

**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.