

NEW MEXICO EDUCATIONAL RETIREMENT BOARD

ACTION SUMMARY

April 22, 2016

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MINUTES OF THE
NEW MEXICO EDUCATIONAL RETIREMENT BOARD

REGULAR MEETING

April 22, 2016

1. CALL TO ORDER: QUORUM PRESENT

A Regular Meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:15 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 [by telephone]
The Hon. Tim Eichenberg, State Treasurer
Mr. Larry Magid
Dr. Beulah M. Woodfin [by telephone]

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. Anne Hanika-Ortiz, LFC
Mr. Kevin Force, LESC
Ms. Judith Beatty, Recorder
[See sign-in sheet.]

b. Approval of Agenda

Dr. Woodfin moved approval of the agenda, as published. Mr. Magid seconded the motion, which passed unanimously by voice vote.

c. Approval of Minutes – February 26, 2016 and March 24, 2016

Mr. Goff moved approval of the February 26 minutes, as submitted. Mr. Magid seconded the motion, which passed unanimously by voice vote.

Mr. Magid moved approval of the March 24 minutes, as submitted. Mr. Goff seconded the motion, which passed unanimously by voice vote.

d. Introduction of Guests

Guests introduced themselves.

e. Recognition of the passing of former Board Trustee Pauline Turner

Chairwoman Cameron read a letter that was sent to the family of former Board Trustee Pauline Turner, who passed away recently, recognizing Dr. Turner's 14 years of valuable service to the board and the NMERB.

2. SWEARING IN OF NEW BOARD MEMBER

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

3. CONSENT AGENDA

a. Board Travel

The following requests were presented:

Mary Lou Cameron: 7/24 to 7/27 – NCTR Workshop, Berkeley, CA
 10/8 to 10/12 – NCTR Annual Conference, Providence, RI

Russell Goff: 10/8 to 10/12 – NCTR Annual Conference, Providence, RI

Hipolito Aguilar: 10/8 to 10/12 – NCTR Annual Conference, Providence, RI

Mr. Goff moved approval of these requests. Mr. Magid seconded the motion, which passed unanimously by voice vote.

4. INVESTMENT REPORTS: BOB JACKSHA, CHIEF INVESTMENT OFFICER

a. Investment Staff Compensation

Mr. Jacksha said the Investment Committee and board have discussed looking at competitive compensation with other public pension plans. Responding to a request from the board, staff has returned to this meeting with additional information, and this will be discussed in executive session later today.

b. Investment Policy Revision

Ms. Goodwin requested approval of a revision to the Investment Policy that would memorialize what has been the longstanding practice of the NMERB, which is to minimize deposit custodial credit risk. State Street is the NMERB's custody bank; and as part of its selection of the custody bank, the NMERB performs due diligence to ensure the financial strength of the institution, and also takes other steps to insure that, if there is a bank failure, it will be able to retain all of its assets.

Custodial Banks:

The NMERB minimizes deposit custodial credit risk, which is the risk of loss or failure of the depository bank, by obtaining the necessary documentation to show compliance with state law and a perfected security interest under federal law. The custodial bank(s) will have sufficient financial strength to protect the interests of the NMERB and will be required to perform the usual and customary duties normally expected of such banks. The custodial bank(s) will be required to provide on-line records and reports, accounting reports, reconciliation services, and other services included in the custodial bank contract. All assets shall be registered and held in the name of the custodial bank(s) provided that the bank's records clearly indicate that the assets held are a part of the NMERB's account. The custodial bank(s) shall maintain documentation to substantiate the NMERB ownership and chain of control for assets.

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

c. Investment Committee Report

Mr. Jacksha presented a summary of actions taken by the committee at yesterday's meeting:

- Approved the selection of a Master Limited Partnership manager, Harvest Partners.
- Approved an investment of up to \$80 million in Kildare II Real Estate Fund.
- Approved an investment of \$25 million in Realterm Fund II, an industrial real estate fund.
- Approved an investment of \$35 million in SV Life Sciences Fund VI.
- Approved a new four-year contract with Lord Abbett as SMID value manager after issuing an RFP.

- Approved an investment of \$100 million in Oak Hill Advisors, an opportunistic credit fund.
- Approved an Investment Policy revision (Item 4b on today's agenda).
- Approved a compensation plan proposal, to be discussed in executive session today.
- Reviewed infrastructure performance report.
- Discussed a new investment by Tenex, one of the NMERB's private equity funds. Tenex has made an investment in a New Mexico company, Unirac, which makes racks for solar panels and employs about 100 people.

d. Other Investment Reports

Mr. Jacksha reported that March numbers are showing a return of at least 3 percent and potentially 3.25 percent. This will bring the fund close to breakeven for the fiscal year, although slightly on the negative side.

5. PROPOSED CHANGES TO ERB RULES

- a. **Summary of Changes and Written Public Comments –Chris Bulman, General Counsel**
- b. **Oral Public Comments**
- c. **Final Action**

Mr. Bulman stated that there were three documents for reference: summary of proposed rule changes, which was posted at the beginning of the process; public comments; and redline of the current rules.

Rule 2 – Membership (NMERB Rule 2.82.2)

-- This clarifies the rule to state that if a member works for more than one local administrative unit (LAU), NMERB would aggregate the FTEs from the various positions they have to determine if they qualify for the .26 FTE or greater to be an NMERB member. This is longstanding NMERB policy and has been in its guidance to employers for perhaps 20 years. The rule was not very clear on this point, so the changes made are to clarify it.

There was no public comment on this change.

-- The second part involves substitute teachers and would delete Section 2.82.2.11.C. The basic rule states that, if you are a short-term substitute teacher, you are ineligible for membership; and if you are a long-term substitute teacher, you are eligible for membership. Because the language is ambiguous, the schools have been handling it different ways. For instance, a day-to-day substitute teacher who was called in 3-4 days a week on average (working .75 or .80 FTE) was still being excluded. Because of the ambiguity, one school district was offering its substitute teachers the option to be members or not. That is not supposed to be how ERB membership works. The question is, how could it be made clearer about who is in and who is out. By deleting Section 2.82.2.11.C, substitutes would be treated the same as all other classes of school employees whose FTE status is used to determine ERB membership. As with other employees, LAUs would be required to determine a substitute's FTE status at time of hire.

Mr. Aguilar asked how substitutes who don't work .26 FTE every year would be treated; in other words, some substitutes may work .26 one year but not the following year. Mr. Bulman responded that it would not roll over into the next school year.

Chairwoman Cameron said LAUs don't always know how much time a substitute will put in during the upcoming year. Mr. Bulman agreed that it is a challenge, adding that there are other employees who also fall into the same boat. He said the NMERB advises the school that it is much easier to make contributions (than to not make contributions) and then refund the money if the substitute ends up working less than originally thought.

Ms. Goodwin added that the NMERB has been working on this issue with a number of the large employers and has been developing written guidance. The NMERB has been recommending that the school make the best estimate at the beginning of employment, and then make changes on a monthly basis, as needed.

Mr. Bulman noted that the NMERB contribution accounting staff reached out to all of the major K-12 school districts in the state. Unfortunately, there was no response from the Santa Fe Public Schools or Albuquerque Public Schools.

Mr. Aguilar said he wanted to make sure that this rule change was not going to affect a large number of substitutes who are "on the edge" and who end up making contributions that ultimately have to be refunded.

Responding to Mr. Aguilar, Mr. Bulman said written comments were received from three LAUs. Rio Rancho Public Schools said this change would cost them \$60,000 a year. He said the general comments addressed the difficulty of applying an FTE status to a substitute teacher, which has been proposed through this change – NMERB is telling LAUs to make their best estimate.

Dr. Woodfin expressed concern that this could turn into "an administrative can of worms."

Ms. Goodwin stated that the NMERB has been working hard with its employers in developing written guidance on the definition of an FTE, and this should make it much easier for them.

Adam Weeks, UNM, asked when this written guidance could be expected. Ms. Goodwin responded that it would be in the next few weeks.

This concluded public comment.

Mr. Goff noted the comments about cost from the Rio Rancho Public Schools and suggested that staff look into this further and return with additional information. He said school budgets are already very challenged, and an additional expense of \$60,000 was significant.

Mr. Bulman said another option could be to make the rule effective in 2017, which would allow extra time.

Mr. Aguilar stated that if Rio Rancho is identifying a \$60,000 cost, that could translate into much more for APS and the Santa Fe Schools, who did not respond to efforts by the NMERB to reach out to them and seek comment on this change. He volunteered to contact the districts directly.

Mr. Aguilar moved to table the proposed changes to Rule 2 (both parts). Mr. Goff seconded the motion, which passed unanimously by voice vote.

Mr. Aguilar said he would reach out to the districts in Albuquerque, Santa Fe, Roswell and Las Cruces and ask them to calculate the fiscal impact.

Rule 3 – Member and Administrative Unit Contributions (NMERB Rule 2.82.3.9)

-- The first change involves revising the process for refunding member contributions following termination. The current problem is that NMERB often receives refund requests early on after a person has been terminated. Consistent with the current rule, NMERB often processes a terminated member's refund request before final payroll contributions post to the member's retirement account. As a result, often two refund checks are processed for a single request. This process is inefficient. In many cases, terminated members move following receipt of the initial payment, and then they can't be located for the second payment. As a result, members do not receive complete refunds and NMERB is left with small inactive member accounts.

In order to resolve these problems, staff is proposing amending the current rule to require that, in addition to certifying that a member has terminated employment (as required by the IRS), LAUs also certify the month of the final report that will contain contributions for the refunding member. Following receipt of the two certifications, NMERB would process a single refund and close the member's account. Following the refund, NMERB would not accept any additional contributions or adjustments from an LAU regarding the refunded member's account.

Dawn Siverling, CNM, said their director, Veronica Gonzales, mentioned that CNM already currently certifies twice, once on the data form 100, and once on the form 9. She said NMERB has a form that the LAU certifies, and it includes an option for the employee to waive the 30-day waiting period. She asked if that form would be changed, as she is currently explaining to employees that, depending on the box they check, they will either get one check now and a second check later, or else just one check after all the reports are in.

Mr. Bulman responded that the form would need to be revised.

-- The second proposed revision to Rule 3 would clarify that the interest a member pays to restore withdrawn service credit is nonrefundable. The interest payment is used to reimburse the retirement trust fund for the loss of investment gains that occurred from the date of the initial refund to the date of the purchase. This proposed amendment is consistent with longstanding ERB policy and has been explicitly stated in the member handbook for many years.

There was no written comment on this change.

There was no public comment.

Mr. Eichenberg moved approval of the changes to NMERB Rule 2.82.3.9, as proposed. Mr. Goff seconded the motion, which passed unanimously by voice vote.

Rule 4 – Service Credit (NMERB Rule 2.82.4)

-- In response to being contacted by several LAUs, staff is proposing to clarify last year's change to Rule 4, which requires a member to render services for at least 16 days in order to earn a quarter of service credit. The proposal would clarify that an employee is considered to have rendered services for each day upon which the employee is paid salary, regardless of whether the employee is on annual, sick, administrative or other form of paid leave.

-- Staff is also proposing deleting several outdated provisions from Rule 4. One provision dates back to 1957, when the NMERB was computing service credit using months, not quarters.

Mr. Bulman said several written comments were received from people who generally seemed to agree with the changes. He said one person was confused, however, over the deletion of the 1957 provision and mistakenly thought NMERB was switching to PERA's system.

Mr. Bulman said another written comment came from someone who complained about making nonrefundable contributions in the Return to Work program, which had nothing to do with this rule change.

There was no public comment.

Mr. Goff moved approval of the proposed changes to Rule 4. Mr. Magid seconded the motion, which passed unanimously by voice vote.

Rule 5 – Retirement Benefits (NMERB Rule 2.82.5)

-- The NMERB is also considering amending Section 2.82.5.14 regarding disability-related cost of living adjustments (COLAs). Section 22-11-31(G) of the Educational Retirement Act provides that a member who was certified by the board as disabled at the time of regular retirement is eligible for an early COLA. Under the proposal, if such a member later returns to gainful employment with an LAU in a position commensurate with the member's background, education and experience, the member's benefit would no longer be subject to the disability-related COLA. The member would remain eligible for future COLAs in the same manner as other ERB retirees.

Mr. Bulman said no substantive written comment was received on this proposed rule change.

-- The NMERB is considering amending Section 2.82.5.13.D to clarify that a retiring member electing coverage under option B may not designate a beneficiary more than 10 years younger than the member unless the beneficiary is the member's spouse. The proposed amendment is consistent with longstanding NMERB policy and guidance from its tax attorneys.

Mr. Bulman said this change elicited the most comment, which came as a surprise. He said this simply clarifies a policy that the NMERB has had for at least 17 years and was adopted at the recommendation of tax counsel. He said this is in keeping with the IRS's incidental death benefit rule, which speaks to the general idea that, for tax purposes, retirement is earned by the employee and the

spouse and is not intended to be tax deferred for someone's children. The IRS has limits on how much someone can pass to somebody who is not the member or the spouse, and the easiest way to administer that limitation under this rule is to have a 10-year limit on the age of a non-spousal beneficiary.

Mr. Bulman said he asked Karla Leyba, who has been running the NMERB's retirement unit for the last 15 years, if this has ever caused a problem for her in retirements, and she said "never." He reiterated that this is longstanding policy, but people who sent in written comments felt it was not the NMERB's business whom they named as their beneficiary.

Dr. Woodfin asked how this applies to someone who has a significant other who is younger than they are and they are not married.

Mr. Bulman responded that any relationship short of marriage would not satisfy the IRS. They would also have to be 10 years apart in age. He said he responded to all of the written comments and did mention option C, which is a 50 percent survivor benefit, and there is no age restriction in that option. He said the member would receive a larger pension under option C, and the member was free to put that extra money into savings every month and pass it on to their beneficiary.

Mr. Magid moved that the board adopt the proposed changes to NMERB Rule 2.82.5. Mr. Eichenberg seconded the motion, which passed unanimously by voice vote.

Rule 9 – Administrative Unit Reports and Remittances (NMERB Rule 2.82.9)

Mr. Bulman said there were two segments to this rule change:

-- To amend Section 2.82.9.8 to explicitly require that LAUs report compensation paid to all employees, not just those employees whom the LAU identifies as NMERB members. Such information is important for determining whether an LAU has made all required contributions, especially in the case of employees who work for multiple LAUs.

Mr. Bulman commented that, at the present time, some employers report all of their employees and some don't.

Ms. Rossbach said this change would also help the NMERB in its compliance work because it would allow consistent application of the rule for everyone.

-- To amend Rule 9 to require a specific charge for late or incomplete reports. While the current rule already states that a late charge should apply to both late contributions and late reports, the rule only contains clear direction for calculating a charge for late contributions. The NMERB is considering a charge of \$50 per day for late reports, subject to waiver by the NMERB Director for good cause shown.

Ms. Rossbach stated that, while the contributions tend to come in on time, this is not the case with reports. In addition, some reports are incomplete.

Responding to Mr. Aguilar, Mr. Bulman said the late charge would apply on the first day after the report due date. He said the rule is specific when reports are due, which is on the 15th day of the month following payroll.

Mr. Aguilar said he was concerned about two issues. He said “at the discretion of the director is pretty broad, although we have a good director.” He added that one day late seems a little harsh.

Dr. Woodfin responded that if people are given 15 days to get a report in, and the due date is well known, then it would seem to be an issue of non-compliance. She said it would be a different matter if the report were due at the last minute.

Ms. Rossbach stated that people are given 15 days to file the report. She said that, out of the 216 employers who report, there are “a few” who tend to turn in their reports late, and the NMERB works with them.

Mr. Aguilar said he deals with the business offices with the school districts on a daily basis on any number of issues, including late reporting. He asked Ms. Goodwin to work with him and his department to identify such problems so his staff can include them in their discussions with the school districts. He commented that having conversations with the school districts and working with them on some of these issues could preclude the need for some rule changes.

Mr. Eichenberg asked Ms. Rossbach how many school districts are late every month, and are there some school districts that are consistently late.

Ms. Rossbach responded that about 25 percent of the reports are late.

The floor was opened to public comment.

Adam Weeks, UNM, said he understood that if the 15th falls on a national holiday or weekend, the reports would be due the day before. He said other government entities set the due date on the following business day, which he would prefer.

Ms. Rossbach responded that it might be simpler to program. Mr. Bulman added that this isn’t part of the rule change but Mr. Weeks’ comments could be taken into consideration and brought back to the board.

Noting that the board tabled the changes to Rule 2, Mr. Weeks suggested that the changes to Rule 9 also be tabled because the two are directly related “in terms of trying to report all employees whether they’re eligible or not.”

Mr. Weeks also asked why the NMERB would report student employees, who would never be eligible for withholding.

Ms. Rossbach explained that the NMERB “uses the terminology all employees throughout all of our discussion” although student employees are specifically excluded from membership.

Mr. Bulman said he thought the NMERB could exclude student employees from the reporting.

Mr. Weeks also pointed out that, in an age when security risks are greater, it would not seem wise for NMERB to have “four thousand Social Security numbers that you’re never going to use.”

Mr. Bulman said the board might want to specifically exclude student employees from the reporting requirement.

Dr. Woodfin moved to amend the proposal to exclude student employees. Mr. Eichenberg seconded the motion.

Ms. Rossbach commented that, as a practical matter, having “all employees” in the report rather than excluding one class of employees would give the NMERB a better sense of how big the database is and how many employees are involved overall.

Ms. Goodwin said the NMERB has received additional information from UNM that they would also be excluding resident physicians from the reporting. Like student employees, resident physicians are not eligible for membership.

Dr. Woodfin said Ms. Rossbach seemed to be saying that they would like to get all of the data and then decide who to exclude. She said this seemed like more trouble.

Ms. Rossbach responded that, by having everyone in the database, NMERB would be able to classify everyone and respond to any questions that come up in the future. She added that NMERB reports classifications of employees to PED but doesn’t have very good data currently in order to meet that requirement.

Mr. Goff suggested that Rule 9 changes be tabled to allow staff time to incorporate the additional changes and provide further clarification.

Mr. Goff moved to table Rule 9 to the June meeting for further clarification. Mr. Eichenberg seconded the motion.

Mr. Eichenberg asked if there was further public comment.

Ms. Rossbach responded to a concern expressed by Dawn Siverling, CNM, about the contributions reported to the bank. She said she reports the amount on the 14th of every month, but the bank does not indicate when it will be drawn. Ms. Rossbach said she would talk to the bank about finding a way to give Ms. Siverling better information.

The motion passed unanimously by voice vote.

[Break.]

6. ALTERNATIVE RETIREMENT PLAN

- a. ARP Committee Report: Beulah Woodfin, Trustee**
- b. Amendments to ARP Operations Manual – Rod Ventura, Deputy General Counsel**

Dr. Woodfin presented highlights from yesterday’s ARP Committee meeting:

-- The committee heard a report from the consultant, Cammack Group, and looked at the performance of the various funds that are available to the ARP members from TIAA-CREF and Fidelity.

The committee decided to remove two funds because of poor performance, and selected two new funds that are in the available package from TIAA-CREF and Fidelity to be made available to the members.

-- The committee discussed a situation where it appears that a significant number of members are opting for money market funds, which at this time are returning almost nothing and, in some cases, are actually a cost to the members. The committee discussed Cammack's role in educating ARP members.

-- The committee discussed the proposed revisions to the ARP Operations Plan.

Mr. Ventura referred to a redline version of the Operations Manual and his written summary of the proposed changes, which he reviewed. He said most of the changes were cleanup; for instance, some language had to be changed for tax reasons.

Dr. Woodfin clarified that the change to deny the possibility of loans was made as a result of a request from a member who had serious medical problems. Aside from the fact that the committee sympathized with him and his need to deal with his medical problems, the committee started examining what would be required to provide a loan, the requirements from the IRS that the loans be repaid, and the load it would put on employers who would have to set up a procedure on collecting payments. The committee felt it was putting too much of a burden on the employers.

Mr. Goff moved that the board adopt the proposed revisions to the Alternative Retirement Plan Operations Manual, as approved by the ARP Committee. Dr. Woodfin seconded the motion, which passed unanimously by voice vote.

7. AUDIT COMMITTEE REPORT: MARY LOU CAMERON, CHAIRPERSON

Chairwoman Cameron reported that the Audit Committee met this morning at 8:00 a.m. with three main items on the agenda:

1. A presentation and discussion of the FY16 GASB Schedule of Employer Allocations and Pension Amounts Audit by Moss Adams. Their representatives, Cory Hogan and Aaron Hamilton, gave a report of the results and the final will be submitted to the State Auditor for review and comments. The committee accepted the report.
2. REDW then reported on their second and third completed internal audit programs. These reports, presented by Steve Cogan and Chelsea Richey, were on Service Credit and Census Data.
 - The Service Credit audit focused on evaluating the process for and internal controls over the award and calculation of service credit and related areas including service credit purchases, PERA Reciprocity and the Return to Work program. Only one observation, categorized as low risk, was made concerning our Low Wage Report Monitoring Process. We plan to revise the report used in this process to make it a more accurate representation of reported low wages.
 - The Census Data audit focused on evaluating the accuracy of the census data based on NMERB member data forms and information obtained from member employers. REDW

also assessed contribution reporting and accuracy. Two low risk observations were made, one regarding Incorrect Demographic Information and one relating to Employee Data Forms. Both items are being addressed, either by requesting changes to our software relating to gender default or through working with LAUs to improve reporting.

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

3. Finally, the Audit Committee discussed the results of the recent RFP for Financial Audit Services. Four firms initially responded to the RFP and two were identified to make a presentation to the evaluation committee. That committee included Russell Goff, Larry Magid, Jan Goodwin, Rick Scroggins, Dianne Rossbach and me. Our decision regarding this important relationship is CliftonLarsonAllen.

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

[Mr. Scroggins presented this report, as Ms. Lujan had been called away on an emergency.]

Mr. Scroggins presented the February and March retirement summary, reporting a total of 236 retirements during that period.

Mr. Goff moved to accept the report, as presented. Mr. Magid seconded the motion, which passed unanimously by voice vote.

9. DISABILITY RETIREMENTS: RICK SCROGGINS, DEPUTY DIRECTOR

Mr. Scroggins reviewed a report on MMRO's services to the NMERB to date. He said NMERB is pleased with their services; they are not only responsive to member needs, but are responsive to NMERB's requests.

Mr. Goff moved to approve the disability retirements. Mr. Magid seconded the motion, which passed unanimously by voice vote.

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

a. Retirement season update

Ms. Goodwin noted that, as of last Friday, the NMERB has received 540 July 1 retirement applications. At this time last year, there were 509 July 1 applications, but in 2014, there were 617.

b. Other

None.

11. EXECUTIVE SESSION: 11:55 A.M.

- a. **Discussion of limited personnel matters [session closed pursuant to NMSA 1978, Section 10-15-1(H)(2)]**

- b. **Pending Litigation – State of New Mexico ex rel. Frank Foy and John Casey, Qui Tam Plaintiffs v. Vanderbilt Capital Advisors, LLC, et al [session closed Pursuant to NMSA 1978, Section 10-15-1(H)(7)]**

Mr. Eichenberg moved that the board go into executive session for the purpose of discussing limited personnel matters and pending litigation in the matter of the State of New Mexico ex rel. Frank Foy and John Casey, Qui Tam Plaintiffs v. Vanderbilt Capital Advisors, LLC. Mr. Magid 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.

12. ACTION FROM EXECUTIVE SESSION: 1:15 P.M.

Mr. Eichenberg moved that the board come out of executive session. The only matters discussed during executive session were limited personnel matters and pending litigation, as permitted by the Open Meetings Act. Mr. Magid seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Eichenberg; Mr. Magid.

Against: None.

- a. **Approval of settlement**

Mr. Goff moved that the board ratify and approve a \$4.25 million settlement with Vanderbilt Capital Advisors, LLC in the matter of State of New Mexico ex rel. Frank Foy and John Casey, Qui Tam Plaintiffs v. Vanderbilt Capital Advisors, LLC et al. Mr. Magid seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Magid.

Abstaining: Mr. Eichenberg.

Against: None.

Mr. Eichenberg said he was abstaining for two reasons. As he has learned more and more about this, he didn't feel comfortable, but since he wasn't here in 2012, he did not feel he should vote either in favor of or against this motion.

b. Final action on limited personnel matters

Mr. Goff moved that he, Chairwoman Cameron and Mr. Magid come together as a committee to work on a compensation plan for executive staff and to discuss how to move forward and do exempt job classifications for staff. Mr. Magid seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Mr. Goff; Mr. Eichenberg; Mr. Magid.

Against: None.

13. NEXT MEETING: FRIDAY, JUNE 24, 2016 – ALBUQUERQUE

Chairwoman Cameron and board members thanked Chris Bulman for his service to the board and to the NMERB.

14. ADJOURN

Its business completed, the Educational Retirement Board adjourned the meeting at 1:20 p.m.



Mary Lou Cameron

Chairman

ATTEST:



Hipolito J. Aguilar, Secretary

