

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED 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 purposes of

1 this subsection, final average monthly salary for a tier one member means one
2 thirty-sixth of the total of the member's highest annual salaries earned between July
3 first of a calendar year and June thirtieth of the subsequent calendar year for any three
4 years of service credit under the fund. For purposes of this subsection, final average
5 monthly salary for a tier two member or a member employed in the profession of
6 teaching who subsequently is employed as an administrator means one sixtieth of the
7 total of the member's highest annual salaries earned between July first of a calendar
8 year and June thirtieth of the subsequent calendar year for any five years of service
9 credit under the fund.

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

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

- 1 (1) A tier one member may elect to have benefits calculated using the benefit
2 formula in subsection 2 of section 15-39.1-10 under either of the following
3 calculation methods:
- 4 (a) Using the three highest certified fiscal year salaries of this plan in the
5 computation of final average salary and all service credit earned in
6 this plan; or
- 7 (b) Using the three highest certified fiscal year salaries of this plan
8 combined with the alternate plan in the computation of final average
9 salary and service credit not to exceed one year in any fiscal year
10 when combined with the service credit earned in the alternate
11 retirement plan.
- 12 (2) A tier two member or a member employed in the profession of teaching who
13 subsequently is employed as an administrator may elect to have benefits
14 calculated using the benefit formula in subsection 2 of section 15-39.1-10
15 under either of the following calculation methods:
- 16 (a) Using the five highest certified fiscal year salaries of this plan in the
17 computation of final average salary and all service credit earned in
18 this plan; or
- 19 (b) Using the five highest certified fiscal year salaries of this plan
20 combined with the alternate plan in the computation of final average
21 salary and service credit not to exceed one year in any fiscal year
22 when combined with the service credit earned in the alternate
23 retirement plan.

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