

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2070

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2070

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 15, 1999

Tape Number	Side A	Side B	Meter #
1	X		3308-END
1		X	0-559
Committee Clerk Signature <i>James A. Raile</i>			

Minutes: CHAIRMAN KREBSBACH opened the hearing on SB 2070. SB 2070 relates to definitions, eligibility for benefits, vesting, early retirement, annuities, death of a member, withdrawals, and purchase of additional credit under the teachers' fund for retirement.

Appearing before the committee to outline the contents of the bill was FAY KOPP, Retirement Officer with the ND Teachers Fund for Retirement. A copy of her written testimony is attached. In summary she explained the changes this bill would make section by section and encouraged the committee to give this bill its favorable consideration. There were no questions offered from committee members. Also appearing to give testimony in support of SB 2070 was TOM TUPA, representing the North Dakota Retired Teachers Association, RON TORGESON, with NDCEL- the North Dakota Council of Educational Leaders, and MAX LAIRD, with the North Dakota Education Association. Each of these encouraged a do pass from the committee. There was nothing further offered in support, neutral position, or opposition to SB 2070. CHAIRMAN

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2070 Minutes

Hearing Date January 15, 1999

KREBSBACH closed the hearing on SB 2070 at this time. Following a vote on SB 2069

CHAIRMAN KREBSBACH asked the committee if they had any further questions on SB 2070.

SENATOR W. STENEHJEM asked Fay Kopp to elaborate on beneficiary changes including

spousal claims in the case of someone else having been named as a beneficiary. SENATOR

KILZER AND SCOTT ENGMANN became involved in the discussion (Tape 1, Side B, Meter

#340) There was no further discussion from the committee. A motion for a DO PASS on SB

2070 was made by SENATOR WARDNER, seconded by SENATOR THANE. ROLL CALL

VOTE indicated 7 YEAS, 0 NAYS, and 0 ABSENT OR NOT VOTING. SENATOR

WARDNER volunteered to carry the bill.

FISCAL NOTE

Return original and 10 copies)

Bill/Resolution No.: SB 2070 Amendment to:

Requested by Legislative Council Date of Request: 12-30-98

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

There will be no cost to the General Fund with the Adoption of this bill. Small actuarial cost will be paid from Actuarial reserves in the Trust Fund.

- 2. State fiscal effect in dollar amounts:

Table with 3 columns: 1997-99 Biennium (General Fund, Special Funds), 1999-2001 Biennium (General Fund, Special Funds), 2001-03 Biennium (General Fund, Special Funds). Rows: Revenues (None), Expenditures.

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: None
b. For the 1999-2001 biennium: None
c. For the 2001-03 biennium: None

- 4. County, City, and School District fiscal effect in dollar amounts:

Table with 3 columns: 1997-99 Biennium (Counties, Cities, School Districts), 1999-2001 Biennium (Counties, Cities, School Districts), 2001-03 Biennium (Counties, Cities, School Districts). Row: None.

If additional space is needed, attach a supplemental sheet.

Signed [Signature]

Typed Name Scott Engmann

Date Prepared: 1-6-99

Department ND Retirement & Investment Office

Phone Number 328-9885

Date: 1/15/99
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2070

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Wardner Seconded By Sen. Thane

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Wardner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 15, 1999 12:49 p.m.

Module No: SR-09-0696
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2070: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2070
was placed on the Eleventh order on the calendar.

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2070

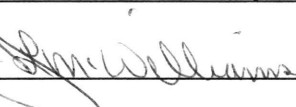
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2070

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-25-1999

Tape Number	Side A	Side B	Meter #
1	X		40 - 60.0
1		X	0 - 8.1
2		X	2.3 - 6.5
Committee Clerk Signature 			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information. **Side B of the tape is defective.**

Representative Klein, Chairman of the GVA Committee opened the hearing on February 25, 1999.

Summary of the Bill: Relating to definitions, eligibility for benefits, vesting, early retirement, annuities, death of member, withdrawals, and purchase of additional credit under the teachers fund for retirement. Also, relating to partial service retirements under the teachers fund for retirement.

Testimony in Favor:

Fay Kopp, NDRIO/TFFR submitted written testimony to the committee which she read in it's entirety (**please refer to her testimony**). Her testimony is an explanation of the bill section by

section. Most of the changes are administrative in nature or design to bring statute into compliance.

Representative Klein, On the fiscal note, the actuarial cost? What's the new time frame?

Kopp, It's that 5 %. This would remove the one year time frame.

Representative Klein, Can an employee purchase credit?

Kopp, If they have worked for a five year time period, they can purchase air time credit to get to the rule of 85. They have to be vested.

Representative Kroeber, By service credit, is this in excess of the 6000 dollars?

Kopp, Varies on each participant.

Representative Grande, Do substitute instructors qualify?

Kopp, Substitutes are non contracted employees so they would not be eligible. If they are contracted, they would be eligible.

Representative Klein, Why are you repealing the section in the bill?

Kopp, It could be an IRS issue/problem.

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SB 2070.

Committee Action:

Representative Hawken, Made a motion for a Do Pass.

Representative Kroeber, Seconded the motion.

Representative Thoreson, Does this change the vesting from 5 years to 3 years?

Representative Kroeber, You have to have 5 years of teaching and then a person could buy additional years. A maximum of 5 years is what you could buy.

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2070

Hearing Date 2-25-1999

Motion Passes: Do Pass **15-0**.

Representative Haas, Is the carrier for the bill.

Date: 2-25-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2070

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By HAWKIN Seconded By KROEBER

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment HAAS

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 25, 1999 2:25 p.m.

Module No: HR-34-3602
Carrier: Haas
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2070: Government and Veterans Affairs Committee (Rep. Klein, Chairman)
recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2070
was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2070

**REPORT OF THE LEGISLATIVE COUNCIL'S
EMPLOYEE BENEFITS PROGRAMS COMMITTEE
SENATE BILL NO. 2070**

Sponsor: Board of Trustees

Affected Retirement Program: Teachers' Fund for Retirement

Proposal: Changes the definition of beneficiary for purposes of the Teachers' Fund for Retirement to the person designated in writing by the member except that in the absence of such designation, if the member is married, the member's spouse must be the primary beneficiary, but if the member is married, and if the member wishes to name an alternate beneficiary, the member's spouse must consent in writing to the member's designation; deletes the provision that salary received by a member in lieu of previously employer-provided fringe benefits must have been under an agreement between the member and participating employer which was entered into within 60 months before retirement to be excluded from salary; reduces the vesting period from five years to three years; provides that retirement benefit payments must be made over a period of time that does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary; provides that early retirement benefits must be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier of age 65 or the age at which current service plus age equals 85; provides that before payment of a benefit claim, the member's surviving spouse, if any, must consent in writing to the member's choice of benefit payment option for any benefit payments commencing after June 30, 1999; requires a teacher to provide proof of eligibility under rules adopted by the board in order to purchase additional credit; deletes the requirement that a teacher must have completed five years of creditable service in this state before becoming eligible to purchase credit for years of teaching at an out-of-state school; deletes the requirement that service credit for a legislative session must be purchased within one year after the adjournment of that legislative session; deletes the requirement that service credit for a teacher who was elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching must be purchased within one year after the teacher leaves the position; allows a teacher who has at least five years of teaching service credit in the fund to purchase up to five years of credit not based on service for use toward retirement eligibility and benefits; and repeals NDCC Section 15-39.1-12.1, which provides for partial service retirements under the Teachers' Fund for Retirement.

Actuarial Analysis: The reported actuarial cost of the proposal is .05 percent of total covered compensation. Thus, if both Bill No. 89 and Bill No. 88 are enacted, the remaining margin in the Teachers' Fund for Retirement will be .05 percent ($2.97 - (.05 + 2.87) = .05$).

Committee Report: Favorable recommendation.



**North Dakota
Retirement and Investment Office**

*Teachers' Fund for Retirement
State Investment Board*

1930 Burnt Boat Drive
P.O. Box 7100
Bismarck, ND 58507-7100
Telephone 701-328-9885
ND Toll Free 800-952-2970
Relay ND 800-366-6888
FAX 701-328-9897

TESTIMONY ON SB 2070

**FAY KOPP, RETIREMENT OFFICER
ND RETIREMENT AND INVESTMENT OFFICE**

JANUARY 15, 1999

SB 2070 was submitted by the Teachers' Fund for Retirement (TFFR) Board. The bill proposes a number of miscellaneous changes to TFFR statutes. Most of the changes are administrative in nature or are designed to bring the TFFR statutes into compliance with Internal Revenue Code requirements. On behalf of the TFFR Board, I am presenting the following testimony.

SECTION 1. AMENDMENT. NDCC 15-39.1-04. Definitions.

Page 1, Lines 11 – 18

- Modifies the definition of “beneficiary” so married members may name a beneficiary other than their spouse only with the written consent of their spouse. Requiring a married member to name his/her spouse as beneficiary or requiring spousal approval of an alternate beneficiary follows the private sector in protecting a spouse’s rights to a member’s retirement benefit. According to TFFR actuarial consultant, Michael Carter of Watson Wyatt Worldwide, in both the public and private sector, the Courts have been ruling in favor of spouses whether or not the retirement plan requires spousal consent.
- Most TFFR members already name their spouses as beneficiaries to their retirement accounts. But for those members who do not, it will require spousal consent to name a non-spouse.

Page 2, Lines 11 - 13

- Under current law, any amounts received by a member in lieu of previously employer-provided fringe benefits could be included in salary if they were paid as a result of a written agreement entered into 60 months prior to the member’s retirement. This amendment modifies the definition of “salary” by removing the 60-month provision and no longer recognizing the conversion of fringe benefits to salary. These amounts would be excluded from salary for TFFR purposes.

Example:

Member has been receiving employer provided health insurance benefits as part of employment for 25 years with the school district. Employer and member agree that member will not receive \$400 per month of health insurance benefits and instead will receive the \$400 in salary. TFFR would not recognize the \$4,800 (12 months X \$400) of additional annual salary received by the member as part of retirement salary; therefore, TFFR would not take the \$4,800 into consideration when calculating retirement benefits nor would contributions need to be paid on that amount.

- Under federal nondiscrimination regulations, pension plans cannot discriminate in favor of highly compensated employees and employees are not allowed to modify salary arrangements to improve their retirement benefits. Consequently, states are now closely monitoring their own retirement plans to assure this is not happening. This change should help prevent intentional “spiking” of salary for the purpose of increasing retirement benefits.

SECTION 2. AMENDMENT. NDCC 15-39.1-10. Eligibility for Benefits.

Page 2, Lines 18 and 20

- Vesting is the number of years of service until someone has earned a right to draw a retirement benefit. This change would reduce vesting and eligibility for TFFR benefits from five to three years.
- A lower vesting schedule should improve portability of benefits since it will allow short-term teachers to vest and become eligible for pension benefits sooner.
- NO COST. According to TFFR’s actuarial consultant, Watson Wyatt Worldwide, the change to three-year vesting does not result in any change in the actuarial margin because of the small number of members who they believe would utilize the provision.

Page 2, Lines 26 – 30

- Adds language required by the Internal Revenue Code. This was an item identified by the IRS compliance review of the TFFR statutes that Watson Wyatt completed in May 1998. This review was carried out because the TFFR Board plans to submit the plan to the IRS for a qualification letter. The compliance review found that for the most part, the statutes are already in compliance, and only a few minor changes are necessary.

- This language will have no real impact in practice since TFFR is already making payments over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary.

SECTION 3. AMENDMENT. NDCC 15-39.1-11. Vesting of Rights.

Page 3, Lines 3 – 4

- To be consistent with Section 1, reduces vesting from five to three years.

SECTION 4. AMENDMENT. NDCC 15-39.1-12. Early Retirement.

Page 3, Lines 13 – 14

- Changes the 6% early retirement reduction from age 65 to the earlier of age 65 or the Rule of 85.

Example: Member age 60 with 24 years of service retires.

Current law - Take 30% reduction in benefits OR defer 1 year to Rule of 85.

Proposed - Take 6% reduction in benefits OR defer 1 year to Rule of 85.

- Current provisions result in a much larger reduction for members who do not have the Rule of 85 and retire. Therefore, the member will usually elect to continue in service or to defer receipt of benefits until attaining eligibility for an unreduced benefit.
- This change should help address unplanned retirements resulting from school closings, consolidations, etc. for those members who have not yet reached the Rule of 85. The early retirement reduction in these cases will be less than what it is under current statutes.
- According to TFFR's actuarial consultant, Watson Wyatt Worldwide, the change uses five basis points of the margin (.05% out of 2.97% margin available). The cost is relatively low because (i) relatively few members take early retirement, and (ii) the cost to grant a larger benefit upon early retirement is offset by the fact that members who retire earlier because of this change will forgo the larger benefit they would have received if they had continued in service.

SECTION 5. AMENDMENT. NDCC 15-39.1-16. Option of Teachers.

Page 4, Lines 6, 7, 10, 11

- Changes the requirement that under benefit payment options 3 and 4, (five and ten year term certain), payment can only be made to a beneficiary who was named at the time of retirement. Should both the member and the beneficiary named at retirement both pass away before the remainder of term certain period, the Board proposes that payments could be made to a beneficiary named by the primary beneficiary after the member's retirement and death.

Page 4, Lines 16 – 22

- Adds language requiring the member's spouse to consent in writing to the form of payment option elected by the member at retirement. Like the changes made in Section 1, this helps to protect a spouse's right to a member's retirement benefit in case of divorce or death.
- This change also identifies that the Fund can rely on the member's representations about his/her marital status, and that the spouse's written consent be witnessed by a notary or a plan representative. If the spouse does not consent to the member's choice of benefit option, or if the spouse cannot be located, the member's annuity benefit will be paid using option two, the 50% joint and survivor option.

SECTION 6. AMENDMENT. NDCC 15-39.1-17. Death of Member.

Page 5, Lines 7 and 9

- Makes a wording change for clarification purposes recommended as a result of the IRS compliance review completed by Wyatt.

SECTION 7. AMENDMENT. NDCC 15-39.1-20. Withdrawal from Fund.

Page 5, Lines 20 – 21

- Makes a wording change to be consistent with the change to three-year vesting.

Page 5, Lines 27 – 30; Page 6, Line 2

- Makes wording changes in connection with the member's right to roll over distributions to other qualified retirement plans. This was also recommended in the IRS compliance review.

SECTION 8. AMENDMENT. NDCC 15-39.1-24. Purchase of Additional Credit.

Pages 6, 7, 8, 9

- Modifies purchase of service credit provisions to bring the plan into compliance with changes in federal pension law, as recommended by the IRS compliance review. It removes certain restrictions and allows additional types of service credit to be purchased.
- Changes to purchase rules should improve service portability at no cost to the Fund, since for most kinds of service that can be purchased, the purchase price is determined actuarially. The only cases that it is not at the actuarial equivalent cost is a refund repurchased within five years of returning to teach, or military service covered under USERRA or VRRRA.
- Service purchase rule changes include:

Page 6, Lines 8 – 18

- No longer requiring members to be vested to purchase out of state service credit and removing the year for year requirement to purchase out of state service credit.

Page 6, Lines 8 – 9; Page 7, Lines 12 – 13; Page 8, Lines 10 – 11

- Allowing members to purchase approved leave of absences, and ND and out-of-state private or parochial school teaching service.

Page 7, Lines 3 – 12; Page 8, Lines 12 - 16

- No longer allowing members to purchase college credit, but substituting the right to purchase up to an additional five years of service (“air time”) once the member has earned five years of service, without regard to the kind of service.

Page 7, Lines 16 – 17; Page 8, Lines 2 – 3

- Removing the one-year time limit to purchase legislative credit and professional educational organization credit.

Page 7, Lines 28 – 29; Page 8, Lines 12 – 16

- Removing limits on the amount of additional service credit that can be purchased by a member with the exception of “air time.”

SECTION 9. REPEAL. NDCC 15-39.1-12.1. Partial Service Retirement.

Page 9, Lines 6 – 7

- To comply with Wyatt's recommendation as part of the IRS Compliance Review, the Board proposes removing the availability of partial service retirement.
- Under current statutes, a vested member may negotiate a partial service retirement agreement with their employer if employed fulltime and age 55 or older. The member must reduce employment by 20% to 60% (work 40% to 80%). A teacher that is subject to a partial service retirement agreement is not considered retired until the teacher becomes fully retired. Furthermore, a teacher subject to a partial service retirement agreement will receive a retirement pension while the teacher is employed.
- This is an IRS qualification issue. Because a member must be retired to draw pension benefits and no in-service distributions are allowed, this option may be in violation of the IRS.
- Since this option became available in 1985, only two members have ever utilized the option. There are currently no teachers under partial service retirement.

SUMMARY

- The TFFR Board designed the changes outlined in this bill to improve the administration of the retirement plan for the benefit of TFFR members and to bring the TFFR statutes into compliance with Internal Revenue Code requirements for qualified plans. Only the change in the method used for computing the early retirement reduction factor (.05% out of 2.97% margin available) will have an actuarial cost to the system.
- This bill was studied by the Legislative Employee Benefits Programs Committee and received a **favorable** recommendation from that Committee. The TFFR Board encourages this Committee to give the bill a **DO Pass** recommendation.

ND Retirement and Investment Office

*Teachers' Fund for Retirement
State Investment Board*

Scott Engmann
Executive Director

1930 Burnt Boat Drive
P.O. Box 7100
Bismarck, ND 58507-7100
Telephone 701-328-9885
ND Toll Free 800-952-2970
Relay ND 800-366-6888
FAX 701-328-9897

TESTIMONY ON SB 2070

FAY KOPP, RETIREMENT OFFICER
ND RETIREMENT AND INVESTMENT OFFICE

FEBRUARY 25, 1999

SB 2070 was submitted by the Teachers' Fund for Retirement (TFFR) Board. On behalf of the TFFR Board, I am presenting the following testimony.

SB 2070 proposes a number of miscellaneous changes to TFFR statutes. Most of the changes are administrative in nature or are designed to bring the TFFR statutes into compliance with Internal Revenue Code requirements.

SECTION 1. AMENDMENT. NDCC 15-39.1-04. Definitions.

Page 1, Lines 11 – 18

- Modifies the definition of "beneficiary" so married members may name a beneficiary other than their spouse only with the written consent of their spouse. It also provides that if a member dies without having named a contingent beneficiary to receive any remaining benefits due after the death of the beneficiary, the primary beneficiary (usually the spouse) may name a contingent beneficiary (frequently the children).
- In most states, a person's pension plan is considered to be property of the marriage. Requiring a married member to name his/her spouse as beneficiary and requiring spousal approval of an alternate beneficiary follows the private sector (governed under ERISA) in protecting a spouse's rights to a member's retirement benefit. According to TFFR actuarial consultant, Michael Carter of Watson Wyatt Worldwide, in both the public and private sector, the Courts have been ruling in favor of spouses whether or not the retirement plan requires spousal consent.
- Most TFFR members already name their spouses as beneficiaries to their retirement accounts. But for those members who do not, it will require spousal consent to name a non-spouse.

Page 2, Lines 11 - 13

- Under current law, any amounts received by a member in lieu of previously employer-provided fringe benefits could be included in salary if they were paid as a result of a written agreement entered into at least 60 months prior to the member's retirement. This amendment modifies the definition of "salary" by removing the 60-month provision and no longer recognizing the conversion of fringe benefits to salary. These amounts would be excluded from salary for TFFR purposes.

Example:

Member has been receiving employer provided health insurance benefits as part of employment for 25 years with the school district. Employer and member agree that member will not receive \$400 per month of health insurance benefits and instead will receive the \$400 in salary. Under the proposed amendment, TFFR would not recognize the \$4,800 (12 months X \$400) of additional annual salary received by the member as part of retirement salary. Therefore, TFFR would not take the \$4,800 into consideration when calculating retirement benefits nor would contributions need to be paid on that amount.

- Under federal nondiscrimination regulations, pension plans cannot discriminate in favor of highly compensated employees and employees are not allowed to modify salary arrangements to improve their retirement benefits. Consequently, states are now closely monitoring their own retirement plans to assure this is not happening. This change should help prevent intentional "spiking" of salary for the purpose of increasing retirement benefits.

SECTION 2. AMENDMENT. NDCC 15-39.1-10. Eligibility for Benefits.

Page 2, Lines 18 and 20

- Vesting is the number of years of service until someone has earned a right to draw a retirement benefit. This change would reduce vesting and eligibility for TFFR benefits from five to three years.
- A lower vesting schedule should improve portability of benefits since it will allow short-term teachers to vest and become eligible for pension benefits sooner.
- NO COST. According to TFFR's actuarial consultant, Watson Wyatt Worldwide, the change to three-year vesting does not result in any change in the actuarial margin because of the small number of members who they believe would utilize the provision.

Page 2, Lines 26 – 30

- Adds language required by the Internal Revenue Code. This was an item identified by the IRS compliance review of the TFFR statutes that Watson Wyatt completed in May 1998. This review was carried out because the TFFR Board plans to submit the plan to the IRS for a qualification letter. The compliance review found that for the most part, the statutes are already in compliance, and only a few minor changes are necessary.
- This language will have no real impact in practice since TFFR is already making payments over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary.

SECTION 3. AMENDMENT. NDCC 15-39.1-11. Vesting of Rights.

Page 3, Lines 3 – 4

- To be consistent with Section 1, reduces vesting from five to three years.

SECTION 4. AMENDMENT. NDCC 15-39.1-12. Early Retirement.

Page 3, Lines 13 – 14

- Changes the 6% early retirement reduction from age 65 to the earlier of age 65 or the Rule of 85.

Example: Member age 60 with 24 years of service retires.

Current law - Take 30% reduction in benefits OR defer 1 year to Rule of 85.

Proposed - Take 6% reduction in benefits OR defer 1 year to Rule of 85.

- Current provisions result in a much larger reduction for members who do not have the Rule of 85 and retire. Therefore, the member will usually elect to continue in service or to defer receipt of benefits until attaining eligibility for an unreduced benefit.
- This change should help address unplanned retirements resulting from school closings, consolidations, cutbacks, etc. for those members who have not yet reached the Rule of 85. The early retirement reduction in these cases will be less than what it is under current statutes.
- According to TFFR's actuarial consultant, Watson Wyatt Worldwide, the change uses five basis points of the margin (.05% out of 2.97% margin available). The cost is relatively low because (i) relatively few members take early retirement, and (ii) the cost to grant a larger benefit upon early retirement is offset by the fact that members who retire earlier because of this change will forgo the larger benefit they would have received if they had continued in service.

SECTION 5. AMENDMENT. NDCC 15-39.1-16. Option of Teachers.

Page 4, Lines 6, 7, 10, 11

- Changes the requirement that under benefit payment options 3 and 4, (five and ten year term certain), payment can only be made to a beneficiary who was named at the time of retirement. It would allow the members to change their beneficiary at any time (like Single Life Annuity option) after retirement. Should both the member and beneficiary named at retirement both pass away before the remainder of the term certain period, the Board proposes that payments could be made to a contingent beneficiary named by the primary beneficiary after the member's retirement and death.

Page 4, Lines 16 – 22

- Adds language requiring the member's spouse to consent in writing to the form of payment option elected by the member at retirement. Like the changes made in Section 1, this helps to protect a spouse's right to a member's retirement benefit in case of divorce or death.
- This change also identifies that the Fund can rely on the member's representations about his/her marital status, and that the spouse's written consent be witnessed by a notary or a plan representative. If the spouse does not consent to the member's choice of benefit option, or if the spouse cannot be located, the member's annuity benefit will be paid using option two, the 50% joint and survivor option.

SECTION 6. AMENDMENT. NDCC 15-39.1-17. Death of Member.

Page 5, Lines 7 and 9

- Makes a wording change for clarification purposes recommended as a result of the IRS compliance review completed by Wyatt.

SECTION 7. AMENDMENT. NDCC 15-39.1-20. Withdrawal from Fund/Refund.

Page 5, Lines 20 – 21

- Makes a wording change to be consistent with the change to three-year vesting.

Page 5, Lines 27 – 30; Page 6, Line 2

- Makes wording changes in connection with the member's right to roll over distributions to other qualified retirement plans. This was also recommended in the IRS compliance review. Again, there is no real impact in practice since TFFR already allows direct rollovers.

SECTION 8. AMENDMENT. NDCC 15-39.1-24. Purchase of Additional Credit.

Pages 6, 7, 8, 9

- Modifies purchase of service credit provisions to bring the plan into compliance with changes in federal pension law (Taxpayer Relief Act of 1997), as recommended by the IRS compliance review. It removes certain restrictions and allows additional types of service credit to be purchased.
- Changes to purchase rules should improve service portability at no cost to the Fund, since for most kinds of service that can be purchased, the purchase price is determined actuarially. The only cases that it is not at the actuarial equivalent cost is a refund repurchased within five years of returning to teach, or military service covered under USERRA or VRRRA.
- Service purchase rule changes include:

Page 6, Lines 8 – 18

- No longer requiring members to be vested to purchase out of state service credit and removing the year for year requirement to purchase out of state service credit.

Page 6, Lines 8 – 9; Page 7, Lines 12 – 13; Page 8, Lines 10 – 11

- Allowing members to purchase approved leave of absences, and ND and out-of-state private or parochial school teaching service.

Page 7, Lines 3 – 12; Page 8, Lines 12 - 16

- No longer allowing members to purchase college credit, but substituting the right to purchase up to an additional five years of service (“air time”) once the member has earned five years of service, without regard to the kind of service.

Page 7, Lines 16 – 17; Page 8, Lines 2 – 3

- Removing the one-year time limit to purchase legislative credit and professional educational organization credit.

Page 7, Lines 28 – 29; Page 8, Lines 12 – 16

- Removing limits on the amount of additional service credit that can be purchased by a member with the exception of “air time.”

SECTION 9. REPEAL. NDCC 15-39.1-12.1. Partial Service Retirement.

Page 9, Lines 6 – 7

- To comply with Wyatt's recommendation as part of the IRS Compliance Review, the Board proposes removing the availability of partial service retirement.
- Under current statutes, a vested member may negotiate a partial service retirement agreement with their employer if employed fulltime and age 55 or older. The member must reduce employment by 20% to 60% (work 40% to 80%). A teacher that is subject to a partial service retirement agreement is not considered retired until the teacher becomes fully retired. Furthermore, a teacher subject to a partial service retirement agreement will receive a retirement pension while the teacher is employed.
- This is an IRS qualification issue. Because a member must be retired to draw pension benefits and no in-service distributions are allowed, this option may be in violation of the IRS.
- Since this option became available in 1985, only two members have ever utilized the option. There are currently no teachers under partial service retirement.

SUMMARY

- The TFFR Board designed the changes outlined in this bill to improve the administration of the retirement plan for the benefit of TFFR members and to bring the TFFR statutes into compliance with Internal Revenue Code requirements for qualified plans. Only the change in the method used for computing the early retirement reduction factor will have an actuarial cost to the system (.05% out of 2.97% margin available).
- This bill was studied during the interim by the Legislative Employee Benefits Programs Committee and received a **favorable** recommendation from that Committee. It also passed the Senate 48 – 0. The TFFR Board encourages the House Government and Veterans Affairs Committee to give SB 2070 a **DO Pass** recommendation.