

Fifty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Brandenburg

1 A BILL for an Act to amend and reenact section 15-39.1-19.1 of the North Dakota Century
2 Code, relating to computation of retirement benefits under the teachers' fund for retirement for
3 retired members who have resumed teaching and subsequently retired.

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

5 **SECTION 1. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **15-39.1-19.1. (Contingent effective date and expiration date - See note) Annuities**
8 **discontinued on resumption of teaching.** A retired teacher who is receiving a retirement
9 annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until
10 sixty calendar days have elapsed from the member's retirement date. A retired member may
11 then return to covered employment for a maximum of ninety working days and continue
12 receiving a monthly retirement benefit. For purposes of this section, a working day is four or
13 more hours of teaching. The board may waive this restriction in emergency situations.

14 Should the retired member's employment exceed the ninety-day maximum limit, the
15 retired member must immediately notify the fund office in writing. Failure to notify the fund
16 office will result in the loss of one month's annuity benefit. The retired member's monthly
17 benefit must be discontinued the first of the month following the date the member reaches the
18 ninety-day maximum.

19 ~~Any~~ A retired member who returns to teaching shall pay the required assessments on
20 those earnings received by the retired member after the ninety-day maximum. The employer
21 shall pay the required contributions in a like manner.

22 Upon the teacher's subsequent retirement, the member's benefit must be resumed as
23 follows:

1. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
2. If the teacher subsequently retires with more than two years but with less than four years of additional credited service, the retired person's annuity is the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of reemployment. The new annuity is payable the first day of the month following the member's re-retirement.
3. If the teacher subsequently retires with more than four years of additional credited service, the retired person's annuity for all years of service must be computed under subsection 2 of section 15-39.1-10. The new annuity is payable the first day of the month following the member's re-retirement.

(Contingent effective date and expiration date - See note) Annuities discontinued on resumption of teaching.

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until sixty calendar days have elapsed from the member's retirement date. Except as otherwise provided in this section, a retired member may then return to covered employment for a maximum of ninety working days and continue receiving a monthly retirement benefit. For purposes of this section, a working day is four or more hours of teaching. The board may waive this restriction in emergency situations. Should the retired member's employment exceed the ninety-day maximum limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office will result in the loss of one month's annuity benefit. Except as otherwise provided in this section, the retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the ninety-day maximum. A retired member who returns to teaching shall pay the required assessments on those earnings received by the retired member after the

ninety-day maximum. The employer shall pay the required contributions in a like manner.

2. A retired member may return to teaching for up to one year without losing any benefits provided at least fifty percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation. Employee and employer assessments under this arrangement must be paid by the person's employer. Assessments must be paid on the total salary earned by the retired member without regard to the amount of money placed in an educational foundation. A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter.

Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment. For purposes of this subsection, a school district's educational foundation must be a nonprofit or charitable organization exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].

3. Upon the teacher's subsequent retirement, the member's benefit must be resumed as follows:
 - a. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity the first day of the month following the teacher's re-retirement.
 - b. If the teacher subsequently retires with more than two years but with less than four years of additional credited service, the retired person's annuity is the

1 sum of the discontinued annuity, plus an additional annuity computed
2 according to this chapter based upon years of service and average salaries
3 earned during the period of reemployment. The new annuity is payable the
4 first day of the month following the member's re-retirement.

5 c. If the teacher subsequently retires with more than four years of additional
6 credited service, the retired person's annuity for all years of service must be
7 computed under subsection 2 of section 15-39.1-10. The new annuity is
8 payable the first day of the month following the member's re-retirement.