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on

THE TEACHERS' PENSION PLAN

Submitted by

THE NEW BRUNSWICK TEACHERS' FEDERATION

to

THE HONOURABLE RICHARD B. HATFIELD

PREMIER OF NEW BRUNSWICK

and

HONOURABLE MEMBERS OF THE EXECUTIVE COUNCIL

Fredericton, N. B.

March, 1985

To: The Honourable Richard B. Hatfield,
Premier of New Brunswick
and Honourable Members of the Executive Council

The New Brunswick Teachers' Federation representing more than 7600 teachers in the public schools of New Brunswick; who are required by law to participate in the Teachers' Pension Plan, appreciates the opportunity to present to you a brief on behalf of those teachers.

From time to time the Federation has made recommendations to the Government, which is responsible for the Teachers' Pension Plan, and we wish to commend the representatives of Government who have subsequently implemented some of those recommendations. The Federation is especially appreciative of the amendments regarding the "age/service index of 90" and the "35 years and out clause". These amendments have done much to alleviate the consternation experienced by members of the NBTf regarding their pension plan.

It is in the spirit of cooperation that helped to produce the above amendments that we again approach you with a series of recommendations which the Federation members believe will improve and enhance the Teachers' Pension Plan. We trust that you will give careful consideration to these recommendations.

The recommendations are stated in the order of priority.

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RECOMMENDATION NO. 1

THAT THE NEW BRUNSWICK TEACHERS' PENSION ACT BE AMENDED TO PERMIT REINSTATEMENT OF PENSIONABLE SERVICE OR PURCHASE OF ELIGIBLE SERVICE BY PAYING CURRENT CONTRIBUTIONS ON CURRENT SALARY FOR EACH YEAR OF SERVICE TO BE REINSTATED OR PURCHASED.

The section of the Teachers' Pension Act which is applicable states:

4(1) Subject to this Act, the following service may be counted by a contributor as pensionable service, namely ...

(b) elective service comprising ...

(ii) with reference to any contributor ...

(F) any period of service described in this section for which he might have elected but for which he failed to elect within the time prescribed; therefore, if at any time before he ceases to be employed as a teacher, he elects to pay an amount equal to the amount he would have been required to pay had he elected to pay for that service within the time prescribed, but based on the salary authorized to be paid him at the date of election and the contribution rate applicable at the time he elected or at the time the service occurred, whichever is higher, together with interest.

Historically, the Teachers' Pension Act has had various provisions for the withdrawal of contributions and for the reinstatement of service. Prior to May, 1951, if a teacher left teaching in the province, there was no provision for the withdrawal of contributions. The teacher simply lost any contributions he/she had made. After May, 1951, a teacher could receive a refund of contributions for the period of service that exceeded ten years. In other words, there was a ten-year "lock-in" of contributions by teachers. In April, 1956, this was amended to a five-year "lock-in". Whatever return a teacher did receive contained no accrued interest. A teacher who had service outside the province which was classified as pensionable service could reinstate that service at a cost of \$150 per year.

Since September, 1966 a teacher leaving teaching in New Brunswick could receive a return of all contributions with interest (3% per year -- 4% in 1977). There was no provision for the deferment of pension until 1972. Since there was no deferment, most teachers were required by law to withdraw their contributions, and a large number of teachers who took a leave from their teaching duties (to raise children, return to university, etc.) did withdraw their contributions. Subsequently, when these teachers returned to teaching they neglected to reinstate their service within one year as the Act requires.

Section 4(1)(b)(ii)(A)

4(1) Subject to this Act, the following service may be counted by a contributor as pensionable service, namely:

(b) elective service comprising

(ii) with reference to any contributor

(A) any period of service in respect of which he has received any amount by way of a return of contributions or interest under this Act, the Teachers' Pension Plan, the Superannuation Act, the Public Service Superannuation Act, if within four years after September 1, 1966 or within one year of subsequently becoming a contributor under this Act, whichever is the later, he elects to pay an amount equal to that return of contributions and interest together with interest from the time of payment of the return of contributions or interest until the time of the election.

The New Brunswick Teachers' Federation submits that the provision in 4(1)(b)(ii)(F) of the Teachers' Pension Act which requires that for teachers to reinstate or purchase service they must pay for that service based on their current rate of salary, their current rate of contributions plus interest from the time he/she withdrew their contributions is punitive and therefore the NBTF recommends that the interest not be included in calculations for the reinstatement or purchase of eligible service.

Some examples of the magnitude of the discrepancy between return of contributions and the cost of reinstatement of services are:

TEACHER "A" - CURRENT SALARY CERTIFICATE V -

TOP OF SCALE - \$35,653

withdrew 6 years - August 12, 1968

refund received - \$951.65

resumed teaching - September 1, 1969

Current Cost to reinstate service:

*Principal	-	\$16,662.83
Interest	-	\$26,245.34
Total	-	\$42,908.17

TEACHER "B" - CURRENT SALARY CERTIFICATE IV

TOP OF SCALE - \$32,523

had 9 years of service; however, the five-year lock-in applied. Therefore, she received a refund for 3 1/2 years of service and did not contribute for 1/2 year.

withdrew 3 1/2 years (July 21, 1966) \$ 397.99

resumed teaching - September, 1968

Current Cost to reinstate service (4 years)

*Principal	-	\$ 9,756.92
Interest	-	\$18,521.35
Total	-	\$28,278.27

TEACHER "C" - CURRENT SALARY CERTIFICATE V

TOP OF SCALE - \$35,653

Taught 2 years - Local License - 1962-1964

Was licensed to teach - September, 1964

Cost of purchase of 2 years of service:

*Principal - \$ 4,552.40

Interest - \$12,068.96

Total - \$16,621.36

TEACHER "D" - CURRENT SALARY CERTIFICATE VI

TOP OF SCALE - \$38,786

Taught 5 years - 1962-1967

Took year off 1967-68 to return to university.

Resumed teaching September, 1968

Current cost to purchase service credit

*Principal - \$ 3,480.83

Interest - \$ 5,603.87

Total - \$ 9,084.70

The New Brunswick Teachers' Federation requests that the New Brunswick Teachers' Pension Act be amended to permit reinstatement of service and purchase of eligible service by paying current rate of contributions on current salary for each year of service to be reinstated or purchased.

* If the NBTF's amendment is adopted in each case above, the cost of purchase or reinstatement of service would be the amount shown as the "Principal".

RECOMMENDATION NO. 2

THAT THE PENSION BRANCH OF THE BOARD OF MANAGEMENT, IN CONSULTATION WITH THE NEW BRUNSWICK TEACHERS' FEDERATION, DO A STUDY OF THE FINANCIAL IMPLICATIONS OF THE INTRODUCTION OF THE FOLLOWING AMENDMENTS TO THE TEACHERS' PENSION ACT.

- I. THAT FOR A PERIOD OF FIVE YEARS TEACHERS BE ELIGIBLE TO RETIRE WHEN THEIR COMBINATION OF AGE AND SERVICE IS 85 OR MORE.
- II. THAT TEACHERS BE ELIGIBLE FOR AN UNREDUCED PENSION AFTER THIRTY (30) YEARS OF SERVICE.
- III. THAT FOR A FIVE-YEAR PERIOD TEACHERS TEACHING 50% OR MORE OF THE TIME BE PERMITTED TO CONTRIBUTE AT THE ANNUAL FULL-TIME RATE OF SALARY AND RECEIVE FULL-TIME CREDIT FOR PENSION PURPOSES.

The NBTF as a result of declining enrolment, teacher layoffs, qualified teachers unable to find employment, an aging teaching force, etc. is interested in exploring possible alternatives which would allow for early retirement of teachers.

RECOMMENDATION NO. 3

THAT THE PENSION BOARD, PROVIDED FOR IN SECTION 23 OF THE TEACHERS' PENSION ACT, BE ACTIVATED IMMEDIATELY; AND THAT TWO MEMBERS NOMINATED BY THE NEW BRUNSWICK TEACHERS' FEDERATION BE APPOINTED BY THE LIEUTENANT-GOVERNOR-IN-COUNCIL AND THAT TWO ADDITIONAL MEMBERS (ONE A MEMBER OF THE NEW BRUNSWICK SOCIETY OF RETIRED TEACHERS) BE APPOINTED BY THE LIEUTENANT-GOVERNOR-IN-COUNCIL, AND THAT, FOLLOWING IMMEDIATE CONSULTATION WITH THE NEW BRUNSWICK TEACHERS' FEDERATION, THE LIEUTENANT-GOVERNOR-IN-COUNCIL ENACT REGULATIONS DETERMINING THE POWERS AND DUTIES OF THE PENSION BOARD.

Section 23 of the Teachers' Pension Act provides for a "Pension Board to assist the Minister in matters arising in connection with the administration of this Act". The section further states that "The Board consists of the Director of Pensions as Chairman and not more than four members appointed by the Lieutenant-Governor-in-Council for a term not exceeding three years" and that "the duties of the Board are to be determined by regulation".

Although the appointment of a Pension Board is not mandatory under the Act, it is highly desirable. In all other Canadian provinces, teacher pension plans have pension boards or commissions directly involved in the administration of the plans

and have teacher representatives on such boards and commissions. It is most unusual that an employer unilaterally and without consultation makes decisions on pension matters and on monies which belong to the employees and represent deferred salaries over the employees' working careers.

RECOMMENDATION NO. 4

THAT TEACHERS WHO APPLY FOR ACCREDITATION OF SERVICE FOR PENSION PURPOSES FOR THE TIME LOST AS A RESULT OF MATERNITY LEAVE NOT BE REQUIRED TO HAVE THEIR APPLICATION APPROVED BY THE MINISTER AND THAT THEY NOT HAVE THE SERVICE ACCREDITED DEDUCTED FROM THE TIME ALLOCATED IN SECTION 4(b)(ii)(E) OF THE TEACHERS' PENSION ACT.

The section of the Teachers' Pension Act which is applicable states:

4(1) Subject to this Act, the following service may be counted by a contributor as pensionable service; namely, ...

(b) elective service comprising ...

(ii) with reference to any contributor ...

(E) subject to the approval of the Minister, any periods of leave without pay to a maximum of two years of a person who was granted a leave of absence of at least one calendar month by a Board of School Trustees, if he resumes active employment as a teacher and if, within one year of resuming employment as a teacher, he elects to pay in respect to that period

of time, an amount equal to the amount he would have contributed had he been a contributor during that period together with interest from the time the leave without pay accrued until the date of election.

Although the Teachers' Pension Act specifies that the Minister has discretionary power to grant or not grant an application from a female teacher to purchase for pension purposes time lost as a result of maternity leave, current practice indicates that no teacher has been refused such an application. To reflect this practice, the New Brunswick Teachers' Federation recommends that the Teachers' Pension Act be amended by adding the following:

4(1) Subject to this Act, the following service may be counted by a contributor as pensionable service; namely ...

(b) elective service comprising ...

(ii) with reference to any contributor ...

() any periods of maternity leave without pay in the case of a person who was granted a maternity leave of at least one month by a Board of School Trustees, if she resumes active employment as a teacher and if, within one year of resuming employment as a teacher, she elects to pay in respect of that period time, an amount equal to the amount she would have contributed had she been a contributor during that period.

The New Brunswick Teachers' Federation also believes that the time accrued for pension purposes as a result of maternity leave should not be deducted from the two years available in section 4(1)(b)(ii)(E) of the Teachers' Pension Act. This practice discriminates against females in so far as they lose the opportunity to fully utilize the above clause for other justifiable reasons since they may have utilized it for maternity leave. This hardship obviously would not be applicable to male teachers.

RECOMMENDATION NO. 5

THAT TEACHERS WHO ARE CURRENTLY TEACHING IN OTHER JURISDICTIONS IN CANADA AND WHO HAD TAUGHT IN NEW BRUNSWICK AND WITHDREW THEIR CONTRIBUTIONS TO THE NEW BRUNSWICK TEACHERS' PENSION PLAN BE ALLOWED TO REINSTATE THE NEW BRUNSWICK SERVICE FOR THE PURPOSE OF TRANSFER WITHOUT HAVING TO RETURN TO TEACHING IN NEW BRUNSWICK.

The section of the Teachers' Pension Act which is applicable states:

4(1) Subject to this Act, the following service may be counted by a contributor as pensionable service, namely ...

(b) elective service comprising ...

(ii) with reference to any contributor ...

(A) any period of service in respect of which he has received any amount by way of a return of contributions or interest under this Act, the Teachers' Act, the Superannuation Act, the Public Service Superannuation Act if, within four years after September 1, 1966 or within one year of subsequently becoming a contributor under this Act, whichever is the later, he elects to pay an amount equal to that return of contributions and interest, together with interest from the time of payment of the return of contributions or interest until the time of the election.

Currently five provinces (Alberta, Saskatchewan, Ontario, Prince Edward Island and Newfoundland) allow teachers to reinstate service for the purpose of transferring to a pension plan in another jurisdiction in Canada without returning to teach in the exporting province.

Since teachers may reinstate in other provinces and then transfer that service to the New Brunswick Teachers' Pension Plan, the NBTF believes that the same provision should be applicable to former teachers in New Brunswick.

Except for administrative costs, this provision would be of no cost to the New Brunswick Teachers' Pension Plan.

RECOMMENDATION NO. 6

THAT THE TEACHERS' PENSION ACT BE AMENDED TO INCLUDE THE DEFINITION OF THE COMMON LAW SPOUSE FOR THE PURPOSE OF BENEFITS TO THE SURVIVING SPOUSE.

The section of the Teachers' Pension Act which is applicable states:

13(1) Subject to this section, upon the death of a contributor who had to his credit five or more years of pensionable service, his surviving spouse is entitled to a surviving spouses' pension equal to ...

Currently the Teachers' Pension Act has no definition of spouse. Therefore, the interpretation has been that spouse includes only those spouses that are such by marriage.

The New Brunswick Teachers' Federation feels that the Teachers' Pension Act should take into account the current situation in terms of family life. It would be unfair to deprive of pension benefits a surviving spouse who had been recognized publicly as the spouse of the teacher.

The New Brunswick Teachers' Federation believes that the definition of spouse should include common law relationships and that there should be a mechanism of sharing in cases where the first marriage was not annulled.

The New Brunswick Teachers' Federation feels that the current situation is unfair since it could conceivably happen that two people could have lived together for several years, and following the death of the teacher, the spouse would receive nothing because of the fact that the Teachers' Pension Act does not recognize that situation.

Article 63 of the Canada Pension Plan provides a definition of spouse on the basis of three years of cohabitation in cases where the contributor was prohibited from marrying by reason of a previous marriage, and of one year in cases where neither one of the parties was married. The Federation is of the opinion that the Teachers' Pension Act should be modified to reflect the same attitude as in the Federal Act and other jurisdictions concerning common law surviving spouses.

Example: Article 63 of the Canada Pension Plan (Surviving Spouse of the Contributor) states:

- 1) Subject to subsection (2), for purposes of this Part, the surviving spouse of a deceased contributor is the person who was by law married to the deceased contributor at the time of his death.

- 2) For the purposes of this Part, where a person:
 - a) establishes to the satisfaction of the Minister that he had, for a period of not less than 3 years immediately before the death of a contributor with whom he had been residing and whom by law he was prohibited from marrying by reason of a previous marriage either of the contributor or of himself to another person, been publicly represented by the contributor as the spouse of the contributor, or
 - b) establishes to the satisfaction of the Minister that he had, for not less than one year immediately before the death of a contributor with whom he had been residing, been publicly represented by the contributor as the spouse of the contributor, and that at the time of the death of the contributor neither he nor the contributor was married to any other person,

that person shall, if the Minister so directs, be deemed to be the surviving spouse of the deceased contributor, in lieu of the surviving spouse, if any, described in subsection (1), and to have become married to the contributor at such time as he commenced being so represented as the spouse of the contributor, and for the purposes of this Part a person to whom this subsection would apply, but for his marriage to a contributor after such time as he commenced being so represented as the spouse of the contributor, shall, if the Minister so directs, be deemed to have become married to the contributor at the time when, in fact, he commenced being so represented.

We thank you for reviewing our brief and we look forward to the implementation of our recommendations during the next session of the Legislative Assembly.

Respectfully submitted,

THE NEW BRUNSWICK TEACHERS' FEDERATION

