

**Note:** These minutes from the June 7, 2021, Legislative Committee meeting were approved at the August 10, 2021, Legislative Committee meeting.

**NHRS Legislative Committee of the Board of Trustees  
June 7, 2021  
PUBLIC MINUTES**

**New Hampshire Retirement System  
54 Regional Drive  
Concord, NH**

*The NHRS office was closed to the public as a result of COVID-19 and the meeting was held via video conferencing. Pursuant to RSA 91-a, all votes were by roll call.*

*Committee Members participating by video-conference: Trustees Scott Myers, Chair, Sue Hannan, and Scott Christensen.*

*Staff: Jan Goodwin, Executive Director, Tim Crutchfield, Deputy Director and Chief Legal Counsel; Mark Cavanaugh, Associate Counsel and Compliance Officer; Gerard Murphy, Director of Finance; Marty Karlon, Director of Communication and Legislative Affairs; Nancy Miller, Director of Member Services; Diana Crichton, Hearings Examiner.*

Chair Myers called the meeting to order at 3:16 p.m. Having established a quorum, Chair Myers called for a motion to accept the Committee minutes of April 13, 2021. On a motion by Trustee Hannan, seconded by Trustee Christensen, the Committee unanimously voted to approve the minutes, as presented.

Chair Myers opened discussion by providing an overview of the issue the meeting was called to address, namely two sections contained in House Bill 2 (HB 2), the state budget trailer bill, that could potentially create exposure for NHRS under Internal Revenue Service (IRS) rules.

Mr. Karlon explained that earlier this spring, the retirement system reached out to its external fiduciary and tax counsel, Groom Law Group, to review the language in sections 14 and 15 of HB 2. In summary, Groom indicated that the proposed amendments to RSA 100-A:52, III-III-a, and RSA 100-A:52-b, V-VI, were ambiguous and potentially inconsistent with other plan provisions. He said that staff had already been in contact with legislators regarding this issue, but the language remained in the version of House Bill 2 that was adopted by the Senate on June 3. He said that a Committee of Conference consisting of House and Senate members was expect to be convened by June 10 to reconcile the bill, with a deadline of June 17.

Chair Myers said he would entertain a motion to recommend to the full Board that it oppose sections 14 and 15 of House Bill 2 as passed by the Senate because these sections could create exposure for NHRS under Internal Revenue Service (IRS) rules, including those requiring that plan benefits be definitely determinable and administered in accordance with plan terms and that plan assets are to be used for the exclusive benefit of NHRS participants and their beneficiaries.

The motion was made by Trustee Christensen and seconded by Trustee Hannan. Chair Myers then opened the motion for discussion and Trustee Christensen asked for additional clarification on the legal concerns with these sections.

Mr. Cavanaugh explained that the IRS requires that plan benefits be definitely determinable and administered in accordance with plan terms and the wording of these sections, which require NHRS to pay the state the full medical subsidy amount in instances where the actual cost of the total monthly premium per eligible participant is less than the full subsidy amount, are potentially inconsistent with other plan provisions that denominate the “cost” that NHRS is required to pay to political subdivision employers, which are based on the premium cost for each eligible individual. He noted that it has been NHRS’ long-standing administrative practice to pay the full subsidy owed, not to exceed the total insurance premium.

Mr. Crutchfield added that plan assets are to be used for the exclusive benefit of NHRS participants and their beneficiaries under IRS rules, and any additional amounts paid to the state in excess of the actual premium would not be for the exclusive benefit of subsidy-eligible beneficiaries.

The Committee then unanimously voted to approve the motion, as presented.

With no further business to discuss, on a motion by Trustee Hannan, seconded by Trustee Christensen, the Committee unanimously voted to adjourn the meeting.

Respectfully submitted,

Marty Karlon,  
Director of Communication and Legislative Affairs