

**HOUSE BILL NO.**

Introduced by

Representative Drovdal

1 A BILL for an Act to create and enact a new subsection 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 13 of section 15-39.1-04, section 15-39.1-10, subdivision c of  
4 subsection 1 of section 15-39.1-10.3, sections 15-39.1-11, 15-39.1-12, and 15-39.1-15, and  
5 subsection 2 of section 15-39.1-33 of the North Dakota Century Code, relating to determination  
6 of benefits under the teachers' fund for retirement; and to provide for application.

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

8 **SECTION 1.** A new subsection to section 15-39.1-04 of the North Dakota Century Code  
9 is created and enacted as follows:

10 "Tier three member" means a teacher who is not a tier one member or a tier two  
11 member.

12 **SECTION 2. AMENDMENT.** Subsection 13 of section 15-39.1-04 of the North Dakota  
13 Century Code is amended and reenacted as follows:

14 13. "Tier two member" means a teacher who has credit in the system on July 1, 2011,  
15 and has not taken a refund pursuant to section 15-39.1-20 after June 30, 2011,  
16 and is not a tier one member.

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

19 **15-39.1-10. Eligibility for normal retirement benefits.**

20 1. The following members are eligible to receive monthly lifetime normal retirement  
21 benefits under this section:

22 a. All tier one members who have earned three years of teaching service credit  
23 and who have attained the age of sixty-five years.

- 1           b. All tier one members who have earned three years of teaching service credit  
2           and who have a combined total of years of service credit and years of age  
3           which equals or exceeds eighty-five.
- 4           c. All tier two members and all tier three members who have earned five years  
5           of teaching service credit and who have attained the age of sixty-five years.
- 6           d. All tier two members and all tier three members who have earned five years  
7           of teaching service credit and who have a combined total of years of service  
8           credit and years of age which equals or exceeds ninety.
- 9           2. The amount of retirement benefits for a tier one member or a tier two member is  
10          two percent of the final average monthly salary of the member multiplied by the  
11          number of years of credited service. The amount of retirement benefits for a tier  
12          three member is one and eighty-eight hundredths percent of the final average  
13          monthly salary of the member multiplied by the number of years of credited  
14          service. For the purposes of this subsection, final average monthly salary for a tier  
15          one member means one thirty-sixth of the total of the member's highest annual  
16          salaries earned between July first of a calendar year and June thirtieth of the  
17          subsequent calendar year for any three years of service credit under the fund. For  
18          purposes of this subsection, final average monthly salary for a tier two member or  
19          a tier three member means one sixtieth of the total of the member's highest annual  
20          salaries earned between July first of a calendar year and June thirtieth of the  
21          subsequent calendar year for any five years of service credit under the fund.
- 22          3. Notwithstanding any other provision of this section, no member who retired on  
23          July 1, 1993, or after and is eligible to receive benefits under former chapter 15-39,  
24          chapter 15-39.1, or section 15-39.2-02, may receive benefits which are less than:  
25          a. Ten dollars per month per year of teaching to twenty-five years.  
26          b. Fifteen dollars per month per year of teaching over twenty-five years.
- 27          4. Retirement benefits must begin no later than April first of the calendar year  
28          following the year the member attains age seventy and one-half or April first of the  
29          calendar year following the year the member terminates covered employment,  
30          whichever is later. Payments must be made over a period of time which does not  
31          exceed the life expectancy of the member or the joint life expectancy of the

1 member and the beneficiary. Payment of minimum distributions must be made in  
2 accordance with section 401(a)(9) of the Internal Revenue Code in effect on  
3 August 1, 2009, and the regulations issued under that section, as applicable to  
4 governmental plans.

5 **SECTION 4. AMENDMENT.** Subdivision c of subsection 1 of section 15-39.1-10.3 of  
6 the North Dakota Century Code is amended and reenacted as follows:

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

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

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

16 (b) Using the three highest certified fiscal year salaries of this plan  
17 combined with the alternate plan in the computation of final  
18 average salary and service credit not to exceed one year in any  
19 fiscal year when combined with the service credit earned in the  
20 alternate retirement plan.

21 (2) A tier two or tier three member may elect to have benefits calculated  
22 using the benefit formula in subsection 2 of section 15-39.1-10 under  
23 either of the following calculation methods:

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

27 (b) Using the five highest certified fiscal year salaries of this plan  
28 combined with the alternate plan in the computation of final  
29 average salary and service credit not to exceed one year in any  
30 fiscal year when combined with the service credit earned in the  
31 alternate retirement plan.

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

10           **SECTION 6. AMENDMENT.** Section 15-39.1-12 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **15-39.1-12. Early retirement.** A tier one member who has acquired a vested right to a  
13 retirement annuity as set forth in section 15-39.1-11 and who has attained age fifty-five may  
14 retire prior to the normal retirement age as set forth in section 15-39.1-10 but the benefits to  
15 which the member is then entitled must be reduced to the actuarial equivalent of the benefit  
16 credits earned to the date of early retirement from the earlier of age sixty-five or the age at  
17 which current service plus age equals eighty-five. A tier two or tier three member who has  
18 acquired a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has  
19 attained age fifty-five may retire prior to the normal retirement age as set forth in section  
20 15-39.1-10 but the benefits to which the member is then entitled must be reduced to the  
21 actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier  
22 of age sixty-five or the age at which current service plus age equals ninety.

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

25           **15-39.1-15. Withdrawal from fund - Return to teaching.** A teacher who has  
26 withdrawn from the fund as set forth in this chapter may, by returning to teach in a public school  
27 or state institution of this state, regain service credit for prior teaching by making the required  
28 payment. The required payment, if made within five years of returning to teach in covered  
29 employment, is the amount that was withdrawn with interest. In all other cases, the purchase  
30 cost must be on an actuarial equivalent basis. If the teacher returns to teach in covered  
31 employment after June 30, 2008, and before July 1, 2011, the teacher becomes a tier two

1 member regardless of whether the teacher repurchases service credit earned while the teacher  
2 was a tier one member. If the teacher returns to teach in covered employment after June 30,  
3 2011, the teacher becomes a tier three member regardless of whether the teacher repurchases  
4 service credit earned while the teacher was a tier one or tier two member.

5 **SECTION 8. AMENDMENT.** Subsection 2 of section 15-39.1-33 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 2. The member must meet one of the following conditions at the time the purchase is  
8 made:
- 9 a. The tier one member's age plus service credit must be equal to or greater  
10 than seventy-seven;
  - 11 b. The tier one member's age must be at least fifty-five and the member must  
12 have at least three years of service credit;
  - 13 c. The tier two or tier three member's age plus service credit must be equal to or  
14 greater than eighty-two; or
  - 15 d. The tier two or tier three member's age must be at least fifty-five and the  
16 member must have at least five years of service credit.

17 **SECTION 9. APPLICATION.** This Act applies to salaries earned on and after July 1,  
18 2011.