

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2282

Introduced by

Senators C. Nelson, Wardner

Representatives Maragos, Stefonowicz

1 A BILL for an Act to amend and reenact section 15-39.1-19.1 of the North Dakota Century
2 Code, relating to participation in the teachers' fund for retirement by retired persons who have
3 resumed teaching; to provide an effective date; and to provide an expiration date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 15-39.1-19.1 of the 1997 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **15-39.1-19.1. Annuities discontinued on resumption of teaching.**

8 1. A retired teacher who is receiving a retirement annuity under chapter 15-39,
9 15-39.1, or 15-39.2 may not return to covered employment until sixty calendar
10 days have elapsed from the member's retirement date. ~~A~~ Except as otherwise
11 provided in this section, a retired member may then return to covered employment
12 for a maximum of ninety working days and continue receiving a monthly retirement
13 benefit. For purposes of this section, a working day is four or more hours of
14 teaching. The board may waive this restriction in emergency situations. Should
15 the retired member's employment exceed the ninety-day maximum limit, the retired
16 member must immediately notify the fund office in writing. Failure to notify the
17 fund office will result in the loss of one month's annuity benefit. ~~The~~ Except as
18 otherwise provided in this section, the retired member's monthly benefit must be
19 discontinued the first of the month following the date the member reaches the
20 ninety-day maximum. ~~Any~~ A retired member who returns to teaching shall pay the
21 required assessments on those earnings received by the retired member after the
22 ninety-day maximum. The employer shall pay the required contributions in a like
23 manner.

- 1 2. A retired member may return to teaching for up to one year without losing any
2 benefits provided at least fifty percent of the salary earned by that person is placed
3 in a school district's educational foundation or a private educational foundation.
4 Employee and employer assessments under this arrangement must be paid by the
5 person's employer. Assessments must be paid on the total salary earned by the
6 retired member without regard to the amount of money placed in an educational
7 foundation. A retired member reemployed under the provisions of this subsection
8 must be treated as retired for all other purposes under this chapter.
9 Notwithstanding subdivision a of subsection 3, a retired member may not earn any
10 additional service during the period of reemployment. The member's benefits may
11 not be adjusted to reflect changes in the member's age or final average monthly
12 salary at the end of the period of reemployment, any optional form of payment
13 elected under section 15-39.1-16 remains effective during and after the period of
14 reemployment, additional benefits normally available to an active member, such as
15 disability benefits, are not available to a retired member reemployed under this
16 subsection, and refunds may not be made to a retired member at the end of that
17 person's period of reemployment. For purposes of this subsection, a school
18 district's educational foundation must be a nonprofit or charitable organization
19 exempt from federal income taxation under section 501(c)(3) of the United States
20 Internal Revenue Code [26 U.S.C. 501(c)(3)].
- 21 3. Upon the teacher's subsequent retirement, the member's benefit must be resumed
22 as follows:
- 23 4- a. If the teacher subsequently retires with less than two years of additional
24 credited service, the teacher's assessments paid to the fund must be
25 refunded in accordance with section 15-39.1-20 and the teacher is entitled to
26 receive the discontinued annuity the first day of the month following the
27 teacher's re-retirement.
- 28 2- b. If the teacher subsequently retires with more than two years of additional
29 credited service, the retired person's annuity is the sum of the discontinued
30 annuity, plus an additional annuity computed according to this chapter based
31 upon years of service and average salaries earned during the period of

1 reemployment. The new annuity is payable the first day of the month
2 following the member's re-retirement.

3 **SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act becomes effective on
4 August 1, 1999, or on the date the board of trustees of the teachers' fund for retirement
5 receives a letter ruling from the internal revenue service that this Act does not jeopardize the
6 qualified status of the teachers' fund for retirement, whichever date is later, and is effective for
7 two years from that date. The board shall notify the legislative council of the effective date of
8 this Act.