

1999 SENATE EDUCATION

SB 2282

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2282

Senate Education Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-2311
1	x		5227-5999
Committee Clerk Signature <i>Jinda Christman</i>			

Minutes:

SENATOR FREBORG : Hearing called to order. All members present.

Testimony in Favor:

SENATOR NELSON TESTIFIED IN FAVOR. Testimony attached.

SENATOR KELSH : Mentioned IRS compliance, is it a problem to collect full benefits from TFFR and work part time.

SENATOR NELSON; CURRENT LAW IS IN COMPLIANCE, TFFR the fund goes through a compliance check periodically. I believe this would be a part of this program so we would like it not to go into effect until later.

SENATOR FREBORG : Thank you Senator Nelson.

FAY KOPP, RETIREMENT OFFICER, ND RETIREMENT AND INVESTMENT OFFICE testified in favor of the bill. Testimony attached.

SENATOR O'CONNELL : Is this in case where a teacher specializes in a special field and they can fill that post, if that is the case how often do you think this will be used.

Fay: My guess would be that there is already a provision of the law that is allowing retired members to return to teach. In those exact cases. They are allowed to go back either unlimited for less than 4 hours a day and continue drawing their full benefits or 4 hours a day or more for up to 90 days in a school year. In addition it would allow retired members to actually return for a year provided that half of their salary goes into an education foundation.

SENATOR KELSH : If a person is retired they can only do this one time in the rest of their career?

Fay: Not the case. The one year provision that only allows it to happen one year, is to go back for one year and have 50% of your salary going to an education foundation. A retired person can return to teach year after year shall we say where there is no limit on it, as long as they stay under the 90 maximum or under 4 hours a day. Only one time can they put half their salary into the educational foundation.

SENATOR REDLIN : Does this help to support people who want to be on the substitute teacher role?

Fay: Substitute teaching typically in the school districts is non contracted employment, there is no limitation.

SENATOR REDLIN : What typically does a school district educational foundation do?

Fay: Refer that question to Mr. Klundt.

SENATOR WANZEK : How do young people coming into the field view this?

Fay: Not sure I could even try to answer. NDEA may be able to respond.

Testimony by Larry Klundt, Executive Director of ND Council of Educational Leaders.

No written testimony. Education Foundation; generally schools create foundations to create a pool of money that they can use the proceeds of, interest, to provide scholarships, equipment, endowment, something that will benefit children in a charitable educational manner. Our vision is that this is a mechanism for teachers and administrators to be able to put something back into the profession.

SENATOR COOK : Does every school district have its own district foundation?

Larry: No, there are several, but if this bill passes I believe there will be more.

SENATOR COOK : They could choose from a variety of foundations. Choice of foundation, teachers choice or the schools.

Larry: Yes, as long as it was a 501C3 and educational in nature. Board and teacher would have to work that out.

SENATOR COOK : The salary that the teacher would get paid if they came out of retirement.

Larry: Would be based on the pay level that that teacher had gotten before retiring or what the normal pay level would be for an additional year.

SENATOR COOK : The benefits that the school district would pay, the social security match, the teacher retirement match, the school would continue to pay that at the full salary.

Larry: Yes, Teacher Retirement must pay both (the teachers and the Boards contribution) to cover administrative costs that TFFR might have.



SENATOR COOK : The school district has the ultimate say in whether or not they allow the teacher to come back or do they or do they not?

Larry: Yes, they would have to agree before it could happen.

SENATOR KELSH : Deals more with IRS regulations than anything. Reason I ask that is if a teacher wants to move back to ND could they take advantage of this in any way. Would IRS allow them.

Larry: Yes, shouldn't be a problem. That reminded me we would really appreciate one more amendment to the bill. Line 28, page 2, change words two to four. Reason I'm saying that is that they would not ask for the letter of ruling from the IRS until the year 2000. If that sequence happens then this will expire before it's ever approved. If we want to see if it works we need the extension.

Testimony in favor.

Joe Wesby, Executive Director of NDEA. No written. Answered question on what impact this would have on new young teachers and would this consume positions. Don't know the answer. After this has been in effect for 2 years we will have more information.

SENATOR FREBORG : Does the sponsor of the bill wish to answer the question?

Larry: Apparently my concern was unfounded about the 2 years because of the statement in there "whichever date is later." That ought to take care of that.

Hearing closed.

Open discussion on SB2282

SENATOR FREBORG : Proposed amendment 90782.0101.

SENATOR KELSH : I move that amendment.

SENATOR O'CONNELL : 2nd the motion

SENATOR FREBORG : Any discussion to adopt the amendment entitled 90782.0101.

Clerk take the roll. Vote 7 (Yes) 0 (No)

SENATOR FREBORG : We have the amended bill before us we were told we did not have to change the two years.

SENATOR KELSH : Move a DO PASS.

SENATOR COOK : 2nd

SENATOR FREBORG : Motion for a DO PASS as amended on SB2282.

Vote: 7 (Yes) 0 (No)

Carrier: SENATOR KELSH

FEB - 5 1999

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: \_\_\_\_\_ Amendment to: SB 2282

Requested by Legislative Council Date of Request: 2-1-99

- 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 would be no fiscal impact on the Retirement and Investment Office with passage of this amendment.

- 2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

- 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:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed

*Fay Kopp*

Typed Name Fay Kopp

Date Prepared: 2-5-99

Department ND Retirement & Investment Office

Phone Number (701) 328-9885

FISCAL NOTE

JAN 21 1999

(Return original and 10 copies)

Bill/Resolution No.: SB 2282 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-19-99

- 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 would be no fiscal impact on the Retirement and Investment Office with the passage of this bill.

- 2. State fiscal effect in dollar amounts:

Table with 7 columns: 1997-99 Biennium (General Fund, Special Funds), 1999-2001 Biennium (General Fund, Special Funds), 2001-03 Biennium (General Fund, Special Funds). Rows: Revenues, Expenditures. All values are 0.

- 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 9 columns: 1997-99 Biennium (Counties, Cities, School Districts), 1999-2001 Biennium (Counties, Cities, School Districts), 2001-03 Biennium (Counties, Cities, School Districts). All values are 0.

If additional space is needed, attach a supplemental sheet.

Signed [Signature]

Typed Name Scott Engmann

Department ND Retirement and Investment Office

Phone Number (701) 328-9885

Date Prepared: 1/20/99

PROPOSED AMENDMENTS TO SENATE BILL NO. 2282

Page 2, line 7, after the underscored period insert "A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment."

Renumber accordingly

Date: 1/27/99  
 Roll Call Vote #: 1

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2282**

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Motion to adopt amendment 90782.0101 on SB 2282

Motion Made By Kelsh Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1/27/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2282

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Motion for Do Pass as amended

Motion Made By Kelsh Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Sen. Kelsh

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

**REPORT OF STANDING COMMITTEE**

**SB 2282: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2282 was placed on the Sixth order on the calendar.

Page 2, line 7, after the underscored period insert "A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment."

Renumber accordingly



1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2282

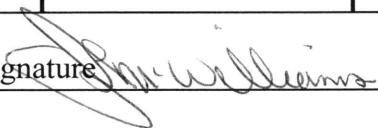
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2282

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-25-1999

Tape Number	Side A	Side B	Meter #
1		X	8.2 - 11.4
2	X		0 - 13.0
Committee Clerk Signature 			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information. **Tape 1, Side B is defective.**

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

Summary of the Bill: Relating to participation in the teachers fund for retirement by retired persons who have resumed teaching.

Testimony in Favor:

Senator Wardner, Appeared before the committee to introduce the bill. What this bill does is allow a person to go back into teaching, keep part of their salary and the rest goes into a trust fund.

Representative Maragos, Appeared before the committee in support of the bill.

Scott Engmann, NDRIO/TFFR appeared before the committee and stated that the TIFF board supports this bill.

Representative Brandenburg, Appeared before the committee to submit amendments to the bill. The amendment deals with the cost of this issue.

Representative Hawken, Are you saying this would not become law but instead a study? How does this fit with this bill, and why wouldn't there be a study and just leave this particular bill alone.

Brandenburg, Yes. This is just a study. This is what legislative council came up with. If there are teachers coming back in they want to know how this would affect the fund.

Representative Haas, Do or did the people your talking about come back in part time.

Brandenburg, This happened in the Jud school system and the school closed. He could not qualify for the higher ratio.

Representative Winrich, In looking at the report of the legislative councils employee benefits committee on this bill, they apparently have done some study and it says it could result in a reduction of the teachers fund for retirement margin. Basically they don't know how many people will utilize this. That is the reason for the two year sunset on this bill. Perhaps the study is premature. We should have the results of this bill and after two years and then look at what we might do in this area.

Brandenburg, Actually the teachers retirement staff has been looking at this already. Without knowing the costs and ramifications they thought the study would be appropriate.

Representative Winrich, Sounds like the purpose of this bill is to give us a couple years of data to see what it would costs.

Brandenburg, That's what this bill with the amendments is trying to do. So in two years we know.

Representative Kroeber, This would actually take precedent over a normal study, would it not?

Brandenburg, Probably.

Representative Cleary, Seems like this bill is already doing what you want to accomplish.

Brandenburg, That's correct.

Representative Kliniske, With the sunset clause being two years, we will already have the data.

Representative Hawken, I think if we put the study resolution in the bill it will die.

Representative Kliniske, We have done it before.

Representative Metcalf, Do we need a real study. This going to do something beyond what you need or want. That's a statement not a question.

Scott Engmann, We really have two issues here. The original bill is giving an exception to part of the statute that controls the ability to return to teach. If you give part of your salary to an educational trust, TFFR will not cease in giving you an annuity. The amendment is a study to the return to teach concept. If you adopt the amendment, there will be two studies. One for the educational trust exception and the other for the whole return to teach concept. We support the bill and the amendment.

Representative Klemin, A person could retire immediately and then go back to work for half pay as long as the other half goes into a trust. The real purpose of this is to help education trust/foundation. Why wouldn't somebody who really doesn't want to retire for say a year or so do this. Retire early and get pay and half for the last year of their work. We are going to be using property tax money and state general fund money to finance private educational foundations.

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2282

Hearing Date 2-25-1999

Engmann, Correct.

Testimony in Opposition: None.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2282

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-12-1999

Tape Number	Side A	Side B	Meter #
1	X		11.3 - 34.2
Committee Clerk Signature <i>J. McWilliam</i>			

Minutes: Chairman Klein reminded the committee that this was the bill we heard back on 2-25-1999, and Senator C. Nelson was unable to appear before the committee due to personal reasons and that is why he has been holding it. One of the questions we had was about the clause if there was a problem with the IRS.

Summary of the Bill: Relating to participation in the teacher fund for retirement by retired persons who have resumed teaching.

Representative Metcalf, The only problem I had was to make sure there is no detrimental effects on TFFR.

Senator C. Nelson, This does not become effective until the IRS has ruled and that's why there is an effective date. If they rule that this is non compliance we will not jeopardize the rest of the members of the fund. If they say it's OK or OK with moderation, then we would bring the new bill back at the next legislative session. This takes a while to accomplish this. For now the

actuary has said it is sound and will not have an effect on the fund. We also want to see how many people actually use this.

Representative Klein, In certain areas such as rural areas this will help alleviate this.

Nelson, Yes.

Representative Klemin, If a teacher is planning to retire in a particular year and this would allow the teacher to retire a year earlier and come back anyway and essentially make money by doing this. The whole purpose of this is to fund education foundations.

Nelson, They can do that now. No, the whole purpose of this is to allow someone to come back and teach if they choose and keep their retirement pay. Our major concern is the soundness of the fund.

Representative Klemin, Why don't we get a revenue ruling first, rather than put a law into effect and then seek an opinion. This way we would know whether or not we can actually do this or not. Why are we using a floating date? We don't know when the letter will come, and the letter is what starts the two year running. Let's say the letter comes in February, well that is kind of an awkward time if someone is going back to teaching.

Nelson, TFFR is going through a process of internal revenue review. They want things on the books of what might happen. I don't see this kicking in on August 1, of 1999 at all. We will not have a IRS letter of compliance by that time. What is intended by the floating two year period is that they need a two year period to see what the usage is for the auditors. The auditors report usually comes in November, so it might be a little shorter than two years. They figure they can get a pretty good reading in that two year period. We will be back in session in 2001 and can look at the expiration date at that time. It would be an easy bill to extend that.

Representative Kroeber, The date I don't think is in jeopardy here because no one can be on this for more than one year. Teachers aren't going to make more money by doing this, because they will be locked in at your retirement rate from when you retire.

Committee Action:

Representative Hawken, Made a motion for a Do Pass.

Representative Winrich, Seconded the motion.

Representative Klemin, My concern is the amount of money were talking about here. There is a large amount of money that is going to be going into these foundations and I think there might be a public question about this.

Representative Klein, Were going to try this for a short period of time to see how it works, and we are also putting money into education.

Representative Hawken, We don't have to ask the teacher were their money is going, they have earned it. This is not a bill for Bismarck or Fargo, but a bill for the small towns. They are the ones that will be facing these problems. They are preparing for what can happen as we look down the road. This is just an attempt to look at one idea to see if it will work out and I like this idea.

Representative Haas, I think it's a gimmick to channel public school funds into foundations.

Representative Winrich, I support this bill. I also think we should try this for two years to see what happens as far as the fiscal impact.

Representative Kliniske, The portion that they donate to this foundation, would this also be tax deductible? This is just a thought of mine.



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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2282 2

Hearing Date 3-12-1999

Representative Metcalf, My basic concern is how it would affect the TFFR. I spoke with our (NDEA) association in Valley City and they like it, so I will support it.

Representative Thoreson, It has been studied in the last interim and it has merit to at least try it.

There may not be anybody that will use it and I do have a little problem with putting into law for that reason. I do think we should try it.

Representative Cleary, I think it's a good idea and I will vote for it.

Motion Passes: Do Pass 11-4.

Representative Thoreson, Is the carrier for the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2282

Page 1, line 3, after the first semicolon insert "to provide for a legislative council study;"

Page 3, after line 2, insert:

**"SECTION 2. LEGISLATIVE COUNCIL STUDY OF RETIREMENT BENEFITS FOR RETIRED TEACHERS WHO RESUME TEACHING.** The legislative council shall study the level of retirement benefits of retired members of the teachers' fund for retirement, who resume teaching. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly."

Page 3, line 3, replace "This" with "Section 1 of this"

Page 3, line 5, after "that" insert "section 1 of"

Page 3, line 7, after the second "of" insert "section 1 of"

Renumber accordingly

Date: 3-12

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2282

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Hawken Seconded By Winrich

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) 11 No 4

Absent 0

Floor Assignment THORESON

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

REPORT OF STANDING COMMITTEE (410)  
March 12, 1999 11:52 a.m.

Module No: HR-45-4650  
Carrier: L. Thoreson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2282, as engrossed: **Government and Veterans Affairs Committee (Rep. Klein, Chairman)** recommends **DO PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2282 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2282

**REPORT OF THE LEGISLATIVE COUNCIL'S  
EMPLOYEE BENEFITS PROGRAMS COMMITTEE  
SENATE BILL NO. 2282**

**Sponsor:** Senator Carolyn Nelson

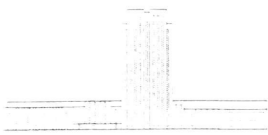
**Affected Retirement Program:** Teachers' Fund for Retirement

**Proposal:** Allows a retired member to return to teaching for up to one year without losing any benefits if at least 50 percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation.

**Actuarial Analysis:** The consulting actuary believes that depending on the number of retired members who would take advantage of this provision, the proposal may have a measurable actuarial impact on the Teachers' Fund for Retirement. There is some potential for increased costs, because a member with long service who is already eligible for an unreduced benefit could continue to receive the same total income, between 50 percent of that person's regular pay and retirement benefit, while having the other 50 percent of pay going to the foundation. This could encourage employees to retire earlier than they would have otherwise. This could result in a reduction of the Teachers' Fund for Retirement margin, the amount of which would depend heavily on the number of members who utilize the provision. However, the consulting actuary noted that the provision in the bill making it effective for only two years is intended to allow the Teachers' Fund for Retirement Board of Trustees to determine how many members are utilizing the provision and what the cost impact is.

Also, in a technical comment, the consulting actuary noted that the proposal could endanger the qualified status of the plan. Under qualified retirement plans, benefits are not taxable until they are received. If the plan loses its qualified status, accrued vested benefits become immediately taxable.

**Committee Report:** Favorable recommendation.



# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



Senator Carolyn Nelson  
District 21  
555 College Street  
Bismarck, ND 58102-3433

COMMITTEES:  
Judiciary  
Political Subdivisions

**SB2282** will allow a retired member of TFFR to return to teaching for up to one year without losing any benefits if at least 50 percent of the salary earned is placed in a school district's educational foundation or a private educational foundation. Under current law, a retired member of TFFR can return to covered employment for a maximum of 90 working days at full pay and continue to receive the monthly retirement benefit. This bill allows a retired member to return for up to 1 year at 1/2 pay and continue to receive the monthly retirement benefit. Since one teaching year is approximately 180 days, it seems to me that the current law and the proposed bill are similar.

The ND Council of Educational Leaders requested a study of this proposal last session. During this past interim, the Employee Benefits Programs Committee studied it and gave it a favorable recommendation.

The matter of IRS compliance and subsequent effective date are found in section 2. There is also a sunset on the bill, when and if the bill becomes effective.

The actuary has recommended that an amendment be made; I have distributed that amendment. When amended, I encourage your favorable consideration. Thank you.



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

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**TESTIMONY ON SB 2282**

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

**JANUARY 27, 1999**

This testimony is presented on behalf of the Teachers' Fund for Retirement (TFFR) Board of Trustees. The TFFR Board supports this bill and wants the following points to be part of the record.

- That the Board supports the provision that the bill does not go into effect until a letter ruling from the Internal Revenue Service approves it. **The Board is concerned about the tax qualification status of the fund and does not want to jeopardize it.**

According to Watson Wyatt, the Fund's actuary, in order to get a ruling from the IRS on this bill, since TFFR does not have a prior determination letter from the IRS, the entire plan will need to be submitted. The IRS will not rule on the bill without having either a prior letter or the entire plan. The TFFR Board does intend to submit the entire plan for a determination letter in the year 2000. Submission is being delayed because SB2070 includes some changes that are needed for compliance with certain minor provisions of the Internal Revenue Code, and these must be enacted before filing the plan with the IRS. Further, other compliance-related changes dealing with actuarial assumptions and veterans' rights, must be made to the Administrative Code. The TFFR Board intends to make these changes after the end of the current legislative session.

Therefore, it will be mid-2000 before a determination letter can be requested, (if all legislative and administrative rule changes are approved). At that time, the Board is interested in asking the IRS for both a qualification ruling on the plan without regard to SB 2282, and a ruling on whether SB 2282 will affect the plan's qualification status. We understand that it then typically takes six to nine months for the IRS to make the determination.



- ❑ That the TFFR Board supports a “two year sunset” on the legislation. Because of the potential for increased costs, this will give the Board and its actuary time to determine how many members are utilizing the provision, and if the actuarial cost will be substantial to the fund.
  
- ❑ That the Board supports the amendments put forth by Watson Wyatt in their September 9, 1998 letter dealing with salary, service credit, benefit adjustments, and refunds.