

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1258

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1258
January 21, 2011
13227

☐ Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to a defined contribution retirement plan for teachers

Minutes:

Chairman Bette Grande opened the hearing on HB 1258.

Jeff Nelson, Legislative Council Staff Attorney and Committee Counsel for the Employee Benefits Programs Committee, appeared to review HB 1258. HB 1258 was submitted to the Interim Employee Benefits Programs Committee for review. It has gone through the interim process. Proposals that affect a retirement program or a health program or a retiree health program are required to be submitted to the Employee Benefits Committee for review, and this bill is in compliance with that requirement. The bill relates to the Teachers' Fund for Retirement and concerns a defined contribution retirement plan for teachers. Page 1, Section 1, would create a new section to Chapter 15-39.1. Chapter 15-39.1 is the current teachers fund for retirement. It is a defined benefit retirement plan. This section would provide that notwithstanding any other provision of law after June 30, 2012 the teachers' fund for retirement plan established under this chapter is closed to new members. The plan is going to be locked down. No new members would be accepted into that plan and new hires after that date by an employer would become members of a defined contribution plan. In Section 2 of the bill requires teachers to be members of the Teachers' Fund for Retirement and would be amended to provide that every teacher first employed before July 1, 2012 would be a member of the fund. Page 4, Section 4, creates a new Chapter 15-39.3. This would be the defined contribution retirement plan under the Teachers' Fund for Retirement. Section 15-39.3-01 is the definitions section. The definitions track the current definitions applicable to the TFFR. For example, the board is the board of trustees of the TFFR. Eligible employee is a teacher. An employer is a governmental body employing a teacher. Page 5, Line 24, Subsection 6 is the definition of teacher. This is the same definition under the current TFFR. No change is being made there. Page 6, Line 11, new Section 15-39.3-02, members of the defined contribution retirement plan—an eligible employee who is first employed or who has withdrawn from the TFFR and is returning to covered employment and who has entered upon the payroll of that individual's employer after June 30, 2012 is a member of the defined contribution retirement plan under this chapter. Again, this is the transition date, July 1, 2012. A retiree who is receiving benefits under Chapter 15-39.1, the current TFFR, who returns to covered employment is not eligible to participate in the defined contribution plan and remains a

member of the TFFR defined benefit plan. There is an election provision contained in this bill and that is in Section 15-39.3-03, Page 6, Line 18. This is the requirement that the board of trustees of the TFFR provide an opportunity for members of the TFFR under 15-39.1, those in the current defined benefit plan, to transfer to the defined contribution plan under Chapter 15-39.3 pursuant to rules adopted by the board. The decision is irrevocable and the election section here sets out the process whereby the board of trustees would transfer a lump sum amount of that member's account who desires to make a transfer from the defined benefit plan over to the individual's account in the defined contribution plan. Lines 30 and 31 requires the board to calculate the amount to be transferred based upon the actuarial present value of the individual's accumulated benefit obligation under the TFFR, the defined benefit plan, based on the assumption that the individual will retire under the earliest applicable normal retirement age. Page 7, Line 3, 15-39.3-04, administration—the TFFR board is required to administer the defined contribution retirement plan. Also this section allows the board to enter cooperative agreements with the Public Employees' Retirement System board for defined contribution plan services. As you know, the PERS board operates a defined contribution plan for certain state employees, has expertise in this regard, and this sentence allows the TFFR board to take advantage of that expertise and perhaps enter into cooperative agreements with the PERS board for defined contribution plan services. Page 7, Line 12, Section 15-39.3-05, direction of investments—each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the board. As you know, one of the attributes of a defined contribution plan is that the individual, the account holder, the account owner, is responsible for investment decisions, and this section provides that individual will be responsible for the direction of investments. Page 7, Line 16, Section 15-39.3-06, administrative expenses—administrative expenses of the plan are to be paid by participating members, and there is a continuing appropriation for that. Page 8, Line 1, new Section 15-39.3-08—this is the contribution section. Essentially the contributions to the new defined contribution plan are the same as those under the current defined benefit plan. Moving forward, I know there are other bills that will be considered this session dealing with contributions, but for purposes of this bill, the thing to keep in mind is that employer and employee contributions are the same under the defined benefit plan and the defined contribution plan. They work in tandem. Subsection 3, Line 11 allows for the employer to pick up or pay the employee's contribution. That is the same as the current law under the defined benefit plan. Section 15-39.3-09 at the bottom of Page 8 provides for the acceptance of rollovers. Page 9, 15-39.3-11 is the vesting schedule. Essentially the individual would be immediately 100% vested in the member's contributions, the employee contributions, and then would invest in the employer's contributions under the schedule contained in this section. For example, after two years of service, 50%, three years, 75%, and four years, 100% vested in the employer contribution. The other sections here are mainly administrative provisions to allow for the operation of the defined contribution plan. They are very similar to the current defined contribution plan available to certain state employees. Page 13, Section 5 is the appropriation section. This section appropriates \$250,000 from the general fund to the retirement and investment office for purpose of implementing the act, for implementation of the new teachers' defined contribution retirement plan.

Rep. Lisa Meier: Can we get a copy of your testimony? It was off the bill?

Jeff Nelson: Yes, it was extemporaneous.

Chairman Bette Grande: Mr. Nelson works with this so constant that sometimes we just don't have to even look at the sections. We just walk through them. If need be, I will walk us back through this when we go to committee work.

Rep. Karen Karls: Would you define the term vesting?

Jeff Nelson: Vesting, to me, is when the person who vests becomes entitled to that money. For example, we talk about under the schedule the employer contribution, after two years the employee, the account owner, is 50% vested. In other words if that individual were to leave, half of that money is that individual's. Half would stay with the employer. They are entitled. They become the owner of that money.

Rep. Lonny Winrich: Under the TIA/CREFT defined contribution program at University of North Dakota, I know as a participant in that, we were allowed to elect to put in up to a certain limit additional contributions over and above what was mandated. Is that available to participants in this program?

Jeff Nelson: No.

Rep. Lonny Winrich: I have a question about the vesting schedule too. In the vesting schedule it talks only about the employee's contributions and the employer's contributions and the degree of vesting. What about any earnings on the account? Is that vested immediately?

Jeff Nelson: I believe the earnings would be vested, will become...

Rep. Lonny Winrich: whatever earnings might be attributable to both of the contributions?

Jeff Nelson: I believe that the account owner is entitled to those earnings.

Chairman Bette Grande, District 41, Fargo appeared as the prime sponsor of HB 1258. I will walk through the reasoning behind this bill and allow you a little background to that issue. Last week this committee heard the complexity and difficulty that is going to take place in trying to bring a defined benefit plan back on track. We must realize that throughout this moving to a defined contribution plan versus the defined benefit plan, there may be some costs in the increase in this shift. That is shown to you in the possible fiscal note that could be brought forth on this bill. It is critical at this point for the state to shift these obligations away from the state because of the ongoing problems that will arise that will need to be paid for by the future taxpayers of this state. The problems arise in discussion over the entitlement of a defined benefit plan, insistence on increases in the annuity after payouts begin, and there is no obligation really to continue increasing those benefits. We have an obligation at this state level to pay out what has been guaranteed. As we heard last week, we are looking at ways to shore that up, and this bill, in no way, takes away any of those guaranteed obligations to those currently employed and those currently retired in the plan. The retirement plan is not an entitlement. Retirement plans

are not guarantees, and retirement plans are not rights. We all must put in place for ourselves saving and investments to satisfy our own needs and our own desires. This is not about whether or not we support teachers or public employees. It is about personal responsibility, self control in your planning, and not overburdening the taxpayers who are paying these salaries and the health benefits and other benefits for the people working in these positions. Retired teachers and retired public employees upon retirement are told exactly what their monthly annuity is going to be, no more, no less. School districts in the state have made this promise and were keeping it. Never once has a payment been missed. Never once will the payment be missed. This bill does not affect that. What we are asking for is to move on a shift to the national level right now. You have been hearing for many years that defined benefit plans are failing, and we saw that in the numbers last week. These plans are a difficult plan to maintain when markets shift, when things come up and go, and yet we guarantee on a percentage base what is going to happen in the future. You are going to hear that it is going to be difficult to make that shift, but more importantly, the difficulty in maintaining a fund when we can take away the ongoing liability by allowing our future employees to manage their own future and to manage their own retirement. Then we take that obligation and that liability off the state and the taxpayers and your property taxes, as far as this bill is concerned, off the books. That is what is very important. You heard in these past few years a shift of people wanting property tax relief. The state has started to take on part of that obligation. Rightly, wrongly, we will leave that for an argument for a different day, but we are trying to deal with increases in property taxes. We continue down the path of these liabilities—that liability will become more. We need to remove that liability from the taxpayers especially in property tax relief.

Rep. Scott Louser, District 5, appeared in support. Attachment 1.

Bill Shalhoob, North Dakota Chamber of Commerce, appeared in support. Attachment 2.

Dick Hedahl, CEO of Hedahls Incorporated appeared in support. Hedahls is a North Dakota corporation. We have auto parts stores throughout the region, most of them in the state, and we have about 200 employees. In 1986 we started a 401K plan for our company. It is an ESOP that includes a 401K. In other words, it is a defined contribution plan. We chose that because we could see the sustainability of it. The way it operates is an employee decides whether or not to put money in the plan. If they put money in the plan, then the company will match it 50 cents on the dollar. That is the way we have done it since day one, and to this day it is operating very well. The thing that gives me satisfaction about is that the employees pay close attention to it. They are interested in their own money. It becomes their own money as soon as it goes in. In our case it is 100% vested from day one, both the employer and the employee portion. Not all employees participate since it is a choice on their part. If they don't participate, they give up the 50 cents on the dollar that they could have chosen. We do it up to 6% of their pay and they are allowed within the plan to invest up to a total of 15% of their income to be set aside. It is all pretax dollars. One of the reasons we did it, of course, is that the IRS laws are written so that it is beneficial to everybody to do this. The defined benefit plan has proven to be unsustainable nationwide. Everywhere it is tried, it fails long term. Fiscally responsible decision makers need to be able to look at the taxpayer and say I understand that. We are

going to fix it. I think this bill probably fixes it. Defined contribution is the proper way to do a retirement plan.

Rep. Karen Karls: In your employees' 401K plan, are they given a list of investments to choose from like this plan would have?

Dick Hedahl: We have a pretty extensive list of various types of investments. The purpose of that is for different stages in a person's career. When a person starts their career, they can take some risks and be a long-term investor. At the end of their career, they need to preserve the capital and be conservative about how they invest and so they need to make sure that if there are any ups and downs, particularly the downs, they can preserve what they already have. There are a dozen or so different investment vehicles that are available. It is through one of the big investment houses that does this type of mutual fund plan.

Rep. Ron Guggisberg: How many of your employees as a percentage participate in the 401K?

Dick Hedahl: We have some part-time employees that are not eligible. I understand that it is 87% of those eligible to participate.

Rep. Ron Guggisberg: Do you have employees that don't participate immediately and then years down the road they do?

Dick Hedahl: Yes. Young employees would rather have a new car than a future so that is pretty common. Our employees are long-term employees. We just had an employee retire after 47 years with the company. I have one employee who is still employed after 47 years. The private industry uses this kind of plan. Certainly in a small business no one is using a defined benefit plan. In the private sector defined contribution is really the only plan that is going forward, because that is sustainable. Defined benefit is not.

Rep. Mark Sanford: Could you share with us the costs associated with the management of an account? Do the employees pay those or does the employer pick up those costs?

Dick Hedahl: The fund pays part. The employee pays part, and it is about \$25,000 a year for our plan.

Rep. Mark Sanford: How many basis points would that be on an average?

Dick Hedahl: I don't know that.

Chairman Bette Grande: He actually has a manager that takes care of those for him. As the employer, he has hired that out. If we would have the opportunity to bring money managers in and I don't know that any are able to speak today—I had a money manager that wanted to come but a RFP has been issued and so it is conflict of interest for them to speak today.

Dick Hedahl: We have used a consultant manager support since day one. We are in the parts business. We don't know investments, so we hire that service.

Rep. Mark Sanford: That's what I was getting at. When you hire professional management, there is a cost associated with that. I was just wondering what that cost was? What it came down to when it came to individual accounts? If it was ½ %, 5/8% or whatever?

Dick Hedahl: I could find out and get it to you.

Rep. Karen Rohr: For the employers that choose to go into the defined contribution, is there a minimum age requirement? Do they have to be 21? Can they be 18?

Dick Hedahl: I believe that the federal law dictates that. I think it is age 21 to enter the plan. In our case we have a minimum requirement of time before you can participate. It is 1,000 hours of time on the job. In the case of a full-time employee, 1,000 hours is about a half year. That reminds me, part-time employees can participate, but they have to participate after 1,000 hours. If they are a half-time employee, it would take them a full year before they would be able to participate.

Chairman Bette Grande: For a point of interest—I know of a young man at 18 that started his own investment business so that he could have his own retirement plan in place. It is able to be done by 18 year olds. He actually has weathered the market well and is continuing down that path.

Kelvin Hullet, President of the Bismarck-Mandan Chamber, appeared in support. I am not going to reiterate comments that have already been made. It is interesting in the business community over the last couple of years what we have really begun to understand is we need to take a look as a whole at what is happening in our community and in our state. I think that is how come we have all looked at this issue. This first came up before my board last summer when Sparb Collins had done those videos. We need to start paying attention to some of this and based on what has happened in other places, we have begun to look at this and think about what are the long-term policy implications. I have a number of CFOs from some of the bigger companies in North Dakota that have gone through this process, and they would have agreed and would be willing to be part of a working group and come in and provide some insight.

Rep. Bill Amerman: You mentioned some of the bigger companies in North Dakota would be willing to do this. Can you name a few?

Kelvin Hullet: The CFO that we had lined up to testified today was Darwin Schwartz (?) who is the CFO of MDU Resources. They are a \$4 billion company with 10,000 employees, and they went through this transition.

Chris Conradi, Actuary for the North Dakota Teachers Fund for Retirement, appeared. **Attachment 3.** One thing I do want to comment on in Slide 4 is that the bill includes a provision that allows members currently in TFFR to switch to the defined contribution plan. None of the rest of my testimony is going to take that into account. It was my

understanding that the sponsor was considering removing that provision from the bill. When Mr. Conradi was on Slide 8 he stated that without changes TFFR is projected to run out of money in 2040. The red line on Slide 9 has the plan running out of money in fiscal year 31.

Chairman Bette Grande: Just a point of clarification. The fund runs out of money, the fund runs out of money. How is it any worse? The fund is out of money.

Chris Conradi: It is earlier. The funded position is worse under 1258.

Chairman Bette Grande: While on Slide 10, Chairman Grande asked this question. You said if the fund was fully funded, you still would have to an increase but if it is already fully funded...

Chris Conradi: No, if you had sufficient funding, if you pass the bill with raised the contribution rates today to a sufficient level, the plan wouldn't be fully funded at that point, but you would be in a position that after 30 years you would get full funding. You then immediately closed off future participation. Then you would lose some of that money that you were expecting and you would have to raise the contribution rate on the members that were going to stay in the plan of the current membership.

Rep. Glen Froseth: Did you take into any consideration any number of contributors that might take what funds like people have paid in for 4, 5, 6 years? Might take their contributions and shift them to the defined contribution plan? Did you figure any percentage of people that might do that?

Chris Conradi: No. What I said initially was that we had been told that the sponsor was considering removing that provision from the bill and that has not been factored in. If that stays in the bill, then analysis would need to be changed. It is my expectation, just roughly having done these sorts of things before, that it would not materially change the results. We wouldn't expect many members to move to the defined contribution plan.

Rep. Roscoe Streyle: Just a general comment. The 38%--there would be no reason that we need to fund it up front. To me that looks somewhat like a scare tactic. There would be no need that we need to throw \$400 million in immediately. It could be dropped in over time. I would disagree with the premise that you wouldn't have a mass exodus. I think there would be a lot of people willing to get out of the defined benefit program and go to the defined contribution. Of course, not some of the people later in age. Anybody under 40, let's say, I could see a major shift out of it which would then cut your unfunded liabilities.

Chris Conradi: First, when I say I wouldn't expect the material numbers to change, that is partly based on results in other states that have done this. When Florida opened up an optional defined contribution plan, it allowed current members to move, the take up on that offer was very low, under like 10% or 12% of the current membership. Second, if it is very young members and very short service members that move, they tend to have very little unfunded liability associated with them and so it doesn't reduce the unfunded liability very much.

Rep. Lonny Winrich: You made a brief comment that the unfunded liability, the shortfall that is built into this bill, could possibly be either the responsibility of the state or the school districts.

Chris Conradi: Yes. It is a legal issue. I am not an attorney.

Rep. Lonny Winrich: I understand that, sir. I find that rather troubling that we may be jeopardizing the school districts out there. There is no precedent on this in other states or anything?

Chairman Bette Grande: From what we have been able to understand thus far is that in the grand scheme of things I believe the state will pick up the tab, not the school districts. We will need to further look at it how it will be followed in North Dakota. Since it is in our code, it becomes the state's obligation.

Rep. Gary Paur: Could you go over the last page of the testimony?

Chris Conradi: The table shows projections of members and payroll in Column 2 and Column 3, for example, shows you the number of members by biennium that are in the defined benefit plan assuming 1258 passes and the number that would be going into the defined contribution plan. As members retire and terminate, they are replaced after 7-1-12 by members going into the defined contribution plan. Ultimately, the number in the defined benefit plan goes down to 0 sometime around 2060. Fifty years from now a brand new teacher entering early 20s would be 70ish and would be out of the payroll. Columns 4 and 5 show the payrolls associated with them. Column 8 shows the contribution that would be required, the 38.55% on the payroll in Column 4 for the closed defined benefit members. Column 5 shows the 16 ½% that would be contributed for the members in the defined contribution plan. Column 7 shows the 26.4% that would be required for 30 years for members in the open defined benefit plan if that is what you did instead. In 2041 you can see that number dropping from almost \$800 million down to \$342 million. That is the point at which the plan is fully funded and the contribution would drop to 10.57%. Column 9 shows the difference between Columns 8 and 7 so the additional liability you pick up because you closed off the additional funding that would be required because you closed off the plan. Rep. Streyle was correct. There are other ways to fund this. It could be deferred. If you defer, there is a bit of pay me now, pay me later, but that is your choice. Of course, the costs become larger the longer you defer. You could also make appropriations to do other things.

Rep. Mark Sanford: On that chart Column 9, what is the long-term obligation?

Chris Conradi: The additional liability?

Rep. Mark Sanford: Yes. When you go through this column and follow the curve that you demonstrated where there is more and there is less, what is the projection here going out to this as long as you have it here?

Chris Conradi: The graph on Page 12 shows the same sort of information as a percent of pay. Are you asking for a present value number?

Rep. Mark Sanford: Just dollar cost.

Chris Conradi: The \$468 million that is in this chart is not full cost. That's what is lost compared to the 16 ½%. That is the present value of the amortization part of the contribution on those future members. You would actually need something more than that depending on what you do for the closed group, but it is on the order of \$600 million.

Fay Kopp, Deputy Director for the Retirement and Investment Office, appeared in a neutral position. **Attachment 4.**

Chairman Bette Grande: Is TFFR considering at all about bidding this out to a full vendor instead of trying to manage it all themselves?

Fay Kopp: This obviously would be a decision of the TFFR board if this bill was passed. I could envision the likelihood that similar to what PERS did, they could utilize a consultant to assist them in bidding this out for a vendor to actually manage the investment options and work of the recordkeeping issues. We would still need to modify certain programs in work, because we receive all these dollars in from the school district, and we would need to be able to separate the monies out from the defined benefit plan to the defined contribution plan and pass on those dollars into the defined contribution plan or to that vendor that might be providing those services.

The following were in opposition.

Dakota Draper, President, North Dakota Education Association, appeared in opposition. **Attachment 5.**

Chairman Bette Grande: In this information as I am hearing you, I am going to have to assume that every single taxpayer around here that is not in a defined benefit plan is on welfare after retirement. I am really worried about our society. Comment, not a question. I will give the committee the rest of the scenario, the 18 year old I was talking about who set out his own retirement plan who is doing well next fall graduates from NDSU to be a teacher in the state of North Dakota. He does not want to be forced into a defined benefit plan. He wants his defined contribution plan.

Rep. Roscoe Streyle: The position of NDEA is that young teachers want the guaranteed benefit and that is why they are becoming teachers or that is one of the major benefits to it?

Dakota Draper: I have traveled around the state talking to our young teachers, our students. I visited about 6 or 7 campuses. I have yet to hear one say I would rather be in a defined contribution plan. You will hear from two student members in a little bit who will express their views on this as well.

Rep. Roscoe Streyle: Somebody 16-20 years, they are making a decision and going into education based on a defined benefit program? You are contending that is why they are going to be a teacher?

Dakota Draper: No. I think a lot of people go into education for the reasons you might imagine—to make a difference and to be a good effect on their community and on their state and to try to help young people to learn. I also think that we have in this state a chance to keep our young people in the state with a defined benefit plan as opposed to defined contribution plan because of the reasons I have stated.

Matthew Quintus, Dickinson State University education student, appeared.
Attachment 6.

Wayne Triska, Retired Teacher of Students with Vision Impairments, appeared in opposition. **Attachment 7.**

Patrick Paradis, University of Mary education student, appeared in opposition.
Attachment 8.

Ken Tupa, North Dakota Retired Teachers Association, appeared. **Attachment 9.**

Chairman Bette Grande: The current plan is called what?

Ken Tupa: Defined benefit plan.

Chairman Bette Grande: Okay, just checking to make sure I knew that. It was defined benefit, not defined plus COLA.

Ken Tupa: Yes.

Chairman Bette Grande: In that, do your current people that you represent here today, do they feel it right that they burden the incoming teachers with their desire to have an increase in their annuity?

Ken Tupa: We recognize that there is no obligation of the fund to provide annuity adjustments. Historically and you can see an attachment provided, the legislature has made improvements when the financial condition allows and when margin is available. We have always advocated for the ad hoc adjustment as opposed to an ongoing automatic cost of living adjustment. We do not have that in this defined benefit plan. The stories that you hear and the articles that you have seen from defined benefit public pension plans across the country, it really doesn't apply to North Dakota. We have a responsible plan that has been managed over nearly 100 years and it doesn't make promises it can't keep. When conditions allow and there is margin available, that is when adjustments are made. It is kind of a pay as you go method. We have always advocated for that. We don't think that making adjustments or providing benefits without actuarially looking at it and paying for it is a good idea for it.

Chairman Bette Grande: I won't go down the path of last session asking for an increase when there was no money.

Ken Tupa: Are you referring to the supplemental payment? That process began in 2007 and 2008. The markets took a downturn in late 2008. Our plan initially asked for general

fund money. The Governor put general fund money into his budget, and the legislature decided that it would fund that through the TFFR. Again, our position has always been to pay for these benefits as we have resources available.

Chairman Bette Grande: There were no resources. We had to go to the taxpayers to ask for that. Either way whether it came out of TFFR, it came out of taxpayers' money or taking out of the general fund. General fund is taxpayers' money. It would have been paid out either way by taxpayers' dollars, not by the fund. Correct?

Ken Tupa: Yes.

Rep. Roscoe Streyle: You state that a 1/3 of current retirees are under \$1,000. How is that a good benefit for them with no inflation adjustment where if they were in a defined contribution, they could set this up to withdraw a certain amount of money and then they are gaining interest on that fund? Right now they are not getting any market gains. They are guaranteed less than \$1,000. To me, that seems like a terrible plan and should be scrapped.

Ken Tupa: The point you make there is the lower annuities here, and that really is mostly a function of very low salaries, lower multipliers, which are variables taken into account when you determine the annuity. Likely, the majority of these retired educators are going to be your older retirees and they retired at a time when salaries were different and significantly lower. The annuity adjustments that are made are only possible if we have contributions continuing to come into the fund. If you close off the current plan, there is absolutely no way these individuals--with lifetime teachers you look at the 25 ½ years of average service and you might be making \$800 a month as an annuity. There is no way these individuals will ever see a cost of living adjustment because of the gap then the transition costs that are created by closing the TFFR. They are in that category and they likely will be forever.

Warren Larson, North Dakota Council of Educational Leaders, appeared. The testimony you are receiving is from Doug Johnson, Executive Director of NDCEL. Dr. Johnson was sick and asked Warren to testify. **Attachment 10.** Mr. Larson added a couple of quick comments that he jotted down as he listened to testimony today. I can assure you that when I hired teachers as a superintendent the thing I really hung my hat on was the retirement plan, because it wasn't the pay. The retirement plan is very beneficial, very important, and it is important to people and we used it to encourage them to be hired in our district. Secondly, educators are going to pony up. We are going to pay a part of this. We are going to pay more to keep this going. The last thing, I remembered a few years ago a principal came into my office and sat down, and he was retiring and he shared with me that he was happy and sad, and I thought it was about retiring. But, it wasn't. I am retiring at age 60+. My son is 24. He just got a job. He is becoming a pharmacist. We have a similar amount of education. He is going to start at age 24 at \$10,000 more than I do. That is why we have to hang our hats on the retirement plan. The dollars just aren't there for educators.

Bev Nielson, ND School Boards Association, appeared as neutral. Our board of directors does not have a position on either DC or DB plans at this point. We are here

today to express our concerns about the liability. I was pleased to hear you say that you believe that the state is prepared to pick up what additional liability there may be from moving to a DC plan. My only question is that as time goes on, how we determine which shortfall in the DB plan is due to this or that. I would imagine that the people with all the charts and numbers can figure that out. It would be important to us that the state make a commitment as we go into the future, that they realize that's their liability. From the School Boards Association standpoint, it is the resolution of the fiscal note, and our board may then at a later date take a position on DB or DC.

The hearing was closed.

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Minutes:

Chairman Bette Grande started the meeting about HB 1258. As you remember in this hearing with both Mr. Collins and Ms. Kopp, they were talking about dealing with an amendment that was different. This bill is different than the bill that was in front of us during the interim. The difference was that there was this opt out piece for those that were in the defined benefit plan to opt out and to move in to the defined contribution. Actuarially we just really did not have the opportunity to run the numbers like we would have liked to, and I did not want to force the actuaries to run something. It is very expensive to do that. The amendments were handed out. **Attachment 1.** You are going to look at a removal of a section and renumbering every section thereafter. As you see on Page 6 it says election and from there on we are just going to delete, because we are not going to have that election process. We are removing the option to opt out.

Rep. Vicky Steiner: Does it change dollar amounts at all? It has no effect at all?

Chairman Bette Grande: On the fiscal note, no. It will not affect or change the fiscal note at all because we had not ran that in this fiscal note from the actuaries. That is why we wanted out so we don't have to run a new actuarial report.

Vice Chairman Randy Boehning made a motion to adopt the amendment.

Rep. Vicky Steiner seconded the motion.

Rep. Lonny Winrich: With this amendment then, the people who are currently in the defined benefit program and the new hires this fall would remain in the defined benefit program and anyone coming into this after that will be in the defined contribution program.

Chairman Bette Grande: Correct. This bill will say if you are in defined benefit, you stay in defined benefit. If you are a new hire after set date, you are in defined contribution. That is what the final bill says. What this amendment says is if you are in, you are in. You don't get to opt out. You have to stay in defined benefit.

Rep. Glen Froseth: Thinking about this, I think I would have liked to have seen a period in there when they could have had a chance to take either plan. When does this goes into effect? Next year's new hires don't have a choice.

Chairman Bette Grande: I, too, would like to keep this option in, but I would also like to have it discussed through an interim committee. I think it is a good idea to have a full discussion with everybody involved instead of just come on as an amendment. I don't like to remove that language, but I understand that it is better for the process. We will have the discussion during the interim, because I happen to know that it will be introduced for the interim as an option.

Rep. Lonny Winrich: Are you talking now about the option that is being removed by the amendment or just making the plan optional?

Chairman Bette Grande: No, the amendment being removed to look at that actuarially and to see the full effect what that amendment would actually do.

A voice vote was taken. Motion carried.

Chairman Bette Grande: Another amendment was handed out. **Attachment 2.** I need to amend the amendment. This amendment states that in the intent of the legislative assembly that the only allowable expenditures that maybe made related to this act during the first, and I want to change that to two years so we can study it during this upcoming interim, years after enactment are for administrative costs to implement this act during which time the legislative management shall receive two annual actuarial valuations of the teachers' fund for retirement to identify the fiscal effect of this act.

Rep. Lisa Meier moved to further amend HB 1258.

Chairman Bette Grande: The 2002 amendment?

Rep. Lisa Meier: Yes.

Vice Chairman Randy Boehning seconded the motion.

Vice Chairman Randy Boehning: What do we do with Section 5? Do we have to amend that as well?

Chairman Bette Grande: No.

Vice Chairman Randy Boehning: That is right. We are going to renumber accordingly.

Rep. Lonny Winrich: I am trying to imagine what this statement of legislative intent prevents. What are we specifically trying to disallow here by saying only administrative costs?

Chairman Bette Grande: What we will end up doing here in this amendment is on Section 5 there is an appropriation for \$250,000 for them to start implementing the

program. That stands. This amendment attached then states that the fiscal note will be on hold for two years while we analyze this and get the actuarial numbers once this is implemented. Once it is up and running and moving along, the actuary will come in and say—this really in my mind is always that 1134 has passed and we are starting to do the payments in and we are seeing the adjustments inside the plan and while that adjustment is taking place and then they start implementing this, now what happens. Now they can see it in actual numbers. They can see what is happening, and then they can start running out now what do we need to do with the numbers? How much money do we need? What do we need? The actuaries will be able to come in and say this is our cost. This is what is working. This is what happened when you did this. We can see it implemented. We can see its movement and understand what is happening fiscally.

Rep. Mark Sanford: What this would do by taking the fiscal note is it would give us more time to reflect on this then? Am I making the right assumption or is that wrong?

Chairman Bette Grande: No.

A voice vote was taken. Motion carried.

Rep. Roscoe Streyle moved a **Do Pass as amended and rereferred to appropriations.**

Rep. Karen Rohr seconded the motion.

Rep. Mark Sanford: You made a comment that you assumed that 1134 would be passed and then this would be implemented. Would it be possible to do it in that sequence?

Chairman Bette Grande: We have the motion on the table right now. If you don't mind, we will take that up.

Rep. Lonny Winrich: I am going to vote no on the bill as amended. I happen to have experience with both a defined benefit and defined contribution retirement plan. Before I was on the faculty at UND, I was on the faculty at the University of Wisconsin, LaCrosse. Wisconsin has a plan very similar to PERS which is a defined benefit program. I think there are certainly merits to both of them. I have managed reasonably well with both plans, but I do think the defined benefit program is particularly important for lower income people. Unfortunately, that often includes teachers. I would be willing to make it an option, allow the teachers to choose. I realize that would be more expensive. I don't really like the idea of taking away the defined benefit program completely. Since we are going to be doing more work on this anyway obviously from the amendments and the allusion, I don't see that there is a great rush to adopt it this year.

Chairman Bette Grande: I understand your point about the low income portion of that. Typically our teachers, as far as the statistics that come out in the actuary, midrange is around \$46,000. What we do have, though, is our incoming teachers are fairly low. This bill actually is to their benefit because of the portability that comes with this type of thing. If they choose not to stay within the teaching profession, this portability to them to go anywhere they want with it. If we have locked them into defined benefit and they don't stay long enough for vesting, they are in tough shape. That same amount was being taken out

where they didn't get the portability. The other part would be if they stay even just past vesting and they have the opportunity to take their portion, it still only is a smaller portion than what they would get. It would be half of what they would get if they had been given the opportunity of defined contribution. I see your side of this. I truly understand that, but I also kind of weigh it out both ways and I think you can justify it either direction.

Rep. Lonny Winrich: Yes. As I said, I am familiar with the benefits of both kinds of plans. There are some options, though. I was fortunate. I stayed in the Wisconsin system long enough so I was fully vested in that plan. When I left the Wisconsin system, I had the option of withdrawing my money. Had I done so, I would have only received what I had contributed to the plan. By not withdrawing it until after age 65 I retained the benefit of having the state's contribution as well and essentially got the full benefit of what had been put in to my portion of that plan. If you leave before you are vested, yes, you lose a lot.

Chairman Bette Grande: I ran into both those scenarios. With my plan as a teacher in the Minneapolis school system, it was very short term and a very small amount of money that went in. When I left the system they pretty much so according to their letters was get your money out of our plan. We don't want to mess with your little bitty pittance of money. When I left TFFR, I was not vested and I received the same types of letters. Until you get into those levels, those people are really caught. You are caught in that lurch of my money got tied up and it got locked into a plan that I didn't get to have money out of.

Rep. Roscoe Streyle: I have a document on kind of a what if scenario if you wouldn't mind if I could pass it out. **Attachment 3.** 12% is double because it says employer match 100% so we are at 24%. Right now they want 24 ½%, so we are pretty close with that. A 6% rate of return at 2% increase in salary every year, this teacher would start at 23, retire at 60, 37 years, if you look at that, \$40,000 is the starting salary also which is debatable, at the end of 37 years at 60 at those numbers, \$1.7 million. Now if you take that and you are not going to just leave that in an account earning 0 interest, say you buy a 4% CD on that principal, that kicks off \$67,000. We will assume also that you are going to take 4% of the principal, because 4% of the principal over 25 years is going to get you at 85 roughly and that will also generate another \$67,000. Take those times 2 and granted inflation you know you are going to have to take this number and cut it by 60% you still with interest, and of course you have to remember the interest on this as you are withdrawing principal, your interest is going to tier down also, you are at \$140,000 a year. TFFR's \$80,000 ending salary, 37 years of work, \$59,196 would be your benefit. You are much better off in a defined contribution. If you use a 16 ½% return which is what they are currently doing and I can pass this document out too. The only thing that changes on that it goes to 1,246,364 interest only coming off that. That is not including any principal. Double that again. You are over \$90,000 a year. Of course, that is not in today's dollars. It clearly shows that you are much better off, and I think we are doing them a disservice actually leaving them in the broke defined benefit program.

Rep. Mark Sanford: I appreciate the example. Keep in mind, the actuary would probably have about ten million more examples or scenarios like this in making their judgment. What we experienced in the last 2-3 years is _____. I am a pretty old guy and there has never been any market downturn like that in my lifetime. This assumes that you are

good timing when you go out the door. If you went out the door two years ago with these numbers, you wouldn't be going out the door. It is a matter of timing.

Rep. Roscoe Streyle: Absolutely. I totally agree with that. These numbers could double if there was a 15% return and you are 25 and 5% return the next year and -5 and say your average is 6 of those which it isn't, but let us say it is. It depends on where your big years come. This number could drastically go up. Of course, it could go down too. Like you said, it is a matter of timing. Using their numbers in the defined benefit, they would have the same issue. If they are at 24 ½% and take another big hit, what are they going to push it to, 30-35%? All of this is saying 5%. We all know it isn't going to be 6% every single year. It is going to fluctuate and hope that the average is 6%. Like you said, it depends on where that falls. This allows them to buy an annuity in here and act like a defined benefit if they want at the end. If they don't want to work until 60 which most people are working past 60, they can get out at year 30 with a million dollars and go do something else which I think is good. Of course, the school systems don't want that, because they are locked in. Once you get a teacher over ten years, they are not going to leave until retirement. It is a good holding tool.

Rep. Mark Sanford: When I look at this bill as a defined contribution, it probably is a good one from the standpoint of what the employer contribution rate would be and so on. It would not be the end of the world by any means to have contribution levels like this as an option. When you look at a bill like this, it is a philosophical kind of a deal, and I think that is what I hear folks saying is that taxpayers have this so employees should have this. I think it also is a matter of philosophy in terms of the other end of it and that is timing versus predictability. I think it is also a factor that you just stated that it is a retention tool. I am not belittling this bill at any means as being unkind or being ungenerous or that kind of thing. I do know that there is a fiscal note attached to it that is significant and needs some attention just with transition costs. The amendment gives us two years to review that. I kind of liked the suggestion that Rep. Winrich came with just to hold the train for two years. Either way there is a fiscal note that is attached to it and we get more specificity with the amendment.

Rep. Lonny Winrich: I certainly agree with everything Rep. Sanford has said. I think this presents a good defined contribution plan. I just wish it was an option. A point that hasn't been made, one of the reasons why I think it is important to keep that as an option and one of the reasons why I think it is a particularly desirable thing for lower income people is that the defined benefit program expands the risk pool. This is a risk pool of one. That is why the timing on something like that is so important. The defined benefit program expands the risk pool to a much greater extent and if you don't have significant resources that is a very important benefit.

Rep. Mark Sanford: I started to go down this a little bit ago and I backed up, but I want to try it one more time. I would be personally more comfortable if we did 1134 first so I knew that the assumption was a reality that we were coming forward with the plan to support the current defined benefit plan and then what this would do follow on would say after that this would be a transition. If you don't want to do that, that is fine. There is more logic to it from the standpoint of the language of this particular bill.

Chairman Bette Grande: The motion is on the table. That is where I am stuck.

DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS. 7 YEAS, 6 NAYS. Chairman Bette Grande is the carrier of this bill.

FISCAL NOTE
Requested by Legislative Council
02/08/2011

Amendment to: HB 1258

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$691,600		\$764,700	
Appropriations			\$250,000			

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$49,800		\$61,708,600	\$86,200		\$106,849,100

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1258 closes defined benefit plan and opens defined contribution plan for new employees, but does not include funding source to pay additional costs incurred. Contributions would need to increase additional 12.15%(in addition to HB1134 cost). Amendment 11.0407.02003 does not change fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB1258 does not include a funding source to pay additional costs incurred to fund benefits and pay off unfunded liability in the closed TFFR defined benefit plan. It is unknown whether costs would be funded by the state or by employers.

According to actuarial analysis dated 1/19/11 (attached), if contributions for the defined benefit plan were increased on 7/1/12, they would need to increase an additional 12.15%, explained as follows:

The contribution rate necessary to fully fund the current open defined benefit plan over the next 30 years is 26.40%. The contribution rate necessary to fully fund the closed defined benefit plan provided for in HB1258 by the time the last member in the closed defined benefit plan retires is 38.55%. The difference of 12.15% is the additional (shortfall) contributions that would be required based on payroll that is projected to decline. Since there would be fewer members in the closed defined benefit plan, the total contributions required on the remaining members payroll would need to be higher in order to generate approximately the same amount of funds to pay off the unfunded liability.

Estimated total fiscal impact of contribution increases on state, counties, and school districts would be \$62.2 million for 2011-13 biennium and \$107.7 million for 2013-15 biennium. Estimates are based on assumptions and calculations from TFFR's actuary. Fiscal impact may be more or less depending on actual payroll. If increased cost is not funded or contributions are not increased to pay the additional cost, this cost will continue to increase and roll over to future bienniums for payment. Actuarial analysis does not include the provision allowing current members to elect to transfer to the defined contribution plan, so amendment to remove election has no impact.

Section 6 includes a general fund appropriation of \$250,000 for consulting and administrative expenses related to initial implementation of the bill.

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.*

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.*

The TFFR defined contribution plan provided for under HB1258 is created as of July 1, 2012, and all new teachers and administrators employed after that date would participate in the defined contribution plan. At that time, the number of members in the closed TFFR defined benefit plan would start to decline. The actuary has determined that higher contribution rates on the smaller payroll of the declining membership would be required to raise approximately the same amount of funds to pay off the unfunded liability of the closed plan. If the increased cost is not funded or contributions are not increased to pay the additional cost, and if actuarial assumptions are met, this cost will continue to increase and roll over to future bienniums for payment.

According to actuarial analysis (attached), if statutory contribution rates would be increased as of 7/1/12, the estimated total additional expenditures by state, counties, and school districts would be \$62.2 million for 2011-13 biennium and \$107.7 million for 2013-15 biennium, detailed as follows:

208 school districts, special education units, vocational centers, and other public education entities employ the majority of TFFR participating members (99.21%). Additional shortfall contributions required total \$61,708,600 for 2011-13 and \$106,849,100 for 2013-15.

9 counties currently employ 9 county superintendents (0.08%) who are TFFR participating members. Additional shortfall contributions required total \$49,800 for 2011-13 and \$86,200 for 2013-15.

4 state entities currently employ about 74 TFFR participating members (0.71%). Additional shortfall contributions required total \$441,600 for 2011-13 and \$764,700 for 2013-15.

2011-13, 2013-15

ND Center for Distance Education	\$132,480, \$229,410
ND Youth Correctional Center	\$132,480, \$229,410
ND School for the Deaf	\$ 88,320, \$152,940
ND School for the Blind	\$ 88,320, \$152,940

Section 6 includes a general fund appropriation of \$250,000 for consulting and administrative expenses related to initial implementation of the bill.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

If contributions rates would be increased on 7/1/12, a general fund appropriation would be required for the 4 state entities affected by this bill. See 3b estimated Expenditures.

Section 6 includes a non-recurring general fund appropriation of \$250,000 to pay consulting and administrative expenses related to initial implementation of the TFFR defined contribution plan. This includes hiring a consultant to assist the Board in vendor selection, review of investment options, and vendor oversight. It also includes updating business system code and administrative costs incurred in setting up the new plan.

Name:	Fay Kopp	Agency:	Retirement & Investment Office
Phone Number:	328-9895	Date Prepared:	02/10/2011

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: HB 1258

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$691,600		\$764,700	
Appropriations			\$250,000			

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$49,800		\$61,708,600	\$86,200		\$106,849,100

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1258 closes TFFR defined benefit plan and opens defined contribution plan for new employees. Bill does not include funding source to pay additional costs incurred. Contributions for defined benefit plan would need to increase an additional 12.15%. This cost would be in addition to cost of HB1134.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB1258 does not include a funding source to pay additional costs incurred to fund benefits and pay off unfunded liability in the closed TFFR defined benefit plan. It is unknown whether costs would be funded by the state or by employers.

According to actuarial analysis dated 1/19/11 (attached), if contributions for the defined benefit plan were increased, they would need to increase an additional 12.15%, explained as follows:

The contribution rate necessary to fully fund the current open defined benefit plan over the next 30 years is 26.40%. The contribution rate necessary to fully fund the closed defined benefit plan provided for in HB1258 by the time the last member in the closed defined benefit plan retires is 38.55%. The difference of 12.15% is the additional (shortfall) contributions that would be required based on payroll that is projected to decline. Since there would be fewer members in the closed defined benefit plan, the total contributions required on the remaining members payroll would need to be higher in order to generate approximately the same amount of funds to pay off the unfunded liability.

Estimated total fiscal impact of contribution increases on state, counties, and school districts would be \$62.2 million for 2011-13 biennium and \$107.7 million for 2013-15 biennium. Estimates are based on assumptions and calculations from TFFR's actuary. Fiscal impact may be more or less depending on actual payroll. Actuarial analysis does not include the provision allowing current members to elect to transfer to the defined contribution plan in Section 4, 15-39.3-03.

Section 5 includes a general fund appropriation of \$250,000 for consulting and administrative expenses related to initial implementation of the bill.

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.*

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.*

The TFFR defined contribution plan provided for under HB1258 is created as of July 1, 2012, and all new teachers and administrators employed after that date would participate in the defined contribution plan. At that time, the number of members in the closed TFFR defined benefit plan would start to decline. The actuary has determined that higher contribution rates on the smaller payroll of the declining membership would be required to raise approximately the same amount of funds to pay off the unfunded liability of the closed plan. If the increased cost is not funded or contributions are not increased to pay the additional cost, and if actuarial assumptions are met, this cost will continue to increase and roll over to future bienniums for payment.

According to actuarial analysis (attached), if statutory contribution rates would be increased, the estimated total additional expenditures by state, counties, and school districts would be \$62.2 million for 2011-13 biennium and \$107.7 million for 2013-15 biennium, detailed as follows:

208 school districts, special education units, vocational centers, and other public education entities employ the majority of TFFR participating members (99.21%). Additional shortfall contributions required total \$61,708,600 for 2011-13 and \$106,849,100 for 2013-15.

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4 state entities currently employ about 74 TFFR participating members (0.71%). Additional shortfall contributions required total \$441,600 for 2011-13 and \$764,700 for 2013-15.

2011-13, 2013-15

ND Center for Distance Education \$132,480, \$229,410

ND Youth Correctional Center \$132,480, \$229,410

ND School for the Deaf \$88,320, \$152,940

ND School for the Blind \$88,320, \$152,940

Section 5 includes a general fund appropriation of \$250,000 for consulting and administrative expenses related to initial implementation of the bill.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

If contributions rates would be increased, a general fund appropriation would be required for the 4 state entities affected by this bill. See 3b estimated Expenditures.

Section 5 includes a non-recurring general fund appropriation of \$250,000 to pay consulting and administrative expenses related to initial implementation of the TFFR defined contribution plan. This includes hiring a consultant to assist the Board in vendor selection, review of investment options, and vendor oversight. It also includes updating business system code and administrative costs incurred in setting up the new plan.

Name:	Fay Kopp	Agency:	ND Retirement & Investment Office
Phone Number:	328-9895	Date Prepared:	01/19/2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 6, remove lines 18 through 31

Page 7, remove lines 1 and 2

Page 7, line 3, replace "15-39.3-04" with "15-39.3-03"

Page 7, line 12, replace "15-39.3-05" with "15-39.3-04"

Page 7, line 16, replace "15-39.3-06" with "15-39.3-05"

Page 7, line 25, replace "15-39.3-07" with "15-39.3-06"

Page 8, line 1, replace "15-39.3-08" with "15-39.3-07"

Page 8, line 28, replace "15-39.3-09" with "15-39.3-08"

Page 9, line 1, replace "15-39.3-10" with "15-39.3-09"

Page 9, line 17, replace "15-39.3-11" with "15-39.3-10"

Page 9, line 29, replace "15-39.3-12" with "15-39.3-11"

Page 10, line 6, replace "15-39.3-13" with "15-39.3-12"

Page 11, line 5, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 3, replace "15-39.3-15" with "15-39.3-14"

Page 12, line 13, replace "15-39.3-16" with "15-39.3-15"

Page 12, line 19, replace "15-39.3-17" with "15-39.3-16"

Page 12, line 22, replace "15-39.3-18" with "15-39.3-17"

Page 12, line 25, replace "15-39.3-19" with "15-39.3-18"

Page 13, line 1, replace "15-39.3-20" with "15-39.3-19"

Page 13, line 6, replace "15-39.3-21" with "15-39.3-20"

Renumber accordingly

Date: 2-3-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2258

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0407.02001

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Boehning Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*voice
vote*

*adopt
amendment
motion
carried*

11.0407.02002
Title.

Attachment 2
1258
Prepared by the Legislative Council staff for
Representative Grande

February 2, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 1, line 4, after the semicolon insert "to provide a statement of legislative intent;"

Page 13, after line 8, insert:

"SECTION 5. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the only allowable expenditures that may be made relating to this Act during the first four years after enactment are for administrative costs of implementing this Act during which time the legislative management shall receive four annual actuarial valuations of the teachers' fund for retirement to identify the fiscal effect of this Act."

Renumber accordingly

Date: 2-3-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11,0407.02002

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Meier Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote to
Adopt
the amended
amendment
motion
Carried*

12
2/3/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 1, line 4, after the second semicolon insert "to provide a statement of legislative intent;"

Page 6, remove lines 18 through 31

Page 7, remove lines 1 and 2

Page 7, line 3, replace "15-39.3-04" with "15-39.3-03"

Page 7, line 12, replace "15-39.3-05" with "15-39.3-04"

Page 7, line 16, replace "15-39.3-06" with "15-39.3-05"

Page 7, line 25, replace "15-39.3-07" with "15-39.3-06"

Page 8, line 1, replace "15-39.3-08" with "15-39.3-07"

Page 8, line 28, replace "15-39.3-09" with "15-39.3-08"

Page 9, line 1, replace "15-39.3-10" with "15-39.3-09"

Page 9, line 17, replace "15-39.3-11" with "15-39.3-10"

Page 9, line 29, replace "15-39.3-12" with "15-39.3-11"

Page 10, line 6, replace "15-39.3-13" with "15-39.3-12"

Page 11, line 5, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 3, replace "15-39.3-15" with "15-39.3-14"

Page 12, line 7, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 13, replace "15-39.3-16" with "15-39.3-15"

Page 12, line 19, replace "15-39.3-17" with "15-39.3-16"

Page 12, line 22, replace "15-39.3-18" with "15-39.3-17"

Page 12, line 25, replace "15-39.3-19" with "15-39.3-18"

Page 13, line 1, replace "15-39.3-20" with "15-39.3-19"

Page 13, line 6, replace "15-39.3-21" with "15-39.3-20"

Page 13, after line 8, insert:

"SECTION 5. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the only allowable expenditures that may be made relating to this Act during the first two years after enactment are for administrative costs of implementing this Act during which time the legislative management shall receive two annual actuarial valuations of the teachers' fund for retirement to identify the fiscal effect of this Act."

Renumber accordingly

Date: 2-3-11
Roll Call Vote #: 32

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11. 6409. 02003.

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Streyle Seconded By Rep Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman		✓
Vice Chairman Randy Boehning	✓		Ron Guggisberg		✓
Glen Froseth	✓		Lonny Winrich		✓
Karen Karls		✓			
Lisa Meier		✓			
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford		✓			
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 11 No 6

Absent 1

Floor Assignment Rep Grande

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

REPORT OF STANDING COMMITTEE

HB 1258: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1258 was placed on the Sixth order on the calendar.

Page 1, line 4, after the second semicolon insert "to provide a statement of legislative intent;"

Page 6, remove lines 18 through 31

Page 7, remove lines 1 and 2

Page 7, line 3, replace "15-39.3-04" with "15-39.3-03"

Page 7, line 12, replace "15-39.3-05" with "15-39.3-04"

Page 7, line 16, replace "15-39.3-06" with "15-39.3-05"

Page 7, line 25, replace "15-39.3-07" with "15-39.3-06"

Page 8, line 1, replace "15-39.3-08" with "15-39.3-07"

Page 8, line 28, replace "15-39.3-09" with "15-39.3-08"

Page 9, line 1, replace "15-39.3-10" with "15-39.3-09"

Page 9, line 17, replace "15-39.3-11" with "15-39.3-10"

Page 9, line 29, replace "15-39.3-12" with "15-39.3-11"

Page 10, line 6, replace "15-39.3-13" with "15-39.3-12"

Page 11, line 5, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 3, replace "15-39.3-15" with "15-39.3-14"

Page 12, line 7, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 13, replace "15-39.3-16" with "15-39.3-15"

Page 12, line 19, replace "15-39.3-17" with "15-39.3-16"

Page 12, line 22, replace "15-39.3-18" with "15-39.3-17"

Page 12, line 25, replace "15-39.3-19" with "15-39.3-18"

Page 13, line 1, replace "15-39.3-20" with "15-39.3-19"

Page 13, line 6, replace "15-39.3-21" with "15-39.3-20"

Page 13, after line 8, insert:

"SECTION 5. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the only allowable expenditures that may be made relating to this Act during the first two years after enactment are for administrative costs of implementing this Act during which time the legislative management shall receive two annual actuarial valuations of the teachers' fund for retirement to identify the fiscal effect of this Act."

Renumber accordingly

2011 HOUSE APPROPRIATIONS

HB 1258

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1258
2/10/11
14397, 14402

☐ Conference Committee

Committee Clerk Signature

Julia Gyeffe

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 15-39.1 and chapter 15-39.3 of the North Dakota Century Code, relating to a defined contribution retirement plan for teachers; to amend and reenact sections 15-39.1-09 and 15-39.1-30 of the North Dakota Century Code, relating to a defined contribution retirement plan for teachers; to provide a penalty; to provide a statement of legislative intent; to provide an appropriation; and to provide a continuing appropriation.

Minutes:

Chairman Delzer called meeting to order on HB 1258.

Representative Grande: Introduced the bill, stating this is the bill that deals with the teachers fund for retirement. After June 30, 2012, all new employees would enter into defined contribution plan versus continuing in the defined benefit. The appropriation is section 5 and it is \$250,000 and that is the dollar amount that TFFR felt it would cost for converting new employees into this plan. There is intent language where it is talked about whether or not they would just work with the PERS who already has this plan set up and follow their format; whether they would entertain an RFP to find an outside entity to run it so they were going to, as a board, make a decision. This money is the implementation money.

Chairman Delzer: How many changes were made between the versions (.02000 and .03000)

Grande: Regarding the amendments to the bill: first we removed the opt out portion of the bill where current teachers that are in the defined benefit would have the option to opt out and go to defined contribution. We removed the language because it hadn't been analyzed by the actuary. To analyze that during the legislative session, we tried to avoid as many of those new analysis as possible, because of cost and time. The other difference, puts in intent language that we are going to leave in section 6 so that implementation would take place and this bill doesn't go into effect until the middle of 2012, so we wanted to see the actuary analysis of the implementation of this bill and we would start the funding mechanism after that.

Chairman Delzer: Questions by the committee?

Vice Chairman Kempenich: We aren't going to really know what this will cost until the middle of this next biennium.

Grande: We won't know the total cost until the actuary analysis comes out in the next biennium, but we can go off of the assumed costs of the actuary that you see in the fiscal note.

Representative Bellew: I'm looking at the Fiscal Note on page 1. It says HB 1258 does not include a funding source to pay additional cost incurred to fund benefits and pay off unfunded liabilities to close TFFR defined benefit plan. That statement concerns me because if we close off the TFFR plan, is there a source to fund that to assure the teachers that are on the plan now and the retired teachers continue drawing their benefits?

Grande: The Fiscal Note works towards that to do that maintaining which is the reason for the Fiscal Note. The Fiscal Note is not to pay for the employer/employee piece of the teachers; this is shore up the defined benefit plan as it moves to closure. The plan would run out 30 years after 2059 (when the last employee would still be working). Actuaries are only suppose to work into a 30 year period.

Representative Bellew: The school districts are the ones responsible for shoring up the plan?

Grande: That is the assumption made by the actuary. We had asked the Attorney General what the final cost is on how that is analyzed. There is discussion, but nothing decided. Whether it's going to be a state or school board responsibility if this closes out, is up for discussion. However, since this is codified, it would fall in the final days of 2060-2090, the state's responsibility.

Chairman Delzer: History says the state is with the oasis plan and I would expect that most people expected it would be the state's responsibility.

Representative Williams: The new money that incoming teachers and the board match would be going into an IRA or some type of plan and yet there are a lot of teachers on the old plan that are retired. The minute they're not paying into that fund, someone is going to get (inaudible word) pretty well.

Grande: Yes and no. It all depends on how the first bill reacts to the money that goes it. If that fund reacts well, as is implied, and gets to 100%, that fund could be closed off and not have any more cost. The added cost deals with the 70% unfunded liability.

Representative Williams: Starting with the new teachers. There will be no money going into the TFFR fund and yet there are old people that are drawing out millions.

Grande: There's no new dollars that way, but the teachers that are still working are still paying in.

Representative Williams: I believe the mean age of the teachers we have is 53-54 yrs old in Wahpeton at least. They are going out on the old plan and drawing their pension. I'm concerned.

Representative Skarphol: In the Fiscal Note it talks about, in the middle, contributions for the defined benefit plan will need to be increased an additional 12.15%. Are we talking about roughly 6% increase for the employer and employee?

Grande: Their request is 12% by the employer. The actuary states pay everything up front and we'll spread it out later. Others would say, pay portions throughout.

Representative Skarphol: What are you taking 12% of? What's the figure that we're talking about?

Grande: I don't know how much in wages come out of the TFFR every year.

Representative Skarphol: That's the difficulty I have is that I don't know the costs here.

Representative Kroeber: This will be debated on the floor. I served on employee benefits and this is an exact quote from our employee benefits committee by an assistant attorney general: "in both the federal and state constitutions include a contract clause providing that the state cannot pass a law impeding contractual obligations" and "public pensions in the ND are obligations" and "the Century Code states that any provision of law relating to the use and investment of public employee retirement funds must be deemed part of the employee contracts and the employees participating in public things." Simply, these are contracts between the teachers and the state. So when we are talking about the school board paying all of this amount, I don't think I've ever heard that when I served on the employee benefits committee. Whatever is true for TFFR will be true for the PERS system.

Grande: I only say school board pays because that's what they give me for a Fiscal Note.

Representative Williams: From the standpoint of logic, I want to understand this, when we cut off the new teachers, their contribution from the tail end of those people retiring under the old plan, what is the motivation to put them on a defined benefit outside of the TFFR plan in the first place? What would be the reason to shift from a defined benefit to a defined contribution plan?

Grande: There are many philosophical reasons that we won't get into right now. The purpose is defined benefits is perceived right now that they have run their course. There are 14 states that have legislation in to do exactly this. We have also had government entities (civil service division area) has done the same. Major Private Sector companies are making this shift i.e. MD Resources. A lot of it comes from, over the last 2-3 years we had big places like General Motors and all of the sudden the money wasn't there due to bankruptcy. The federal govt was being asked if they should be the ones to shore up the fund. That company wouldn't have that kind of problem if they had been in a defined contribution.

Representative Kaldor: I don't want to get into the philosophical differences, but as I read the fiscal note, the thing that strikes me as clear is that to make a transition like this, the cost will be borne to someone and it appears that those remain in the defined benefit plan after the conversion, but before the closure, will find an increasing responsibility to make contributions; beyond what they are now in order to pay off the unfunded liability. The question is about who is going to pay versus should or shouldn't we do this. My understanding is that the burden in this particular bill will fall on the teachers and the school districts.

Grande: As I read the Fiscal Note, I tend to lean towards what you're saying, and that's why it was amended that we not burden the school districts over this next biennium and we find out if the state has a responsibility. Remember, as you close that fund off, you've also relieved the fund of a great deal of liability because the new ones eventually have to retire. They're paying in at 8% and retiring 60. At this time, do we wish to relieve tax payers of that burden when we have that opportunity to do that or do we continue down this path and in 40 years again, we see it still didn't get fixed and let's do it again.

Representative Kaldor: I understand that. One of the things that mitigate that effect is by increasing the rule of 85 to the rule of 90 and the minimum retirement age. As people live longer, they receive benefits longer, so in order for us to bridge that gap, they have to work longer in their work lives. That unfunded liability still becomes a heavy burden when you make that cutoff from that day forward. I'm concerned about the unforeseen consequences if this analysis comes back and tells us that we're going to have an ongoing requirement of several hundred million dollars into the following bienniums.

Chairman Delzer: Have we had any history of when we switched from the oasis to the defined benefits and how that closed out?

Grande: I have seen exact numbers as to cost, but in the last ten years, to bring in state funds and pay that out, it was minimal to the last ten that was in after the money ran out.

Representative Skarphol: If we were 100% funded today and we switched to a defined contribution plan for any new employees, like this bill is suggesting, what would be the long term effect to the beneficiaries of the defined benefits plan?

Grande: It would play out at no expense

Representative Skarphol: what's the dollar amount of the unfunded liability today?

Grande: I think it's \$480 million

Representative Skarphol: We're talking about TFFR. We also have another pension plan. Is it in a similar financial situation?

Grande: It's about 3% better funded liability?

Representative Martinson: I heard last night that if we switched this and go to the new plan, we will owe an additional \$400 and some million on top of that \$480?

Grande: We've heard from 1.1 billion to 480 million, depending on how the rate of returns came in. That's why it's difficult for the actuary to say what's going to happen with the numbers. I asked when do you need that and he said when the fund runs out. \$480 over the life of the fund and how do you invest that. I asked, do you invest it up front or over time or lump sum it in the end?

Representative Martinson: It's important that everyone realize the minimum is \$480 million.

Grande: There would be paying into and keeping the defined benefit plan whole.

Representative Martinson: We have to pay into the old one also. If we change it, you are saying the liability could be as high as a billion from \$500M and that difference has to be made up which would be us.

Grande: Into that one plan. That would be the plan that we would be paying into (defined benefit plan).

Representative Martinson: We're going to have to be paying into the defined contribution plan as well.

Grande: No differently than you already pay your employees a benefit plan, but it's not a managed obligation. It removes the liability.

Representative Martinson: It removes the liability but you still have to pay in.

Grande: If we change the fund or not we have to pay into those employees. It's not a new fund; it's not a secondary fund.

Chairman Delzer: Further questions?

Representative Monson: One of the problems we have that I see, no matter what we do, we have 10% that could retire in the next year. That number stays big due to baby boomers. They could decide at any time to not teach, start drawing and not pay in anymore. That's unpredictable.

Grande: The teachers aren't thrilled they have to stay until 60 so I don't see them staying until 70 plus. The rate of return is going to be a big factor in the discussion of all of these bills. Yes, there is the income liability of the incoming teachers, but there's also the elimination of future liability when you don't add people to the system, so you have to way away the future obligations will not be there either.

Chairman Delzer: Have we asked for any kind of actuarial report on costs of those liabilities if we stayed in the current plan? If we have as situation that Representative Monson mentioned, that still increases the liability.

Grande: That's what 1134 does, it deals with that.

Representative Williams: 2 years ago we had the school board put in .5%. Whatever we put into the retirement funds, it doesn't make any difference if it's a small or large school, that money goes to the school district and the school boards parcel it out. The state money pays for retirement under your plan. I hope we make the right choice because there are going to be state dollars that going to pick up the tail end of one plan and initiate another in the form of foundation aid. I would rather see us shore up the existing program by going as you do to the role of 90.

Representative Skarphol: I have to ask, if we fully funded this unfunded liability and it plays out, based on what rate of return, and if we have a higher rate there will be surplus monies accumulating over and above the long term costs. How could we get an estimate with any relative degree of accuracy as to what the implications would be if we were to fully fund the unfunded liability, as in a cash infusion type? It seems to me that there would be monies generated that would not need to be paid out that could be utilized to repay that infusion.

Grande: I will make a call over to TFFR and see if they have a number they can ask for. He may be able to come up with that in a day.

Chairman Delzer: Further questions?

Job Recording Number: 14402

Representative Klein: I move for Do Pass

Vice Chairman Kempenich: second

Representative Martinson: 30% unfunded liability is nothing to be concerned about. Many years that would have been considered just fine. We are taking a bad stock market and we're trying to put in a new program that some people want, but we're using an unfunded liability to promote a new retirement. That's fine as long as you know the consequences. If you ask an actuary what an unfunded liability means, and they way it is the amount of money you need if everybody quits today. What we are doing is we're quitting everybody today. We are creating the need for over \$400M to fund that liability because we're discontinuing the current retirement program.

Representative Dahl: I don't think it was answered either, who is on the hook for the unfunded liability.

Chairman Delzer: Representative Kroeber stated it would be the state of ND's obligation.

Representative Dahl: That would be true if the contract with the state of ND and the teachers, but if the contract is between the school districts and the teachers, then that would be different.

Representative Kroeber: The contract is between the state and the teachers. That is part of their teaching contract and it's with the state. The school district itself has nothing to do with the TFFR contract.

Chairman Delzer: It's a separate contract they sign?

Representative Kroeber: No, you sign one contract, but as far as retirement benefits are concerned are between the state and the school district. I cannot come in as a teacher and try to negotiate a different retirement contract.

Representative Monson: I agree with Representative Kroeber. The retirement contract is the teachers or the school districts made a contract with the state to invest their money for them for this retirement. The state is like the investment company and if it goes belly up, the state is the one that has to come in and bail it out.

Chairman Delzer: We can hold this if you want.

Representative Williams: We asked Representative Grande a lot of questions and everyone has the information they need. I think we should vote on it and send it to the floor.

Chairman Delzer: Further discussion?

Representative Nelson: I am not very comfortable with the amount of knowledge I have, but I agree with Representative Williams, that our comfort level may or may not increase.

Representative Monson: I would like to have seen a blend as an option. Maybe if we send this up, perhaps the Senate will do something along that line if it gets that far i.e. some option where you could opt in or opt out.

Representative Glassheim: I wonder if it wouldn't be the responsible thing to do to attach a \$500 million appropriation to this, if you really want to pass it.

Chairman Delzer: I think those options will be discussed.

Roll call vote taken, resulting in 13 yes, 8 no, and 0 absent, thus motion carried for Do Pass on HB 1258 and **Representative Grande** was assigned as carrier of the bill. Hearing closed on HB 1258.

Following meeting, information provided by J. Christian Conradi (Senior Consultant) which illustrates projection of certain TFFR membership, payroll, and contribution information under the current plan, as well as if HB 1258 were enacted. This is labeled as attachment **ONE**.

Date: 2/10
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House Appropriations Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Klein Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim		X
Representative Bellew	X		Representative Kaldor		X
Representative Brandenburg	X		Representative Kroeber		X
Representative Dahl		X	Representative Metcalf		X
Representative Dosch	X		Representative Williams		X
Representative Hawken		X			
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson		X			
Representative Monson	X				

Total (Yes) 13 No 8

Absent 0

Floor Assignment Rep. Grande

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

REPORT OF STANDING COMMITTEE

HB 1258, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO PASS** (13 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1258 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1258



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Chairwoman Grande and members of the Government and Veterans Affairs Committee, my name is Representative Scott Louser from District 5 which covers the southwest portion of Minot. Thank you for the opportunity to discuss HB 1258.

I have carefully reviewed the information available to me regarding retirement investment vehicles and I want to share the mathematical rule of 72. I discuss this rule with groups ranging from high school students to licensed real estate agents in continuing education classes. The RULE of 72 simply states that at any given interest rate divided into 72 produces a number that is equal to the number of years an original investment takes to double itself. For instance, \$1,000 invested at a 2% return will turn into \$2,000 in 36 years ($72 / 2 = 36$). Also, that same investment at 18% return will double itself every 4 years.

I understand that testimony on the defined benefits fund has stated that at an 8% return, it will take 40 years to make the fund 90% whole. Using the theory above and those terms, an investment would double itself every nine years. 40 years / 9 years is nearly 4 ½ times.....and that investment doesn't go from 1 to 2 to 3 to 4, it goes from 1 to 2 to 4 to 8, etc. My concern here is that EVEN after doubling itself at an unrealistically high interest rate nearly 4.5 times, the fund will STILL only be at 90%.

At least 3 assumptions have been left out of this calculation, three assumptions that would paint an even bleaker picture of the fund. The first is the impact of inflation. \$100 today doesn't buy what \$100 in future years buys. The second is the effect of more money going out of the fund then coming in. In time, more and more retirees will be taking money out as opposed to putting money in. The third and possibly the most intriguing is the impact of the teachers that only work for a short time. When I interviewed with the NDEA last summer, I was told the biggest problem the Association had was teachers leaving for other opportunities within their first five years. I immediately asked what happens to their retirement

and I was told they are able to take what they contributed. I followed up with "What happens to the employer portion?" The response was "It is kept in the fund". The scenario that I have explained does NOT include the three assumptions I've named, among others.

Upon passage and implementation of the defined contribution plan, there is no doubt the defined benefit fund will still have a shortfall. My belief is years and years down the road, there will be a definite or measurable number of retirees receiving benefits AND there will be a definite and measurable number of employees paying into the fund. In that instance, there will be a much better definite and measurable number for this body to consider should the need arise for funding a shortfall.

I have heard opinions from teachers in the Minot Public School district stating the fund NEEDS new hires to fund the retirement of soon to be retired or already retired teachers. This is exactly the type of system that cannot be sustained. I view this current system as driving down the road (to retirement) in a broken down vehicle that's running out of gas. If you stop at the gas station to add gas, it may get you further down the road until you run out of gas again...but the vehicle is still breaking down. I believe a defined contributions system is a better system for two interested parties; teachers and taxpayers. I urge your support on HB 1258.

Thank you,

Representative Scott Louser, District 5

Attachment 2
1258



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1258 and HB 1228
January 21, 2011

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. We consider this bill and the next bill to be heard, HB 1228, virtually the same concept and our comments on both will be identical. We stand in support of the concepts in HB 1258 and urge a careful examination of the long term implications from the committee on this bill.

I understand it is highly unusual for a group like the ND Chamber to be speaking to the employee benefit discussions like this one about the merits of a defined benefit, vs. a defined contribution retirement program. Our usual areas are business, development, infrastructure, jobs, workforce and taxes, the things that make our economy work and produce the tax base in our state. In our capacity as employers we are not unfamiliar with human resource or benefit issues. The public sector often compares itself to the private sector in determining the appropriate level of compensation and benefits. As background I have passed out an article that appeared in the January 8th issue of the economist. It refers to the problem nationally and places unfunded pension liabilities among all state funds at as much as five trillion dollars. That number equals 35.7% of our massive federal debt and is, frankly, scary. Anecdotally we hear of North Dakota businesses who have examined the choice as it relates to their business and all seem to conclude they must convert from a defined benefits plan to defined contribution plan to survive. News reports indicated Illinois was forced to raise personal and corporate income taxes to address budget shortfalls. In the report I heard the cost of the state pension plan was the largest contributing factor.

We understand and certainly hope the North Dakota plans are not in as bad a condition as many of our sister states. The taxpayers of North Dakota deserve to be assured that we are not heading down this same path. At the very least a comprehensive, independent study should be under taken not by the fund itself or the beneficiaries of the fund, but by the administrative or legislative branches of government, as the employer, to get some degree of comfort that a defined benefit program is truly supportable for the long term. Based on what we read and hear we are not convinced it is. Some have mentioned the cost of making a change and priced it at \$400 million or more since past benefits will have to be honored. We would tell them we would like to know if the option is \$400 million now or \$1 billion later. That might be an easy choice

THE VOICE OF NORTH DAKOTA BUSINESS

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for all of us to make. You are tasked here with the most difficult job of all. You must look at the glass not half empty or half full, but determine whether it will be empty or full ten to thirty years from now.

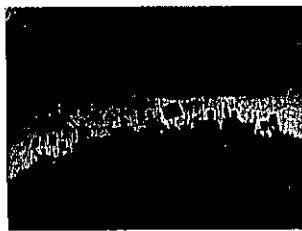
Thank you for the opportunity to appear before you today in support of HB 1258. I would be happy to answer any questions.

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The battle ahead

The struggle with public-sector unions should be about productivity and parity, not just spending cuts



LOOK around the world and the forces are massing. On one side are Californian prison guards, British policemen, French railworkers, Greek civil servants, and teachers just about everywhere. On the other

stand the cash-strapped governments of the rich world. Even the mere mention of cuts has brought public-sector workers onto the streets across Europe. When those plans are put into action, expect much worse.

"Industrial relations" are back at the heart of politics—not as an old-fashioned clash between capital and labour, fought out so brutally in the Thatcherite 1980s, but as one between taxpayers and what William Cobbett, one of the great British liberals, used to refer to as "tax eaters". People in the private sector are only just beginning to understand how much of a banquet public-sector unions have been having at everybody else's expense (see page 21). In many rich countries wages are on average higher in the state sector, pensions hugely better and jobs far more secure. Even if many individual state workers do magnificent jobs, their unions have blocked reform at every turn. In both America and Europe it is almost as hard to reward an outstanding teacher as it is to sack a useless one.

While union membership has collapsed in the private sector over the past 30 years (from 44% of the workforce to 15% in Britain and from 33% to 15% in America), it has remained buoyant in the public sector. In Britain over half the workers are unionised. In America the figure is now 36% (compared with just 11% in 1960). In much of continental Europe most civil servants belong to unions, albeit ones that straddle the private sector as well. And in public services union power is magnified not just by strikers' ability to shut down monopolies that everyone needs without seeing their employer go bust, but also by their political clout over those employers.

Many Western centre-left parties are union-backed. Britain's Labour Party gets 80% of its funding from public-sector unions (which also, in effect, chose its new leader). Spain's sluggish state reform may be partly explained by its prime minister's union membership. In America teachers alone accounted for a tenth of the delegates to the Democratic convention in 2008. And the unions are more savvy: this time, the defenders of vested interests are not brawny miners spouting Trotsky, but nice middle-class women, often hiding behind useful-sounding groups like the National Education Association (American teachers) or the British Medical Association.

Now stand and fight

Politicians have repeatedly given in, usually sneakily—by swelling pensions, adding yet more holidays or dropping reforms, rather than by increasing pay. This time they have to fight because they are so short of money. But it is crucial that the war with the public-sector unions is won in the right way. For amid all the pain ahead sits a huge opportunity—to redesign government. That means focusing on productivity and improving services, not just cutting costs. (Indeed, in some

cases it may entail paying good people more; one reason why Singapore has arguably the best civil service in the world is that it pays some of them more than \$2m a year.)

The immediate battle will be over benefits, not pay. Here the issue is parity. Holidays are often absurdly generous, but the real issue is pensions. Too many state workers can retire in their mid-50s on close to full pay. America's states have as much as \$5 trillion in unfunded pension liabilities. Historic liabilities have to be honoured (and properly accounted for, rather than hidden off the government's balance-sheet). But there is no excuse for continuing them. Sixty-five should be a minimum age for retirement for people who spend their lives in classrooms and offices; and new civil servants should be switched to defined-contribution pensions.

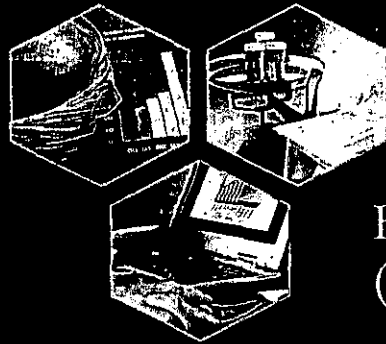
Another battleground will be the unions' legal privileges. It is not that long since politicians of all persuasions were uncomfortable with the idea of government workers joining unions. (Franklin Roosevelt opposed this on the grounds that public servants had "special relations" and "special obligations" to the government and the rest of the public.) It would be perverse to ban public-sector unions outright at a time when governments are trying to make public services more like private ones. But their right to strike should be more tightly limited; and the rules governing political donations and even unionisation itself should be changed to "opt-in" ones, in which a member decides whether to give or join.

The productivity imperative

Fixing the public sector must not be allowed to degenerate into demonising it. Its health is vital to the health of society as a whole, not least because of its impact on economic growth. Bad teachers mean a lousy talent-pool for employers. Allowing a subway driver to retire at 50 on an artificially inflated pension means less to spend on infrastructure: just look at America's highways and railways. Even if many public services are monopolies, private capital is mobile: it goes to places where government works. With ageing populations needing ever more state help, the left should have as much interest as the right in an efficient state sector (perhaps more so, as it thinks government is the way to right society's ills).

Private-sector productivity has soared in the West over the past quarter-century, even in old industries such as steel and carmaking. Companies have achieved this because they have the freedom to manage—to experiment, to expand successful innovations, to close down bad ones, to promote talented people (see page 68). Across the public sector, unions have fought all this, most cruelly in education (see page 26). It can be harder to restructure government than business, but even small productivity gains can bring big savings.

The coming battle should be about delivering better services, not about cutting resources. Focusing on productivity should help politicians redefine the debate. The imminent retirement of the baby-boomers is a chance to hire a new generation of workers with different contracts. Politicians face a choice: push ahead, reform and create jobs in the long term; or give in again, and cut more services and raise more taxes. ■



HB 1258 – Analysis (DC Bill for ND TFFR)

North Dakota House Government and
Veterans Affairs Committee

January 21, 2011

J. Christian Conradi, Senior Consultant

GRS

Gabriel Roeder Smith & Company
Consultants & Actuaries
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HB 1258 Provisions

- Closes membership in current defined benefit (DB) plan to future hires
 - ▶ Effective for hires after June 30, 2012
- Creates new defined contribution (DC) plan for all future hires
 - ▶ Same contribution rates:
 - Employers: 8.75%
 - Employees: 7.75%
 - Total: 16.50%



HB 1258 Provisions

- No change to benefit provisions in closed DB plan
 - ▶ Members in plan would continue to earn service and benefits in DB plan
 - ▶ Members and employers would continue to contribute a combined 16.50% of salary
 - 8.75% employers
 - 7.75% members
 - 8.75% employer rate would sunset back to 7.75% once DB plan is 90% funded

3

GRS



HB 1258 Provisions

- Detailed analysis of Study Bill 2 prepared for interim committee
 - ▶ Letter dated Oct. 22, 2010
- Some changes from Bill 2 in HB 1258:
 - ▶ Effective date changed to June 30, 2012
 - ▶ HB 1258 includes provision allowing current members to elect to join new DC plan
 - Not analyzed here
 - I.e., we assume no current members would join DC plan

4

GRS



Actuarial Analysis

- HB 1258 affects the DB plan in two ways:
 - ▶ It lowers future contributions
 - Future hires and their employers will not be contributing to the closed DB plan
 - ▶ It lowers liabilities
 - Closed DB plan will not pay benefits to future hires

5

GRS



Actuarial Analysis

- The value of the lost contributions is larger than the value of the benefit savings
- DB Plan gets 16.50% of pay for each member
 - ▶ Part of this contribution pays the member's current benefit; part helps pay down the unfunded liability
 - ▶ Under HB 1258, payments from future hires on the unfunded liability are lost

6

GRS



Actuarial Analysis

- In today's dollars (June 30, 2010) this net shortfall is \$465 million
- HB 1258 does not currently address funding for this shortfall

7

GRS



Actuarial Analysis

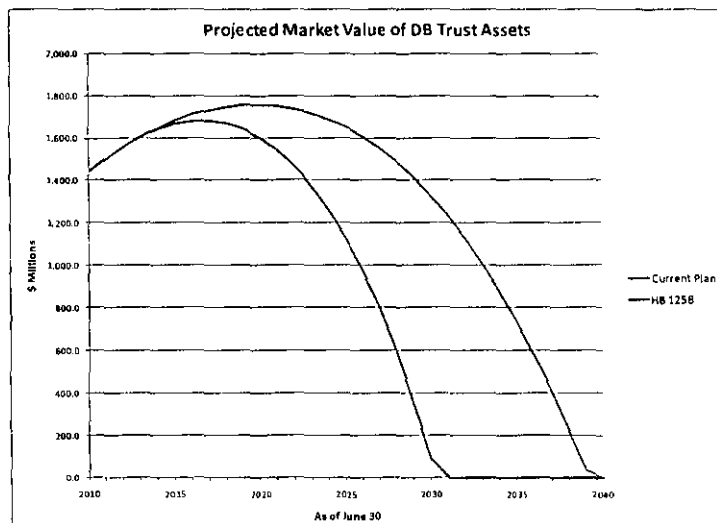
- Without changes, TFFR is projected to run out of money in FY 2040
- But HB 1258 makes this worse
 - ▶ Assets projected to run out in FY 2031
 - ▶ Nine years sooner
 - ▶ This happens because inflow of contributions shrinks while benefit savings are (a) smaller, and (b) years in the future

8

GRS



Actuarial Analysis – Projected Assets



9

GRS



Actuarial Analysis

- Therefore, DB plan requires more funding whether or not HB 1258 is enacted
- An increase to 26.40% needed to fund current (open) DB plan over thirty years
 - ▶ Once fully funded, contributions could be reduced to 10.57%, the normal cost
- To fund all liabilities in closed DB plan by time last active retires, need to increase total contributions to 38.55%

10

GRS



Actuarial Analysis

	Total Contribution Rate	Increase
Current statutory requirement	16.50%	
Needed for adequate funding	26.40%	9.90%
HB 1258	38.55%	12.15%

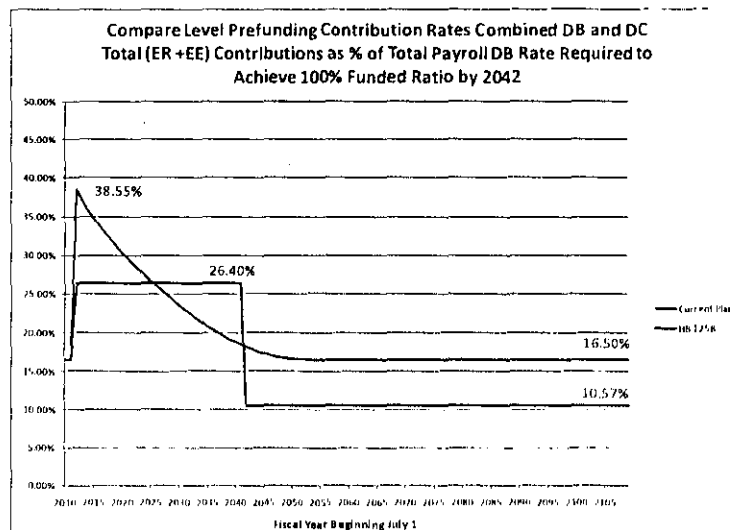
- Other ways to fund the shortfall are possible

11

GRS



Actuarial Analysis – Contribution %



12

GRS



Actuarial Analysis

- What if no additional funding is provided?
- Trust assets are used up
- Annual benefit payments would be larger than contributions received
- A liability of employers or State
- Additional contributions would be required to pay benefits

13

GRS



Conclusion

- Questions?

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14

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January 19, 2011

Ms. Fay Kopp
Deputy Executive Director
North Dakota Retirement & Investment Office
P.O. Box 7100
Bismarck, ND 58507-7100

Re: Table of Contribution Amounts in Connection with Bill 1258

Dear Fay:

Enclosed is a table with a projection of certain TFFR membership, payroll, and contribution information under the current plan, as well as if Bill 1258 were enacted. Note that this analysis does not reflect the possible enactment of HB 1134, the TFFR bill. If both HB 1134 and HB 1258 were enacted, the contribution rates called for in HB 1134 would not be adequate to fully fund the closed DB plan. If both bills were enacted, contributions for the closed DB plan would need to increase above those in HB 1134. We would need to prepare a separate analysis in this event. The summary below provides an explanation of the information shown in the enclosed table.

Column (2) provides the projected number of active TFFR members covered by the current defined benefit plan if HB 1258 is enacted, i.e., all members hired by June 30, 2012. Column (3) provides the projected active membership that would be covered by the defined contribution plan under Bill 1258, i.e., members hired after June 30, 2012. The projection assumes that the total number of active members remains unchanged from the current level of 9,707, and new members are only hired to replace members as they terminate or retire. Therefore, in each year the sum of these two columns is 9,707. Columns (4) and (5) provide the projected payroll for each biennium associated with columns (2) and (3) respectively.

Columns (6), (7) and (8) show the contributions (member plus employer) for each biennium. Column (6) provides the total contributions under the current design and contribution rates. The current contribution rate is 16.50% of payroll, which is comprised of an employer contribution rate of 8.75% and a 7.75% membership contribution rate. These projected amounts do not include possible additional contributions that would be necessary to provide benefits in the event that the plan's assets are exhausted.

Column (7) shows the total contributions as though the rate were increased to 26.40%, which is the contribution rate necessary to fully fund the current plan by the year 2042 (i.e. 30-years from June 30, 2012). (This assumes there is no sunset of the employer contribution rate back to 7.75% when the plan reaches 90% funded.) The contribution rate could decrease from 26.40% of pay to 10.57%, the plan's normal cost, after the plan becomes fully funded in 2042. Note that the contribution rate of 26.40% is slightly higher than the 26% of pay contribution rate determined in our analysis of Bill

Ms. Fay Kopp
January 19, 2011
Page 2

2, which was communicated in our letter dated October 22, 2010. This difference is the result of the change in the effective date of the plan change in Bill 1258 to June 30, 2012.

Column (8) provides the total amount of the employer and employee contributions that will be necessary under Bill 1258, which is the sum of 16.50% contributions made on behalf of employees in the defined contribution plan and 38.55% contributions made on behalf of the active members in the closed defined benefit plan. The 38.55% contribution rate is the rate necessary to fund all future benefits by the time the last active member retires. The contribution rate of 38.55% is slightly higher than the 37% of pay discussed in our comparable analysis of Bill 2. As previously explained, this difference is due to the change in effective date of the plan change to June 30, 2012.

The fiscal impact shown in column (9) is the difference between the annual contributions under Bill 1258, column (8), and the costs shown in column (7). The fiscal impact shown here is over and above the contribution increase that would be needed to adequately fund the current DB plan. Likewise, the fiscal impact here is over and above the fiscal impact required if HB 1134 were enacted. As you can see, the annual contributions under Bill 1258 are initially higher as a result of the higher contribution rate necessary to adequately fund the defined benefit plan over the closed payroll of the current membership. The dollar amount of this cost difference decreases as the projected payroll of the closed membership group also declines, until the defined benefit plan becomes fully funded and the contribution rate necessary to maintain the plan decreases from 26.40% to 10.57%, the normal cost.

Section 15-39.3-03 of the proposed legislation would provide current members an opportunity to opt out of the defined benefit plan and earn benefits in the defined contribution plan. Our analysis does not take this into consideration. Therefore, an additional analysis would be required in the event this provision remains in final version of this legislation.

This analysis was prepared based on member and financial data used for the June 30, 2010 actuarial valuation and on the actuarial assumptions and methods used in preparing that report.

Our calculations are based upon assumptions regarding future events, which may or may not materialize. Please bear in mind that actual results could deviate significantly from our projections, depending on actual plan experience.

If you have any questions, or require any additional or clarifying information, please do not hesitate to call me.

Sincerely,



J. Christian Conradi
Senior Consultant

Enclosure

North Dakota Teacher's Fund for Retirement

Table 1 - Projected Contributions under Current Plan and Bill 1258 Combined Employee and Employer Contributions for the DB and DC Plan

Fiscal Biennium Beginning July 1:	Active Member Count		Payroll (Biennium Period)		Total Biennium Contributions (Employee & Employer)			Fiscal Impact
	DB Members (Closed)	DC Members (Open)	DB Members (Closed)	DC Members (Open)	Current Plan 16.50% x [(4)+(5)]	Current Plan 26.40%* x [(4)+(5)]	Bill 1258 38.55% x (4) + 16.50% x (5)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2011	9,707	0	\$ 1,009.4	\$ 0.0	\$ 166.6	\$ 217.2	\$ 279.4	\$ 62.2
2013	8,704	1,003	968.3	100.7	176.4	282.2	389.9	107.7
2015	7,395	2,312	918.8	217.7	187.5	300.0	390.1	90.1
2017	6,380	3,327	877.5	335.3	200.1	320.2	393.6	73.4
2019	5,523	4,184	836.9	460.5	214.1	342.5	398.6	56.1
2021	4,795	4,912	797.7	593.7	229.6	367.3	405.5	38.2
2023	4,168	5,539	757.9	737.3	246.7	394.7	413.8	19.1
2025	3,604	6,103	713.5	894.4	265.3	424.5	422.6	(1.9)
2027	3,089	6,618	663.7	1,066.5	285.5	456.8	431.8	(25.0)
2029	2,620	7,087	609.0	1,254.7	307.5	492.0	441.8	(50.2)
2031	2,198	7,509	552.9	1,458.1	331.8	530.9	453.7	(77.2)
2033	1,828	7,879	494.8	1,677.6	358.5	573.5	467.6	(105.9)
2035	1,490	8,217	432.6	1,915.7	387.5	620.0	482.9	(137.1)
2037	1,186	8,521	368.7	2,172.6	419.3	670.9	500.6	(170.3)
2039	933	8,774	311.9	2,444.4	454.8	727.7	523.6	(204.1)
2041	727	8,980	257.4	2,732.8	493.4	789.4	550.1	(239.3)
2043	519	9,188	189.8	3,047.7	534.2	842.2	576.0	233.8
2045	304	9,403	118.4	3,379.6	577.2	899.7	603.3	233.6
2047	170	9,537	70.2	3,704.7	622.9	959.0	638.4	239.4
2049	87	9,620	37.6	4,033.6	671.8	1,030.3	680.1	249.8
2051	40	9,667	19.2	4,371.8	724.5	1,094.1	728.8	264.7
2053	19	9,688	10.0	4,727.1	781.6	1,150.7	783.8	283.1
2055	10	9,697	5.3	5,107.8	843.7	1,194.5	844.8	304.3
2057	4	9,703	2.8	5,519.0	911.1	1,223.7	911.7	328.0
2059	2	9,705	1.2	5,964.7	984.4	1,230.6	984.6	354.0

\$ amounts in millions

* The contribution rate required to fund the unfunded liability over a 30-year period, 26.40%, reverts to 10.57%, the cost of the benefits earned by the members, after the plan becomes fully funded in 2042.

All contribution amounts and rates shown include both the member and employer contributions.

Payroll for current employees includes those hired prior to June 30, 2012 who will participate the current plan. Payroll for future employees are for those hired after June 30, 2012.

Contribution rates for the defined benefit plan under the adequacy scenarios (columns 7 and 8) are assumed to become effective at the same date of the plan change, June 30, 2012.

The employer contribution rates under columns (6) and (8) are not assumed to sunset back to 7.75% when the plan becomes 90% funded.

HB 1258

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

**Fay Kopp, Deputy Director - Retirement Officer
Retirement and Investment Office (RIO) - Teachers' Fund for Retirement (TFFR)
January 21, 2011**

The ND Teachers' Fund for Retirement (TFFR) Board has a fiduciary responsibility to administer the TFFR plan in a prudent manner so the fund will be able to pay promised pension benefits for past and present ND educators. The board must act in the best interest of the beneficiaries. The TFFR Board has taken a neutral position on HB1258. However, as fiduciaries, the board has a duty to inform you of the potential defined benefit plan funding shortfall that would be created by closing the existing plan.

We asked TFFR's actuarial consultant, Chris Conradi, with Gabriel, Roeder, & Smith (GRS) to present the actuarial analysis of this bill. Mr. Conradi presented the complete detailed analysis of a similar bill (Bill No. 2) to the Legislative Employee Benefits Programs Committee in October 2010.

Impact on Current TFFR Defined Benefit Plan

As described by the actuary, there would be additional costs (transition costs) incurred to fund benefits and pay off the unfunded liability in the closed TFFR defined benefit plan. HB 1258 does not include a funding source to pay the additional costs. Therefore, it is unknown whether the additional costs would be funded by the state or by the employers/school districts.

However, if contributions for the defined benefit plan were increased, an additional 12.15% would be needed, determined as follows:

The current combined contribution rate is 16.50% (7.75% member and 8.75% employer) which is required by state statutes. The combined contribution rate necessary to fully fund the current open defined benefit plan over the next 30 years is 26.40%. The combined contribution rate necessary to fully fund the closed defined benefit plan by the time the last member in the closed defined benefit plan retires is 38.55%. The difference of 12.15% is the additional (shortfall) contributions that would be required based on active member payroll that is projected to decline. Since there would be fewer members in the closed defined benefit plan, the total contributions required on the remaining members' payroll would need to be higher in order to generate approximately the same amount of funds to pay off the unfunded liability.

	<u>Combined rate</u>	<u>Difference</u>
Current statutory rate	16.50%	--
Rate needed to fully fund open DB plan*	26.40%	9.90%
Rate needed to fully fund closed DB plan (HB1258)	38.55%	12.15%

**Note: The TFFR Board's proposal in HB1134 is a serious effort to close the existing shortfall. The bill provides for an increase in contributions of 8.0% (4% employee plus 4% employer) plus certain benefit changes which is projected to get TFFR to 80% funded level in 30 years. Because the contribution increases sunset when TFFR reaches 90% funded level, and because there are benefit changes reflecting savings included in that bill, the contribution rates in HB 1134 are not equal to the above combined rate needed to fully fund the open defined benefit plan.*

Fiscal Impact on State, Counties, and School Districts

As noted earlier, HB 1258 does not include a funding source to pay the additional (shortfall) costs, which would be over and above the amounts required in HB 1134. However, if contributions for the defined benefit plan were increased to make up the additional shortfall created by closing the plan, the estimated total fiscal impact on state, counties, and school districts would be \$62.2 million for 2011-13 biennium and \$107.7 million for 2013-15 biennium. Since school districts employ the majority of TFFR members (99.21%) almost all of the increase would be attributed to them. Counties make up 0.08%, with state entities comprising about 0.71% of the total. This is detailed in the fiscal note for the next two bienniums. Note that this cost was determined as though the increases would go into effect after the defined benefit plan is closed on July 1, 2012 which is the second year of the biennium. Due to the shrinking population in the closed defined benefit plan, each year/each biennium, additional contributions paid would decrease in dollar amount. Here are statistics for the next five bienniums (see GRS Table 1 for details).

<u>Biennium</u>	<u>Members in Closed Plan</u>	<u>Additional DB Contributions (millions)</u>
2011 – 13	9,707	\$ 62.2 (2 nd yr)
2013 – 15	8,704	\$107.7
2015 – 17	7,395	\$ 90.1
2017 – 19	6,380	\$ 73.4
2019 – 21	5,523	\$ 56.1

If contributions are not increased or funds not appropriated to pay the additional cost, and if actuarial assumptions are met, this cost will continue to accrue and roll over into future bienniums for payment.

Implementation Costs

HB 1258 includes a non-recurring general fund appropriation of \$250,000 to pay consulting and administrative expenses related to initial implementation of the TFFR defined contribution plan. This includes hiring a defined contribution consultant to assist the Board in vendor selection, review of investment options, and vendor oversight. The bill does allow TFFR to utilize NDPERS consultants and vendors for defined contribution plan services; however, there would still likely be some additional consultant costs incurred. It also includes updating business system computer code and other administrative costs in setting up the new plan.



North Dakota Education Association

Attachment 5
1258

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House Government and Veterans Affairs Committee

TESTIMONY IN OPPOSITION OF HB1258

January 21, 2011

Dakota Draper – 701-223-0450 - comments@ndea.org

Chairman Grande, members of the House Government and Veterans Affairs Committee, for the record my name is Dakota Draper, President of the North Dakota Education Association (NDEA). On behalf of our 8,800 members, including current public school teachers, retired teachers, students going into the profession of education, and also education support professionals (teacher aides, clerical staff, custodial staff, bus drivers, etc...); I rise today in strong opposition to HB1258.

As our Association testified last week, we believe that retirement should be a reward for a life's work. In order for it to be rewarding, your retirement funds must be safe and secure to retire. One should not have to worry about if they will have enough to get through the remaining days of his/her life, but should enjoy retirement with family and friends. That is why providing retirement security is the right thing to do. The best way to provide retirement security is to ensure that ALL retirees have strong defined benefit retirement plans as provided under current statute. Defined benefit (DB) plans are much better for employees, employers, and the state in which they reside than defined contribution (DC) plans. DB plans provide a consistent and stable stream of retirement income until death, while DC plans only provide income until the individual's funds run out.

As a history teacher, I was doing some research in preparation for the North Dakota Legislative Session and I came across something of interest. Right now, there are only four (4) purely defined contribution plans in the country serving educators, the rest of the country's educators (83 percent)

are in defined benefit plans. Two of these DC plans are in Alaska, one in Washington DC, and the fourth was in West Virginia -notice the past tense.

As I began looking at West Virginia I found some interesting information. On the West Virginia retirement system website I read: *"In 1991, the West Virginia Teachers Retirement System closed its ... defined benefit (DB) plan to new members and started a defined contribution (DC) plan for new members and members of the DB plan who wanted to switch. Over time, many members became dissatisfied with the performance of their DC accounts. In 2005, the state closed the DC plan and reopened the DB plan for new members."*

With a little more digging, I quickly came across two reasons why "members became dissatisfied" with the DC plan and why West Virginia decided to return its educators to a DB plan. The first reason has to do with what started happening to retirees of the DC system. An actuary for West Virginia's state retirement board reported in 2005, "Unless you have a structured, guaranteed payout (like a DB plan), people tend to retire and run out of money . . . On the average 20 to 30 percent in a DC plan can manage their investments successfully. Once unsuccessful investors (the other 70 to 80 percent) retire, the state often has to provide welfare and Medicaid benefits to them because they were unable to save enough to provide themselves with adequate pensions." In other words, the vast majority of educators in the DC plan, who spent their careers teaching the children of West Virginia, retire only to become a ward of the state in their retirement.

Attached is a handout from the National Institute on Retirement Security that further supports the West Virginia experience as valid. As the article points out on page 2 of the handout---on the right hand side "Researchers at Boston College find that those with DB pensions are much more likely to maintain their pre-retirement living standard and thus are less likely to be at risk of inadequate retirement income than those who rely on DC plans or

who have no retirement plan to rely on." Additionally, as the article points out on page 3 "a 2007 Federal Reserve study finds that DB pension plans are highly effective at ensuring that retirees have sufficient resources to support themselves."

Interestingly, North Dakota at one time did have a DC plan for its public employees. In 1966, the North Dakota Public Employees Retirement System (PERS) began as a DC plan. But, because of the inadequate benefits and the increased costs to the state taking care of retired public employees, North Dakota changed over to a DB plan in 1977, just like West Virginia did in 2005. The obvious conclusion is that DC plans didn't work in the late 60's and early 70's, they didn't work in West Virginia in the 90's, and they won't work in North Dakota now. DC plans are simply not designed to be effective in providing for a safe and secure retirement, as they were only first designed to provide a tax shelter for more wealthy individuals.

The second reason was actually provided to the North Dakota Legislative Employees Program Benefit Committee, when it studied a bill similar to this one during the interim session. As you may know, when a DB plan is closed to new hires, in turn it also closes off a major source of revenue to those already in the plan. Any DB plan needs contributions from those working to extend benefits for those retired. Take away the contributions of the new hires and the fund is further depleted, making it go broke even faster. And since the state guarantees the fund to those vested in the system, the price tag is high and quick to come.

West Virginia learned this lesson the hard way when it finally realized what it had done. To avoid a crushing bill and/or unfairly ending benefits for educator retirees, the West Virginia Legislature voted in 2005 to return the state educators to a defined benefit plan. According to actuarial figures, this single move actually saved the state of West Virginia about \$1.5 billion.

Recently in North Dakota, the Legislative Employees Program Benefit Committee was informed of similar undesired results if North Dakota closed off the DB plan to new hires. The actuaries reported to the interim committee that if the North Dakota Legislature were to do this, the State of North Dakota would experience more than a doubling of the shortfall in the fund. According to the testimony of the actuarial to the committee, "The bill placing new hires into a DC plan, rather than TFFR leaves the DB plan with a projected shortfall of \$888 million with no funding source; more than double the already projected \$423 million shortfall." In essence, it would be West Virginia all over again.

Here's an important point for all of us to remember, removing new hires from the Teachers Fund For Retirement (TFFR) and placing them into a DC plan, is bad for all of us -- vested and already retired teachers, new hires just beginning their career, and all the citizens of North Dakota. It places the future of TFFR at great risk, costs our state economically by reducing the impact of our state's pension funds and places the burden on the state to pay out expensive benefits.

Last week you heard about HB1134 which makes some adjustments to shore up TFFR. This is a very important piece of legislation for all North Dakotans as it seeks to provide a safe and secure retirement for the educators of our state by rebuilding TFFR. We are not asking for a handout or a free ride with HB 1134; instead, we are committed to sacrificing take-home pay and to working longer in order to keep our defined benefit pension plan solvent and strong well into the future. We believe we are more than doing our part with HB 1134 and HB 1258 would undermine those efforts to the detriment of the state, local economies, educators, and most importantly future educators.

Chairman Grande, members of the committee, I would also note for the record that attached to my testimony is a copy of an email one of our Minot members, Phil Shirek, sent to his Representatives in Minot. With

Phil's permission, I attached it here for your review because I think it tells you that even our young members are paying attention and know that eliminating a defined benefit for future educators will be detrimental to his retirement.

In closing, we respectfully ask that you give HB1258 a DO NOT PASS recommendation. Thank you for your time and I would be happy to answer any questions.

ISSUE BRIEF

May 2008



NATIONAL INSTITUTE ON
Retirement Security
Reliable Research. Sensible Solutions.

Retirement Readiness

What Difference Does A Pension Make?

By Beth Almeida

Introduction

An adequate retirement income can be defined as one that enables an older household to take care of its own needs in retirement. Workers who retire without adequate sources of income may face a range of unattractive choices. Continuing to work may be the first alternative, but if that is not an option due to bad health, lack of appropriate job opportunities or other factors, retirees may become dependent on family or even public assistance programs to meet financial needs.

Most Americans prefer to be able to meet their own needs after they stop working, so the question of how employees achieve retirement income adequacy is a pressing one, not just for individuals' well-being, but for public policy as well. It is probably not surprising that job-based retirement plans make a difference, but the particular importance of traditional pensions, so-called defined benefit (DB) pensions, in ensuring retirement readiness may be underappreciated. DB pensions really do make a difference for working Americans in achieving an adequate standard of living in retirement as a reward for decades of hard work.

This brief reviews the evidence on the role DB pensions play in ensuring that older Americans have the resources they need to be self-sufficient in retirement.

It examines recent trends in pension coverage and discusses the effect these trends have had on the state of retirement readiness

among American workers. Finally, it points in the direction of areas worthy of exploration for policymakers seeking to address specific retirement security goals.

People with pensions are less likely to be at risk in retirement

The desire to remain independent in old age is virtually universal.

The notion that retirees should have the means to be self-sufficient in retirement was a bedrock value on which our nation's decades-long commitment to Social Security was built. While it is well-recognized that Social Security is highly effective at lifting retirees and their families out of poverty, it is also true that this safety net was not designed to enable retirees to maintain their pre-retirement living standards on its own.

Employment-based retirement plans are the key way that middle class workers remain part of the middle class after they stop working. Indeed for retirees with incomes between \$16,000 and \$44,000 per year, income from employment-based retirement plans represents the most significant source of income, after Social Security (Table 1).

The Social Security statistics do not distinguish between income provided by a DB pension and that deriving from defined contribution (DC) retirement savings plans, such as 401(k)s and IRAs. But there is reason to believe that DB pensions, distinct from DC plans, play an especially important role in supporting retirement income adequacy.

Table 1 Sources of Income Among Households Aged 65 and Older, 2004
Percent Distribution by Source

	<u>Household Income</u>				
	1 st quintile	2 nd quintile	3 rd quintile	4 th quintile	5 th quintile
	Up to \$10,399	\$10,400 to \$16,363	\$16,364 to \$25,587	\$25,588 to \$44,129	\$44,130 and up
Percentage of income from...					
Social Security/Railroad Retirement	82.9%	83.8%	67.2%	48.5%	19.2%
Employment-based Retirement Plans	3.2%	6.6%	16.0%	24.7%	20.9%
Earnings	1.2%	2.8%	7.1%	15.7%	40.1%
Income from assets	2.3%	3.8%	6%	8.4%	17.8%
Public assistance	8.4%	1.6%	0.9%	0.2%	0.1%
Other	2.0%	1.5%	2.7%	2.6%	1.9%
All income sources	100%	100%	100%	100%	100%

Source: Social Security Administration, 2006

Studies of retirement preparedness typically begin by examining the financial resources that will be available to households when they retire. Such resources may include DB pension benefits, Social Security benefits, and savings accumulated in DC plans and elsewhere. Some studies take an even broader measure, including earnings from work by "retired" individuals, the value of welfare benefits, and the value of home equity, as assets that can be tapped to generate income in retirement.

To gauge retirement readiness, researchers compare the aggregate level of such resources for individual households to some standard. Some researchers rely on a relative standard, like the proportion of pre-retirement income that can be replaced in retirement (replacement rates). An "adequate" replacement rate is typically defined as one that allows a retired household to enjoy roughly the same standard of living as it did before retirement. This standard of adequacy might be deemed to fall anywhere from 65% to 85% of pre-retirement income.¹ Other researchers have used an absolute standard, like the poverty threshold. Obviously, this

approach encompasses a narrower definition of "needs" in retirement. Using either standard, DB pensions appear to play a special role in ensuring retirement preparedness.

Researchers at Boston College find that those with DB pensions are much more likely to maintain their pre-retirement living standard and thus are less likely to be at risk of inadequate retirement income than those who rely on DC plans or who have no retirement plan to rely on. (Munnell et al 2007 and 2008) Predictably, those with both a DB pension and a DC plan are the least likely to be at risk of having income that falls short. The study labels "at risk" households that are projected to fall more than 10% short of achieving a target replacement rate designed to maintain pre-retirement living standards.

For households approaching retirement today, about one in three are at risk of falling short. But among those with a DB pension plan, just 15% are "at risk" and just 12% of those that can count on both a DB pension and a DC plan are "at risk." Fully half of households approaching retirement that do not have any type of retirement plan are deemed "at risk." The risk-reducing effects of DB pension plans are consistent across age groups - from the Early Baby Boomers through Generation X (Table 2).

¹ A replacement rate less than 100% may adequately allow a household to maintain its pre-retirement standard of living, because some expenses decline in retirement (e.g. payroll taxes, commuting costs and other job-related expenses, and the cost of saving for retirement).

Table 2 Percent of Households "At Risk" at Age 65
by Birth Cohort and Retirement Plan Coverage

Retirement Plan Coverage	Early Boomers Born 1946-1954	Late Boomers Born 1955-1964	Generation X'ers Born 1965-1972
All households	35%	44%	49%
Households with both DB pension & DC plan	12%	21%	25%
Households with a DB pension plan	15%	20%	30%
Households with a DC plan	49%	52%	48%
Households with no retirement plan	50%	60%	65%

Source: Munnell et al 2007

Likewise, a 2007 Federal Reserve study finds that DB pension plans are highly effective at ensuring that retirees have sufficient resources to support themselves. (Love et al 2007) This study uses an absolute standard of retirement income adequacy (i.e. the poverty line or "near-poverty," defined as 1.5 times the poverty line). It finds that fully 96% of households that can count on receiving DB pension benefits will have sufficient income to exceed the poverty line.² 83% of DB pension recipients will have income in excess of 1.5 times the poverty line. Households that rely on DC plans face higher risks of hardship than those with DB pensions. 10% of DC plan households will have income below the poverty line and 26% will be either poor or near-poor, with income below 1.5 times the poverty line.

Considering that only four in ten household in the Federal Reserve study have DB pensions, whereas about half have DC plans, the stronger poverty-reducing impact of DB pension plans may be surprising. However, it

² It is well recognized that the official "poverty line" is a problematic and somewhat arbitrary standard. The "poverty line" is based on a measurement developed in 1964 that fails to accurately account for dramatic changes since that time in the costs of health care, housing, and other items. For this reason, researchers will often use a threshold of 1.5 times the poverty line as a better measure of income adequacy. This is supported by research in the field of gerontology which indicates that elder households may need income of 1.5 to 3.0 times the poverty line in order to meet even the most basic needs. (Russell Bruce and Conahan 2006)

is less surprising when one takes into account the fact that the median wealth held in a DB pension plan is about two times larger than the median holdings in DC plans and IRAs.³ This indicates that DB pension plans tend to be better at ensuring employees are able to accumulate adequate resources for retirement.

Features of DB pensions enhance retirement income adequacy

What is it about DB pensions that makes them so effective at ensuring retirement income adequacy, as compared with DC plans? Certainly, DB plans share common features with DC plans. For instance, they both are employment-based plans that make preparing for retirement easier than if employees had to tackle the job completely on their own. Both DB pensions and DC plans benefit from tax incentives designed to encourage retirement preparedness. Both types of plans are governed by laws designed to protect employees and their benefits. But there are certain features that are distinctive to DB pensions that seem to make a significant impact on retirement readiness.

³ Although DB pensions typically pay a regular income for life, researchers typically translate this expected stream of income into a stock of wealth to make the benefit comparable to retirement savings accounts, such as 401(k) plans. In essence, researchers calculate the amount of savings today that would, together with interest, pay the same regular income stream in the future.

DB pensions provide broad-based coverage. In other words, if an employee meets the eligibility requirements of the plan, she is automatically included in the plan and will earn benefits without having to actively make any decisions. By contrast, DC plans often require an employee to enroll, make decisions about how much to save, and direct their own investments.

Research tells us that despite employees' best efforts, workers generally fail to save enough, make poor asset allocation and investment decisions, and are reluctant to purchase annuities with the retirement wealth they do manage to accumulate – even when doing so could enhance their well-being. (Benartzi and Thaler 2007; Mitchell and Utkus 2004; Munnell and Sunden 2004) Simply put, research suggests that the average worker is not cut out for a “do-it-yourself” retirement plan.

Recent changes in DC plan regulations under the Pension Protection Act of 2006 have made employers more willing to set up “default” participation and investment rules in their DC plans, whereby even if the employee makes no affirmative decisions, he will be automatically enrolled in the plan and his savings will be directed to a default investment. The hope is, this will improve the outcomes for participants in DC plans, but it is far too soon to reach any conclusions and in light of the poor state of Americans' retirement readiness, the stakes are high.

DB pensions provide secure money for retirement. Just as important as what DB pensions do is what they do not do. Generally, the inability of individuals to tap funds in their DB pensions (either via a withdrawal or loan) means that money set aside for retirement is more likely to actually be used for its intended purpose. This is an important distinction from 401(k) plans, 87.5% of which permit participants to borrow from their retirement accounts. (PSCA 2007) Likewise, individuals can withdraw assets from 401(k) plans and IRAs before retirement age. According to one conservative estimate, some 10% of retirement wealth is lost because of this “leakage” of money from DC plans. (Englehart 1999)

DB pensions provide professional asset management. Because assets in DB pension plans are pooled together and managed by professionals, it should not be surprising that DB pension plans tend to achieve better investment returns than individuals. According to one estimate, the gap is huge – over an eight-year period, DB pension plans outperformed DC plans by an average of 1.8% per year. The impact of such underperformance over a career is staggering. At the end of 25 years, the effect of a 1.8% difference in annual return translates to a reduction in the size of an individual's savings by 34%. (Flynn and Lum 2007) Expressing this in dollar terms, a 34% reduction would shrink a \$150,000 nest egg to a much smaller \$99,000.⁴

DB pensions provide a lifetime income. A predictable income that cannot be outlived is an essential element of retirement security. Private sector DB pensions are required by the Employee Retirement Income Security Act (ERISA) to offer annuity benefits – that is a series of monthly payments that last a lifetime – as the standard form of payment. DB pension plans offered by federal, state and local governments also pay annuity benefits, even though they are not required by ERISA to do so.

The availability of an annuity benefit means that retirees with income from a DB pension have an easier time budgeting for their regular expenses, because the size of their pension check does not fluctuate with interest rates or the stock market. As will be discussed in greater detail, older Americans appear to be having a difficult time spending down their retirement savings in DC plans in an optimal way. This indicates that the predictable, monthly, lifetime benefit provided by DB pensions has great value that may be underappreciated. Indeed, retirees tend to be happier and report greater levels of satisfaction when they have a predictable, guaranteed source of retirement income like a DB pension or annuity, on top of Social Security. (Panis 2004; Sondergeld et al 2002; Metlife 2002)

⁴ With \$150,000 in a DC plan at retirement at age 65, an individual could purchase an annuity that would pay about \$865 per month, every month, for life, with protections for a surviving spouse. A \$99,000 nest egg would provide an income of only about \$570 per month.

DB pensions provide special protections for spouses. Beyond the basic requirement to offer a lifetime stream of income, ERISA goes a step further in providing special protections for spouses of married beneficiaries. The law requires that the standard benefit form for married participants is an annuity that continues paying a benefit to a spouse, even after the death of the employee/retiree. The right to receive benefits in this form can be waived, but only by the spouse. Federal, state and local government DB pension plans typically provide similar spousal benefits. Considering their longer life expectancy, spousal protections are especially important to women's economic security in retirement. (Shaw and Hill 2001)

Recent trends in DB pension coverage raise concern

In recent years, many employers in the private sector have shifted away from offering DB pensions in favor of DC plans. Evidence indicates that this shift has not only been one of form, but one of substance as well. Specifically, the shift has involved a reduction in the amount of money being set aside for retirement, leading to a reduction in retirement wealth for the typical worker.

Ghillarducci and Wei (2006) find that the shift from DB pensions to DC plans was associated with a reduction in employer spending on retirement plans. Specifically, they find that a 10% increase in the use of DC plans reduces employer retirement plan costs per worker by 1.7-3.5%. This suggests firms have used DC plans to reduce retirement plan expenditures, meaning fewer dollars being directed by employers into retirement plans.

Unfortunately, it does not appear that employees are digging deeper into their household budgets to save more in response to employers' reduced contributions to retirement plans. Instead, the shift from DB pensions to DC plans appears to be having a negative effect on the typical household's retirement readiness.

Sorokina et al (2008) find that retirement wealth for households approaching retirement actually fell between 1992 and 2004, a period that saw DB pension coverage drop and the proportion of the workforce

covered by DC plans surge. In 1992, about three-fourths of those with a retirement plan at work were covered by a DB pension plan, or a combination of a DB pension plan *and* a supplemental DC plan. By 2004, this proportion had fallen to 57%.

The authors find that the shift from DB pensions to DC plans was accompanied by a significant reduction in total retirement wealth. Although the average household's DC wealth grew from about \$35,000 in 1992 to about \$48,000 in 2004, DB pension wealth for the average household declined from over \$92,000 in 1992 to just over \$65,000 in 2004. Thus, total retirement wealth declined from about \$127,000 to roughly \$113,800 - an 11% drop.

Many Americans will fall short in retirement without DB pensions

Plenty of evidence suggests that recent trends in DB pension coverage will leave large numbers of American families under-prepared for retirement, with insufficient resources to meet their needs.

The afore-mentioned Boston College studies find that between 44% and 61% of households are at risk of being unable to maintain their living standards in retirement, even if they work to age 65, plan to consume all their financial assets, and take out reverse mortgages to "monetize" their housing wealth. (Munnell et al 2007 and 2008)

The Federal Reserve study cited earlier finds that 12% of Americans currently aged 51 and older will fall below the poverty line, and that another 9% will be "near poor" even after accounting for receipt of public assistance, wages from work, and the consumption of all wealth (including housing wealth) over one's expected lifetime. (Love et al 2007) That two in five elder households will struggle financially, even after taking into account the receipt of public assistance, is certainly cause for concern.

The findings of these two studies are even more alarming in light of the fact that most households do not or cannot effectively "monetize" their housing wealth. Despite the increasing awareness and availability of reverse mortgages that could allow older

Americans to convert their home equity into cash that can be spent to meet retirement income needs, high fees and other obstacles have limited this option. (Sinai and Souleles 2007) This suggests these studies may be underestimating the degree of retirement income inadequacy.

Nor do households seem to be having an easy time drawing down savings that have accumulated in DC plans. The Boston College and Federal Reserve studies assume that households "annuitize" - convert into lifetime streams of income - their financial wealth, but in practice this tends not to happen. Although employers that offer DC plans could provide annuity payout options, they rarely do. (Perun 2007)

Rather, households appear to be trying, not always successfully, to draw down their retirement savings on their own. A recent study by the Employee Benefit Research Institute found that large numbers of households seem to be drawing down these funds too quickly, raising the risk that they will deplete their savings before they die. (Copeland 2007) And at the other extreme, there is evidence that retirees may be holding on to DC plan assets too tightly. (Copeland 2007; Love et al 2007) While drawing down assets "too slowly" may be less of a public policy concern than spending them too fast, it does mean that some retirees' standard of living is lower than it could (or should) be. This phenomenon could be due to a lack of knowledge about how to draw down assets in an optimal way, or to psychological factors, whereby retirees, fearful of depleting their savings, deprive themselves of things they want or need. Either way, retirees' difficulties in making the leap from saving for retirement to spending in retirement have real consequences for their living standards.

Restoring Retirement Readiness

The evidence is clear - DB pensions provide, as a practical matter, the best path to retirement readiness for ordinary Americans. The shift away from DB pensions in recent years has coincided with a decline in retirement wealth for the typical household, reducing retirement readiness and increasing the risk of hardship in old age. This means

fewer working families will have a good chance of maintaining a middle-class living standard in retirement.

Thus, rebuilding the promise of retirement security will mean protecting, strengthening, and expanding DB pension coverage for American workers. In the short- to medium-term, policy makers should focus on ways to shore up existing DB pension plans. This will require a fine balance between making sure that employers have the right incentives to maintain their DB pension plans, but also contribute enough to the plans so that employees do not have to worry about the security of their promised benefits.

Two initial steps seem necessary to achieve this balance. First, the rules governing the funding of private sector DB pension plans should be re-examined. In addition, models of DB pension plan design that insulate employer contributions from shocks, that reduce the possibility of large swings in annual contributions, and that secure employees' retirement benefits deserve a second look. Such designs include, but are not limited to multiemployer DB pension plans in the private sector and multiple employer public sector pension plans.

In the longer term, identifying channels through which new plans can be established or existing plans can be expanded will be necessary. Some of the initial lessons from recent experience in the U.S. and abroad point the direction towards some promising policies. Common to all of these approaches are the pooling of funds across employers, industries and occupations and the role of the government in serving as an incubator for new, well-functioning, secure pensions.

Future research and policy analysis from the National Institute on Retirement Security will explore these themes and others in greater depth. A key goal of our work is to inform the public policy debate around issues of retirement security in the U.S. In light of some of the trends described herein, there is much at stake. The ability of millions of ordinary Americans to sustain their middle-class standards of living into their retirement years is one we as a nation cannot afford to ignore.

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About the Author

Beth Almeida is the Executive Director of the National Institute on Retirement Security. Before joining NIRS, she served as assistant director for strategic resources and as senior economist with the International Association of Machinists and Aerospace Workers (IAM) where she was instrumental in transitioning some 40,000 airline employees out of terminating or freezing pensions into the IAM's multi-employer defined benefit pension plan. Earlier in her career, Ms. Almeida led research initiatives at academic centers in Germany, France, and her home state of Massachusetts. She has authored numerous economic and pension publications and is a frequent speaker at academic and industry conferences, both in the US and abroad. Beth earned a bachelor's degree in international business from Lehigh University and a master's degree in economics from the University of Massachusetts Amherst.

About NIRS

National Institute on Retirement Security is a non-profit research institute established to contribute to informed policy making by fostering a deep understanding of the value of retirement security to employees, employers, and the economy as a whole. NIRS works to fulfill this mission through research, education, and outreach programs that are national in scope.

From: Phil Shirek <pshirek@gmail.com>
Sent: Tuesday, January 18, 2011 9:31 PM
To: Phil Shirek
Subject: Please Vote No on HB 1228 and HB 1258

Thank you for using Mail System.

Message sent to the following recipients:

Representative Bellew

Representative Ruby

Message text follows:

Phil Shirek
1751 64 St. NW
Minot, ND 58703-8896

January 18, 2011

[recipient address was inserted here]

Dear [recipient name was inserted here],

Though I am a young teacher I still worry about retirement. My belief is that social security will not be around, at least in capacity it is today, when I retire. Though I had several other opportunities to take a job in which I would receive better compensation, the enjoyment of being a teacher and the benefits the position provided were enough to sway my decision to become a teacher. I take my position in educating students how to make smart decisions (like placing their vote for leaders who will be the best representatives of their constituents) seriously. I know I will never receive a huge salary as a teacher, I do hope that at the end of my career I will not have to fret about having enough money in retirement.

The best way to provide retirement security is to ensure that retirees have strong defined benefit retirement plans.

HB1228 and HB 1258 undermine the TFFR and NDPERS plans for educators and would have a detrimental effect on safe and secure retirements for all!

As an educator, I strongly oppose HB1228 and HB1258 and would encourage you to vote NO on these two bills when they come before you in the Legislative Assembly.

Thank you for your service!

Sincerely,

Phil Shirek
701-509-0952

House Government and Veterans Affairs Committee
TESTIMONY IN OPPOSITION OF HB1258
January 21, 2011

Matt Quintus- matthew.quintus@my.dickinsonstate.edu

Chairman Grande, members of the House Government and Veterans Affairs Committee, for the record my name is Matt Quintus, I am a Dickinson State University education student, studying to be a High School Science Teacher. I rise today in strong opposition to HB1258.

I grew up in North Dakota and grew up around educators. My father was a teacher and is now an administrator, my mom teaches special education, my uncle is a principal, my whole family has a connection to education. So it is probably no surprise that I took interest in the profession. As I mentioned above, I want to be a science teacher. As you may know, science teachers are in high demand and can pick and choose where they want to work. Ensuring that we have good benefit packages, including a safe and secure retirement, is vital to keeping and attracting good new teachers.

See I know that when I graduate I want to stay in North Dakota. My family is here, my friends are here and this is home. However, I also know that I can leave North Dakota to go elsewhere and earn a higher salary. But one of the attractions to staying here is knowing that I can earn a little less but not have to worry about my economic security. This is because I know that under the current system I will be guaranteed a retirement income. This bill takes that guarantee away and could serve as a disincentive to keeping good new teachers like me in North Dakota. In a state that struggles to keep its young professionals here do we want to add another reason for them to look elsewhere? As a future educator, who wants to stay in North

Dakota and provide a great education for all students, please vote NO on HB1258.

Chairman Grande, members of the committee, I appreciate the time today, and again, I encourage you to give this bill a DO NOT PASS recommendation.

**House Government and Veterans Affairs Committee
TESTIMONY IN OPPOSITION OF HB1258**

January 21, 2011

Wayne Triska –

Chairman Grande, members of the House Government and Veterans Affairs Committee, for the record my name is Wayne Triska, I am a retired teacher of students with vision impairments and have gone back to work part-time in Bismarck, ND. I rise today in strong opposition to HB1258.

I am concerned about HB1258's impact on current and soon-to-be retirees, on the future of my profession, and the negative economic impact this bill could have on the state.

After a life dedicated to teaching our children, especially some of the most vulnerable, I have retired. HB1258 puts my benefit at risk. It does so by drastically increasing the unfunded liability with no guarantees of where this shortfall would be made up to ensure that current retirees and soon-to-be retirees would be able to enjoy the retirement we were promised and have earned. As the fiscal note shows, this bill increases the unfunded liability by over \$160 million dollars in the next four years, this on top of the current unfunded liability of approximately \$400 million. As far as I have read, this bill does not address how that need will be met and I am concerned about the future of my retirement security.

Second, as a professional licensed educator, I have a strong interest in seeing the future of my profession succeed. As some will testify, this bill could be harmful to the ability of school districts in North Dakota to recruit and certainly retain public school teachers. We are already some of the lowest paid teachers in the country. Do we need to add

having an unsafe and unsecure retirement to the list of detriments to teaching in ND? I don't think so, and I would encourage you not to do so and oppose this bill.

Finally, passing HB1258 could limit the positive impact our current plans have in the North Dakota economy. A defined benefit plan is good not only for teachers, but it is good for local North Dakota economies as well. As you heard in testimony from NDEA lobbyist Josh Askvig last week, the National Institute on Retirement Security, estimates that in 2006, for every dollar that was invested in PERS and TFFR, the state got back \$9.33 in economic activity. That's because our retirees tend to stay in this state when they retire. Having a safe and secure retirement when they stay here, they continue to own houses, purchase automobiles, refrigerators and other consumer goods that stimulate business growth, especially in our smaller communities. The National Institute on Retirement Security also estimates that each dollar paid out in the state pension plans generated \$1.24 of economic activity in the state. A solid defined benefit retirement plan enables our retired teachers to be six times less likely than those who do not have a defined benefit retirement to require public assistance in their retirement. Do we really want to lose this economic benefit and leave our dedicated educators out in the cold?

Chairman Grande, members of the committee, this bill is bad for current retirees, bad for future educators and bad for the North Dakota economy. I urge you to give this bill a DO NOT PASS recommendation.

**House Government and Veterans Affairs Committee
TESTIMONY IN OPPOSITION OF HB1258**

January 21, 2011

Patrick Paradis – pdparadis1@umary.edu

Chairman Grande, members of the House Government and Veterans Affairs Committee, for the record my name is Patrick Paradis, a University of Mary Education student and I live in downtown Bismarck.

I appreciate the opportunity to appear before you today and tell you why I think HB1258 is bad for the future of North Dakota, especially educators and public education. As a student, I have thought long and hard about entering the profession of education. Let me be clear, I did not get into it for the money or the benefits; I want to be a teacher because I think a good education is a right for all students. If I can contribute to that education it would be a fulfilling career. That being said, I also know I am entering a profession that to stay in North Dakota means that my pay is in the bottom 10 percent nationally. However, I also know that if I stay in North Dakota I am guaranteed a pretty good retirement. This retirement plan is good for me and it is a part of why I want to teach in ND.

Too often people don't think we students look at anything but salary, this simply is not true. For example, a recent editorial by Joel Klein in the *Wall Street Journal* suggested that teachers would prefer having a higher salary versus a defined benefit pension plan. However, research does not bear this out. Attached is a letter that the National Institute of Retirement Security published in response to Mr. Klein's letter. As you see, when the West Virginia situation, mentioned by NDEA President Draper in previous testimony, was studied they found that younger teachers PREFERRED to be in the defined benefits plan versus defined contribution, suggesting an understanding of the impact to their future economic stability.

Second, my fear is that without raising teacher pay significantly or ensuring a sound, safe secure retirement, how are we going to recruit or retain individuals in the profession? I am at the point in my college education

where I will soon have to decide if I want to stay in North Dakota or go back to Montana to teach. Knowing that I would get better pay AND benefits elsewhere certainly does not encourage me to stay in North Dakota. I know I talk to my friends who are going to be teachers and they also are looking at North Dakota versus other states. I don't think HB1258 will give them much encouragement to stay here.

Chairman, members of the committee, I appreciate your time today and as a future educator I strongly urge you to give this bill a DO NOT PASS recommendation.



January 11, 2011

Letters to the Editor
The Wall Street Journal
1211 Avenue of the Americas
New York, NY 10036

To the Editor:

Joel Klein writes that public school teachers “would prefer front-loaded compensation” to a defined benefit pension plan. However, evidence suggests quite a different story.

The situation of teachers in West Virginia provides a telling case study. In 1991, the West Virginia Teachers’ Retirement System (TRS) pension plan was frozen. Teachers were given 401(k)-type defined contribution (DC) accounts instead. In 2005, the TRS pension was reopened to new hires, and the state also allowed teachers hired under the DC plan to choose to stay with the DC plan or switch back to the pension plan.

An overwhelming number of younger teachers—over 75 percent of them—decided to make the switch back to the TRS pension plan. The tremendous popularity of the decision to move back to the pension was somewhat surprising, but shows that many young teachers highly value their pension benefits.

Klein further asserts that reducing pension benefits would increase teacher retention; yet this too fails to stand up to scrutiny. Economists find strong evidence that pensions help retain workers. Researchers at Boston College found that pension coverage increases tenure with an employer by four years as compared to having no retirement system in place, while pension coverage increases tenure with an employer by 1.3 years as compared to DC coverage.

Finally, pensions remain the key to middle income Americans’ retirement security. As *The Wall Street Journal* noted in 2008, the West Virginia teachers’ switch from pensions to individual DC accounts offers “a valuable lesson in what not to do.” Indeed, the reason for the state’s decision to move back to a pension plan was because those teachers were shockingly ill-prepared for retirement after many years in the DC system. This falls squarely in line with a wide body of research showing that the “three-legged retirement stool”—a pension, Social Security, and individual savings—remains the best way for middle-class Americans to be self-sufficient in retirement.

The evidence is clear. Teachers—especially younger teachers—highly value their pensions and are better prepared for retirement than those without pensions. Moreover, pensions are a proven tool for retaining qualified and experienced educators for our children. When you cut through the misinformation and rhetoric, it’s clear that pensions are good for teachers and *all* Americans.

Ilana Boivie
Director of Programs
The National Institute on Retirement Security

Attachment
1258

Testimony

House Bill 1258 – Ken Tupa, North Dakota Retired Teachers Association

House Government and Veterans Affairs Committee

Representative Grande, Chair

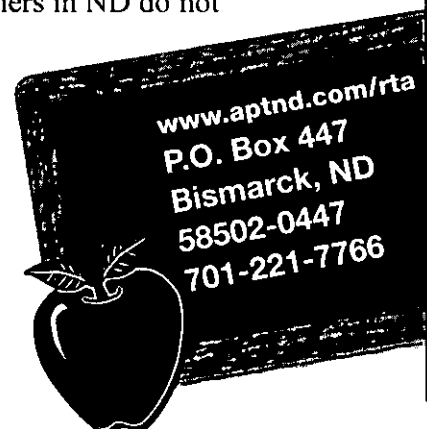
January 21, 2011

Madame Chair Grande and members of the Committee, my name is Ken Tupa and I am here representing the North Dakota Retired Teachers Association (NDRTA). NDRTA is a state association and includes 16 local unit associations in communities throughout ND. As of July 1, 2010, there were 6672 retired educators in ND receiving a retirement annuity from TFFR. I am here to testify in opposition to House Bill 1258.

NDRTA serve retired educators by advocating to 1) strengthen and maintain the existing defined benefit retirement plan and 2) advocate for annuity adjustments for retired educators if the financial environment allows.

The defined benefit retirement plan has served retired educators in ND well for nearly 100 years, providing a secure retirement annuity. Retired teachers are grateful for this benefit. In fact, for some retirees the annuity they receive from TFFR represents their only source of income in retirement since they do not receive a social security benefit. In many cases, the modest retirement benefit is a significant factor in the recruitment and retention of our teachers in ND.

Unlike many other public pension beneficiaries, retired teachers in ND do not receive automatic cost of living adjustments. Unlike many other public pension beneficiaries, retired teachers in ND do not receive a health insurance benefit nor are they provided any credit toward their health insurance premiums.



North Dakota Retired Teachers Association

NDRTA has always supported the ad hoc or pay-as-you-go method for cost of living adjustments. To us, this has always been a responsible practice to help maintain the flexibility and long term viability of the retirement fund. NDRTA also recognizes the likelihood for near-term annuity adjustments or supplemental payments to retirees is marginal until the financial health of TFFR improves.

I am not here today to testify whether one retirement plan has any greater advantage or disadvantage over another. Rather I am here to share NDRTA's concerns about the impact HB 1258 would have on the current retirement plan and the over 16,000 current and future retirees participating in the TFFR.

NDRTA strongly supports the current TFFR plan, because it is the plan we have. Regardless of one's philosophy on DB or DC, we must objectively ask if HB 1258 is the right approach at this time. Will HB 1258 improve the financial health and stability of the current retirement plan, or does it add unnecessary financial risk and increase the cost to maintain the current plan?

NDRTA believe HB 1258 adds unnecessary financial risk and increases the possibility the fund may not be able to meet its obligations in the future. Additionally, as I have mentioned previously, NDRTA recognize near-future annuity adjustments are unlikely for current retirees, even taking HB 1134 into account. HB 1258 will almost guarantee the impossibility of annuity adjustments for current and future retirees. We acknowledge there is no obligation of the current plan to provide annuity adjustments, even in the good times, however legislative history demonstrates the recognition to provide modest annuity adjustments when margin is available or when economic conditions in the state allow.

NDRTA understand the current challenges of our retirement fund and recognize the need to make modifications – like those addressed in HB 1134 - and in the past when conditions called for it. However, now is not the time to close the TFFR plan. We believe doing so increases financial uncertainty, makes the plan more costly to maintain, puts future retirement obligations of the fund into question, and removes a benefit that has served dedicated education professionals for nearly 100 years. NDRTA ask for your Do Not Pass recommendation on HB 1258.

Thank you Madame Chair and members of the Committee for the opportunity to testify before you this morning.

Schedule of Annuitants by Monthly Benefit

Monthly Benefit Amount			Number of Members	Female	Male	Average Service
(1)			(2)	(3)	(4)	(5)
Under \$200			199	146	53	6.66
\$	200	- 399	466	357	109	12.94
	400	- 599	500	405	95	18.88
	600	- 799	446	352	94	23.84
	800	- 999	410	305	105	25.55
	1000	- 1199	527	387	140	27.90
	1200	- 1399	514	344	170	29.39
	1400	- 1599	556	350	206	30.51
	1600	- 1799	550	357	193	30.50
	1800	- 1999	526	322	204	31.52
	2000	- 2199	445	270	175	31.30
	2200	- 2399	381	217	164	32.42
	2400	- 2599	287	165	122	33.22
	2600	- 2799	237	120	117	33.75
	2800	- 2999	178	74	104	33.91
	3000	- 3199	124	59	65	34.33
	3200	- 3399	84	30	54	34.13
	3400	- 3599	72	25	47	34.03
	3600	- 3799	46	12	34	34.64
	3800	- 3999	34	14	20	35.51
	4000	& Over	90	21	69	36.78
Total			6,672	4,332	2,340	27.51

History of TFFR Retirement Plan Changes

Year	Changes	Benefit Formula	Retiree Benefit Increase	Average Increase	Avg. Ann. Increase	Monthly Benefit
2009	Effective 7-01-10 <ul style="list-style-type: none"> Increase employer contributions from 8.25% to 8.75% on active and retired members' salaries until TFFR reaches 90% funded level. 	No Change	One time supplemental retiree payment based on formula: \$20 per year of service credit + \$15 per year of retirement (capped at greater of 10% of annual annuity or \$750). Average supplemental payment - \$723.	-0-	-0-	2010-\$1564 2009-\$1514 2008-\$1477
2007	Effective 7-01-08 <ul style="list-style-type: none"> Increase employer contributions from 7.75% to 8.25% on active and retired members' salaries (until TFFR reaches 90% funded level). Create new tier of reduced member benefits: <ul style="list-style-type: none"> Tier 1 - Rule of 85, 3 yr vesting, 3 yr FAS Tier 2 - Rule of 90, 5 yr vesting, 5 yr FAS Effective 7-01-07 <ul style="list-style-type: none"> Require employer contributions of 7.75% on re-employed retirees. 	No Change	No Increase	-0-	-0-	2007-\$1434 2006-\$1383
2005	<ul style="list-style-type: none"> None. 	No Change	No Increase	-0-	-0-	2005-\$1309 2004-\$1255
2003	<ul style="list-style-type: none"> Clarified definition of salary. Updated dual membership guidelines. Added 20 year term certain and partial lump sum distribution (PLSO) options. Expanded refund & rollover options to purchase service credit. Allow employers to purchase service credit on behalf of members. 	No Change	No Increase	-0-	-0-	2003-\$1203 2002-\$1152
2001	<ul style="list-style-type: none"> Modified retiree employment provisions by adding exceptions for critical shortage areas and educational foundation donations, and improved recalculation of retiree benefits after returning to teach. 	Multiplier increased to 2.00% FAS X 2.00% X years of service	Increase equal to \$2 month X member's years of service credit + \$1 month X number of years since member's retirement plus 0.75% annual adjustment for 7-1-01 and 7-1-02.	\$78.00	7.8%	2001-\$995 2000-\$970
1999	<ul style="list-style-type: none"> Vesting and eligibility for benefits reduced from 5 to 3 years. Early retirement reduction changed from age 65 to earlier of age 65 or Rule of 85. Purchase of service credit modified; air time and leave of absence added. Member's spouse required to be beneficiary and spousal consent to choice of benefit option. 	Multiplier increased to 1.88% FAS X 1.88% X years of service	Increase equal to \$2 month X member's years of service credit + \$1 month X number of years since member's retirement.	\$70.00	8.5%	1999-\$833 1998-\$810
1997	<ul style="list-style-type: none"> Employer and employee contributions increased to 7.75%. Allow rollovers to purchase service credit. Expand TFFR Board to 7 members. 	Multiplier increased to 1.75% FAS X 1.75% X years of service	\$30 month increase.	\$30.00	4.1%	1997-\$729 1996-\$719

1987	<ul style="list-style-type: none"> • Eligibility for disability benefits changed to one year of service and disability benefit improved. • Vesting for retirement benefits reduced from 10 to 5 years. 	Multiplier increased to 1.22% FAS X 1.22% X years of service	\$1.50/mo increase for every year since member's retirement. Members receiving benefits under 1967 & 1969 formulas rec'd \$15/mo bonus (Max \$75/mo)	\$27.25	9.1%	1987-\$327 1986-\$312
1985	<ul style="list-style-type: none"> • Partial retirement possible at age 62. • Dual membership for vesting of benefits for members under TFFR, PERS, and Highway Patrol Retirement System. 	Multiplier increased to 1.15% FAS X 1.15% X years of service	1% increase in benefits for every year since member's retirement, up to 10%. (Max \$40)	\$17.88	7.39%	1985-\$269 1984-\$242
1983	<ul style="list-style-type: none"> • "Rule of 90" (age + service = 90) approved. • Employer payment of member assessments allowed. • School day for TFFR purposes set at 4 duty hours. • FAS changed to high 3 years of career. 	Multiplier increased to 1.05% FAS X 1.05% X years of service	Greater of 15% increase in current benefit or \$1 per month for every year of service. (Max of \$45/mo)	\$29.78	15.93%	1983-\$221 1982-\$187
1981	<ul style="list-style-type: none"> • Early retirement age reduced to age 55. • Eligibility for disability benefits reduced from 15 to 10 years. 	No Change	No Increase	-0-	-0-	1981-\$182 1980-\$174
1979	<ul style="list-style-type: none"> • New benefit formula using multiplier, years of service and final average salary (high 5 of last 10 years). • Normal retirement @ 65 w/10 yrs or age 60 w/35 yrs service • Employee and employer contribution rate increased from 5% to 6.25% each. 	Established multiplier of 1.0% FAS X 1.0% X years of service	*Certain "pre 1971" retirees received benefit increase based on \$6-\$7.50 minimum benefit formula	*Unknown	*Unknown	1979-\$171 1978-\$165
1977	<ul style="list-style-type: none"> • \$14.5 mil transfer from General Fund to TFFR to reduce unfunded liability caused by 1965-75 retiree benefit improvements. • Employee and employer contribution rate increased from 4% to 5%-\$500 cap on school district annual contributions removed. • Created interim legislative committee on public employee retirement programs. 	1977 minimum benefit formula option: \$6 per month for service up to 25 years + \$7.50 per month for service over 25 years (or 1971 formula)	*Certain "post 1971" retirees received benefit increase based on \$6/7.50 minimum benefit formula	*Unknown	*Unknown	1977-\$164

History of TFFR Retirement Plan Changes

Year	Changes	Benefit Multiplier	Retiree Benefit Increase	Average Increase	Average Increase	2010 Monthly Benefit
2009	Effective 7-01-10 <ul style="list-style-type: none"> Increase employer contributions from 8.25% to 8.75% on active and retired members' salaries until TFFR reaches 90% funded level. 	No Change	One time supplemental retiree payment based on formula: \$20 per year of service credit + \$15 per year of retirement (capped at greater of 10% of annual annuity or \$750). Average supplemental payment - \$723.	-0-	-0-	2010-\$1564 2009-\$1514 2008-\$1477
2007	Effective 7-01-08 <ul style="list-style-type: none"> Increase employer contributions from 7.75% to 8.25% on active and retired members' salaries (until TFFR reaches 90% funded level). Create new tier of reduced member benefits: <ul style="list-style-type: none"> Tier 1 - Rule of 85, 3 yr vesting, 3 yr FAS Tier 2 - Rule of 90, 5 yr vesting, 5 yr FAS Effective 7-01-07 <ul style="list-style-type: none"> Require employer contributions of 7.75% on re-employed retirees. 	No Change	No Increase	-0-	-0-	2007-\$1434 2006-\$1383
2005	<ul style="list-style-type: none"> None. 	No Change	No Increase	-0-	-0-	2005-\$1309 2004-\$1255
2003	<ul style="list-style-type: none"> Clarified definition of salary. Updated dual membership guidelines. Added 20 year term certain and partial lump sum distribution (PLSO) options. Expanded refund & rollover options to purchase service credit. Allow employers to purchase service credit on behalf of members. 	No Change	No Increase	-0-	-0-	2003-\$1203 2002-\$1152
2001	<ul style="list-style-type: none"> Modified retiree employment provisions by adding exceptions for critical shortage areas and educational foundation donations, and improved recalculation of retiree benefits after returning to teach. 	Multiplier increased to 2.00% FAS X 2.00% X years of service	Increase equal to \$2 month X member's years of service credit + \$1 month X number of years since member's retirement plus 0.75% annual adjustment for 7-1-01 and 7-1-02.	\$78.00	7.8%	2001-\$995 2000-\$970
1999	<ul style="list-style-type: none"> Vesting and eligibility for benefits reduced from 5 to 3 years. Early retirement reduction changed from age 65 to earlier of age 65 or Rule of 85. Purchase of service credit modified; air time and leave of absence added. Member's spouse required to be beneficiary and spousal consent to choice of benefit option. 	Multiplier increased to 1.88% FAS X 1.88% X years of service	Increase equal to \$2 month X member's years of service credit + \$1 month X number of years since member's retirement.	\$70.00	8.5%	1999-\$833 1998-\$810
1997	<ul style="list-style-type: none"> Employer and employee contributions increased to 7.75%. Allow rollovers to purchase service credit. Expand TFFR Board to 7 members. 	Multiplier increased to 1.75% FAS X 1.75% X years of service	\$30 month Increase.	\$30.00	4.1%	1997-\$729 1996-\$719

History of TFFR Retirement Plan Changes

	Plan Changes	Benefit Formula	Rather Benefit Increase	Average Increase	Average Increase	Monthly Benefit
1995	<ul style="list-style-type: none"> Allow members to rollover refunds from TFFR to IRA or qualified plan. 	No Change	No Increase	-0-	-0-	1995-\$690 1994-\$663
1993	<ul style="list-style-type: none"> Disability retirement formula changed to coincide with retirement formula. 	Multiplier increased to 1.55% FAS X 1.55% X years of service	Greater of 10% of current benefit or leveling benefit increase based on retirement date and years of service. (Maximum of \$100/mo)	\$75.00	13.80%	1993-\$547 1992-\$549
1991	<ul style="list-style-type: none"> Provisions for military service credit under Veterans' Reemployment Rights Act (VRRRA) added. 	Multiplier increased to 1.39% FAS X 1.39% X years of service	Greater of 10% of current benefit or leveling benefit increase based on retirement date and years of service. (Maximum of \$75/mo)	\$63.24	14.66%	1991-\$513 1990-\$415
1989	<ul style="list-style-type: none"> "Pop-up" to single life annuity for joint and survivor options. Level income with Social Security. "Rule of 85" replaced the "Rule of 90." Employer and employee contributions increased to 6.75%. 	Multiplier increased to 1.275% FAS x 1.275% X years of service	Increase equal to \$.05 X years of service X number of years since member's retirement.	\$18.30	5.2%	1989-\$361 1988-\$352
1987	<ul style="list-style-type: none"> Eligibility for disability benefits changed to one year of service and disability benefit improved. Vesting for retirement benefits reduced from 10 to 5 years. 	Multiplier increased to 1.22% FAS X 1.22% X years of service	\$1.50/mo increase for every year since member's retirement. Members receiving benefits under 1967 & 1969 formulas rec'd \$15/mo bonus (Max \$75/mo)	\$27.25	9.1%	1987-\$327 1986-\$312
1985	<ul style="list-style-type: none"> Partial retirement possible at age 62. Dual membership for vesting of benefits for members under TFFR, PERS, and Highway Patrol Retirement System. 	Multiplier increased to 1.15% FAS X 1.15% X years of service	1% increase in benefits for every year since member's retirement, up to 10%. (Max \$40)	\$17.88	7.39%	1985-\$269 1984-\$242
1983	<ul style="list-style-type: none"> "Rule of 90" (age + service = 90) approved. Employer payment of member assessments allowed. School day for TFFR purposes set at 4 duty hours. FAS changed to high 3 years of career. 	Multiplier increased to 1.05% FAS X 1.05% X years of service	Greater of 15% increase in current benefit or \$1 per month for every year of service. (Max of \$45/mo)	\$29.78	15.93%	1983-\$221 1982-\$187
1981	<ul style="list-style-type: none"> Early retirement age reduced to age 55. Eligibility for disability benefits reduced from 15 to 10 years. 	No Change	No Increase	-0-	-0-	1981-\$182 1980-\$174
1979	<ul style="list-style-type: none"> New benefit formula using multiplier, years of service and final average salary (high 5 of last 10 years). Normal retirement @ 65 w/10 yrs or age 60 w/35 yrs service Employee and employer contribution rate increased from 5% to 6.25% each. 	Established multiplier of 1.0% FAS X 1.0% X years of service	*Certain "pre 1971" retirees received benefit increase based on \$6-\$7.50 minimum benefit formula	*Unknown	*Unknown	1979-\$171 1978-\$165
1977	<ul style="list-style-type: none"> \$14.5 mil transfer from General Fund to TFFR to reduce unfunded liability caused by 1965-75 retiree benefit improvements. Employee and employer contribution rate increased from 4% to 5%-\$500 cap on school district annual contributions removed. Created interim legislative committee on public employee retirement programs. 	1977 minimum benefit formula option: \$6 per month for service up to 25 years + \$7.50 per month for service over 25 years (or 1971 formula)	*Certain "post 1971" retirees received benefit increase based on \$6/7.50 minimum benefit formula	*Unknown	*Unknown	1977-\$164

Attachment 10
1258

Testimony on HB 1258

By

Dr. M. Douglas Johnson, Executive Director—NDCEL

Madame Chair Grande and members of the House Government and Veteran Affairs Committee, for the record my name is Doug Johnson and I am the executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in opposition to **HB1258**.

I must first say that the intent of this legislation certainly has gotten the attention of those of us who represent educators in our state. We in the education community have had much discussion since the bill since it has been discussed during interim committee work and finally introduced as **HB1258**. Second, I believe it important for you to know that the members of the North Dakota Council of Educational Leaders are deeply concerned the impacts phasing the current Defined Benefit (DB) retirement plan into a Defined Contribution plan as proposed in **HB1258**.

You have heard testimony this morning provided by the staff of the TFFR with regard to the significant fiscal impact moving the current TFFR DB pension to a DC plan will have on the current DC plan for those currently employed and retired educators who would be "grandfathered" under this bill's proposal. For that reason my testimony will not focus on the impact the cost of this proposal will have on the DB pension but rather on important factors public employers should keep in mind when making decisions about retirement programs especially when considering a shift to a DC plan approach.

In an issue brief entitled "Look before you Leap - The Unintended Consequences of Pension Freezes" the National Institute on Retirement Security (NIRS) stated that "caution should be the watchword for governments that might be tempted to follow the trend of the private sector to abandon defined benefit (DB) pensions in favor of defined contribution (DC) plans." The NIRS key findings in this article were that "freezing" DB plans had several serious and unintended

consequences. First they noted that freezing a DB pension and moving to a DC plan can increase the costs to the public employer (taxpayer) at exactly the wrong time. This is because maintaining two plans is more costly than maintaining one there for forgoing and undermining the economic efficiencies of the DB pension which drives up retirement plan costs. Further, accounting rules can require pension costs to accelerate in the wake of a DB freeze. I believe the actuarial report and fiscal note on **HB1258** presented earlier by TFFR bear these findings out. Second, and I believe this to be the real heart of the problem, the freezing of a DB pension and moving to a DC plan can worsen retirement insecurity, damage recruitment of teachers and administrators and hamper retention of high quality educators.

The reasons freezing a DB plan and moving DC increases costs is that first, the state must maintain to pension plans. The plan proposed in **HB1258** does not require all DB employees to move to a DC plan and doing so may prohibited because of contractual protections provided DB plan employees. Consequently, this means the state will have to maintain both plans for perhaps many decades as the DB employees in the system complete their careers, retire, and ultimately die. Second, the built in economic efficiencies for investment will be lost because the DC contributions would no longer be pooled. DB pensions save money by pooling risks and consequently achieve greater investment returns than do DC plans. It is estimated that a DB pension can provide the same retirement income at about half the cost of a DC plan.

Second, when a DB pension is frozen and replaced with a DC plan, far greater contributions are required from both the public employers (taxpayers) and employees to maintain the same level of benefit in a DC plan. For that reason, the DB pension will, over time, see its economic efficiencies erode. Third, freezing the DB plan can drive up cost because of accounting rules that govern public pension funds. These rules can accelerate required pension contribution rates to

cover unfunded liabilities that will be added on top of the current unfunded liabilities due to the economic down turn in 2007 and 2008. Once the DB is frozen to new employees the number of active members will steadily fall as members retire. This means there will be an ever smaller payroll base will be available over which to spread the payments to retirees. Accounting rules require that that if a plan is frozen either the unfunded liability must be paid in level dollar amounts or as a level percent of a decreasing payroll.

Finally, the DB plan provides employees enhanced security which is highly valued by the educators in our state. National opinion polls reflect this preference and when given a choice over a DB pension or DC plan, public employees have overwhelmingly preferred the DB pension. It is very clear that DB pensions are a very important recruiting tool in the public sector. According to the NIRS article "public sector employers can avoid the regrettable results for their workforces by exercising caution and allowing the facts guide decision-making" when it comes to freezing a DB pension and moving to a DC plan. For that reason, I urge your committee to follow that advice as it considers the future ramifications of moving TFFR from a DB pension to a DC plan as proposed in **HB1258**.

Madame Chair Grande and members of the House Government and Veteran Affairs Committee, the NDCEL is opposed to **HB1258** and urges the committee to give the bill a do not pass. This concludes my testimony and I will be glad to answer any questions that the committee might have at this time.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 6, remove lines 18 through 31

Page 7, remove lines 1 and 2

Page 7, line 3, replace "15-39.3-04" with "15-39.3-03"

Page 7, line 12, replace "15-39.3-05" with "15-39.3-04"

Page 7, line 16, replace "15-39.3-06" with "15-39.3-05"

Page 7, line 25, replace "15-39.3-07" with "15-39.3-06"

Page 8, line 1, replace "15-39.3-08" with "15-39.3-07"

Page 8, line 28, replace "15-39.3-09" with "15-39.3-08"

Page 9, line 1, replace "15-39.3-10" with "15-39.3-09"

Page 9, line 17, replace "15-39.3-11" with "15-39.3-10"

Page 9, line 29, replace "15-39.3-12" with "15-39.3-11"

Page 10, line 6, replace "15-39.3-13" with "15-39.3-12"

Page 11, line 5, replace "15-39.3-14" with "15-39.3-13"

Page 12, line 3, replace "15-39.3-15" with "15-39.3-14"

Page 12, line 13, replace "15-39.3-16" with "15-39.3-15"

Page 12, line 19, replace "15-39.3-17" with "15-39.3-16"

Page 12, line 22, replace "15-39.3-18" with "15-39.3-17"

Page 12, line 25, replace "15-39.3-19" with "15-39.3-18"

Page 13, line 1, replace "15-39.3-20" with "15-39.3-19"

Page 13, line 6, replace "15-39.3-21" with "15-39.3-20"

Renumber accordingly

11.0407.02002
Title.

Attachment 1258
Prepared by the Legislative Council staff for
Representative Grande
February 2, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 1, line 4, after the semicolon insert "to provide a statement of legislative intent;"

Page 13, after line 8, insert:

"SECTION 5. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the only allowable expenditures that may be made relating to this Act during the first four years after enactment are for administrative costs of implementing this Act during which time the legislative management shall receive four annual actuarial valuations of the teachers' fund for retirement to identify the fiscal effect of this Act."

Renumber accordingly

401(k) Savings Calculator

401K Summary

Your Contribution:	12%	2490
Employer Match Rate:	100%	
Percentage of Contribution Employer Matches:	100%	
Investment Rate:	6%	\$67,357
Salary Increase Rate:	2%	
Value of Your 401(k) Plan in 37 Years:		\$1,683,794.32

*work @ 23
retire @ 60*

490

Account Values for the Next 37 Years

Year	Employee Salary	Employee Contribution	Employer Matching Contribution	Total Account Value
1	40,000.00	4,800.00	4,800.00	9,917.79
2	40,800.00	4,896.00	4,896.00	20,645.65
3	41,616.00	4,993.92	4,993.92	32,237.50
4	42,448.32	5,093.80	5,093.80	44,750.68
5	43,297.29	5,195.67	5,195.67	58,246.14
6	44,163.23	5,299.59	5,299.59	72,788.67
7	45,046.50	5,405.58	5,405.58	88,447.17
8	45,947.43	5,513.69	5,513.69	105,294.82
9	46,866.38	5,623.97	5,623.97	123,409.45
10	47,803.70	5,736.44	5,736.44	142,873.75
11	48,759.78	5,851.17	5,851.17	163,775.63
12	49,734.97	5,968.20	5,968.20	186,208.48
13	50,729.67	6,087.56	6,087.56	210,271.57
14	51,744.27	6,209.31	6,209.31	236,070.38
15	52,779.15	6,333.50	6,333.50	263,717.00
16	53,834.73	6,460.17	6,460.17	293,330.53
17	54,911.43	6,589.37	6,589.37	325,037.52
18	56,009.66	6,721.16	6,721.16	358,972.42
19	57,129.85	6,855.58	6,855.58	395,278.11
20	58,272.45	6,992.69	6,992.69	434,106.34
21	59,437.90	7,132.55	7,132.55	475,618.39
22	60,626.65	7,275.20	7,275.20	519,985.56
23	61,839.19	7,420.70	7,420.70	567,389.83
24	63,075.97	7,569.12	7,569.12	618,024.56
25	64,337.49	7,720.50	7,720.50	672,095.10
26	65,624.24	7,874.91	7,874.91	729,819.65

27	66,936.72	8,032.41	8,032.41	791,429.94
28	68,275.46	8,193.06	8,193.06	857,172.15
29	69,640.97	8,356.92	8,356.92	927,307.77
30	71,033.79	8,524.05	8,524.05	1,002,114.54
31	72,454.46	8,694.54	8,694.54	1,081,887.48
32	73,903.55	8,868.43	8,868.43	1,166,939.94
33	75,381.62	9,045.79	9,045.79	1,257,604.72
34	76,889.26	9,226.71	9,226.71	1,354,235.32
35	78,427.04	9,411.24	9,411.24	1,457,207.17
36	79,995.58	9,599.47	9,599.47	1,566,919.01
37	81,595.49	9,791.46	9,791.46	1,683,794.32

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- Attachment ONE

January 19, 2011

- Feb 10, 2011

- HB 1258

- J. Christian Conrade,
Senior Consultant

Ms. Fay Kopp
Deputy Executive Director
North Dakota Retirement & Investment Office
P.O. Box 7100
Bismarck, ND 58507-7100

Re: Table of Contribution Amounts in Connection with Bill 1258

Dear Fay:

Enclosed is a table with a projection of certain TFFR membership, payroll, and contribution information under the current plan, as well as if Bill 1258 were enacted. Note that this analysis does not reflect the possible enactment of HB 1134, the TFFR bill. If both HB 1134 and HB 1258 were enacted, the contribution rates called for in HB 1134 would not be adequate to fully fund the closed DB plan. If both bills were enacted, contributions for the closed DB plan would need to increase above those in HB 1134. We would need to prepare a separate analysis in this event. The summary below provides an explanation of the information shown in the enclosed table.

Column (2) provides the projected number of active TFFR members covered by the current defined benefit plan if HB 1258 is enacted, i.e., all members hired by June 30, 2012. Column (3) provides the projected active membership that would be covered by the defined contribution plan under Bill 1258, i.e., members hired after June 30, 2012. The projection assumes that the total number of active members remains unchanged from the current level of 9,707, and new members are only hired to replace members as they terminate or retire. Therefore, in each year the sum of these two columns is 9,707. Columns (4) and (5) provide the projected payroll for each biennium associated with columns (2) and (3) respectively.

Columns (6), (7) and (8) show the contributions (member plus employer) for each biennium. Column (6) provides the total contributions under the current design and contribution rates. The current contribution rate is 16.50% of payroll, which is comprised of an employer contribution rate of 8.75% and a 7.75% membership contribution rate. These projected amounts do not include possible additional contributions that would be necessary to provide benefits in the event that the plan's assets are exhausted.

Column (7) shows the total contributions as though the rate were increased to 26.40%, which is the contribution rate necessary to fully fund the current plan by the year 2042 (i.e. 30-years from June 30, 2012). (This assumes there is no sunset of the employer contribution rate back to 7.75% when the plan reaches 90% funded.) The contribution rate could decrease from 26.40% of pay to 10.57%, the plan's normal cost, after the plan becomes fully funded in 2042. Note that the contribution rate of 26.40% is slightly higher than the 26% of pay contribution rate determined in our analysis of Bill

Ms. Fay Kopp
January 19, 2011
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2, which was communicated in our letter dated October 22, 2010. This difference is the result of the change in the effective date of the plan change in Bill 1258 to June 30, 2012.

Column (8) provides the total amount of the employer and employee contributions that will be necessary under Bill 1258, which is the sum of 16.50% contributions made on behalf of employees in the defined contribution plan and 38.55% contributions made on behalf of the active members in the closed defined benefit plan. The 38.55% contribution rate is the rate necessary to fund all future benefits by the time the last active member retires. The contribution rate of 38.55% is slightly higher than the 37% of pay discussed in our comparable analysis of Bill 2. As previously explained, this difference is due to the change in effective date of the plan change to June 30, 2012.

The fiscal impact shown in column (9) is the difference between the annual contributions under Bill 1258, column (8), and the costs shown in column (7). The fiscal impact shown here is over and above the contribution increase that would be needed to adequately fund the current DB plan. Likewise, the fiscal impact here is over and above the fiscal impact required if HB 1134 were enacted. As you can see, the annual contributions under Bill 1258 are initially higher as a result of the higher contribution rate necessary to adequately fund the defined benefit plan over the closed payroll of the current membership. The dollar amount of this cost difference decreases as the projected payroll of the closed membership group also declines, until the defined benefit plan becomes fully funded and the contribution rate necessary to maintain the plan decreases from 26.40% to 10.57%, the normal cost.

Section 15-39.3-03 of the proposed legislation would provide current members an opportunity to opt out of the defined benefit plan and earn benefits in the defined contribution plan. Our analysis does not take this into consideration. Therefore, an additional analysis would be required in the event this provision remains in final version of this legislation.

This analysis was prepared based on member and financial data used for the June 30, 2010 actuarial valuation and on the actuarial assumptions and methods used in preparing that report.

Our calculations are based upon assumptions regarding future events, which may or may not materialize. Please bear in mind that actual results could deviate significantly from our projections, depending on actual plan experience.

If you have any questions, or require any additional or clarifying information, please do not hesitate to call me.

Sincerely,



J. Christian Conradi
Senior Consultant

Enclosure

North Dakota Teachers' Fund for Retirement

**Table 1 - Projected Contributions under Current Plan and Bill 1258
Combined Employee and Employer Contributions for the DB and DC Plan**

Fiscal Biennium Beginning July 1:	Active Member Count		Payroll (Biennium Period)		Total Biennium Contributions (Employee & Employer)			Fiscal Impact (8)-(7)
	DB Members (Closed)	DC Members (Open)	DB Members (Closed)	DC Members (Open)	Current Plan 16.50% x [(4)+(5)]	Current Plan 26.40%* x [(4)+(5)]	Bill 1258 38.55% x (4) + 16.50% x (5)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2011	9,707	0	\$ 1,009.4	\$ 0.0	\$ 166.6	\$ 217.2	\$ 279.4	\$ 62.2
2013	8,704	1,003	968.3	100.7	176.4	282.2	389.9	107.7
2015	7,395	2,312	918.8	217.7	187.5	300.0	390.1	90.1
2017	6,380	3,327	877.5	335.3	200.1	320.2	393.6	73.4
2019	5,523	4,184	836.9	460.5	214.1	342.5	398.6	56.1
2021	4,795	4,912	797.7	593.7	229.6	367.3	405.5	38.2
2023	4,168	5,539	757.9	737.3	246.7	394.7	413.8	19.1
2025	3,604	6,103	713.5	894.4	265.3	424.5	422.6	(1.9)
2027	3,089	6,618	663.7	1,066.5	285.5	456.8	431.8	(25.0)
2029	2,620	7,087	609.0	1,254.7	307.5	492.0	441.8	(50.2)
2031	2,198	7,509	552.9	1,458.1	331.8	530.9	453.7	(77.2)
2033	1,828	7,879	494.8	1,677.6	358.5	573.5	467.6	(105.9)
2035	1,490	8,217	432.6	1,915.7	387.5	620.0	482.9	(137.1)
2037	1,186	8,521	368.7	2,172.6	419.3	670.9	500.6	(170.3)
2039	933	8,774	311.9	2,444.4	454.8	727.7	523.6	(204.1)
2041	727	8,980	257.4	2,732.8	493.4	789.4	550.1	(239.3)
2043	519	9,188	189.8	3,047.7	534.2	842.2	576.0	233.8
2045	304	9,403	118.4	3,379.6	577.2	903.7	603.3	233.6
2047	170	9,537	70.2	3,704.7	622.9	969.0	638.4	239.4
2049	87	9,620	37.6	4,033.6	671.8	1,030.3	680.1	249.8
2051	40	9,667	19.2	4,371.8	724.5	1,094.1	728.8	264.7
2053	19	9,688	10.0	4,727.1	781.6	1,160.7	783.8	283.1
2055	10	9,697	5.3	5,107.8	843.7	1,224.5	844.8	304.3
2057	4	9,703	2.8	5,519.0	911.1	1,293.7	911.7	328.0
2059	2	9,705	1.2	5,964.7	984.4	1,360.6	984.6	354.0

\$ amounts in millions

* The contribution rate required to fund the unfunded liability over a 30-year period, 26.40%, reverts to 10.57%, the cost of the benefits earned by the members, after the plan becomes fully funded in 2042.

All contribution amounts and rates shown include both the member and employer contributions.

Payroll for current employees includes those hired prior to June 30, 2012 who will participate the current plan. Payroll for future employees are for those hired after June 30, 2012.

Contribution rates for the defined benefit plan under the adequacy scenarios (columns 7 and 8) are assumed to become effective at the same date of the plan change, June 30, 2012.

The employer contribution rates under columns (6) and (8) are not assumed to sunset back to 7.75% when the plan becomes 90% funded.