

**NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT
MINUTES OF THE
AUGUST 22, 2014, SPECIAL BOARD MEETING**

BOARD MEMBERS PRESENT: Mike Gessner, President
Clarence Corneil, Vice Chair
Kirsten Baesler, State Superintendent
Kim Franz, Trustee
Rob Lech, Trustee
Mel Olson, Trustee (teleconference)

STAFF PRESENT: David Hunter, ED/CIO
Fay Kopp, Deputy ED/CRO (teleconference)
Darlene Roppel, Retirement Assistant
Shelly Schumacher, Retirement Program Manager

OTHERS PRESENT: Janilyn Murtha, Attorney General's Office

ABSENT: Kelly Schmidt, State Treasurer

CALL TO ORDER:

Mr. Mike Gessner, President of the Teachers' Fund for Retirement (TFFR) Board of Trustees, called the special board meeting to order at 1:20 p.m. on Friday, August 22, 2014, at the State Capitol, Peace Garden Room, Bismarck, ND.

THE FOLLOWING MEMBERS WERE PRESENT REPRESENTING A QUORUM: SUPT. BAESLER, MR. CORNEIL, MRS. FRANZ, MR. GESSNER, MR. LECH, AND MR. OLSON.

APPROVAL OF AGENDA:

The Board considered the meeting agenda.

MR. LECH MOVED AND MRS. FRANZ SECONDED TO APPROVE THE AGENDA AS PRESENTED.

AYES: MR. CORNEIL, MRS. FRANZ, SUPT. BAESLER, MR. LECH, AND PRESIDENT GESSNER.

NAYS: NONE

MOTION CARRIED.

MINUTES:

The board considered the minutes of the regular TFFR board meeting held July 24, 2014.

SUPT. BAESLER MOVED AND MR. CORNEIL SECONDED TO APPROVE THE MINUTES OF THE REGULAR TFFR BOARD MEETING HELD JULY 24, 2014.

AYES: MR. LECH, SUPT. BAESLER, MR. OLSON, MRS. FRANZ, MR. CORNEIL, AND PRESIDENT GESSNER.

NAYS: NONE

MOTION CARRIED.

DEFENSE OF MARRIAGE ACT (DOMA)/WINDSOR DECISION UPDATE:

Mrs. Fay Kopp, Deputy Executive Director/Chief Retirement Officer, introduced Ms. Mary Beth Braitman and Ms. Tiffany Sharpley with IceMiller Legal Counsel, who participated via teleconference. Ms. Braitman reviewed a memorandum dated August 18, 2014, which includes their analysis of the impact of the U.S. Supreme Court's U.S. vs. *Windsor* decision and Rev. Ruling 2013-17, subsequently issued by the Internal Revenue Service (IRS). Ms. Braitman explained that the primary effect of this decision on NDTFFR is that for federal tax purposes, a same-sex spouse must be treated the same as an opposite-sex spouse, both in states where same-sex spouses are legally married, as well as in states that do not recognize same-sex marriages. For certain state benefit design purposes, however, North Dakota can continue to distinguish same-sex spouses from opposite-sex spouses. TFFR is required to follow federal tax law in order to maintain its status as a qualified governmental plan.

Ms. Sharpley described the basis for their analysis of the impact of *Windsor* on TFFR plan provisions. Areas identified for immediate compliance changes for TFFR to maintain its qualified plan status are rollovers of death benefits, benefit limitations, and required minimum distributions. IceMiller recommends that specific dates be removed from TFFR statutes since it appears to limit the reference to the Internal Revenue Code (IRC) section to a specific date and time since the date predates the *Windsor* decision or subsequent IRS guidance. She also noted that some of the TFFR state forms and operations may also need to be changed.

Ms. Jan Murtha, Attorney General's Office, elaborated on the analysis done by IceMiller. In reviewing IceMiller's recommendation with Legislative Council, it was identified that Art. X, Sec. 3, of the ND Constitution, allows adoption by reference of federal income tax laws as amended in the future. Consequently, Ms. Murtha drafted an amendment to Bill No. 140 that would remove the date references. Ms. Murtha reviewed a proposed course of action regarding compliance with federal tax law in those areas identified by outside counsel with the Board to authorize TFFR to update policies, procedures, and publications to allow the agency to function consistently with these three items required for qualification by the IRS; noting that various TFFR statutes do require the Board to administer the plan in compliance with federal tax law. She also recommended the Board amend TFFR's Bill No. 140 that was submitted to the Employee Benefits Program Committee (EBPC) to remove tax code effective dates or include actual IRC

amendment dates in a list form as directed by Legislative Council and tax counsel.

MR. OLSON MOVED AND MR. CORNEIL SECONDED TO ALLOW TFFR TO MAKE THE NECESSARY CHANGES OPERATIONALLY AND ALLOW THE AGENCY TO UPDATE ITS FORMS, POLICIES, PROCEDURES AND PUBLICATIONS CONSISTENT WITH IRS GUIDELINES AND TO AMEND THE BILL DRAFT AS RECOMMENDED.

AYES: MR. OLSON, SUPT. BAESLER, MR. LECH, MR. CORNEIL, MRS. FRANZ, AND PRESIDENT GESSNER.

NAYS: NONE

MOTION CARRIED.

Legislation with the necessary amendments will be on the September board meeting agenda.

ANNUAL SIB CUSTOMER SATISFACTION SURVEY:

The board discussed the annual customer satisfaction survey sent by the SIB. Board members were instructed to complete the survey individually and send it to President Gessner. He will compile the results and present it to the board for discussion at the September meeting.

EXPERIENCE STUDY PLANNING:

Mrs. Kopp reviewed the statutory requirement of conducting an experience study once every five years as stated in NDCC 15-39.1-05.2. The last one was conducted by Gabriel, Roeder, and Smith Company (GRS) for the five fiscal years 2005-2009 and presented to the Board in January 2010. The next experience study is scheduled to be conducted by Segal Company and include the five fiscal years 2010-2014. It will be delivered to the Board in the 2014-15 fiscal year.

Mrs. Kopp noted staff from the Department of Public Instruction (DPI) and Education Standards and Practices Board (ESPB) have been asked to present information about student-teacher growth and teacher shortages at future board meetings. All subject areas are considered critical shortage areas for the 2014-15 school year.

LEGISLATIVE UPDATE - INTERIM COMMITTEES:

Mrs. Kopp reported the next EBPC meeting is scheduled for September 18, 2014. Proposed amendments will be presented at this meeting. The Committee will also receive the technical analysis of Study Bill No. 140 from Segal. Segal will present the results of the 2014 actuarial valuation report for TFFR and Public Employees Retirement System (PERS) at the October 29, 2014, meeting. An opportunity for public comment on the bills will be held at one or both of the meetings.

Mrs. Shelly Schumacher, Retirement Program Manager, reported on the Legislative Government Finance Committee (LGFC) that met on August 5, 2014. Gallagher & Co. provided a presentation on the actuarial review

that was done for PERS. The Committee reviewed a bill draft which would close the PERS defined benefit plan for new hires effective January 1, 2016. New hires after that date would be in a defined contribution plan.

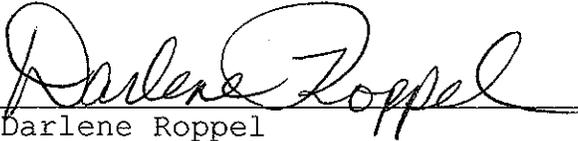
ADJOURNMENT:

With no further business to come before the Board, President Gessner adjourned the meeting at 2:25 p.m.

Respectfully Submitted:



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



Darlene Roppel
Reporting Secretary