2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2061

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2061
01/17/2013
17330

☐ Conference Committee

Committee Clerk Signature	

Explanation or reason for introduction of bill/resolution:

Relating to the definition of normal retirement age and revising the definitions of actuarial equivalent and salary, incorporation of federal law changes, and modification of vesting of rights provisions under the teachers' fund for retirement.

Minutes:

Chairman Dever: Opened hearing on SB 2061.

Fay Kopp, Interim Executive Director, Chief Retirement Officer, North Dakota Retirement and Investment Office: See attached testimony #1 in support.

(12:30)Chairman Dever: Questions by the committee? I am curious, now that we started the bumps in the contribution rate and those things are going into effect, if you are seeing any pushback from members of the system?

Fay Kopp: The contribution rate increases that were passed in 2011 were phased in. The first set of contribution rates went into effect July 1, 2012 and those increased employee rates by 2% and employer rates by 2%. The next round will go into effect July 1st of 2014; two and two on each side. When approved by the legislature, two years ago, boards and employees, we certainly notified them and they were very involved in the process. They began negotiating salaries and benefits from that point on; recognizing that there would this increase in contribution rates. Certainly, there might have been some discussions at the local level as it related to that negotiated process. From TFFR's perspective, we have heard very little from the schools or the employees about those raised contribution rates.

That is not to say we haven't heard some. Certainly there has been confusion, questions, and discussion, but I would not say a lot of pushback. I believe in general, members and employers recognize the need for contribution rates and the benefit changes to go into effect in order to assure the sustainability of the retirement plan. I think with that thought in mind, it is a tradeoff. They recognize that their salary increases might be less as a result of contributions that are going in. They were willing to share in the sacrifice to ensure that benefits would be paid not only to current retirees, but also future retirees.

Chairman Dever: I think the process must have been a big part of achieving that buy in.

Fay Kopp: We hope so. We spend a lot of time preparing for last session working with school boards association, NDEA, the school administrators. We went around the state a lot soliciting input. It was not an easy bill to pass. It was a bill that no one loved but they felt it was necessary. I do think they felt it was important enough to get behind. I would not say everyone loves it. No one likes to pay more. They have been good and I am thankful for their support.

Senator Marcellais: How many teachers are covered under the system right now?

Fay Kopp: As of the July 1, 2012 valuation report, there was 10,014 active contributing members and about 7100 members drawing benefits from the plan, but, 7100 retirees; about a 1.4 to 1 ratio.

Senator Marcellais: It looks to me like a lot of these changes are due to IRS requirements, except section 5 which is the plan modifications?

Fay Kopp: Even section 5 also relates to any potential federal changes. Those are more futuristic. The other ones that don't have much to do are the definition of actuarial equivalent just needed to be updated in Section 1.

Chairman Dever: You made a reference to having flexibility to initiate in the interim tax changes.

Fay Kopp: Correct. We are seeing a lot of changes to the tax code and additional involvement in the federal government as it relates to state public pension plans. We anticipate there will be more requirements in the future. One we have that we did not have 10 years ago is the need to go through the determination letter process. All public pension plans were deemed to be qualified unless the IRS felt otherwise. We have to go through the determination process every 5 years. It does ensure that our statutes maintain those standards. The plan is ultimately for them to come in and start auditing the plans.

Chairman Dever: I forwarded an e mail to you about a constituent, can you speak to that?

Fay Kopp: It related to the payment of employee contributions by the employer. I can only speak to how it works for TFFR. I will go there. PERS has some differences and some similarities. In TFFR plan, employers and employees are allowed to negotiate who is going to pay the employee contribution into the plan. Employers and Employees are required by law to pay their share. State and federal law also provides employers the option to pick up and pay employee contributions as a salary supplement. In the TFFR plan, and PERS a number of years ago, some employers have said that they would pay the employee contributions to the TFFR plan as a salary supplement instead of a salary increase. Back in the 80's or 90's they said that instead of salary increase, we will pay their increase. In doing so, by the employer paying the contribution into the plan, there is a savings in that there does not need to be social security and Medicare paid on that amount because it is not paid out in salary to the employee. So both the employee and employer save in payroll taxes. If the employer pays all or a portion of that employee contribution. The TFFR plan we allow employees that option to do so. I am not sure that that is the case in the state

plan. It is one of the differences and I cannot speak to that. In our plan, it is decided by each school district. If an amount is paid out in salary, obviously FICA taxes have to be paid on it. If the employer pays the amount in salary, than all payroll contributions go into effect. When the individual that sent the email said there is a savings to employee and to the state, if the employer picks up the employee contribution that is true. On the other side of that, the employers have to be making that payment. It is not going out of the employee's check. They may or may not be getting a salary increase. That is up to the employer. Or in the case of school districts, it is up to the employer and employee to negotiate that. There are different ways of doing it and the tax consequences follow it.

Chairman Dever: After you retire and draw the annuities, are they subject to FICA tax?

Fay Kopp: No, your pension benefits are not subject to FICA, certainly to state and federal income tax requirements.

Chairman Dever: So you are not paying it twice?

Fay Kopp: No

Vice Chairman Berry: You said this is dependent on the school district? How many districts take advantage of that?

Fay Kopp: Yes, about 60% of our employers pay all or a portion of the employee contributions. The other 40% of the school districts the employees pay it via a salary reduction. That is the number of the employers. What we typically find is that a lot of small employers do that. So really it is about 60% of employees where employers are paying all or a portion of their contribution, even though it is only about 40% of school districts. It is right around half and half.

Chairman Dever: Do you know how teachers employed by the state are handled?

Fay Kopp: Teachers are considered, which would be those at YCC, School for the Blind, School for the Deaf, they are currently only 4% of their TFFR contribution is paid by the state. So it would be similar to other state employees. It is just that they are paying more out of pocket because the overall contribution rates are higher in the TFFR plan. So the state is paying the full contribution into the TFFR plan plus picking up 4% of the total 9.75% on the employees share.

Vice Chairman Berry: You said that the larger districts are the ones that tend to be utilizing the first plan. Why the disparity?

Fay Kopp: I think smaller districts have a greater ability to negotiate and that savings in FICA somehow means more to them. There are some large districts that pay it. West Fargo is one.

(26:07)Vice Chairman Berry: I understand it is going to come down to money for both sides, but also the ability to recruit teachers you want? You are saying that it cannot be explained well enough to them that it is a benefit rather than seeing a number.

Fay Kopp: There is a communication issue certainly; it is more complex to understand. The employers that pay the employee share of the contribution don't get word out. The perception is not there. It looks like the employer is paying everything. There is both financial and recruitment aspect. The employer has to weight that somewhat. If it was purely financial, it makes more sense for employer to pick up the payment because less FICA taxes are paid. There is some issue for down the road on not paying FICA on it. A general understanding on current provisions is that it is allowable.

Chairman Dever: Important to remember locally at the bargaining table.

Fay Kopp: They are in the case of the TFFR plan.

(28:25) **Chairman Dever:** Any other testimony in support, opposition, neutral?

Closed hearing and opened committee for discussion.

Senator Cook: It appears that we are reacting to the IRS. Have we always had to react to the IRS and decisions we made in our teacher retirement plan and do we need to?

Fay Kopp: For the first, certainly. We do have to comply with certain regulations and requirements. We have been bringing these to you for a number of years. Futuristically, there is the belief that there is going to be more federal government involvement into public pension plans. What we see here today is nothing new.

Senator Cook: Does their involvement diminish if we did not have a defined benefit plan?

Fay Kopp: Because I don't administer it currently, I do not know specifically the answer to that. I am not sure what the requirements are. It would not be any more, but it may be less.

Chairman Dever: Commented on article in newspaper.

Vice Chairman Berry: It would stand to reason that as the federal government's involvement increases, that that ability to pay it up front to not have to pay the FICA could go away.

Fay Kopp: It is a possibility.

Chairman Dever: Closed discussion.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2061
Date 01/18/2013
Job Number 17388

☐ Conference Committee

Committee Clerk Signature

Minutes:

Chairman Dever: Reopened SB 2061 for discussion and additions question of TFFR.

Senator Cook: In the second paragraph, where it states that the proposed amendments are intended to prevent the change in the federal internal revenue code from automatically triggering a change in North Dakota law, do you really believe that? That greatly concerns me that it is possible. Was that unintentional miswrite?

Fay Kopp, Interim Executive Director, Chief Retirement Officer, North Dakota Retirement and Investment Office: As it relates to this bill and this language, I believe it means what it says. With that caveat, that is exactly why we come back to you each year to update those dates. If those dates you see there, went away then our language says as federal law changes relating to these particular provisions, then state law would change as well. However, because we have those dates in there, nothing can happen. Everything is good as of that last date; August 1 of 2013 in the case of this bill.

Senator Cook: I will have to go and read the entire language in code.

Fay Kopp: Gives an example of page 2, line 16. Right now, salary means members earnings plus any salary reduction or deferral amounts that are in effect on August 1 of 2011. That is as the Internal Revenue code states, unless we would request these changes, then it would only be as good as that date. Nothing else would happen. If we want to conform to the other congressional changes, which in this case the only change

that was made is that the benefit limit went up from $200,000 last year to $205,000 this year. Then that is where we would follow through with that.

Senator Cook: So it would change the results or consequences of North Dakota law?

Fay Kopp: Yes. Thank you for clearing it up better than I did. Also, in regards to the Internal Revenue code, what they are saying is that North Dakota law can do whatever North Dakota law wants to do, however, if we do not have certain provisions in our statutes, of course we will lose the tax qualified status of the plan which means that contributions into the plan would not be able to be made on a pre-tax basis and earnings of the trust would not be able to be done on a pre-tax basis. We have to give back some of this in order to insure we get tax favorable treatment of the plan.

Chairman Dever: Does Section 5 of the bill raise a similar question?

Fay Kopp: Basically what this addition does is if the Internal Revenue code comes down in between sessions and says that there is provision that should have been in place and we did not have it in that period of time, this would allow our board to adopt the appropriate language with approval by the interim legislative employee benefits program committee to adopt that particular language until such time as the legislature meets. We would review any of the language changes at that time. It is similar to the PERS statutes. It falls in line with staying qualified to not have all of the tax consequences fall on participants and the state.

Chairman Dever: Closed discussion.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2061
1/25/2013
Job Number 17768

☐ Conference Committee

Committee Clerk Signature

Minutes:

Chairman Dever: Opened SB 2061 for committee discussion.

Senator Nelson: This is a biennial bill that comes in to comply with the IRS qualifications to be a tax qualified plan. For some teachers who have tax deferred contributions into the fund, we need to have it correct in order for them to have their tax deferred. That is all this bill does.

Chairman Dever: As I recall in the conversation, our committee tax expert had some questions about the tax situation and I am not sure those were all answered to your satisfaction.

Senator Cook: I think what my concern was the wording in her testimony automatically triggering a change in North Dakota law. That doesn't happen. I am comfortable. I think it was misspoken.

Senator Nelson: Moved a Do Pass.

Senator Schaible: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Bill Passed.

Senator Nelson: Carrier.

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2061

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2061 includes technical and administrative changes to the TFFR program relating to Internal Revenue Code compliance, definitions, and vesting provisions, and adding savings clause to ensure compliance with federal regulations. The proposed changes are not expected to have any fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

NA

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: Fay Kopp
Agency: ND Retirement & Investment Office
Telephone: 328-9895
Date Prepared: 12/21/2012

Date: 1/25

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2061

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Schaible

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

SB 2061: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2061 was placed on the Eleventh order on the calendar.

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2061

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2061
March 7, 2013
19547

☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the definition of normal retirement age and revising the definitions of actuarial equivalent and salary.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on SB 2061.

Shelly Schumacher, Retirement Program Manager for TFFR, appeared in support. **Attachment 1.** (:34-4:40)

Rep. Bill Amerman How important is this letter from the IRS?

Shelly Schumacher It is a letter that used to be an optional thing for governmental pension plans. We did get a favorable one back in 2001, because we felt it was something we wanted to do. Based on a recent federal change in tax law, it is going to be a requirement that governmental benefit pension plans need to have this letter and need to activate it and ask for it every five years. They just look at the statues and our administrative rules and make sure that our documents contain all of the things federally for the tax code and for defined benefit pension plans. Had they come back in and audit any pension plans to make sure are you doing what you are saying you are doing in these statues and rules? That could be an outcome of this as to why they are starting to have every plan get these letters, because many have never gotten one. It costs the plan about $1,000 to have one done plus our attorneys, of course, have to look at it.

Rep. Vicky Steiner Do you happen to know what the average teacher retirement is and what the average superintendent retirement might be?

Shelly Schumacher The average benefit of all our current retirees including those retired for many, many years is between $1,600 and $1,700 a month. If you look at recent retirees, that teacher is getting more in line of $2,400 a month. I don't think administrators' benefit would be double of the classroom teacher, but it certainly would be on the higher end of the benefits.

Rep. Vicky Steiner What is the highest one that you pay out currently?

Shelly Schumacher The highest monthly pension that we pay out is around $11,000.

Vice Chair Randy Boehning What is the current retirement age of social security?

Shelly Schumacher What I know of social security is that individuals can still begin social security at age 62, but, of course, it is reduced from their full social security age. The full age for many of us is above 65 now. The highest that I know is on the books right now is age 67 for people born after the late 50s and early 60s.

Vice Chair Randy Boehning Has TFFR ever looked at tying their retirement with social security?

Shelly Schumacher Last session the most dramatic change that was made was eliminating rule of 85 for a large group that won't be grandfathered. They do now have to work or wait until age 60 and have the rule of 90. I don't believe it was discussed to have that minimum age be more tiered.

Chairman Jim Kasper Would you provide us with the retirement formula as well. Provide us with what is current.

The hearing was closed.

Rep. Vicky Steiner moved for a Do pass.

Rep. Vernon Laning seconded.

A roll call vote was taken and resulted in **DO PASS, 12-0, 2 ABSENT.** A carrier will be assigned later. **Rep. Gail Mooney** was assigned as the carrier.

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2107
March 11, 2013
Job 19706

☐ Conference Committee

Kristie Hetzler

Explanation or reason for introduction of bill/resolution:

Relating to child support and paternity; to medical support and provide an effective date.

Minutes: *Testimony 1*

Chairman Weisz: Opened the hearing on SB 2107.

Jim Fleming, Director of Child Support Division of the DHS: Testified in support of the bill. (See Testimony #1) 2:49

Chairman Weisz: Is there some federal guidelines that you are going by?

Fleming: There have been federal guidelines; the states can decide what that is. The existing law gives us rule making authority. 3:29 Continued with his testimony.

Rep. Laning: 9:27 In regards to your example would the mother keep paying the money with your proposal

Fleming: Once the offset is no longer permitted because the rears are paid off, then the income withholding would only occur.

Mr. Fleming: Continued testimony on section 4.

Chairman Weisz: 13:45 Would they still be required, if they voluntarily report, let's say it comes to a certain dollar amount, are they still be required to follow that provision?

Fleming: An employer that wants to report it before its paid out, then child support would have that option. We would prefer the employers wait until they know the specific numbers. 15:10 Continues with section 5. (17:25) sections 6, 7, and 8.

Chairman Weisz: Closes hearing.

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2061

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2061 includes technical and administrative changes to the TFFR program relating to Internal Revenue Code compliance, definitions, and vesting provisions, and adding savings clause to ensure compliance with federal regulations. The proposed changes are not expected to have any fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

NA

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name: Fay Kopp
Agency: ND Retirement & Investment Office
Telephone: 328-9895
Date Prepared: 12/21/2012

Date: 3-17-13
Roll Call Vote #: _____

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2061

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Steiner Seconded By Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden		
Rep. Karen Karls	X		Rep. Steven Zaiser	X	
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur					
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Mooney

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

REPORT OF STANDING COMMITTEE

SB 2061: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2061 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2061

Attachment #1

SB 2061

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
January 17, 2013

Fay Kopp, Interim Executive Director - Chief Retirement Officer
ND Retirement and Investment Office - ND Teachers' Fund for Retirement

SB 2061 was submitted by the TFFR Board. The bill makes a number of technical and administrative changes to the TFFR program. These changes are not expected to have an actuarial effect on the plan, and are not being submitted for funding improvement purposes.

In general, the bill updates certain definitions, and incorporates federal tax law changes to stay current with federal Internal Revenue Code (IRC) changes as they relate to qualified governmental plans. The proposed amendments are intended to prevent a change in the federal IRC from automatically triggering a change in ND law. The bill also adds a savings clause for plan modifications to ensure compliance with federal statutes or rules. (Note: On May 30, 2012, the IRS made a favorable determination on the NDTFFR, subject to adoption of certain proposed amendments which are included in this bill draft.)

Section 1. NDCC 15-39.1-04 (1) Definitions: Actuarial equivalent.

Updates the definition of "actuarial equivalent" to more clearly describe its use in TFFR pension calculations. Actuarial equivalent is an amount calculated by the actuary (or based on actuarial calculations provided by the actuary) which is expected to be of equal actuarial value to the benefit otherwise payable when computed based on actuarial assumptions and methods approved by the Board.

Actuarial equivalence calculations are used to determine early retirement factors; optional payment factors for joint and survivor, term certain, level income, and partial lump sum options; maximum benefits payable under Internal Revenue Code; service purchase cost factors; qualified domestic relations order calculations; and other pension calculations as needed. Actuarial factors are described in ND Administrative Code, Section 82-05-04. Actuarial assumptions and methods are described in TFFR's annual actuarial valuation report which is available on the TFFR website.

Section 1. NDCC 15-39.1-04 (7) Definitions: Normal Retirement Age.

Adds the definition of "normal retirement age" recommended by outside tax counsel for IRS determination letter approval. As provided in subsection 1 of section 15-39.1-10, normal retirement age is the age at which a member becomes eligible for monthly lifetime normal unreduced retirement benefits, summarized as follows:

EFFECTIVE 7/1/13	Tier 1 Grandfathered	Tier 1 Nongrandfathered	Tier 2 All
Unreduced Retirement Eligibility			
Minimum Age	No	60	60
AND Rule	Rule 85	Rule 90	Rule 90
OR Normal Retirement Age	65	65	65

Section 1. NDCC 15-39.1-04 (10) Definitions: Eligible Retirement Salary

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the maximum annual compensation limit that can be used in benefit calculations ($255,000 in 2013). No active TFFR member currently has a salary large enough to be affected by this limit.

Section 2. NDCC 15-39.1-10(4) Eligibility for benefits

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Provision relates to minimum distribution requirements requiring payment of retirement benefits at age 70.5 or termination of employment, whichever is later.

Section 3. NDCC 15-39.1-10.6 Benefit limitations

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the Section 415 maximum annual benefit limit ($205,000 in 2013). To date, no retiree's benefit has exceeded the annual benefit limit.

Section 4. NDCC 15-39.1-11 Vesting of Rights

Changes to this section were recommended by outside tax counsel for IRS determination letter approval.

- Removes the requirement that member assessments be paid in order to be vested. There are other statutory provisions in place which require member contributions to be paid (NDCC 15-39.1-09). If member contributions are not withheld by the employer and paid to TFFR, the employer could incur a penalty, and DPI foundation payments could be withheld (NDCC 15-39.1-23).

- Current language provides that a Tier 1 member must earn 3 years of service credit and a Tier 2 member must earn 5 years of service credit in order to be vested. The new language clarifies that in addition to the service credit requirement, when a member reaches normal retirement age (as described in NDCC 15-39.1-04(7) and NDCC 15-39.1-10), the member has a vested right to a retirement annuity.

Section 5. NEW SECTION - Savings clause – Plan modifications.

Adds new section to NDCC which would allow the TFFR Board to adopt appropriate terminology to comply with federal statutes or rules, subject to approval of the interim legislative employee benefits programs committee, IF it is determined that TFFR plan provisions do not comply with applicable federal statutes or rules. Such plan modifications would be effective until the effective date of any measure enacted by the legislative assembly which would provide the necessary amendments to ensure compliance with the federal statutes or rules.

SUMMARY

SB 2061 includes various technical and administrative changes to the TFFR program. Based on actuarial analysis from TFFR's actuarial consultant in a letter dated October 15, 2012, these changes are not expected to impact the financial position of the fund.

The interim Legislative Employee Benefits Programs Committee (LEBPC) voted unanimously to give this bill a favorable recommendation. The TFFR Board respectfully requests that your Committee give a "do pass" recommendation to this bill.

I would be happy to respond to your questions. Thank you.

Attachment 1

SB 2061

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
March 7, 2013

Fay Kopp, Interim Executive Director - Chief Retirement Officer
ND Retirement and Investment Office - ND Teachers' Fund for Retirement

SB 2061 was submitted by the TFFR Board. The bill makes a number of technical and administrative changes to the TFFR program. These changes are not expected to have an actuarial effect on the plan, and are not being submitted for funding improvement purposes.

In general, the bill updates certain definitions, and incorporates federal tax law changes to stay current with federal Internal Revenue Code (IRC) changes as they relate to qualified governmental plans. The proposed amendments are intended to prevent a change in the federal IRC from automatically triggering a change in ND law. The bill also adds a savings clause for plan modifications to ensure compliance with federal statutes or rules. (Note: On May 30, 2012, the IRS made a favorable determination on the NDTFFR, subject to adoption of certain proposed amendments which are included in this bill draft.)

Section 1. NDCC 15-39.1-04 (1) Definitions: Actuarial equivalent.

Updates the definition of "actuarial equivalent" to more clearly describe its use in TFFR pension calculations. Actuarial equivalent is an amount calculated by the actuary (or based on actuarial calculations provided by the actuary) which is expected to be of equal actuarial value to the benefit otherwise payable when computed based on actuarial assumptions and methods approved by the Board.

Actuarial equivalence calculations are used to determine early retirement factors; optional payment factors for joint and survivor, term certain, level income, and partial lump sum option; maximum benefits payable under Internal Revenue Code; service purchase cost factors; qualified domestic relations order calculations; and other pension calculations as needed. Actuarial factors are described in ND Administrative Code, Section 82-05-04. Actuarial assumptions and methods are described in TFFR's annual actuarial valuation report and annual financial report which are available on the TFFR website.

Section 1. NDCC 15-39.1-04 (7) Definitions: Normal Retirement Age.

Adds the definition of "normal retirement age" recommended by outside tax counsel for IRS determination letter approval. This section of the bill does not change when a member is eligible for retirement benefits, but adds the term and references the statute where normal retirement is defined. As provided in subsection 1 of section 15-39.1-10, normal retirement age is the age at which a member becomes eligible for monthly lifetime normal unreduced retirement benefits, summarized as follows:

EFFECTIVE 7/1/13	Tier 1 Grandfathered	Tier 1 Nongrandfathered	Tier 2 All
Unreduced Retirement Eligibility			
Minimum Age	No	60	60
AND Rule	Rule 85	Rule 90	Rule 90
OR Normal Retirement Age	65	65	65

Section 1. NDCC 15-39.1-04 (10) Definitions: Eligible Retirement Salary

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the maximum annual compensation limit that can be used in benefit calculations ($255,000 in 2013). No active TFFR member currently has a salary large enough to be affected by this limit.

Section 2. NDCC 15-39.1-10(4) Eligibility for benefits

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Provision relates to minimum distribution requirements requiring payment of retirement benefits at age 70.5 or termination of employment, whichever is later.

Section 3. NDCC 15-39.1-10.6 Benefit limitations

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the Section 415 maximum annual benefit limit ($205,000 in 2013). To date, no retiree's benefit has exceeded the annual benefit limit.

Section 4. NDCC 15-39.1-11 Vesting of Rights

Changes to this section were recommended by outside tax counsel for IRS determination letter approval.

- Removes the requirement that member assessments be paid in order to be vested. There are other statutory provisions in place which require member contributions to be paid (NDCC 15-39.1-09). If member contributions are not withheld or paid on behalf of the member by the employer and submitted to TFFR, the employer could incur a penalty, and DPI foundation aid payments could be withheld (NDCC 15-39.1-23).

- Current language provides that a Tier 1 member must earn 3 years of service credit and a Tier 2 member must earn 5 years of service credit in order to be vested. The new language clarifies that in addition to the service credit requirement, when a member reaches normal retirement age (as described in NDCC 15-39.1-04(7) and NDCC 15-39.1-10), the member has a vested right to a retirement annuity.

Section 5. NEW SECTION - Savings clause – Plan modifications.

Adds new section to NDCC which would allow the TFFR Board to adopt appropriate terminology to comply with federal statutes or rules, subject to approval of the interim legislative employee benefits programs committee, IF it is determined that TFFR plan provisions do not comply with applicable federal statutes or rules. Such plan modifications would be effective until the effective date of any measure enacted by the legislative assembly which would provide the necessary amendments to ensure compliance with the federal statutes or rules.

SUMMARY

SB 2061 includes various technical and administrative changes to the TFFR program. Based on actuarial analysis from TFFR's actuarial consultant in a letter dated October 15, 2012, these changes are not expected to impact the financial position of the fund.

The interim Legislative Employee Benefits Programs Committee (LEBPC) voted unanimously to give this bill a favorable recommendation. The TFFR Board respectfully requests that your Committee give a "do pass" recommendation to this bill.

Thank you.

#1

Testimony
Senate Bill 2107 – Department Of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 11, 2013

Chairman Weisz, members of the House Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to support Senate Bill 2107, which was introduced at the request of the Department.

Sections 1 and 9

Legislation was passed in 2007 giving the Child Support Division (Child Support) authority to adopt administrative rules regarding the obligation of parents to provide medical support for their children. A medical support advisory committee was convened, including two legislators, to develop recommendations for the administrative rules. Shortly before the advisory committee finished its work in 2010, Congress enacted the Affordable Care Act (ACA), and Child Support has been waiting since that time for updated federal program requirements. We believe it is likely that the new program requirements will be issued before the Legislature next convenes in 2015.

Since we are unsure what the federal program requirements will be, the proposed changes provide the flexibility that may be needed to appropriately address the requirements in the rulemaking process.

State law would continue to require that each child support order include a provision for the child's health insurance coverage or other medical support. In addition, although a repeal of section 14-09-08.15 regarding

reasonable cost of health insurance is proposed in Section Nine, proposed language in Section One would require that the administrative rules include a reasonable cost standard that considers the income of the obligated parent and the cost of coverage.

Section 2

This section is proposed to clarify that the legal standing of Child Support exists whenever a parent applies for services under Title IV-D of the Social Security Act, and is not limited to times when a review of the child support obligation is requested under section 14-09-08.9 or when enforcement of an order for dependent health insurance is requested under section 14-09-08.13.

Section 3

The law proposed to be amended in this section of the bill was enacted in 2003 to regulate, and often prohibit, the offset of debts owed between the parents as a method of paying child support.

Historically, offsetting current child support owed by an obligor parent with debts owed to the obligor by the child's other parent has been prohibited. Such an offset poses a risk of depriving the child of funds needed to purchase groceries and other necessities, even if an equal amount of money is owed to the obligor by the child's other parent for child support arrears or other debts. However, even though an offset of current support with arrears or other debts is currently prohibited, it would be very practical to enter a credit on a parent's payment ledger instead of requiring the parent to make an actual payment through the

State Disbursement Unit (which would often require income withholding to the parent's employer). The key is for an offset to be quickly and easily discontinued if the current custodian of the child needs the funds because of a reduction in income, or if the child begins receiving public assistance and the right to support is assigned to the State.

This area may be best explained in the following examples:

> Example A: Mom and Dad divorce, with Mom being ordered to pay $300 per month in child support to Dad on Child's behalf and Dad being required to pay $300 per month in spousal support to Mom. Both obligations are subject to immediate income withholding and are required to be paid through the State Disbursement Unit.
>
> Example B: Mom had primary residential responsibility of Child and Dad failed to pay child support, resulting in an arrearage of $3,000 owed to Mom. Later, primary residential responsibility of the Child was changed by the court from Mom to Dad. Mom now owes $300 per month in child support to Dad on Child's behalf, and is subject to immediate income withholding. At the time of the change in residential responsibility, Dad owes $3,000 in arrears and is ordered to pay $300 per month through income withholding toward the arrears. Both obligations are required to be paid through the State Disbursement Unit.

A judicial offset in the examples above would be time-consuming and expensive for the parents to obtain, but Child Support believes that its current administrative offset authority for arrears could be expanded to include a simple, administrative process where the offset of current child

support can occur unless an actual payment is requested by either parent. An administrative offset can be discontinued as requested by one of the parents or if the support becomes assigned to the State, and reactivated upon request of the parents or discontinuation of the assignment.

Through the other proposed law changes in this section, we hope to clarify the law in terms of when offsets are prohibited or permitted.

Section 4

The reporting of lump sum payments by employers or other income payers is a helpful way to obtain a collection toward child support arrears. A lump sum payment of $1,000 or more to an obligor who owes past-due support and is subject to income withholding must be reported by the income payer to Child Support. The income payer must hold at least one-half of the payment for 30 days or until it receives written direction from Child Support, whichever occurs first. However, it is unclear whether the requirements in the statute apply when a lump sum payment of less than $1,000 is voluntarily reported by an income payer. In addition, an income payer sometimes reports an anticipated lump sum payment, but does not yet know whether the amount will be high enough for the statute to apply. The amendments in this section will clarify the process and make sure that a reported lump sum, no matter what the amount, is not paid in full to the obligor until Child Support has an opportunity to review the case and decide whether to intercept the withheld portion of the payment.

Section 5

The law proposed to be amended in Section Five is from the Uniform Parentage Act (UPA). Child Support recommends that the two-year challenge period in the uniform law be adopted. When the UPA was adopted in 2005, the challenge period in prior law was one year, and Child Support suggested that the shorter period had been workable and should not be extended to two years. However, the exception for fraud or material mistake of fact in prior law was more forgiving than in the UPA. The amendment will give legal fathers more time to obtain genetic tests after they have signed an acknowledgment of paternity (which includes a specific waiver of the right to genetic tests) but later have reason to doubt whether they are the child's father. If this change is adopted, Child Support will work with the Vital Records Division to revise the voluntary paternity acknowledgment form accordingly.

Sections 6, 7, and 8

These sections need to be amended to comply with new federal mandates for new hire reporting. Our understanding is that federal law was changed to improve the unemployment insurance program, which is authorized by current law to receive new hire data.

Assuming the changes in these sections are adopted, Child Support will conduct outreach to employers similar to what has been done for new employer mandates in previous sessions. When the law was changed effective January 1, 2012, to require new hire reports to include a health insurance indicator and to require large employers to submit their new hire reports electronically, Child Support conducted extensive outreach before and after the effective date of the new law. We are pleased to

report that 91.23 percent of new hire reports in 2012 were received electronically (peaking at 94.12 percent in September), and the percent of new hire reports that included the new health insurance indicator rose to 99.80 percent in January 2013.

Section 10

The first part of Section 10 provides a contingent effective date so the change in state law coincides with the effective date of the administrative rules on medical support that would be adopted to replace the statutes. The second part of Section 10 provides a delayed effective date so employers have the maximum time to prepare for the expanded new hire reporting data elements.

Chairman Weisz and members of the committee, this concludes my testimony on Senate Bill 2107, and I would be glad to answer any questions the committee may have.

SB 2061
from Shelley Schumacher
Retirement Program Manager
N.D. Retirement & Investment Program
3-14-13

TFFR Benefit Calculation Examples

TFFR BENEFIT FORMULA:

Final Average Salary x Service Credit x 2% multiplier

EXAMPLES:

Tier 1 Members

High 3 Fiscal Year TFFR Salaries:

Salary 1	$46,000
Salary 2	$48,000
Salary 3	$50,000
Total	$144,000 / 3 years = $48,000 annual Final Average Salary (FAS)

$48,000 FAS x 30 years of service x 2% = $28,800 annual Single Life Annuity benefit

Tier 2 Members

High 5 Fiscal Year TFFR Salaries:

Salary 1	$42,000
Salary 2	$44,000
Salary 3	$46,000
Salary 4	$48,000
Salary 5	$50,000
Total	$230,000 / 5 years = $46,000 annual Final Average Salary (FAS)

$46,000 FAS x 30 years of service x 2% = $27,600 annual Single Life Annuity benefit