

**NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT
ADMINISTRATIVE RULES PUBLIC HEARING MEETING MINUTES
JANUARY 26, 2012
STATE CAPITOL - PEACE GARDEN ROOM
1:00 P.M.**

BOARD MEMBERS PRESENT: Mike Gessner, President
Clarence Corneil, Trustee (teleconference)
Kim Franz, Trustee
Lowell Latimer, Vice President
Wayne Sanstead, State Superintendent
Kelly Schmidt, State Treasurer
Bob Toso, Trustee

STAFF PRESENT: John Geissinger, Executive Director/CIO
Fay Kopp, Deputy Executive Director
Darlene Roppel, Retirement Assistant
Darren Schulz, Deputy Investment Director
Shelly Schumacher, Retirement Program Manager

OTHERS PRESENT: Greg Burns, NDEA
Erica Cermak, NDRTA
M.F. Daley, ND Securities Dept.
Rolland Larson, NDRTA
Jon Martinson, NDSBA
Janilyn Murtha, Attorney General's Office
Ken Tupa, NDRTA

Mr. Mike Gessner, President of the Teachers' Fund for Retirement (TFFR) Board of Trustees, acted as the hearing officer and opened the public hearing at 1:00 p.m. on Thursday, January 26, 2012, at the State Capitol, Peace Garden Room, Bismarck, ND.

It was explained that the public hearing was called for the purpose of allowing all interested individuals an opportunity to submit information concerning proposed changes to the following ND Administrative Code:

82-02-01-01 Definitions – Creates definitions for the following words or phrases.
Reason – Implement 2011 legislation and Administrative update.

82-02-01-01(1) Defines "acceptance of benefit" as the benefit payment date which is first calendar day of each month for purposes of determining when retirement occurs.
Reason – HB1133, Section 4-Death Benefits, and Administrative update.

82-02-01-01(5) Defines "bonus" as an amount paid in addition to regular contract salary which does not increase member's base rate of pay, is not expected to recur, or is not expected to be a permanent salary increase. Clarifies that bonus pay is not eligible retirement salary under N.D.C.C. § 15-39.1-04(9).
Reason – HB1133, Section 1 – Salary.

82-02-01-01(11) Defines "member" as a teacher. Teacher is defined in N.D.C.C. § 15-39.1-04(11). Clarifies that "member" and "teacher" are used interchangeably.

Reason – Administrative update.

82-02-01-01(12) Updates rule to make consistent with N.D.C.C. § 15-39.1-04(11)(a), which requires area career and technology centers to be included as “participating employers”.

Reason – Administrative update.

82-02-01-01(13) Defines “performance or merit pay” as an amount paid pursuant to a written compensation plan which links pay to attainment of specific performance goals and duties. Clarifies that pay for performance of duties is eligible retirement salary as defined in N.D.C.C. § 15-39.1-04(9).

Reason – HB1133, Section 1 – Salary.

82-02-01-01(16) Updates rule to make consistent with N.D.C.C. § 15-39.1-04(9) which allows amounts deducted for qualifying transportation expenses pursuant to 26 U.S.C. 132(f) to be included as eligible salary.

Reason – Administrative update.

82-03-01-06 **Veterans’ rights** – incorporates provisions of HEART Act outlining benefit eligibility for member who dies or becomes disabled while performing qualified USERRA military service. Updates terminology from “teacher assessments” to “member contributions”. Reason – Federal law change (HEART Act, Public Law No. 110-245), and Administrative update.

82-04-01-01 **Employer contributions and member contributions** – updates terminology from “teacher assessments” to “member contributions”.

Reason – Administrative update.

82-04-01-02 **Employer payment of member contributions** – Removes requirement that employer and member contributions must be equal since statutory rates are not equal. Adds requirement that employers must file new forms under certain conditions. Updates terminology from “teacher assessments” to “member contributions”.

Reason – HB1134, Section 2 – Contributions, and Administrative update.

82-04-02-01 **Criteria for Eligible Salary Determinations New** – Chapter created to outline the criteria and documentation required by the board to determine whether certain benefits or payments are included as eligible retirement salary under N.D.C.C. § 15-39.1-04(9).

Reason – HB1133, Section 1 – Salary.

82-05-01-01 **Application for Benefits** – Clarifies how death benefits are handled if death occurs before accepting the first benefit payment. Updates terminology from “teacher” to “member”.

Reason – HB1133, Section 4 – Death Benefits, and Administrative update.

82-05-01-03 **Designation of beneficiary** – Clarifies beneficiary designation requirements, and removes language relating to payment of death benefits pursuant to HB1133. Updates terminology from “teacher” to “member”.

Reason – HB1133, Sections 1, 4 – Death Benefits, and Administrative update.

82-05-01-05 **Benefit Eligibility** – New section created to clarify that age and service credit is rounded to nearest thousandth (0.000) when determining benefit eligibility.

Reason – Administrative update.

82-05-03-02 **Death Benefits** – Adds language requiring documentation naming administrator or personal representative before death benefits are paid to a member's estate.

Reason – HB1133, Section 4 – Death Benefits.

82-05-06-01 **Retiree reemployment** – Updates rule to match statute which requires member contributions to also be paid on salary earned by retirees.

Reason – HB1134, Sections 6, 7.

82-07-01-02 **Disability retirement eligibility** – Updates rule to match statute which changed vesting for disability from 1 to 5 years. Updates terminology from “teacher” to “member”. The 5 year provision will go into effect July 1, 2013.

Reason – HB1134, Section 5 and Administrative update.

82-07-01-03 **Determination of disability** – Updates terminology from “teacher” to “member”. Removes unnecessary statutory reference in body of rule.

Reason – Administrative update.

82-07-03-01 **Forms of disability benefits** – Updates rule to match statute which does not allow partial lump sum distribution option for disability benefits.

Reason – Administrative update.

It was explained that information gathered at this hearing will be transmitted to the TFFR Board for its deliberation and final decision. The TFFR Board will not be responding to comments at this hearing. The comments received at this hearing will be considered with any written comments that are received and the TFFR Board will present its consideration of all of the comments in writing. You may request a copy of the written response and one will be provided to you.

This hearing was taped and transcribed at the end of the hearing.

A registration sheet was placed next to the podium and everyone was asked to sign the sheet before leaving.

At this point, the hearing was opened for comments. There were none.

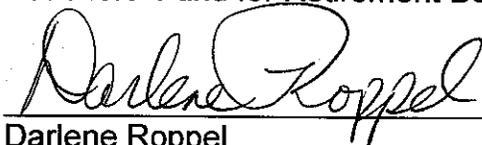
President Gessner indicated that written comments would be received until 5:00 p.m., February 10, 2012.

President Gessner closed the hearing at 1:05 p.m.

Respectfully Submitted:



Mr. Mike Gessner, President
Teachers' Fund for Retirement Board



Darlene Roppel
Reporting Secretary