



**Brian K. Guthrie**  
*Executive Director*

1.800.223.8778  
[www.trs.texas.gov](http://www.trs.texas.gov)

1000 Red River Street  
Austin, Texas 78701-2698

April 30, 2020

Ms. Jennifer Jones  
Executive Director  
Sunset Advisory Commission  
PO Box 13066  
Austin, TX 78711-3066

Dear Ms. Jones,

Thank you for the opportunity to respond to the issues and recommendations contained in the Sunset Advisory Commission Staff Report on the Teacher Retirement System of Texas (TRS). I would like to thank the Sunset staff for their professionalism throughout the review.

On behalf of the TRS Board of Trustees and staff, it is a privilege to serve the 1.6 million members of TRS and ensure their system and funds are prudently managed consistent with fiduciary standards. TRS is a dynamic and rapidly evolving organization. The Sunset review follows a series of changes in recent years that impacted retirees, active members, and employers.

Specifically, in 2017 significant changes were made to TRS-Care, including the elimination of a no-cost catastrophic health plan for retirees, the creation of a single, high-deductible health plan for non-Medicare participants, and a Medicare Advantage plan for Medicare participants. These changes had a substantial impact on many retirees who for over a decade had not seen an increase in their health insurance premiums.

Beginning in 2018, new Governmental Accounting Standards Board (GASB) reporting rules required over 1,300 public and higher education employers to report more employee data to TRS than ever before. Employer training remains an ongoing challenge for TRS, particularly when employers experience frequent turnover in their payroll staff responsible for submitting TRS reports.

Most recently, changes were made to improve the solvency of the pension trust fund through increased contribution rates from the state, public education employers, and active members. By fiscal year 2025, contributions from all stakeholders will have increased by 2.5 percent.

These changes demonstrate the evolving nature of TRS' core functions and provide some context for the environment in which TRS is currently operating. Additionally, to effectively serve a growing membership base, TRS has long-term space needs. In recognition of this impending issue, TRS initiated long-term facilities planning as far back as 2014. TRS is actively working on a generational solution for the entire agency that is in the best interest of our members and makes sound financial sense.

Regarding the issues and findings contained in the Sunset Staff Report, TRS generally agrees with most of the recommendations. The following input is provided on behalf of the TRS Board and staff:

**Issue 1: TRS Needs to Repair Its Relationship With Its Members by Focusing on Their Needs.**

*1.1 Require TRS to develop a communication and outreach plan to better help members and employers plan for retirement.*

TRS agrees with this recommendation and will develop a communication and outreach plan to better educate members and employers on TRS benefits.

Over the last eight years, TRS has taken the initiative to improve member communications by developing a series of member education videos, for placement on the TRS website. TRS continues to create additional videos to offer members more electronically available information so they may consume that content at a time convenient for them. TRS is also in the process of creating a series of customized presentations for Early Career, Mid-Career, and Retirement Eligible members. The goal is to tailor information for members based on their career arc to make information more relevant and meaningful.

TRS recognizes the importance of communicating with our members using clear, easy to understand language. In spring 2020, we will begin conducting a comprehensive assessment of our website to test for readability and ease of locating information. With the assessment results, TRS will make continuous improvements to our website. Additionally, our professional communications staff will undertake formal training and launch a plain language initiative at TRS. This entails reviewing all our publications to make sure they are as user friendly and accessible as possible. As publications and educational materials come up for review on an annual or an as-needed basis, our editorial staff will work to replace complex words and concepts with plain language substitutes. Our goal is to make it easier for our members to read, understand, and use our communications.

TRS reaches out to members by conducting in-person visits to locations throughout Texas on a regular basis. Given the state's size and the limited number of staff available to travel extensively, TRS focuses its limited resources on key, geographically central locations to reach as many members as possible. TRS is actively assessing opening a regional office on a pilot basis to improve service to members in areas remote from Central Texas. TRS would need to increase staffing levels to conduct more in-person visits outside of Austin or open a regional office.

TRS currently provides training to employers on TRS employer reporting laws and rules and has a dedicated employer section on its external-facing website. In addition, TRS meets monthly with an Employer Advisory Group to communicate changes and solicit feedback. This forum allows employers to submit questions in advance, allowing staff time to research and provide accurate information. The minutes of these meetings are posted to the employer page of the website, allowing all employers to view the information. Given the complexity and dynamic nature of TRS benefit information, relying on employers to provide the same level of benefit information as expertly trained TRS staff involves substantial risk. Members make irrevocable lifetime financial decisions based on the information they receive. TRS often receives appeals from members citing they received incorrect information from their employer. Requiring employers to keep up to date with complex nuances of state and federal laws may not be in the best interest of our members.

TRS will develop a comprehensive communication and outreach plan that incorporates the current activities listed above as well as identifying and implementing new ways to more effectively reach, inform, and serve our members. TRS has statutory limitations on providing financial or legal advice to members and a fiduciary duty to administer the plan in a prudent manner. In addition, under the plan qualification requirements set forth under Internal Revenue Code Section 401(a), trust assets must be maintained for the exclusive benefit of the members and their beneficiaries. Given these fiduciary duties, as well as state and federal statutory and regulatory limits, TRS must be cautious that it is serving members as a group. TRS cannot and should not address every individual's personal financial situation in depth, particularly as to financial products not administered by TRS.

*1.2 Require TRS to make improved efforts to return contributions to inactive members before funds are forfeit.*

TRS agrees we should improve our efforts to remain in contact with members whose accounts go to a forfeited or inactive status. TRS will work to add additional processes that will maintain contact annually with those members who have accounts that have not yet been withdrawn and are no longer earning interest. TRS also agrees that Texas Government Code §825.502, Payment of Contributions to a Member Absent from Service, should be modified to align state law with the federal law requirements and proposes that any statutory changes be broadly worded to allow flexibility in the event of a change in federal law or IRS guidance related to locating inactive or missing participants.

In response to the management action that TRS publish a link to the Comptroller's unclaimed property website and report inactive members to the Comptroller, TRS notes any information sent to the Comptroller is confidential under both Texas Government Code §§821.010, Provision of Certain Information to Comptroller, and 825.507, Record Confidentiality, and cannot be published on the unclaimed property list because that list is public. A statutory change would be required to address this directive. To the extent such a statutory change is proposed, lawmakers should consider recent pension plan data breaches and the potentially increased risk of data breaches if pension plan membership information is made public.

*1.3 Direct TRS to adopt a member engagement policy to increase transparency on key decisions.*

TRS agrees with this recommendation and will develop a policy to engage members in major TRS decisions that impact the fund or their benefits.

In developing the member engagement policy, TRS will hold stakeholder meetings to ensure the engagement process is both useful and accessible. Currently, TRS webcasts all board meetings, where key issues are discussed prior to implementation. Those meetings are then archived by agenda item for one year so even active educators who are at work during TRS Board meetings can access and watch the webcast later to review discussions from earlier meetings. However, TRS realizes not all members or retirees are familiar with or comfortable navigating the webcast to watch discussion of major TRS decisions. Therefore, TRS will explore best practices to engage and provide information on key decisions to members in other mediums that are easier to access.

TRS also provides comprehensive information about major projects on its website, social media channels and via TRS newsletters. TRS agrees that more comprehensive information regarding proposed initiatives can be provided in these channels and will survey other Texas state government agencies that can serve as a model for how TRS can better utilize various media channels and engage stakeholders.

## **Issue 2: TRS Needs More Effective Contract Management and Oversight.**

### *2.1 Direct TRS to fully centralize contracting functions and clarify roles and responsibilities between central contracts department staff and division staff managing contracts.*

TRS agrees with this recommendation.

TRS is in the process of enhancing and maturing its procurement and contracts processes. TRS regularly reports to the board on progress being made in this area. In 2019, TRS was included in contracting legislation that established additional oversight and requirements in contracting and procurement.

Recognizing the importance of the procurement and contracting function, TRS included a new objective in its strategic plan focused on improving and maintaining effective procurement and contract management practices. Progress related to this objective will be regularly reported to the Strategic Planning Committee of the board.

With regards to recommendation 2.1, TRS is drafting a new Procurement and Contract Management Guide (Guide). The Guide will clearly define the role of the Procurement and Contracts Department (P&C) as having oversight of all agency contracting activities, as well as the roles for agency staff responsible for procuring and managing contracts.

P&C oversight functions defined in the Guide will include tracking procurement training and certification status of staff who procure or manage contracts; assisting business units in utilizing the appropriate standard contract terms and remedies when developing contracts and purchase order documents; and overseeing TRS' contract monitoring activities by providing guidance, job aids, monitoring tools and training.

### *2.2 Direct TRS to enhance its contract monitoring process.*

TRS agrees with this recommendation.

As a result of legislation enacted in 2019, TRS developed a standard vendor performance form based on the Comptroller's Vendor Performance Tracking System (VPTS) portal. TRS' contract sponsors are required to complete a vendor performance form for all contracts or purchase orders that are \$25,000 or more before a contract or purchase order can be renewed and within 30 days of the close of a contract or purchase order. P&C is responsible for overseeing this process and uploading the information to the VPTS. As a routine practice, P&C verifies and documents a vendor's grade within the VPTS portal prior to executing a contract or purchaser order.

The Guide will include policies requiring evaluations of contractor performance during and after the life of the contract and requiring that divisions collect and review vendor performance data before procuring new contracts.

In 2019, P&C provided agency training on how to complete the vendor performance form and document vendor performance issues. This training will be repeated on an annual basis. As part of the training, P&C will develop additional monitoring tools and vendor performance logs that will be used to document vendor performance throughout the life of the contract. In addition, an escalation process for vendor performance issues will be developed that will include when corrective actions, liquidated damages, or other established remedies should be exercised.

P&C will develop a monitoring and oversight plan of the agency's contract sponsors to ensure contract monitoring activities are being followed.

*2.3 Direct TRS to include standard remedies in contracts and consistently apply enforcement tools.*

TRS agrees with this recommendation.

Pursuant to legislation enacted in 2019, TRS developed terms and conditions that include all of the required provisions as stated in the Comptroller's Contract Management Guide. Additionally, TRS' standard terms and conditions include a remedies schedule per Texas Government Code §2261.101, Remedies and Sanctions Schedules. TRS is also developing a remedies tracking tool, in addition to the other contract monitoring tools described above, as well as a standardized process for making determinations regarding liquidated damages.

*2.4 Direct TRS to require staff who procure or manage contracts to complete the comptroller's contract training.*

TRS agrees with this recommendation.

Pursuant to Texas Government Code §656.052, Training and Certification for Contract Managers, TRS will ensure all TRS staff that procure or manage contracts as a significant portion of their job obtain the Comptroller's Certified Texas Contract Manager certification. Additionally, P&C will develop a mandatory contract management training for all TRS staff that have meaningful work related to contracting or interaction with contract vendors.

**Issue 3: As One of the Largest Public Pension Funds in the U.S., TRS Would Benefit From Additional Oversight and Greater Transparency of Its Investment Practices.**

*3.1 Direct TRS to perform a cost-benefit analysis of implementing an enhanced investment accounting system to provide increased oversight of the custodian bank's accounting data.*

TRS agrees with this recommendation.

TRS agrees an effective oversight and controls process for Custodian accounting data is essential to a successful financial reporting function. Under the current operating model, TRS independently reconciles investment transactions and utilizes multiple independent investment systems. This model is reconciled to the accounting records of State Street, TRS' Custodian, on a daily, monthly, and annual basis. Additionally, TRS has always received a clean audit opinion with respect to its Comprehensive Annual Financial Report (CAFR) from Texas State Auditor's Office with no material findings, weaknesses or deficiencies.

Like other large United States defined benefit plans, TRS uses the Custodian as the official investment accounting book of record. As such, the Custodian is also the official source of all CAFR investment reporting. In October 2019, TRS launched a strategic initiative with the goal to improve the oversight and controls process for investment accounting data and financial reporting. As part of this initiative, TRS will review parallel investment accounting system and automated reconciliation options along with costs to implement and maintain these systems. The target to complete this project is December 2020.

*3.2 Direct TRS to have its Internal Investment Committee review internal investments and strategies.*

TRS agrees with this recommendation and will propose an investment policy change to the board by the end of calendar year 2020. TRS recognizes the need and importance of consistent and thorough oversight for internally managed investment strategies. While this process is not explicitly required by the TRS Investment Policy Statement, TRS began using the Internal Investment Committee to review new internally managed investment strategies in 2012. Further, the board has controls in place to monitor internally managed portfolios. Examples include adherence to asset allocation overweight and underweight ranges and portfolio risk relative to the benchmark (tracking error) limits. The board also receives reporting on internally managed portfolios from the Investment Management Division and actively monitors compliance violations.

*3.3 Direct TRS to include clear, easily understandable information about alternative investments in its Comprehensive Annual Financial Report.*

TRS agrees with this recommendation and will add an easy-to-understand graphical representation of alternative investments to the fiscal year 2020 CAFR. TRS agrees that offering clear and relevant information to the users of the CAFR is pertinent to the ongoing transparency of our business. While the term "alternative investments" has a very broad definition across the institutional investment management industry, TRS agrees this recommendation will be helpful to explain the evolution of the investment program.

**Issue 4: TRS' Statutes Do Not Reflect Some Standard Elements of Sunset Reviews.**

*4.1 Update the standard across-the-board requirement related to board member training.*

TRS agrees with this recommendation.

Ms. Jennifer Jones  
April 30, 2020  
Page 7

Every two years, when new trustees are appointed to the board, TRS provides orientation training. The training manual is then uploaded to Diligent, a board management software tool, for all trustees to review. Currently, the past two orientation training materials are available for the trustees. Additionally, TRS provides annual training for the trustees to meet its own fiduciary training requirement established within the Trustee Ethics Policy and Board Training Policy. The board also complies with the Pension Review Board's Minimum Education Training requirements.

*4.2 Abolish three, modify two, and consolidate two of TRS' reporting requirements.*

TRS agrees with this recommendation.

*4.3 Update TRS' statute to reflect the requirements of the person-first respectful language initiative.*

TRS agrees with this recommendation provided that the changes to the language do not substantively modify the statutes at issue, in particular the eligibility standard for disability retirement.

*4.4 Direct TRS to develop and maintain a system for receiving and responding to complaints.*

TRS agrees with the recommendation to further enhance its current complaint tracking process by developing and maintaining a centralized system for the various sources of complaints to the agency. Currently, TRS fully complies with the Compact with Texans statutory requirements. The recommendation to centralize complaint management is a best practice TRS started working towards this past year.

With regard to the fiscal impact of the recommendations, some of the items can be implemented within existing resources while others will require a budgetary increase. These increases will not have an impact on the state budget as they will be funded out of the pension trust fund.

I look forward to discussing these recommendations with the Sunset Advisory Commission in the months ahead and to working with the 87<sup>th</sup> Texas Legislature to successfully implement the recommendations and complete the Sunset review process.

Sincerely,



Brian Guthrie  
Executive Director

cc: Mr. Jarvis V. Hollingsworth, Chair, TRS Board of Trustees  
Ms. Nanette Sissney, Vice Chair, TRS Board of Trustees  
Representative John Cyrier, Chair, Sunset Advisory Commission  
Senator Dawn Buckingham, M.D., Vice Chair, Sunset Advisory Commission

November 12,  
2020

## Texas Sunset Advisory Committee

**Executive Summary:** TRS agrees with the vast majority of Sunset Staff recommendations and has begun implementation in many areas.

### ISSUE 1 – TRS NEEDS TO REPAIR ITS RELATIONSHIP WITH ITS MEMBERS BY FOCUSING ON THEIR NEEDS

#### ***1.1 Require TRS to develop a communication and outreach plan to better help members and employers plan for retirement.***

TRS agrees with a majority of the recommendations in this section and is developing a communication and outreach plan to better educate members and employers on TRS benefits.

TRS Implementation: TRS is involving its members, employers, and other stakeholders in developing the communication and outreach plan. In October 2020, TRS hosted sessions with employers and stakeholders to seek input on how TRS communicates with members regarding their benefits and retirement planning. The sessions will help develop the member engagement policy and guide future efforts to inform and educate our members.

Sunset staff recommends TRS offer additional options for counseling by phone or different locations outside of Austin. TRS began offering online video conferencing sessions in October 2016 but limited numbers of members took advantage of the opportunity. Since the start of the pandemic in March 2020, all in person counseling sessions were converted to online video or phone. As of October 26, 2020, TRS reopened its offices for appointment only in-person sessions. TRS is actively assessing opening a regional office on a pilot basis to improve service to members in areas remote from Central Texas. TRS included pursuing a pilot office in the FY 2022-23 Legislative Appropriations Request.

TRS does not provide retirement estimates for non-vested members as state law requires an employee to establish five years of service credit to be eligible for service retirement. Beginning this fiscal year, TRS included information in the annual member statement on the three pillars of retirement: personal savings, TRS Pension, and Social Security.

TRS is also in the process of creating a series of customized presentations for Early-Career, Mid-Career, and Retirement Eligible members. Our professional communications staff have recently received training on using plain language in communications to help make it easier for members and other stakeholders to understand and use TRS publications. TRS has begun reviewing all TRS publications to make sure they are as user friendly and as accessible as possible. As publications and educational materials come up for review on an annual or an as-needed basis, our editorial staff will work to replace complex words and concepts with plain language substitutes.

Lastly, Sunset staff recommended TRS enhance training for employers and create a portal that focuses on assistance with not just reporting, but also on other aspects of employers' work with TRS

and members, such as counseling employees about employment after retirement, benefits for retirees, and health insurance enrollment. However, TRS often receives appeals from members citing they received incorrect information from their employer. Given the complexity and dynamic nature of TRS benefit information, relying on employers to provide the same level of benefit information as expertly trained TRS staff involves substantial risk. Requiring employers to keep up to date with complex nuances of state and federal laws may not be in the best interest of our members.

To help mitigate these concerns, TRS is in the process of reaching out to employers to solicit feedback on TRS resources that could be included in an employer "Tool Kit" such as information regarding counseling, employment after retirement regulations, and health insurance benefits.

Legislative Action Required: Sunset staff recommends a change in statute to replace the current requirement for TRS to adopt a benefit counseling policy and instead require a communication and outreach plan. TRS adopted the Benefit Counseling Policy at the September 2020 Board meeting and is in the process of developing the communication and outreach plan in advance of the September 2021 Sunset deadline. TRS does not believe statutory language is required as both plans would exist.

As TRS develops a comprehensive communication and outreach plan that implements new ways to more effectively reach, inform, and serve our members it is important to note TRS has statutory limitations on providing financial or legal advice to members and a fiduciary duty to administer the plan in a prudent manner. In addition, under the plan qualification requirements set forth under Internal Revenue Code Section 401(a), trust assets must be maintained for the exclusive benefit of the members and their beneficiaries. Given these fiduciary duties, as well as state and federal statutory and regulatory limits, TRS must be cautious that it is serving members as a group. TRS cannot and should not address every individual's personal financial situation in depth, particularly as it relates to financial products not administered by TRS.

### ***1.2 Require TRS to make improved efforts to return contributions to inactive members before funds are forfeit.***

TRS agrees we should improve our efforts to remain in contact with members whose accounts go to a forfeited or inactive status. TRS will work to add additional processes that will maintain contact annually with those members who have accounts that have not yet been withdrawn and are no longer earning interest.

TRS Implementation: In FY 21, TRS will send an annual notification of account balance to inactive members who have less than five years of service credit.

Legislative Action Required: In response to the management action that TRS publish a link to the Comptroller's unclaimed property website and report inactive members to the Comptroller, TRS notes any information sent to the Comptroller is confidential under both Texas Government Code §§821.010, Provision of Certain Information to Comptroller and 825.507, Record Confidentiality, and cannot be published on the unclaimed property list because that list is public.

**1.3 Direct TRS to adopt a member engagement policy to increase transparency on key decisions.**

TRS agrees with this recommendation and will develop a policy to engage members in major TRS decisions that impact the fund or their benefits.

TRS Implementation: TRS staff presented a draft Member Engagement Policy to the TRS Board of Trustees (Board) in September 2020 and will present the final policy for adoption at the Board's meeting in December. In developing the Member Engagement Policy, TRS is seeking stakeholder input to ensure the engagement process is both useful and accessible.

Legislative Action Required: None

## ISSUE 2 – TRS NEEDS MORE EFFECTIVE CONTRACT MANAGEMENT AND OVERSIGHT

**2.1 Direct TRS to fully centralize contracting functions and clarify roles and responsibilities between central contracts department staff and division staff managing contracts.**

TRS agrees with this recommendation.

TRS Implementation: TRS drafted a new Procurement and Contract Management Guide (Guide) that will be finalized by the first quarter of the 2021 calendar year. The Guide will clearly define the role of the Procurement and Contracts Department (P&C) as having oversight of all agency contracting activities, as well as the roles for agency staff responsible for procuring and managing contracts. P&C oversight functions defined in the Guide will include tracking procurement training and certification status of staff who procure or manage contracts; assisting business units in utilizing the appropriate standard contract terms and remedies when developing contracts and purchase order documents; and overseeing TRS' contract monitoring activities by providing guidance, job aids, monitoring tools and training. The Guide will include policies requiring evaluations of contractor performance during and after the life of the contract and requiring that divisions collect and review vendor performance data before procuring new contracts.

Legislative Action Required: None

**2.2 Direct TRS to enhance its contract monitoring process and require staff who procure or manage contracts to complete the comptroller's contract training.**

TRS agrees with this recommendation.

TRS Implementation: In 2019, P&C provided agency training on how to complete the vendor performance form and document vendor performance issues. This training will be repeated on an annual basis beginning in March 2021. As part of the training, P&C will develop additional monitoring tools and vendor performance logs that will be used to document vendor performance throughout the life of the contract. In addition, an escalation process for vendor performance issues

will be developed that will include when corrective actions, liquidated damages, or other established remedies and when these should be exercised. TRS will develop a monitoring and oversight plan of the agency's contract sponsors to ensure contract monitoring activities are being followed.

Legislative Action Required: None

### ***2.3 Direct TRS to include standard remedies in contracts and consistently apply enforcement tools.***

TRS agrees with this recommendation.

TRS Implementation: Pursuant to legislation enacted in 2019, TRS developed terms and conditions that include all of the required provisions as stated in the comptroller's contract management guide. Additionally, TRS' standard terms and conditions include a remedies schedule per Texas Government Code §2261.101, Remedies and Sanctions Schedules. TRS developed a remedies tracking tool, in addition to the other contract monitoring tools described above, as well as a standardized process for making determinations regarding liquidated damages.

Legislative Action Required: None

### ***2.4 Direct TRS to require staff who procure or manage contracts to complete the comptroller's contract training.***

TRS agrees with this recommendation.

TRS Implementation: Pursuant to Texas Government Code §656.052, Training and Certification for Contract Managers, TRS will ensure all TRS staff that procure or manage contracts as a significant portion of their job obtain the comptroller's Certified Texas Contract Manager training. Additionally, P&C will develop a mandatory contract management training for all TRS staff that have meaningful work related to contracting or interaction with contract vendors.

Legislative Action Required: None

## **ISSUE 3 – AS ONE OF THE LARGEST PUBLIC PENSION FUNDS IN THE U.S., TRS WOULD BENEFIT FROM ADDITIONAL OVERSIGHT AND GREATER TRANSPARENCY OF ITS INVESTMENT PRACTICES.**

### ***3.1 Direct TRS to perform a cost-benefit analysis of implementing an enhanced investment accounting system to provide increased oversight of the custodian bank's accounting data.***

TRS agrees an effective oversight and controls process for Custodian accounting data is essential to a successful financial reporting function. Under the current operating model, TRS independently reconciles investment transactions and utilizes multiple independent investment systems. Additionally, TRS has always received a clean audit opinion with respect to its Comprehensive

Annual Financial Report (CAFR) from Texas State Auditor's Office with no material findings, weaknesses or deficiencies. TRS will review parallel investment accounting system and automated reconciliation options along with costs to implement and maintain these systems.

TRS Implementation: TRS staff selected a vendor to provide cost-benefit analysis of a parallel accounting system and results will be presented to the Board in December 2020. The analysis will include recommendations to the Board of Trustees, including estimated costs and any benefits to the pension trust fund.

Legislative Action Required: None

### ***3.2 Direct TRS to have its Internal Investment Committee review internal investments and strategies.***

TRS agrees with this recommendation.

TRS Implementation: The Board updated the Investment Policy Statement in September 2020 to require the Internal Investment Committee (IIC) to review all new actively managed internal investment strategies. While this process was not explicitly required by the TRS Investment Policy Statement, TRS began using the IIC to review new internally managed investment strategies in 2012. Further, the Board has controls in place to monitor internally managed portfolios. The Board also receives reporting on internally managed portfolios from the Investment Management Division and actively monitors compliance violations.

Legislative Action Required: None

### ***3.3 Direct TRS to include clear, easily understandable information about alternative investments in its Comprehensive Annual Financial Report.***

TRS agrees with this recommendation.

TRS Implementation: TRS reviewed options from ERS, CalSTRS, and PERS as examples of how to best show alternative investments. This year's CAFR will include new graphs that will provide easily understandable information regarding alternative investments. The CAFR will be released in November 2020.

Legislative Action Required: None

## **ISSUE 4 – TRS' STATUTES DO NOT REFLECT SOME STANDARD ELEMENTS OF SUNSET REVIEWS.**

### ***4.1 Update the standard across-the-board requirement related to board member training.***

Every two years, when new trustees are appointed to the Board, TRS provides orientation training. Additionally, TRS provides annual training for the trustees to meet its own fiduciary training

requirement established within the Trustee Ethics Policy and Board Training Policy. The Board also complies with the Pension Review Board's Minimum Education Training requirements.

TRS Implementation: Not applicable

Legislative Action Required: Yes, in order to match standard across-the-board language.

***4.2 Abolish three, modify two, and consolidate two of TRS' reporting requirements.***

TRS agrees with this recommendation.

TRS Implementation: Not applicable

Legislative Action Required: Yes

***4.3 Update TRS' statute to reflect the requirements of the person-first respectful language initiative.***

TRS agrees with this recommendation provided the changes do not substantively modify the statutes at issue, in particular the eligibility standard for disability retirement.

TRS Implementation: Not applicable

Legislative Action Required: Yes

***4.4 Direct TRS to develop and maintain a system for receiving and responding to complaints.***

TRS agrees with the recommendation.

TRS Implementation: TRS fully complies with the Compact with Texans statutory requirements. The recommendation to centralize complaint management is a best practice TRS started working towards this past year. In order to further enhance its current complaint tracking process, TRS created a central repository to track and manage various complaints, comments, and inquiries. The repository is managed by Legal & Compliance with workflows and responses executed by the appropriate divisions.

Legislative Action Required: None

---

## TRS SELF-EVALUATION REPORT

TRS' Self-Evaluation Report identified four major policy issues:

Policy Area	Known Issues	Possible Solutions
Employment After Retirement	<ul style="list-style-type: none"> <li>● EAR Laws &amp; Rules are complex</li> <li>● Stakeholders express concerns</li> <li>● Employers rely on retirees to fill positions</li> <li>● Retirees rely on employers to assist with EAR limits</li> <li>● Employers are ill-equipped to advise retirees on limits</li> <li>● No agreement on break in service timeframe</li> <li>● Penalty for violations is steep</li> </ul>	<ul style="list-style-type: none"> <li>● Find ways to simplify EAR Laws &amp; Rules</li> <li>● Require all retirees to have a 12-month break in service</li> <li>● Dollar-for-dollar reduction penalty versus full annuity payment for violations</li> </ul>
Disability Retirement Requirements	<ul style="list-style-type: none"> <li>● Medical case management</li> <li>● Lack medical knowledge</li> <li>● Efficiency</li> <li>● HIPPA associated risks</li> <li>● Members with ten years of service credit vest in disability benefits even if disability is not related to TRS-covered employment</li> <li>● Disability earnings limit monitoring cost versus benefit</li> </ul>	<ul style="list-style-type: none"> <li>● Allow outsourcing board activities</li> <li>● Require applicants that apply while in a non-TRS covered position to prove that they left public education due to the disability</li> <li>● Eliminate the earned income limitation</li> </ul>
Enhance Investment Flexibility: Real Estate Provisions	<ul style="list-style-type: none"> <li>● TRS refers to securities law as the primary source to interpret what investments are eligible "securities".</li> <li>● Since real estate is not itself a "security," TRS is prohibited from investing "directly" in real estate, unlike many other public pension funds and institutional investors.</li> </ul>	<ul style="list-style-type: none"> <li>● Define securities for TRS purposes to include stock in wholly-owned real estate title-holding corporations controlled by TRS.</li> <li>● This could improve trust returns by reducing fees paid to fund general partners and managers.</li> </ul>
TRS-Care and TRS-ActiveCare Affordability and Viability	<ul style="list-style-type: none"> <li>● TRS health programs are funded on a pay-as-you-go basis, however the statutory funding structures do not support the ongoing costs of a health care program.</li> <li>● As a result, the programs require annual or biennial intervention, additional funds, or premium increases by the legislature and the board of trustees to accommodate routine cost growth in health care markets.</li> </ul>	<ul style="list-style-type: none"> <li>● Consider the statutory funding structure and evaluate whether a change in mechanism might offer a more stable structure moving forward as neither plan's funding is tied to health care costs.</li> <li>● Amend Texas Insurance Code Section 1579.251 to make a direct appropriation to TRS for the state contribution to TRS-ActiveCare.</li> <li>● Address adverse selection and school district preferences</li> </ul>

Sunset Staff Recommendations	TRS Concerns
<p><u>1.1 Statutory Change:</u></p> <ul style="list-style-type: none"> <li>• TRS would be required to create a communication and outreach plan to improve the information it provides to members and employers, and ensure materials are user-friendly and easy to understand, as directed by state law. TRS would be required to develop the plan by September 1, 2021, and present it to the board for approval at the September 2021 board meeting, with an expected implementation date of December 1, 2021. TRS should review and update the plan every five years. This recommendation would replace the existing statutory requirement for TRS to develop a benefit counseling policy. This recommendation would help ensure members and employers receive the information they need from TRS to make informed retirement decisions.</li> <li>• Enhance training for employers and create a portal that focuses on assistance with not just reporting, but also on other aspects of employers' work with TRS and members, such as counseling employees about employment after retirement, benefits for retirees, and health insurance enrollment.</li> </ul>	<ul style="list-style-type: none"> <li>• Both plans will exist. Development of the Communications &amp; Outreach Plan is underway through management actions and a statutory change is not needed. The Benefit Counseling Policy was adopted by the Board in September and will be updated as needed and in accordance with the Policy Review Schedule. <ul style="list-style-type: none"> <li>○ TRS has statutory limitations on providing financial or legal advice to members and a fiduciary duty to administer the plan in a prudent manner.</li> <li>○ Under plan qualification requirements set forth under Internal Revenue Code Section 401(a), trust assets must be maintained for the exclusive benefit of the members and their beneficiaries. Given these fiduciary duties, as well as state and federal statutory and regulatory limits, TRS must be cautious that it is serving members as a group. TRS cannot and should not address every individual's personal financial situation in depth, particularly as it relates to financial products not administered by TRS.</li> </ul> </li> <li>• TRS often receives appeals from members citing they received incorrect information from their employer. <ul style="list-style-type: none"> <li>○ Requiring employers to keep up to date with complex nuances of state and federal laws may not be in the best interest of our members.</li> <li>○ Given the complexity and dynamic nature of TRS benefit information, relying on employers to provide the same level of benefit information as expertly trained TRS staff involves substantial risk.</li> </ul> </li> </ul>
<p><u>1.2 Management Action:</u></p> <ul style="list-style-type: none"> <li>• TRS would be directed to submit the required report on inactive members to the comptroller's office, including members whose contributions are currently treated as forfeit, and publish a link to the unclaimed property database on the TRS website.</li> </ul>	<ul style="list-style-type: none"> <li>• Any information sent to the Comptroller is confidential under both Texas Government Code §§821.010, Provision of Certain Information to Comptroller, and 825.507, Record Confidentiality, and cannot be published on the unclaimed property list because that list is public.</li> </ul>