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

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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