

Agenda

ND Teachers' Fund for Retirement Board Meeting

Thursday, April 27, 2017
1:00 pm

Workforce Safety & Insurance Board Room
1600 East Century Avenue
Bismarck, ND

1. Call to Order and Approval of Agenda - Pres. Gessner (Board Action) 5 min.
2. Approval of Minutes March 23, 2017 Meeting – Pres. Gessner (Board Action) 5 min.
3. Board Education: Open Records/Open Meetings – Jan Murtha (Information) 30 min. (to follow)
4. 2017 Legislative Update – Fay Kopp and Dave Hunter (Information) 10 min.
5. RIO Agency Update – Dave Hunter (Information) 10 min.
6. Board Policy – 2nd Reading - Fay Kopp (Board Action) 10 min.
 - In-staff Subbing Contract Period, Policy C-24
7. Eligible Salary Discussion (LEA president) – Fay Kopp (Information) 20 min. (to follow)
8. IRS Determination Letter Update – Fay Kopp (Information) 10 min.
9. Actuarial Consulting Contract Update – Fay Kopp (Information) 10 min.
10. Quarterly Audit Services Update – Terra Miller Bowley (Information) 10 min.
11. Consent Agenda (Board Action) 5 min.
*Executive Session possible if Board discusses confidential information under NDCC 15-39.1-30.
12. Other Business
Next Board Meeting: July 27, 2017
13. Adjournment

Any person who requires an auxiliary aid or service should contact the Retirement and Investment Office at 701-328-9885 at least three (3) days before the scheduled meeting.

**NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT
MINUTES OF THE
MARCH 23, 2017, BOARD MEETING**

BOARD MEMBERS PRESENT: Mike Gessner, President
Kirsten Baesler, DPI-State Superintendent
Mike Burton, Trustee
Toni Gumeringer, Trustee
Rob Lech, Trustee
Mel Olson, Trustee (teleconference)
Kelly Schmidt, State Treasurer

STAFF PRESENT: David Hunter, ED/CIO
Fay Kopp, Deputy ED/CRO
Terra Miller Bowley, Audit Services Supervisor
Darlene Roppel, Retirement Assistant
Shelly Schumacher, Retirement Program Manager

OTHERS PRESENT: Janilyn Murtha, Attorney General's Office
Sonja Mahlum, NDU-R
Rebecca Pitkin, ND ESPB

CALL TO ORDER:

Mr. Mike Gessner, President of the Teachers' Fund for Retirement (TFFR) Board of Trustees, called the board meeting to order at 1:00 p.m. on Thursday, March 23, 2017, in the Board Room at Workforce Safety & Insurance (WSI) in Bismarck, ND.

THE FOLLOWING MEMBERS WERE PRESENT REPRESENTING A QUORUM: SUPT. BAESLER, MR. BURTON, MR. GESSNER, MRS. GUMERINGER, MR. LECH, MR. OLSON, AND TREASURER SCHMIDT.

APPROVAL OF AGENDA:

The Board considered the revised meeting agenda.

TREASURER SCHMIDT MOVED AND MRS. GUMERINGER SECONDED TO APPROVE THE REVISED AGENDA AS PRESENTED.

AYES: SUPT. BAESLER, TREASURER SCHMIDT, MR. BURTON, MR. LECH, MRS. GUMERINGER, MR. OLSON, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

MINUTES:

The board considered the minutes of the regular TFFR board meeting held January 26, 2017.

MR. LECH MOVED AND MR. BURTON SECONDED TO APPROVE THE MINUTES OF THE REGULAR TFFR BOARD MEETING HELD JANUARY 26, 2017.

AYES: MR. LECH, MR. OLSON, TREASURER SCHMIDT, MR. BURTON, SUPT. BAESLER, MRS. GUMERINGER, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

BOARD EDUCATION: AUDIT SERVICES OVERVIEW:

Ms. Terra Miller Bowley, Supervisor of Audit Services, presented information about the responsibilities and audits that are conducted by the Audit Services staff, with emphasis on those relating to the TFFR program. Audit Services plays a critical role within the Retirement and Investment Office (RIO) organization, and provides valuable services to the TFFR and State Investment Board (SIB) programs. Audit Services has two staff members, Mrs. Dottie Thorsen and Ms. Miller Bowley. There are five primary areas of responsibility: TFFR employer auditing, file maintenance audit, benefit payment audit, executive limitation audit and RIO external audit. TFFR employer audits, which include compliance audits, not in compliance reviews, requested special audits and annual salary verification projects make up 76% of audit services' responsibilities. The primary purpose of all employer auditing is to determine if the retirement salaries and contributions reported to TFFR by a participating employer are in compliance with the definition of salary as it appears in the North Dakota Century Code (NDCC). To assist employers with TFFR reporting requirements, several training opportunities are made available to business managers.

Board discussion followed.

President Gessner and Mrs. Kopp commented on the improvements and great strides the Audit Services staff have made in the last couple years.

QUARTERLY AUDIT SERVICES UPDATE:

Ms. Miller Bowley gave the second quarter audit activities report for October 1, 2016 thru December 31, 2016. During this quarter, five compliance audits were completed, eight compliance audits were in progress and three compliance audits were pending but not yet started. A total of sixteen compliance audits were completed as of December 31, 2016. The TFFR File Maintenance Audit for the first quarter of fiscal year 2017 was completed with no exceptions noted. The Executive Limitation Audit was completed and presented to the SIB in February, 2017, where it was approved.

2017 LEGISLATIVE UPDATE:

Mrs. Kopp gave an update on bills that are being monitored during the Legislative session that could potentially impact TFFR. Mr. Hunter updated the board on the RIO budget bill, HB 1022. An attempt is being made to get the bill into a conference committee to reinstate critical travel and professional development expenses. HB 1175-SIB Membership failed in the Senate. Board discussion followed.

TEACHER SHORTAGE AREAS:

Supt. Baesler reviewed the method used by the ND Department of Public Instruction (DPI) for determining teacher shortage areas which is used for federal and state loan forgiveness programs. Ms. Rebecca Pitkin explained a different method used by the Education Standards and Practices Board (ESPB) for determining teacher shortage areas. Mrs. Kopp explained that state statutes require TFFR to use the ESPB designation for critical shortage areas when allowing a retired teacher to return to work up to full time after a one-year waiting period.

ACTUARIAL CONSULTING RFP UPDATE:

Mrs. Kopp outlined the process used for the RFP for Actuarial Consulting Services. Proposals were received from four firms: Cavanaugh Macdonald Consulting (CMC), Cheiron, Gabriel Roeder Smith & Company (GRS), and Segal Consulting (Segal). The Proposal Evaluation Committee (Mrs. Kopp, Mrs. Schumacher, and Mr. Hunter) reviewed the technical proposals independently. RIO staff member, Mrs. Flanagan, awarded points to each cost proposal and provided them to the Committee after the technical proposals were rated.

TREASURER SCHMIDT MOVED AND MR. LECH SECONDED TO GO INTO EXECUTIVE SESSION TO DISCUSS EXEMPT MATERIAL PURSUANT TO NDCC 44-04-18.4(6), AND DISCUSS NEGOTIATING STRATEGY AND PROVIDE NEGOTIATING INSTRUCTIONS PURSUANT TO NDCC 44-04-19.1(9).

AYES: TREASURER SCHMIDT, SUPT. BAESLER, MRS. GUMERINGER, MR. OLSON, MR. BURTON, MR. LECH, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

The Board moved into Executive Session at 2:15 p.m. The Board, RIO staff, and Ms. Murtha were present.

The Board exited Executive Session at 2:41 p.m.

TREASURER SCHMIDT MOVED AND MRS. GUMERINGER SECONDED TO AWARD THE ACTUARIAL CONSULTING CONTRACT TO THE INCUMBANT, SEGAL CONSULTING, AND THAT STAFF PROVIDE AN UPDATE TO THE BOARD AT THE NEXT MEETING.

AYES: MRS. GUMERINGER, MR. BURTON, MR. LECH, SUPT. BAESLER, MR. OLSON, TREASURER SCHMIDT, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

Treasurer Schmidt noted that after lengthy board discussion of the proposals, cost, and the favorable results of the actuarial audit recently conducted, that Segal has served TFFR and its members very well. It is appreciated that they are able to simplify complex actuarial issues so that everyone can understand.

The board recessed at 2:45 p.m. and reconvened at 3:00 p.m.

QUARTERLY INVESTMENT UPDATE:

Mr. Hunter presented the TFFR investment update for the period ended December 31, 2016. The net investment return was 6.99%, while the net investment return for 5 years ended December 31, 2016, was 8.61%. In addition to review of TFFR investment performance, he also discussed the capital markets, asset class performance, asset allocation, and managers on the SIB watch list.

Mr. Hunter invited TFFR board members to attend Callan College onsite at the Bismarck State College Energy Center on July 28, 2017, 8:30 a.m. to 2:00 p.m. This investment education will include asset allocation, capital markets theory, investment policy statements, and fiduciary responsibilities.

BOARD POLICY C-24 - 1ST READING:

Mrs. Kopp reviewed the changes requested by the Board that have been incorporated in Board Policy C-24, In-Staff Subbing Contract Period. The revised draft policy reflects TFFR's current practice of using the calendar dates indicated on the contract to determine the contract period for in-staff subbing for both active members and re-employed retirees. This is the default practice that would be used in evaluating employee contracts which are very broad and might only include general employment information. The revised policy also provides an option for TFFR to use a different contract period for in-staff subbing, (for example number of days and/or working hours instead of calendar dates), but only if specifically detailed on the member's contract. This would allow re-employed retirees to do additional subbing beyond the annual hour limit (700-1000 hours). It also makes it clear the board is not prohibited from making individual eligible salary determinations upon appeal. After discussion,

MR. LECH MOVED AND SUPT. BAESLER SECONDED TO APPROVE THE FIRST READING OF BOARD POLICY C-24, IN-STAFF SUBBING CONTRACT PERIOD.

AYES: MR. OLSON, MR. LECH, SUPT. BAESLER, MRS. GUMERINGER, TREASURER SCHMIDT, MR. BURTON, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

Treasurer Schmidt thanked the Board and Mrs. Kopp for the process that has been established to approve policies with such efficiency.

PENSION PLAN COMPARISONS REPORT:

Mrs. Kopp presented the annual Public Pension Plan comparison report, comparing TFFR to the 2015 Public Fund Survey (PFS), conducted by the National Association of State Retirement Administrators (NASRA). It includes the characteristics of the 124 largest state and local government public pension plans. The report contains information about funding levels, assets and liabilities, membership changes, revenues, expenditures and investment earnings, contribution rates, and actuarial assumptions. TFFR and most public retirement systems strive to maintain sound investment, funding and governance practices, and seek opportunities to continuously improve in those areas.

After board discussion,

MR. LECH MOVED AND MR. BURTON SECONDED TO ACCEPT THE ANNUAL PENSION PLAN COMPARISONS REPORT.

AYES: MR. BURTON, MRS. GUMERINGER, MR. OLSON, TREASURER SCHMIDT, MR. LECH, SUPT. BAESLER, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

2017-18 BOARD CALENDAR AND EDUCATION PLAN:

Mrs. Kopp presented the draft board meeting schedule for 2017-18. Examples of board education in the past 3 years were also presented, with a request for suggestions from board members for topics of interest to them.

MRS. GUMERINGER MOVED AND MR. OLSON SECONDED TO ACCEPT THE BOARD CALENDAR AND EDUCATION PLAN AS PRESENTED.

AYES: MRS. GUMERINGER, MR. LECH, TREASURER SCHMIDT, SUPT. BAESLER, MR. BURTON, MR. OLSON, AND PRESIDENT GESSNER

NAYS: NONE

MOTION CARRIED.

OTHER BUSINESS:

Supt. Baesler complimented Mrs. Kopp and the TFFR staff for always being well prepared and having great execution of board meetings.

The next regular board meeting will be held April 27, 2017, in the board room at WSI.

All presentations and reports from this meeting are on file at RIO.

ADJOURNMENT:

With no further business to come before the Board, President Gessner adjourned the meeting at 4:10 p.m.

Respectfully Submitted:

Mr. Mike Gessner, President
Teachers' Fund for Retirement Board

Darlene Roppel
Reporting Secretary

MEMORANDUM

TO: TFFR Board
FROM: Fay Kopp
DATE: April 20, 2017
SUBJ: Open Records and Open Meetings

The public has the right to know how state government functions are performed and how public funds are spent. North Dakota has “sunshine laws,” which provide that all government records and meetings must be open to the public unless a specific law authorizes a record or meeting to be closed.

Jan Murtha, TFFR legal counsel from the Attorney General’s Office, will provide board education relating to ND open records and open meeting requirements and how they pertain to TFFR.

BOARD INFORMATION ONLY. No board action requested.



Open Meetings & Records Update 2017

Board Education.
4/27/17 & 4/28/17

H.B. 1345 (2017) Background

- After 2015 biennium NDAG establishes OR/OM task force.
- Recognized need for updates or improvements to the OR/OM law.
- 16 member task force included: media, legislators, state, county and city representation.
- Resulted in task force bill submitted by sponsors.

H.B.1345 Discussion

- Comprised of 15 Sections
- Addresses law enforcement related records, other entity records, access to records, open meetings, and process of review.
- Focus discussion on Sections: 3, 4, 5, 10, 11, 12, 13, and 15.

H.B. 1345 Section 3

- Change?
 - Excludes from the definition of meeting training seminars where no other public business is considered or discussed.
- Impact?
 - No need to notice training or take minutes. Also alleviates quorum concerns for out of state seminars.

H.B. 1345 Section 4

- Change?
 - May require written clarification of request.
 - Clarifies that entity need not provide direct access to computer terminal or mobile device.
 - If the information requested is available online, entity may direct requestor to website.
- Impact?
 - Reduce response time to requestor and improve efficient time management and allocation of entity resources.

H.B. 1345 Section 5

- Change?
 - Requestor may use personal device to duplicate records under reasonable circumstances.
 - If repeated requests disrupt essential functions, entity may deny further inspection or copies of records. Remedy.
- Impact?
 - Reduce cost for both parties.
 - Discourage use of OR law as a means to harass. High Bar for entity.

H.B. 1345 Section 10

- Change?
 - Expands the definition of attorney consultation.
 - Protects draft agreements under some circumstances.
- Impact?
 - Permits entities to receive advice on risk management without impairing possible future litigation.
 - Protects an entities negotiating position.

H.B. 1345 Section 11

- Change?
 - Creates an exemption for settlement agreements under certain circumstances.
- Impact?
 - Protects an entities negotiating position.

H.B. 1345 Section 12

- Change?
 - Clarifies that filing a yearly schedule of upcoming meetings does not relieve the entity from following other notice requirements.
 - Clarifies the timing requirements for posting notice of a meeting.
- Impact?
 - Provides clarity and consistency in notice requirements for entities.

H.B. 1345 Section 13

- Change?
 - Authorizes the AG to issue summary opinions and require entities to participate in training.
- Impact?
 - Reduces time to respond to some opinion requests and addresses some enforcement concerns.

H.B. 1345 Section 15

- This section declared H.B. 1345 to be an emergency measure.
- This bill was signed by the Governor on April 11 and filed with the Secretary of State on April 12.
- The provisions we have discussed are now governing law.

H.B. 1345 Other Sections

- Sections 1, 2, 9 and 14 relate to the protection of information about victims, witnesses, and emergency services.
- Sections 6 and 8 expands the definition of personal information.
- Section 7 creates a section regarding internal investigation records.

Violations – In General

- Attorney general's opinions under N.D.C.C. § 44-04-21.1:
 - 30 days of alleged violation except meetings without notice – 90 days.
 - If AG opinion concludes that violation occurred and action needed to correct violation not taken within 7 days & requester prevails in civil action, requester will get attorney's fees.
 - Consequence for failure to comply with AG opinion – potential personal liability & pay for legal counsel.

Violations - Continued

- Violations may be subject of civil action under N.D.C.C. § 44-04-21.2.
- Action must be commenced within 60 days of the date the person knew or should have known of the violation or 30 days from issuance of AG opinion.
- Court may award \$1,000 or actual damages for intentional or knowing violations.

Violations - Continued

- AG can refer a public servant to the state's attorney for multiple violations.
- A public servant who knowingly violates the law is guilty of a class A misdemeanor.
- It is a Class C felony to knowingly release confidential information.

N.D.C.C. § 44-04-21.3

N.D.C.C. § 12.1-11-06

N.D.C.C. §12.1-13-01

More information

- ❖ www.attorneygeneral.nd.gov
 - ❖ Manuals
 - ❖ Opinions
 - ❖ Fact Sheets

TFFR Legislative Update

April 20, 2017

BILL NO. DESCRIPTION INTRODUCED BY:

HB 1022 RIO Budget Appropriations Committee

HB 1022 contains the 2017-19 budget authority and continuing appropriations for the Retirement and Investment Office (RIO) administrative expenses for operating the retirement program for the TFFR Board and the investment program for the SIB.

The House amended RIO’s budget and reduced it from \$5.41 million to \$5.27 million. Operating Expenses were cut by 20% or \$200,000 and Contingencies were cut by 37% or \$30,000. Salaries and wages increased by 2% or \$89,000 due to higher health care costs (\$54,000) and cost to continue salary increases implemented in our current biennium. The House approved the amended bill, 81-10.

Although RIO had a number of discussions with Appropriations Committee members to reinstate \$87,750 for critical travel and professional development expenses, the Senate only made amendments related to a reduction of \$3,940 in health insurance premiums. The Senate approved the bill, 45-0.

A **Conference Committee was appointed** consisting of Reps. Boehning, Brabandt and Vigesaa and Senators Krebsbach, Bowman and Dever. After a number of meetings, the Conference Committee gave a “do pass” recommendation to reinstate \$72,457 in operating expenses.

On 4/18, the Conference Committee report was adopted, and **HB 1022 passed in the House (83-9) and Senate (42-0)**. The House and Senate agreed to reinstate \$72,457 of RIO’s budget to fund critical travel and professional development expenses for RIO staff and SIB members in the next biennium. RIO’s 2017-19 approved budget is \$73,371 lower than the current base level 2015-17 budget as shown below. The bill will now go to the Governor for signature.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>	<u>% Decrease</u>
Salaries and Wages	\$ 4,340,551	\$ 85,019	\$ 4,425,570	2.0%
Operating Expenses	990,874	(128,390)	862,484	-13%
Contingencies	82,000	(30,000)	52,000	-37%
Total Special Funds	\$ 5,413,425	\$ (73,371)	\$ 5,340,054	-1.4%
Full-time equivalent positions	19.00	0.00	19.00	-

OTHER BILLS OF INTEREST TO TFFR:

[HB 1023](#) **PERS Budget** **Appropriations Com.**

HB 1023 is the PERS appropriations bill. In addition to PERS budget items, the House approved amendments to the bill which would change the governance of PERS. These amendments make the PERS Retirement Board advisory and change its membership; create a state agency called the PERS Office; provide that the Governor appoint an Executive Director of the PERS Office; modify the membership on the SIB to include two members of the PERS advisory board and the PERS Office executive director or designee; and add three nonvoting members of the PERS advisory board to the interim Legislative Employee Benefits Programs Committee. The actuarial and technical analysis determined that there would be no actuarial impact on the PERS plan, however the amendments would have an impact on the governance of PERS, as well as potentially affect the governance of the SIB and RIO. The House approved the amended bill, 76-15.

The Senate amended HB 1023 to remove most of the House amendments and to include a legislative study of the power and duties of the PERS board; the power and duties of the Employee Benefits Program Committee, the feasibility and desirability of a self-funded insurance plan, and the contract bidding process. The Senate approved the amended bill, 46-0.

A Conference Committee was appointed consisting of Reps. Vigesaa, Boehning, Keiser and Senators Krebsbach, Oehlke and Robinson. A number of Conference Committee meetings have been held to date.

[HB 1088](#) **Risk Management - Data Breach Response Costs** **OMB**

HB 1088 would allow the State's Risk Management fund to cover state agencies for certain 1st party costs associated with a data breach including notification of affected parties, credit counseling, etc. A related OMB bill also includes special fund appropriation authority for self-insurance remediation costs, i.e. fixing the issues related to hardware and software. RIO had originally included funds in an optional budget package for cyber insurance.

The House approved the bill, 91 – 1; the Senate approved the bill, 46-0. **The Governor signed the bill on 3/02.**

[HB 1175](#) **SIB Membership** **Reps. Kreidt, Delzer, Devlin, Kempenich & Sen. Klein**

HB 1175 adds two members to the SIB, one selected by the House Majority Leader and one selected by the Senate Majority Leader, thereby increasing the number of SIB members to 13.

The **House approved the bill** by a vote of 71-22. **On 3/13, the bill failed in the Senate, 14-31.**

**HB 1318 Regional Education Associations
Reps. Schatz, Kasper, Rohr, D. Ruby, Toman; Sens. O. Larsen, Unruh**

HB 1318 repeals state statutes relating to regional education associations (REAs). Sections 2 and 3 remove specific references to REA’s in TFFR statutes regarding participation in the plan, and penalty for failure to make required reports and payments.

The House amended the bill to provide for a legislative management study of all entities receiving appropriations for the delivery of education. The House approved the amended bill by a vote of 58-31.

The Senate amended the bill to provide for a legislative management study of the state aid funding formula for elementary and secondary education. On 4/5, the Senate approved the amended bill by a vote of 45-2. **On 4/7, the House concurred with the Senate amendments and passed the bill, 56-31. On 4/13, the Governor signed the bill.**

**HB 1345 Open Records and Meeting Laws
Reps. Devlin, Delmore, K. Koppelman, and Armstrong, Casper, Nelson**

HB 1345 expands the list of purposes for which an executive session may be held. Two sections of the bill, Section 3 (relating to notice requirements for Board trainings), and Section 10 (permitting a discussion of legal risk unrelated to reasonably anticipated litigation), are extremely helpful for Boards in general. HB 1345 was signed by the Governor on 4/11/17, and because it was approved with an emergency clause, it goes into effect immediately.

SB 2030 NDEA/ND United statutory reference updates Leg Mgmt/Education Com.

SB 2030 relates to updating statutory references of the former ND Education Association. While most sections of the bill delete NDEA and replace with ND United, Section 4 removed the requirement that the Governor receive a list of nominees from NDEA/ND United from which to appoint active teachers to the TFFR Board.

The Senate amended the bill to reinstate the provision that ND United submit a list of nominees (active elementary or secondary teachers) to the Governor for the TFFR Board. The Senate approved the amended bill, 46 – 0. The House passed the bill, 76-14. **The Governor signed the bill on 3/13.**

[ND Legislative website](#)

MEMORANDUM

TO: TFFR Board
FROM: Fay Kopp
DATE: April 20, 2017
SUBJ: Board policy: In-staff Subbing Contract Period

The first reading of attached Board Policy C-24, In-staff Subbing Contract Period, was on March 23, 2017. The second reading is on April 27, 2017.

BOARD ACTION REQUESTED: Approve 2nd reading of Board Policy C-24, In-staff Subbing Contract Period.

Attachment

NEW POLICY – Revised – 2nd Reading

Policy Type: TFFR Program

Polity Title: In-staff Subbing Contract Period

It is the policy of the TFFR Board of Trustees that the following guidelines apply for the purpose of determining the contract period for in-staff subbing for active members and re-employed retirees as provided for in NDCC 15-39.1-04 (4) and (12), 15-39.1-19.1, 15-39.1-19.2, and NDAC 82-05-06-01.

- 1) In-staff subbing is defined as substitute teaching duties performed by a contracted teacher for the contracting TFFR participating employer.
- 2) If the active member or re-employed retiree has a contract or written agreement with the participating employer for full or part time work, TFFR will view the beginning and ending calendar dates indicated on the contract as the contract term to determine the contract period, unless the contract period is otherwise specifically detailed in the active member or re-employed retiree's contract.
 - If substitute teaching duties are performed during the contract term, those duties are considered in-staff subbing, and retirement contributions are required to be paid on the substitute teaching pay. The in-staff subbing hours are reported as compensated hours for active members and are counted toward the annual hour limit for re-employed retirees (700 – 1000 hours depending upon length of contract).
 - If substitute teaching duties are performed before the beginning calendar date or after the ending calendar date of the contract term, those duties are not considered in-staff subbing, and no retirement contributions are required to be paid on the substitute teaching pay. The subbing hours are not reported as compensated hours for active members and are not counted toward the annual hour limit for re-employed retirees.
- 3) If the active member or re-employed retiree does not have a contract or written agreement with the participating employer, then no retirement contributions are required to be paid on the substitute teaching pay. The subbing hours are not reported as compensated hours for active members and are not counted toward the annual hour limit for re-employed retirees.

This policy does not prohibit the Board from making an eligible salary determination for an individual member pursuant to N.D.A.C. 82-04-02-01.

TFFR Board Adopted: _____, 2017

MEMORANDUM

TO: TFFR Board
FROM: Fay Kopp
DATE: April 24, 2017
SUBJ: Eligible Salary Discussion
LEA President Duties

At the January 26, 2017 TFFR Board meeting, the Board briefly discussed whether certain salary payments made by TFFR employers to TFFR members who are LEA (local education association) presidents and granted “contract release time” to perform association duties are eligible retirement salary for TFFR purposes as defined in NDCC 15-39.1-04(10). See Attachment 1 for applicable state statutes and administrative rules.

TFFR staff has become aware of two school districts in which the school district contracts and pays a TFFR member their full contract salary, and the LEA reimburses the school district for the 40% contract release time (partial leave of absence) granted to the LEA president to perform association duties. Currently, all of the teacher’s contracted salary is being reported as eligible salary for TFFR purposes.

Please note that in the school districts under question, this has been a long-standing practice for over 25 years and is included in the negotiated agreements. This is not a salary spiking issue, but a question of whether payment for the LEA president duties (which is reimbursed by the LEA) constitutes eligible retirement salary under TFFR statutes.

Example:

LEA president holds a regular full time teaching contract for \$50,000 with the school district, and is granted 40% contract release time each day to conduct LEA president duties. The LEA president would teach 60% of the time each day and conduct LEA president duties 40% of the time each day.

*30,000 60% school district duties - paid by school district
20,000 40% LEA president duties - paid by school district, but reimbursed by LEA*

50,000 100% contract salary reported to TFFR - used in determining member and employer contribution amounts, and calculating TFFR pension benefit.

RIO staff has gathered information from the school districts regarding this issue, and has had some initial discussions with ND United leaders as well as those LEA presidents who could potentially be affected.

Jan Murtha, TFFR's legal counsel from the Attorney General's Office, has reviewed this information and provided her legal analysis. See attached memo dated April 18, 2017.

Staff is asking the TFFR Board to consider, under the statutory authority granted in state law, if contract release pay for the performance of LEA president duties constitutes eligible salary for TFFR reporting purposes as defined in NDCC 15-39.1-04(10).

Some factors the Board may wish to consider:

- Whether LEA president duties are teaching, supervisory, administrative or extracurricular duties performed for the school district or other TFFR participating employer if the funding source for payment of those duties is the LEA.
- Whether state TFFR pension benefits should be based (in part) on salary earned for LEA president duties.
- Whether LEA president contract release time, which is a special type of paid leave, should be treated differently from other paid leave like sick, personal, funeral, professional leave, etc.
- Potential impact on current or future LEA presidents who could be affected by this eligible salary determination.
- Other criteria as set forth in NDAC 82-04-02-01.

It should also be noted that while there may only be a couple school districts that currently grant "contract release time" for LEA presidents and are reimbursed for the LEA president's salary, there are also some school districts that provide employer paid "association leave" to their teachers. For example, as referenced in a negotiated agreement, the school district may provide to the LEA, without loss of pay to individuals, up to 15 days for association activities during a school year. For TFFR purposes, this employer paid association leave has been treated like other paid, used leave for employees (i.e. sick, personal, funeral, professional leave, etc.) and is being appropriately reported as eligible salary for TFFR reporting purposes. In some cases, the LEA reimburses the school district for all or a portion of the substitute teacher's pay, while in other school districts, the LEA does not.

Please review this information, and plan to discuss at the meeting.

BOARD INFORMATION AND DISCUSSION.

Attachments

"Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a plan year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457, as amended. "Salary" includes amounts paid to members for performance of duties, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B), as amended, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B), as amended. A salary maximum is not applicable to members whose participation began before July 1, 1996.

"Salary" does not include:

- a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by employer.
- b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
- c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
- d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
- e. Teacher's aide pay, referee pay, bus driver pay, or janitorial pay.
- f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
- g. Signing bonuses as defined under section 15.1-09-33.1.
- h. Other benefits or payments not defined in this section which the board determines to be ineligible teachers' fund for retirement salary.**

NDCC 15-39.1-04 (12)

"Teacher" means:

- a. **All persons licensed by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services by a state institution, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state**, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers. For purposes of this subdivision, "teacher" includes persons contractually employed by one of the above employers to provide teaching, supervisory, administrative, or extracurricular services to a separate state institution, state agency, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state under a third-party contract.
- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, the professional staff of the department of career and technical education, the professional staff of the center for distance education, **the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995**, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
- c. The executive director and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and licensed staff of teachers centers, but only if the person was previously a member of and has credits in the fund.
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

NDCC 15-39.1-24. Purchase of additional credit.

6. A teacher who is elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching may purchase service credit for the time spent serving as president. As an alternative to purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement under which payment for service credit for the time spent as president of the professional educational organization is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary as president.

NDAC 82-02-01-01 Definitions.

3. Administrative – means to manage, direct, or superintend a program, service, or school district or other participating employer.
10. Extracurricular – means outside of the regular curriculum of a school district or other participating employer which includes advising, directing, monitoring, or coaching athletics, music, drama, journalism, and other supplemental programs.
18. Supervisory – means to have general oversight or authority over students or teachers, or both, of a school district or other participating employer.
19. Teaching – means to impart knowledge or skills to students or teachers, or both, by means of oral or written lessons, instructions, and information.

NDAC 82-04-02-01 Criteria for eligible salary determinations.

The teachers' fund for retirement board will consider the following criteria and documentation to determine whether benefits or payments made to a teachers' fund for retirement member is eligible retirement salary as authorized in subsection 9 of North Dakota Century Code section 15-39.1-04:

1. Written authorization made in advance of payment. Examples include:
 - a. Master contract or negotiated agreement.
 - b. Individual employment contract.
 - c. Written agreement between employee and employer.
 - d. Minutes of school board or participating employer.
 - e. Policy of school board or participating employer.
 - f. Other information the board deems relevant.
2. Written documentation describing payment details, including:
 - a. Duration of payment or whether payment is recurring or nonrecurring in future years.
 - b. Frequency and date of payment.
 - c. Relation of payment to base or contract salary.
 - d. Reason or intent of payment.
 - e. Description of duties or services to be performed.
 - f. Description of employees who are eligible for payment.
 - g. Amount of payment expressed as either a fixed dollar amount or percentage of known contract amount (not fixed percent of unknown amount).
 - h. Funding source for payment.
3. Other pertinent information the board deems relevant. Examples include:
 - a. Employee salary history.
 - b. Retirement eligibility.
 - c. Other information the board deems relevant.

MEMORANDUM

TO: Fay Kopp, Teachers' Fund For Retirement

FROM: Janilyn K. Murtha, Assistant Attorney General

RE: LEA President Contract Release Pay

DATE: April 18, 2017

You have asked me whether salary payments made by a TFFR participating employer to a licensed TFFR member is eligible salary for TFFR purposes if the payments include contract release pay to perform local education association (LEA) president duties and the TFFR employer is substantially or completely reimbursed by the LEA for the contract release time. In furtherance of your request you have provided for review various documents describing employment arrangements under which a LEA president is granted a partial leave of absence for contract release time each day during the school year to perform these duties. You have indicated that the teacher is paid their full contract salary for the school year by the employer, including for the contract release time, and the employer is substantially or completely reimbursed for this contract release time by the LEA. You have also indicated that TFFR employers are currently reporting the full contract salary as eligible salary but that the Board has not formally reviewed this issue.

From our discussion and the documentation provided this contract release and reimbursement arrangement appears to be a form of contractually negotiated leave limited to the performance of LEA president duties. At this time there does not appear to be a clear prohibition in law against used LEA president contract release time being afforded the same treatment as other types of used contractually negotiated leave such as leave for illness, vacation or funeral related use. It is my understanding that payment received by teachers for vacation, personal, illness leave etc. is generally treated as eligible salary for TFFR reporting purposes and note that N.D.C.C. § 15-39.1-04(10)(c), specifically excludes *unused* leave, supporting the conclusion that *used* leave is otherwise included.

While pay for contract release time for this purpose is not specifically included in the list of ineligible salary under N.D.C.C. § 15-39.1-04(10), the Board retains the discretion to determine what constitutes eligible salary for TFFR reporting purposes under N.D.C.C. § 15-39.1-04(10)(h). Pursuant to this authority the Board has the discretion to include or

Fay Kopp, Teachers' Fund For Retirement
April 18, 2017
Page 2

exclude contract release pay for the performance of LEA president duties as eligible salary. The Board could take such action as a matter of policy which would be applicable to all members or on an individual basis taking into consideration the unique facts and circumstances of each member. N.D.A.C. § 82-04-02-01 does set forth the criteria the Board may use to make eligible salary determinations for individual members; this criteria could also be used for consideration in establishing policy.

In summary I believe it is appropriate for the Board to review whether contract release pay for the performance of LEA president duties constitutes eligible salary pursuant to N.D.C.C. § 15-39.1-04(10)(h). Please let me know if you have any questions or if I can be of further assistance.

MEMORANDUM

TO: TFFR Board

FROM: Fay Kopp

DATE: April 20, 2017

SUBJ: IRS Determination Letter Update

In January 2016, the TFFR plan was submitted to the IRS to request a favorable determination letter. Since that time, the IRS has reviewed TFFR's application and made a number of requests for additional information. Jan Murtha, AGO and Melanie Walker, Segal, have worked with RIO staff to address IRS questions and concerns. (See attached March 3, 2017 letter to the IRS.)

I am pleased to inform the Board that the IRS has now issued a favorable determination letter for the NDTFFR plan. (See attached March 17, 2017 letter from the IRS.) The determination is made on the condition that NDTFFR adopt the proposed amendments outlined in our correspondence to the IRS. These amendments will need to be submitted by the TFFR Board in the 2019 legislative session.

As a reminder to the Board, in 2015, the IRS announced various changes to the determination letter program for qualified retirement plans. Previously, the IRS required plans to request a determination letter regarding the plan's tax-qualified status every five years. However, beginning in 2017, the IRS eliminated the staggered five-year remedial amendment cycles for governmental pension plans, and limited the scope of the determination letter program to initial plan qualification and upon plan termination.

Therefore, TFFR will not be required (nor allowed) to request another determination letter in the future, unless the program is reinstated by the IRS.

BOARD INFORMATION ONLY. No board action is required.

Attachments



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210
www.ag.nd.gov

March 3, 2017

VIA FACSIMILE ONLY

Ms. Jennifer Thimmadasaiah
Employee Plans Specialist
Stop 31
Attention: EP/EO Determination Letters
Internal Revenue Service
PO Box 12192
Covington, KY 41012-0192

Dear Ms. Thimmadasaiah:

Please accept this letter in follow-up to the request for additional information mailed to and received by the North Dakota Teachers' Fund for Retirement Board office on February 20, 2017. You indicated that our proposed amendment regarding direct rollovers was not sufficient and requested that the plan's direct rollover language be further clarified in statute (pursuant to sample language provided from your list of required modifications). All citations to specific statutory provisions in this response refer to governing plan document language that has already been provided to the IRS as part of the determination letter application.

Pursuant to your request, we revised our proposed amendment regarding direct rollovers to provide additional detail on direct rollover provisions that apply specifically to our plan, namely the limitations on direct rollovers that apply to after-tax employee contributions. Therefore, we propose to request the North Dakota Legislature amend North Dakota Century Code § 15-39.1-34 by adding the following underscored language regarding rollovers to this section (revisions to our original proposed amendment highlighted in italics):

15-39.1-34. Internal Revenue Code compliance.

The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code, as amended, and regulations adopted pursuant to those provisions as they apply to governmental plans. Pursuant to the rollover rules under section 401(a)(31) of the Internal Revenue Code, a distributee may elect to have an eligible rollover distribution, as defined in section 402(f)(2)(A) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. *The definition of eligible retirement plan shall also apply in the case of a distribution to an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Any portion of a distribution*

that consists of after-tax employee contributions which are not included in gross income may be transferred only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code or to a qualified plan or an annuity contract described in section 401(a) and 403(b) of the Internal Revenue Code, respectively, that agrees to separately account for such amounts, including separately accounting for the portion of such distribution which is included in gross income and the portion of such distribution which is not so included. For purposes of this section, "distributee" includes a nonspouse beneficiary of a deceased member; provided, however, that in the case of a nonspouse beneficiary, the direct rollover may only be made to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and will be treated as an inherited individual retirement account or inherited individual retirement annuity pursuant to section 402(c)(11) of the Internal Revenue Code.

Please note that this proposed amendment does not contain all of the detailed language set forth in the sample language that you provided. However, we believe that the above proposed amendment, as revised, sufficiently describes the plan's direct rollover provisions for purposes of a favorable determination letter, for the following reasons:

- 1) Our proposed amendment language regarding direct rollovers is substantially similar to the language you have provided as further described below and is consistent with plan amendments proposed by the North Dakota Public Employees Retirement System Hybrid Plan and North Dakota Highway Patrolmen's Retirement System as part of those plans' determination letter process, and for which those plans received favorable determination letters contingent upon adoption of the proposed amendments. The State of North Dakota has an interest in maintaining consistency among the statutory provisions of its various statewide retirement plans.
- 2) A portion of the sample language you provided does not apply to our plan, including the rules relating to direct rollover restrictions on distributions less than \$200 and rollovers from a designated Roth account, because the plan will not restrict distributions of less than \$200, and thus it would be misleading to include provisions relating to such rules in our plan language.
- 3) Our proposed amendment language, as revised, is consistent with the applicable statutory provisions regarding direct rollovers as set forth in Internal Revenue Code section 401(a)(31), including referencing the definitions of "eligible rollover distribution" in Internal Revenue Code section 402(f)(2)(A) and "eligible retirement plan" in Internal Revenue Code section 402(c)(8)(B).
- 4) We believe our proposed language regarding the definition of "distributee" when read in conjunction with language currently contained in other existing state statutes is

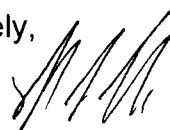
Ms. Jennifer Thimmadasaiah
March 3, 2017
Page 3

substantially similar to the example language you provided. For example, in our correspondence of November 4, 2016, we indicated that North Dakota Century Code § 15-39.1-20 states: “A member or beneficiary of a member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member or the beneficiary to the extent permitted by section 401(a)(31) of the Internal Revenue Code, as amended.”; and the Plan’s definition of beneficiary is located in North Dakota Century Code § 15-39.1-04 (2) and states “Beneficiary means a person, estate, trust or organization designated in writing by a participating member to receive benefits provided by this plan”, and this includes a nonspouse beneficiary. Further, the Plan’s definition of member is located in North Dakota Century Code § 15-39.1-04 (13), (14), (15), and (16) defining “Tier one grandfathered member”, “Tier one member”, “Tier one nongrandfathered member”, and “Tier two member” respectively. Finally, the right of an alternate payee to receive all or part of the benefits payable to a member pursuant to a qualified domestic relations order is set forth in North Dakota Century Code § 15-39.1-12.2(2) which states “A ‘qualified domestic relations order’ for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of the teacher, which is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the teacher.”

Thus, we believe our proposed amendment language, as revised, now contains all of the applicable, substantive provisions set forth in the sample language you provided other than the definitions of “eligible rollover distribution”, “eligible retirement plan” and “distributee”, which are substantially similar. It is our understanding that the provisions of the Internal Revenue Code do not allow qualified plans the discretion to select or omit any part of the statutory definition of these terms, and for this reason it is not necessary to include the actual language defining these terms in our plan document.

If our response and revised Plan document language do not, in your opinion, satisfy the information needed for a favorable determination letter from the IRS, we would appreciate a description of any deficiencies noted by the Service and an additional opportunity to correct any such deficiencies before a final determination is made, including the opportunity to discuss the reasons for any such deficiencies in a telephone conference with you and your manager.

Sincerely,



Janilyn K. Murtha
Assistant Attorney General

cc: Fay Kopp (w/enc.)

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

RECEIVED
MAR 20 2017
NDRIO

Date: **MAR 17 2017**

Employer Identification Number:
45-6002349

DLN:
17007023722016

Person to Contact:
JENNIFER M THIMMADASIAH ID# 31316

Contact Telephone Number:
(513) 263-4613

Plan Name:
NORTH DAKOTA TEACHERS FUND FOR
RETIREMENT

Plan Number: 001

NORTH DAKOTA TEACHERS FUND FOR
RETIREMENT BOARD
PO BOX 7100
BISMARCK, ND 58507-7100

Dear Applicant:

Based on the information you provided, we are issuing this favorable determination letter for your plan listed above. However, our favorable determination only applies to the status of your plan under the Internal Revenue Code and is not a determination on the effect of other federal or local statutes. To use this letter as proof of the plan's status, you must keep this letter, the application forms, and all correspondence with us about your application.

Your determination letter does not apply to any qualification changes that become effective, any guidance issued, or any statutes enacted after the dates specified in the Cumulative List of Changes in Plan Requirements (the Cumulative List) for the cycle you submitted your application under, unless the new item was identified in the Cumulative List.

Your plan's continued qualification in its present form will depend on its effect in operation (Section 1.401-1(b)(3) of the Income Tax Regulations). We may review the status of the plan in operation periodically.

You can find more information on favorable determination letters in Publication 794, Favorable Determination Letter, including:

- The significance and scope of reliance on this letter,
- The effect of any elective determination request in your application materials,
- The reporting requirements for qualified plans, and
- Examples of the effect of a plan's operation on its qualified status.

You can get a copy of Publication 794 by visiting our website at www.irs.gov/formspubs or by calling 1-800-TAX-FORM (1-800-829-3676) to request a copy.

This letter considered the 2014 Cumulative List of Changes in Plan Qualification Requirements.

We made this determination on the condition that you adopt the proposed

Letter 5274

NORTH DAKOTA TEACHERS FUND FOR

amendments you submitted in your letter dated 3/3/17, on or before the date the Income Tax Regulations provide under Section 401(b) of the Internal Revenue Code.

We based this determination letter solely on your claim that the plan meets the requirements of a governmental plan under Section 414(d) of the Internal Revenue Code.

This determination letter applies to the plan and related documents you submitted with the application you filed during the remedial amendment cycle ending 1/31/16.

This determination letter expresses no opinion as to the federal tax consequences of the replacement, or proposed replacement, of any joint and survivor, single life or other annuity being paid with a lump sum payment or other accelerated form of distribution.

If you submitted a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, with your application and asked us to send your authorized representative or appointee copies of written communications, we will send a copy of this letter to him or her.

If you have any questions, you can contact the person listed at the top of this letter.

Sincerely,



Karen D. Truss
Director, EP Rulings & Agreements

MEMORANDUM

TO: TFFR Board
FROM: Fay Kopp
DATE: April 20, 2017
SUBJ: Actuarial Consulting Contract Update

At the March 23, 2017 meeting, the TFFR Board awarded the contract for actuarial consulting services to Segal Consulting.

Since that time, the following actions have been taken:

- 1) Segal was notified of contract award.
- 2) Formal Notice of Intent to Award Contract to Segal was distributed to all vendors on actuarial consulting RFP bidder's list. No appeals were filed during the 7-day protest period.
- 3) Vendor requests for proposals have been made, and we are working with TFFR legal counsel, Jan Murtha, to review.
- 4) Contract terms were negotiated with Segal with the assistance of Jan Murtha.
- 5) Segal contract is expected to be signed later this week.

Segal will begin working on the July 1, 2017 valuation this summer.

BOARD INFORMATION ONLY. No Board action is required.

RETIREMENT AND INVESTMENT OFFICE
AUDIT SERVICES
2016 – 2017 3rd Quarter Audit Activities Report
January 1, 2017 – March 31, 2017

The audit objective of Audit Services is twofold: first, to provide comprehensive, practical audit coverage of the Retirement and Investment Office (RIO) programs; second, to assist RIO management and the State Investment Board (SIB) by conducting special reviews or audits.

Audit coverage is based on the July 1, 2016 through June 30, 2017 work plan approved by the SIB Audit Committee. The audit activities undertaken are consistent with the Audit Services charter and goals, and the goals of RIO. To the extent possible, our audits are being carried out in accordance with the International Standards for the Professional Practice of Internal Auditing. Audit effort is being directed to the needs of RIO and the concerns of management and the SIB Audit Committee.

Retirement Program Audit Activities

• **TFFR Employer Auditing**

We examine employer reporting to the Teachers' Fund for Retirement (TFFR) to determine whether retirement salaries and contributions reported for members of TFFR are in compliance with the definition of salary as it appears in NDCC 15-39.1-04(10). Other reporting procedures reviewed during the audit process are calculation of service hours and eligibility for TFFR membership. A written report is issued after each audit examination is completed.

During the 3rd quarter:

- Five TFFR Employer Audits were completed which included:
 - One Special Audit, One NIC Review, and Three TFFR Compliance Audits
- Six TFFR Compliance Audits were in progress
- Three TFFR Compliance Audits were pending but not yet started

A total of twenty one TFFR Employer Audits have been completed as of March 31, 2017. This included two Special Audits, one NIC Review, and eighteen TFFR Compliance Audits. Audit Services anticipates that an additional four TFFR Compliance Audits will close prior to the end of the fiscal year.

This is an area that requires special emphasis due to the level of risk identified through previous audit results. Our long-range plans include auditing each employer over an eight year period.

• **TFFR File Maintenance Audits**

Audit Services tests changes made to TFFR member account data by RIO employees on a quarterly basis. Audit tables are generated and stored indicating any file maintenance changes made to member accounts. The TFFR File Maintenance Audit for the second quarter of fiscal year 2017 was completed and no exceptions were noted.

• **Annual Salary Verification Project**

On an annual basis Audit Services verifies retirement salaries and contributions reported to TFFR for the prior fiscal year for 50 randomly selected member accounts. Data analysis and sampling work commenced towards the end of March. It is anticipated that the bulk of the work including employer notifications will occur during the month of April with the audit concluding in early May.

This year the population from which member accounts are selected for this project was altered slightly to ensure a greater number of unique participating employers would be included. Participating employers who have been audited by Audit Services or RIO's external auditors in the last 12 months were eliminated from the population. Audit Services believes this change has had a very positive outcome on the project thus far. A majority of members selected are from employers who have not had contact with Audit Services in at least 2 to 3 years.

Administrative and Investment Audit Activities

• Executive Limitation Audit

On an annual basis Audit Services reviews the Executive Director/CIO's level of compliance with SIB Governance Manual Executive Limitation policies A-1 through A-11. The Executive Limitation Audit for calendar year 2016 was completed in February 2017. Audit Services was sufficiently satisfied that the Executive Director/CIO was in compliance with SIB Governance Manual Executive Limitation policies A-1 through A-11 during calendar year 2016. The SIB Audit Committee approved the Executive Limitation Audit on February 23, 2017 and the SIB approved the Executive Limitation Audit on February 24, 2017.

In February 2017 the SIB approved the formation of an Executive Review Committee for the purpose of evaluating the Executive Director/CIO of the North Dakota Retirement and Investment Office, Mr. David Hunter. The assistance of Audit Services has been requested to facilitate a survey of current SIB members. It is anticipated that the survey will be administered in April 2017 and the results provided to the Executive Review Committee shortly thereafter. It is unlikely that additional assistance will be required following completion of the survey.

Professional Development Activities

Audit Services continues to pursue networking and professional development opportunities via the IIA's local chapter, Central Nodak. Staff attended monthly IIA meetings throughout the quarter which covered topics including a federal income tax update and discussion on financial exploitation. In March 2017 Audit Services staff attended a working session which facilitated discussions among attendees on the topics of audit reports and audit committees.

Summary

Audit effort is directed to activities that are of greatest concern to the SIB Audit Committee, RIO Management, and our external audit partners. Audit Services will continue to work closely with the SIB Audit Committee, RIO Management, and our external audit partners to continue to improve overall efficiency, effectiveness, and economy of total audit activity.

APRIL 2017 BOARD READING

[Haas Institute: Funding Public Pensions: Is Full Pension Funding A Misguided Goal?](#)

[NIRS-What Do Coloradans Think About Economic Security in Retirement?](#)

[PEW Charitable Trusts-State Public Pension Funds Increase Use of Complex Investments](#)