

HOUSE BILL NO.

Introduced by

Representative Wald

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
8 Code are created and enacted as follows:

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

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

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

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

1 first of a calendar year and June thirtieth of the subsequent calendar year for any
2 five years employed in the profession of teaching in the computation of final
3 average salary. If the member has worked for fewer than five years employed in
4 the profession of teaching before beginning service as an administrator and does
5 not complete eight years of service as an administrator, the final average salary is
6 the average salary for all months of employment in the profession of teaching.

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
10 under this chapter, a teacher's years of service credit is the total of the years
11 of service credit earned in the fund and the years, with twelve months of
12 compensation equal to a year, of service employment earned in any number
13 of the following 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
19 not received a refund of member contributions, and if that teacher begins
20 eligible employment in a plan described in paragraph 1 or 2 of subdivision a,
21 that teacher may elect to remain an inactive member of the fund without
22 refund of contributions. The board shall terminate the inactive status of a
23 teacher under this subdivision if the teacher gains eligible employment under
24 this chapter or if the teacher terminates eligible employment under a plan
25 described in paragraph 1 or 2 of subdivision a.

- 26 c. Pursuant to rules adopted by the board, a teacher who has service credit in
27 the fund and in any number of the alternate plans described in paragraphs 1
28 and 2 of subdivision a is entitled to benefits under this chapter.

- 29 (1) A Subject to paragraph 3, a tier one member may elect to have benefits
30 calculated using the benefit formula in subsection 2 of section
31 15-39.1-10 under either of the following calculation methods:

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

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

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