

SENATE BILL NO. 2204

Introduced by

Senators Holmberg, Krebsbach, Robinson, W. Stenehjem, Wardner

1 A BILL for an Act to amend and reenact section 15-39.1-09 of the North Dakota Century Code,
2 relating to membership in the teachers' fund for retirement.

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

4 **SECTION 1. AMENDMENT.** Section 15-39.1-09 of the 1997 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **15-39.1-09. Membership in fund and assessments - Employer payment of**
7 **employee contribution.**

- 8 1. Except as provided in subsection 2 of section 15-39.1-10.3 and subsection 3,
9 every teacher is a member of the fund and must be assessed upon the teacher's
10 salary seven and seventy-five hundredths percent per annum, which must be
11 deducted, certified, and paid monthly to the fund by the disbursing official of the
12 governmental body by which the teacher is employed. Every governmental body
13 employing a teacher shall pay to the fund seven and seventy-five hundredths
14 percent per annum of the salary of each teacher employed by it. The disbursing
15 official of the governmental body shall certify the governmental body payments and
16 remit the payments monthly to the fund.
- 17 2. Each employer, at its option, may pay the teacher contributions required by
18 subsection 1 for all compensation earned after June 30, 1983. The amount paid
19 must be paid by the employer in lieu of contributions by the employee. If an
20 employer decides not to pay the contributions, the amount that would have been
21 paid will continue to be deducted from compensation. If contributions are paid by
22 the employer, they must be treated as employer contributions in determining
23 income tax treatment under this code and the federal Internal Revenue Code. If
24 contributions are paid by the employer, they may not be included as gross income

1 of the teacher in determining tax treatment under this code and the Internal
2 Revenue Code until they are distributed or made available. The employer shall
3 pay these teacher contributions from the same source of funds used in paying
4 compensation to the teachers. The employer shall pay these contributions by
5 effecting an equal cash reduction in the gross salary of the employee or by an
6 offset against future salary increases. If teacher contributions are paid by the
7 employer, they must be treated for the purposes of this chapter in the same
8 manner and to the same extent as teacher contributions made prior to the date the
9 contributions were assumed by the employer. The option given employers by this
10 subsection must be exercised in accordance with rules adopted by the board.

11 3. A person, except the superintendent of public instruction, who is certified to teach
12 in this state by the education standards and practices board and who is first
13 employed and entered upon the payroll of the superintendent of public instruction
14 after January 6, 2001, may elect to become a participating member of the public
15 employees retirement system. An election made by a person to participate in the
16 public employees retirement system under this subsection is irrevocable.