERB is within policy guidelines.

d. Other Investment Reports

Mr. Jacksha stated that, at the next meeting, the NMERB will be discussing NEPC's consulting contract, which comes due on September 30.

11. EXECUTIVE SESSION: 10:20 A.M.

- a. **Deliberations regarding the Hearing Officer's Recommended Decision in the Administrative Appeal of Ernest Richard Greene, ERB No. 23-01. [Session closed per NMSA 1978, § 10-15-1(H)(3)]. Delilah Tenorio, Assistant Attorney General.**
- b. **Pending litigation in which the Board is a participant. [Session closed per §10-15-1(H)(7)]. Update regarding:**

Jan H. C. Goodwin v. Governor Lujan Grisham et al., Case No. 1:21-cv-00483 (U.S. District Court, New Mexico). Luke A. Salganek, Miller Stratvert P.A., legal counsel to the Board.

Chairman Goff moved to go into Executive Session for the following purpose:

- a. **Deliberations regarding the Hearing Officer's Recommended Decision in the Administrative Appeal of Ernest Richard Greene, ERB No. 23-01.**
- b. **Pending litigation in which the Board is a participant. [Session closed per §10-15-1(H)(7)]. Update regarding:**

Jan H. C. Goodwin v. Governor Lujan Grisham et al., Case No. 1:21-cv-00483 (U.S. District Court, New Mexico). Luke A. Salganek, Miller Stratvert P.A., legal counsel to the Board.

Ms. Cameron seconded the motion, which passed unanimously on the following roll call vote:

For: Chairman Goff; Ms. Cameron; Mr. Magid; Mr. Kreienkamp; Dr. Duszynski; Dr. Fontenla; Mr. Ortiz.

[Board was in Executive Session from 10:20 a.m. to 11:50 a.m.]

12. ACTION TAKEN FROM EXECUTIVE SESSION: 11:50 A.M.

Chairman Goff moved to come out of Executive Session. The only matters discussed were:

- a. **Deliberations regarding the Hearing Officer's Recommended Decision in the Administrative Appeal of Ernest Richard Greene, ERB No. 23-01.**

b. Pending litigation in which the Board is a participant. Re: Jan H.C. Goodwin v. Governor Lujan Grisham et al., Case No. 1:21-cv-00483.

Ms. Cameron seconded the motion, which passed unanimously on the following roll call vote:

For: Chairman Goff; Ms. Cameron; Mr. Magid; Mr. Kreienkamp; Dr. Duszynski; Dr. Fontenla; Mr. Ortiz.

Delilah Tenorio, Assistant Attorney General, said it is her understanding that the Board wishes to entertain the following motion:

To remand Case ERB 23-01 in the matter of the appeal of Ernest Richard Greene to the Hearing Officer for additional findings of fact and conclusions of law clarification, and the taking of additional evidence in this matter, including the following: how the \$39,381.01 was calculated; how the period of ineligibility was determined; and who determines the period of ineligibility.

Ms. Cameron so moved. Mr. Kreienkamp seconded the motion, which passed unanimously on the following roll call vote:

For: Chairman Goff; Ms. Cameron; Mr. Magid; Mr. Kreienkamp; Dr. Duszynski; Dr. Fontenla; Mr. Ortiz.

13. NEXT MEETING: FRIDAY, AUGUST 25, 2023 – ALBUQUERQUE

14. ADJOURN: 11:53 A.M.



Russell Goff, Chairman

ATTEST:

Larry Magid, Secretary

- b. Pending litigation in which the Board is a participant. Re: Jan H.C. Goodwin v. Governor Lujan Grisham et al., Case No. 1:21-cv-00483.

Ms. Cameron seconded the motion, which passed unanimously on the following roll call vote:

For: Chairman Goff; Ms. Cameron; Mr. Magid; Mr. Kreienkamp; Dr. Duszynski; Dr. Fontenla; Mr. Ortiz.

Delilah Tenorio, Assistant Attorney General, said it is her understanding that the Board wishes to entertain the following motion:

To remand Case ERB 23-01 in the matter of the appeal of Ernest Richard Greene to the Hearing Officer for additional findings of fact and conclusions of law clarification, and the taking of additional evidence in this matter, including the following: how the \$39,381.01 was calculated; how the period of ineligibility was determined; and who determines the period of ineligibility.

Ms. Cameron so moved. Mr. Kreienkamp seconded the motion, which passed unanimously on the following roll call vote:

For: Chairman Goff; Ms. Cameron; Mr. Magid; Mr. Kreienkamp; Dr. Duszynski; Dr. Fontenla; Mr. Ortiz.

13. **NEXT MEETING: FRIDAY, AUGUST 25, 2023 – ALBUQUERQUE**

14. **ADJOURN: 11:53 A.M.**



Russell Goff, Chairman

ATTEST:



Larry Magid, Secretary