

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1101

2001 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1101

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1101 A

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/1/01

Tape Number	Side A	Side B	Meter #
2	X		0-1900
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

REP. M. KLEIN called the meeting to order, with all members present.

In favor:

FAYE KOPP, DEPUTY EXECUTIVE DIRECTOR, ND RETIREMENT AND INVESTMENT OFFICE, TEACHER'S FUND FOR RETIREMENT

Please see attached testimony.

REP. M. KLEIN asks if KOPP has received a letter yet? KOPP replies that no she has not as of yet. REP. M. KLEIN asks about doubling the hours. KOPP replies four hours for ninety days, same thing very similar.

REP. GRANDE asks about section 2. KOPP then clarifies that to GRANDE. REP. GRANDE wants clarification on section 5 and 7, explain member interest groups. KOPP replies with NDEA information. REP. GRANDE asks how many members are in the TFFR? KOPP replies

that there was not an actual poll done of the group. REP. GRANDE asks if there was a name being used or did they opt out? KOPP replies that there is not a mechanism in place right now. REP. KLEMIN asks for a point of clarification from KOPP on actually participating in the plan. REP. KASPER asks what is the percentage of the fund being used right now? KOPP replies that it is about 8%.

In favor:

BARBARA GIBBONS EVANSON, TEFB BOARD TRUSTEE

Representing active teachers. Please see attached testimony.

In favor:

LARRY KLUNDT, EXECUTIVE DIRECTOR OF THE ND COUNCIL OF EDUCATIONAL LEADERS

KLUNDT states to the committee that they are in support to this bill.

REP. M. KLEIN asks if there is a problem with the privacy thing? KLUNDT replies that maybe there is some amendments that can be out on.

In favor:

JOE WESTBY, NDEA

WESTBY states that future retirees are growing.

In favor:

TOM TUPA, NDRTA

TUPA comments that the teachers memorial services needs to have a more adequate job done.

There was no opposition.

The committee did no action on the bill at this time. The hearing was then closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1101 B

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/2/01

Tape Number	Side A	Side B	Meter #
2	X		707-1571
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

REP. M. KLEIN called the hearing to order with all members present , except REP. HUNSKOR.

Action:

Amendments were proposed to the committee. General discussion. REP. GRANDE motions to accept the amendments, seconded by REP. KASPER. REP. M. KLEIN takes the roll call, 10 YES, 4 NO, 1 ABSENT AND NOT VOTING. REP. BRUSEGAARD then motions for a DO PASS AS AMENDED, seconded by REP. MEIER. The roll call is taken with 14 YES, 0 NO, 1 ABSENT AND NOT VOTING. The motion carries. The carrier of the bill is REP. BELLEW.

HB 1101: DO PASS AS AMENDED 14-0

CARRIER: REP. BELLEW

FISCAL NOTE
 Requested by Legislative Council
 12/14/2000

Bill/Resolution No.: HB 1101

Amendment to:

1A. 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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There should be no cost to the state for HB1101. Small actuarial cost will be funded through actuarial reserves in the trust fund.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

NA

Name:	Fay Kopp	Agency:	ND Retirement & Investment Office
Phone Number:	328-9895	Date Prepared:	12/19/2000

10070.0201
Title.0300

Adopted by the Government and Veterans
Affairs Committee
February 2, 2001

VR
2/2/01

HOUSE AMENDMENTS TO HB 1101 HOUSE GVA 2/2/01
Page 7, remove lines 22 and 23

Renumber accordingly

Date: 2-2-01

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1101

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken accept the amendment

Motion Made By Grande Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP KROEBER		✓
VICE CHAIR GRANDE	✓				
REP BELLEW	✓				
REP BRUSEGAARD	✓				
REP CLARK	✓				
REP DEVLIN	✓				
REP HAAS		✓			
REP KASPER	✓				
REP KLEMIN	✓				
REP MEIER	✓				
REP WIKENHEISER	✓				
REP CLEARY		✓			
REP HUNSKOR		✓			
REP METCALF		✓			

Total (Yes) 10 No 4

Absent 1

Floor Assignment _____

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

Date: 7-2-2001Roll Call Vote #: 22001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1101House GOVERNMENT AND VETERANS AFFAIRS

Committee

- ☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As AmendedMotion Made By BrusegaardSeconded
By Meier

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP KROEBER	✓	
VICE CHAIR GRANDE	✓				
REP BELLEW	✓				
REP BRUSEGAARD	✓				
REP CLARK	✓				
REP DEVLIN	✓				
REP HAAS	✓				
REP KASPER	✓				
REP KLEMIN	✓				
REP MEIER	✓				
REP WIKENHEISER	✓				
REP CLEARY	✓				
REP HUNSKOR	✓				
REP METCALF	✓				

Total (Yes) 14 No 0

Absent _____

Floor Assignment Rep Bellew

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

REPORT OF STANDING COMMITTEE (410)
February 5, 2001 8:28 a.m.

Module No: HR-20-2322
Carrier: Bellew
Insert LC: 10070.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1101: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1101 was placed
on the Sixth order on the calendar.

Page 7, remove lines 22 and 23

Renumber accordingly

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1101

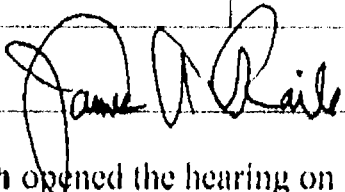
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1101

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date March 8, 2001

Tape Number	Side A	Side B	Meter #
I	X		41.6-End
I		X	0.0-18.0
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach** opened the hearing on HB 1101 which relates to definitions, annuities, participation by retired members who have resumed teaching, and confidentiality of records under the teachers' fund for retirement. Appearing before the committee to explain the bill was **Fay Kopp**, deputy executive director for the Retirement and Investment Office which administers the Teachers Fund for Retirement Program. A copy of her written testimony is attached. **Senator T. Mathern** inquired about the amendment which had been handed out concerning the effective date on page 4. He inquired what the rationale was for the end date. **Ms. Kopp** indicated the reason for the expiration date, basically just that area of return to work which deals with the educational foundation is that if for any reason it would be found that there may be any cost to it or that it was not utilized at all that the legislature could take another look at it to determine if it is legislation that would need to continue. Because of some of the other retiree return to work provisions that are also being proposed in this session and various other expansions there is a possibility that the particular provision dealing with donating half of your

salary to an educational foundation may not be utilized. We do not know if it will be. If it is not, it would give the legislature an opportunity to remove that. **Chairman Krebsbach** made an inquiry about the dates which were included in the proposed amendments. **Senator C. Nelson** offered a response. **Senator Kilzer** inquired about the Brandenburg Bill. **Chairman Krebsbach** noted that in the employee benefits report that bill was withdrawn and some of it became part of 69, 70, or 71 whichever that was. There were no further questions for Ms. Kopp. **Joe Westby** representing NDEA appeared before the committee. He indicated that his organization is pleased to support the changes this bill would make and would encourage the committee to give it a Do Pass. **Senator Kilzer** inquired if he was comfortable with the proposed amendments. **Mr. Westby** indicated he felt they were OK with it. **Ken Toupa**, with the North Dakota Retired Teachers Association indicated that his organization supports the bill. They support the amendment but they also proposed an additional amendment on page 7, line 22 and 23. It would reinstate part of the bill which had been removed by the house. The amendment they are suggesting would allow the organization access to information concerning members deaths. **Senator C. Nelson** and **Chairman Krebsbach** inquired about the information the organization was seeking. There was no further testimony in support of, in neutral position on or in opposition to HB 1101. **Chairman Krebsbach** closed the hearing on HB 1101. **Senator C. Nelson** moved the adoption of her amendment .0301, seconded by **Senator Kilzer**. **Senator T. Mathern** inquired about the difference in the effective dates in the amendment. **Senator C. Nelson** indicated on page 4, line 25 the letter of determination was received on January 29, 2001 so that this would take that bill and say it was in effect from January 29, 2001 through the end of the biennium 2005. **Fay Kopp** indicated that her understanding was that the first amendment on page 3 said effective after July 31, 2003 that does not include the foundation

Page 3

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1101

Hearing Date March 8, 2001

bill. The second one includes the foundation provision. Roll Call Vote for Adoption of the amendment included 5 Yeas, 0 Nays, and 0 Absent or Not Voting. The vote was left open for Senator Dever who was testifying in another committee. At this time the additional amendment requested by Mr. Toupa was discussed. **Senator C. Nelson** suggested putting back line 22 and on line 23 add the words members death. **Senator C. Nelson** moved to further amend HB 1101, seconded by **Senator Kilzer**. Roll Call Vote indicated 5 Yeas, 0 Nays, and 0 Absent or Not Voting. The vote again was left open for Senator Dever. A motion for Do Pass as Amended was made by **Senator C. Nelson** seconded by **Senator Wardner**. Roll Call Vote indicated 5 Yeas, 0 Nays, and 0 Absent or Not Voting. The vote again was left open for Senator Dever. **Senator C. Nelson** will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1101

Page 1, line 5, after "retirement" insert "; to provide an effective date; and to provide an expiration date"

Page 3, line 12, replace "Contingent effective date and expiration date - See note" with
"Effective after ~~January 29, 2003~~ July 31, 2005"

Page 4, line 25, replace "Contingent effective date and expiration date - See note" with
"Effective from January 29, 2001, through ~~January 29, 2003~~ July 31, 2005"

Renumber accordingly

Date: 3/08/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1101 (Engrossed)

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10070.0301

Action Taken Adopt amendments

Motion Made By Sen. C. Nelson Seconded By Sen. Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator Carolyn Nelson	✓	
Senator Dick Dever, Vice-Chr.	✓		Senator Tim Mathern	✓	
Senator Ralph Kilzer	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 3/08/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1101 (Engrossed)

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10070.0302

Action Taken Further Amend - put back line 22, line 23 member death.

Motion Made By Sen C. Nelson Seconded By Sen Kilzer

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Date: 3/08/01
Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1101 *Enrolled*

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. C. Nelson Seconded By Sen. Wardner

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. C. Nelson

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

REPORT OF STANDING COMMITTEE

HB 1101, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1101 was placed on the Sixth order on the calendar.

Page 1, line 5, after "retirement" Insert "; to provide an effective date; and to provide an expiration date"

Page 3, line 12, replace "Contingent effective date and expiration date - See note" with "**Effective after ~~January 29, 2003~~ July 31, 2005**"

Page 4, line 25, replace "Contingent effective date and expiration date - See note" with "**Effective from January 29, 2001, through ~~January 29, 2003~~ July 31, 2005**"

Page 7, after line 21, Insert:

"7. Member interest groups approved by the board, limited to information concerning the member's death."

Renumber accordingly

2001 TESTIMONY

HB 1101

**REPORT OF THE LEGISLATIVE COUNCIL'S
EMPLOYEE BENEFITS PROGRAMS COMMITTEE
HOUSE BILL NO. 1101**

Sponsor: Board of Trustees

Proposal: Changes the definition of contract to include written agreements with special education units; changes the definition of teacher to include persons employed by state agencies and special education units and persons contractually employed by a separate state institution, state agency, special education unit, school board, or other governing body of a school district under a third-party contract; reduces the time period within which a retired teacher may return to covered employment from 60 calendar days to 30 calendar days and allows the retired member to return to covered employment for less than four hours each day and continue to receive a monthly retirement benefit or return to covered employment for four or more hours each day for a maximum of 90 working days and continue to receive a monthly retirement benefit; provides that if a teacher subsequently retires with more than two years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity, plus an additional annuity computed according to NDCC Chapter 15-39.1 based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity computed according to Chapter 15-39.1 based on total years of service credit earned during both employment periods offset by the actuarial value of payments already received; provides that certain Teachers' Fund for Retirement records relating to the retirement benefits of a member or a beneficiary may be disclosed to a member's participating employer, the Public Employees Retirement System, state or federal agencies, and member interest groups approved by the board.

The committee amended the proposal at the request of the Teachers' Fund for Retirement Board of Trustees to remove state agency from the definition of teacher; change the return-to-work provisions from the current limit of 90 working days of four or more hours of teaching to a maximum of 700 hours per year; and incorporate the provisions of Employee Benefits Programs Committee Bill No. 3 which provide that if a retired teacher returns to teaching and subsequently retires with more than four years of additional credited service, the retired teacher's annuity for all years of service must be computed under NDCC Section 15-39.1-10(2) (age 65 or Rule of 85) but change the recalculation from four years to five years of additional credited service.

Actuarial Analysis: The consulting actuary does not believe the effect of these changes is material. The consulting actuary reported that it is difficult to determine a precise estimate of the cost of the bill, given that much will depend on the number of retirees who elect to return to teaching on a full-time basis. However, the consulting actuary believes that the cost will probably fall in the range of from .02 percent of pay to .10 percent of pay. Expressed as an annual dollar figure, this is equivalent to an increase of \$68,000 to \$340,000 per year, based on the current payroll.

Committee Report: Favorable recommendation.



ND Retirement and Investment Office

*Teachers' Fund for Retirement
State Investment Board*

Steve Cochrane, CFA
Executive Director

Fay Kopp
Deputy Executive Director

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

TESTIMONY ON HB 1101 GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

Fay Kopp, Deputy Executive Director
ND Retirement and Investment Office
February 1, 2001

House Bill 1101 was submitted by the Teachers' Fund for Retirement (TFFR) Board. This bill proposes administrative changes to TFFR statutes dealing with definitions, confidentiality of records, and retiree re-employment provisions.

See Attachment A for overview of TFFR plan.

SECTION 1. AMENDMENT. (Page 1, lines 9-10)

- Modifies the definition of "contract" to include written agreements with special education units, in addition to written agreements with school districts and other employers participating in TFFR.
- This change does not represent an increase or decrease in TFFR membership, but clarifies existing statutes.

SECTION 2. AMENDMENT. (Page 1, lines 15-24; page 2, lines 1-3)

- Modifies the definition of "teacher" by removing the language indicating that a person must be licensed "to teach" by the Education Standards and Practices Board (ESPB). The language change would help to clarify eligibility for TFFR membership since there are many "special teachers" such as librarians, counselors, school psychologists, speech pathologists, and special education teachers licensed by ESPB and employed in school systems today.
- New language also specifies that licensed teachers contractually employed by participating employers under 3rd party contracts are required to be TFFR members. 3rd party contracts must be limited to governmental entities due to IRS qualification requirements.
- These changes do not represent an increase or decrease in TFFR membership, but clarify existing statutes.

SECTION 3. AMENDMENT. (Page 3, line 4)

- Clarifies spousal consent provisions approved in the 1999 legislative session which were made to help protect a spouse's rights to a member's retirement benefit in case of divorce or death.
- The proposed additional language would allow a member to select a retirement benefit option without spousal approval when the spouse has already given written authorization for the member to name an alternate beneficiary.

SECTION 4. AMENDMENT. (Page 3, lines 12-30; pages 4, 5, 6)

- Section 4 modifies retiree re-employment provisions. Please note that there are two sets of identical changes in this section. One set is to the retiree re-employment provisions that are currently in effect, and one set is to the retiree re-employment provisions that were approved by the 1999 Legislature, but are not yet effective. You may recall that the 1999 Legislature approved a provision allowing a retired TFFR member to immediately return to work for one year without losing any retirement benefits provided at least 50% of salary is placed in an educational foundation. One of the conditions placed on that legislation is that it can only become effective after receipt of a letter from the IRS indicating that it does not jeopardize the qualified status of TFFR.
- During the past year, the TFFR Board has undergone an extensive review of retiree re-employment provisions. The Board believes that in addition to salary, pension benefits are another very important factor in attracting and retaining teachers, both in ND and across the country. In connection with the teacher shortage issue which is affecting employers around the nation, some states are making pension benefits more attractive to encourage teachers to postpone their retirement. Other states are liberalizing re-employment restrictions by rehiring retired teachers and allowing them to continue receiving their retirement benefits. A growing number of states are allowing teachers to return in critical shortage areas and continue drawing their pension benefits. (This is similar to SB 2180 which would allow ND retired teachers to return to work in critical shortage areas after a one-year break in service.)
- As a result of its study, the Board is proposing legislation that they believe is fair and equitable to both employees and employers, competitive with other state retirement systems, yet would not jeopardize the financial soundness of the TFFR plan, nor its qualified status with the IRS.

- Proposed language shortens the waiting period that must elapse before a retiree can return to TFFR-covered employment from 60 to 30 days. After the proposed 30-day waiting period, a retiree could return to work on a part time basis and work up to 700 hours per year (instead of the current 90-day limit of 4 hours or more) and continue receiving monthly TFFR benefits. This change from counting days and hours to an hours only limit should make it simpler for both employers and retirees to determine when the maximum limit has been reached. Allowing retirees to return to work on a part time basis provides the retiree with supplemental income, and allows employers to utilize experienced teachers, on a part time basis, to fill positions they might not otherwise be able to fill. In the past, approximately 40 – 50 retired teachers have returned to work each year and continued receiving their TFFR retirement benefits.

Note: The 700-hour re-employment limitation applies to retirees returning to TFFR-covered employment. It does not apply to substitute teaching, employment in North Dakota public colleges and universities, private schools, employment outside of education, or employment in another state.

- Under this proposal, if a retired teacher exceeds the 700-hour limit, the retiree's retirement benefits will be suspended. The re-employed retiree and employer would then each begin making contributions of 7.75% of salary to TFFR until the member re-retires. In the past, only 2 or 3 retired teachers have returned to work each year, exceeded the statutory limits, and had their TFFR retirement benefit suspended.

After the retirement benefit is suspended, if the retiree:

1. Re-retires with less than 2 years of service credit – the monthly retirement annuity would be the discontinued benefit plus benefit increases granted during the benefit suspension. Member assessments paid into the Fund would also be refunded to the retiree.
2. Re-retires with 2 or more, but less than 5 years, of additional service credit – the monthly retirement annuity would be the greater of the discontinued benefit, plus additional years at the new multiplier, plus benefit increases granted during the suspension, OR all the years recalculated at the new multiplier, less an actuarial offset for the amount of benefits already paid.
3. Re-retires with 5 or more years of additional service – the monthly retirement annuity would be the greater of the calculation above or the retirement benefit recalculated using all the years at the new multiplier with no actuarial offset. (This provision was originally in a separate bill sponsored by Rep. Brandenburg and studied by the Employee Benefits Programs Committee during the 2000 Interim. After review, the TFFR Board requested, and Rep. Brandenburg approved, combining it with this bill.)

- By allowing the retiree to receive the greater of either recalculation, this benefit adjustment treats the retired employee in an equitable manner, without impacting the financial soundness of the fund.
- Watson Wyatt, TFFR's actuarial consultant, analyzed these provisions and advised the Board not to reduce the waiting period to less than 30 days. TFFR is a qualified retirement plan under the Internal Revenue Code. With some exceptions, qualified defined benefit plans are not permitted to make distributions to participants who are still working. However they do allow a rehired retiree to continue receiving a benefit after returning to work. The IRS has disqualified plans that allowed an employee to "retire" on one day, immediately start receiving the retirement annuity, then return to work the next day while continuing to receive the annuity. The IRS position is that the retirement was merely a subterfuge to get around the rule against in-service distributions. Therefore, Watson Wyatt believes that enough time should elapse between the original retirement and the date of re-employment to establish that the retirement is genuine or the Fund could risk disqualification. (Note: If the TFFR plan were disqualified, the trust fund would lose its tax-exempt status.)
- Some might wonder why such complex return-to-work rules are necessary. They may believe that the member has earned the retirement benefit, and should be allowed to begin receiving it, even while still working. According to Watson Wyatt, there are two issues to consider:
 - 1) The IRS qualification issue which prohibits in-service distributions (above). Even if Congress relaxes these rules, they will probably do so only for part-timers and older or very long-service employees.
 - 2) Even if Congress allowed full-time employees to work and receive their pension, there would be significant cost implications for TFFR. An employee could start receiving benefits as soon as eligible for an unreduced benefit (Rule of 85). Although the benefit would be smaller than if the employee had waited to start it (because the employee would have less service and a smaller salary), in most cases, this is more than offset by the fact that the benefit is started earlier and is paid over a longer period of time. Consequently, retirement rate assumptions would need to be adjusted which would result in increased plan costs.
- According to Watson Wyatt, there is a small cost to modifying the retiree re-employment provisions in HB 1101. They state that it is difficult to determine a precise estimate of the cost of this bill, given that much will depend on the number of retirees who elect to return to teaching on a full-time basis and forfeit their benefits for a higher re-calculated benefit after re-retiring. However, Watson Wyatt believes that the cost will probably fall in the range from 0.02% of pay to 0.10% of pay.

SECTION 5. AMENDMENT. (Page 7)

- Under current state statutes, a member's retirement records are confidential and can only be disclosed to the member, a person the member has given written consent to, a person legally representing the member, or a person authorized by a court order. The TFFR Board is proposing changes which would allow limited disclosure of retirement-related information to other entities as follows:
 1. Allow TFFR to share certain information with a member's employer relating to a member's eligibility for retirement including years of service credit, age, retirement contribution amounts, and salary. This would assist school districts in verifying retirement information and long range workforce planning. It does not allow TFFR to tell the employer if a member has applied for benefits, or how much a member's retirement benefit is. Information provided to the employer must remain confidential, unless the employer is required to provide it because of other state or federal laws.
 2. Clarify that TFFR can share certain information with the Public Employees Retirement System. In order to administer the "dual service" provisions outlined in both TFFR and PERS statutes, it is necessary for certain membership and benefit information, such as salary and service credit, to be shared between the retirement systems. This language does not add additional authority, but merely clarifies existing authority.
 3. Permit TFFR to share information with state or federal agencies to demonstrate employer compliance with applicable state or federal laws, such as the Internal Revenue Service, Social Security Administration, etc.
 4. Allow TFFR to provide mailing information to member interest groups approved by the TFFR Board (such as NDRTA, NDCEL, NDEA) for the purpose of honoring deceased retired teachers and distributing retirement-related information.

SUMMARY

- The TFFR Board designed the changes outlined in HB 1101 to improve the administration of the retirement plan. Only the change in retiree re-employment provisions will have an actuarial cost to the system.
- HB 1101 was studied by the Legislative Employee Benefits Programs Committee and received a favorable recommendation from that Committee. The TFFR Board encourages the Government and Veterans Affairs Committee to give the bill a DO PASS recommendation.

NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT**Chapter 15-39.1, NDCC****TFFR Board Goals:**

- ♦ To provide a replacement income equal to 60 percent of the final average salary of a career employee who has 30 or more years of credited service.
- ♦ To provide ad hoc biennial increases and 2% guaranteed annual benefit increases for retired members and beneficiaries to provide income protection and assist retirees in accessing affordable health insurance.
- ♦ To continue providing statewide pre-retirement planning services and benefits counseling to members.

TFFR Membership:

Active:	10,025
Inactive:	1,339
Retired:	<u>4,827</u>
	16,191

Annual Active Payroll: \$323.0 million

Contribution rates:

Member -	7.75%
Employer -	7.75%

Vesting period: 3 years earned service credit

Purchase service credit: Refunds, air time, leave of absence, legislative service, military service, government agency, nonpublic and out-of-state teaching

Normal retirement: Age 65 or Rule of 85 (age + service = 85)

Early retirement : Age 55 -- benefit reduced 6% per year

Retirement Formula: Final average monthly salary X
1.88% X years of service credit

Example: \$2,500 X 1.88% X 30 years = \$1,410 per month

Benefit options: Single life annuity, 100% and 50% joint and survivor, 5 and 10 year term certain, level income

Disability and survivor benefits available

Assets as of 6/30/01:

Market value -	\$1,405.2 million
Actuarial value -	\$1,308.5 million

Funded Ratio: 101.6%

Testimony on House Bill No. 1101
by Barbara Gibbons Evanson
Teachers' Fund for Retirement Board Trustee
Representing Active Teachers

Good morning Chairman Klein and members of the Government and Veterans Affairs Committee. My name is Barbara Evanson. I serve as a Trustee on the *Teachers' Fund for Retirement* Board representing active teachers. I also serve on the Benefits/Services Committee for the TFFR Board. This is my twenty-fourth year as a North Dakota teacher and my sixth year as a Trustee. I am testifying in support of HB1101.

This bill loosens the rules for retired teachers who want to return to work temporarily. This bill will ease concerns about teacher and administrator shortages without jeopardizing the IRS Ruling concerning return to work provisions. Disclosure of retirement information remains safeguarded for both the active and retired members even under the proposed changes. Furthermore, the retiree is not penalized financially, nor is the actuarial soundness of the TFFR fund. This bill should not have a negative impact on current and future teachers who are in the category of active teachers.



ND Retirement and Investment Office

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State Investment Board*

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TESTIMONY ON ENGROSSED HB 1101 SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

Fay Kopp, Deputy Executive Director
ND Retirement and Investment Office

March 8, 2001

House Bill 1101 was submitted by the Teachers' Fund for Retirement (TFFR) Board. This bill proposes administrative changes to TFFR statutes dealing with definitions, confidentiality of records, and retiree re-employment provisions.

See Attachment 1 for overview of TFFR plan.

SECTION 1. AMENDMENT. (Page 1, lines 9-10)

- Modifies the definition of "contract" to include written agreements with special education units, in addition to written agreements with school districts and other employers participating in TFFR. This change does not represent an increase or decrease in TFFR membership, but clarifies existing statutes.

SECTION 2. AMENDMENT. (Page 1, lines 15-24; page 2, lines 1-3)

- Slightly modifies the definition of "teacher," but still requires that a person must be licensed by the Education Standards and Practices Board (ESPB) in order to be a member of TFFR. The language change would help clarify eligibility for TFFR membership since there are many "special teachers" such as librarians, counselors, school psychologists, speech pathologists, and special education teachers licensed by ESPB and employed in school systems today.
- New language also specifies that licensed teachers contractually employed by participating employers under 3rd party contracts are required to be TFFR members. 3rd party contracts must be limited to governmental entities due to IRS qualification requirements.
- These changes do not represent an increase or decrease in TFFR membership, but clarify existing statutes.

SECTION 3. AMENDMENT. (Page 3, line 4)

- Clarifies spousal consent provisions approved in the 1999 legislative session which were made to help protect a spouse's rights to a member's retirement benefit in case of divorce or death.
- The proposed additional language would allow a member to select a retirement benefit option without spousal approval only when the spouse has already given written authorization for the member to name an alternate beneficiary.

SECTION 4. AMENDMENT. (Page 3, lines 12-30; pages 4, 5, 6)

- Section 4 modifies retiree re-employment provisions. Please note that there are two sets of identical changes in this section. You may recall that the 1999 Legislature approved a provision allowing a retired TFFR member to immediately return to work for one year without losing any retirement benefits provided at least 50% of salary is placed in an educational foundation. One of the conditions placed on that legislation is that it can only become effective after receipt of a letter from the IRS indicating that it does not jeopardize TFFR's qualified status.

On January 29, 2001, TFFR received a favorable determination letter from the IRS regarding its qualified status, including the amendment approved in 1999. Therefore, the legislation is effective January 29, 2001, and expires two years after that, or January 29, 2003.

Consequently, the two sets of changes in Section 4 deal with retiree re-employment provisions both before and after the 1999 provisions became effective.

- During the past year, the TFFR Board has undergone an extensive review of retiree re-employment provisions. The Board believes that in addition to salary, pension benefits are another very important factor in attracting and retaining teachers, both in ND and across the country. In connection with the teacher shortage issue which is affecting employers around the nation, some states are making pension benefits more attractive to encourage teachers to postpone their retirement. Other states are liberalizing re-employment restrictions by rehiring retired teachers and allowing them to continue receiving their retirement benefits. A growing number of states are allowing teachers to return in critical shortage areas and continue drawing their pension benefits. (This is similar to SB 2180 which would allow ND retired teachers to return to work in critical shortage areas after a one-year break in service.)
- As a result of its study, the Board is proposing legislation that they believe is fair and equitable to both employees and employers, competitive with other state retirement systems, yet would not jeopardize the financial soundness of the TFFR plan, nor its qualified status with the IRS.

- Proposed language shortens the waiting period that must elapse before a retiree can return to TFFR-covered employment from 60 to 30 days. After the proposed 30-day waiting period, a retiree could return to work on a part time basis and work up to 700 hours per year (instead of the current 90-day limit of 4 hours or more) and continue receiving monthly TFFR benefits. This change from counting days and hours to an hours only limit should make it simpler for both employers and retirees to determine when the maximum limit has been reached. Allowing retirees to return to work on a part time basis provides the retiree with supplemental income, and allows employers to utilize experienced teachers, on a part time basis, to fill positions they might not otherwise be able to fill. In the past, approximately 40 – 50 retired teachers have returned to work each year and continued receiving their TFFR retirement benefits.

Note: The 700-hour re-employment limitation applies to retirees returning to TFFR-covered employment. It does not apply to substitute teaching, employment in North Dakota public colleges and universities, private schools, employment outside of education, or employment in another state.

- Under this proposal, if a retired teacher exceeds the 700-hour limit, the retiree's retirement benefits will be suspended. The re-employed retiree and employer would then each begin making contributions of 7.75% of salary to TFFR until the member re-retires. In the past, only 2 or 3 retired teachers have returned to work each year, exceeded the statutory limits, and had their TFFR retirement benefit suspended.

After the retirement benefit is suspended, if the retiree:

1. Re-retires with less than 2 years of service credit – the monthly retirement annuity would be the discontinued benefit plus benefit increases granted during the benefit suspension. Member assessments paid into the Fund would also be refunded to the retiree.
2. Re-retires with 2 or more, but less than 5 years, of additional service credit – the monthly retirement annuity would be the greater of the discontinued benefit, plus additional years at the new multiplier, plus benefit increases granted during the suspension, OR all the years recalculated at the new multiplier, less an actuarial offset for the amount of benefits already paid.
3. Re-retires with 5 or more years of additional service – the monthly retirement annuity would be the greater of the calculation above or the retirement benefit recalculated using all the years at the new multiplier with no actuarial offset. (This provision was originally in a separate bill sponsored by Rep. Brandenburg and studied by the Employee Benefits Programs Committee during the 2000 Interim. After review, the TFFR Board requested, and Rep. Brandenburg approved, combining it with this bill.)

By allowing the retiree to receive the greater of either recalculation, this benefit adjustment treats the retired employee in an equitable manner, without impacting the financial soundness of the fund.

- Watson Wyatt, TFFR's actuarial consultant, analyzed these provisions and advised the Board not to reduce the waiting period to less than 30 days. TFFR is a qualified retirement plan under the Internal Revenue Code. With some exceptions, qualified defined benefit plans are not permitted to make distributions to participants who are still working. However they do allow a rehired retiree to continue receiving a benefit after returning to work. The IRS has disqualified plans that allowed an employee to "retire" on one day, immediately start receiving the retirement annuity, then return to work the next day while continuing to receive the annuity. The IRS position is that the retirement was merely a subterfuge to get around the rule against in-service distributions. Therefore, Watson Wyatt believes that enough time should elapse between the original retirement and the date of re-employment to establish that the retirement is genuine or the Fund could risk disqualification. (Note: If the TFFR plan were disqualified, the trust fund would lose its tax-exempt status.)
- According to Watson Wyatt, there is a small cost to modifying the retiree re-employment provisions in HB 1101. They state that it is difficult to determine a precise estimate of the cost of this bill, given that much will depend on the number of retirees who elect to return to teaching on a full-time basis and forfeit their benefits for a higher re-calculated benefit after re-retiring. However, Watson Wyatt believes that the cost will probably fall in the range from 0.02% to 0.10% of pay.

SECTION 5. AMENDMENT. (Page 7)

- Under current state statutes, a member's retirement records are confidential and can only be disclosed to the member, a person the member has given written consent to, a person legally representing the member, or a person authorized by a court order. The TFFR Board is proposing changes which would allow limited disclosure of retirement-related information:
 1. Allow TFFR to share certain information with a member's employer relating to a member's eligibility for retirement including years of service credit, age, retirement contribution amounts, and salary. This would assist school districts in verifying retirement information and long range workforce planning. It does not allow TFFR to tell the employer if a member has applied for benefits, or how much a member's retirement benefit is. Information provided to the employer must remain confidential, unless the employer is required to provide it because of other state or federal laws.
 2. Clarify that TFFR can share certain information with the Public Employees Retirement System. In order to administer the "dual service" provisions outlined in both TFFR and PERS statutes, it is necessary for certain membership and benefit information, such as salary and service credit, to be shared between the retirement systems. This language does not add additional authority, but merely clarifies existing authority.

3. Permit TFFR to share information with state or federal agencies to demonstrate employer compliance with applicable state or federal laws, such as the Internal Revenue Service, Social Security Administration, etc.

SUMMARY

- The TFFR Board designed the changes outlined in HB 1101 to improve the administration of the retirement plan. Only the change in retiree re-employment provisions will have an actuarial cost to the system.
- HB 1101 was studied by the Legislative Employee Benefits Programs Committee and received a favorable recommendation from that Committee. The TFFR Board encourages the Government and Veterans Affairs Committee to give the bill a DO PASS recommendation.

NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT

Chapter 15-39.1, NDCC

TFFR Mission Statement:

The mission of TFFR, a trust fund, is to advocate for, develop, and administer a comprehensive retirement program for all trust fund members within the resources available.

TFFR Board Goals:

- ♦ To provide a replacement income equal to 60 percent of the final average salary of a career employee who has 30 or more years of credited service.
- ♦ To provide ad hoc and/or automatic annual benefit increases for retired members and beneficiaries to provide income protection and assist retirees in accessing affordable health insurance.
- ♦ To continue providing statewide pre-retirement planning services and benefits counseling to members.

TFFR Membership:	Active: 10,025 Inactive: 1,339 Retired: <u>4,827</u> 16,191
Annual Active Payroll:	\$323.0 million
Contribution rates:	Member - 7.75% Employer - 7.75%
Vesting period:	3 years earned service credit
Purchase service credit:	Refunds, air time, leave of absence, legislative service, military service, government agency, and out-of-state teaching
Normal retirement:	Age 65 or Rule of 85 (age + service = 85)
Early retirement :	Age 55 – benefit reduced 6% per year
Retirement Formula:	Final average monthly salary X 1.88% X years of service credit
Example:	\$2,500 X 1.88% X 30 years = \$1,410 per month
Benefit options:	Single life annuity, 100% and 50% joint and survivor, 5 and 10 year term certain, level income
Disability and survivor benefits available	
Assets as of 6/30/00:	Market value - \$1,405.2 million Actuarial value - \$1,308.5 million
Funded Ratio:	101.6%