

Introduced by

Government and Veterans Affairs Committee

(At the request of the Teachers' Fund for Retirement)

1 A BILL for an Act to create and enact two new subsections to section 15-39.1-04 of the North  
 2 Dakota Century Code, relating to definitions of member tiers under the teachers' fund for  
 3 retirement; to amend and reenact subsections 1 and 2 of section 15-39.1-09, subsection 1 of  
 4 section 15-39.1-10, and sections 15-39.1-12, 15-39.1-18, 15-39.1-19.1, and 15-39.1-19.2 of the  
 5 North Dakota Century Code, relating to employee and employer contribution requirements,  
 6 eligibility for normal unreduced retirement benefits eligibility for early reduced retirement  
 7 benefits, eligibility for disability benefits, and retiree reemployment under the teachers' fund for  
 8 retirement; and to provide an effective date.

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

10 **SECTION 1.** Two new subsections to section 15-39.1-04 of the North Dakota Century Code  
 11 are created and enacted as follows:

12 "Tier one grandfathered member" for purposes of sections 15-39.1-10 and 15-39.1-12  
 13 means a tier one member who, as of June 30, 2013, is vested as a tier one member in  
 14 accordance with section 15-39.1-11; and

- 15 a. Is at least fifty-five years of age; or
- 16 b. Has a combined total of years of service credit in the plan and years of age which  
 17 equals or exceeds sixty-five.

18 "Tier one nongrandfathered member" for purposes of sections 15-39.1-10 and  
 19 15-39.1-12 means a tier one member who does not qualify as a tier one grandfathered  
 20 member.

21 **SECTION 2. AMENDMENT.** Subsections 1 and 2 of section 15-39.1-09 of the North Dakota  
 22 Century Code are amended and reenacted as follows:

1           1. Except as otherwise provided by law, every teacher is a member of the fund and must  
2           be assessed upon the teacher's salary seven and seventy-five hundredths percent per  
3           annum, which must be deducted, certified, and paid monthly to the fund by the  
4           disbursing official of the governmental body by which the teacher is employed.  
5           Member contributions increase to nine and seventy-five hundredths percent per  
6           annum beginning July 1, 2012, and increase thereafter to eleven and seventy-five  
7           hundredths percent per annum beginning July 1, 2014. Except as otherwise provided  
8           by law, every governmental body employing a teacher shall pay to the fund eight and  
9           seventy-five hundredths percent per annum of the salary of each teacher employed by  
10          it. Contributions to be paid by a governmental body employing a teacher increase to  
11          ten and seventy-five hundredths percent per annum beginning July 1, 2012, and  
12          increase thereafter to twelve and seventy-five hundredths percent per annum  
13          beginning July 1, 2014. The required amount of member and employer contributions  
14          must be reduced to seven and seventy-five hundredths percent per annum effective  
15          on the July first that follows the first valuation showing a ratio of the actuarial value of  
16          assets to the actuarial accrued liability of the teachers' fund for retirement that is equal  
17          to or greater than ninety percent. The disbursing official of the governmental body  
18          shall certify the governmental body payments and remit the payments monthly to the  
19          fund.

20          2. ~~Each~~ ~~Except for the member contribution increases beginning after June 30, 2012,~~  
21          ~~each~~ employer, at its option, may pay the teacher contributions required by  
22          subsection 1 for all compensation earned after June 30, 1983. The amount paid must  
23          be paid by the employer in lieu of contributions by the employee. If an employer  
24          decides not to pay the contributions, the amount that would have been paid will  
25          continue to be deducted from compensation. If contributions are paid by the employer,  
26          they must be treated as employer contributions in determining income tax treatment  
27          under this code and the federal Internal Revenue Code. If contributions are paid by the  
28          employer, they may not be included as gross income of the teacher in determining tax  
29          treatment under this code and the Internal Revenue Code until they are distributed or  
30          made available. The employer shall pay these teacher contributions from the same  
31          source of funds used in paying compensation to the teachers. The employer shall pay

1           these contributions by effecting an equal cash reduction in the gross salary of the  
2           employee or, except for the member contribution increases beginning after June 30,  
3           2012, by an offset against future salary increases. If teacher contributions are paid by  
4           the employer, they must be treated for the purposes of this chapter in the same  
5           manner and to the same extent as teacher contributions made prior to the date the  
6           contributions were assumed by the employer. The option given employers by this  
7           subsection must be exercised in accordance with rules adopted by the board.

8           **SECTION 3. AMENDMENT.** Subsection 1 of section 15-39.1-10 of the North Dakota  
9           Century Code is amended and reenacted as follows:

- 10           1. The following members who have acquired a vested right to a retirement annuity as  
11           set forth in section 15-39.1-11 are eligible to receive monthly lifetime normal  
12           unreduced retirement benefits under this section:
- 13           a. All tier one and tier two members who have ~~earned three years of teaching-~~  
14           ~~service credit and who have~~ attained the age of sixty-five years.
  - 15           b. All tier one grandfathered members who have ~~earned three years of teaching-~~  
16           ~~service credit and who have~~ a combined total of years of service credit and years  
17           of age which equals or exceeds eighty-five.
  - 18           c. All tier ~~two~~ members who have ~~earned five years of teaching service credit and~~  
19           ~~who have attained the age of sixty-five years~~ one nongrandfathered members and  
20           tier two members who are at least sixty years of age and who have combined  
21           total of years of service credit and years of age which equals or exceeds ninety.
  - 22           d. All tier ~~two~~ members who have ~~earned five years of teaching service credit and~~  
23           ~~who have a combined total of years of service credit and years of age which~~  
24           ~~equals or exceeds ninety.~~

25           **SECTION 4. AMENDMENT.** Section 15-39.1-12 of the North Dakota Century Code is  
26           amended and reenacted as follows:

27           **15-39.1-12. Early reduced retirement benefits.**

28           A ~~tier one~~ member who has acquired a vested right to a retirement annuity as set forth in  
29           section 15-39.1-11 and who has attained age fifty-five may retire prior to the normal retirement  
30           age as set forth in section 15-39.1-10 but the benefits to which the member is then entitled must  
31           be reduced ~~to the actuarial equivalent of the benefit credits earned to the date of early~~

1 retirement from the earlier of age sixty-five or the age at which current service plus age equals  
2 eighty-five. A tier two member who has acquired a vested right to a retirement annuity as set  
3 forth in section 15-39.1-11 and who has attained age fifty-five may retire prior to the normal  
4 retirement age as set forth in section 15-39.1-10 but the benefits to which the member is then  
5 entitled must be reduced to the actuarial equivalent of the benefit credits earned to the date of  
6 early retirement from the earlier of age sixty-five or the age at which current service plus age  
7 equals ninety according to the following schedule:

8 1. All tier one grandfathered member benefits must be reduced by six percent per annum  
9 from the earlier of:

10 a. Age sixty-five; or

11 b. The age at which the sum of the member's current years of service credit and  
12 years of age equals eighty-five.

13 2. All tier one nongrandfathered member and tier two member benefits must be reduced  
14 by eight percent per annum from the earlier of:

15 a. Age sixty-five; or

16 b. The later of:

17 (1) Age sixty; or

18 (2) The age at which the sum of the member's current years of service credit  
19 and years of age equals ninety.

20 **SECTION 5. AMENDMENT.** Section 15-39.1-18 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **15-39.1-18. Disability retirements.**

23 1. Any member may also retire and receive a disability annuity if, after a period of at least  
24 ~~one year~~ five years of service as a member in this state, the member ~~suffers~~  
25 ~~from~~ qualifies for total disability as determined by the board.

26 2. The amount of the disability annuity is the ~~greater of the amount computed by the~~  
27 ~~retirement formula in section 15-39.1-10 without consideration of age or the amount~~  
28 ~~computed by that formula without consideration of age but assuming the member had~~  
29 ~~twenty years of credited service.~~ A member determined eligible for a disability annuity  
30 under this section may elect to receive an annuity under any of the options allowed in

1 section 15-39.1-16, except the level retirement income with social security option or  
2 the partial lump sum option.

3 3. The disability annuity continues until the death or prior recovery of the disabled  
4 annuitant. The board shall ascertain by periodic medical examinations the continued  
5 disability status of a disabled annuitant.

6 4. If a disabled annuitant recovers and returns to active teaching, that annuitant is  
7 entitled to the retirement benefit credits which the annuitant earned prior to the time of  
8 disablement, and the credits which the annuitant earned after returning to active  
9 teaching must be added to those earned prior to disablement.

10 **SECTION 6. AMENDMENT.** Section 15-39.1-19.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **15-39.1-19.1. Retired teachers return to active service - Annuities discontinued on**  
13 **resumption of teaching over annual hour limit.**

14 1. a. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is  
15 receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not  
16 return to covered employment until thirty calendar days have elapsed from the  
17 member's retirement date. A retired member may then return to covered  
18 employment under an annual hour limit and continue receiving a monthly  
19 retirement benefit. The annual hour limit is based on the length of the reemployed  
20 retiree's contract as follows:

21 (1) Retiree reemployment of nine months or less, annual limit is seven hundred  
22 hours;

23 (2) Retiree reemployment of ten months, annual limit is eight hundred hours;

24 (3) Retiree reemployment of eleven months, annual limit is nine hundred hours;  
25 or

26 (4) Retiree reemployment of twelve months, annual limit is one thousand hours.

27 b. Employment as a noncontracted substitute teacher does not apply to the annual  
28 hour limit. Professional development and extracurricular duties do not apply to  
29 the annual hour limit.

30 c. The retired member and the retired member's employer must notify the fund  
31 office in writing within thirty days of the retired member's return to covered

1 employment. Should the retired member's employment exceed the annual hour  
2 limit, the retired member must immediately notify the fund office in writing. Failure  
3 to notify the fund office results in the loss of one month's annuity benefit. The  
4 retired member's monthly benefit must be discontinued the first of the month  
5 following the date the member reaches the annual hour limit.

6 d. A retired member who returns to teaching shall pay the member contributions  
7 required by section 15-39.1-09 on ~~these earnings~~the salary received by the  
8 retired member after reaching the annual hour limit. The member contributions  
9 must be included in the retired member's account value and may not be refunded  
10 except as provided under subdivision a of subsection 2 of section 15-39.1-19.1  
11 and section 15-39.1-17.

12 e. A participating employer who employs a retired member under this section shall  
13 pay the employer contributions required by section 15-39.1-09 on the salary of  
14 the retired member ~~both before and after the retired member reaches the annual~~  
15 ~~hour limit.~~

16 f. A retired teacher who returns to teaching and does not exceed the annual hour  
17 limit must be treated as retired for all other purposes under this chapter. A retired  
18 teacher may not earn any additional service during the period of reemployment.  
19 The retired teacher's benefits may not be adjusted to reflect changes in the  
20 retired teacher's age or final average monthly salary at the end of the period of  
21 reemployment, any optional form of payment elected under section 15-39.1-16  
22 remains effective during and after the period of reemployment, and additional  
23 benefits normally available to an active member, such as disability benefits, are  
24 not available to a retired teacher reemployed under this section.

25 g. A retired teacher who returns to teaching and exceeds the annual hour limit must  
26 immediately notify the fund office in writing. Failure to notify the fund office results  
27 in the loss of one month's annuity benefit for the member. The retired member's  
28 monthly benefit must be discontinued the first of the month following the date the  
29 member reaches the annual hour limit.

30 2. Upon the retired teacher's subsequent retirement, the member's benefit must be  
31 resumed as follows:

- 1           a. If the teacher subsequently retires with less than two years of additional earned  
2           credited service, the teacher's contributions paid to the fund after the member's  
3           benefit was suspended must be refunded in accordance with section 15-39.1-20  
4           and the teacher is entitled to receive the discontinued annuity, plus any  
5           postretirement benefit adjustments granted during the period of reemployment,  
6           the first day of the month following the teacher's re-retirement.
- 7           b. If the teacher subsequently retires with two or more but less than five years of  
8           additional earned credited service, the retired person's annuity is the greater of  
9           the sum of the discontinued annuity, plus an additional annuity computed  
10          according to this chapter based upon years of service and average salaries  
11          earned during the period of reemployment plus any postretirement benefit  
12          adjustments granted during the period of reemployment, or a recalculated annuity  
13          computed according to this chapter based on total years of service credit earned  
14          during both employment periods offset by the actuarial value of payments already  
15          received. The new annuity is payable the first day of the month following the  
16          member's re-retirement.
- 17          c. If the teacher subsequently retires with five or more years of additional earned  
18          credited service, the retired person's annuity is the greater of the sum of the  
19          discontinued annuity plus an additional annuity based upon years of service and  
20          average salaries earned during the period of reemployment plus any  
21          postretirement benefit adjustments granted during the period of reemployment, or  
22          a recalculated annuity based on all years of service computed under  
23          subsection 2 of section 15-39.1-10. The new annuity is payable the first day of  
24          the month following the member's re-retirement.

25          **SECTION 7. AMENDMENT.** Section 15-39.1-19.2 of the North Dakota Century Code is  
26          amended and reenacted as follows:

27          **15-39.1-19.2. Retired teachers return to active service - Critical shortage areas and**  
28          **disciplines - Rules.**

- 29          1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1,  
30          or 15-39.2 may elect to return to teaching without losing any benefits under the

1 provisions of this section or elect to return to teaching under the provisions of section  
2 15-39.1-19.1. To return to teaching under this section, a retired teacher must:

3 a. Return to teach in a critical shortage geographical area or subject discipline as  
4 determined by the education standards and practices board by rule;

5 b. If retired after January 1, 2001, have been receiving a retirement annuity for at  
6 least one year. A retired teacher may perform noncontracted substitute teaching  
7 duties but may not engage in full-time or part-time teaching duties during the  
8 one-year separation from service; and

9 c. Notify the fund office in writing within thirty days of the retired member's return to  
10 covered employment. The retired member's employer must also notify the fund  
11 office in writing within thirty days of the retired member's return to covered  
12 employment.

13 2. A retired teacher who returns to teaching under this section ~~is not required to~~ shall pay  
14 the ~~employee assessment~~ member contributions required by section 15-39.1-09 on the  
15 salary of the retired member. The member contributions must be included in the retired  
16 member's account value and may not be refunded except as provided under section  
17 15-39.1-17. A retired teacher who returns to teaching under the provisions of this  
18 section must be treated as retired for all other purposes under this chapter. A retired  
19 teacher may not earn any additional service during the period of reemployment. The  
20 retired teacher's benefits may not be adjusted to reflect changes in the retired  
21 teacher's age or final average monthly salary at the end of the period of  
22 reemployment, any optional form of payment elected under section 15-39.1-16  
23 remains effective during and after the period of reemployment, and additional benefits  
24 normally available to an active member, such as disability benefits, are not available to  
25 a retired teacher reemployed under this section.

26 3. A participating employer who employs a retired member under this section shall pay  
27 the employer contributions required by section 15-39.1-09 on the salary of the retired  
28 member.

29 **SECTION 8. EFFECTIVE DATE.** Sections 6 and 7 of this Act become effective July 1, 2012,  
30 and sections 3, 4, and 5 of this Act become effective July 1, 2013.