



STATE OF NEW MEXICO

*Educational Retirement Board*

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June 20, 2011

Mr. Kent Walz  
Editor-in-Chief  
Albuquerque Journal  
7777 Jefferson Street  
Albuquerque, NM 87109

Dear Mr Walz:

The New Mexico Educational Retirement Board (NMERB) and its staff greatly regret the software error that resulted in the NMERB incorrectly overpaying interest to 693 former ERB members or their beneficiaries in July and August 2010. Under the Board's direction, agency staff has intensified its efforts to contact those impacted and put in place additional procedures to prevent such errors in the future.

The 693 individuals who were overpaid fell into three groups: (1) members who terminated NMERB employment and requested a refund of their contributions, (2) beneficiaries of active members who died before retirement, and (3) beneficiaries of retirees who were receiving retirement benefits in the form of a straight life annuity and who had not received benefits equal to their contributions plus interest as of the time of death.

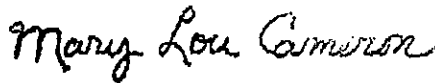
As a public pension plan, the NMERB must satisfy the requirements of the Internal Revenue Code in order to provide employees retirement benefits on a tax-favored basis. When an overpayment occurs, the IRS requires a pension plan such as the NMERB to seek to recover the overpayment plus interest. Private pension and retirement plans are subject to similar requirements. NMERB staff has consulted with outside tax and pension counsel about the steps that must be taken. The NMERB is not acting lightly or without concern for the impact of the recovery process on the former NMERB members and their beneficiaries who received the overpayments. Similarly, the NMERB also is mindful of its duty to the current members and retirees. The NMERB has emphasized repeatedly that staff will work with the affected individuals and will seek to enter into payment plans to ensure the timely return of the overpayments.

The NMERB has been asked if litigation is a possibility. Only where other avenues for recovering overpayments have not succeeded and the likelihood of recovery is strong, would the NMERB consider expending trust resources on litigation, and then only in a cost effective manner. Again, the possibility of litigation is not being taken lightly or without concern for the impact of such an action. Under New Mexico's Constitution, the Educational Retirement Fund is a separate trust fund; the Fund would have to bear the cost of litigation.

While we bear responsibility for this error, we hope that it does not completely eclipse NMERB's many positive results. Our investment portfolio earned over 18% in the 2010 fiscal year and in the first nine months of the current fiscal year has earned over 13%. This retirement season we are on track to help over 1,150 of our members transition from educational careers to retirement with no interruption in income.

The NMERB and its staff are committed to providing the high level of service that our members and retirees have earned and deserve and to continually improving our operations.

Sincerely,



Mary Lou Cameron  
Chairman of the Board



Jan Goodwin  
Executive Director