

HOUSE BILL NO. 1398

Introduced by

Representatives Schatz, Boehning

Senator Cook

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 under the teachers' fund for retirement; to amend
3 and reenact subsection 2 of section 15-39.1-10 and subsection 1 of section 15-39.1-10.3 of the
4 North Dakota Century Code, relating to calculation of final average salary under the teachers'
5 fund for retirement; and to provide for application.

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

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

9 "Administrator" means an individual who holds an administrator's credential and who
10 is employed by the board of a school district for the primary purpose of providing
11 administrative services to the schools of the district. The term includes a school district
12 superintendent, an assistant or associate school district superintendent, a school
13 principal, an assistant or associate school principal, a special education director, a
14 director of a multidistrict special education unit, a career and technical education
15 director, and a director of an area career and technology center. The term may include
16 an athletic or activity director who meets the requirements of this subsection.

17 "Profession of teaching" means providing services in an approved school as a teacher,
18 counselor, librarian, curriculum director or supervisor, speech or language therapist,
19 school psychologist, or special educator.

20 **SECTION 2. AMENDMENT.** Subsection 2 of section 15-39.1-10 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 2. The amount of retirement benefits is two percent of the final average monthly salary of
23 the member multiplied by the number of years of credited service. ~~For the~~Except as

1 otherwise provided in this subsection, for purposes of this subsection, final average
2 monthly salary for a tier one member means one thirty-sixth of the total of the
3 member's highest annual salaries earned between July first of a calendar year and
4 June thirtieth of the subsequent calendar year for any three years of service credit
5 under the fund. For~~However~~, a tier one member employed in the profession of
6 teaching who subsequently is employed as an administrator must complete eight
7 years of service as an administrator before that member may use any service as an
8 administrator in calculating final average salary under this subsection. A member who
9 began service in the profession of teaching, later became employed as an
10 administrator, and does not complete eight years of service as an administrator must
11 use one thirty-sixth of the total of the member's highest annual salaries earned
12 between July first of a calendar year and June thirtieth of the subsequent calendar
13 year for any three years employed in the profession of teaching in the computation of
14 final average salary. If the member has worked for fewer than three years employed in
15 the profession of teaching before beginning service as an administrator and does not
16 complete eight years of service as an administrator, the final average salary is the
17 average salary for all months of employment in the profession of teaching. Except as
18 otherwise provided in this subsection, for purposes of this subsection, final average
19 monthly salary for a tier two member means one sixtieth of the total of the member's
20 highest annual salaries earned between July first of a calendar year and June thirtieth
21 of the subsequent calendar year for any five years of service credit under the fund.
22 However, a tier two member employed in the profession of teaching who subsequently
23 is employed as an administrator must complete eight years of service as an
24 administrator before that member may use any service as an administrator in
25 calculating final average salary under this subsection. A member who began service in
26 the profession of teaching, later became employed as an administrator, and does not
27 complete eight years of service as an administrator must use one sixtieth of the total of
28 the member's highest annual salaries earned between July first of a calendar year and
29 June thirtieth of the subsequent calendar year for any five years employed in the
30 profession of teaching in the computation of final average salary. If the member has
31 worked for fewer than five years employed in the profession of teaching before

1 beginning service as an administrator and does not complete eight years of service as
2 an administrator, the final average salary is the average salary for all months of
3 employment in the profession of teaching. For purposes of calculating final average
4 salary under this subsection for a member who has a break in service by teaching
5 outside this state, that member may use service teaching outside this state in the
6 calculation of final average salary.

7 **SECTION 3. AMENDMENT.** Subsection 1 of section 15-39.1-10.3 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. a. For the purpose of determining vesting of rights and eligibility for benefits under
10 this chapter, a teacher's years of service credit is the total of the years of service
11 credit earned in the fund and the years, with twelve months of compensation
12 equal to a year, of service employment earned in any number of the following
13 alternate plans:
 - 14 (1) The public employees retirement system.
 - 15 (2) The highway patrolmen's retirement system.
- 16 Service credit may not exceed one year of service in any fiscal year in
17 determining vesting and benefit eligibility.
- 18 b. If a teacher terminates eligible employment under the fund, if that teacher has not
19 received a refund of member contributions, and if that teacher begins eligible
20 employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher
21 may elect to remain an inactive member of the fund without refund of
22 contributions. The board shall terminate the inactive status of a teacher under this
23 subdivision if the teacher gains eligible employment under this chapter or if the
24 teacher terminates eligible employment under a plan described in paragraph 1 or
25 2 of subdivision a.
- 26 c. Pursuant to rules adopted by the board, a teacher who has service credit in the
27 fund and in any number of the alternate plans described in paragraphs 1 and 2 of
28 subdivision a is entitled to benefits under this chapter.
 - 29 (1) ASubject to paragraph 3, a tier one member may elect to have benefits
30 calculated using the benefit formula in subsection 2 of section 15-39.1-10
31 under either of the following calculation methods:

- 1 (a) Using the three highest certified fiscal year salaries of this plan in the
2 computation of final average salary and all service credit earned in
3 this plan; or
- 4 (b) Using the three highest certified fiscal year salaries of this plan
5 combined with the alternate plan in the computation of final average
6 salary and service credit not to exceed one year in any fiscal year
7 when combined with the service credit earned in the alternate
8 retirement plan.
- 9 (2) Subject to paragraph 3, a tier two member may elect to have benefits
10 calculated using the benefit formula in subsection 2 of section 15-39.1-10
11 under either of the following calculation methods:
- 12 (a) Using the five highest certified fiscal year salaries of this plan in the
13 computation of final average salary and all service credit earned in
14 this plan; or
- 15 (b) Using the five highest certified fiscal year salaries of this plan
16 combined with the alternate plan in the computation of final average
17 salary and service credit not to exceed one year in any fiscal year
18 when combined with the service credit earned in the alternate
19 retirement plan.
- 20 (3) For purposes of calculation of final average salary under this subsection, a
21 tier one member employed in the profession of teaching who subsequently
22 is employed as an administrator must complete eight years of service as an
23 administrator before that member may use any service as an administrator
24 in calculating final average salary under this subsection. A tier one member
25 who began service in the profession of teaching, later became employed as
26 an administrator, and does not complete eight years of service as an
27 administrator must use the three highest certified fiscal year salaries of this
28 plan employed in the profession of teaching in the computation of final
29 average salary. If the member has worked for fewer than three years
30 employed in the profession of teaching before beginning service as an
31 administrator and does not complete eight years of service as an

1 administrator, the final average salary is the average salary for all months of
2 employment in the profession of teaching. A tier two member employed in
3 the profession of teaching who subsequently is employed as an
4 administrator must complete eight years of service as an administrator
5 before that member may use any service as an administrator in calculating
6 final average salary under this subsection. A tier two member who began
7 service in the profession of teaching, later became employed as an
8 administrator, and does not complete eight years of service as an
9 administrator must use the five highest certified fiscal year salaries of this
10 plan employed in the profession of teaching in the computation of final
11 average salary. If the member has worked for fewer than five years
12 employed in the profession of teaching before beginning service as an
13 administrator and does not complete eight years of service as an
14 administrator, the final average salary is the average salary for all months
15 employed in the profession of teaching. For purposes of calculating final
16 average salary under this subsection for a member who has a break in
17 service by teaching outside this state, that member may use service
18 teaching outside this state in the calculation of final average salary.

19 **SECTION 4. APPLICATION.** This Act applies to salaries earned after June 30, 2011.