2023 SENATE EDUCATION

SB 2258

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2258
1/23/2023

Relating to retired teachers benefits if returning to teach in a critical shortage area.

10:40 AM Chair Elkin opened the hearing. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Teacher shortage
- Short term employment
- Teacher retirement
- Large schools vs small schools
- Rehired retired teachers

Sen Bob Paulson, District 3, Minot, is the bill sponsor testified in support #15613

Mark Vollmer, Superintendent of Minot Public School, testified in support #15187

Michael Heilman, ND Small Organized Schools, testified in support #15368

Dr Aimee Copas, ND Council of Educational Leaders, testified in support #14968

Nick Archula, ND United, testified against the bill #15482

Chad Roberts, ND Retirement/Investment Office testified in neutral position #15265

11:05 AM Chair Elkin closed the hearing.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2258
1/30/2023

Relating to retired teacher benefits if returning to teach in a critical shortage area.

2:27 PM Chair Elkin opened the committee work. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Committee action

Mark Vollmer, Supt Minot Schools explained the bill.

Jan Murtha, Director of Retirement Office, provided information verbally.

Sen Wobbema moved a DO PASS.

Sen Conley seconded the motion.

Senators	Vote
Senator Jay Elkin	Y
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	Y
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	Y

VOTE: YES 6 NO 0 Absent 0 Motion PASSED

Sen Beard will carry the bill.

2:49 PM Chair Elkin adjourned the meeting.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2258: Education Committee (Sen. Elkin, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2258 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE EDUCATION

SB 2258

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

SB 2258
3/6/2023

Relating to retired teachers benefits if returning to teach in a critical shortage area.

Chairman Heinert opened the hearing at 3:01 PM

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Hager, Hauck, Heilman, Hoverson, Jonas, Marschall, Murphy, Novak, and Timmons. Absent: Representatives Dyk and Longmuir.

Discussion Topics:

- Vacant position
- Critical shortage area
- Retired teachers
- TFFR benefits
- Service credit
- 5-year reevaluation
- Center for Distance Ed
- Annual hour limit rule
- Critical shortage rule

Sen Bob Paulson, District 3, introduced the bill, oral testimony

Kevin Hoherz, NDCEL, read Dr. Aimee Copas, Testimony 22101

Mark Vollmer, Superintendent of Public Schools, Minot, oral testimony

Mike Heilmann, Director of ND Small Schools, oral testimony

Nick Archlutta, ND United, oral testimony

Janilyn Murtha, Executive Director, TFFR Board of Trustees, Testimony 22224

3:49 PM Chairman Heinert closed the hearing.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

SB 2258
3/27/2023

Relating to retired teachers benefits if returning to teach in a critical shortage area.

10:01 AM Chairman Heinert opened the meeting.

Chairman Heinert opened the meeting. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Marschall, Murphy, Novak, and Timmons. Absent: Representatives Longmuir and Conmy.

Discussion Topics:

- Committee action

Rep Schreiber-Beck moved amendment 23.0838.01001 (Testimony 26735), seconded by Rep Jonas. **Voice vote, motion carried.**

Rep Murphy moved a Do Not Pass as Amended, seconded by Rep Schreiber-Beck.

Representatives	Vote
Representative Pat D. Heinert	Y
Representative Cynthia Schreiber-Beck	Y
Representative Liz Conmy	AB
Representative Scott Dyk	Y
Representative LaurieBeth Hager	N
Representative Dori Hauck	Y
Representative Matt Heilman	Y
Representative Jeff A. Hoverson	Y
Representative Jim Jonas	Y
Representative Donald W. Longmuir	AB
Representative Andrew Marschall	Y
Representative Eric James Murphy	Y
Representative Anna S. Novak	Y
Representative Kelby Timmons	Y

11-1-2 Motion carried. Rep Dyk is carrier.

10:13 AM Meeting adjourned.

Kathleen Davis, Committee Clerk

Prepared by the Legislative Council staff for
Representative Schreiber-Beck
March 13, 2023

4A
3-27-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

Page 1, line 12, replace "that has" with ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education to fill"

Page 1, line 14, after "district" insert ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2258: Education Committee (Rep. Heinert, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2258 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "that has" with ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education to fill"

Page 1, line 14, after "district" insert ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education"

Renumber accordingly

TESTIMONY

SB 2258

SB 2258

Testimony in support

Chairman Elkin and members of the Senate Education committee, my name is Dr. Aimee Copas, and I am the Executive Director for the North Dakota Council of Educational Leaders representing school leaders across North Dakota.

I am here to testify in support of SB 2258. This bill and its sister bill HB 1219 both provide for a fiscally responsible way for retired teachers to return to the profession due to teacher shortage issues and to not negatively impact their retirement nor tremendously impact the TFFR fund and its progress toward being fully funded.

One of the calls I get often in my office from fellow administrators is to whether we could do something – even for a short time – to allow for retired teachers to come back and to not be bound by the 750-hour limitation. This call comes to me most often in our rural schools. This option could provide a 1-2 year stop gap as the district continues to try to find a qualified employee to fill that open position.

In this bill the teacher would begin again receiving their teacher's salary under their contract. They would also continue to receive their retirement benefit. The employee and employer would contribute to the TFFR fund while they are working. When they choose to "re-retire" there would be no recalculation of benefits. At the time of drafting this testimony the RIO office had not completed their actuarial study on the fund impact but generally speaking they thought it would be minimal. The sister bill to this one HB 1219 was heard in House GVA last week. In this bill, the teacher receives their salary, their retirement payment stops during that time, the contributions continue into the

fund but their retirement is recalculated upon "re-retirement" thereby possibly increasing their future benefit. The RIO office did provide a response to the fund and the progress to fully funded is impacted very little providing leeway for the ability to support this bill. There is however another bill along these lines that is NOT a bill that is fiscally responsible to the fund and that is going to be heard in House Education this afternoon (HB1271) In that bill teachers return, retirement continues as in this bill before you today, BUT neither the employer or employee contribute to the fund. This would dismantle and destroy the TFFR fund and in my opinion is not a fiscally responsible use of taxpayer dollars.

In summary, the bill before you today SB2258 could potentially help temporarily alleviate some instances of unfilled positions. We'd ask that you consider this testimony as you discuss this bill.

Senate Education Committee
Senator Elkin, Chair
January 23, 2023

SB 2258

Chairman Heinert and members of the House Education Committee, my name is Mark Vollmer. I proudly serve as Superintendent of Minot Public School District #1 and Minot Air Force Base #160. I stand in front of you today to offer our support for SB 2258, A bill for an act to create and enact section 15-39.1-19.3 of the North Dakota Century Code, relating to retired teacher benefits if returning to teach in a critical shortage area.

We have all heard stories of teacher shortages in our state. This is an issue that plagues many schools, regardless of size or location.

This year, Minot Public Schools began the year short 2 science teachers and 5 special education teachers. Like many other schools, we scrambled to cover these positions, asked teachers to take on extra duties, and continued to advertise. Regardless of our efforts, we were unable to fill these positions.

Asking teachers to take on additional classes, or to absorb special education caseloads only adds to teachers being overwhelmed

Current regulations allow teachers to return to full-time teaching after a one-year hiatus. SB 2258 would allow a recently retired teacher in a critical shortage area, return to the classroom while collecting their retirement benefit.

A key component of this bill centers on continued payment into TFFR. It is imperative that the teacher and the "employer" and "employee" allotments be paid to NDTFFR.

SB 2258 does not solve the teacher shortage issue. It does, however, allow school districts to explore another option when faced with open teaching positions in the 11th hour. If enacted, school districts have an additional option to find a highly qualified to teach the children we serve. Simply put, SB 2258 creates a win-win

for North Dakota Schools as we continue to explore options for eliminating teacher shortage issues.

Thank you for allowing me to share our story. I offer my support of SB 2258 and will stand for any questions you may have.

Senate Bill 2258
North Dakota Retirement and Investment Office (RIO) on behalf of the Teachers' Fund for Retirement Board of Trustees
Neutral Testimony related to SB 2258 before the Senate Education Committee
Senator Jay Elkin, Chair
Senator Todd Beard, Vice Chair

Chad Roberts, MAc – Deputy Executive Director – Chief Retirement Officer

I. Introduction

The Retirement and Investment Office (hereinafter "RIO") was created by the 1989 Legislative Assembly to capture administrative and investment cost savings in the management of the investment program of the State Investment Board (SIB) and the retirement program of the Teachers' Fund for Retirement (TFFR). Statutory authority for the agency is found in North Dakota Century Code chapter 54-52.5 and the programs are governed by chapters 21-10 (SIB) and 15-39.1 (TFFR).

TFFR is a qualified defined benefit public pension plan. The program is managed by a seven-member board of trustees which consists of the State Treasurer, State Superintendent, two active teachers, two retired teachers and one school administrator all appointed by the Governor.

The plan covers North Dakota public school teachers and administrators. Benefit funding comes from member and employer contributions (43%) and investment earnings (57%). During the past decade, active membership has increased 16.4% from 10,138 to over 11,800 participants, while retirees and beneficiaries have increased 26.0% from 7,489 to over 9,400.

Our 2022 actuarial valuation projects the TFFR plan to reach 100% fully funded status by 2044. The successful funding path is largely attributable to the statutory changes to the plan, including the creation of a tiered benefit structure and increase in contributions passed by the Legislature in 2011.[1]

II. Neutral Testimony relating to SB 2258

The TFFR Board of Trustees believes that defined benefit plans provide a valuable recruitment and retention tool for government entities when managed correctly and funded appropriately. TFFR employers are largely school districts which employ both TFFR and Public Employee Retirement System (PERS) members. The TFFR Board recognizes that public pension reform is a major topic under consideration by the 68th Legislative Assembly. In addition to numerous bills addressing the NDPERS plan, there are several bills currently under consideration in both the House and the Senate to modify and/or alter the TFFR plan. The pending bills affecting TFFR are this bill; S.B. 2258; as well as H.B. 1219, H.B. 1150, and H.B. 1271. Each of these bills address

[1] H.B. 1134, 62nd N.D. Legislative Assembly (2011-2013).

different aspects of the TFFR program. Of note and importance in the consideration of S.B. 2258 is that in each of these bills there is an attempt to address the critical shortage of teachers in North Dakota. However, with each of these bills also comes an impact to the TFFR program and the path to attain fully funded status.

Presently the plan provides two options for retired teachers desiring to return to the classroom. The options may generally be referred to as: 1) the Annual Hour Limit Option and 2) the Critical Shortage area option. Option #1 – the Annual Hour Limit Option, applies to any teacher who retires and and subsequently returns to teach after thirty (30) days and less than one year. Such a teacher may continue to receive their retirement benefit so long as they work under the annual hour limit. In the event they exceed the annual limit set forth in code, their retirement benefit will be suspended until such time as they re-retire. Under Option #2 – the Critical Shortage area option – a teacher must be retired and not return to teach for at least a year to qualify. If they do qualify then after a year, they may return to teach in a critical shortage area without any hour restriction and still receive their retirement benefit. The Education Standard Practices Board (ESPB) defines what areas constitute critical shortage areas every year. Currently ESPB defines all areas of instruction (except administration) as critical shortage areas. Under either option, the employer must contribute the employer portion to the TFFR plan, and the member the member portion. The teacher, upon re-retiring, is not entitled to a recalculation of their monthly benefit based upon additional service credit or the new salary for re-employment period, unless they return to teach full time under Option #1 – Annual Hour Limit, have their retirement benefit suspended, and continue to teach for at least two more years.

This bill, S.B. 2258, will affect the plan by: removing the waiting period of one (1) year prior to qualifying for Option #2 – Critical Shortage Area and returning to teach in a critical shortage area, as defined by ESPB. Upon returning to a critical shortage area, the teacher will continue to receive their monthly benefit in addition to the salary for the position filled. The teacher must contribute the employee portion of the salary to the TFFR Fund. The employer must also contribute the employer portion of the salary to the TFFR fund. Upon returning to retirement, the teacher is not entitled to a recalculation of benefits based on the new service credit time or salary earned.

There is a competing bill to S.B. 2258 in the House of Representatives, H.B. 1219. Under H.B. 1219, which is supported by the TFFR Board of Trustees, a retired teacher electing to return to teach after 30 days under Option #1 – Annual Hour limit, a teacher who exceeds the annual hour limit and has their retirement benefit suspended will get the benefit of all of their additional service upon re-retirement; ie a teacher will not have to work for an additional two years before having their retirement benefit recalculated, rather any additional service will be incorporated and result in an increased benefit upon re-retirement. For example, if a retiree averaging a $60,000/year salary for their last three years of service, and receiving a monthly benefit of $2,500.00, returns to teach for two years at a salary of $70,000.00 under the provision for recalculation in H.B. 1219, then upon re-retirement their monthly benefit may increase to $2,999.99 per month.

When considering the implications of S.B. 2258, it is important to consider the other bills pending this session that will impact the TFFR program. Below is a table summarizing the changes proposed to the TFFR program:

Bill Number	Proposed Changes to TFFR plan	Actuarial Impact of Proposed Changes
SB 2258	• Allows a teacher receiving retirement benefits to return to teaching in a critical shortage area with no waiting period after retirement. • Allows a teacher to continue receiving their monthly benefit payment while re-employed. • Requires teacher to contribute employee portion of earnings to TFFR plan. • Requires employer to contribute employer portion of earnings to TFFR plan. • Does not allow a recalculation of benefits for additional service credit or new salary.	• Increases actuarial determined contribution rate by 0.09% to 12.21% • Increases unfunded accrued actuarial liability by $9.2 million on AVA and FVA basis. • Increases remaining time until reaching fully funded status from 19.4 years to 19.6 years.
HB 1150	• Allows exemption for participation in TFFR plan for qualified teachers with 20+ years of military service. • Qualified teacher must choose to opt out of plan during first year and choice cannot be changed.	• Increased administration cost of $5,000 for biennium to track and administer exempted person. • Increases remaining time until reaching fully funded status by one week. • Reflects a change in public policy that allows for exemptions to participate in TFFR plan.
HB 1219	• Section 7 in the bill allows for a recalculation of benefits upon re-retirement under the Annual Hour Limit option. • Retired teacher must contribute the employee portion of the salary to the TFFR fund. • Employer must contribute employer portion of salary to the TFFR fund • Also contains technical corrections to clarify existing plan provisions.	• Increases remaining time until reaching fully funded status by one month. • Incentivizes retired teachers to return to the classroom and continue to work for an increased benefit.

HB 1271	• Allows retired teachers returning to teach to **opt out** of contributing to the TFFR plan, as a result of a teacher opting out employers also **do not** contribute to the plan on behalf of the teacher. •	• Significant negative impact to the TFFR plan; actuarial analsysi indicates that if HB 1271 were to pass then the TFFR plan would never achieve 100% fully funded status.

In addition to these public policy implications there is an actuarial and fiscal impact to the fund and its administration. Our actuaries estimate that the enactment of S.B. 2258 as it is written would result in adding $9.2 million to the unfunded liability of the plan and an additional 0.2 years until reaching fully funded status.

III. Summary

The TFFR Board recognizes the need to attract retired teachers back to the classroom to assist in mitigating vacancies in critical shortage areas. In H.B. 1219, a bill supported by the TFFR Board, the importance of providing an incentive to retired teachers was evidenced by the recommended changes in the program to allow a recalculation of monthly benefits to include additional service credit and the new salary for the reemployment period. If S.B. 2258 progresses through the legislative process, H.B. 1219 would need to be amended to remove the language changes in section 7 addressing this area. The TFFR Board has taken a neutral position on S.B. 2258.

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Via Email

January 21, 2023

Janilyn Murtha
Deputy Executive Director/Chief Retirement Officer
ND Retirement & Investment Office
3442 E. Century Avenue
Bismarck, ND 58507-7100

Re: Actuarial Impact Analysis of Senate Bill No. 2258

Dear Jan:

As requested, we prepared an actuarial impact analysis for the North Dakota Teachers' Fund for Retirement (TFFR or Fund), regarding the proposed modifications to current TFFR provisions under Senate Bill No. 2258 (SB 2258). Under current law, a retired teacher may return to active service in a critical shortage area without losing any benefits after receiving a retirement annuity for at least one year. This bill would allow to return to active employment in critical shortage areas and disciplines immediately (under certain conditions) without losing any benefit if a school district has an unfilled position in a critical shortage area.

The proposed bill requires the retired teachers to pay the member contributions under Section 15-39.1-09. These member contributions will be included in the retired member's account value and may not be refunded except as provided under Section 15-39.1-17. In addition, the period of service will not be considered an additional benefit accrual. Also, the participating employers are required to pay contributions on behalf of the rehired retirees.

Summary of Actuarial Impact

The actuarial cost associated with SB 2258 will depend on the retirement behavior and demographics of eligible active teachers who choose to retire earlier than expected in order to return to work with no suspension of retirement benefits while receiving a salary. Approximately 100 unfilled positions, on average, in critical shortage areas and disciplines exist each school year. The effect of SB 2258 is modeled by assuming active members eligible for unreduced retirement retire at higher rates to fill these open positions over a number of years. For purposes of this analysis, we assumed the number of expected retirements increases by approximately 100 in the first year, with a slight increase in additional retirements per year thereafter, assuming that the bulk of these positions remain filled going forward.

As of July 1, 2022, the estimated impact is shown in the table below.

	Valuation	SB 2258	Increase/ (Decrease)
Actuarially determined contribution rate	12.12%	12.21%	0.09%
Actuarial Accrued Liability (AAL)			
Retired participants and beneficiaries	$2,606.5	$2,606.5	$0.0
Inactive vested members	133.5	133.5	-
Active members	1,722.4	1,731.6	9.2
Inactive vested members due a refund of employee contributions	17.6	17.6	-
Total AAL	4,480.0	4,489.2	9.2
Total normal cost	98.8	98.9	0.1
Fair value of assets (FVA)	$3,023.9	$3,023.9	$0.0
Actuarial value of assets (AVA)	3,133.0	3,133.0	-
Unfunded AAL based on FVA	$1,456.1	$1,465.3	$9.2
Funded percentage on FVA basis	67.5%	67.4%	(0.1%)
Unfunded AAL based on AVA	$1,347.0	$1,356.2	$9.2
Funded percentage on AVA basis	69.9%	69.8%	(0.1%)
Effective amortization period on an AVA Basis	19.4	19.6	+0.2 years
Projected Annual Payroll for Fiscal Year Beginning July 1	$810.0	$810.0	$0.0

$ in Millions

Change in Plan Costs

If adopted, SB 2258 would slightly increase the active Actuarial Accrued Liability (AAL) by $9.2 million (an increase of 0.5% of active AAL). The funded percentage on an AVA basis would decrease by 0.1%. The Fund's Normal Cost increases, from $98.8 million to $98.9 million. Because the magnitude of the increase in liabilities is relatively minor, the proposed bill would not have a significant impact on TFFR's actuarial valuation.

The analysis of the proposed bill assumes that it will have no actuarial impact on deferred vested participants. That is because the actuarial valuation already assumes that 100% of deferred vested participants retire at their earliest available unreduced retirement age.

Data, Methods and Actuarial Assumptions

The ND Retirement & Investment Office provided information that there are approximately 100 unfilled positions, on average, in critical shortage areas and disciplines each school year.

To reflect the anticipated changes in retirement behavior, adjusted retirement rates were developed based on professional judgement. Rates of unreduced retirement for active members were adjusted uniformly in the first year after the valuation date to estimate the additional expected retirements (and subsequent return to active status) necessary to fill approximately 100 unfilled positions in critical shortage areas. In the second year and beyond, the rates of unreduced retirement were increased uniformly by a factor of 1.01 for all years to approximate additional expected retirements over time.

For purposes of this analysis, the impacts on plan liabilities and funding ratios are calculated using the actuarial assumptions and plan provisions described in the Actuarial Valuation Report and Review as of July 1, 2022, for TFFR, dated October 20, 2022, unless stated otherwise. The proposed legislation would not change the July 1, 2022, actuarial valuation results, and the impacts as of July 1, 2022, are used as a proxy for the effect on plan costs.

Segal valuation results are based on proprietary actuarial modeling software. The actuarial valuation models generate a comprehensive set of liability and cost calculations that are presented to meet regulatory, legislative and client requirements. Our Actuarial Technology and Systems unit, comprised of both actuaries and programmers, is responsible for the initial development and maintenance of these models. The models have a modular structure that allows for a high degree of accuracy, flexibility and user control. The client team programs the assumptions and the plan provisions, validates the models, and reviews test lives and results, under the supervision of the responsible actuary.

Risk

This analysis uses one set of actuarial assumptions. Actual results will vary from the assumptions. The July 1, 2022, actuarial valuation report includes a discussion of various risks that apply to the Fund, and those risks also apply to this analysis.

Caveats and Certification

Use of this information is subject to the caveats and limitations of use described in the July 1, 2022, actuarial valuation report. This report has been prepared in response to a request from the North Dakota Retirement & Investment Office on behalf of the North Dakota Legislature.

The signing actuaries are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Please let us know if you have any questions, comments, or concerns.

Sincerely,

Matthew A. Strom, FSA, MAAA, EA
Senior Vice President and Actuary

Tanya Dybal, FSA, MAAA, EA
Vice President and Actuary

Brad Ramirez, FSA, MAAA, FCA, EA
Vice President and Consulting Actuary

North Dakota Small Organized Schools

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SB 2258 Testimony in Support
Senate Education Committee
Senator Elkin – Chairperson
January 23, 2023

Senator Elkin and members of the Senate Education Committee, my name is Michael Heilman. I am the Executive Director of the North Dakota Small Organized Schools (NDSOS). I represent 150-member school districts of the North Dakota Small Organized Schools. NDSOS stands in support SB 2258.

SB 2258 provides another avenue for our schools to put qualified teachers in our classrooms. Most schools are advertising and hiring teachers for the following year in the spring and early summer. The provisions within the bill related to critical shortage area and delaying the use of this bill's provisions until after August should ensure that qualified, new to the field educators, have a priority before returning a retired teacher to the classroom.

The teacher shortage is real in large and small schools and the pool of qualified teachers continues to shrink. Teachers moving from smaller schools to larger school is not new. What is new, is large schools finding it difficult to fill position and the smaller schools pool of eligible teachers to fill open positions has gone from a small number to no candidates in many cases. We understand that this may not be the final version of this bill or others like it but, NDSOS supports this effort and others that are designed to mitigate the teacher shortage issue.

North Dakota Small Organized Schools supports a do pass recommendation for SB 2258. Thank you, Chairman Elkin and members of the committee. I will stand for questions.

Mr. Michael Heilman – Executive Director
North Dakota Small Organized Schools
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Board of Directors

Region 1
Mr. Tim Holte, Supt. Stanley
Mr. John Gruenberg, Supt. Powers Lake

Region 2
Mr. Jeff Hagler, Supt. North Star
Mr. Steven Heim, Anamoose & Drake

Region 3
Dr. Frank Schill, Supt. Edmore
Mr. David Wheeler, Supt. Manvel

Region 4
Mr. Brian Christopherson, Supt. New Salem
Dr. Kelly Peters, Supt. Richardton-Taylor

Region 5
Mr. Rick Diegel, Supt. Kidder Co.
Mr. Brandt Dick, Supt. Burleigh County

Region 6
Mr. Mitch Carlson, Supt. LaMoure
Dr. Steven Johnson, Supt. Lisbon

The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.

Great Public Schools *Great Public Service*

Testimony Before the Senate Education Committee
SB 2258
January 24, 2023

Chairman Elkin and Members of the Committee, for the record I am Nick Archuleta, president of ND United. I rise today to respectfully urge a ***do not pass*** recommendation for SB 2258.

Mr. Chairman, I am sure that SB 2258 was proposed with the admirable intention of getting more qualified educators in front of our children in schools across North Dakota. We laud that objective. However, we are opposed to SB 2258 because while SB 2258 may encourage retirees to return to the classroom, it does not go far enough to incentivize retired teachers to *remain* in the classroom. As a practical matter, the rehired retired teachers will not see an enhanced retirement benefit and that will certainly impact their decision to stay long term.

Like TFFR, we prefer HB 1219. That bill, introduced by Rep. Kempenich, Sen. Schaible, and others both incentivizes teachers to return to the profession and to stay as Section 7 of that bill provides for a higher recalculated benefit upon their re-retirement. Both SB 2258 and HB 1219 have minor impacts on the TFFR, but we believe that Section 7 of HB 1219 makes it more attractive to retired teachers.

For that reason, Chairman Elkin, and members of the Committee, I respectfully urge a ***do not pass*** recommendation for SB 2258.

This concludes my testimony, and I am happy to stand for questions.

Good morning Chairman Elkin and members of the Senate Education Committee. For the record, my name is Bob Paulson and I am a State Senator from District 3 in Minot.

SB 2258 is brought to you today as a result of a conversation with the Superintendent of Minot Public Schools who will testify following me.

During a conversation, he asked if I would be willing to bring a bill modeled after our neighboring state to the South, which would allow for the re-hiring of a teacher after they had retired. He provided the language for me to submit to Legislative Council, which resulted in the bill I bring to you today.

The bill allows for re-hiring retired teachers with a couple of restrictions. As you can see on page 1 lines 12-20, it must be an unfilled opening in a critical shortage area, the school district must have conducted a thorough search and no other qualified applicant accepted the position; and they must notify the fund office in writing within ten days of the retired member's return to covered employment.

In preparation for this bill, both Superintendent Vollmer and I have spoken separately with Jan Murtha, the *Executive Director* of the North Dakota Retirement & Investment Office. I believe she is in support of the bill, provided the member's contribution and employer's contribution continue to be made. If that aspect was amended out of the bill, it would be problematic for the health of the fund.

Dr. Vollmer will follow me and would be much more adept at answering specific questions about the bill and its impact, but I would be happy to stand for any questions.

SB 2258

Testimony

Chairman Heinert and members of the House Education Committee. I come to you with conceptual support to a concept and to ensure that regardless of how bills are assigned to committees you can understand what is out there in support of retired teachers potentially coming back into service so that this committee can weigh this as they consider this bill.

I will begin by saying that currently the TFFR fund is on track to be fully funded within the foreseeable future. As such – protecting this fund and making little or no exceptions to the fund while on the pathway to being fully funded is critical to the health of the plan. This has been a large consideration for the TFFR board as they've weighted this issue. Having retired teachers have a way to come back into the field to teach is a stop gap measure with the intention to assist as education suffers a similar workforce shortage as other professions. There are two bills that exist currently that address this issue here they are and their functions:

SB 2258 – This bill

- Teacher can return
- They begin receiving teaching salary
- Payment of TFFR retirement benefit continues
- TFFR payments into fund resume from employer and employee
- There is NO recalculation of TFFR upon "re-retirement"
- Fund implication (waiting to hear from RIO office). Conversation Friday was it would likely be very minimal much like 1219. Hope to hear more tomorrow.

HB 1219 – this was heard in your committee on Friday 1/20/2023

- This bill was developed with the support of the TFFR Board – includes other needed amendments along with addressing the retired teacher issue.
- This option is preferred by the RIO office

- Teacher can return
- Payment of TFFR stops
- TFFR payments into fund resume from employer and employee
- Allows for a recalculation of TFFR upon “re-retirement” – in the long run a recalculation is better for the teacher.
- Fund implications very minor

NDCEL is in support of the stop gap measure and in our support thereof we lean toward what the TFFR board has supported as it provides the needed stop gap measure and it is the safest for the fund.

Thank you for your consideration.

Senate Bill 2258
North Dakota Retirement and Investment Office (RIO) on behalf of the Teachers' Fund for Retirement Board of Trustees
Neutral Testimony related to SB 2258 before the House Education Committee
Representative Pat Heinert, Chair
Representative Cynthia Schreiber-Beck, Vice Chair

Janilyn Murtha, JD, MPAP – Executive Director

I. Introduction

The Retirement and Investment Office (hereinafter "RIO") was created by the 1989 Legislative Assembly to capture administrative and investment cost savings in the management of the investment program of the State Investment Board (SIB) and the retirement program of the Teachers' Fund for Retirement (TFFR). Statutory authority for the agency is found in North Dakota Century Code chapter 54-52.5 and the programs are governed by chapters 21-10 (SIB) and 15-39.1 (TFFR).

TFFR is a qualified defined benefit public pension plan. The program is managed by a seven-member board of trustees which consists of the State Treasurer, State Superintendent, two active teachers, two retired teachers and one school administrator all appointed by the Governor.

The plan covers North Dakota public school teachers and administrators. Benefit funding comes from member and employer contributions (43%) and investment earnings (57%). During the past decade, active membership has increased 16.4% from 10,138 to over 11,800 participants, while retirees and beneficiaries have increased 26.0% from 7,489 to over 9,400.

Our 2022 actuarial valuation projects the TFFR plan to reach 100% fully funded status by 2044. The successful funding path is largely attributable to the statutory changes to the plan, including the creation of a tiered benefit structure and increase in contributions passed by the Legislature in 2011.[1]

II. Neutral Testimony relating to SB 2258

The TFFR Board of Trustees believes that defined benefit plans provide a valuable recruitment and retention tool for government entities when managed correctly and funded appropriately. TFFR employers are largely school districts which employ both TFFR and Public Employee Retirement System (PERS) members. The TFFR Board recognizes that public pension reform is a major topic under consideration by the 68th Legislative Assembly. In addition to numerous bills addressing the NDPERS plan, there are several bills currently under consideration in both the House and the Senate to modify and/or alter the TFFR plan. The pending bills affecting TFFR are

[1] H.B. 1134, 62nd N.D. Legislative Assembly (2011-2013).

this bill; S.B. 2258; as well as H.B. 1219 and H.B. 1150. Each of these bills address different aspects of the TFFR program. Of note and importance in the consideration of S.B. 2258 is that in each of these bills there is an attempt to address the critical shortage of teachers in North Dakota. However, with each of these bills also comes an impact to the TFFR program and the path to attain fully funded status.

Presently the plan provides two options for retired teachers desiring to return to the classroom. The options may generally be referred to as: 1) the Annual Hour Limit Option and 2) the Critical Shortage area option. Option #1 – the Annual Hour Limit Option: applies to any teacher who retires and subsequently returns to teach after thirty (30) days and less than one year. Such a teacher may continue to receive their retirement benefit so long as they work under the annual hour limit. In the event they exceed the annual limit set forth in century code, their retirement benefit will be suspended until such time as they re-retire. Under Option #2 – the Critical Shortage area option – a teacher must be retired and not return to teach for at least a year to qualify. If they do qualify then after a year, they may return to teach in a critical shortage area without any hour restriction and still receive their retirement benefit. The Education Standard Practices Board (ESPB) defines what areas constitute critical shortage areas every year. Currently ESPB defines all areas of instruction (except administration) as critical shortage areas. Under either option, the employer must contribute the employer portion to the TFFR plan, and the member the member portion. The teacher, upon re-retiring, is not entitled to a recalculation of their monthly benefit based upon additional service credit or the new salary for re-employment period, unless they return to teach full time under Option #1 – Annual Hour Limit, have their retirement benefit suspended, and continue to teach for at least two more years.

This bill, S.B. 2258, will affect the plan by: removing the waiting period of one (1) year prior to qualifying for Option #2 – Critical Shortage Area and returning to teach in a critical shortage area, as defined by ESPB. Upon returning to a critical shortage area, the teacher will continue to receive their monthly benefit in addition to the salary for the position filled. The teacher must contribute the employee portion of the salary to the TFFR Fund. The employer must also contribute the employer portion of the salary to the TFFR fund. Upon returning to retirement, the teacher is not entitled to a recalculation of benefits based on the new service credit time or salary earned.

H.B. 1219 is a competing bill to S.B. 2258. Under H.B. 1219, which is supported by the TFFR Board of Trustees, a retired teacher electing to return to teach after 30 days under Option #1 – Annual Hour limit, a teacher who exceeds the annual hour limit and has their retirement benefit suspended will get the benefit of all of their additional service upon re-retirement; ie a teacher will not have to work for an additional two years before having their retirement benefit recalculated, rather any additional service will be incorporated and result in an increased benefit upon re-retirement. .

In addition to these public policy implications there is an actuarial and fiscal impact to the fund and its administration. Our actuaries estimate that the enactment of S.B. 2258 as it is written would result in adding $9.2 million to the unfunded liability of the plan and an additional 0.2 years until reaching fully funded status. The actuarial analysis was submitted with previously submitted testimony by RIO.

III. Summary

The TFFR Board recognizes the need to attract retired teachers back to the classroom to assist in mitigating vacancies in critical shortage areas. In H.B. 1219, a bill supported by the TFFR Board, the importance of providing an incentive to retired teachers was evidenced by the recommended changes in the program to allow a recalculation of monthly benefits to include additional service credit and the new salary for the reemployment period. The TFFR Board has taken a neutral position on S.B. 2258, but supports H.B. 1219

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Prepared by the Legislative Council staff for
Representative Schreiber-Beck
March 13, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2258

Page 1, line 12, replace "that has" with ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education to fill"

Page 1, line 14, after "district" insert ", special education unit, regional education association, regional career and technical education center, or the North Dakota center for distance education"

Renumber accordingly