

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.