

**NEW MEXICO**  
**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION**  
**ANNUAL BOARD MEETING**

**September 26, 2019**

This annual and monthly meeting of the Public Employees Retirement Board was called to order by Jackie Kohlasch, Chair, at approximately 9:00 a.m. on the above-cited date in the Senator Fabian Chavez, Jr. Board Room, at the PERA Building, 33 Plaza la Prensa, Santa Fe, New Mexico.

**1. Roll Call**

Roll call followed the Pledge of Allegiance which indicated a quorum with the following members present:

**Members Present:**

Jackie Kohlasch - State, Chair  
John Melia - Municipal, Vice Chair  
Claudia Armijo - State  
Lawrence Davis - Municipal  
Tim Eichenberg - *Ex-officio*  
Patricia French - Municipal  
Dan Mayfield - Retiree  
Steve Neel - State  
Maggie Toulouse Oliver - *Ex-officio*  
Loretta Naranjo Lopez - Retiree  
Shirley Ragin - County  
David Roybal - State

**Member(s) Absent:**

None

**Staff Members Present:**

Wayne Propst, Executive Director  
Susan Pittard, Chief of Staff/General Counsel  
Dominic Garcia, Chief Investment Officer  
Greg Trujillo, Deputy Executive Director  
Renada Peery-Galon, ASD Director  
Misty Schoeppner, Deputy General Counsel  
Geraldine Garduno, Assistant General Counsel  
Kristin Varela, Deputy CIO  
Anna Williams, Chief Financial Officer  
Trish Winter, Executive Assistant

**Others Present:**

Adam Hathaway, Parliamentarian  
Harvey Leiderman, Board Counsel  
Ernie Marquez, AES  
Angela Lobato

Diego Arencon, Governor's Office  
Tania Maestas, OAG  
Lenora Chavez

**Others Present: (continued)**

Jake Salazar	JoAnn Jackson
James Flores, FOP	Bob Martinez, FOP
Ron Baca	Kurt Weber, Retired Member
Nancy C’de Baca-Jinks, Retiree	Vickie Ortega
Victor Baca, Retiree	Robert Sanchez, NMPFFA
Ronald S. Trujillo, Retiree	Sam Trujillo, Retiree
Joan Marentes, Retiree	Nora A Anaya, LULAC/HRT
Ricky Anaya, LULAC/HRT	Miguel Gomez, RPENM
Frank Ortega	Steven Jenisen, MD
Justin Cheney, IAFF 244	Mark Pacheco, Retiree
Alberto Ortega, IAFF 244	Senator Munoz, State Senator
M. Candelario, FOP	Simon Miller, DFA
Joseph Montoya, Retiree	DL Heshley, FOP
Jonathan Craven, Actuary [Telephonically]	Tom Toth, Wilshire Consultants

**2. Approval of Agenda**

Mr. Mayfield introduced a motion to approve the agenda and Mr. Roybal seconded.

Under discussion, Ms. Naranjo Lopez asked why the Executive Session agenda item listed under Current Business lacked specificity. She understood from a previous meeting that specificity was necessary and asked whether the listing was a violation of the Open Meetings Act.

General Counsel Pittard said that it was requested by the Office of the Attorney General to place that item on the agenda as it appears.

Ms. Naranjo Lopez expressed her concern about the item and said staff needs to be accountable. She said the Board should investigate why, in the past, specificity was required and somebody needs to be accountable for it.

Chair Kohlasch requested that the item under discussion be moved to the end of the agenda because a representative from the AGO was not available until later, and the same for item 6.D, 2019 Board Elections.

Mentioning that some of the Board members need to report to work, Ms. Armijo requested that, if the Board is moving the executive session to accommodate the AGO, that once the representatives arrive, the item be heard. Chair Kohlasch agreed and said she would call on Mr. Marquez for the election results when he arrives.

Mr. Eichenberg noted that was the reason he was attending the meeting was the AGO’s report. He said that going into closed session requires identifying what the subject matter. Ms. Pittard replied the AGO will be giving the Board an update regarding the matter that they are handling. In response to Mr. Eichenberg’s concern that staff had requested greater specificity when he suggested going into exec to discuss personnel matters, Ms. Pittard said the personnel exception is limited in scope. This pertains to a pending investigation in the AG office and the second time it has been on the agenda.

Ms. French said she was contacted by people who wanted to attend today's meeting and she informed them not to attend at 9 o'clock because of the executive session as posted on the web. This is the one annual board member and the members should be accommodated.

Mr. Melia agreed that the Board make sure every member has an opportunity to speak.

Mr. Melia amended the motion to move Executive Session and the Election Results (6.D) when the representative arrives. Mr. Mayfield seconded the amendment.

Ms. Naranjo Lopez said she too told members interested in attending today's meeting about the scheduled executive session.

Ms. Armijo said the purpose of the OMA is to give the public notice of what the body is going to be discussing. She found it problematic if the AGO directed PERA staff to place the item on the agenda as written because the AGO enforces the provisions of the OMA. Regarding how to proceed with today's meeting, Ms. Armijo said she understood the change in the agenda and felt it was appropriate to apologize to the members for the delay.

**The amendment to the main motion postponing Executive Session and the election results until the representatives for those items were present passed with Ms. Naranjo Lopez voting against.**

For the record, Ms. French said if Mr. Marquez and the AGO are being accommodated then the membership should also be accommodated. She wanted it on the record that the AGO and Mr. Marquez are being accommodated but not the membership.

**The agenda, as amended, passed without opposition.**

Chair Kohlasch said she appreciated that members were relying on public comment occurring following executive session, and she would ensure they have an opportunity to speak. Ms. French said if two of the agenda items are being postponed until the representatives arrive then "let's just be clear to the public that we're going to let them talk when they arrive too...Let's get it straight, so it's straight on the record."

**5. Approval of Consent Agenda**  
*[Exhibit 1: Consent Agenda]*

Upon motion by Mr. Mayfield and second by Mr. Davis the Consent Agenda was approved by unanimous voice vote.

**6. Current Business**

**A. Resolution No. 19-03 Calling for the Annual PERA Board Meeting**

Mr. Melia moved to approve Resolution 19-03 and Mr. Mayfield seconded. The motion passed by unanimous voice vote.

## **B. Board Chair's Message to Members & Retirees**

Chair Kohlasch advised the Board that they would each have an opportunity to address the membership.

The Board welcomed and thanked the membership for attending and the following items were mentioned by Board members:

- Today's meeting is particularly important because the recommendation of the Governor's Solvency Task Force will be presented
- The Board's work and commitment is to support the membership
- The members' insights and comments are important in doing what's right for the fund
- The Board respects the importance of transparency to promote sound decision making
- Each plan must be fair and equitable across the board
- The Board members respect their fiduciary responsibility to protect the plan and the benefits
- The membership was encouraged to stay informed and listen to the PERA meetings which are live-streamed through the PERA website, and to contact Board members whose contact information is on the website
- Even though the Board may exhibit strong disagreement, they each share the common interest of preserving and protecting the fund

Identifying herself as the senior member on the Board, Ms. French congratulated the newly-elected Board members, and admired Ms. Naranjo Lopez' accomplishment of receiving 6,000 votes which demonstrates the retirees' strong support for her.

## **C. Public Comment**

Chair Kohlasch thanked those present and wishing to speak. She assured the membership that they would have an opportunity to speak, and she asked that they respect the full agenda before the Board. She asked that the comments be respectful and refrain from making remarks that attack individuals or those with a different opinion.

Ms. Pittard called each speaker according to the sign-up sheet to the microphoned desk.

Lenora Chavez, retiree, stated that the PERA Board breached its fiduciary responsibility. She stated that the Board's failure to uphold and enforce existing state statute, policies, rules and procedures is unacceptable and hypocritical. A Board action taken in January 2019 requesting \$200 million for the trust fund from the legislature was not carried through by staff. There are plans within the pension system that are 50 percent unfunded and she asked about the cumulative variance report. She cautioned the Board not to give their authority away to executive staff. She reminded the Board of their responsibilities and cautioned that they not overlook blatant abuses. On behalf of the retirees, Ms. Chavez said, "no changes to the COLA." Ms. Chavez presented her comments for the record. [*Exhibit 2*]

Angela Lobato, retiree, thanked the Board and Task Force for their efforts. She discussed the COLA and that in 2013 it was reduced by 1 percent and that did not fix the solvency issue. She questioned reducing the COLA further and recommended reducing the multiplier and/or the

maximum account. The focus appears to be on the retirees who, according to PERA's annual report, have an average benefit of \$28,000.

Ms. Lobato expressed her concern for the future especially with employees making up to \$200,000 a year and at 90 percent the retirement will be \$180,000, including their COLA it would be an additional \$3,600 a year. She compared that COLA to the average retiree who would receive an additional \$66 a month. Clearly, those making above \$100,000 should pay an increased contribution, she stated and urged the Board to find a global fix so they aren't back here in 10 years with the same issue.

Bob Martinez was called and did not come forward.

Kurt Weber, retired member, strongly recommended tabling agenda item F, approval of Resolution 19-17 in support of the Governor's Solvency Task Force Recommendations, because back in 2012 the Board did extensive studies of the actuarial assumptions and the issues at the time. That report was a 25 year report and it shows all the different options as far as addressing the unfunded liability. In 2012 the unfunded liability was \$6 billion. The Board should go back and look at the study and determine what has not been done to strengthen the fund. He said he lacked access to all the information but there should be a cumulative variance analysis report every year showing what has happened since 2012.

As the managers of the benefits and the fund, Mr. Weber, said the Board is responsible to the members to be transparent. Reading from the 2015 actuarial report, he noted that actuarial loss, due to non-investment experience, increased the unfunded actuarial accrued liability which he attributed to greater-than-expected salary increases.

Mr. Weber asked why, in 2016, the Board did not implement the increased contributions that had been recommended in 2012. The active members should pay this not the retirees. He went on to say that, had the Board implemented the recommendations, the fund would be 128.9 percent funded in 2041. "You owe an explanation to the membership of what has happened."

Mr. Weber said that the 2016 increase of \$1 billion in liabilities was caused by the change in the assumed investment rate from 7.75 percent to 7.25 percent. Reduction of the annual multiplier from 3 percent to 2.5 percent would have corrected some of the problem. He noted that 3 percent is one of the highest in the nation and not sustainable.

Mr. Weber requested the actual report from Cavanaugh Macdonald on how the reduction in the multiplier would have affected the unfunded liability, and the cumulative variance report be posting on the PERA website.

Concluding his comments, Mr. Weber repeated that the Board should table action on the task force recommendations until the necessary information is provided.

Mr. Davis asked about the cumulative variance report and Mr. Weber said that currently the report does not exist although he has requested it over the years. The report would provide the cumulative effect of the actual investment return versus what was assumed in the 2012 study. He offered to forward the email from staff advising him to figure out the cumulative effect.

Mr. Eichenberg asked about Mr. Weber's credentials, and Mr. Weber outlined his employment experience with the state as having 10+ years at the State Investment Office as deputy director of operations and 14+ years at PERA in different positions. He noted that he was the acting executive director at PERA during the 2012 studies. Mr. Weber said contribution increases and the reduction of the multiplier need to occur before the COLA is discussed. The new hires after 2013 have contributed but the other active members have not.

Stating that he respected Mr. Weber's experience, Mr. Melia pointed out that Tier 1 members have paid increased contributions and will never receive the 3 percent COLA that many retirees have already received.

Ms. Armijo cautioned against pitting actives against retirees, Tier 1 against others, etc. stating that everyone has and will continue to sacrifice.

Ron Baca, recently retired from NM DOT, stated that, throughout his career he dealt with the State Transportation Commission, LFC, and the Governor's Office and appreciated the complexities of these relationships. However, DOT staff and the Commission worked well together and he credited that to the respectful daily interaction between the two entities. It is important that staff provide pertinent information to the board and that both entities reach out and work together. He added that his health insurance has increased and he will not receive a COLA for seven years.

Nancy C'de Baca Jinks was called and declined to speak.

Vickie Ortega, an active member eligible for retirement next year, stated she was worried about her retirement. There are weekly articles in the local periodicals about the PERA retirement fund. She read from a September 10, 2019, *Albuquerque Journal* article: "Take home pay for New Mexico state workers. A new study shows average take home pay for New Mexico state employees is the lowest in a seven state region and may be hindering efforts to expand the ranks of qualified state workers..." Ms. Ortega said with that information it is unfair to ask active employees to contribute more to their PERA contribution when it is fund mismanagement that has caused the problem. The fund needs to be fixed and not at the expense of either active or retired members.

Ms. Ortega mentioned the state's increased revenues from oil and gas that should be used to bolster the fund. She noted the tremendous settlements the state has paid out, the tremendous increases in department budgets and the salary of the lottery CEO, and stated that, with all this money going out, PERA should receive some.

For the past eight years, state employees did not receive a cost of living increase and she does not support contributing more to retirement when the problem is due to mis-investment and misconduct.

Victor Baca said that he and his retired neighbors get together to talk about what is going on with the PERA Board. It seems the Board is always talking about the COLA. He understood that reducing or eliminating the COLA is an easy fix, but it is "not right to the retirees." He said he worked for less money than he could have received in the private sector because he was promised a pension and COLA. Now it seems the only thing that is talked about is doing away with the 3 percent cost of living for retirees. He reviewed a recent PERA audit and pointed out that, during Governor Richardson's administration, there were 25,000 employees and currently there are only 19,000, thus reducing the contributions. The PERA consultants are paid over \$63 million a year and reducing that should be considered before touching the COLA. He thanked staff for providing the information he reviewed, and emphasized that the retirees should not be asked to the foot the bill again.

Mr. Baca pointed out that the cost of retiree health care continues to rise, and without the COLA it is very difficult for retirees. According to the Brookings Institute, pensions can exist

without being 100 percent funded. He was hopeful that with the increase in state revenues, more employees will be hired to improve the pension fund. He urged the Board to work together and find a balanced solution to the solvency issues.

Robert Sanchez, president of New Mexico Professional Firefighters Association and member of the Governor's task force on solvency, thanked the governor for her leadership and Mr. Arencon for chairing the task force. He said the task force was unique in having representation from labor, Municipal League, NM Association of Counties all agreeing on the recommendations. He thanked the Board for their service to the PERA membership.

Ronald Trujillo, retiree from NM DOT and the State Treasurer's Office, commented that watching this Board bicker over the agenda relieved him of the thought that the Santa Fe City Council, where we served 12 years, was not the only dysfunctional elected body. Speaking as one of the younger retirees at 50 years old, he advised the Board that decisions they make will impact him hopefully for the next 30 to 40 years.

Mr. Trujillo said that he has heard through the media of fantastic raises given to PERA staff and the state employees did not get anything. He was 19 when his father, who was already retired, died and his pension went to his mother who has always had the 3 percent COLA, and he fears it may be eliminated in its entirety. While he has to wait seven years to receive a COLA, his mother relies on hers. He urged the Board to make the right decision and think about the future.

Sam Trujillo was called and declined to speak.

Joan Martenes, retired Albuquerque police officer, said her statement she receives from the credit union shows exactly where her money is going/went and asked that PERA provide the same. She asked about the salaries of PERA administration and why it was not listed on the newsletter.

Ms. Naranjo Lopez said the salary information can be found on line but not on the PERA website.

If transparency is important to the Board, Ms. Martenes said she did not want to have to dig for the information. She requested a simple statement, similar to what the credit union supplies. PERA's problems can be addressed by simply getting rid of the crooks. Identifying herself as a decorated police officer, Ms. Martenes said she wants to know about the money, where it went and where it's going: "I ask the Board, cut all the crap and put it all in a statement for us, mail it out to every single member showing us exactly what is going on with the fund."

Nora and Ricky Anaya appeared before the Board and Nora Anaya said Ricky is eligible for his COLA. She said there appear to be inconsistencies in allowing people to speak especially those with valuable information. She offered to give up her time and Ricky's time for others. She sees there is a deficit in PERA and yet the Board keeps the executive director; she wished the Board could get along better so they can get things done. She offered her time to Kurt Weber.

Chair Kohlasch offered that Mr. Weber can speak following the other public speakers.

Miguel Gomez, executive director of Retired Public Employees of New Mexico (RPE), said the makeup of the Governor's task force was unacceptable and inappropriate and

“shocking.” There were 19 members and at most meeting 18 were men with only one woman. For that reason alone, the recommendations should be rejected. Women are disproportionately negatively impacted by the proposal to take away the COLA benefit; women who do not earn as much as men and leave their careers for caretaking. The proposal is “outrageous and should not be tolerated by this Board or by the Governor,” stated Mr. Gomez.

Mr. Gomez read, in its entirety, a letter from the RPE board president Joel Pafford, addressed to Governor Lujan Grisham dated September 19, 2019. [*Exhibit 3*] The letter highlighted that retirees relied on the Governor’s campaign promise to protect the COLA, PERA employs risky, outdated methods to address the solvency issue, the make-up of the task force lacked adequate representation of retirees and women, the concept of fully funding PERA within 25 years is flawed, townhall meetings should be held to discuss different models, and according to studies the real issue is whether the fund can meet its obligations each year, not whether it can cover all future obligations immediately.

As the only woman who served on the task force, Chair Kohlasch pointed out she was not the only woman asked to serve on the task force. Any of the organizations could have appointed a woman to the task force, i.e., AFSCME, RPE, CWA. The men running the organizations need to learn to delegate to women, stated the Chair.

Ms. Naranjo Lopez thanked Mr. Gomez for his extensive research. She said the governor had no business putting a task force together because the statute states the NM PERA Board is the recommending board to the legislature regarding the pension. The governor’s decision to create the task force failed the membership.

Ms. French thanked Mr. Gomez for sharing his observation regarding women. She said AFSCME had a male serve on the task force because he had a little more knowledge on pensions.

Mr. Melia said the Brookings Institute stated that overall, NM PERA is in bad shape and changes are necessary. The current RPE “anything but the COLA” approach to solving solvency is dangerous to the fund and the membership. The fund is in trouble and it would be best for everybody to endorse the recommendations.

Mr. Gomez said the Brookings Institute report clearly recommends a pay-as-you-go model similar to the social security model, rather than pre-full funding. He said RPE is open to some adjustments of the COLA benefits. He understood that Mr. Melia disagreed with him but RPE is not being dishonest.

Ms. Naranjo Lopez said she was very offended by Mr. Melia’s statements. The state and the firefighter funds are the most unfunded and they never talk about lowering their multiplier. The multiplier of 3.5 percent is the highest in the nation and lowering that multiplier should be considered before anything happens to the COLA.

Responding to Mr. Davis, Mr. Gomez said RPE represents 10,000 active members and 40,000 current retirees. Out of 19 positions on the task force there was one retiree seat and retirees make up approximately 45 percent of PERA.



Mr. Neel asked whether the federal model/pay-as-you-go structure was the appropriate model for the State of New Mexico. Mr. Gomez said that was what the Brookings' report recommends. Mr. Neel asked about the state's ability to run a budget deficit and Mr. Gomez said he was unsure whether the state can incur debt. The federal government can incur debt; however, that was not the sole factor that Brookings looked at, stated Mr. Gomez.

Mr. Neel clarified that the State of New Mexico cannot run annual deficits and it is a completely different paradigm to compare the federal program and the state where the budget has to be balanced annually. He said it was a poor analogy brought up by RPE. He pointed out that there are fewer people paying into PERA's system. As technology changes it is fair to assume the number of state employees will continue to go down. Unless the program is fully funded the problem is passed down to the next generation which is inherently unfair.

Mr. Gomez said the discussion about social security was brought up as an example. What is happening right now is the problem is being passed to the current generation of retiree which is unfair.

Ms. Naranjo Lopez said all government employees' salaries need to be fair and equitable across the board, with the same multiplier.

Ms. French said she has been on the Board since 2005 and the entire membership shared the risk in 2013. The notion that the fund has to be 100 percent funded is not fair to the members because the state owns more than half of the unfunded liability. She advocated for looking at the individual plans and adjusting contributions and benefits appropriately. The state legislature needs to take care of the state employees, who own more than half of the unfunded liability.

Frank Ortega was called next. Stating, "We'll see you in court," Mr. Ortega presented a paper to Ms. Pittard and Executive Director Propst. He said he talks to firemen and Mr. Melia does not represent them. People have been kept in the dark and don't know what's been going on. He asked the Board to consider the retirees.

Mr. Davis pointed out that Mr. Melia is a municipal member and does not exclusively represent firefighters. In fact, the Board represents all the members, active and retirees.

Ms. Naranjo Lopez requested Mr. Ortega provide copies to the Board of whatever he presented to staff, and Mr. Ortega responded that that was up to Mr. Propst and the Board was part of the lawsuit. Ms. Pittard said the Board would be provided copies.

Dr. Steven Jenison, retired public health physician with 16 years at the Department of Health, said, since his retirement he has become a paramedic for the Dixon Volunteer Fire Department and responds to 150 911-calls annually. He also teaches the EMT first responder class with 15 students and is a temporary part-time faculty at UNM Taos, teaching two courses essential to pre-nursing and pre-EMS. At the end of the spring semester he resigned from his position at UNM because PERA denied him his COLA when he was making temporary, part time faculty wages as an instructor which, he said if he taught full-time would have earned him a total of \$14,000 a year. The amount of money he would lose from the denial of the COLA of a period of time was greater than what he earned as temporary part time faculty teaching essential courses. These are important courses to teach young people to become nurses and EMS professionals.

Dr. Jenison said it pains him to leave those courses without instruction but there are not other people wanting the job. He requested that PERA put in place a return-to-work provision for ERB-affiliates to earn a small amount of money and not be denied their COLA.

Ms. Toulouse Oliver said she has talked to Dr. Jenison about this issue in the past and although it was not on today's agenda it would be discussed in the near future. She thanked him for his persistence about this issue.

Dr. Jenison said he appeared and appealed to the Governor's task force and did not receive a response from that appeal.

Justin Chaney, president of IFF Local 244 representing 850 firefighters within the Albuquerque and Bernalillo area and vice president for the NM Professional Firefighters which represents all paid NM active firefighters, said firefighters support Mr. Melia who represents the municipalities and firefighters well.

Mr. Chaney thanked the work of the task force and said the firefighters support the recommendation and believe the solvency issue should be a shared burden between the active and retired members. He noted that the City of Albuquerque firefighters went nine years without a pay raise and when they did get one it was 2 percent.

Chair Kohlasch recognized Senator Muñoz and thanked him for attending.

#### **D. 2019 Board Election**

##### **1. Final Election Report by Automated Election Services (AES)**

*[Exhibit 4: AES Election results]*

Ernie Marquez, AES, referred to his report. There were 80,641 ballots mailed. There were 15,673 ballots were received by the 9/13 deadline, of those 1,366 were for the county position, 2,786 for the state position and the retiree position had 11,521 ballots. There was a

turnout of 9.8 percent for the county, 8.8 percent for the state and 32.2 percent for the retired position. Mr. Marquez provided the breakdown of each and announced the winners as follows:

County	Shirley Ragin with 784 votes, 57.56 percent
State	Paula Fisher with 1,396 votes, 50.29 percent
Retirees	Loretta Naranjo Lopez with 5,962, 52.3 percent

Mr. Marquez presented the certifications that require action and the Board Chair's signature.

Mr. Marquez said that out of the 80,000+ ballots mailed over 2,000 ballots came back as undeliverable and 49 were remailed to a forwarding address.

Ms. French said she is to this day receiving calls from members who did not receive ballots. Mr. Marquez said if a member phoned and said they had not received a ballot and AES had received an undeliverable, with a good address, those ballots would be resent. All ballots will be retained for two years.

Ms. Toulouse Oliver suggested revisiting the ballot instructions to ensure voters clearly understand not to tear the ballots. Mr. Marquez said he will be making recommendations to the

Board on how to improve the process in the near future.

Ms. Naranjo Lopez requested that a committee be created to evaluate the election process, that AES be replaced, that, if appropriate, staff be disciplined, and the Rules & Administration Committee take a deep dive into the policies and procedures. She said the lack of witnesses when ballots were counted is a great concern to her. Further, she is hearing from county employees that they never received their ballots. Stating she would vote for certification of all by the County election, Ms. Naranjo Lopez requested an investigation of all the elections going back to 2012.

Mr. Melia moved to accept the report [*Exhibit 4*] of AES. Mr. Davis seconded and the motion passed without opposition. [Mr. Eichenberg was not present for this action.]

## **2. Certification of State Election**

Ms. Toulouse Oliver moved to certify the state election results. Ms. French seconded and the motion passed without opposition. [Mr. Eichenberg was not present for this action.]

## **3. Certification of County Election**

Ms. Toulouse Oliver moved to certify the county election results. Mr. Davis seconded. The motion passed without opposition, Ms. Naranjo Lopez abstained. [Mr. Eichenberg was not present for this action.]

## **4. Certification of Retiree Election**

Ms. French moved to certify the retiree election results. Mr. Davis seconded and the motion passed without opposition. [Mr. Eichenberg was not present for this action.]

## **5. Introduction of Newly elected State, County and Retiree Board Members**

Chair Kohlasch congratulated Ms. Ragin and Ms. Naranjo Lopez on their election. Ms. Fisher was not present.

## **E. Actuarial Analysis of Governor's Solvency Task Force Recommendations**

Joining the meeting by telephone, Jonathan Craven, Cavanaugh Macdonald, opened his comments referring to the 2008-2009 financial crisis and how that severely damaged public pension plans with PERA losing about 1/3 of its assets.

[There were communication problems and the Board recessed for 10 minutes]  
Mr. Craven highlighted the recommendation/proposal as follows:

- The lowest income retirees are guaranteed a 2.5 percent COLA for those who worked 25 years and have a pension of less than \$25,000 or receiving a disability retirement
- The increase contribution will not affect active members whose income is less than \$25,000 a year

- The seven year wait to receive the first COLA has been set back to the two year calendar wait as it was before SB27
- The 90 percent earning cap for active employees was eliminated to encourage active employees to stay employed longer

Mr. Craven confirmed for Mr. Eichenberg that one can work as long as they want after 30 years and perhaps retire with a benefit better than their working salary.

Referring to the removal of the 90 percent cap, Mr. Craven explained that while the employee is working they are contributing to the plan. Once retired, they are removing funds from the plan. The longer one works the better it is for the plan because providing the benefit is delayed.

There was a calculation to lower the Tier 1 multiplier by 25 basis points that proves to lack impact.

Ms. Naranjo Lopez requested historical information demonstrating the impact it would have had on the unfunded liability had the multiplier been reduced to 2.5 percent and not provide the 90 percent component at the time of SB 27. Further she asked why seven years was chosen.

Ms. French said she served as PERA Chair when SB 27 was adopted and clarified that she did not recall any recommendation to reduce the multiplier nor any backdoor dealings.

Mr. Craven said reducing the wait time to receive the COLA does not help the unfunded liability.

Ms. French asked whether each plan was reviewed individually for its unfunded liability, and contribution. For the record, Ms. French said the statute states that the PERA Board will make recommendations to the legislature. Further, she said the PERA representatives on that task force never brought any recommendations to the Board for its action. Why have a Board if 19 unqualified people can develop a recommendation. Having been on the PERA Board for 15 years, Ms. French said these recommendations needed more Board input.

Speaking to the Board, Ms. French said if they vote for the recommendations they are open to legal liability because they are not fulfilling their fiduciary responsibility as they haven't done their due diligence and study.

Mr. Craven confirmed that removing the 90 percent has a negligible affect on the fund because the longer someone works the more contributions are provided by the employee and employer and it reduces the employee's retirement time.

Although he could not speak for the task force, Mr. Craven posited that the reduction in time to receive a COLA was a gesture of goodwill.

Mr. Arencon said the task force was ordered by the Governor through executive order and they did the best they could. The task force did their due diligence and respected the role in which they served in and produced a good product. The roles could easily have been filled by women and there were opportunities throughout the process for women to represent the

organizations. The unfunded liability was task force focus and mandate.

Mr. Arencon said New Mexico has an “awesome” retirement program and it is used by many entities as a recruitment and retention tool. The 90 percent philosophy was developed for recruitment and retention. He characterized the recommendations as a grouping of ideas to reach the benchmark.

Mr. Arencon said the most complicated and difficult component of the recommendations is the contribution increases. The governor required “shared sacrifice” and a 4 percent increase is required in contributions. He said the recommendations are a solid starting point and it was understood the legislature would have many amendments.

Ms. French said it took PERA two years to develop what became SB 27. She said these recommendations will impact many lives and cannot be rushed. She was not against the recommendations but against the rush job. She again asked whether all the plans were reviewed individually because all the employees are being asked to contribute the same amount. She agreed with shared risk but wanted a fair risk based on each plan’s unfunded liability.

Mr. Arencon said that ,based on the timeframe allowed, yes, he thought they did the best they could. Many of the recommendations came out of last session’s bill which was recommended by the PERA Board. As far as access, everything the task force did was posted on line. The disparity of funded ratios between individual plans was included within the report. From a management perspective, recruitment and retention is very important to New Mexico. There is a tremendous vacancy rate in state government. He was confident that, after further review, the Board would be a partner in approving and improving what eventually will be a bill to present to the legislature.

Continuing with his presentation, Mr. Craven reviewed the expectations that were optimistic, medium, and pessimistic, and showed the percentage of assets going out of the plan. Currently, 4 percent of PERA’s assets are being paid out annually in excess of contribution, but as the baby boomers retire, the fund will experience a severe cash flow problem. The fund is vulnerable to bad economic situations. He reviewed the profit share recommendations with a series of slides, and highlighted the stochastic projections. The plan is designed to be flexible, with more COLAs paid out if the assets returns are good; if returns are bad, less COLA returns are paid out.

Mr. Craven noted that the best part about the recommended plan is the profit-sharing: If things go well more is paid out and if things go poorly less is paid out, thus tightening the expectations, and creates a more predictable future because the COLA is flexible based on the asset returns. Slides were shown demonstrating the COLAs at different rates of return for different incomes, and contributions at different incomes. Returns were tested with a shallow recession showing impacts on cash flow, profit sharing and a series of stress tests. The profit-sharing plan has a self-correct within it and absorbs the bad and pays out better COLAs to retirees when things are good. The recommended plan is remarkably better than how the current plan would respond to a recession.

Ms. Naranjo Lopez read from a prepared statement that the “most disturbing of the Governor’s task force recommendations is the only group, retirees, are asked to give up \$700 million in benefits...an immediate loss of 90 percent for no good reason. How is the CIO qualified to be the investment manager when the best he can do is an immediate 90 percent loss in one of his investment recommendations? The 13<sup>th</sup> check is an incentive to walk away from

\$630 million with no chance of regaining those benefits...There is no reference in the recommendation to improving investment results or holding investment staff accountable for poor performance..."

She then read from an article [*Exhibit 5*] about the task force highlighting that there was a lack of female representation and the task force process should start over with equal representation, retirees were under represented while public safety was over-represented. There was an appearance that the task force was doing the bidding of the task force chair. Further, the article cited the task force was constrained by the language of the executive order.

Ms. Naranjo Lopez said it was insulting to listen to the actuary. The process has to start over and she recommended removing this item from the agenda. The only ones that benefit from the recommendations are Tier 1 active members, she stated.

Mr. Davis said the recommendations regarding changes to the plan must come from the PERA Board. He appreciated that anyone working past 30 years was a fund asset and supported protecting those making \$25,000 or less. He noted that COLAs are not part of PERA's design, there is not a COLA factor included in the contributions. PERA does not receive assistance from the legislature for providing the COLA, and the fund bears the brunt.

According to data from PERA, from 1997 to 2017 the PERA COLA out paced CPI by 32 percent. While over a ten year period, he has received a 5 percent cost of living increase and the PERA retiree, over that same 10 year period, received a 26 percent increase. Bottom line, we need to work together, stated Mr. Davis.

Mr. Davis commended the task force and the proposal developed by Ms. Armijo last year which was supported by the Board.

Ms. French noted that the fund has rarely been fully funded in the past two decades and the profit sharing at 100 percent is "smoke and mirrors." She pointed out that the S&P has done well while PERA's returns have faltered, and it is unfair to "hold the retirees accountable" for that. She understood the task force looked at the savings for reducing the COLA for the retirees, but did the task force consider increasing the active members' contributions. She went on to say that PERA gave out \$500,000 in raises in 2018 and that should be considered before cutting COLAs.

Ms. French said the actuaries did not do the scenarios that, as a Board member, she would like to have for comparison purposes. There is not enough nor the right information to make a decision. She cannot support the recommendation because as a fiduciary it lacks adequate information.

Ms. Toulouse Oliver directed a series of questions to Mr. Arencon and his responses included that the Governor created the task force to address the Board's concerns raised in the bill they introduced last session, and the governor hoped the task force would develop a recommendation that she could support.

As chief of the state, Ms. Toulouse Oliver said the governor can form a task force about whatever she wants. The Board also has a statutory obligation to make recommendations but the governor can make her own recommendation independent of this Board. The goal is to work together with the Board so it is a combined recommendation. She noted the legislature is going to do what they want with the recommendations. Mr. Arencon agreed and added that the governor brought together a varied group that put together an agreed upon recommendation.

The governor issued an executive order with the intent to fix the problem for PERA members, stated Mr. Arencon. The appointments to the task force were made by virtue of election or appointment to each of the identified entities. He attributed the overweight in public safety to both the city and county representation. Appointments were not made based on gender. Entities were invited to send whomever they wanted to represent them. The entities were aware that surrogates were allowed.

Mr. Arencon said there was good representation of retirees, and he added that the active members expect and took into consideration that they too will be retirees. He confirmed that RPE had a male representative serve on the task force.

Ms. French continued on the topic of the task force composition pointing out that the representation was not balanced, and that she did not think women were purposely unrepresented.

Mr. Melia advocated moving forward with the recommendations before a recession comes. The changes will protect the fund.

Mr. Eichenberg thanked Mr. Arencon for reaching out to him about the recommendation and in terms of full disclosure he asked whether Mr. Arencon had ex parte communications with other Board members. Mr. Arencon said he did not contact all Board members.

Mr. Eichenberg said the qualifications of the members on the task force were not addressed. It appears clerical and administrators were under-represented. Mr. Arencon said that, in formation of the task force, a collective group in the governor's office looked at active stakeholders, those with a voice in the legislature, and the group was brought together for one cause.

Mr. Arencon said the task force does not purport to have any authority over the PERA Board. The task force does not govern any of PERA's decision made with investments or personnel.

Mr. Eichenberg asked whether the benchmark that Mr. Weber brought forward was discussed. Mr. Arencon said the task force held public meetings and points brought forward were discussed by the task force. He offered that there was nothing preventing this Board from developing amendments to the recommendations. Return to work was a big topic for the public, and that was not part of the recommendation.

Mr. Eichenberg noted a date error within the resolution [Item 6.F] that requires correction.

Mr. Naranjo Lopez pointed out that the firefighters have the largest unfunded liability and Mr. Arencon is a former firefighter and thus comes to the task force with a bias. The legislature created this mess and they should be the ones holding public meetings to straighten it out. The governor's decision to create a task force on this was the wrong decision. PERA needs to take any recommendations to its membership for their input.

Mr. Melia directed a question to Ms. Pittard and she responded that the decision of the NM Supreme Court was that the COLA is not part of the vested property rights that are protected by the Constitution, and instead an expectation. And while the multiplier has not been lowered

for any active employees it was lowered under PERA for Tier 2. In 2014 the retirement acts of the Judicial and Magistrate acts multiplier were lowered for current employees and that was not challenged in court.

Chair Kohlasch thanked Mr. Arencon for attending today's meeting.

**F. Approval of Resolution No. 19-17 In Support of the Governor's Solvency Task Force Recommendations**

Chair Kohlasch referred to the correction Mr. Eichenberg offered in the fourth "whereas" changing the date to February 18, 2019.

Mr. Melia moved to approve Resolution 19-17 and Mr. Davis seconded.

Mr. Eichenberg recommended that rather than a dollar amount regarding lower income, he preferred a percentage to ensure a COLA does not move one out of the protected status. Mr. Melia agreed.

Mr. Eichenberg moved to amend the motion, including the date corrected to February 18, 2019. Mr. Davis seconded and the motion passed.

Mr. Davis requested an amendment to the first "be it resolved" to delete language that implies the task force is directing the recommendations rather than the PERA Board. He recommended replacing it with, Now. Therefore Be it Resolved that the PERA Board will commit to work with the Governor's Task Force to compose a unified proposal before the 2020 Legislative Session beings..." The amendment was seconded by Ms. Ragin and Mr. Neel.

Ms. French said she agreed with the amendment but the PERA Board has no meetings scheduled for November or December. "We have work to do..."

The amendment passed with Ms. Naranjo Lopez casting the sole "nay" vote.

The main motion, with the approved amendments, passed by majority [7-3] voice vote with Member Naranjo Lopez, French and Eichenberg voting against.

Thanking the task force for their work, Mr. Eichenberg explained his nay vote in that there is not 100 percent commitment to the task force recommendation and there is a lot of work ahead of the Board. "Let's get this fixed."

Ms. French repeated that this cannot be something that is rushed through and there was not enough information. Noting that the sky is not falling, she said this does not have to be presented to the legislature in 2020. It was her sentiment that voting for this resolution violated her fiduciary responsibility and her oath.

Ms. Naranjo Lopez said the retirees have said no. She wants the cumulative variance report and a comp benefit analysis before taking action.

Mr. Armijo thanked the task force for their work and bringing their recommendations to this Board. She said she looked forward to working on the recommendations and appreciated the



amendment to the resolution.

Chair Kohlasch said a schedule to meet with the membership around the state will be developed. Ms. French said she agreed with that and hoped that the Board will be consulted before dates are dictated to the Board.

Recognizing that OAG representative Tania Maestas was present; Chair Kohlasch requested a motion to for executive session.

**Executive Session NMSA 1978 Section 10-15-1 (7) – Update from the New Mexico Office of the Attorney General Regarding Attorney-Client Privileged Information**

Mr. Melia moved to meet in closed session and Mr. Davis seconded and without objections, Chair Kohlasch declared executive session.

[The Board met in executive session from 1:50 to 2:45]

A motion to return to open session was made by Ms. Naranjo Lopez and seconded by Mr. Davis. Roll call vote indicated the presence of the following members:

Jackie Kohlasch	Present
Claudia Armijo	Arrives following roll call
John Melia	Present
Lawrence Davis	Present
Tim Eichenberg	Present
Patricia French	Arrives following roll call
Dan Mayfield	Present
Steve Neel	Present
Maggie Toulouse Oliver	Present
Loretta Naranjo Lopez	Present
Shirley Ragin	Present
David Roybal	Present

Chair Kohlasch noted the only thing discussed during closed session was what was listed in the agenda.

[*Exhibit 6: AGO – Findings of the investigative report, dated 9/26/2019*]

**G. Approval of Revised Board Policies & Procedures**

Harvey Leiderman, Board contract counsel, reminded the Board that the process to revise and review the policies and procedures of the Board began over a year ago. The process was accelerated at the beginning of this year over confusion of delegation of responsibilities and authorities to the executive director related to compensation and promotion of staff and issues related to whether the policies and procedures clearly delineated those lines of authority. Also, there was an issue with the Board's delay in submitting its annual budget by the deadline last May. Additionally, during the first quarter of this year, there was some concern as to whether the policies and procedures address board member conduct in both open and closed session, and what standards should apply to the Board members themselves. Then in May, the State Auditor

made recommendations that the Board take upon itself to clarify its policies and procedures and align them with state law.

Mr. Leiderman said in May the State Auditor raised four issues for the Board to address: refining the Board's budget process particularly with review and approval of staff compensation; delegation of authority to the Executive Director particularly over staff appointments and compensation; Board's authority over the Executive Director's compensation and; the recommendation that when the Board acts, it acts collectively as a body.

The Rules & Administration Committee began meeting to focus on those issues and update the policies and procedures and reviewed best practices from other systems and the provisions of state law. Based on those reviews, the committee has provided revised Policies and Procedures, and a resolution delegating specific authorities to the executive director for the Board's consideration.

Apologizing for his metaphors, Mr. Leiderman said "don't let the perfect be the enemy of the good." Wordsmithing to perfection will merely delay the Board from getting down the field. This is a living document and things can be revisited. The refinement and clarification meet all the recommendations from the State Auditor's Office and what the Rules & Administration committee was focused on. Certainly, any issue that needs further refinement and improvement can be accomplished at a future date.

Mr. Leiderman said most of the boards he works with have board policy manuals, and at the end of each it says the policies will be revisited at least every three years. The reality is that the policies tend to be revisited quarterly.

The key points of the policy where refinements have been made include:

- Board delegation and Board reservation of authority
- Board intends to govern itself by Roberts Rules of Order
- That closed sessions are to be held as confidential
- That there are consequences in the sanctions of enforcement
- The delegation of specific responsibilities to the executive director

The resolution is meant to clarify the delegation of responsibilities to the executive director with a reservation of rights to this Board to approve, ratify or rescind any action that the executive director takes through the delegation of duties. And, finally, to reserve to this Board the absolute clear authority over compensation for the executive director. Mr. Leiderman noted the blanks for dollar amounts within the resolution that will be filled in later.

On behalf of the Rules & Administration Committee, Mr. Leiderman highlighted the following six recommendations"

- Adopt the policies and procedures as revised
- Direct staff and counsel to make non-substantive organizational changes to the policy without having it come back to the Board
- Adopt the resolution delegating authority to the Executive Director with the blanks filled in
- Direct the Rules & Administration Committee to recommend a draft of an Executive Director charter for the Board to adopt at a subsequent meeting
- Direct the Committee to study and recommend additional revisions
- Direct the Chair to transmit the revised policies and resolutions to the State Auditor and State Attorney General for information purposes

Ms. French said that she was informed by Ms. Naranjo Lopez that, at the September Rules & Administration Committee meeting, she was not permitted to ask questions because she was not a committee member. In the event someone was misinformed, Ms. French clarified that all members are encouraged to ask questions and make comments at any committee meeting. Mr. Leiderman said the previous as well as the proposed rules provide that all members regardless of committee appointment may participate in conversation.

Moving on to Section II. 6.A.f, where it discusses appointing committee and committee chairs, Ms. French said “consideration given to balancing the views” should be struck because that would be the Board Chair’s personal opinion.

Ms. Toulouse Oliver took the responsibility for requesting that comments from non-committee members be held until the end of the committee’s deliberation. She apologized.

Ms. Armijo said she too was troubled by II.6.A.f, and while it may be well intended, it is subjective and inappropriate to the PERA policies.

Regarding Section II, 8.A, Ms. French said with a \$15-\$16 billion fund, the Board should not reduce its meeting numbers. To cite quarterly meetings is not enough for this Board. Mr. Leiderman said quarterly was listed to align with state statute and it is important, if a number is selected, that the Board hold those meeting and not violate its rules.

Chair Kohlasch asked for a motion to approve the Board Policies and Procedures and then move onto the amendments.

Mr. Melia moved to approve the Board Policies and Procedures and Mr. Davis seconded.

Returning to the number of meetings, Mr. Ledierman said there really isn’t a best practice and it is based on the unique qualities of the system.

Ms. Naranjo Lopez introduced the following new language to Section II.8.A, Meeting Schedule: Board meetings shall be held in accordance with law and according to annual schedule adopted by the Board and published in the minutes of the Board upon adoption. The annual schedule shall identify the time and the place of regular Board meetings and the Board may modify the adopted schedule.

Ms. Toulouse Oliver seconded and the amendment passed by unanimous voice vote.

Mr. Leiderman said the links to the statutory sections can be added once the text is completed.

Section II. 8 H, Decorum, Ms. French said it was her opinion that this was drafted to address one individual and found it to be subjective language. Mr. Leiderman said it was added not to impact one particular person but because it is a provision within Robert’s Rules of Order and he has recent experience with disruptive individuals at a meeting.

Ms. French said the section should identify that it refers to “non-Board members” rather than stating person.

Ms. Armijo said she had the same impression as Ms. French that it appears to be drafted with one person in mind. She said that, with the Board's adoption of Robert's Rules, it was unnecessary. It seems "repetitive, redundant, unnecessary, a pre-emptive strike and punitive in nature." She thought it was unnecessary to have a policy for every potential happening on the Board.

Mr. Davis, chair of Rules & Administration Committee, mentioned an incident at the Albuquerque City Council where APD arrested two individuals. He corrected those that thought this was targeted at a specific individual. Mr. Melia recalled a confrontation at one of PERA's disability meetings where there was an unruly claimant. Ms. Ragin said she too has experienced disruptive public at Bernalillo Commission meetings when sheriff deputies were necessary. She saw the section as an attempt to provide safety to the Board.

Ms. Naranjo Lopez said she attends Albuquerque city council meetings, and in her opinion, they have gone overboard on rules and do not listen to the public. She cautioned about personal biases and opinions.

Parliamentarian Hathaway said that, even if the section is eliminated from the policies and procedures it is in Robert's Rules. According to Robert's Rules, the chair can at his/her discretion have non-members removed and the board/committee can by motion countermand that action. The chair is obligated to keep the peace. Under Robert's Rules, the chair does not have the authority to unilaterally remove a member from the room.

In an effort to align with Robert's Rules, Mr. Leiderman recommended replacing "person" with "non-board member." So moved by Mr. Davis. The motion was seconded by Mr. Roybal and passed without opposition.

Mr. Leiderman clarified that the CIO was removed from the policies and procedures because the CIO was a subordinate officer to the executive director.

Section IX.3.A, Removal from Office, regarding unexcused absences from four scheduled meetings, Ms. French asked who has the authority to determine whether an absence is excused or not. She said this section was "targeted against Ms. Armijo and there was proof of that." Stating that she understood the intent of the original language, she suggested leaving the section as it was with "four consecutive meetings."

Mr. Davis said the change was to address the member's duty to be here and if they can't attend or are disengaged, yes, the chair and/or committee chair should be able to make a determination as to whether those are excused absences. It is clearly a disservice to the membership if one is not attending.

Mr. Leiderman said the reason "consecutive" was removed is because during a year a Board member may miss three meetings attend one, miss three again etc. having missed nine meetings out of 12 but not four consecutive.

Ms. French moved to amend 3.A to the original language, striking "consecutive" and ending with the clause "after meetings of the Board." Ms. Naranjo Lopez seconded. The motion passed without opposition.

As a time management question, Mr. Leiderman advised the Board that he had a flight to catch and needed to leave the meeting by 4:15. He pointed out that, aside from the Policies and Procedures, the Board has incorporated delegation of authority to the Executive Director.

Ms. Naranjo Lopez said she had a lot more recommendations regarding the policies and procedures and was bothered by the separate document regarding the executive director's authority.

Mr. Eichenberg said he had six points he wanted to discuss and would prefer Mr. Leiderman's presence for those discussions.

Stating she had a sense of urgency in these issues, Ms. Toulouse Oliver flagged for the record that it has been five months since the auditor's recommendation regarding policies and procedures.

Ms. French and Ms. Naranjo Lopez said more time was necessary to address Board concerns. Ms. Naranjo Lopez asserted that she wanted the executive director fired and giving him more authority concerned her greatly.

Mr. Davis introduced a motion to postpone agenda items G, I and J. Ms. French seconded and the motion to postpone passed without opposition.

#### **H. Approval of Investment General Consultant RFP**

Mr. Garcia said the procurement policy requires an RFP for this position. The current contract with Wilshire expires in 2020 and per policy, a rebid of services is required. A summary of the services and an RFP was provided.

Mr. Melia moved to approve and Mr. Davis seconded.

Ms. Naranjo Lopez requested that Wilshire be disqualified because they have "breached the securities law by exercising discretions without licenses...fire all staff but one investment manager. Staff is not qualified..."

Ms. French asked whether there were any Board members on the RFP evaluation committee and Chair Kohlasch said she would be making appointments. Mr. Garcia said staff recommends four Board members and three staff.

Mr. Garcia said the RFP will be published in both a local and national publication and the PERA website.

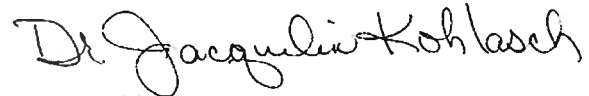
The motion passed without opposition. [Ms. Toulouse Oliver was not present for this action.]

Chair Kohlasch appointed Board members Melia, Neel, Ragin and French to the evaluation committee.

5. **Adjournment**

Having completed the agenda, Chair Kohlasch declared this meeting adjourned at 4:05 p.m.

Approved by:



Jackie Kohlasch, PhD  
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director

**Attached Exhibit:**

*Exhibit 1: Consent Agenda*

*Exhibit 2: Statement, Lenora Chavez, dated 9/26/2019*

*Exhibit 3: RPE Board President Joel Pafford letter addressed to Governor Lujan Grisham, dated 9/19/2019*

*Exhibit 4: AES Election results, dated 9/20/2019*

*Exhibit 5: Albuquerque Journal column, dated 9/15/2019*

*Exhibit 6: AGO – Findings of the investigative report, dated 9/26/2019*