

Introduced by

Senator Enget

1 A BILL for an Act to create and enact two new sections to chapter 15-39.1 of the North Dakota
2 Century Code, relating to participation in the teachers' fund for retirement and postretirement
3 adjustments; to amend and reenact sections 15-39.1-04, 15-39.1-10, 15-39.1-10.3, 15-39.1-11,
4 15-39.1-12, 15-39.1-15, and 15-39.1-33 of the North Dakota Century Code, relating to
5 participation in the teachers' fund for retirement; to provide an appropriation; and to provide for
6 a transfer.

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

8 **SECTION 1. AMENDMENT.** Section 15-39.1-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **15-39.1-04. Definitions.**

11 For purposes of this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Actuarial equivalent" means the amount calculated to be of equal actuarial value to
13 the benefit otherwise payable when computed on the basis of actuarial assumptions
14 and methods adopted by the board.
- 15 2. "Beneficiary" means a person, estate, trust, or organization designated in writing by a
16 participating member to receive benefits provided by this plan, in receipt of benefits, or
17 otherwise provided under section 15-39.1-17.
- 18 3. "Board" means the board of trustees of the teachers' fund for retirement.
- 19 4. "Contract" means a written agreement with a school board or other governing body of
20 a school district or special education unit of this state or a letter of appointment by a
21 state institution, state agency, or other employer participating in the fund.
- 22 5. "Fund" means the teachers' fund for retirement.

- 1 6. "Interest" as applied to member assessments is an annual rate of six percent
2 compounded monthly and as applied to the repurchase of credit for withdrawn years is
3 six percent compounded annually.
- 4 7. "Normal retirement age" means the age at which a member becomes eligible for
5 monthly lifetime normal unreduced retirement benefits as provided in subsection 1 of
6 section 15-39.1-10.
- 7 8. "Retirement" means cessation of covered employment and acceptance of a benefit
8 under former chapter 15-39, or chapter 15-39.1 or 15-39.2.
- 9 9. "Retirement annuity" means the payments made by the fund to a member after
10 retirement.
- 11 10. "Salary" means a member's earnings in eligible employment under this chapter for
12 teaching, supervisory, administrative, and extracurricular services during a plan year
13 reported as salary on the member's federal income tax withholding statements plus
14 any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k),
15 403(b), 414(h), or 457, as amended. "Salary" includes amounts paid to members for
16 performance of duties, unless amounts are conditioned on or made in anticipation of
17 an individual member's retirement or termination. The annual salary of each member
18 taken into account in determining benefit accruals and contributions may not exceed
19 the annual compensation limits established under 26 U.S.C. 401(a)(17)(B), as
20 amended, as adjusted for increases in the cost of living in accordance with 26 U.S.C.
21 401(a)(17)(B), as amended. A salary maximum is not applicable to members whose
22 participation began before July 1, 1996. "Salary" does not include:
- 23 a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a
24 member's employment, including insurance programs, annuities, transportation
25 allowances, housing allowances, meals, lodging, or expense allowances, or other
26 benefits provided by a member's employer.
- 27 b. Insurance programs, including medical, dental, vision, disability, life, long-term
28 care, workforce safety and insurance, or other insurance premiums or benefits.
- 29 c. Payments for unused sick leave, personal leave, vacation leave, or other unused
30 leave.

- 1 d. Early retirement incentive pay, severance pay, or other payments conditioned on
2 or made in anticipation of retirement or termination.
- 3 e. Teacher's aide pay, referee pay, bus driver pay, or janitorial pay.
- 4 f. Amounts received by a member in lieu of previously employer-provided benefits
5 or payments that are made on an individual selection basis.
- 6 g. Signing bonuses as defined under section 15.1-09-33.1.
- 7 h. Other benefits or payments not defined in this section which the board
8 determines to be ineligible teachers' fund for retirement salary.
- 9 11. "State institution" includes North Dakota vision services - school for the blind, the
10 school for the deaf, and the North Dakota youth correctional center.
- 11 12. "Teacher" means:
- 12 a. ~~All persons~~An individual licensed by the education standards and practices board
13 who ~~are~~is contractually employed in teaching, supervisory, administrative, or
14 extracurricular services by a state institution, multidistrict special education unit,
15 area career and technology center, regional education association, school board,
16 or other governing body of a school district of this state, including
17 ~~superintendents~~a superintendent, assistant ~~superintendents~~superintendent,
18 business ~~managers~~manager, ~~principals~~principal, assistant ~~principals~~principal, and
19 ~~a special teacher~~teacher. For purposes of this subdivision, "teacher" includes
20 ~~persons~~an individual contractually employed by one of the above employers to
21 provide teaching, supervisory, administrative, or extracurricular services to a
22 separate state institution, state agency, multidistrict special education unit, area
23 career and technology center, regional education association, school board, or
24 other governing body of a school district of this state under a third-party contract.
- 25 b. The superintendent of public instruction, assistant ~~superintendents~~superintendent
26 of public instruction, a county ~~superintendents~~superintendent, an assistant
27 ~~superintendents~~superintendent, ~~supervisors~~a supervisor of instruction, the
28 professional staff of the department of career and technical education, the
29 professional staff of the center for distance education, the executive director and
30 professional staff of North Dakota united who are members of the fund on July 1,
31 1995, the professional staff of an interim school district, and the professional staff

1 of the North Dakota high school activities association who are members of the
2 fund on July 1, 1995.

3 c. The executive director and professional staff of the North Dakota council of
4 school administrators who are members of the fund on July 1, 1995, and licensed
5 staff of teachers centers, but only if the ~~person~~individual was previously a
6 member of and has credits in the fund.

7 d. ~~Employees~~An employee of institutions ~~an institution~~ under the control and
8 administration of the state board of higher education who ~~are members~~is a
9 member of the fund on July 16, 1989.

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

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

16 14. "Tier one member" means a teacher who has credit in the system on July 1, 2008, and
17 has not taken a refund ~~pursuant to~~under section 15-39.1-20 after June 30, 2008.

18 15. "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 16. "Tier three member" means a teacher who:

- 22 a. Is classified as a tier one nongrandfathered member on August 1, 2027;
23 b. Elects, in the manner prescribed by the board, to participate in tier three; and
24 c. Has service credit earned on or after the effective date of the election.

25 17. "Tier two member" means a teacher who is not a tier one or tier three member.

26 **SECTION 2.** A new section to chapter 15-39.1 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Election to participate in tier three - Duties of the board - Service credit combined.**

29 1. The board shall:

- 30 a. Provide each eligible tier one nongrandfathered member an opportunity to elect
31 to participate in tier three.

- 1 **b.** Establish an election period that begins no later than January 1, 2028.
- 2 **c.** Notify each eligible tier one nongrandfathered member of the right to elect to
3 participate in tier three. The notice must include:
- 4 (1) A description of the differences between tier one nongrandfathered and tier
5 three classifications;
- 6 (2) An explanation that the election is irrevocable upon its effective date; and
- 7 (3) Any other information the board determines necessary to inform the
8 member's decision.
- 9 **2.** A member shall make an election under this section as prescribed by the board.
- 10 **3.** The board shall determine the effective date of an election. An election under this
11 section is irrevocable upon its effective date.
- 12 **4.** The board shall combine a member's service credit earned before and after the
13 election.
- 14 **5.** This section does not reduce or impair benefits accrued before the effective date of
15 the election and does not require a member to elect to participate in tier three.
- 16 **6.** The board may adopt rules to implement and administer the requirements of this
17 section.

18 **SECTION 3. AMENDMENT.** Section 15-39.1-10 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **15-39.1-10. Eligibility for normal retirement benefits.**

- 21 1. The following members who have acquired a vested right to a retirement annuity ~~as-~~
22 ~~set forth in~~ in accordance with section 15-39.1-11 are eligible to receive monthly
23 lifetime normal unreduced retirement benefits under this section:
- 24 a. All tier one ~~and~~, tier two, and tier three members who have attained the age of
25 sixty-five years.
- 26 b. All tier one grandfathered and tier three members who have a combined total of
27 years of service credit and years of age which equals or exceeds eighty-five.
- 28 c. All tier one nongrandfathered members and tier two members who are at least
29 sixty years of age and who have a combined total of years of service credit and
30 years of age which equals or exceeds ninety.

1 2. The amount of retirement benefits is two percent of the final average monthly salary of
2 the member multiplied by the number of years of credited service. For the purposes of
3 this subsection, final average monthly salary for a tier:

4 a. Tier one or tier three member means one thirty-sixth of the total of the member's
5 highest annual salaries earned between July first of a calendar year and June
6 thirtieth of the subsequent calendar year for any three years of service credit
7 under the fund. ~~For purposes of this subsection, final average monthly salary for~~
8 a tier

9 b. Tier two member means one sixtieth of the total of the member's highest annual
10 salaries earned between July first of a calendar year and June thirtieth of the
11 subsequent calendar year for any five years of service credit under the fund.

12 3. Notwithstanding any other provision of this section, ~~no~~ member who retired on July 1,
13 1993, or after and is eligible to receive benefits under former chapter 15-39, chapter
14 15-39.1, or section 15-39.2-02, may not receive benefits ~~which are~~ less than:

15 a. Ten dollars per month per year of teaching to twenty-five years.

16 b. Fifteen dollars per month per year of teaching over twenty-five years.

17 4. Payments must be made over a period of time ~~which~~ that does not exceed the life
18 expectancy of the member or the joint life expectancy of the member and the
19 beneficiary. Payment of minimum distributions must be made in accordance with
20 section 401(a)(9) of the Internal Revenue Code [26 U.S.C. 401(a)(9)], as amended,
21 and the regulations issued under that section, as applicable to governmental plans.

22 **SECTION 4. AMENDMENT.** Section 15-39.1-10.3 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **15-39.1-10.3. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

25 1. a. For the purpose of determining vesting of rights and eligibility for benefits under
26 this chapter, a teacher's years of service credit is the total of the years of service
27 credit earned in the fund and the years, with twelve months of compensation
28 equal to a year, of service employment earned in any number of the following
29 alternate plans:

30 (1) The public employees retirement system, except an "eligible employee" as
31 that term is defined under section 54-52-02.15.

1 (2) The highway patrol troopers' retirement system.

2 b. Service credit may not exceed one year of service in any fiscal year in
3 determining vesting and benefit eligibility.

4 b.c. If a teacher terminates eligible employment under the fund, ~~if that teacher~~ has not
5 received a refund of member contributions, and ~~if that teacher~~ begins eligible
6 employment in a plan described in paragraph 1 or 2 of subdivision a, ~~that the~~
7 teacher may elect to remain an inactive member of the fund without a refund of
8 contributions. The board shall terminate the inactive status of a teacher under this
9 subdivision if the teacher gains eligible employment under this chapter or if the
10 teacher terminates eligible employment under a plan described in paragraph 1 or
11 2 of subdivision a.

12 e.d. Pursuant to rules adopted by the board, a teacher who has service credit in the
13 fund and in any number of the alternate plans described in paragraphs 1 and 2 of
14 subdivision a is entitled to benefits under this chapter.

15 (1) A tier one or tier three member may elect to have benefits calculated using
16 the benefit formula in subsection 2 of section 15-39.1-10 under ~~either of the~~
17 following calculation methods:

18 (a) Using the three highest certified fiscal year salaries of this plan in the
19 computation of final average salary and all service credit earned in
20 this plan; or

21 (b) Using the three highest certified fiscal year salaries of this plan
22 combined with the alternate plan in the computation of final average
23 salary and service credit not to exceed one year in any fiscal year
24 when combined with the service credit earned in the alternate
25 retirement plan.

26 (2) A tier two member may elect to have benefits calculated using the benefit
27 formula in subsection 2 of section 15-39.1-10 under ~~either of the~~ following
28 calculation methods:

29 (a) Using the five highest certified fiscal year salaries of this plan in the
30 computation of final average salary and all service credit earned in
31 this plan; or

- 1 (b) Using the five highest certified fiscal year salaries of this plan
2 combined with the alternate plan in the computation of final average
3 salary and service credit not to exceed one year in any fiscal year
4 when combined with the service credit earned in the alternate
5 retirement plan.
- 6 2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate
7 in an alternate retirement system, the employee is a member of the teachers'
8 fund for retirement for duties covered under this fund, and the employee is also a
9 member of the public employees retirement system or highway patrolmen's
10 retirement system for duties covered by those alternate retirement systems. The
11 employers shall pay the member and employer contributions at the rates
12 currently existing for the applicable system.
- 13 b. If a teacher described in subdivision a was employed ~~prior to~~before August 1,
14 2003, and has dual member rights, the teacher may elect to begin participation in
15 the alternate plan pursuant to the plan provisions on August 1, 2003, or may
16 continue participation pursuant to the plan provisions in effect on July 31, 2003. A
17 plan participation election is required by five p.m. on October 31, 2003. If an
18 election is not received by the retirement plan, the participation and benefit
19 calculation requirements of this chapter as of July 31, 2003, continue to be in
20 effect for the teacher.
- 21 3. Under rules adopted by the board, an individual whose service credit was canceled
22 when that individual received a refund of assessments at termination of employment
23 under this chapter may, while that individual participates in a plan described in
24 paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that
25 was canceled.

26 **SECTION 5.** A new section to chapter 15-39.1 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Postretirement adjustments.**

29 An individual who on June 30, 2027, is receiving monthly benefits from the fund on an
30 account paid under this chapter or under former chapter 15-39 is entitled to receive an increase
31 of fifty dollars per month.

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

3 **15-39.1-11. Vesting of rights.**

4 When a tier one ~~or tier three~~ member has earned three years of service credit in this state,
5 that member has a vested right to a retirement annuity but is not entitled to payments under this
6 chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12.
7 When a tier two member has earned five years of service credit in this state, that member has a
8 vested right to a retirement annuity but is not entitled to payments under this chapter until the
9 member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier one
10 ~~or, tier two, or tier three~~ member has attained normal retirement age, that member has a vested
11 right to a retirement annuity under this chapter.

12 **SECTION 7. AMENDMENT.** Section 15-39.1-12 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15-39.1-12. Early reduced retirement benefits.**

15 A member who has acquired a vested right to a retirement annuity ~~as set forth in~~ under
16 section 15-39.1-11 and who has attained age fifty-five may retire ~~prior to~~ before the normal
17 retirement age as set forth in section 15-39.1-10 but the member's benefits ~~to which the~~
18 ~~member is then entitled~~ must be reduced according to the following schedule:

- 19 1. All tier one grandfathered ~~and tier three~~ member benefits must be reduced by six
20 percent per annum from the earlier of:
 - 21 a. Age sixty-five; or
 - 22 b. The age at which the sum of the member's current years of service credit and
23 years of age equals eighty-five.
- 24 2. All tier one nongrandfathered ~~member~~ and tier two member benefits must be reduced
25 by eight percent per annum from the earlier of:
 - 26 a. Age sixty-five; or
 - 27 b. The later of:
 - 28 (1) Age sixty; or
 - 29 (2) The age at which the sum of the member's current years of service credit
30 and years of age equals ninety.

1 **SECTION 8. AMENDMENT.** Section 15-39.1-15 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15-39.1-15. Withdrawal from fund - Return to teaching.**

4 A teacher who has withdrawn from the fund as set forth in this chapter, by returning to teach
5 in a public school or state institution of this state, may regain service credit for prior teaching by
6 making the required payment. The required payment is the purchase cost on an actuarial
7 equivalent basis. If the teacher returns to teach in covered employment after June 30, 2008, the
8 teacher becomes a tier two member regardless of whether the teacher repurchases service
9 credit earned while the teacher was a tier one or tier three member.

10 **SECTION 9. AMENDMENT.** Section 15-39.1-33 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **15-39.1-33. Employer service purchases.**

13 A participating employer may purchase additional service credit on behalf of a member
14 under the following conditions:

- 15 1. The member may not be given the option to choose between an employer service
16 purchase and an equivalent amount paid in cash.
- 17 2. The member must meet one of the following conditions at the time the purchase is
18 made:
 - 19 a. The tier one or tier three member's age plus service credit must be equal to or
20 greater than seventy-seven;
 - 21 b. The tier one or tier three member's age must be at least fifty-five and the member
22 must have at least three years of service credit;
 - 23 c. The tier two member's age plus service credit must be equal to or greater than
24 eighty-two; or
 - 25 d. The tier two member's age must be at least fifty-five and the member must have
26 at least five years of service credit.
- 27 3. The board must determine the purchase price on an actuarially equivalent basis.
- 28 4. The purchase must be completed before the member's retirement.
- 29 5. The employer may purchase a maximum of three years of service credit on behalf of
30 the member.

1 6. The employer must pay the purchase price for the service credit purchased under this
2 section in a lump sum.

3 **SECTION 10. APPROPRIATION - TRANSFER - GENERAL FUND TO TEACHERS' FUND**

4 **FOR RETIREMENT - POSTRETIREMENT ADJUSTMENTS.** There is appropriated out of any
5 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
6 _____, or so much of the sum as may be necessary, which the office of management and
7 budget shall transfer to the teachers' fund for retirement for the purpose of postretirement
8 adjustments under section 5 of this Act, during the biennium beginning July 1, 2027, and ending
9 June 30, 2029.

NOTE: This bill draft contains blanks that must be filled in before introduction.