



NEW MEXICO  
EDUCATIONAL RETIREMENT BOARD

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**MINUTES OF THE**  
**NEW MEXICO EDUCATIONAL RETIREMENT BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**August 23, 2024**

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 [virtual attendance]  
Mr. Max Baca  
Dr. Matías Fontenla  
Mr. Antonio Ortiz  
Dr. Reilly White

**Members Excused:**

Hon. Laura M. Montoya, NM State Treasurer  
Ms. Stephanie Rodriguez

**Staff Present:**

Mr. David Archuleta, Executive Director  
Mr. Randall Cherry, General Counsel  
Mr. Lawrence Esquibel, Deputy Director  
Mr. Bob Jacksha, Chief Investment Officer  
Ms. Monica Lujan, Member Services Director  
Mr. Jacob Maule, Deputy General Counsel  
Mr. Steve Neel, Deputy CIO, Alternative Assets  
Ms. Renada Peery-Galon, ASD Director/CFO  
Mr. Kevin Swinson, Chief Information Officer  
Ms. Jenna Vigil, Benefit Services Bureau Chief

**Others Present:**

Mr. Sam Austin, NEPC  
Mr. Christian McCormick, NEPC  
Mr. Jared Hardin, CAPTRUST  
Ms. Judith Beatty, Board Recorder

**b. Approval of Agenda**

Item 3 was removed.

**Dr. White moved approval of the agenda, as amended. Ms. Cameron seconded the motion, which passed unanimously.**

**c. Approval of Regular Meeting Minutes: June 28, 2024**

Dr. Fontenla requested that the reference to Dr. White on page 3 be amended to reflect that Dr. White is an Associate Professor with tenure and Associate Dean at UNM.

**Ms. Cameron moved that the Regular Meeting Minutes of June 28, as amended, be approved. Mr. Ortiz seconded the motion, which passed unanimously.**

**d. Approval of Special Meeting Minutes: July 31, 2024**

**Ms. Cameron moved approval of the Special Meeting Minutes of July 31, 2024. Dr. Fontenla seconded the motion, which passed unanimously.**

**e. Introduction of Guests**

Guests were introduced.

**2. CONSENT AGENDA: BOARD TRAVEL**

Chairman Goff and Vice Chair Cameron requested approval to attend the NCTR conference in October.

Dr. White said he plans on attending the weekend pre-conference certification event for the IFEBP prior to the October board meeting.

**Mr. Baca moved approval of the Board Travel requests. Dr. Fontenla seconded the motion, which passed unanimously.**

**4. EXECUTIVE DIRECTOR'S UPDATE: DAVID ARCHULETA, EXECUTIVE DIRECTOR**

**a. Agency Activities**

- NMERB staff presented a "History and Overview of Cost-of-Living Adjustments" at the IPOC on July 31. IPOC voted to request that the LFC direct a portion of the state's \$700 million budget surplus to PERA and NMERB, split evenly, to shore up funding to the program as well as to potentially give out 13 checks to supplement the COLA adjustments that have since been distributed. At some point in the future, the NMERB Board of Trustees will have to

decide on where it would like to dedicate those monies. A \$250 million infusion would change the NMERB's funded ratio from 66% to 67%.

- Mark Canavan, Director of Real Estate and Real Assets, left on August 9 after a 16-year tenure with NMERB.

**b. Retiree Health Care Authority**

- The NMRHCA held their annual board meeting in Taos on July 11-12. The NMRHCA Board approved staff's recommendations to increase premiums for retirees and spouses/domestic partners 2% for pre-Medicare plan participants and Medicare Supplement Plan members and 3% for eligible dependent children.

**c. Other**

Mr. Archuleta reported that NMERB has had some problems with the city in getting a water hookup for the new facility, which it applied for in April. The cause of the delay is because of the city's understanding that NMERB needed to get city approval first, with the state contending that NMERB falls under its purview and therefore requires approval from the Construction Industries Division and not the City of Santa Fe. Although NMERB met with the city 4-5 weeks ago with promises by the city that it would reach a decision in a couple of days, it did not. Several subsequent attempts by Deputy General Counsel Jacob Maule to contact the city attorney by phone or in writing were also unsuccessful.

Providing an update, Mr. Maule reported that he has spoken with City Attorney Erin McSherry, who put him in contact with a staff attorney who is the point person for this issue. They agreed that it is important to get the water hooked up, so water doesn't have to be trucked in. The city feels the ordinance is vague in terms of whether it applies to the area under discussion. Mr. Maule was able to provide the attorney with quite a few statutory references and an Attorney General opinion, now the Department of Justice, that the Construction Industries Division of the Regulation & Licensing Department controls all public buildings. He said the city plans to have a discussion on the matter this morning and he hopes to hear from them today or early next week.

**5. 2025 LEGISLATIVE PROPOSALS: DAVID ARCHULETA, EXECUTIVE DIRECTOR**

Mr. Archuleta referred to a list of proposed amendments to the Educational Retirement Act that were reviewed at the last meeting. Recommendations made by the board have been incorporated, and staff will be working with the LFC to refine the language before seeking an endorsement from the Investments & Pensions Oversight Committee.

Mr. Archuleta stated that Section 6 has new language added that allows the NMERB to exchange information with PERA regarding individuals that have gone dormant.

Mr. Archuleta said staff has since identified the need to create Section 7, stating that NMERB no longer must turn over money from the fund to Taxation & Revenue for Unclaimed Property, which is the current practice. This will be brought forward as a separate bill as this may gather some opposition or concern.

Lastly, Mr. Archuleta said the NMERB will need to take an official or unofficial position regarding proposed return-to-work changes. He understands the Superintendents Association would like to shorten the layout period to less than 90 days, which NMERB strongly opposes for a variety of reasons. There may also be a proposal to extend the period a member can participate in the 36-month program to 60 months or more. This would make it very difficult for NMERB to gauge the extent of the fiscal impact without knowing how such a change would change behavior.

Mr. Archuleta requested approval to seek endorsement and support for the proposed legislative changes (1-7). He said #7 would be a separate bill.

**Mr. Baca moved for approval. Dr. Fontenla seconded the motion, which passed unanimously.**

**6. ALTERNATIVE RETIREMENT PLAN – TIAA PUBLICITY UPDATE:  
JARED HARDIN, FINANCIAL ADVISOR**

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Mr. Hardin reported that there have been two concerning developments with respect to TIAA, one of the recordkeepers for the Alternative Retirement Plan. First, an NBC News report was published on August 2 in response to whistleblower complaints that led to an SEC investigation. The allegation is that, to make up losses that TIAA is experiencing on their recordkeeping business, TIAA promotes and sells certain investment products and services to its clients. The article goes into detail regarding how TIAA compensates their financial consultants for the advice they give to participants regarding those products and services. In addition, a class action lawsuit was filed on August 5 alleging that TIAA and Morningstar developed an investment advisory tool that was designed to steer money toward some of their investment products.

Mr. Hardin stated that all the major recordkeepers have very thin margins on the recordkeeping side of the business, and there has been industry pressure for the last 20 years or so to reduce recordkeeping fees significantly, so all the major recordkeepers in some way offer some sort of audit or investment service. What gives TIAA more scrutiny is that they dominate the higher education space and the not-for-profit space and are the primary player; and second, the types of products and services they offer to participants are more annuity based. Annuities have their own reputation, and TIAA is the major player. He commented that TIAA is perceived to have aggressive sales tactics and pushes their financial consultants to sell their products and services. They have had multiple settlements with the SEC related to their offerings over the last few years, which is building on the perception that they are driving investments and assets into their own proprietary investments to bolster their own profits. CAPTRUST is cautioning their clients to pay attention to whether TIAA's perception risk starts bleeding over into their own clients, who then start being at risk.

Responding to Dr. Fontenla, Mr. Hardin said there are some withdrawal restrictions on annuities in the ARP program, which adds to the complexity. The article mentions that TIAA is pushing people into these investments and locking up their money for a long period of time. Dr. Fontenla suggested looking into this.

Mr. Archuleta responded that about \$800 million of the \$1 billion in the ARP fund is in annuities. While undoing this is possible, it would be messy.

Mr. Magid commented that he has been doing this for forty years, and TIAA has had a bad reputation for longer than he has been in the business. He said traditional annuities are probably the worst thing that public education has ever gotten into because people don't understand them and it

takes forever to get their money out of them. He added that TIAA has settled with the SEC more than once, and so they know what they are doing and are doing this intentionally. He said it would be a messy divorce, but the NMERB should be looking out for its members in the ARP program.

Mr. Hardin said CAPTRUST has consistently lessened its exposure over the years to those annuities and TIAA's proprietary products. He said the ARP Committee could choose to either evaluate TIAA and all the service offerings and lessen exposure more and more or else seek an investment proposal from other vendors in the industry.

Mr. Baca suggested that the ARP Committee consider meeting before its regular December meeting to make sure members know the committee is doing its due diligence and to think about issuing an RFP.

General Counsel Cherry asked Mr. Hardin to discuss the actual risk to ARP members, as there is a limited risk to those members. Mr. Hardin said there are two ways a participant can interact with the advisory tool mentioned in the lawsuit. First, there is a one-time process where they would call someone or go online and fill out their investment profile, and the tool would give them an asset allocation. CAPTRUST looked at the usage of that over a two-year period (2021-2023) and there were about 300 instances where a participant interacted with that tool, and about 100 made an investment allocation change. The second way a participant can interact is with an ongoing management feature where the tool manages their investments, and over time they are charged a fee for that. This is not turned on for the ARP, however.

Dr. White agreed with Mr. Magid's comments that TIAA has had a bad reputation for some time, and supported Mr. Baca's recommendation that the ARP Committee figure out a way to move forward with this and to demonstrate it is taking this seriously.

#### **7. FY26 APPROPRIATION REQUEST: RENADA PEERY-GALON, ASD DIRECTOR/CFO**

Ms. Peery-Galon reviewed a summary of expenditures and the 2026 proposed appropriation request.

- Staff proposes a 5.7% increase (\$606,300) in the personal services and employee benefits category. This increase is partly due to the General Services Department set rate for Workers Comp insurance rising 55.2%.
- The contractual services category includes a 10% decrease (\$2 million). This is related to 5 investment contracts being redeemed or canceled.
- The other costs category includes an increase of 2.6% (\$57,500). This includes anticipated maintenance costs in the new Santa Fe office building, a planned Board Member retreat, and rate increases for GSD car leases and DoIT services.

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

#### **8. FY 24 CERTIFICATION OF CAPITAL ASSETS: RENADA PEERY-GALON, ASD DIRECTOR/CFO**

Ms. Peery-Galon presented highlights from the list of capital assets.

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

**9. RETIREMENTS: MONICA LUJAN, MEMBER SERVICES DIRECTOR**

**a. Disability Retirements**

Ms. Lujan reported that there were two disability cases closed during the June-July period. There has been a total of 26 disability cases to date in 2024.

**a. Age and Service**

Ms. Lujan reported that, for the June-July period, there was 1 disability benefits application processed, 34 reciprocity applications processed, and 516 normal retirements, for a total of 551 applications for the bimonthly period. The average retirement age was 62.65 years, and 79 members retired with more than 30 years of service. The season ended with 980 retirement applications, a 15.29% increase over the previous year.

Chairman Goff asked what the latest numbers were on Return to Work. Mr. Archuleta said there were 401 in the 36-month program as of today.

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

**10. PENSION ADMINISTRATION SYSTEM MODERNIZATION PROJECT UPDATE:  
KEVIN SWINSON**

Mr. Swinson presented an update. He said the project continues to be on track, on time, and on budget. As of 7/31/2024, there are no new observed risks, no high-level recommendations, and no items needing immediate attention.

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

[Presenters: Bob Jacksha, with Sam Austin and Christian McCormick, NEPC]

**a. Q2 Investment Report**

Mr. Austin and Mr. McCormick presented this report.

**b. Staff Selection Committee Report**

Mr. Jacksha reported on actions taken by the SSC at its July 18 and August 15 meetings.

**c. Investment Committee Report**

Mr. Jacksha reported on action taken by the Investment Committee at its meeting this morning.

**d. Other Investment Reports**

None.

**12. BOARD SELF-EVALUATION PROCESS: RUSSELL GOFF**

- a. Survey Results
- b. Next Steps

Chairman Goff thanked board members for taking the time to fill out the survey, which reflects a favorable review of the board. He encouraged board members to reach out to Mr. Archuleta if they do not understand something or have any questions or concerns. He reminded board members to stay current with trainings.

### **13. ELECTION OF BOARD OFFICERS**

Chairman Goff opened the nominations for Board Officers.

**Mr. Baca nominated Russell Goff as Chairman. There were no other nominations. The nomination passed unanimously by roll call vote.**

**Dr. Fontenla nominated Mary Lou Cameron as Vice Chair. There were no other nominations. The nomination passed unanimously by roll call vote.**

**Mr. Baca nominated Larry Magid as Secretary. There were no other nominations. The nomination passed unanimously by roll call vote.**

### **14. EXECUTIVE SESSION: 11:25 a.m.**

- a. **Deliberations regarding the Hearing Officer's Recommended Decision in the Administrative Appeal of Gloria J. Vigil, ERB Case No. 24-04. (Session closed per NMSA 1978, § 10-15-1(H)(3). Sandra Gardner, Assistant Attorney General**
- b. **Pending litigation in which the Board is a participant (session closed per § 10-15-1(H)(7). Update regarding Katherine Chippeaux, Robert Jacksha, Duncan Manning, Nathan Sax, and Pete Werner v. The State of New Mexico, Educational Retirement Board and Department of Finance and Administration; Case No. D-101-CV-2023-01297 (1st Judicial District Court, Santa Fe); Randall J. Cherry, General Counsel to the Board.**
- c. **Executive Director, Performance Evaluation (session closed per § 10-15-1(H)(2) limited personnel matters)**

**Chairman Goff moved to enter executive session for the following purpose: Deliberations in connection with the administrative adjudicatory proceedings, Session closed per NMSA 1978, § 10-15-1(H)(3, specifically the administrative appeal of Gloria J. Vigil, NMERB Case No. 24-04; and discussion of pending litigation in which the Board is a participant, session closed per § 10-15-1(H)(7) of the Open Meetings Act, specifically, regarding Katherine Chippeaux, Robert Jacksha, et al v. the NMERB, Case No. D-101-CV-2023-01297; and discussion of the Executive Director performance evaluation, session closed per § 10-15-1(H)(2), limited personnel matters.**

**The motion was seconded by Dr. Fontenla and passed unanimously by roll call vote.**

[The board was in executive session from 11:25 a.m. to 12:58 p.m.]

Chairman Goff moved that the board come out of executive session. The only matters discussed during executive motion were: Deliberations in connection with the administrative adjudicatory proceedings, Session closed per NMSA 1978, § 10-15-1(H)(3, specifically the administrative appeal of Gloria J. Vigil, NMERB Case No. 24-04; and discussion of pending litigation in which the Board is a participant, session closed per § 10-15-1(H)(7) of the Open Meetings Act, specifically, regarding Katherine Chippeaux, Robert Jacksha, et al v. the NMERB, Case No. D-101-CV-2023-01297; and discussion of the Executive Director performance evaluation, session closed per § 10-15-1(H)(2), limited personnel matters. Ms. Cameron seconded the motion, which passed unanimously by roll call vote.

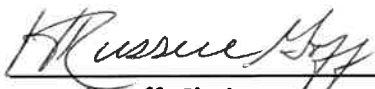
**15. ACTION FROM EXECUTIVE SESSION**

Mr. Baca moved to table the administrative appeal of Gloria J. Vigil, NMERB Case No. 24-04. Ms. Cameron seconded the motion, which passed unanimously.

Mr. Baca moved that the board extend Executive Director David Archuleta's compensation for an additional year, and to provide additional compensation of 2% to Mr. Archuleta and possible additional compensation upon completion of the compensation study. Dr. Fontenla seconded the motion, which passed unanimously by roll call vote.

**16. NEXT MEETING: FRIDAY, OCTOBER 25, 2024 – ALBUQUERQUE**

**17. ADJOURN: 1:00 p.m.**



Russell Goff, Chairman

ATTEST:



Larry Magid, Secretary