

PERA Board Meeting
meeting via zoom
Thursday, February 25, 2021
9:00am

AGENDA

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of Agenda**
- 5. Approval of Consent Agenda**
- 6. Unfinished Business**
 - A. Election of 2021 Board Officers**
 1. Board Chair Election Action Francis Page, Acting Chair
 - B. Items removed from Consent Agenda if necessary Action Francis Page
- 7. New Business**
 - A. Legislative Update** Informational Greg Trujillo, Acting Executive Director
 - B. Consideration of 2021 Legislation**
 1. HB 277 - Public Retiree Beneficiary Designation; Rep. Jason Harper Action
 2. SB 403 - Emergency Dispatchers as Police Under PERA; Sen. David Gallegos Action
 3. Possible additional Legislation Informational
 - C. Executive Director Hiring Process** Francis Page
 1. Approval of Executive Director Job Description Action Francis Page
 2. Approval of Salary Range for Executive Director Position Action
 3. Approval of Timeline for Executive Director Search Action
 4. Appointment of Ad Hoc Executive Director Search Committee Informational
 5. FY22 Operating Budget Impact of Executive Director Hire Informational Anna Williams, ASD Director/ CFO
 - D. Chief Investment Officer's Report** Informational Dominic Garcia, CIO
 - E. Executive Director's Report** Informational Greg Trujillo, Acting Executive Director

Board will Recess to Executive Session NMSA 1978, §10-15-1 (H) (7)

In re WageWorks, Inc., Securities Litigation, Case No. 4:18-CV-01523-JSW

Cholla Khoury, Assistant
Attorney General; Susan Pittard,
PERA General Counsel

Board will Convene to Regular Session

- F. Approval of Proposed Settlement In re WageWorks, Inc., Securities Litigation, Case No. 4:18-CV-01523-JSW** Action Francis Page
- G. Trustee Reports on Educational Conference Attendance**
 1. Francis Page - NCPERS Fall Virtual Conference
 2. Diana Rosales Ortiz - NCPERS Fall Virtual Conference
- 8. Public Comment**
- 9. Adjournment**

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Trish Winter at 505-476-9305 or patriciab.winter@state.nm.us at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.

HOUSE BILL 277

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Jason C. Harper

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; PROVIDING ADDITIONAL
OPTIONS TO CHANGE THE SURVIVOR BENEFICIARY FOR RETIRED MEMBERS
WHO HAVE DESIGNATED A SPOUSE AS A SURVIVOR BENEFICIARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-11-116 NMSA 1978 (being Laws 1987,
Chapter 253, Section 116, as amended) is amended to read:

"10-11-116. ELECTION OF FORM OF PAYMENT OF A PENSION.--

A. Except as otherwise provided in Section
10-11-136 NMSA 1978, a member may elect to have pension payments
made under any one of the forms of payment provided in Section
10-11-117 NMSA 1978. The election of form of payment and naming
of survivor [~~pension~~] beneficiary shall be made on a form
furnished by and filed with the association prior to the date
the first pension payment is made. An election of form of

1 payment may not be changed after the date the first pension
2 payment is made. If the member is married, the association
3 shall obtain the consent of the member's spouse to the election
4 of the form of payment and any designation of survivor
5 [pension] beneficiary before the election or designation is
6 effective. Except as provided in Subsection C, D or E of this
7 section, a named survivor [pension] beneficiary may not be
8 changed after the date the first pension payment is made if
9 form of payment B or C is elected. Except as otherwise
10 provided in Section 10-11-136 NMSA 1978, payment shall be made:

11 (1) under form of payment A if the member is
12 not married at the time of retirement and if there is not a
13 timely election of another form of payment; or

14 (2) under form of payment C with the member's
15 spouse as survivor [pension] beneficiary if the member is
16 married at the time of retirement and there is not a timely
17 election of another form of payment.

18 B. The amount of pension under forms of payment B,
19 C and D shall have the same actuarial present value, computed
20 as of the effective date of the pension, as the amount of
21 pension under form of payment A.

22 C. A retired member who is being paid a pension
23 under form of payment B or C with the member's spouse as the
24 designated survivor [pension] beneficiary may:

25 (1) exercise a one-time irrevocable option to

1 designate another individual as the survivor beneficiary;
2 provided that:

3 (a) the retired member shall not have an
4 option to change from the current form of payment;

5 (b) the amount of the pension under the
6 form of payment selected shall be recalculated and have the
7 same actuarial present value, computed on the effective date of
8 the designation, as the amount of pension under form of payment
9 A;

10 (c) the member's spouse provides a
11 notarized, written statement expressing the spouse's consent to
12 relinquish the designation as a survivor beneficiary; and

13 (d) the retired member shall pay one
14 hundred dollars (\$100) to the retirement board to defray the
15 cost of determining the new pension amount;

16 (2) upon becoming divorced from the named
17 spouse and subject to an order of a court as provided for in
18 Section 10-11-136 NMSA 1978, elect to have future payments made
19 under form of payment A; or

20 (3) upon becoming divorced from the named
21 spouse, exercise a one-time irrevocable option to designate
22 another individual as the survivor beneficiary; provided that:

23 (a) the retired member shall not have an
24 option to change from the current form of payment;

25 (b) the amount of the pension under the

1 form of payment selected shall be recalculated and have the
2 same actuarial present value, computed on the effective date of
3 the designation, as the amount of pension under form of payment
4 A;

5 (c) the designation and the amount of
6 the pension shall be subject to a court order as provided for
7 in Section 10-11-136 NMSA 1978; and

8 (d) the retired member shall pay one
9 hundred dollars (\$100) to the retirement board to defray the
10 cost of determining the new pension amount.

11 D. A retired member who was previously being paid a
12 pension under form of payment B or C but, because of the death
13 of the designated survivor [~~pension~~] beneficiary, is currently
14 receiving a pension under form of payment A may exercise a one-
15 time irrevocable option to designate another individual as the
16 survivor [~~pension~~] beneficiary and may select either form of
17 payment B or form of payment C; provided that:

18 (1) the amount of the pension under the form
19 of payment selected shall be recalculated and have the same
20 actuarial present value, computed on the effective date of the
21 designation, as the amount of pension under form of payment A;

22 (2) the designation and the amount of the
23 pension shall be subject to a court order as provided for in
24 Section 10-11-136 NMSA 1978; and

25 (3) the retired member shall pay one hundred

1 dollars (\$100) to the retirement board to defray the cost of
2 determining the new pension amount.

3 E. A retired member who is being paid a pension
4 under form of payment B or C with a living designated survivor
5 [~~pension~~] beneficiary other than the retired member's spouse or
6 former spouse may exercise a one-time irrevocable option to
7 deselect the designated beneficiary and elect to:

8 (1) designate another survivor [~~pension~~]
9 beneficiary, provided that:

10 (a) the retired member shall not have an
11 option to change from the current form of payment;

12 (b) the amount of the pension under the
13 form of payment shall be recalculated and shall have the same
14 actuarial present value, computed as of the effective date of
15 the designation, as the amount of pension under form of payment
16 A; and

17 (c) the retired member shall pay one
18 hundred dollars (\$100) to the retirement board to defray the
19 cost of determining the new pension amount; or

20 (2) have future payments made under form of
21 payment A."

22 SECTION 2. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2021.

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR Harper ORIGINAL DATE 02/15/21
LAST UPDATED _____ HB 277
SHORT TITLE Public Retiree Beneficiary Designation SB _____
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 277 (HB277) allows a PERA retiree a one-time, irrevocable option to designate a previously undesignated individual as the retiree's survivor beneficiary. If the retiree is married, the change is subject to spousal consent. HB277 would allow a member who becomes divorced from a designated spouse to make the same one-time, irrevocable designation of another survivor beneficiary.

HB277 requires that the amount of the pension shall be recalculated to have the same actuarial present value, computed on the effective date of the designation, as the amount of the normal retirement pension. Additionally, HB277 requires a \$100 fee be paid by a retiree exercising the one-time designation to PERA to defray costs of recalculating the pension amount.

FISCAL IMPLICATIONS

HB277 requires pensions paid to survivor beneficiaries to be actuarially reduced to the value of a pension paid exclusively to the retiree. Therefore, HB277 will have no fiscal impact.

Allowing retirees the option to designate a previously undesignated person as their survivor beneficiary will require PERA to recalculate pension benefits, but it is unlikely these costs will be significant or require additional appropriations.

SIGNIFICANT ISSUES

Currently, PERA retirees have four forms of payment options available to them: Option A pays a monthly benefit based on the amount of service credit accrued multiplied by the final average salary until death; Option B provides a monthly benefit to the retiree and designated beneficiary which expires upon the death of the beneficiary; Option C provides a survivor beneficiary a 50 percent benefit until death; and Option D allows a member to designate a child under 25 as the beneficiary with benefit payments ceasing after the beneficiary turns 25.

Options B and C reduce the amount of the monthly pension payment so that the actuarial value of the pension benefit under Options B and C are the same as the value of Option A. Actuarial valuation of the pension benefit is based on age at the time of retirement and life expectancy. Therefore, the younger a survivor beneficiary is, the more the monthly benefit will be reduced. This is done so that the expected total payments to the retiree and the beneficiary equal the payments that would have been expected to be made for the retiree based on service credit multiplied by final average salary.

PERA notes:

HB277 seeks to remedy the issue that exists when: 1) a PERA member retires, names his or her spouse under form of payment B or C, and the retiree and his or her spouse agree to name another beneficiary; and 2) after divorce from a named beneficiary, allow a onetime election to name another beneficiary (under current law, such retired member may only have his or her benefit “popped-up” to Option A).

CJ/al

LFC Requester:

Connor Jorgenson

AGENCY BILL ANALYSIS
2021 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original ☒ Amendment ☐
Correction ☐ Substitute ☐

Date 2/13/2021

Bill No: HB 277

Sponsor: Representative Jason Harper
Short PUBLIC RETIREE
Title: BENEFICIARY DESIGNATION

Agency Name
and Code

PERA 366

Number:

Person Writing

Susan Pittard

Phone: 505-366-9491

Email Susan.pittard@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 277 amends the PERA Act to:

- Allow a retired member who is being paid a pension under forms of payment B or C with his or her spouse as a designated survivor beneficiary to exercise a one-time, irrevocable option to designate another person as survivor beneficiary, subject to spousal consent; and
- Allow a retired member who, upon becoming divorced from a designated spouse, exercise a one-time, irrevocable option to designate another person as survivor beneficiary.

HB 277 requires the recalculation of the pension under form of payment B or C to have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A. HB 277 further requires a retired member to pay \$100 to the Fund to defray the cost of calculating the new pension amount.

Current law does not allow a retiree who has named a spouse as their designated survivor beneficiary to change this designation or, upon divorce, to provide a survivor benefit to a subsequent spouse upon remarriage.

FISCAL IMPLICATIONS

PERA will require increased staff utilization in order to recalculate pension benefits, verify survivor-beneficiary designations and verify supporting documents.

SIGNIFICANT ISSUES

The PERA Act provides for both normal and optional forms of payment to its retirees. *See* NMSA 1978, Section 10-11-116 (2010). The normal form of payment is for life, Option A, which provides a monthly benefit to the retiree for his or her lifetime. Upon death, all payments stop. Optional contingent survivor beneficiary forms of payment are available on an actuarial equivalent basis, meaning the normal pension monthly benefit is reduced depending on the survivor option chosen, the retiree's age, and the age of the named beneficiary. Contingent survivor benefits, Options B and C, provide a 100% or 50% survivor benefit, respectively. The PERA Act requires that the amount of pension payable under forms of payment B and C shall

have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A. See NMSA 1978, Section 10-11-116 (B) (2010). In other words, under Options B and C, a reduced benefit is paid to the retiree during his or her lifetime, which pays for the cost of the survivor benefit.

Historically, a named survivor pension beneficiary could not be changed after the date the first pension payment is made if Option B or C was selected. The only exceptions were: (1) if the named survivor beneficiary dies before the member, NMSA 1978, Section 10-11-117(B) & (C) (1997); or (2) if the member named his spouse as survivor beneficiary and they later divorce. NMSA 1978, Section 10-11-116(C) (1991). In both situations, the payment option could be changed to Option A upon satisfaction of all PERA requirements. The reason that a pension benefit may be “popped-up” to Option A after a death or divorce is because there is no additional cost to the retirement system. In 2010, NMSA 1978, Section 10-11-116(D) was added to allow a PERA retiree who has designated a survivor beneficiary other than a spouse under form of payment B or C, to exercise a one-time irrevocable option to deselect the designated beneficiary, subject to certain conditions. The retiree may now have future payments made under form of payment A, or designate another beneficiary to receive a reduced-benefit pension under the current form of payment.

In the case of a retired member who is being paid under option B or C with the member’s spouse as the designated survivor beneficiary, a court order is required directing PERA to change the form of payment. *See* NMSA 1978, Section 10-11-116(C).

PERFORMANCE IMPLICATIONS

HB 277 will not affect PERA’s performance measures.

ADMINISTRATIVE IMPLICATIONS

PERA will be required to recalculate pensions, verify survivor-beneficiary designation deadlines and verify supporting documents. Specifically, in the case of an irrevocable designation of a new spouse as survivor beneficiary, PERA will recalculate the pension going forward based on the new designated beneficiary’s age.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

HB 277 seeks to remedy the issue that exists when: 1) a PERA member retires, names his or her spouse under form of payment B or C, and the retiree and his or her spouse agree to name another beneficiary; and 2) after divorce from a named beneficiary, allow a onetime election to name another beneficiary (under current law, such retired member may only have his or her benefit “popped-up” to Option A).

PERA is a governmental defined benefit plan qualified under section 401(a) of the Internal Revenue Code. In general, pension payments, whether paid over a participant’s life or over the lives of the retiree and his or her beneficiary, must be non-increasing. The “pop-up” features of the PERA Act resulting from a beneficiary’s death or the participant’s divorce does not violate this rule.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A PERA retiree who names his or her spouse under Option B or C cannot change his or her beneficiary even with the designated beneficiary's consent. A retiree who is receiving a pension under form of payment A and who subsequently remarries cannot provide a survivor benefit to a subsequent spouse.

AMENDMENTS

None proposed.

**FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021**

February 18, 2021

Mr. Speaker:

Your **LABOR, VETERANS' AND MILITARY AFFAIRS
COMMITTEE**, to whom has been referred

HOUSE BILL 277

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

1. On page 3, line 1, after "beneficiary", insert "and
may select either form of payment B or form of payment C".

2. On page 3, lines 3 and 4, strike Subparagraph (a) in
its entirety.

3. Reletter the succeeding subparagraphs accordingly.

4. On page 3, line 22, after "beneficiary", insert "and
may select either form of payment B or form of payment C".

5. On page 3, lines 23 and 24, strike Subparagraph (a) in
its entirety.

6. Reletter the succeeding subparagraphs accordingly.

7. On page 4, line 13, after "of", insert "or divorce
from".

8. On page 5, line 9, after "beneficiary", insert "and
may select either form of payment B or form of payment C".

9. On page 5, lines 10 and 11, strike Subparagraph (a) in
its entirety.

10. Reletter the succeeding subparagraphs accordingly.,

and thence referred to the **STATE GOVERNMENT, ELECTIONS AND
INDIAN AFFAIRS COMMITTEE**.

**FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021**

HLVMC/HB 277

Page 2

Respectfully submitted,



Eliseo Lee Alcon, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against
Yes: 8
No: 0
Excused: Stapleton
Absent: None

LFC Requester:**Connor Jorgenson****AGENCY BILL ANALYSIS
2021 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☐ Amendment ☒
Correction ☐ Substitute ☐Date 2/22/2021Bill No: HB 277Sponsor: Representative Jason Harper
Short PUBLIC RETIREE
Title: BENEFICIARY DESIGNATIONAgency Name
and CodePERA 366

Number:

Person Writing

Susan PittardPhone: 505-366-9491Email Susan.pittard@state.n**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 277 amends the PERA Act to:

- Allow a retired member who is being paid a pension under forms of payment B or C with his or her spouse as a designated survivor beneficiary to exercise a one-time, irrevocable option to designate another person as survivor beneficiary, subject to spousal consent; and
- Allow a retired member who, upon becoming divorced from a designated spouse, exercise a one-time, irrevocable option to designate another person as survivor beneficiary.

HB 277 requires the recalculation of the pension under form of payment B or C to have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A. HB 277 further requires a retired member to pay \$100 to the Fund to defray the cost of calculating the new pension amount.

The HLVMC Amendment:

1. Allows a retired member to change his or her form of payment option at the time of beneficiary deselection for consistency throughout the statutory section of law;
2. Allows a retiree who has named a spouse as their designated survivor beneficiary to, and upon divorce is being paid under option A, provide a survivor benefit to a new beneficiary subsequent spouse upon remarriage. Currently, a retiree who is receiving a pension under form of payment A and subsequently remarries cannot provide a survivor benefit to a subsequent spouse.

FISCAL IMPLICATIONS

PERA will require increased staff utilization in order to recalculate pension benefits, verify survivor-beneficiary designations and verify supporting documents.

SIGNIFICANT ISSUES

The PERA Act provides for both normal and optional forms of payment to its retirees. *See* NMSA 1978, Section 10-11-116 (2010). The normal form of payment is for life, Option A,

which provides a monthly benefit to the retiree for his or her lifetime. Upon death, all payments stop. Optional contingent survivor beneficiary forms of payment are available on an actuarial equivalent basis, meaning the normal pension monthly benefit is reduced depending on the survivor option chosen, the retiree's age, and the age of the named beneficiary. Contingent survivor benefits, Options B and C, provide a 100% or 50% survivor benefit, respectively. The PERA Act requires that the amount of pension payable under forms of payment B and C shall have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A. See NMSA 1978, Section 10-11-116 (B) (2010). In other words, under Options B and C, a reduced benefit is paid to the retiree during his or her lifetime, which pays for the cost of the survivor benefit.

Historically, a named survivor pension beneficiary could not be changed after the date the first pension payment is made if Option B or C was selected. The only exceptions were: (1) if the named survivor beneficiary dies before the member, NMSA 1978, Section 10-11-117(B) & (C) (1997); or (2) if the member named his spouse as survivor beneficiary and they later divorce. NMSA 1978, Section 10-11-116(C) (1991). In both situations, the payment option could be changed to Option A upon satisfaction of all PERA requirements. The reason that a pension benefit may be "popped-up" to Option A after a death or divorce is because there is no additional cost to the retirement system. In 2010, NMSA 1978, Section 10-11-116(D) was added to allow a PERA retiree who has designated a survivor beneficiary other than a spouse under form of payment B or C, to exercise a one-time irrevocable option to deselect the designated beneficiary, subject to certain conditions. The retiree may now have future payments made under form of payment A, or designate another beneficiary to receive a reduced-benefit pension under the current form of payment.

In the case of a retired member who is being paid under option B or C with the member's spouse as the designated survivor beneficiary, a court order is required directing PERA to change the form of payment. *See* NMSA 1978, Section 10-11-116(C).

PERFORMANCE IMPLICATIONS

HB 277 will not affect PERA's performance measures.

ADMINISTRATIVE IMPLICATIONS

PERA will be required to recalculate pensions, verify survivor-beneficiary designation deadlines and verify supporting documents. Specifically, in the case of an irrevocable designation of a new spouse as survivor beneficiary, PERA will recalculate the pension going forward based on the new designated beneficiary's age.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

HB 277 seeks to remedy the issue that exists when: 1) a PERA member retires, names his or her spouse under form of payment B or C, and the retiree and his or her spouse agree to name another beneficiary; and 2) after divorce from a named beneficiary, allow a onetime election to name another beneficiary (under current law, such retired member may only have his or her benefit "popped-up" to Option A).

PERA is a governmental defined benefit plan qualified under section 401(a) of the Internal Revenue Code. In general, pension payments, whether paid over a participant's life or over the lives of the retiree and his or her beneficiary, must be non-increasing. The "pop-up" features of the PERA Act resulting from a beneficiary's death or the participant's divorce does not violate this rule.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A PERA retiree who names his or her spouse under Option B or C cannot change his or her beneficiary even with the designated beneficiary's consent. A retiree who is receiving a pension under form of payment A and who subsequently remarries cannot provide a survivor benefit to a subsequent spouse.

AMENDMENTS

None proposed.

SENATE BILL 403

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

David M. Gallegos

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING EMERGENCY
DISPATCHERS AS POLICE MEMBERS UNDER THE PUBLIC EMPLOYEES
RETIREMENT ACT; PROVIDING FOR ELECTIONS PERTAINING TO THE
ADOPTION OF THE POLICE MEMBER COVERAGE PLANS FOR CURRENT
EMERGENCY DISPATCHERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

.218180.1

1 B. "affiliated public employer" means the state and
2 any public employer affiliated with the association as provided
3 in the Public Employees Retirement Act, but does not include an
4 employer pursuant to the Magistrate Retirement Act, the
5 Judicial Retirement Act or the Educational Retirement Act;

6 C. "association" means the public employees
7 retirement association established under the Public Employees
8 Retirement Act;

9 D. "coverage plan funded ratio" means the ratio of
10 the actuarial value of the assets of a coverage plan to the
11 actuarial accrued liability of the association for payments
12 from the coverage plan, as determined by the association's
13 actuaries;

14 E. "disability retired member" means a retired
15 member who is receiving a pension pursuant to the disability
16 retirement provisions of the Public Employees Retirement Act;

17 F. "disability retirement pension" means the
18 pension paid pursuant to the disability retirement provisions
19 of the Public Employees Retirement Act;

20 G. "educational retirement system" means that
21 retirement system provided for in the Educational Retirement
22 Act;

23 H. "employee" means any employee of an affiliated
24 public employer;

25 I. "federal social security program" means that

1 program or those programs created and administered pursuant to
2 the act of congress approved August 14, 1935, Chapter 531, 49
3 Stat. 620, as that act may be amended;

4 J. "final average salary" means the final average
5 salary calculated in accordance with the provisions of the
6 applicable coverage plan;

7 K. "form of payment" means the applicable form of
8 payment of a pension provided for in Section 10-11-117 NMSA
9 1978;

10 L. "former member" means a person who was
11 previously employed by an affiliated public employer, who has
12 terminated that employment and who has received a refund of
13 member contributions;

14 M. "fund" means the funds included under the Public
15 Employees Retirement Act;

16 N. "member" means a currently employed,
17 contributing employee of an affiliated public employer, or a
18 person who has been but is not currently employed by an
19 affiliated public employer, who has not retired and who has not
20 received a refund of member contributions; "member" also
21 includes the following:

22 (1) "adult correctional officer member" means
23 a member who is employed as an adult correctional officer or an
24 adult correctional officer specialist by a state correctional
25 facility of the corrections department or its successor agency;

.218180.1

1 (2) "adult probation and parole officer
2 member" means a member who is employed as a probation and
3 parole officer by the corrections department or its successor
4 agency;

5 (3) "juvenile correctional officer member"
6 means a member who is employed as a juvenile correctional
7 officer by the children, youth and families department or its
8 successor agency;

9 (4) "juvenile probation and parole officer
10 member" means a member who is employed as a probation and
11 parole officer by the children, youth and families department
12 or its successor agency;

13 (5) "municipal detention officer member" means
14 a member who is employed by an affiliated public employer other
15 than the state and who has inmate custodial responsibilities at
16 a facility used for the confinement of persons charged with or
17 convicted of a violation of a law or ordinance;

18 (6) "municipal fire member" means any member
19 who is employed as a full-time nonvolunteer firefighter by an
20 affiliated public employer and who has taken the oath
21 prescribed for firefighters;

22 (7) "municipal police member" means any member
23 who is employed as:

24 (a) a police officer by an affiliated
25 public employer, other than the state, and who has taken the

1 oath prescribed for police officers; ~~and~~ or

2 (b) an emergency dispatcher by an
3 affiliated public employer, other than the state; and

4 (8) "state police member" means a member who
5 is an:

6 (a) officer of the New Mexico state
7 police and who has taken the oath prescribed for such officers,
8 except that a state police member shall not include a member
9 who is an officer of the New Mexico state police division and
10 who was certified and commissioned as of June 30, 2015 in the
11 former motor transportation division or the former special
12 investigations division of the department of public safety; or

13 (b) emergency dispatcher employed by the
14 state;

15 O. "membership" means membership in the
16 association;

17 P. "pension" means a series of monthly payments to
18 a retired member or survivor beneficiary as provided in the
19 Public Employees Retirement Act;

20 Q. "public employer" means the state, any
21 municipality, city, county, metropolitan arroyo flood control
22 authority, economic development district, regional housing
23 authority, soil and water conservation district, entity created
24 pursuant to a joint powers agreement, council of government,
25 conservancy district, irrigation district, water and sanitation

.218180.1

1 district, water district and metropolitan water board,
2 including the boards, departments, bureaus and agencies of a
3 public employer, so long as these entities fall within the
4 meaning of governmental plan as that term is used in Section
5 414(d) of the Internal Revenue Code of 1986, as amended;

6 R. "refund beneficiary" means a person designated
7 by the member, in writing, in the form prescribed by the
8 association, as the person who would be refunded the member's
9 accumulated member contributions payable if the member dies and
10 no survivor pension is payable or who would receive the
11 difference between pension paid and accumulated member
12 contributions if the retired member dies before receiving in
13 pension payments the amount of the accumulated member
14 contributions;

15 S. "retire" means to:

16 (1) terminate employment with all employers
17 covered by any state system or the educational retirement
18 system; and

19 (2) receive a pension from a state system or
20 the educational retirement system;

21 T. "retired member" means a person who has met all
22 requirements for retirement and who is receiving a pension from
23 the fund;

24 U. "retirement board" means the retirement board
25 provided for in the Public Employees Retirement Act;

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1 V. "salary" means the base salary or wages paid a
2 member, including longevity pay, for personal services rendered
3 an affiliated public employer. "Salary" shall not include
4 overtime pay, allowances for housing, clothing, equipment or
5 travel, payments for unused sick leave, unless the unused sick
6 leave payment is made through continuation of the member on the
7 regular payroll for the period represented by that payment, and
8 any other form of remuneration not specifically designated by
9 law as included in salary for Public Employees Retirement Act
10 purposes. Salary in excess of the limitations set forth in
11 Section 401(a)(17) of the Internal Revenue Code of 1986, as
12 amended, shall be disregarded. The limitation on compensation
13 for eligible employees shall not be less than the amount that
14 was allowed to be taken into account under the state retirement
15 system acts in effect on July 1, 1993. For purposes of this
16 subsection, "eligible employee" means an individual who was a
17 member of a state system before the first plan year beginning
18 after December 31, 1995;

19 W. "state system" means the retirement programs
20 provided for in the Public Employees Retirement Act, the
21 Magistrate Retirement Act and the Judicial Retirement Act;

22 X. "state retirement system acts" means
23 collectively the Public Employees Retirement Act, the
24 Magistrate Retirement Act, the Judicial Retirement Act and the
25 Volunteer Firefighters Retirement Act; and

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1 Y. "survivor beneficiary" means a person who
2 receives a pension or who has been designated to be paid a
3 pension as a result of the death of a member or retired
4 member."

5 **SECTION 2. TEMPORARY PROVISION--MUNICIPAL POLICE MEMBER**
6 **COVERAGE PLAN 5--EMERGENCY DISPATCHERS--ELECTION.**--On or before
7 December 30, 2021, the retirement board provided for in the
8 Public Employees Retirement Act shall conduct an election to
9 submit to municipal police members currently contributing under
10 a municipal general member coverage plan the question of
11 adopting municipal police member coverage plan 5. The election
12 shall be conducted in accordance with procedures adopted by the
13 retirement board, and the retirement board shall certify the
14 results of the election to the secretary of state on or before
15 January 1, 2022.

16 **SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBER,**
17 **CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER**
18 **MEMBER COVERAGE PLAN 1--EMERGENCY DISPATCHERS--ELECTION.**--On or
19 before December 30, 2021, the retirement board provided for in
20 the Public Employees Retirement Act shall conduct an election
21 to submit to state police members currently contributing under
22 state general member coverage plan 3 the question of adopting
23 state police member, correctional officer member and probation
24 and parole officer member coverage plan 1. The election shall
25 be conducted in accordance with procedures adopted by the

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1 retirement board, and the retirement board shall certify the
2 results of the election to the secretary of state on or before
3 January 1, 2022.

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LFC Requester:**Connor Jorgensen****AGENCY BILL ANALYSIS
2021 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☒ Amendment ☐
Correction ☐ Substitute ☐Date 2/18/2021Bill No: SB403Sponsor: Senator David Gallegos
Short Title: EMERGENCY DISPATCHERS
AS POLICE UNDER PERAAgency Name
and CodePERA 366

Number:

Person Writing

Susan PittardPhone: 505-366-9491Email Susan.pittard@state.nm.us**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB403 amends the PERA Act to expand the definitions of “municipal police member” and “state police officer” to include emergency dispatchers.

FISCAL IMPLICATIONS

SB403 will affect two PERA Divisions: Municipal Police and State Police/Corrections. For the year ending June 30, 2020, the Municipal Police Plan had an unfunded actuarial accrued liability (UAAL) of \$724.8 million and was funded at 74.9%. For the year ending June 30, 2020 the State Police /Corrections Division actuarial value of assets exceeded accrued liabilities by \$283.9 million and was funded at 127.2%.

SB403 will increase liabilities for the affected membership Divisions. No actuarial study was performed to determine the actuarial impact of SB403 and as a result, it is unknown what the unfunded accrued actuarial liability (“increased liabilities”) to the PERA fund will be. SB403 provides no appropriation for the unfunded increased liabilities that will result from the enhanced retirement benefits.

SIGNIFICANT ISSUES

PERA administrative regulations define a “police member” as a member who is employed as a police officer by an affiliated public employer, who is paid a salary, and who has taken the oath prescribed for police officers. The term shall not include volunteers, juvenile correctional officers, or employees who do not perform primarily police functions, including, but not limited to jailers, cooks, matrons, radio operators, meter checkers, pound employees, crossing guards, police judges, park conservation officers and game wardens. See NMAC 2.80.100.7 (M). By definition, PERA regulations only allow non-police officer employees to be police members if more than 50% of the member’s total salary is paid as a police officer.

Increased benefits of a retirement coverage plan calculated using a 3.5% pension factor allows a member to retire with 20years of service credit at 70% of final average salary. Currently this benefit structure is only provided to Municipal Police Plan 5 and Municipal Fire Plan 5 members. Both employers and employees will be required to bear the cost of the increased contribution rates required by the proposed benefit plan structure. It is unknown whether the affected members participate in Social Security as well.

The increased retirement benefits of the State Police Plan 1 are calculated using a pension factor of 3% with a 20% enhancement of actual service credit, which allows a member to retire with 20.10 years of service credit at 75% of final average salary. Both employers and employees will be required to bear the cost of the increased contribution rates required by the proposed benefit plan structure. It is unknown whether the affected members participate in Social Security as well.

To date, all employee groups that are eligible for the enhanced benefits of a 20-year retirement plan or that have each year of service credit enhanced by 20% (state police, adult correctional officers, probation and parole officers, municipal police/fire, and municipal detention officers) have danger to life as an integral part of their job duties. Expanding enhanced benefits to employee groups beyond these “hazardous duty” employee groups may set precedent for other employer groups to seek enhanced benefits from the retirement system.

PERFORMANCE IMPLICATIONS

SB 403 will not affect PERA’s performance measures.

ADMINISTRATIVE IMPLICATIONS

SB 403 will not have an administrative impact on PERA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Article XX, Section 22 (C) of the Constitution of the State of New Mexico, which states in part, “[t]he legislature shall not enact any law that increases the benefits paid by the [retirement] system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided.

SB403 conflicts with the definition of police member at 2.80.100.7 (M).

Conflicts with SB315, including certain motor transportation officers and special investigator members under the definition of “state police member” under the PERA Act. NMSA 1978, Section 10-11-2 (N) (8).

TECHNICAL ISSUES

As drafted, SB403 would retroactively enhance retirement benefits for emergency dispatchers. Grandfathering past service credit under the 20-year police coverage plans would increase retirement eligibility in the affected group of emergency dispatcher who are now required to accrue not less than 25 years of service credit to retire. SB403 does not require a mandatory period of participation under the enhanced plan at increased contribution rates prior to eligibility for retirement. Without a prospective applicability provision, SB 403 will create increased liabilities if affected members immediately retire with enhanced benefits sooner than normally projected.

OTHER SUBSTANTIVE ISSUES

Article XX Section 22 of the Constitution of the State of New Mexico requires that an increase in benefits under the retirement system be adequately funded to preserve the PERA Fund’s actuarial soundness. The membership affected by SB403 did not receive/request an actuarial study for an actuarial cost determination of its increase of benefits.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Emergency dispatchers who are employed by public affiliated employers other than the state will continue to receive PERA retirement benefits under municipal general coverage plans. Under Municipal General Member Coverage Plans 3 and 4, a Tier 1 member is eligible to retire with 25 years of service credit at any age with a three percent pension multiplier.

AMENDMENTS

Noted above in technical section.

Public Employees Retirement Association

Executive Director Job Description

Job Description:

Note: SPO Advertisement and National Advertisement will conform to this description.

DEFINITION

This is a full-time job requiring not less than 40 hours per week. Incumbent supervises the administration of Board policies and assigned programs and activities of NMPERA; provides leadership to PERA employees in terms of collegiality, initiative, and ethical conduct; coordinates assigned activities with other state divisions, the legislature, and outside agencies; and provides responsible and complex administrative support to the NMPERA Board.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Board.

Exercises direct supervision over supervisory, professional, technical, and clerical staff.

ESSENTIAL FUNCTION STATEMENTS – *Essential responsibilities and duties may include, but are not limited to the following:*

1. Plan, direct, coordinate, evaluate work of assigned staff; assign work activities, projects, and programs; review and evaluate work products, methods, and procedures; meet with staff to resolve problems.
2. Establish and maintain plans for senior management succession.
3. Achieve the long-term policies and strategic objectives established for PERA by the Board, including:
 - a. Determine appropriate methods for attaining the Board-established policies and strategic objectives,
 - b. Direct PERA employees in the furtherance of those objectives, and
 - c. Ensure the management activities and decisions are within Board-approved policies.
4. Facilitate the efficient operation of PERA and the Board's committees.
5. Regularly advise and consult with outside organizations, membership constituency groups, employers and the legislature, ensuring effective external communications.
6. Manage essential public relations for PERA, maintaining a positive public image.
7. Maintain records for active and retired members.
8. Maintain performance records as specified by the Board.
9. Oversee the pension administration system.
10. Implement and oversee annuitant payroll system.
11. Adhere to a professional code of ethics and standards of professional conduct as may be prescribed by the Board.

QUALIFICATIONS

Knowledge of:

Principles of supervision, training, and performance.

Operational characteristics, services, and activities of a pension program.

Actuarial principles and their statistical application.
Fundamentals of the securities industry.
Principles and practices of budget preparation and administration.
Legislative process, NM experience preferred.
Pertinent Federal, State, and local laws, codes, and regulations.

Ability to:

Establish and maintain effective working relationships with those contacted in the course of work.
Make sound decisions and/or recommendations.
Communicate clearly and concisely, both orally and in writing.
Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.
Research, analyze and evaluate new service delivery methods and techniques.
Oversee and participate in the management of PERA's operations, services, and activities.
Oversee, direct, and coordinate the work of staff.
Delegate effectively.
Select, supervise, train, and evaluate staff while providing equal employment opportunities to all PERA employees.
Develop and administer operational goals, objectives, and procedures.
Prepare and administer large and complex budgets.
Prepare clear and concise administrative financial reports.
Interpret, explain and/or apply Federal, State, and local policies, laws, regulations, court decisions and proposed legislation.
Initiate recommendations to the Board.

Experience and Education Guidelines

Experience:

Ten years of increasing responsible management experience, including five years of administration and supervisory responsibility, including demonstrated strength in fiscal management and budgeting skills.
Experience working with a Board of directors.
Experience in the legislative process.
Experience working with member services organizations.

Education:

Bachelor's degree from an accredited college or university with major course work in management and technical disciplines related to pension management. Advanced professional degree preferred.

License or Certificate:

Possession of or demonstrated ability to obtain certification as Certified Pension Professional, CFA, CPA, JD, etc.

Work Conditions

Normal office environment with limited, but regular, in-state, and out-of-state travel.
[Amended: 3/29/2012]

Exhibit a

Executive Director GOVX Pay Grades

GOVX Pay Ranges for Executive Director

Public Employees Retirement Board

Executive Director, GOVX Pay Band 42

Pay Scale:

Min - \$32.86/hourly, \$68,348.00/annually

Mid - \$57.09/hourly, \$118,747.20/annually

Max - \$81.33/hourly, \$169,166.40/annually

Former Executive Director Salary: \$172,942.08

Proposed Temporary Salary for Interim Director: \$161,815.68

Education Retirement Board

Executive Director, GOVX Pay Band 70*

Pay Scale:

Min - \$100/hourly, \$208,000/annually

Mid - \$160/hourly, \$332,800/annually

Max - \$220/hourly, \$457,600/annually

Current Executive Director's salary: \$183,325.16

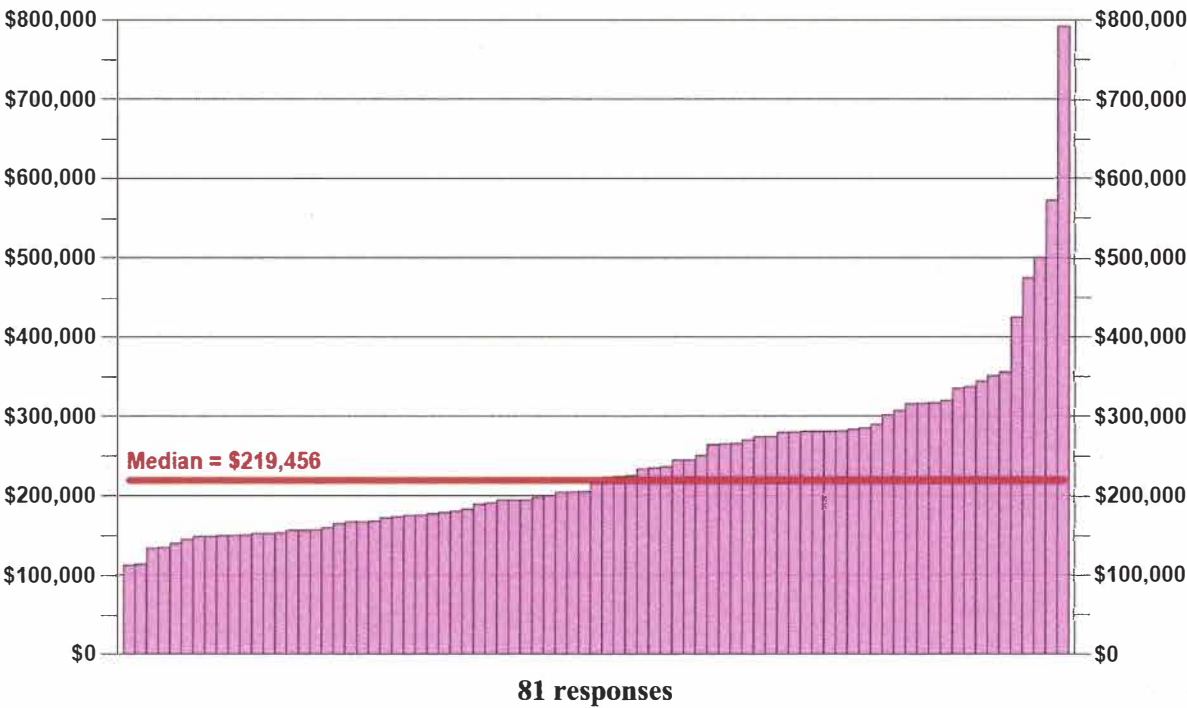
**pay grade was upgraded from GOVX Pay Band 42 to GOVX Pay Band 70 on May 18, 2019.*

Exhibit b



Executive Director/CEO

Executive director/CEO salaries and median for 81 responding systems. Data reflects base compensation and does not include any bonus or incentive pay.



The table below reflects the salary range, median, and average salary data for responding systems:

Salary Range	Median	Average
\$112,134 to \$791,397	\$219,456	\$241,195

COMPENSATION RESULTS

Job Code & Title	ADM101 - Executive Director/CEO
Summary	Top executive within the organization. Plans, develops, establishes, and implements policies and objectives of organization. Ultimately responsible for the ongoing operations and performance of the entire organization. Reports to the organization's Board and represents the organization to external parties. Bachelor's degree and 10 years of relevant leadership experience within a public pension system or similar organization required. Master's degree in an applicable field preferred.

	Orgs	Incs	Base Salary			Total Cash Compensation			Incentive		
			25th %ile	50th %ile	75th %ile	25th %ile	50th %ile	75th %ile	Count Eligible	Most Recent Avg. \$	Most Recent Avg. %
All Organizations	54	54	174.7	227.3	283.3	174.7	227.3	283.3	7	179.5	45.5%

Fund Management

Internal	20	20	212.0	281.9	305.1	213.1	281.9	305.2	4	ISD	ISD
External	33	33	166.4	198.7	237.9	166.4	198.7	237.9	2	ISD	ISD

Assets Under Management

< \$2.5B	11	11	165.1	175.7	209.0	165.1	175.7	209.8	2	ISD	ISD
\$2.5B - \$10B	13	13	189.6	231.8	253.6	189.6	231.8	253.6	2	ISD	ISD
\$10B - \$25B	14	14	168.2	215.1	280.2	168.2	215.1	280.2	1	ISD	ISD
> \$25B	16	16	205.0	283.3	316.2	205.0	283.3	330.6	2	ISD	ISD

Number of Employees

< 15	9	9	156.0	174.7	195.4	156.0	174.7	195.4	1	ISD	ISD
16 - 50	14	14	175.7	228.1	250.0	175.7	228.1	250.0	2	ISD	ISD
51 - 100	11	11	178.5	205.2	276.6	178.5	205.2	276.6	1	ISD	ISD
101 - 200	10	10	228.5	263.2	289.6	228.5	263.2	289.6	1	ISD	ISD
> 201	10	10	210.3	283.3	308.4	210.3	283.3	308.7	2	ISD	ISD

Number of Members

< 7.5K	9	9	174.7	200.0	263.3	174.7	200.0	263.3	0	ISD	ISD
7.5K - 20K	8	8	198.7	216.0	228.1	198.7	217.5	228.1	2	ISD	ISD
20K - 75K	8	8	167.0	205.7	257.4	167.0	205.7	257.4	0	ISD	ISD
75K - 200K	10	10	176.0	220.1	276.5	176.0	220.1	276.5	2	ISD	ISD
> 200K	15	15	192.6	279.5	304.3	192.6	279.5	304.5	2	ISD	ISD

ISD = Insufficient Data

State of New Mexico
State Personnel Office Pay Bands for Governor Exempt

Governor's Exempt Salary Schedule						
Pay Range	Hourly			Annual		
	Minimum	Mid-Point	Maximum	Minimum	Mid-Point	Maximum
42	32.863	57.100	81.336	68,355.04	118768.00	169,179.30
44	34.519	59.977	85.435	71,799.52	124752.16	177,704.38
46	36.259	63.001	89.742	75,418.72	131042.08	186,664.19
48	38.088	66.178	94.267	79,223.04	137650.24	196,074.74
50	40.008	69.514	99.02	83,216.64	144589.12	205,961.18
52	42.025	73.019	104.013	87,412.00	151879.52	216,346.42
54	44.144	77.072	109.999	91,819.52	160309.76	228,797.71
56	46.263	81.124	115.985	96,227.04	168737.92	241,248.80
60	70.00	115.000	160.000	145,600.00	239200.00	332,800.00
70	100.00	160.000	220.00	208,000.00	332800.00	457,600.00

OPTIONS:

- Leave Range at Pay Range 42
- Increase Range to a Pay Range 70 (As Compared to ERB)
- Increase Range to a Pay Range 44 through 60 - If permissible by SPO & GO, HR Staff in looking Into.
- Increase Range to a Pay Range that is comparable to NARSA Study – General Counsel is looking in NARSA performing a salary study based on Fund Management, Assets Under Management, Number of Employees and Number of Member for \$1,000.



PERA

Public Employees
Retirement Association
of New Mexico

P: (505) 476-9300

F: (505) 476-9401

Toll Free:

1 (800) 342-3422

INVESTED IN TOMORROW.

MEMORANDUM

DATE: February 19, 2021

TO: PERA Board of Trustees

FROM: Anna Williams, Administrative Services Director/CFO

SUBJECT: Impact of Hiring a New Executive Director

- Hiring a New Executive Director with the current pay exempt pay code of *Exec. Director Investment/Pensions -GOVX 42* would have no impact on the FY 22 Appropriation Request as the budget request already has the current Executive Director's salary factored in. The prior Executive Director was already above the pay code range as a result of legislative compensation increases.
- Reclassifying the Executive Director's pay code to *Executive Director of Investments – GOVX 70* would have a small impact on the on the FY 22 Budget Request if the new executive director is hired at the minimum pay grade. If the new Executive Director is hired at the minimum salary of the pay code it would have approximately \$45,000 impact to the budget which PERA would have to make up through vacancy savings. PERA's current budget assumes a 5% vacancy savings, or \$415,000. However, PERA can hire below the minimum pay of an exempt position.
- PERA does have 5% BAR authority to increase our budget if needed.



PROPOSED TIMELINE FOR 2021 EXECUTIVE DIRECTOR SEARCH

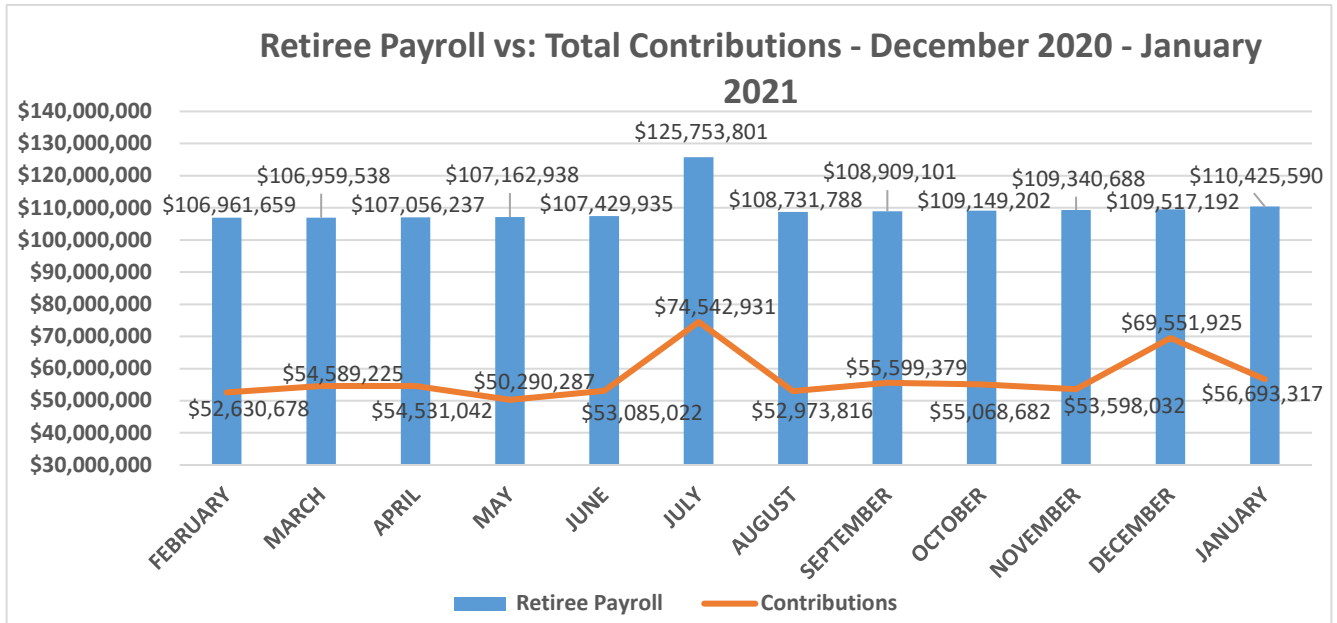
*DATES SUBJECT TO CHANGE BASED ON BOARD DIRECTION

DATE OR DEADLINE	ACTION OR EVENT
Thursday, 2/25/21	Staff presents proposed timeline to Special Board for approval; Board edits draft job ad and Executive Director job description to be provided to applicants upon request.
Thursday, 3/25/21	Board approves final versions of job ad and job description.
Tuesday, 4/26/21	Deadline for job ad in Pensions & Investments
Monday, 3/29/21	(Print) job ad appears for 2 weeks in Pensions & Investments with return date of April 19, 2021 - expanded job ad appears on Careers website of P&I; job ad appears in print and online versions of Albuquerque Journal, The New Mexican, and on PERA website.
Mon, 3/29/21 – Fri, 4/2/21	Staff contacts national pension organizations to post Executive Director position
Monday, 4/19/21	Deadline to receive applications
Tue, 4/20/21 – Fri, 4/23/21	Staff attaches checklist based on MQs in job ad to applications and forwards applications to Board
Thursday, 4/29/2021	Board reviews and discusses applications in executive session at April Board meeting and selects finalists to be interviewed pending review of references
Fri, 4/30/21 – Tue, 5/4/21	Board Chair and Vice Chair review references of finalists
Tue, 5/4/21 – Fri, 5/7/21	Staff notifies finalists and makes travel arrangements for May 27, 2021 interviews at May Board meeting
Thursday, 5/27/2021	Board conducts interviews with finalists at Board meeting and votes on offer of employment
Tuesday, 6/8/2021	Board announces selection of new Executive Director at June 8, 2021 Special Board meeting.
Thursday, 6/25/2021	Potential date for new Executive Director to begin at PERA

TIMELINE BASED ON NO RECLASSIFICATION



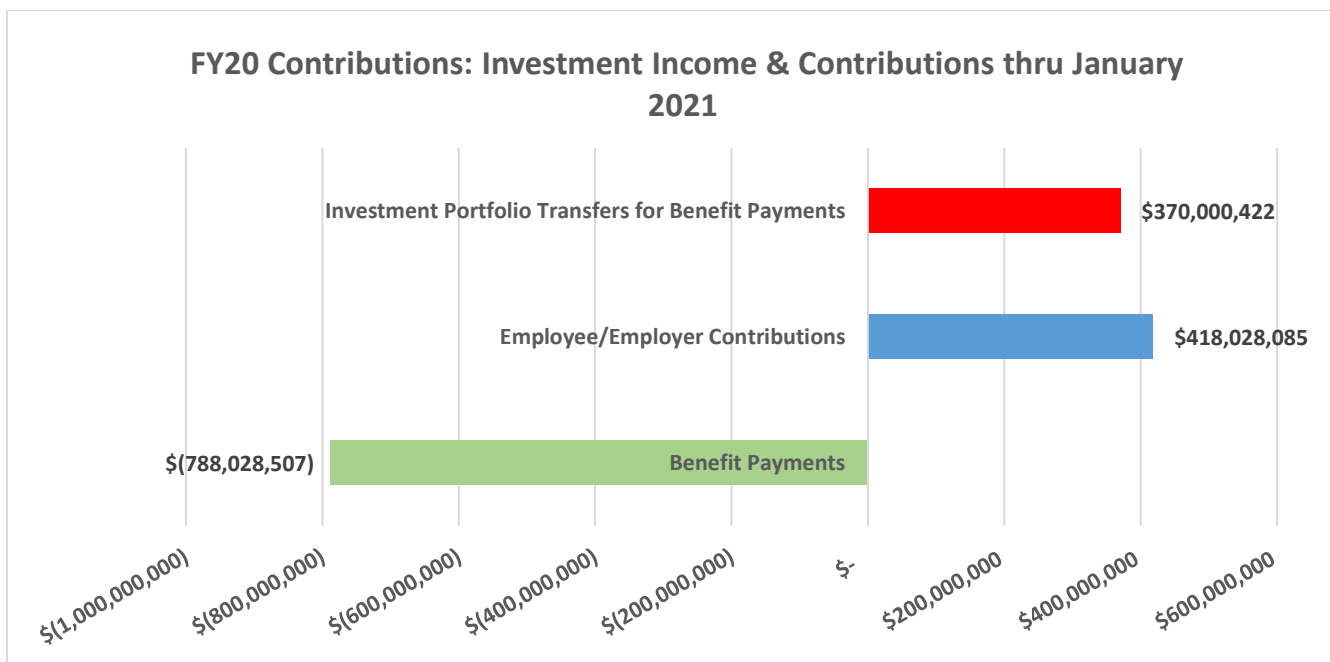
EXECUTIVE DIRECTOR'S REPORT PERA BOARD MEETING – February 25, 2021

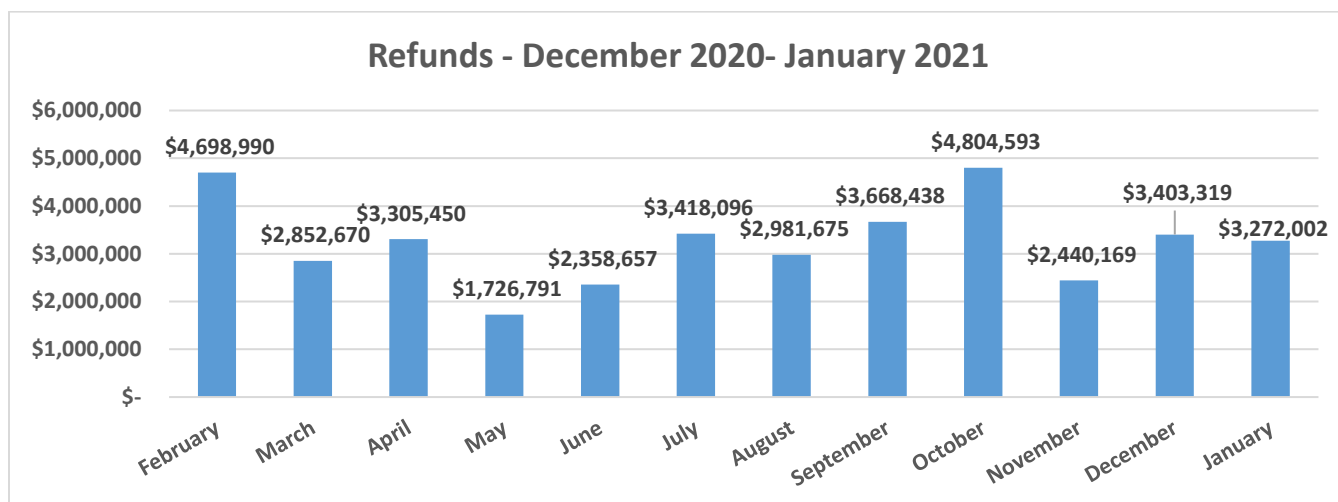


Total Retiree Payroll = \$1,317,397,669

Total Contributions: \$ 683,154,336

**** Due to adjustments to Employer reports contributions amounts are subject to change**





**** Total Refunds Paid during this period was \$38,930,850**

VACANCY REPORT			
Position	Division	Date Vacated	Status
Attorney	Legal Division	4/30/2019	On Hold
Financial Analyst Advanced	Investments	6/29/2019	Pending Reclassification
Investment Associate	Investments	7/1/2019	On Hold
Investment Associate	Investments	7/1/2019	On Hold
Investment Associate	Investments	10/16/2020	On Hold
Chief Financial Officer III	ASD	5/2/2020	Pending Interview
Retirement Specialist II	Member Services	2/6/2021	Pending Interview
Retirement Specialist I	Member Services	2/20/2021	Pending posting
Executive Director	Executive	2/12/2021	

PERA has 87 authorized FTE and currently has 9 vacancies

ADDITIONS/DEPARTURES/PROMOTIONS			
Employee	Position/Division	Date Started/Vacated	Status
Jeremy Ortiz	Bus Ops/Records	2/20/2021	Re-Hire
Karen Morales-Ortiz	Retirement Spec/Death & Disability	2/20/2021	Promotion
Annette Trujillo	Retirement Spec/	2/6/2021	Promotion

2021 AIR TIME PURCHASES	
Plan Type	February Purchases
State Plan 3	6
Municipal Plan 2	0
Municipal Plan 3	2
Municipal Plan 4	0
Municipal Detention Plan 1	1
Municipal Fire Plan 5	1
Municipal Police Plan 4	0
Municipal Police Plan 5	4
State Police/Corrections Plan	<u>2</u>
TOTAL:	16

2021 AIR TIME PURCHASES	
No. of Months	February Purchases
1	0
2	1
3	0
4	1
5	3
6	2
7	0
8	0
9	0
10	1
11	1
12	<u>7</u>
TOTAL:	16

Independent Contracts Reviewed – January 2021	
Entity	# of Contracts Reviewed January 2021
New Mexico Taxation & Revenue Department	2
New Mexico State Treasurer's Office	1
Chaves County	1
New Mexico Early Childhood Education and Care Department	<u>1</u>
Total:	5
<u>Reviewed, but "Not in Pay Status"</u>	
New Mexico Educational Retirement Board	<u>1</u>
Total:	1
<u>Denial Letter Sent</u>	
San Miguel County	<u>1</u>
Total:	1
<u>Total Contracts Reviewed</u>	7

PERA SmartSave Items of Interest – January 2021			
<u>County by Region North - Chris Day</u>	<u>Individual Meetings</u>	<u>Tele-outreach</u>	<u>In Person</u>
Colfax	2	7	
Harding		1	
Rio Arriba		3	
San Juan	3	4	
San Miguel	3	4	
Santa Fe	7	15	
Taos	1	3	
<u>County by Region Central - Paul Lium</u>	<u>Individual Meetings</u>	<u>Tele-outreach</u>	<u>In Person</u>
Bernalillo	8	40	7
Cibola		1	
Curry		3	
Guadalupe		1	
McKinley		1	
Sandoval	1	2	
<u>County by Region South - Linda Miller</u>	<u>Individual Meetings</u>	<u>Tele-outreach</u>	<u>In Person</u>
Chaves		12	
Dona Ana		25	
Eddy		6	
Grant		2	
Lea		3	
Luna		4	
Otero		3	
Sierra		1	
Socorro		5	
Chaves		12	
SmartSave Assets as of 1/31/2021 - \$746,938,385.43			
SmartSave Participants as of 1/31/2021 – 23,077			



INVESTED IN TOMORROW.

**PERA Board Meeting
February 25, 2021
CONSENT AGENDA**

- 1. Approval of Minutes:** January 28, 2021 and February 9, 2021
- 2. Ratification of Retirements - Benefits processed through: 2/1/2021**
 - a. Normal
 - b. Deferred
 - c. Reciprocity to ERA
 - d. Non-Duty Death
 - e. Non-Duty Disability
 - f. Reciprocity to PERA
- 3. Duty & Non Duty Deaths**
 - a.
- 4. Affidavits for Free Military Service:**
 - a. Jesnick Cuoco - 2 months
- 5. Resolutions**
 - a.
- 6. Educational Conferences**
 - a.
- 7. Setting of Meetings: March 2021 Meetings**

a. SmartSave Committee	March 9, 2021	9:00am
b. Audit & Budget Committee	March 9, 2021	following SmartSave Committee
c. Rules & Administration Committee	March 9, 2021	following Audit & Budget Committee
d. Disability Review Committee	March 9, 2021	1:00pm
e. Investment Committee	March 25, 2021	9:00am
f. Board Meeting	March 25, 2021	following Investment Committee

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Trish Winter at 505-476-9305 or patriciab.winter@state.nm.us at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
Board Meeting
January 28, 2021

1. This PERA board meeting was held on the date cited above via Zoom tele/videoconferencing. John Melia, Chair, called the meeting to order at approximately 9:12 a.m. and adjourned at 12:23 p.m.

2. **Roll Call**

Trish Winter, Executive Assistant, undertook the roll call. Meeting attendance met quorum, with the following members present:

Members Present:

John Melia, Chair
David Roybal, Vice Chair
Paula Fisher
Steve Neel
Diana Rosales Ortiz
Lawrence Davis
Shirley Ragin
Roberto Ramirez
Loretta Naranjo Lopez
Francis Page
Maggie Toulouse Oliver (Left at 12:15 p.m.)
Tim Eichenberg

Staff Members Present:

Wayne Propst, Executive Director
Greg Trujillo, Deputy
Susan Pittard, General Counsel
Anna Williams, ASD Director/CFO
Dominic Garcia, CIO
Kristin Varela, Deputy CIO
Misty Schoeppner, Deputy General Counsel
LeAnne Larranaga Ruffy, Investment Portfolio Manager
Frank Mihail, Investment Portfolio Manager
Angela Romero, Alb. Office Manager
Karyn Lujan, SmartSave plan Manager
Jessica Perea, IT
Isaac Olayoye, Investments
Jessie Godfrey, Refunds Customer Service Manager
Marlena Riggs, Budget Manager
Joaquin Lujan, Investment Portfolio Manager
Deborah Vigil, IT
Mark Montoya, Investments

Others Present:

Ernie Marquez, AES
Elliot Quin, Firefighters Union

Robert Sanchez, IAFF
Charlie Marquez, Broad Spectrum Government Affairs Consulting
Tom Toth, Wilshire Consulting
Cait Gutierrez, REDW
Arlene Jacobius, Pensions & Investments Magazine
Justin Cheney, IAFF
Maga Ben, FundMap

Pledge of Allegiance

Loretta Naranjo Lopez led the Pledge of Allegiance.

Mr. Melia noted Former PERA Board member Oscar Arevalo was recently lost to cancer. Mr. Page was asked to say a few words about the member.

3. Approval of Agenda

Tim Eichenberg moved to amend the agenda by moving item 6.C.3 and 6.C.4 to the beginning of agenda; removing the Executive Session from the agenda and removing Item E from the agenda. Roberto Ramirez seconded the motion.

Ms. Loretta Naranjo suggested leaving the Executive Session on the agenda so the appointment could be discussed. Mr. Tim Eichenberg stated this was unnecessary as it was already an agenda item, so he did not see the need to go into Executive Session to discuss an item on the agenda.

Ms. Susan Pittard, General Counsel, indicated the Executive Session was placed on the agenda to allow the Board to discuss any administrative issues related to appoint the Deputy Director Acting Executive Director, as well as salary issues that may arise from the appointment. Mr. Eichenberg asked how Item B on the agenda would be affected if Mr. Trujillo was not selected as the successor.

Ms. Pittard explained if the Board chooses not to appoint the Deputy as Acting Executive Director, Item B would fail for lack of a motion on the current Item B and that the item could be revisited at the next Board meeting on February 9th.

The Chair called the vote. The motion to amend the agenda passed by a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

4. Approval of Consent Agenda

Ms. Loretta Naranjo Lopez asked to remove the January 12, 2021 minutes from the consent agenda, Item 5B. Item 5B was moved to the regular agenda in the designated space on the agenda. Mr. Roberto Ramirez moved approval of the agenda as amended. Ms. Loretta Naranjo Lopez seconded. The motion to approve the agenda was passed by unanimous consent as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

6. New Business

1. Board Chair Election

The Chair called for any other nominations for Board Chair to come forward. No new nominees came forward and nominations were closed. Loretta Naranjo Lopez, Paula Fisher and David Roybal were all nominated, accepted the nominations and gave their presentations at the last meeting.

Ms. Loretta Naranjo Lopez stated she has faithfully served on the PERA Board for 15 years, she represents retirees and fulfils her fiduciary duties for all PERA members, not just retirees. She further stated her goal for this year for PERA was to invest up to 20 hours a week of her time with a focus on improving investment oversight controls. Ms. Naranjo Lopez indicated she would follow the rules and procedures of 2.61 for the role of the Board Chair.

Ms. Paula Fisher stated that in addition to her stated goals at the previous meeting, she would pursue collaboration in leadership because of a need to heal as a board. She further stated the importance of teamwork and the need to have an agreement for the purposes of the fund, our Members, and realize all individuals have a duty that needs to be fulfill. She asked that everyone work together as one in order to come to a consensus at the end of the day.

Mr. David Roybal indicated the reason he wanted to be Chair for 2021 was to maintain decorum and respect, and indicated the respect he extended to Members to listen to other's thoughts and ideas and indicated that he would continue to do so. Mr. Roybal reiterated the need to work together as a Board to develop the strategic plan and vision moving forward, as well as discussions about strategic asset allocation and ensuring that all members have a voice to help make sure the Board is successful.

The Chair asked for clarification on the process for doing a roll call vote with three candidates. Ms. Pittard indicated past practice had been to take the candidates one by one and see who gets the most votes via a roll call vote. No formal process or methodology for voting exists.

Ms. Maggie Toulouse Oliver suggesting the methodology of taking the nominations in the order they were received and hold a roll call vote. If someone achieves a majority of the vote at any point in the process then they are elected. Mr. Tim Eichenberg suggested each Member state the name of the person they are voting for. The Chair decided to go through the roll call and have each Member state who they are voting for.

The Chair called for a roll call vote to elect a new Board Chair. The results of the vote were David Roybal, 6 votes; Paula Fisher, 5 votes; Loretta Naranjo Lopez, 1 vote. Majority of 7 needed, vote fails.

John Melia	David Roybal
David Roybal	David Roybal
Paula Fisher	Paula Fisher
Steve Neel	David Roybal
Diana Rosales Ortiz	Paula Fisher
Lawrence Davis	David Roybal
Shirley Ragin	David Roybal
Roberto Ramirez	Paula Fisher
Loretta Naranjo Lopez	Loretta Naranjo Lopez
Francis Page	Paula Fisher
Maggie Toulouse Oliver	David Roybal
Tim Eichenberg	Paula Fisher

The Chair asked for clarification on the rules as the vote did not result in a majority. Ms. Susan Pittard indicated the Board policies and procedures were silent on election of nominations, so the requirement would be a majority. Mr. Eichenberg indicated that the election would require seven votes. Ms. Fisher concurred.

Mr. Roybal asked consideration of Ms. Naranjo Lopez if she would support him in becoming chair for the PERA Board. Ms. Naranjo Lopez indicated since she voted for herself she could not vote for anyone else, as she feels she is the most qualified for the position, so would not be changing her vote.

The Chair asked if any Board Members would like to change their vote in a way that would alter the current results. No member came forward. The Chair asked Ms. Toulouse Oliver if she had any thoughts on the matter.

Ms. Toulouse Oliver indicated if no one self-selects to rescind their nomination, options would be to proceed with a revote with the top two vote getters, Members could decide to allocate their vote to one of the names on the ballot or could abstain; a second option suggested would be to consider the plurality of the initial vote. Mr. Tim Eichenberg requested clarification from Robert's Rules, indicating since there was no result from the election, they Board should simply move to the next item on the agenda, allowing the agenda item to roll over to the next meeting, leaving Mr. Melia as the Chair. Mr. Eichenberg asked to move to the Vice Chair election, indicating this would allow for a motion to do a slate of Chair and Vice Chair and if that would get the majority of the vote. The Chair indicated he would like to have a run-off vote of the top two candidates and continue. Mr. Eichenberg indicated this would be a violation of Robert's Rules.

The Chair asked Ms. Pittard for clarification on Robert's Rules. Mr. Roybal indicated page 66 of Robert's Rules a majority vote is defined as more than half of the votes cast by persons entitled to vote, excluding blanks or abstentions at a regular or properly called meeting, so more than half of votes cast.

Mr. Roybal moved Deferral of Item 6 C, Election of 2021 Board Officers to after Item D, Consideration of 2021 Legislation, seconded by Loretta Naranjo Lopez. The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes

Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

5. Unfinished Business

A. Approval of Amended Resolution No. 21-04 Calling for Nominations of State and Municipal Member Positions for a Four-Year Term

Ms. Loretta Naranjo Lopez moved to amend Resolution 21-04 to allow for electronic signatures, seconded by Ms. Toulouse Oliver. Mr. Neel asked for an explanation on internal controls that would protect from fraud on this amendment.

Ms. Pittard explained the amended resolution was provided to address the Board's concerns regarding electronic signatures on nominating petitions. Automated Election Systems (AES) can handle electronic signatures that come in to a dedicated email address. Ms. Pittard noted Ms. Rosales Ortiz's concern that a control measure could be limiting those email addresses to a government-assigned email address such as a state or municipal address. Ms. Pittard stated she did not know whether that causes problems for individual Members who may run afoul of their own agency's email policies or not. Ms. Pittard stated the Board needs to be mindful that this is a departure from their historic practices of requiring original signatures and that she was unclear if the Board intends to use electronic signatures permanently or just during this election cycle during the public health emergency. If the Board wants to accept electronic signatures permanently, she recommended clarification in the Administrative Code related to that.

Mr. Ernie Marquez, of AES indicated he felt the rule would have to be amended, as the rule currently states that it would be a petition form and does not refer to electronic signatures. Ms. Pittard stated that a signature was not defined under the Board's administrative rules, so if this resolution passed it would be acceptable, and noted that she recommended that in the future, if this was a permanent rule change, to do that.

Ms. Toulouse Oliver indicated that it made sense to do this, particularly in the COVID-19 environment and indicated a process could be worked out for this year and would like to pursue more permanent rule changes on this front. Ms. Toulouse Oliver was in agreement that the Board has the authority to make this change temporarily for purposes of this upcoming election, and the Board should look at doing a more permanent rule change.

Mr. Neel highlighted the importance of having the appropriate internal controls in place so there was no ambiguity around an election. Ms. Fisher asked if there would be a way to verify the email signatures as there would be different types of people with emails from different areas that may or may not be recognizable in terms of a governmental email.

Mr. Ernie Marquez, of AES indicated all of the petitions were received, and then they get the data from PERA and verify that the signatures on the hard copies are in fact members of the state, municipal or retired officials. AES verifies who they are working for, their last four digits of the social, their date of birth, and they include the PERA ID.

Mr. Davis asked if AES' checking of the electronic signatures also tracked the IP address of the machine that the electronic signatures were coming from. Mr. Marquez indicated IP addresses can be tracked, and that IP addresses change from location to location, and indicated he would obtain more detailed information for the Members.

Mr. Greg Trujillo indicated when talking about electronic signatures, setting up a portal for somebody to go log on and provide who they want to sign a petition for. Mr. Trujillo still anticipates this process as being somebody filling out the nominating petition with the relevant information, and whether it's handed in hardcopy or emailed, it

would still be valid as long as AES determines that all the validating factors are accurate, thus he did not feel tracking IP addresses is all that helpful in this process. Mr. Trujillo further stated that strictly moving to an online process could be worked out with AES, but he did not feel the IP tracking to be relevant.

Mr. Neel asked if all PERA members have email, and if there were PERA employees who did not have email. Mr. Trujillo indicated 99% of them have emails and know what their email address is. Mr. Trujillo stated that as far as validation, there was not access to all municipalities' email addresses. Access would be available for state email addresses, however, some of the elected officials like the State Auditor as well as Office of the Attorney General, the Legislature, the Administrative Office of the Courts are all separate from the state email system so it would be difficult to validate an email address accurately. PERA ID, Date of Birth and last four of the social is something PERA has data on and is used by AES to validate these signatures.

Mr. Page asked if this applied to a personal email or work email, and if it would be appropriate to use a work email for this purpose. Ms. Pittard indicated this was a question she also had. On the State side it is likely permissible regarding an election, but she was unaware on the municipal side whether, if the Board limits it to that, there may be some entities that prohibit such email use. Alternatively, if it runs afoul of their employer's email policies, they could then just mail in a nominating petition. Ms. Pittard said the thought was that by using a government-issued, employment-issued email address is another level of security for us that multiple nominating petitions aren't provided; however, PERA does have the other four identifiers that are used for that purpose.

Mr. Page asked about the retiree election, where retirees no longer have a work email. Ms. Pittard indicated the language would have to be crafted to allow them to use a personal email. Ms. Pittard further stated this resolution would only be for active employees on the municipal and state races.

Member Rosales Ortiz thanked everyone for their input and indicated she brought this issue to the front due to the pandemic, just for this election cycle this year, for the call for nominations. She indicated that originally, she did not intend to change administrative statutes and there was no definition of signature. With that in mind, the fundamental elements are there and having those identifiers should be sufficient for a nomination. Moving forward to the 21st century, PERA should create a subcommittee to properly craft this process, and encouraged Members to support the amended solution. Mr. Neel indicated he was generally in support of this and felt it was prudent in the COVID environment.

Mr. Page called Question. The Chair called the vote to approved Amended Resolution 21-04. . The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

B. Items Removed from Consent Agenda if Necessary

Ms. Loretta Naranjo Lopez indicated she wished to amend the January 12, 2021 minutes with a written statement she had prepared, as she did not feel the Board Minutes accurately represented the debate and discussion,

notably surrounding Resolution 21-50. Ms. Naranjo Lopez moved to amend the minutes of Special Meeting of 1/12/21 be amended to reflect the fact the first vote against Resolution 21-05 was valid and the revote was invalid under Robert's Rules and Board policies and procedures, and also that this invalid vote on Resolution 21-05 was a tie and Resolution 21-05 failed.

The Chair sought clarity, as the item being discussed is the minutes of the meeting and if they accurately reflect what was said and happened in the meeting. Ms. Naranjo Lopez indicated that since one vote failed, the second vote needed to be removed as it was not legal under Robert's Rules of Order.

Ms. Toulouse Oliver stated that she respected Ms. Naranjo Lopez's point of view and wanted to state for the record that the discussion she raised and the motion she made during the meeting on January 12, 2021 was made in good faith based on her understanding of Robert's Rules and her understanding of the issue.

Ms. Fisher seconded the motion. The Chair called for a vote to approve the minutes as amended by Ms. Naranjo Lopez. The motion failed 7-3 by roll call vote as follows:

John Melia	No
David Roybal	No
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	ABSTAIN
Roberto Ramirez	No
Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	No
Tim Eichenberg	ABSTAIN

Mr. Page moved to approve the minutes as is, seconded by Mr. Davis. The motion passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	ABSTAIN
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	ABSTAIN

Mr. Roybal moved Deferral of Item 6 C, Election of 2021 Board Officers to after Item D, Consideration of 2021 Legislation, seconded by Loretta Naranjo Lopez. The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes

Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

6. **New Business**

A. Dedication/Naming of Albuquerque Office Board Room to Erika Chavez Board Room

Mr. Wayne Propst, Executive Director, paid tribute to Erika Chavez, a dedicated PERA employee who was tragically killed in a car accident on September 12, 2020. Mr. Propst said he had never seen anybody with a smile that could light up a room more than Erika, and it would mean a great deal to the staff of PERA for the PERA Board give consideration of this item. Mr. Eichenberg expressed his condolences and support of the motion. Mr. Page expressed a concern about naming things after specific individuals in the current political environment.

Ms. Naranjo Lopez moved to dedicate the Albuquerque Office PERA Board Room to the Erika Chavez Board Room. Ms. Fisher seconded. The motion was passed by unanimous consent in a roll call vote as follows, with members expressing their condolences:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

B. Appointment of Greg Trujillo as Acting Executive Director Effective February 13, 2021

The Chair explained that Executive Director Wayne Propst will be stepping down to take on a new challenge in his life, so the Board needs an Executive Director to conduct business in an acting capacity while a permanent search is conducted. Mr. Steve Neel moved to appoint Deputy Director Greg Trujillo as Acting Executive Director effective February 13, 2021. Mr. Tim Eichenberg seconded the motion.

Mr. Page suggested Mr. Trujillo take over the legislative functions immediately. The Chair stated that this appointment could only take place when Mr. Propst ceases to be the Executive Director. Mr. Page indicated he was concerned about a conflict of interest.

Mr. Propst indicated he had no concerns with what Mr. Page was proposing, as Mr. Trujillo was more than ready to take over as Executive Director, and he had no concerns with Mr. Trujillo taking over representation of PERA in the Legislature until his official departure.

The Chair asked Ms. Pittard if this was possible under PERA's rules, policies and the authority and the discretion of the Executive Director. Ms. Pittard indicated that the Board can request that Mr. Trujillo step in. On the staff side, Mr. Propst, Mr. Trujillo and herself work as a team to deal with the Legislative process, and indicated

there was only an HAFC hearing and one other bill where Greg would be in attendance representing PERA anyway, so she did not see it being an issue.

Mr. Davis indicated he found Ms. Pittard's statement accurate. Mr. Eichenberg expressed his disagreement with Mr. Page's suggestion, and stated Mr. Trujillo should spend as much time doing whatever time he feels is most necessary while Mr. Propst is available for mentoring, and it would be micromanaging if the Board start telling Mr. Trujillo what he needs to do while Mr. Propst is still in the Director's role. The Chair agreed with Mr. Eichenberg's statement. Ms. Naranjo Lopez agreed with Mr. Page's position that there was a conflict of interest, and expressed her own concerns that Mr. Propst would conduct in lobbying, and called for an investigation into Mr. Propst's resignation and conduct at the Legislature as she found it alarming.

Mr. Francis Page moved to amend the motion to only allow Mr. Trujillo to deal with the Legislature until Mr. Propst leaves, seconded by Ms. Naranjo Lopez. The motion fails on a 6-6 tie vote a roll call vote as follows:

John Melia	No
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	No
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	No
Tim Eichenberg	No

The Chair called a vote on the original motion to appoint Deputy Director Greg Trujillo as Acting Executive Director effective February 13, 2021, moved by Mr. Neel, seconded by Mr. Tim Eichenberg seconded the motion. The Motion passed 10-2 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

D. Consideration of 2021 Legislation

1. HB 65 - Increase Certain PERA Member Contributions

Mr. Propst outlined that PERA currently has three pieces of legislation that have been filed, HB 65, SB 90, and this week, HB 162 indicated the Board could dispense with action on HB 65. As reported to the Board, it was tabled in the House Labor, Veterans and Military Affairs Committee two days ago on a unanimous vote so there's not really any action for the Board to take on it at this time.

2. SB 90- Certain Overtime Pay as Salary in PERA

Senate Bill 90 relates to inclusion of certain overtime hours under the FLSA public safety exemption as salary under the definition of salary and the Public Employees Retirement Association Act. It's been introduced by Senator Munoz and an identical bill was introduced last year. It received an endorsement from the Board at that time. Senate Bill 90 passed two Senate Committees and passed the Senate but it did not make it through the House of Representatives before the conclusion of the 2020 session.

Mr. Propst indicated there is an impact to the fund and indicated a request for a review of the analysis was provided during the 2020 legislative session, and the updated analysis was received.

Passage of Senate Bill 90 will impact in particular the municipal fire plan by about 1.12% and would add approximately \$30 million to the unfunded liability for the municipal fire plan. Some of that impact will be offset not only because these hours will be included as salary for calculating pensions, but it also means that both the employee and their employer will begin making the contributions, so the impact over time will be offset but it's difficult to determine going forward how much of an offset that would be. These are required hours, voluntary hours which is one of the reasons why it is believed that even though there's an impact to the fund, this is an appropriate approach to take in terms of this legislation. Mr. Propst indicated there was background information in the packet for the Members.

Mr. Propst stated the options before the Board today are to endorse the bill, oppose the bill, or remain neutral. If the Board wanted more time to study this issue, consideration could be deferred until the September 9th Special Board Meeting anticipated.

The Chair invited Robert Sanchez and Elliot Quin from the New Mexico Professional Firefighters Association to address the Board. Mr. Quin indicated Senate Bill 90 is to essentially make in line with all the other PERA plans that are out there for all of the working class individuals that are allowed to have 100% of their salary reported. The reason for this offset is firefighters work very unique schedules. This is a public safety situation because firefighters do work 24-hour days and most departments work 40-hour shifts and this is just a necessary language change of the definition of salary. These are regularly scheduled hours. These are not voluntary hours. The final average salary will never be calculated more than 90% of the member's annual salary. This is not a pension spiking bill. This is essentially a bill to make us in line and equal with the rest of other PERA plans.

Mr. Davis asked how many hours were in a normally scheduled work schedule and how many overtime hours occurred during that time period. Mr. Quin indicated annually, the average 40-hour workweek employee works 2,080 hours per year. The fire service, because they work 48-hour shifts, they work an annual workweek of hours of 2,920 hours. Out of that, PERA is only able to accept 2,756, which is roughly 164 hours. This equates to 8% to 16% not being reported. If the hours were simplified down to a weekly amount, fire services are required to work 56 hours a week. Under the Fair Labor Standards Act which governs overtime hours, after working 53 in a week, it has to be paid time-and-a-half. Firefighters do not have the option of working those extra three hours, it is the job expectation and not working them would result in discipline. If one were to call in sick those extra three hours, they would PERA contributions on all, but if one shows up to work, PERA contributions are only paid on 53 of those 56 hours.

Mr. Sanchez, President of the New Mexico Professional Firefighters Association indicated that traditional 40-hour workweek employee can report 100% of their straight hours as salary to PERA and firefighters are not able to do that and all he is asking is that it be fair. Firefighters are not trying to pension spike in order to get more out of retirement, they are simply trying to do what's fair.

Mr. Ramirez asked Mr. Propst to clarify the \$30 million unfunded liability if Senate Bill 90 passed. Mr. Propst indicated that was correct. Mr. Ramirez noted that last year the Solvency Bill, Senate Bill 72 was passed to eventually get to 100% solvency. Mr. Propst confirmed this endorsement of the Board of SB 72, with the purpose of paying off PERA's unfunded liability within 25 years. Mr. Ramirez indicated that the funded status of the New

Mexico PERA divisions with the fire department funded at 60%, which is one of the lowest funded in the PERA system. Mr. Ramirez asked how one bill to get rid of unfunded liability could be endorsed and passed when the current bill does the exact opposite. Mr. Ramirez also asked if there was any other employee in PERA that this impacts besides firefighters.

Mr. Propst indicated there are other PERA members who would be eligible to have hours counted as pensionable wages, and therefore have their employer and employee make contributions on them. He indicated there is a city in New Mexico who is thinking about changing to a similar work schedule for its police officers. If they do that, they would find themselves in the same situation as the firefighters who have just testified on this will find themselves in, which is, as Mr. Melia indicated, if they just call in sick for these hours, their employer is going to make the employer contribution, the employee is going to make the employee contribution, and they're going to get credit for those hours. But if they actually work them, they don't. This seems counterintuitive.

In terms of the impact of the unfunded liability, Senate Bill 72 will have a significant positive impact on the funded status of all of our divisions, including municipal fire. It's projected that municipal fire will pay off its portion of the unfunded liability within a 30-year period, under the provisions of Senate Bill 72. Mr. Propst, speaking for himself as an employee, stated if PERA required him to work these required hours and he didn't get PERA service credit for them, he indicated he would be in front of this committee making some of the same arguments as Mr. Sanchez.

In terms of the impact to the unfunded liability it is \$30 million. Mr. Propst stated it was important to keep in perspective that it's less than a 1% increase to the unfunded liability of the municipal fire division, it is \$30 million in relation to the \$16.5 billion fund and stated it was a fairness issue. Mr. Propst indicated this is a fairness issue and if the Board decides that this is something that it doesn't want to support for whatever reason, that will be the marching orders for staff and for Mr. Marquez and that opposition will be expressed to the Legislature.

The Chair indicated the definition of a fiduciary is to do what's in the best interests of our fund and of our members. As far as what's in the best interests of PERA members, he stated that when we require public safety people to put their lives on the line, and it's mandatory that they show up to work and do that, that while they're there on a required forced shift, that all the hours that they're forced to work, they get credit for in their retirement.

Ms. Naranjo Lopez indicated she would vote no on this item, stating "Under 120, a Retirement Board shall have the sole and exclusive power and authority to adopt actuarial assumptions for its system, based on the recommendations made by an independent actuary with whom it contracts. The Legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided."

Ms. Naranjo Lopez agreed with Mr. Ramirez's statement that it is already one of the most unfunded liabilities PERA has. Ms. Naranjo indicated the \$700 million that would be added to the fund did not come from investments, but she thought it came directly from the members that increased it to 16.5, and indicated the reporting given to the Legislature placed it at a negative for last year. Ms. Naranjo Lopez found this disturbing when PERA only made 5% yet the market made 19%. Ms. Naranjo Lopez wanted to know why the plans that are unfunded receive the most benefits that they can't afford, and this would add more.

Ms. Naranjo Lopez commended and praised the firefighters, and stated every public servant has a responsibility and takes on jobs that don't pay very good pay, but they're either dealing with irate customers or out in the field in detrimental situations. She stated government cannot be giving benefits that it can't afford and it needs to be equal. Ms. Naranjo Lopez wants the multiplier, years of service, everything to be the same.

Mr. Ramirez had some significant issues on the FIR for Senate Bill 90, and read a portion of the FIR aloud to the Board. Mr. Ramirez indicated this is totally adverse. The Chair asked Ms. Pittard to read the definition of salary for clarity and pointed out that since this bill was brought up last time, the firefighters now understand that this is part of their regular work schedule, which under the definition of salary, those hours must be counted. Also under the definition of salary, if you call in sick or use vacation in lieu of your regular designated work schedule,

those hours are part of your salary. What firefighters are doing is not paying those three hours every week into the PERA fund until they get to their final 36 months of service, and then they're taking three hours of sick or vacation each week and getting those hours in. They're getting the full amount in their retirement, but only paying contributions on it for the final three years. In reality, it would actually be a positive impact to the fund compared to what the trend is right now.

Mr. Ramirez indicated there is an option annually for firefighters to pick 40-hour shifts. The Chair indicated that was not possible. Ms. Naranjo Lopez stated that these bills shouldn't be going to the Legislature until they're reviewed by the Board, and these decisions should not be made without the actuary sending them, and that this was not the proper process.

Mr. Justin Cheney, President of the Albuquerque Area Firefighters representing about 880 firefighters commented that he agreed with Ms. Naranjo Lopez that this does need to be a fair thing for all the PERA contributors. Unfortunately, right now, it isn't fair for the firefighters. Every other PERA entity can put into their retirement 100% of salary except for those that are on a 24-hour shift as firefighters. As firefighters, the hourly pay is converted and those on a 24-hour shift are not getting all of their pay counted towards PERA. He indicated by doing this change, members would have to contribute more of their salary into PERA.

Mr. Cheney indicated that for the firefighters that are below the funded liability, to not allow them to contribute would be like saying the municipal general fund is only at 75% so we need to cut back some of their contributing factors and say that they're only allowed to put in 90% and when they retire, only be able to recoup 90% of what their original pay was.

Ms. Fisher stated that corrections officers also have mandates of eight hours, and if they don't work the eight hours mandated for they get disciplined as well but they also have a 40-hour workweek. She indicated the way this particular bill is written, there are only specific entities that it identifies which is fire, and not corrections officers, so Ms. Fisher cannot support this bill. Mr. Page fully agreed with Ms. Fisher, Mr. Ramirez and Ms. Naranjo Lopez and indicated this bill could not be supported unless PERA changes its policies.

Mr. Eichenberg asked for a typical breakdown of the 24-hour shift worked by firefighters, in terms of a boring work shift or an exciting work shift.

Mr. Cheney indicated that it is a very difficult question. Firefighters are on a 48-hour shift and it can range from taking 48 calls in one day to some stations taking as little as 12 calls. Those calls differ. A citizen who falls and breaks their leg could take 45 minutes. A fully engulfed three-alarm fire could take 12 hours, and sometimes even longer. The downtime firefighters have is not downtime. The City of Albuquerque has an ISO rating of 1, directly because of the additional training that has been added for firefighters. Firefighters are constantly training, going to the Fire Academy, EMT and paramedics are doing required annual continuing education, and something called Target Solutions, which is daily training.

Mr. Sanchez indicated if peace officers, teachers, public work employees, correction officers were asked about downtime, it could not be said that all of those employees work 100% of their 40-hour workweek and they're always working and it should not be said about firefighters.

Mr. Eichenberg clarified that what he said was it's a 48-hour shift and sleep deprivation, and asked if the firefighters work a 48-hour shift without any downtime normally.

Mr. Cheney indicated that normal shifts are 48 hours unless a firefighter is taking vacations, so firefighters are scheduled for a 48-hour shift. Mr. Eichenberg asked in a typical workweek of seven days, 48 is worked and then there are five days off before your next shift starts. Mr. Cheney indicated it was 48 on and then 96 off, which annually results in a 56-hour workweek.

Mr. Eichenberg asked how firefighters are protected from a works shift of 48 hours where they truly are on 48 different calls over that 48 hours, citing concerns about sleep deprivation. Mr. Cheney indicated it was a delicate balance and studies have shown that the shift work is what is most beneficial for the firefighters and the community. Firefighters do get sleep and advise firefighters to get rest when the opportunity is available and likened it to a military type of atmosphere where you are ready for battle and then you try to get the rest when you can. Mr. Cheney indicated without this type of schedule, you would need to increase the battalion size for your department. The City of Albuquerque with 750 members would have to increase by 250 more members to make it more of a 40-hour-a-week schedule, which would be extremely costly.

Mr. Cheney stated the City of Albuquerque Fire Department is, per capita, the busiest in the nation, a year-and-a-half ago being at 110,000 calls. Mr. Cheney also stated that bidding for a 40-hour workweek were specialty assignments with specific training and at specific stations, and that members rotate through different stations every year.

Mr. Eichenberg indicated he supported this last year and would support it again this year, but would ask for an amendment. He then asked about the station posted with the Sandia Casino and that most runs are serving the casino, and asked for clarification on that.

Mr. Cheney indicated that was County Fire Station 31, not the City of Albuquerque, and that it was the third busiest in the county and indicated they do have frequent calls out to the casino, with less during COVID.

Ms. Naranjo Lopez spoke directly to Mr. Cheney and indicated the Board was required to have this reviewed by the actuary, and not at the last minute. She stated several of the members are retired and saying, they know they didn't pay for a benefit they are taking, because it's unfunded, and asked him to admit there was a high unfunded liability. She stated her concern was that these bills were not evaluated beforehand and it becomes political instead of careful observation, so she could not support this now. Ms. Naranjo-Lopez stated she did appreciate the job firefighters do. Mr. Cheney stated that his membership was only asking for equality. Ms. Naranjo Lopez indicated that retirees made the same arguments and they did not have the support of the Executive Director.

Mr. Page indicated there was a question in the chat which stated, "Why is no one asking the obvious question, just pay the extra three hours of straight time. And it will be reported to PERA? The fire department is just trying to have his cake and eat it too."

The Chair indicated it was not as simple as that. The Fair Labor Standards Act is a governing federal law by the Department of Labor. If you are not salary and you require your employee to work over 40 hours a week, you must pay them time-and-a-half. It's the same with the fire department, except there's a 7K exemption which states whatever work schedule that you require your public safety to work, this is the hours threshold at which you must pay time-and-a-half for. The FLSA protects workers' rights and applies to fire department employees and police employees, it is just a different hours threshold instead of the typical 40-hour workweek. It is not allowed for the city by law to pay this at a regular rate.

Mr. Ramirez indicated that it was previously stated that firemen want to retire at 100% of their salary. Senate Bill 72 set a cap at 90% on their final pay, and he asked if this bill would change that to make firemen exceed the 90% cap. Mr. Propst indicated it would not.

Ms. Rosales Ortiz indicated she understood there was a shortage of firefighters, and asked what the ratio was to fill that gap in Albuquerque, and if that was the same pattern across all of New Mexico. Mr. Sanchez indicated it affects every paid firefighter in the State of New Mexico. Ms. Rosales Ortiz asked the Chair to request Mr. Cheney provide statistics with respect to how many members of the firefighter community will be needed to fulfill the demand and their portion of the retirement become completely funded.

Mr. Melia indicated that he would request that information and stated every fire department in the state works the 24-hour or 48-hour shifts, and when you reduce it all down, it's always the same, it's 56 hours per

workweek. What every fire department would have to do is hire enough employees to cover that extra 16 hours every week. Ms. Rosales Ortiz thanked the firefighting community for their noble work.

Mr. Page moved not to support this bill, seconded by Ms. Naranjo Lopez. The Motion failed 7-5 on a roll call vote as follows:

John Melia	No
David Roybal	No
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	No
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	No
Tim Eichenberg	No

Mr. Eichenberg moved to amend the motion to support Bill 90 with the caveat that the Legislature amend Bill 90 and contribute up to \$30 million towards the pension fund, seconded by Mr. Davis. The motion to amend passed 9-3 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

Mr. Eichenberg moved to support Bill 90 with the amendment, seconded by Mr. Neel. The motion to support Bill 90 passed 7-5 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	No
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

3. Possible Additional Legislation

Mr. Propst indicated there were no action items, but indicated House Bill 162, making changes to the structure of the PERA Board, was introduced this week and it will be an action item for the February 9th Special Board Meeting. Mr. Propst indicated legislation was anticipated that would give credit for certain service credit already earned by motor transportation officers to be included under the enhanced State Police Adult Correctional Officers Division. That bill hasn't been dropped yet, so staff did not want to bring it as an action item to the Board until they had seen the legislation. Mr. Propst indicated this was something the Department of Public Safety has been working on with this group of motor transportation officers for several months now. Once staff have the bill, they will bring it to the Board for action item and allow department representatives from the Department of Public Safety to make a presentation to the Board.

Ms. Naranjo Lopez indicated she had asked Mr. Propst last time if he knew about HB 162 and indicated he asserted no knowledge, and expressed surprise that it was here now asking for an appointed board. Mr. Propst indicated his answer was the same as before, he did not know about the bill until it was introduced, and indicated that the Bill was introduced after of the 72-hour window public notice of the agenda, which means to take action on it today would be a possible Open Meetings Act violation, because it is not specifically noted as an action item on today's agenda. For that reason, it will be on the February 9th Special Board Meeting Agenda as an action item, when it can be properly noticed. Ms. Naranjo Lopez indicated she found this very suspicious.

Mr. Eichenberg asked if we don't support what the Board action was before the Legislature that we've worked outside the realm of what the Board is asking for, and sought clarification on that because as independently elected officials it was not offensive for Board Members to speak against decisions passed by the PERA Board, citing an example of a 7-5 vote. Mr. Eichenberg asked the Chair if that was just or unjust.

The Chair response was these things come to the PERA Board so a collective, unified stand can be made and when members are representing the PERA Board it was important to speak as the Board, and that the rule of law does allow for freedom speech. The Chair indicated that putting your name forward as a representative of the PERA Board means you should speak for what the PERA Board wishes as a collective group, or refrain from identifying yourself as part of the PERA Board.

Ms. Naranjo Lopez indicated this statement in a past meeting was directed at her personally, and indicated she never spoke on behalf of the board at Legislative committee meetings, and only spoke as a taxpayer, and asserted her Constitutional right to do so. Mr. Davis indicated that according to the Board policies and procedures, as long as you don't mention that you are trying to speak on behalf of the Board, he agreed you should be able to speak your mind. He reminded all Members of Section 2.53 of the Board Policies and Procedures specifically state individual Board members cannot act or speak on behalf of the entire Board or PERA unless specifically authorized by the Board. As long as you're speaking as an individual it was fine.

Mr. Page asked for a staff response on the Bill 162. Ms. Pittard indicated the only information that is in the FIR is a factual recitation of what the bill does. Mr. Propst indicated if staff were asked about Bill 162 by the media, staff would respond that the PERA Board has yet to take a position on it, but it will be on the agenda for the February 9th Special Board Meeting.

Ms. Naranjo Lopez asked Ms. Pittard if staff had anything to do with the drafting of that bill. Ms. Pittard indicated she did not have anything to do with the drafting of the bill and was not aware of any PERA staff member having had anything to do with the drafting of HB 162. Ms. Naranjo Lopez asked Ms. Pittard if any Board Attorney had anything to do with the drafting of HB 162. Ms. Pittard indicated Harvey Lederman at Reed Smith was not involved in the legislative process and did not know if he was even aware of this bill.

Ms. Fisher stated that PERA members deserve the opportunity to vote for people that will have their voice, because members do need to be heard. When PERA starts appointing people, then the appointees obviously are there for the individuals who appoint them and not for the membership and what is best for the fund. Ms. Fisher stated that to vote in the affirmative on Bill 162 was wrong as members deserve to be heard by their own members.

C. Election of 2021 Board Officers

3. Board Chair Election

Ms. Winter advised the Board that according to Parliamentary Adam Hathaway and Robert's Rules of Order, the majority of those present and voting may vote. With a 12-member quorum, the majority is seven. It is against Robert's Rules to do a runoff unless it is in our bylaws to do so, and it is not in our bylaws to do so. The election must then be done again and if there is no change in voting, it will continue to have to be done until someone changes a vote or possibly there are no longer 12 in a quorum, in which case the majority present and voting would determine that number and would change what the majority is.

Mr. Eichenberg asked Ms. Winter if she had the opportunity to ask if Members are unable to break the tie, can we move the vote to the following month and leave the current Chair in place? Ms. Winter responded this was possible and the vote could be postponed. Mr. Eichenberg stated that because Robert's Rules are usually not a tie vote, you move on to the next item on the agenda and then it would just roll over until the next meeting each time. Theoretically, Mr. Melia can be the Chair for the next year, if members don't break the tie.

Mr. Melia stated that he took on the responsibility of being Chair for 2020, and his commitment was for 2020 and indicated that he will no longer be Chair as of the end of this meeting because of personal obligations. Mr. Melia stated he has fulfilled his duty and can't give any more time to continue to be Board Chair, regardless of the outcome of the vote and Mr. Roybal will have to step up as the current Vice Chair if a new Chair was not elected.

The Chair asked if any candidates would like to withdraw their name from the nomination. Ms. Rosales Ortiz asked if the candidates could further elaborate, in three sentences, what are their goals to encourage Board engagement and keeping quorum throughout the meeting.

Ms. Naranjo Lopez stated she would commit to giving a lot of time, 20 hours a week, and she will follow the rules and procedures, and asked for Member support.

Ms. Fisher stated she believed communication and collaboration is key when taking the role of Chair for leadership. She stated that bringing everyone into a team-building type situation really does help, because we get to learn each other as well, and keeping the meetings moving forward in that everything does need to fall in place. She stated her belief that Robert's Rules of Order will assist in that, and stressed the need to be respectful and professional in meetings to ensure everyone is treated professionally and respectfully.

Mr. Roybal reiterated the need for courtesy, and indicated that he was very cordial and always willing to listen. Mr. Roybal stated the importance of putting the right people on the right committees as well, to chair those committees and stressed the need to work together and put people where their strengths are.

Mr. Neel asked for more input from the candidates specifically around investments, as it is becoming increasingly more evident that PERA needs more focus on investments.

Ms. Naranjo Lopez indicated she met yesterday with the CIO and explained her concerns, and after that conversation she had even more concerns because she feels PERA needs to focus on managers that are going to give 10% not down to 0.5%, and what the CIO explained through his presentation. She stressed a focus on the top 10 managers and the bottom 10 managers to go in deep on why PERA is continuing to keep these managers that are not making us money. Ms. Naranjo Lopez restated her focus would be on investment oversight control and she felt she was the most qualified of all candidates to do that.

Ms. Fisher agreed with holding money managers accountable and stated that it was imperative to maintain a watch list, especially when PERA is not making the money and they are. Ms. Fisher also emphasized the importance of having collaboration with investment team members and that is where her focus will be. Ms. Fisher

thought it was imperative to get portfolios in order in terms of money managers, and stated the need to move forward on that because PERA cannot afford to be in the negative.

Mr. Roybal reiterated the importance of working with the CIO as well as the investment team, as well as making sure PERA has the proper investment committee chair and having weekly or biweekly meetings with committee chairs as the Chairman of the Board to ensure PERA is doing the right thing and discussing strategic asset allocation, and if changes need to be made.

Ms. Toulouse Oliver thanked the nominees for putting their name in the hat and expressed her respect for each individual's experience and knowledge. Ms. Toulouse Oliver referenced Robert's Rules in particular situations and indicated that the Board once had a Professional Parliamentarian as a guide, as she felt sometimes the Board meetings get a little bit bogged down in the throes of our disagreements over whether or not Robert's Rules are being followed in a particular manner or issue. Ms. Toulouse asked each nominee to outline their best idea is to approach that issue? Should a Professional Parliamentarian be brought back? Should one be on contract?

Ms. Naranjo Lopez indicated the way it was handled in this meeting was fine and did not think a Parliamentarian was required. She indicated more training be included in the Board Retreat if people aren't understanding Robert's Rules of Order.

Ms. Fisher indicated training would probably be the best.

Mr. Roybal stated that there was one year with the Parliamentarian and he did not see the benefit there, and stated he felt he was not utilized to the best capacity. Mr. Roybal stated annual training, including mutual respect.

The Chair called for a roll call vote to elect a new Board Chair. The results of the vote were David Roybal, 6 votes; Paula Fisher, 5 votes; Loretta Naranjo Lopez, 1 vote. Majority of 7 needed, vote fails.

John Melia	David Roybal
David Roybal	David Roybal
Paula Fisher	Paula Fisher
Steve Neel	David Roybal
Diana Rosales Ortiz	Paula Fisher
Lawrence Davis	David Roybal
Shirley Ragin	David Roybal
Roberto Ramirez	Paula Fisher
Loretta Naranjo Lopez	Loretta Naranjo Lopez
Francis Page	Paula Fisher
Maggie Toulouse Oliver	David Roybal
Tim Eichenberg	Paula Fisher

4. Board Vice Chair Election

The Chair opened the floor for any new nominations for Vice Chair. With no further nominations, the Chair closed the nominations and asked Member Page to give a brief recap of why he would like to be Vice Chair this year.

Mr. Page stated his biggest initiative was to have the Fund stay healthy and safe. The Board needs to come together as one body, and he would ensure we have the proper team available and speak with one voice.

Mr. Lawrence Davis indicated PERA has a big area of peril that hasn't been addressed because of disagreements, in-fighting and distractions and the vast majority of the Board Members have a concern in one area, which is investments. Mr. Davis stated that if we could get past minor disagreements and move along with the agenda that at the end of the day, the PERA membership is concerned about retirement, not the nitty-gritty details and the bickering that occurs, and stated this would be his major focus. Mr. Davis mentioned the \$6 billion

unfunded liability, and he doesn't feel any amount of time has been spent on investments that would allow us to understand where we are going, our understanding of investments, and he wants intricate detail on that. He wants to move the focus to be on ensuring members can retire and that they feel comfortable about their retirement and working together to get it done. Mr. Davis stated his number one concern is that is not happening and he wants to support the Chair, and hopes whoever is elected as Chair shares the same concerns so he can be there to support the Chair and the Board and help turn a new page in the chapter of PERA.

The Chair called for a roll call vote to elect a new Board Vice Chair. The results of the vote were Lawrence Davis, 5 votes; Francis Page, 6 votes.

John Melia	Lawrence Davis
David Roybal	Lawrence Davis
Paula Fisher	Francis Page
Steve Neel	Lawrence Davis
Diana Rosales Ortiz	Francis Page
Lawrence Davis	Lawrence Davis
Shirley Ragin	Lawrence Davis
Roberto Ramirez	Francis Page
Loretta Naranjo Lopez	Francis Page
Francis Page	Francis Page
Tim Eichenberg	Francis Page

F. Executive Director's Report

Mr. Propst, Executive Director indicated the report has been posted to the Board Portal. Retirements are reasonably steady, refunds are within a general range of what we see; some months have higher refunds and others, but nothing unusual there. Contribution levels coming in and payments going out are about same, up to \$110 million in monthly benefits paid out to 42,000 retirees.

8. Adjournment

Having completed the Agenda and with no further business to come before the Board, Chair Melia declared the meeting adjourned.

Approved by:

John Melia
Chair, PERA Board

ATTEST:

Exhibits attached

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Board Meeting

February 9, 2021

1. This PERA board meeting was held on the date cited above via Zoom Tele/video conferencing. Francis Page, the acting Chair, called the meeting to order at approximately 9:04 a.m. and adjourned at 11:36 a.m.

2. **Roll Call**

Trish Winter, Executive Assistant, undertook the roll call. Meeting attendance met quorum, with the following members present:

Members Present:

Francis Page, Acting Chair
Lawrence Davis
Tim Eichenberg (at 9:20 am)
Paula Fisher
John Melia
Loretta Naranjo Lopez
Steve Neel
Shirley Ragin
Roberto Ramirez
Diana Rosales Ortiz
David Roybal

Staff Members Present:

Greg Trujillo, Deputy Director
Susan Pittard, General Counsel
Anna Williams, ASD Director
Dominic Garcia, CIO
Kristin Varela, Deputy CIO
Trish Winter, Executive Assistant
Misty Schoeppner, Deputy General Counsel
LeAnne Larranaga Ruffy, Investment Portfolio Manager
Frank Mihail, Investment Portfolio Manager
Karyn Lujan, SmartSave plan Manager
Jessica Trujillo, HR Manager
Isaac Olayoye, Investments
Jessie Godfrey, Refunds Customer Service Manager
Marlena Riggs, Budget Manager
Joaquin Lujan, Investment Portfolio Manager
Geraldine Garduno, Assistant General Counsel

Others Present:

Thomas Rey, CPA, CliftonLarsonAllen
Kory Hoggan, CPA, Moss Adams
Lauren Kistin, CPA, Moss Adams
Tim Johnson, DPS Acting Secretary
Mike Krems, TorreyCove

3. Pledge of Allegiance

John Melia led the Pledge of Allegiance.

4. Approval of Agenda

Steve Neel moved to amend the agenda by eliminating Items 5A.1 and 5A.2 from the agenda since they are a fait accompli. Mr. Melia and Executive Director, Wayne Propst, have already resigned. Mr. Neel felt that it is not within the Board's purview to accept something that has been completed. Lawrence Davis seconded the motion.

Loretta Naranjo Lopez disagreed and stated that the Board oversees the Executive Director and they need to accept the resignation. She proposed a motion to amend the original motion. Ms. Naranjo Lopez agreed with item 5 A.1 and stated that the action is not necessary.

Under the Board's rules, the Chair's term ends after one year. They can run for reelection but the position is vacant until the Board fills it. Ms. Naranjo Lopez stated that accepting the resignation would make a board member feel weak.

On 5A.2, Ms. Naranjo Lopez stated that the Board is responsible and she will not accept taking it off the agenda. Ms. Naranjo attempted to amend the motion. Mr. Neel responded and stated that it would be purposeless for Mr. Propst to continue his employment with PERA if the Board chooses not to accept his resignation. Mr. Propst has resigned and the Board cannot compel him to continue working.

Mr. Melia stated that it would be a waste of time to discuss his resignation. He had resigned at the last Board meeting and had had no communication with any board members since then. It was a waste of time voting on something that had already been done and regardless of the vote, the Board had no control over it.

Ms. Naranjo Lopez requested an amendment that the New Mexico PERA Board accepts the Executive Director's tendered resignation referencing the Albuquerque Journal article and Santa Fe New Mexican. She pointed out that this was the first time the Board was informed.

David Roybal called a point of order and requested that they go back to the original motion. Ms. Naranjo Lopez was requested to propose an amendment. She insisted to continue reading her statement.

Mr. Neel stated that there was no second to Ms. Naranjo Lopez's motion. He reiterated that the Board should go back to the original motion and have a roll call vote. Francis Page stated that he will remove 5A.1 from the agenda. Ms. Naranjo Lopez pointed out that it is only the Chair that can take off the agenda item.

Susan Pittard, General Counsel, explained that the agenda has already been published. The Chair cannot take something off the agenda. It needs to be amended to remove the items. Ms. Pittard cautioned against the amendment offered by Ms. Naranjo Lopez as it would be outside the scope of what has been noticed. Ms. Pittard further explained that the Board does not have the authority to preclude someone from holding office or seeking Board membership. Ms. Naranjo Lopez's motion was therefore outside the scope of the Board's authority.

The motion to amend the agenda by removing items 5A.1 and 5A.2 passed by a roll call vote of 8-3 as follows:

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	No
John Melia	Yes
Loretta Naranjo Lopez	No
Steve Neel	Yes
Francis Page	No

Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

Chair Page asked if he had the authority to run the Board because 5A.1 had been removed. Ms. Pittard explained that Mr. Page was elected Vice-Chair and therefore can run the meeting in the absence of a Chair.

Ms. Naranjo Lopez reiterated that the Chair's term had ended and there was no need for him to resign. She asked for clarification on that point. Ms. Pittard clarified that Mr. Melia is no longer the Chair. The Vice-Chair can therefore take over and have the duties and responsibilities delegated by the established Board according to Board Policies and Procedures 2.63.

Chair Page motioned to amend the agenda by removing Item 6B.2 (Executive Director Hiring Process) from the Executive Session. Lawrence Davis seconded the motion.

Ms. Pittard explained that the only item that will be discussed in Executive Session is Item 6B.1. She stated that the discussion of how the Board will conduct the hiring for the Executive Director in the Executive Session and needs to be done in the Open Session. The Chair is inclined to defer it to the meeting on the 25th.

Ms. Naranjo Lopez indicated that because of timing, the Board should move forward on the hiring process. She suggested that they take it nationwide to get someone who understands investments and has the qualifications.

A question was raised about the need for discussing Mr. Trujillo's temporary pay increase in closed session when it is public information. Ms. Pittard explained that there is an exemption under the Open Meetings Act to discuss a specific employee and their qualifications related to a temporary promotional increase. The Board action has to be taken in public, which is stated under 6B.1. It was agreed that anything regarding the temporary promotional increase, including Mr. Trujillo's qualifications, can be discussed behind closed doors.

Ms. Naranjo Lopez asked if the Board would move forward to hire a new director. Chair Page responded that it would not be done today. Ms. Naranjo Lopez pointed out that they need to get legal advice, in writing, on whether the hiring process could go forward if the Board doesn't accept the resignation of the former executive director.

Responding to Ms. Naranjo Lopez, Ms. Pittard stated that even though the Executive Director perhaps did not send a written letter to the Board, he had taken steps with the State's share system to terminate his employment. The termination is effective on the 12th and the Board cannot take any other action to change that. She further explained that the Board will have to vote on whether to perform a written legal opinion on that issue. Ms. Naranjo Lopez noted the risk of the director suing the Board if they did not accept his resignation.

The motion to amend the agenda by removing item 6B.2 passed by a unanimous roll call vote as follows:

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	Yes
Loretta Naranjo Lopez	Yes
Steve Neel	Yes
Francis Page	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

John Melia moved to approve the agenda as twice amended. Steve Neel seconded the motion. The motion passed by a roll call vote as follows:

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	Yes
Loretta Naranjo Lopez	No
Steve Neel	Yes
Francis Page	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

5. B Election of 2021 Board Officers

1. Board Chair Election

Acting Chair Page indicated that during the last election the nominees, Mr. Roybal, Ms. Fisher, and Ms. Naranjo Lopez, got 6, 5, and 1 vote respectively. He gave them the platform to give speeches.

Mr. Roybal thanked the acting chair and stated that he wants to be Chair for two reasons;

1. To be the voice for all the PERA members, both retired and active. He would listen to all the members and bring their concerns to the Board for discussion.
2. Progress on investments. He indicated that the existing asset distribution needs to be evaluated and how it compares with other public pension schemes which could have done better. He also mentioned that the Board is currently spending a lot of time on administrative supervision and Robert's Rules of Order and personal attacks. They've got to get back to being fiduciaries.

Ms. Fisher stressed the need for the Board to collaborate as one of its priorities. She said she would support the Board to be able to work professionally together without shouting to be better fiduciaries. With bills such as Senate Bill 90 and Senate Bill 72, she highlighted the need to focus on the issue of increasing unfunded liability.

Ms. Naranjo Lopez reiterated the goals that she had stated at the previous meeting. She questioned the time commitment of the other two members and their plan to improve investment results. In addition, Ms. Naranjo Lopez stated that she will: deal with asset allocation, evaluate managers and ensure that they consistently deliver 10% net of fees, and oversee in-sourcing at least half or two-thirds to cut costs.

Responding to Ms. Naranjo Lopez, Mr. Roybal agreed that the focus on investments is important. He indicated that his second goal touched on time and noted that the Board had spent 41 minutes of this meeting going through the agenda. That time could be spent on investments.

With regards to asset allocation, Mr. Roybal stated that they need to be meeting with the investment team frequently and get better reports. He added that being the chairman, he can help the communication between the Board by eliminating all the unnecessary back and forth and move it forward.

Responding to Ms. Naranjo Lopez, Ms. Fisher concurred with Mr. Roybal's sentiments and added that she has experience with a leadership role. Regarding investments, Ms. Fisher stated that they would work together with the investments team and also look at the money managers.

Ms. Naranjo Lopez differed with Mr. Roybal on his point about consultants. She stated that she would get rid of the consultants because they do not have the qualifications to deal with investments and consider cost-savings by insourcing.

Mr. Neel inquired how the three nominees planned to put trustees on committees. Responding to Mr. Neel, Mr. Roybal indicated that he had covered committee assignments during his presentation at the previous meeting. He explained that he would first ask for preference and ask the board members the committees they would like to be in. He also emphasized the need to have the right board members chairing the committees by putting their strengths in the right places.

Ms. Fisher echoed Mr. Roybal's sentiments on reaching out to the members and asking for their preference. She acknowledged the CPAs on board and stated that they would fit in all aspects of the audit and investments. She would also utilize everyone's skill, strengths, and knowledge per the fiduciary responsibilities.

Ms. Naranjo Lopez stated that she would follow the rule of rotating each member because the Board bailed on that. The rotations would ensure that each member has experience in all the different committees of the PERA Board. She would also treat each member equally and consider their recommendations.

There were no more discussions.

The Acting Chair called for a roll call vote to elect a Board Chair. The results of the vote were as follows: David Roybal, 5 votes; Paula Fisher, 5 votes; Loretta Naranjo Lopez, 1 vote. Majority of 6 needed, vote fails.

Lawrence Davis	David Roybal	
Tim Eichenberg		Paula Fisher
Paula Fisher		Paula Fisher
John Melia	David Roybal	
Loretta Naranjo Lopez		Loretta Naranjo Lopez
Steve Neel	David Roybal	
Francis Page		Paula Fisher
Shirley Ragin	David Roybal	
Roberto Ramirez		Paula Fisher
Diana Rosales Ortiz		Paula Fisher
David Roybal	David Roybal	

5. C Consideration of 2021 Legislation

A. HB162-Public Employee Retirement Board Changes

Deputy Director, Greg Trujillo, reported that there are three bills for the Board's consideration. He reported that Tim Johnson, the State Police Chief and acting Department of Public Safety Secretary, was also on the call under Senate Bill 315.

Mr. Trujillo indicated that House Bill 162 was not discussed at the last meeting and was introduced by Representative Phelps Anderson. The Bill changes the makeup of the PERA Board to be appointed rather than elected by different classifications of membership.

The bill was initially scheduled to be in the State Government, Elections and Indian Affairs Committee. The first hearing was rolled over. Mr. Trujillo reported that he had not heard if the bill will move. He requested the Board's direction on whether PERA supports it or remains neutral.

Ms. Naranjo Lopez moved to oppose HB162 of the current 2021 legislative session and any other bill designed to replace New Mexico PERA's elected Board with an appointed board without support from the New Mexico Board and its members. She cited the following reasons:

- The New Mexico PERA Board has never authorized an allocation of resources to draft or help draft HB162 yet it is specific and tailored. The bill by its terms removes all current board members effective June 30, 2022.
- The Board's Executive Director is highly involved in legislative affairs.
- The Board maintains a professional lobbyist.
- New Mexico PERA Staff should have known about HB162 but yet appear to be stalling Board review.
- If passed, HB162 could lower investment results which could lead to the increase of state taxes.
- Increased costs. Elected New Mexico PERA directors periodically draw from 10,000 pension beneficiary volunteers to help increase transparency, accountability, and investment returns. Appointed directors would not have such support.
- Increased risk of bribes, kickbacks, and quid pro quo.
- Appointees would not have to face voters.
- Board meetings could be held largely outside of public view.
- Slow down turnaround efforts and likely cause irreparable damage to the public trust.
- It proposes to elevate the status of consultants from external advisors to full voting directors.
- It lowers democracy, transparency, accountability, and investment returns.
- [Alleged] Staff misconduct is likely to grow.
- Benefits might reduce and members can expect more SB72s.

Ms. Naranjo Lopez also moved to suspend the services of the New Mexico PERA current lobbyist, hire a new lobbyist, allocate a \$1 million budget to fight against this bill, and delegate to the Rules and Ethics Committee responsibility to oversee efforts to HB162.

Ms. Naranjo Lopez indicated that the fiscal report provides no analysis from the actuary as required by PERA's policies and procedures. She also pointed out that the Board's actuary must be present when discussing bills. The bills should be discussed ahead of time before going into the legislative session.

Roberto Ramirez seconded the motion to oppose the bill.

Ms. Pittard explained that when there is a cost to the system or a benefit change, legislation is provided to the actuaries. This is a governance bill and does not need an actuarial analysis. Ms. Naranjo Lopez disagreed with Ms. Pittard.

Mr. Neel concurred with Ms. Pittard that this is a governance change. It would not have any impact on the funding of the pension so having an actuary would be a waste of money.

Ms. Fisher emphasized that the bill will impact the funding. It will take the members' voices out of the equation for who they would like to represent them. The appointees will be loyal to those who appoint them without regard to the fund. She further stated that the Board should decide whether they want PERA to become political or remain intact with the membership overseeing the fiduciary responsibility.

The motion to oppose passed by a roll call vote of 6-5 as follows:

Lawrence Davis	No
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	No
Loretta Naranjo Lopez	Yes
Steve Neel	No
Francis Page	Yes
Shirley Ragin	No
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	No

Mr. Davis explained that the reason for voting no is because the Board has not been able to address investments. He felt that they should let the legislators decide.

B. SB 194-Public Corruption Act

Mr. Trujillo reported on Senate Bill 194, sponsored by Senator Mark Morris and Representative Matthew McQueen. He explained that the bill states if an elected official is convicted of corruption, any time that they earned towards pension from PERA as an elected official would be forfeited.

Ms. Naranjo Lopez stated that the definition of a public official should be expanded to include New Mexico Executive Director, General Counsel, Chief Investment Officer, and any officer with the authority to allocate, invest, or distribute capital on behalf of New Mexico PERA. She also suggested that the word 'not' be deleted from Section 4C so that penalties apply prospectively.

Acting Chair Page pointed out that the Board cannot change the bill. Ms. Naranjo Lopez suggested that they talk to the bill's sponsor.

Mr. Eichenberg questioned why the bill is on the agenda if it is not the Board's bill. Acting Chair Page responded that they were supposed to either support it or not.

Responding to Mr. Eichenberg, Ms. Naranjo Lopez reiterated that the Board should discuss these bills and give their recommendations before going to the legislature. She indicated that it is possible to change them because she deals with bills on her neighborhood issues a year ahead of time.

In response to an inquiry by Chair Page, Mr. Eichenberg explained that he does not understand how it would affect the Board if someone can't collect their pension because they did something illegal. The Board would just pay out the money contributed and there would be no impact on them. He further asked why the Board is being tasked with endorsing the bill.

Responding to Mr. Eichenberg, Ms. Pittard stated that the bill does more than just have someone withdraw their pension. It would require the Board to recalculate pensions, continue to administer child support and divorce orders. The bill was brought before the Board because it involves certain benefits and has direct relation to PERA.

Acting Chair Page asked if it would impact PERA Board members. Ms. Pittard stated that it would not. It only covers public officials who are subject to the campaign reporting act. She also pointed out that the judicial act has a provision that covers judges if they are convicted or removed from the bench.

Ms. Rosales Ortiz clarified that the bill makes sure that those elected to an office and convicted of a crime are not entitled to the retirement fund. It will not affect the Board.

Ms. Rosales Ortiz moved to support SB194 Public Corruption Act. Mr. Neel seconded the motion. Motion passed by a roll call vote with 1 abstention as follows;

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	Abstain
Loretta Naranjo Lopez	Yes
Steve Neel	Yes
Francis Page	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

C. SB315-Public Safety Officer Retirement

Acting DPS Secretary Tim Johnson presented SB315 to the Board and stated that it is not only the state police but DPS's number one priority this session. He reported that in 2015, DPS had petitioned the legislature to do a merger of the Special Investigations Unit and the Motor Transportation Police Department for them to become a part of the state police. That legislation passed.

Mr. Johnson indicated that a few things on that legislation should have been done differently. He stated that the definition of what a state police officer was as it pertains to PERA and retiree health left out those 150 folks.

Mr. Johnson reported that when adjustments to PERA were made in one of the sessions in 2020, it still left them out and even damaged their health care upon retirement. He explained that the bill looks to adjust that definition of state police to include the MTD and SIU mergers. There is an appropriation in the bill of about \$6 million which the executive budget recommendation supports. The LFC was not up to that figure but there are plans to adjust it.

Mr. Johnson reported that the legislature widely supports the bill. He requested that the Board also approves and supports it.

Mr. Neel asked if the appropriation in the bill is actuarially neutral. Responding to Mr. Neel, Mr. Trujillo stated that there is a fiscal impact with this bill. He reported that they worked with DPS to identify the members that would be affected. The information was provided to the actuaries and the \$5 million impact is what they came up with. He further stated that there is an appropriation to make it neutral.

Condolences were offered to Mr. Johnson for the loss of Officer Jared. In response to an inquiry, Mr. Johnson confirmed that MTD employees are state police officers. He stated that other than PERA and retiree health, everything else remains the same; working hours, uniform, and vehicles. Mr. Johnson further stated that Officer Jared would have been one of the employees affected by this. He was one of the merger employees from MTD.

Ms. Fisher asked if the merger employees took part in the training that state police officers do. Mr. Johnson responded that they did not go through the State Police Academy. However, they were all certified prior to the merger through a different academy.

Ms. Fisher also asked if it is now part of the routine that all the merged individuals are included in the actual state police training. Mr. Johnson answered in the affirmative and stated that recruits joining the state police now go through the same training.

Mr. Davis moved to support Senate Bill 315. Mr. Neel seconded the motion.

Ms. Naranjo Lopez recommended that the bill be deferred because the PERA Board should not be accepting bills without prior review before the legislature meets and without the presence of an actuary. In response, Ms. Pittard stated that the actuarial analysis of the bill is in the fiscal impact report, which shows the net actuarial impact. Ms. Naranjo Lopez insisted on hearing it from the actuary.

Acting Chair Page asked if Mr. Trujillo had worked with an actuary. Mr. Trujillo reiterated that they had worked with DPS to run the data and come up with a cost. The cost was done by the actuary.

The motion to support the bill passed by a roll call vote of 10 to 1 as follows;

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	Yes
Loretta Naranjo Lopez	No
Steve Neel	Yes
Francis Page	Yes
Shirley Ragin	Yes

Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

a. Other possible legislation

Mr. Trujillo reported that there were no additional legislations. He informed the Board that they had their first budget hearing in front of a subcommittee of the House Appropriations this past Saturday. The hearing went well. The request submitted was recommended by both the LFC and the executive.

6. New Business

A. Presentation of FY20 Audit Reports

1. FY20 Audit Report – CliftonLarsonAllen

CliftonLarsonAllen CPA, Thomas Rey, reported that he leads a team nationally that works with large state retirement systems, investment trusts all around the country. He stated that he would give an overview of their audit approach and go through the June 30, 2020 audit results for the PERA defined benefit funds and the deferred compensation plans. He would also go through the required communications of fiduciaries and high-level defined benefit fund financial highlights.

Mr. Rey stated that the audit approach is not a financial audit, an internal control audit, or an operational audit, or a fiduciary audit. They express an opinion on the financial statements. Every audit is risk-based and that starts with the planning of the audit. Part of the risk assessment process entails looking at key processes and procedures, and process documentation. They validate those documentations with actual procedures, making inquiries and developing an understanding of PERA.

Mr. Rey reported that they do audits and testing using materiality threshold. Materiality is a two-way street; one is quantitative materiality based upon a net position of the fund, and two is the qualitative aspects based upon risk profiles.

Mr. Rey stated that the key critical audit areas are the investments and the investment portfolios. Inflows are the contributions from employees and participants. Benefit payments go out to retirees and other beneficiaries.

Mr. Rey reported that he had talked to the Board five years ago about GASB 67 which affects retirement systems, and GASB 68 which is disseminated out to the employers. GASB 67 split funding and accounting. The difference between the two is that for funding purposes, the actuaries smooth gains and losses over some time, whereas the accounting valuation is the market value of assets. That ratio is subject to more volatility in the accounting valuation as significant market gains and losses have an immediate impact on that ratio, whereas gains and losses are generally smooth to reduce that volatility in funding valuation.

Mr. Rey reported that audits are done in two phases, the preliminary phase, and the final phase. The preliminary phase entails a lot of testing of controls, walkthroughs, procedures, and understanding things. The final phase, or substantive fieldwork, is focused on the numbers in the financial statements and validating those numbers. Price testing is done using Bloomberg machines on all the equity and fixed income securities.

Contributions entail understanding the internal controls around the contributions, walking through the processes, and testing controls over contributions. Substantively, once the books are closed, they reconcile contributions from the general ledger to subsidiary ledgers and perform independent confirmations of the contributions to large employers around the state on a sample basis.

Mr. Rey indicated that they introduced data analytics in the time of GASB 67 to validate the completeness and accuracy of that actuarial data.

On the benefit payments, they walk through all the benefit payment types processes, separate walkthroughs for disability payments, survivor, and regular and refunds, testing controls, and then substantively reconcile the benefit payments to the financial statements.

Mr. Rey reported that there's more predictability in the defined benefit plan than in a defined contribution plan in terms of distributions. They can see anomalies in individual retirees' checks.

Mr. Rey reported that Cavanaugh MacDonald does the valuation. M. Rey and his team then evaluate their competence, capabilities, and objectivity. They also confirm their independence and accreditation. They review their actuarial report and key assumptions, and any independent actuarial studies. They then do specific testing of data analytics as it relates to the GASB 67 and 68 disclosures.

Mr. Rey reported that they have separate actuarial specialists who review Cav Mac's valuation. With regards to the audit results, Mr. Rey stated that the independent auditor's report resulted in an unmodified audit opinion. No opinion on the MD&A is provided. The financial section in the report is put together by PERA's staff and management.

Mr. Rey reported that there are limited procedures and relationship opinions rendered on the supplemental schedules. The report on internal controls on financial reporting and compliance indicated no material weaknesses or significant deficiencies identified.

Required governing body communications are memorialized in a letter to the Board. The letter covers the following:

- Responsibilities of the auditors under the United States generally accepted audit standards.
- Significant new accounting policies and procedures were adopted in that given year. There were none.
- Management, judgments, and accounting estimates that are significant to the financial statements.
- Significant financial statement disclosures.

Mr. Rey reported that there were no material audit adjustments. There was one past journal entry related to the valuation of the alternative investment. There's also quantitative materiality calculation that's derived as to what is the material plan. Past journal entry threshold is not material but if it's above the past journal entry, they pass on that entry. The one entry was a positive valuation and is recorded in the first quarter of the 2021 financial statements. Details are in the letter.

Mr. Rey reported that concerning communication, management was cooperative and professional during the audit process. There were no disagreements related to financial accounting standards or presentations. Management made representations to the auditors at the last stage of the audit. The letter is attached as an exhibit.

Mr. Rey stated that with regard to the investment portfolio, the contributions are static and predictable. What's unpredictable is the year-over-year returns. June 30, 2020, there was an overall negative performance driven primarily by the net depreciation in fair value. Benefit payments were almost \$1.3 billion. \$250 million negative investment income offset by the inflows of the contributions.

Mr. Rey overviewed GASB 67, which affects PERA, and GASB 68, which affects the PERA employers. He stated that this is the accounting equivalent of the funding ratio.

In response to an inquiry about the materiality level for PERA, Mr. Rey stated that they don't like to share the materiality calculations but he could give a percentage. He further stated that the transaction level they were working with is based on the assets and is less than 1% of net assets.

2. FY20 457(b) Audit Report - Moss Adams

Karyn Lujan stated that she works for PERA and oversees the deferred compensation program, the voluntary retirement program. This is the plan's first year using Moss Adams, the new auditor.

Kory Hoggan reported that he and Lauren Kistin are based out of the Albuquerque office in New Mexico. They both work with state and local pension systems all over the country. Mr. Hoggan reported that they'd had a formal meeting with the members of management and representatives of the Board.

Mr. Hogan reported that this plan differs from the defined benefit plan in that it's a voluntary plan. The members direct their investments and elect their deferral contribution percentages.

The audit of this plan was performed in August and early September. Financial statements were submitted to the state auditor in October and got the release from the state auditor in January.

Two reports were issued as a result of the audit; the GASB audit report on the financial statements and government auditing standards report on internal controls over financial reporting. Both reports have an unmodified opinion.

Mr. Hoggan presented graphs that compared the performance of the plan in 2020 with the prior two years. There was an increase of about \$17 million or 3% in net position this year. Investments increased by about \$23 million. This was offset by an increase in the amount of benefit paid out of the plan versus the contributions that came in.

The composition of investments are directed and selected by participants and is steady with the prior years. Most of the plan is invested in the mutual funds in the menu. The plan changed investment custodians in 2020. The transition was tested and no issues were noted.

Mr. Hoggan explained what the different bars in the graph represented including lifecycle funds, contract valued investment option, and participant loans. He also gave an overview of the additions that came into the plan in 2020 as compared to the prior two years, and the payment distributions made. He noted that there was an increase in the distribution of benefit payments to members in 2020.

Mr. Hoggan reported that this plan isn't an annuity driven plan. They are lump-sum distributions where people reach retirement or a distributable event and elect to pull their money or elect to roll it into an annuity product. They are hard to predict year-over-year.

Ms. Kistin gave a high-level summary of the audit process and reiterated some of what Mr. Rey had said earlier. She reported that there are a lot of eyes on this plan with a lot of involvement from the Board.

Concerning materiality, Ms. Kistin reported that when testing individual contributions and participant level activity, they refer to it as \$0 materiality. There is no concept of materiality.

Mr. Hoggan stated that there are three levels of materiality, financial statement materiality, participant or member level materiality, and testing for compliance with IRS regulations. Anything that looks like a compliance issue, tax issue, or fraudulent, materiality is zero. Ms. Kistin reiterated that the tests didn't identify any material weaknesses or significant deficiencies.

Mr. Davis thanked the staff for all their work and for keeping up with the GASBS to ensure that they have two clean audits. Ms. Ragin echoed his sentiments.

3. **Executive Session – Board recess to Executive Session pursuant to NMSA 1978, Section 10-15-1(H)**
(3)

Board recessed to Executive Session at 11:24 am. Vote is unanimous for 11 members present.

Lawrence Davis	Yes
Tim Eichenberg	Yes
Paula Fisher	Yes
John Melia	Yes
Loretta Naranjo Lopez	Yes
Steve Neel	Yes

Francis Page	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

Ms. Rosales Ortiz moved to approve a 20% raise for Greg Trujillo. Mr. Neel Seconded the motion.

Ms. Naranjo Lopez opposed the 20% increase. She stated that Mr. Trujillo was not qualified for the position.

The motion to approve a 20% raise passed by a roll call vote of 8 to 1 as follows;

Lawrence Davis	Yes
Paula Fisher	Yes
Loretta Naranjo Lopez	No
Steve Neel	Yes
Francis Page	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Diana Rosales Ortiz	Yes
David Roybal	Yes

4. Investment Update on "Reddit" Issue

Dominic Garcia gave an update on the Reddit event over January and stated that it was an event in the market that forced a short squeeze of a handful of suddenly traded stocks. The event was fairly isolated and didn't have a broader impact on overall markets or PERA's portfolio. The area of PERA that was expected to be impacted would be the portable alpha program but it did well for January and provided positive returns.

Acting Chair Page inquired about the level of impact for PERA. Mr. Garcia stated that as of yesterday, the estimated total NAV for PERA was about \$16.6 billion. The positive impact could be about \$5 million to \$10 million.

7. Public Comment

There were no public comments.

8. Adjournment

Having completed the Agenda and with no further business to come before the Board, Acting Chair Page declared the meeting adjourned.

Approved by:

Francis Page
Acting Chair, PERA Board

ATTEST:

Exhibits attached



Ratification Report

Last Name	First Name	Middle Name	Retirement Date	Retirement Type
ALDERETE	SANDRA	S	2021/02/01	Deferred
ALLEN	JOSHUA	S.	2021/02/01	Normal
ALVAREZ	TERRI	L.	2021/02/01	Normal
ARCHULETA	TIM	N.	2021/02/01	Normal
BACA	YVONNE	C.	2021/02/01	Deferred
BALES	SALLY	A.	2021/02/01	Deferred
BARKLEY	HEATH	V	2021/02/01	Normal
Bassore	Kerry	G.	2021/02/01	Normal
BEGAY	ELISON		2021/02/01	Normal
BELL	JERRY	D.	2021/02/01	Normal
BELLMYER	VICKI		2021/02/01	Deferred
BISHOP	JOHN	A	2021/02/01	Deferred
BOHL	EUGENE	F.	2021/02/01	Normal
Bommarito	Peter	A.	2021/02/01	Normal
Busse	Michael	E.	2021/02/01	Normal
CHAVEZ	SANDRA		2021/02/01	Normal
CHAVEZ	TOBIAS	F	2021/02/01	Normal
CHENAULT	DARRELL	W.	2021/02/01	Normal
CRAIN	JOHNNY	D.	2021/02/01	Normal
CROWLEY	JAMES	D.	2021/02/01	Normal
CULP	ALTON	B.	2021/02/01	Normal
DAVIES	CINDY	S.	2021/02/01	Deferred
DELLO-RUSSO	ROBERT	D.	2021/02/01	Deferred
DeSoto	Joseph		2021/02/01	Normal
DURAN	CESAR		2021/02/01	Normal
DURAN	SAMMY		2021/02/01	Normal
ELLIS	TERI	L.	2021/02/01	Normal



PERA

Public Employees
Retirement Association
of New Mexico

INVESTED IN TOMORROW.

FARRELL	JOEL		2021/02/01	Normal
FIERRO	NINA	M.	2021/02/01	Normal
FOWLER	SUSAN	S.	2021/02/01	Normal
GALLEGOS	THOMAS	A	2021/02/01	Normal
GARCIA	HERLINDA		2021/02/01	Normal
GARCIA	PAUL	A.	2021/02/01	Normal
HATCH	MIKE	J.	2021/02/01	Normal
Heinz	JULIA	H.	2021/02/01	Normal
HERRERA	DAN	C.	2021/02/01	Normal
Hidalgo	Therese	Guadalupe.	2021/02/01	Deferred
HINOJOS	RONNIE	J	2021/02/01	Normal
JAKE	MARILYN		2021/02/01	Normal
JARAMILLO	DAVID	J.	2021/02/01	Normal
JARRELL	WILLIAM		2021/02/01	Normal
JOHNSON	DANIEL		2021/02/01	Normal
JONES	DOUG		2021/02/01	Normal
LASALLE	NEIL	L.	2021/02/01	Normal
LOPEZ	DENISE	M.	2021/02/01	Normal
MADRID	MICHAEL	R.	2021/02/01	Normal
MALCZEWSKI	MICHAEL	D.	2021/02/01	Normal
MARTINEZ	ROBERT	A.	2021/02/01	Normal
Mathiasen	Donald	E.	2021/02/01	Normal
MILLER	MARTIN	R	2021/02/01	Normal
MONAHAN	PETER	K	2021/02/01	Deferred
MONTANO	CARLOS	P.	2021/02/01	Normal
MONTOYA	JOHN	A.	2021/02/01	Normal
MONTZ	DAVID	R.	2021/02/01	Normal
MOYA	TOM	F	2021/02/01	Normal
MURTAGH	JOHN	F.	2021/02/01	Normal
NASH	MICHAEL	R.	2021/02/01	Normal
NOEL	CHRISTINE	M	2021/02/01	Normal
NORIEGA	FRANCES	M.	2021/02/01	Normal
ORTEGA	VICKIE	L.	2021/02/01	Normal



PERA

Public Employees
Retirement Association
of New Mexico

INVESTED IN TOMORROW.

Papen	Mary	Kay.	2021/02/01	Normal
PAUL-SEABORN	JERRI	C.	2021/02/01	Deferred
PETERSON	JEFFREY	L	2021/02/01	Normal
POLANCO	MARIO	J.	2021/02/01	Normal
POLANCO	RAY		2021/02/01	Normal
PRADA	ADELINA	G.	2021/02/01	Normal
QUINTANA	MARY RAMONA	C.	2021/02/01	Normal
RICHEY	KRISTAN	J.	2021/02/01	Normal
Richmond	Ann	G.	2021/02/01	Deferred
RIDDLE	MILES	K.	2021/02/01	Normal
RIVERA	ANTHONY		2021/02/01	Normal
RIVERA	VERONICA	T.	2021/02/01	Normal
RONK	DENNIS	C.	2021/02/01	Normal
SAIERS	RHONDA	L.	2021/02/01	Normal
SLOCTER	CHUCK	B.	2021/02/01	Normal
SOTO	MONICA		2021/02/01	Normal
TAFOYA	MARK	A.	2021/02/01	Normal
Tave	Douglas		2021/02/01	Normal
Threadgill	Mark	A.	2021/02/01	Normal
TOWNDROW	KEVIN	R	2021/02/01	Normal
TRUBY	DAVID	C.	2021/02/01	Normal
TRUJILLO	DAVID	A.	2021/02/01	Normal
TRUJILLO	JOHN	A.	2021/02/01	Normal
Trujillo	Paul	A.	2021/02/01	Normal
TYLER	ANGELICA	J	2021/02/01	Deferred
USERY	DENNIS	O.	2021/02/01	Normal
VIGIL	VINCENT	V.	2021/02/01	Normal
WILLIAMS	GAIL	M.	2021/02/01	Deferred
WILSON	NICHOLAS	D.	2021/02/01	Normal
WOOLDRIDGE	DOUGLAS	J.	2021/02/01	Normal