

Investments & Pensions Oversight Committee

Senator Roberto “Bobby” J. Gonzales, Chair
Representative Patricia Roybal Caballero, Vice Chair

Agency Update
November 27, 2023

David Archuleta, Executive Director
Randall Cherry, General Counsel



Discussion Items

- Agency Highlights
- Agency Updates
- Actuarial Valuation Report – June 30,2023
- GASB 67/68 Reporting and Disclosure Information – June 30, 2023
- Investment Performance
- Court of Appeals Case No. A-1-CA-40106
- Questions

Agency Highlights

	June 30, 2023	June 30, 2022	Difference
Active Members	61,503	59,887	1,616
Retirees & Beneficiaries	54,774	53,972	802
Retiree Payroll	\$ 1,317,587,614	\$ 1,270,821,870	46,765,744
Average Annual Benefit	\$ 25,595	\$ 24,859	\$ 736
Member Contributions	\$ 394,165,107	\$ 344,499,120	\$ 49,665,987
Employer Contributions	\$ 646,939,117	\$ 501,926,683	\$ 145,012,434
Member Contribution Refunds	\$ 54,086,836	\$ 50,692,632	\$ 3,394,204
Active Member Payroll	\$ 3,550,591,908	\$ 3,124,810,720	\$ 425,781,188
Participating Employers	220	220	-
Actuarial Value of Assets	\$ 16,207,390,685	\$ 15,358,353,947	\$ 849,036,738
Funding Period	26 years	29 years	3 years
Funded Ratio	62.9%	63.5%	-0.6%

Agency Updates

New Office Headquarters

- Contractor: Enterprise Builders Corporation
- Appropriations: \$1,309,000 (2020) | \$5,000,000 (2021) | \$5,000,000 (2022) | \$4,500,000 (2023) | \$15,809,000 – Total
- Land: \$1 million | Building: \$12.4 million | Design/Project Management/Inspections: \$700K | FFE: \$800K
- Start: January 2024 | Estimated Completion: April 2025
- 5211 Las Soleras Drive | 19,443 GSF

Pension Administration System Modernization Project

- Telus Health (PAS) | Segal (Project Management) | MBS (Data Cleanse) | NTT (IV&V)
- Appropriation: \$30.5 million (2023)
- Start: July 2023 | Targeted Completion: June 2027

Return-to-Work

- 1-year Layout | No Earnings Limit | Non-refundable Contributions | **Sunsets January 1, 2024**
 - Members currently approved to participate will be grandfathered in the program
 - No new participants after December 31, 2023
 - Available options after December 31, 2023
 - No layout / .25 FTE
 - 90-day layout / less than \$15K
 - 90-day layout / 36 consecutive/non-consecutive month limit

Actuarial Valuation Report

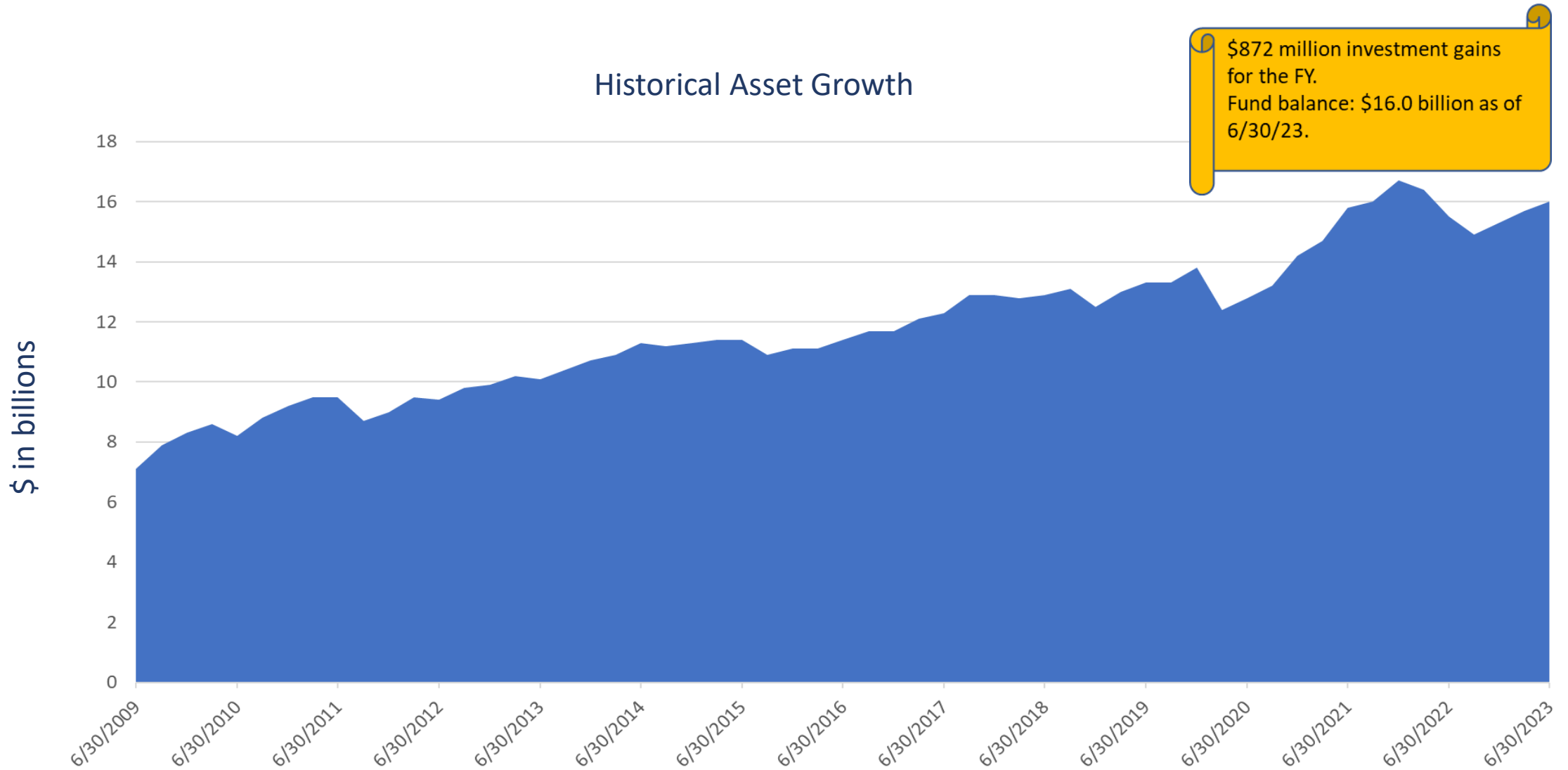
- In November 2018, the Board of Trustees established a funding policy with a goal of eliminating the unfunded actuarial accrued liabilities (UAAL) by June 30, 2049
 - 2023 – 26 years | 2022 – 29 years | 2021 – 42 years | 2020 – Infinite
- Actuarial assumptions and methods are set by the Board of Trustees, based on recommendations by the plan's actuary
- Assumptions last updated on April 17, 2020, in conjunction with the six-year actuarial experience study period ending June 30, 2019, which included demographic and economic assumption changes:
 - Lowered the inflation assumption from 2.50 to 2.30 percent
 - Lowered the COLA assumption from 1.90 percent to 1.80 percent (driven by lower recommended inflation assumption)
 - Lowered investment return assumption from 7.25 to 7.00 percent
- New Actuarial Standard of Practice Requirement Low Default Risk Obligation Measure (LDRROM)
 - Valuation Accrued Liabilities - \$25,777,120,835
 - LDRROM - \$33,552,242,614

GASB 67/68 Reporting & Disclosure

- GASB Statement No. 67 – Financial Reporting for Pension Plans
- GASB Statement No. 68 – Accounting and Financial Reporting for Pensions
- Compliments the actuarial valuation report as of June 30, 2023
- Net pension liability (June 30, 2023):
 - 7.00% - \$8,684,285,003
 - 6.00% - \$11,805,547,098 (1% decrease)
 - 8.00% - \$6,105,755,256 (1% increase)
- Experience Study currently underway to assess economic and demographic assumptions
 - Plans actual experience
 - Actuarial experience compared to current assumptions / change warranted
 - Economic – investment returns, payroll growth, promotional/step pay increases, population growth
 - Demographic – retirement rates, disability, turnover and mortality

Trust Fund Balances

Historical Asset Growth



Investment Performance – June 30, 2023

<u>Returns*</u>	<u>1 Year</u>	<u>3 Years</u>	<u>5 Years</u>	<u>10 Years**</u>	<u>30 Years</u>
Portfolio	5.62%	11.14%	7.84%	7.98%	7.93%
Policy Index	6.51%	9.05%	7.26%	7.46%	7.17%
Annual Value added	-0.89%	1.09%	0.58%	0.52%**	0.76%
Universe Ranking	91	6	7	12	31

*All returns in this presentation are net of external manager fees.

**The 10-year value added represents a cumulative amount of \$1.2 billion in additional earnings.

Investment Performance – September 30, 2023

<u>Returns*</u>	<u>1 Year</u>	<u>3 Years</u>	<u>5 Years</u>	<u>10 Years</u>	<u>30 Years</u>
Portfolio	8.77%	9.44%	7.33%	7.61%	7.93%
Policy Index	9.76%	7.16%	6.63%	7.09%	7.17%
Annual Value added	-0.99%	2.28%	0.70%	0.52%	0.76%
Universe Ranking	77	6	6	9	17

*All returns in this presentation are net of external manager fees.

Assets: \$15.9 billion

Court of Appeals Case No. A-1-CA-40106

October 30, 2023

- New Mexico Educational Retirement Board v. Debbie Romero, in her official capacity s Acting Secretary of the New Mexico Department of Finance and Administration; and the New Mexico Department of Finance and Administration
- Appeal from the District Court of Santa Fe County, Francis J. Mathew, District Court Judge
- The educational retirement system is governed by the New Mexico Constitution, Article XX, Section 22, and the Educational Retirement Act (the Act), NMSA 1978, §§ 22-11-1 to – 55 (1967, as amended through 2023)
- Court of Appeals asked to determine whether the New Mexico Department of Finance and Administration (DFA) has the authority to reject pay raises for employees of the New Mexico Educational Retirement Board (the Board), which have been approved by the Board and are paid from the educational retirement fund
- Prior to declaratory judgement it was the practice of DFA between 2016 and 2020, to require Board approved salary increases to comply with the governor’s exempt salary plan, a plan prepared annually under Section 10-9-5 of the Personnel Act, NMSA 1978 §§ 10-9-1 to -25 (1961, as amended through 2014)

Court of Appeals Case No. A-1-CA-40106 Cont.

Decision

- Court of Appeals agrees with the District Court that the Board “has sole and exclusive authority to set salaries and make personnel decisions related to its administration of its funds under its constitutional and statutory authority and [DFA] does not have the authority to either reject approved salary increases or seek the governor’s approval before implementing such approved salary increases”
- The educational retirement system was created by the Legislature in 1967, and in 1998, the voters approved a constitutional amendment, codified as Article XX, Section 22 of the New Mexico Constitution, clarifying both the authority of the Board and the nature of the educational retirement fund
- All funds held by the educational retirement system shall be held in trust fund to be administered and invested for the sole and exclusive benefit of the members, retirees and other beneficiaries of that system
- The decision further explains that the Board shall “have the sole and exclusive fiduciary duty and responsibility for administration and investment of the trust fund”
- The District Court did not err in granting declaratory judgement in favor of the Board

Court of Appeals Case No. A-1-CA-40106 Cont.

The Board's Fiduciary Authority as Trustee of the Fund

- Both the Act, § 22-11-11 (B), and Article XX, Section 22 (B) of the New Mexico Constitution, make the Board the “trustee” of the funds
- To the extent there is any confusion or ambiguity about the Legislature’s intent in making the Board the “trustee of the funds” in Section 22-11-11(B), that ambiguity is clarified by Article XX, Section 22 (B) of the Constitution
- Article XX, Section 22 (B) not only restates and confirms the Legislature’s designation of the Board as the trustee, it assigns to the Board, as trustee, “the sole and exclusive fiduciary duty and responsibility for administration and investment of the trust fund” held by the educational retirement system
- A “fiduciary duty” is defined by our precedent as a duty of loyalty
- A fiduciary is obliged to act primarily for another’s benefit in matters connected with such undertaking
- The Board may authorize expenditures only for the benefit of the trust beneficiaries and for expenses of administering the system

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