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.

Segal

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January 21, 2023

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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,

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