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July 22, 2008

Rep. Bette Grande, Chairman  
Employee Benefit Programs Committee  
c/o Jeff Nelson  
ND Legislative Council  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

**Re: Actuarial Analysis: Bill No 100 (90100.0100)**

Dear Rep. Grande:

As requested, we have reviewed and analyzed Bill 100, a bill requested by the Teachers' Fund for Retirement (TFFR). This bill makes a number of technical changes to the statutes governing the Teachers' Fund for Retirement. None of these changes affects the actuarial position of the Fund.

Section 1, amending NDCC Section 15-39.1-04(9): This section is being amended to update references to Section 401(a)(17) of the Internal Revenue Code (IRC). Under the bill, Section 15-39.1-04(9) refers to IRC Section 401(a)(17) as in effect on *August 1, 2009*, rather than as in effect on *July 1, 2007*. Section 401(a)(17) limits the compensation that can be used in a qualified retirement plan. None of the active TFFR members has a salary large enough to be affected by this limit, currently \$230,000 per year. No material changes have been made to Section 401(a)(17) since July 1, 2007. The change is being made at the request of the plan's legal advisor.

Section 2, amending NDCC Section 15-39.1-10(4): This section similarly changes references from *July 1, 2007* to *August 1, 2009* in connection with the minimum distribution requirements under IRC Section 401(a)(9). These rules have not materially changed since July 1, 2007. The change is being made at the request of the plan's legal advisor.

Section 3, amending NDCC Section 15-39.1-10.6: This section similarly changes references from *July 1, 2007* to *August 1, 2009* in connection with the maximum benefits payable from a qualified retirement plan under IRC Section 415. This section also inserts additional language clarifying the plan's intent to reflect post-termination increases in the Section 415 dollar limit in computing a retiree's benefit. This new language is being added in response to new regulations issued by the Internal Revenue Service in 2007. These regulations say that, in order for a qualified plan to reflect any cost-of-living increases in the Section 415 dollar limit, either after the date the plan is amended or after the member terminates from service, the plan must explicitly allow for such increases. (The Section 415 limit, currently \$185,000 for a straight life annuity commencing at age 62-65 in 2008, reduced for earlier retirement or for other forms of payment, is increased annually based on increases in the Consumer Price Index.) The new language also clarifies what would happen in the event that a dual service member—for example, a member with service in both TFFR and PERS—

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were limited by Section 415. This clarification is required by the new IRS regulations. However, to the best of our knowledge, no retiree's benefit has ever exceeded the limit under Section 415, nor do we expect any future retiree's benefit to be limited. Therefore, while the changes are necessary to reflect the new regulations, the Section 415 limit is not expected to apply to any member's benefit.

Section 4, amending NDCC Section 15-39.1-19.1(1): This section rennumbers the paragraphs and clarifies that a reference to substitute teaching is intended to apply solely to *noncontractual* substitute teaching.

Section 5, amending NDCC Section 15-39.1-20: This section changes references from *July 1, 2007* to *August 1, 2009* in connection with IRC Section 401(a)(31), similar to the changes in Sections 1 and 2 of the bill. Section 401(a)(31) codifies the rollover and plan-to-plan transfer rules. These rules have not materially changed since July 1, 2007. The change is being made at the request of the plan's legal advisor.

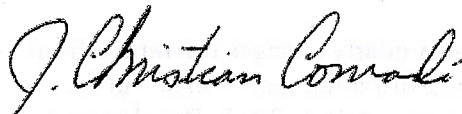
Section 6, amending NDCC Section 15-39.1-30: This section adds certain exceptions to the confidentiality rules governing the release of information about members. This deals with issues that do not have an actuarial component, and upon which we are not qualified to comment.

As already noted, the bill has no cost effect. It does not increase the plan's liabilities; it does not change the plan's funded status, funding period, or the contribution margin. We do not believe any of the changes will have material administrative implications.

If you have any questions about our analysis, please feel free to ask.

As you know, we are not attorneys and are not intending our comments to be construed as providing legal advice.

Sincerely,



J. Christian Conradi  
Senior Consultant

cc: Ms. Fay Kopp, Deputy Executive Director, North Dakota Retirement & Investment Office  
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