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June 27, 2011

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Peter B. van Moorsel

**RE: STAFF BRIEF: EDUCATIONAL RETIREMENT BOARD: RECOVERY OF OVERPAYMENTS**

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On May 25, 2011, the Educational Retirement Board (ERB) issued the attached statement relating to errors that ERB made in calculating interest on refunds of members' contributions in July and August 2010.

This staff memorandum to the LESC discusses:

- the refund overpayments; and
- ERB's efforts toward recovering the overpaid amounts.

**ERB Refund Overpayments**

ERB reports that on July 1, 2010 the agency implemented a change in the process used to calculate interest on:

- contributions refunded to members who have terminated employment; and
- the contributions that are paid to the beneficiaries of members and retirees.

Within weeks of implementing the new process, however, ERB staff determined that there was an error in the interest calculation. Refunds were temporarily stopped while staff addressed the

error, which occurred as a result of “a software problem that affected the conversion from the NMERB’s old interest calculation methodology to the new methodology.” According to ERB, members and beneficiaries who received payments after August 2010 received the correct interest amount.

ERB reports that during July and August 2010 interest was overpaid on 693 refunds:

- the total amount overpaid was \$1,690,139.85; and
- overpayments ranged from \$0.66 to \$306,264.29.

ERB also reports that interest was underpaid on 15 refunds:

- the total amount underpaid was \$1,441.96; and
- underpayments ranged from \$96.13 to \$923.77.

Finally, ERB notes that three groups of individuals received refund checks in July and August 2010:

- members who terminated ERB employment and requested a refund of their contributions;
- beneficiaries of active members who died before retirement; and
- beneficiaries of retirees who had selected Option A (straight life annuity) retirement benefits and who had not received benefits equal to their contributions plus interest as of the time of death.

### **Recovery of Refund Overpayments**

ERB’s May 25 statement noted that the agency would work to recover the overpayments and correct the underpayments. Specifically, ERB reported that it would:

- contact all of the individuals who received interest overpayments by June 10, 2011, beginning with those who received the largest overpayments; and
- issue letters to members that include contact information for ERB staff who can answer questions about what occurred and about the repayment process. Each individual would be provided a copy of the calculations used to determine the amount of the overpayment so that the calculations can be verified.

At the June meeting of the Legislative Finance Committee, ERB reported that the agency had:

- sent preliminary letters to all recipients;
- called all recipients of overpayments greater than \$1,000 to inform them of and apologize for the error; and
- recalculated all July and August checks.

### **Presenter**

Ms. Jan Goodwin, Executive Director, ERB, will provide a presentation discussing the ERB’s efforts to recover the refund overpayments.

05/25/2011



ATTACHMENT

STATE OF NEW MEXICO  
*Educational Retirement Board*

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ERRORS IN CALCULATING INTEREST ON REFUNDS OF MEMBERS'  
CONTRIBUTIONS IN JULY AND AUGUST 2010

On Monday, May 23, the NMERB held a Special Board Meeting to address the errors in calculating interest on refunds of members' contributions processed during July and August 2010. These errors occurred as a result of a software problem that affected the conversion from the NMERB's old interest calculation methodology to the new methodology. That conversion was made so that the interest calculation process is similar to what occurs in other pension funds or banks that pay interest on contributions and deposits.

After the Board was briefed by staff, Chair Mary Lou Cameron apologized on behalf of the NMERB to both those who received the interest overpayments and to the NMERB's members and retirees for the error. Ms. Cameron said that the Board has directed staff to make every effort to correct the problem as soon as possible. Ms. Cameron emphasized that the NMERB must work to restore the confidence of NMERB members, retirees, and the public in general in both the retirement fund and its business processes. Timely correction of this error and recovery of the overpayments is the starting point for earning that confidence.

Staff is to immediately begin contacting all of the 693 individuals who received refunds with interest overpayments to apologize for the overpayment and to let them know of the amount overpaid to each individual. The first persons to be contacted will be those who received the largest overpayments. Contact is to be made by phone, if possible, or mail. Letters to members will provide contact information for ERB staff who can answer questions about what occurred and about the repayment process. Each individual will be provided a copy of the calculations used to determine the amount of the overpayment so that they can verify the calculations. All of the 693 individuals who were overpaid interest are to be contacted by June 10, 2011. Staff will follow-up with each individual as necessary to work on resolving the error.

The three groups of individuals who received refund checks from the NMERB in July and August 2010 were: (1) members who terminated NMERB employment and requested a refund of their contributions, (2) beneficiaries of active members who died before retirement, and (3) beneficiaries of retirees who had selected Option A (straight life annuity) retirement benefits and who had not received benefits equal to their contributions plus interest as of the time of death. An audit by staff determined that interest was overpaid on 693 refunds during July and August 2010; the total amount overpaid was \$1,690,139.85. Interest was underpaid on 15 refunds by a total of \$1,441.96. Staff has begun processing additional interest payments to the 15 individuals who were underpaid and will send out these payments by June 10, 2011.

Ms. Cameron emphasized that contribution refunds are completely separate and unrelated to the monthly retirement benefits that NMERB retirees receive. Retirees' benefits were not affected in any way by what occurred and retirees will not be affected when the NMERB seeks to recover the overpaid interest. Furthermore, recovery of the overpaid interest will not affect in any way the contribution rate paid by members or their employers or these members future retirement benefits. The ability of former employees and their beneficiaries to receive future refund payments also is not affected.

Should you have any questions regarding what occurred, please contact the NMERB at the following numbers: Santa Fe - 505-827-8030; Albuquerque 505-888-1560; toll-free 1-866-691-2345.