

## **CHAPTER 15-39.2 TEACHER RETIREMENT OPTIONS**

### **15-39.2-01. Retired teachers - Election of coverage - Eligibility - Limitation.**

Notwithstanding the provisions of chapter 15-39.1, any person who retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971, who had ten or more years of teaching credit under that program is entitled to elect to qualify for benefits under the teachers' fund for retirement by complying with the provisions of this chapter. A college teacher who retired from teaching after July 1, 1971, may, notwithstanding the provisions of section 15-39.1-25, elect to receive benefits in accordance with chapter 15-39.1 and section 15-39.2-05. The amount of monthly benefits to which an annuitant electing to come under the 1971 law is entitled until death is equal to one and one-half percent of the monthly salary of the annuitant for the last school year for each year of service of that annuitant. Monthly salary within the meaning of this provision is deemed to be an amount equal to one-twelfth of the annual salary of the teacher. If for any reason the earnings of the teacher for the last year of teaching are shown to have been nonrepresentative of the teacher's typical earnings, the board shall readjust the credit to be allowed for past years of service to the last year of typical earnings. As used in this section, "college teacher" means a retired teacher who is entitled to receive an annuity through the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF) as a result of having participated in the North Dakota state board of higher education TIAA-CREF retirement plan for North Dakota state institutions of higher education.

#### **15-39.2-01.1. Retired teachers - Minimum benefits.**

Any teacher who was sixty-five years of age at retirement and who is eligible to receive or who is receiving benefits under former chapter 15-39 may receive benefits which are not less than:

1. Six dollars per month per year of teaching to twenty-five years.
2. Seven dollars and fifty cents per month per year of teaching over twenty-five years.

Teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the state board of higher education and any person employed in teaching as lay faculty in a nonpublic school are not eligible for the minimum benefits provided by this section. As used in this section, the term "lay faculty" means any person who teaches elementary or high school students in a nonpublic school, and is neither a member of an ecclesiastical order or religious house, nor an ordained member of the clergy.

A teacher who retired at any time prior to sixty-five years of age is entitled to benefits not less than the minimum benefits established by this section reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement.

#### **15-39.2-01.2. College teachers - Military service credit purchase.**

College teachers who elected to remain under the provisions of chapter 15-39 may purchase military service as credit in the fund as allowed under the provisions of section 15-39.1-24.

### **15-39.2-02. Optional increase in benefits - Alternatives.**

Any person entitled to make the election provided for in section 15-39.2-01 must be permitted, in the alternative, to accept a twenty percent increase in the person's current annuity or, if the person has at least seventeen years of teaching credit under the teachers' insurance and retirement fund, to accept a minimum monthly annuity of one hundred dollars plus five dollars per month for each additional year of teaching credit up to a maximum of twenty-five years. Nothing in this chapter may be interpreted to permit any person to elect benefits under more than one of the options offered in this chapter or to draw benefits concurrently under more than one retirement program.

### **15-39.2-03. Limitation on elections on retirement programs.**

Nothing in this chapter may be interpreted to permit any person to elect benefits under more than one of the options offered in this chapter, nor to permit any person to make more than one such election.

### **15-39.2-04. Beneficiaries of certain deceased teachers - Election - Contribution to fund.**

The beneficiary of a deceased teacher may make an election pursuant to the provisions of this chapter; provided, that the beneficiary may not elect the second option provided under section 15-39.2-02, which option relates to teachers who have at least seventeen years of teaching credit under the teachers' insurance and retirement fund. The annuity of such beneficiary must be computed in the manner in which the deceased teacher's annuity would have been computed if the deceased teacher had lived and had made such election. For the purposes of this section, the term "beneficiary" has the same meaning as such term has in section 15-39.1-17 concerning persons entitled to a monthly annuity under the provisions of chapter 15-39.1, and the term "deceased teacher" means a teacher, deceased at the time application for an election is made, who died or retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971. Provided, however, that in order to be eligible to make such election, a beneficiary shall pay into the teachers' fund for retirement such amounts as the deceased teacher would have been required to pay had that teacher made the election prior to death.

#### **15-39.2-04.1. Beneficiaries of deceased college teachers.**

If a college teacher who is eligible to make the election provided by this chapter dies prior to receiving an annuity, the college teacher's designated beneficiary may elect to receive a monthly annuity computed according to the provisions of this chapter in a manner which the deceased teacher's annuity would have been computed if the deceased teacher had lived, made such an election, and selected option one as outlined in section 15-39.1-16. The designated beneficiary of a college teacher who exercised the election in section 15-10-17 is not eligible for benefits provided in this section.

#### **15-39.2-05. Benefits payable - Calculation.**

A retired teacher who makes the election authorized under section 15-39.2-01 shall receive from the teachers' fund for retirement a benefit amount equal to the difference between the benefit payable under the single life annuity option to which that teacher would otherwise be entitled under the teachers' fund for retirement and an income offset. The income offset is equal to the single life annuity income, as of the first day of the month coinciding with or next following a teacher's retirement date under the teachers' fund for retirement based on accumulations attributed to employee and employer contributions under the TIAA-CREF retirement plan adopted by the state board of higher education for North Dakota institutions of higher education and assuming that all such contributions were paid to TIAA.

A retired teacher who made the election authorized under section 15-39.2-01 prior to May 1, 1979, shall have a TIAA-CREF income offset which will be fixed at the value of the May 1, 1979, TIAA-CREF income offset as calculated in accordance with this section prior to its being amended.

No payment may be made from the teachers' fund for retirement to a retired teacher affected by this section unless the board of trustees of the teachers' fund for retirement, or its agent, has received notice of the amount of the teacher's income offset from TIAA-CREF.

#### **15-39.2-06. College teachers - Election - Contribution to fund.**

In lieu of the election provided for by section 15-39.2-01, a college teacher may elect prior to July 1, 1980, notwithstanding the provisions of section 15-39.1-25, to receive benefits in accordance with chapter 15-39.1 and section 15-39.2-08. A teacher who elects to receive such benefits shall pay into the teachers' fund for retirement, in the manner provided for by section 15-39.2-07, the difference between the amount actually paid to the fund by the teacher during

the period from July 1, 1969, to such time as the teacher exercises the election authorized by this section, and the amount which would have been required had the teacher's assessment rate remained the same as that of a public schoolteacher during that period. The amount must be determined by the board of trustees of the teachers' fund for retirement.

**15-39.2-07. Assessments - Method of payment.**

A college teacher making the election provided for in section 15-39.2-06 shall make the payment of the required assessments for the period prior to the election by a single sum payment in the manner provided for by the board of trustees of the teachers' fund for retirement. Payment of the required assessments for the period after the election must be made in the manner provided for in section 15-39.1-09.

**15-39.2-08. Benefits.**

Any college teacher making the election provided for in section 15-39.2-06 and paying the assessments provided for in section 15-39.2-07 is eligible for the same benefits as a public schoolteacher with like average salary and years of service would receive under section 15-39.1-10.