

FIRST ENGROSSMENT
with Senate Amendments

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1101

Introduced by

Government and Veterans Affairs Committee

(At the request of the Teachers' Fund for Retirement)

1 A BILL for an Act to amend and reenact subsection 4 of section 15-39.1-04, subdivision a of
2 subsection 11 of section 15-39.1-04, and sections 15-39.1-16, 15-39.1-19.1, and 15-39.1-30 of
3 the North Dakota Century Code, relating to definitions, annuities, participation by retired
4 members who have resumed teaching, and confidentiality of records under the teachers' fund
5 for retirement; to provide an effective date; and to provide an expiration date.

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

7 **SECTION 1. AMENDMENT.** Subsection 4 of section 15-39.1-04 of the 1999
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9 4. "Contract" means a written agreement with ~~any~~ a school board or other governing
10 body of ~~any~~ a school district or special education unit of this state or a letter of
11 appointment by a state institution, state agency, or other employer participating in
12 the fund.

13 **SECTION 2. AMENDMENT.** Subdivision a of subsection 11 of section 15-39.1-04 of
14 the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15 a. All persons licensed ~~to teach in this state~~ by the education standards and
16 practices board who are contractually employed in teaching, supervisory,
17 administrative, or extracurricular services ~~in any~~ by a state institution ~~or by~~
18 ~~any, special education unit, school board,~~ any, special education unit, school board, or other governing body of ~~any~~ a
19 school district of this state, including superintendents, assistant
20 superintendents, business managers, principals, assistant principals, and
21 special teachers ~~employed in any state institution or in the school system of~~
22 ~~any school district in this state.~~ For purposes of this subdivision, "teacher"
23 includes persons contractually employed by one of the above employers to
24 provide teaching, supervisory, administrative, or extracurricular services to a

1 separate state institution, state agency, special education unit, school board,
2 or other governing body of a school district of this state under a third-party
3 contract.

4 **SECTION 3. AMENDMENT.** Section 15-39.1-16 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **15-39.1-16. Option of teachers eligible to receive annuities.** The board shall adopt
7 rules providing for the receipt of retirement benefits in the following optional forms:

8 Option one. Upon the death of the teacher, the reduced retirement allowance must be
9 continued throughout the life of, and paid to, the person as the teacher has nominated by
10 written designation filed with the board at the time of retirement. If the person designated to
11 receive the teacher's reduced retirement allowance predeceases the teacher, the reduced
12 retirement allowance must be converted to a single life retirement annuity under which benefit
13 payments, if the person designated died prior to July 1, 1989, must begin on July 1, 1989, or, if
14 the person designated dies on or after July 1, 1989, must begin on the first day of the month
15 following the death of the person designated.

16 Option two. Upon the death of the teacher, one-half of the reduced retirement
17 allowance must be continued throughout the life of, and paid to, the person as the teacher has
18 nominated by written designation filed with the board at the time of retirement. If the person
19 designated to receive the teacher's reduced retirement allowance predeceases the teacher, the
20 reduced retirement allowance must be converted to a single life retirement annuity under which
21 benefit payments, if the person designated died prior to July 1, 1989, must begin on July 1,
22 1989, or, if the designated beneficiary dies on or after July 1, 1989, must begin on the first day
23 of the month following the death of the person designated.

24 Option three. Upon the death of the teacher within five years of the commencement of
25 annuity payments, the payments must be continued for the remainder of the five-year period to
26 the person as the teacher has nominated by written designation filed with the board.

27 Option four. Upon the death of the teacher within ten years of the commencement of
28 annuity payments, the payments must be continued for the remainder of the ten-year period to
29 the person as the teacher has nominated by written designation filed with the board.

30 Option five. Level retirement income with social security option, which is available to
31 teachers retiring before social security is payable.

1 The amount of the reduced retirement allowance payable upon the exercise of any of these
2 options must be computed upon an actuarial basis through the use of standard actuarial tables
3 and based upon the ages of the teacher and the teacher's designated beneficiary. A member's
4 spouse, if ~~any~~ designated as beneficiary, must consent in writing to the member's choice of
5 benefit payment option for any benefit payments commencing after June 30, 1999. The board
6 may rely on the member's representations about that person's marital status in determining the
7 member's marital status. The spouse's written consent must be witnessed by a notary or a
8 plan representative. If the spouse does not consent, or cannot be located, the member's
9 annuity benefit must be paid using option two, the fifty percent joint and survivor option.

10 **SECTION 4. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the
11 North Dakota Century Code is amended and reenacted as follows:

12 **15-39.1-19.1. (Effective after ~~January 29, 2003~~ July 31, 2005) Annuities**
13 **discontinued on resumption of teaching.** A retired teacher who is receiving a retirement
14 annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until
15 ~~sixty~~ thirty calendar days have elapsed from the member's retirement date. A retired member
16 may then return to covered employment for a maximum of ~~ninety working days~~ seven hundred
17 hours per year and continue receiving a monthly retirement benefit. ~~For purposes of this~~
18 ~~section, a working day is four or more hours of teaching.~~ Employment as a substitute teacher
19 does not apply to the seven hundred-hour restriction. The board may waive this restriction in
20 emergency situations.

21 Should the retired member's employment exceed the ~~ninety-day~~ seven hundred-hour
22 maximum limit, the retired member must immediately notify the fund office in writing. Failure to
23 notify the fund office ~~will result~~ results in the loss of one month's annuity benefit. The retired
24 member's monthly benefit must be discontinued the first of the month following the date the
25 member reaches the ~~ninety-day~~ seven hundred-hour maximum.

26 ~~Any~~ A retired member who returns to teaching shall pay the required assessments on
27 those earnings received by the retired member after the ~~ninety-day~~ seven hundred-hour
28 maximum. The employer shall pay the required contributions in a like manner.

29 Upon the retired teacher's subsequent retirement, the member's benefit must be
30 resumed as follows:

- 1 1. If the teacher subsequently retires with less than two years of additional earned
2 credited service, the teacher's assessments paid to the fund must be refunded in
3 accordance with section 15-39.1-20 and the teacher is entitled to receive the
4 discontinued annuity, plus any postretirement benefit adjustments granted during
5 the period of reemployment, the first day of the month following the teacher's
6 re-retirement.
- 7 2. If the teacher subsequently retires with two or more ~~than two~~ but less than five
8 years of additional earned credited service, the retired person's annuity is the
9 greater of the sum of the discontinued annuity, plus an additional annuity
10 computed according to this chapter based upon years of service and average
11 salaries earned during the period of reemployment plus any postretirement benefit
12 adjustments granted during the period of reemployment, or a recalculated annuity
13 computed according to this chapter based on total years of service credit earned
14 during both employment periods offset by the actuarial value of payments already
15 received. The new annuity is payable the first day of the month following the
16 member's re-retirement.
- 17 3. If the teacher subsequently retires with five or more years of additional earned
18 credited service, the retired person's annuity is the greater of the sum of the
19 discontinued annuity plus an additional annuity based upon years of service and
20 average salaries earned during the period of reemployment plus any
21 postretirement benefit adjustments granted during the period of reemployment, or
22 a recalculated annuity based on all years of service computed under subsection 2
23 of section 15-39.1-10. The new annuity is payable the first day of the month
24 following the member's re-retirement.

25 **(Effective from January 29, 2001, through ~~January 29, 2003~~ July 31, 2005)**

26 **Annuities discontinued on resumption of teaching.**

- 27 1. A retired teacher who is receiving a retirement annuity under chapter 15-39,
28 15-39.1, or 15-39.2 may not return to covered employment until ~~sixty~~ thirty
29 calendar days have elapsed from the member's retirement date. Except as
30 otherwise provided in this section, a retired member may then return to covered
31 employment for a maximum of ~~ninety working days~~ seven hundred hours per year

1 and continue receiving a monthly retirement benefit. ~~For purposes of this section,~~
2 ~~a working day is four or more hours of teaching.~~ Employment as a substitute
3 teacher does not apply to the seven hundred-hour restriction. The board may
4 waive this restriction in emergency situations. Should the retired member's
5 employment exceed the ~~ninety-day~~ seven hundred-hour maximum limit, the retired
6 member must immediately notify the fund office in writing. Failure to notify the
7 fund office ~~will result~~ results in the loss of one month's annuity benefit. Except as
8 otherwise provided in this section, the retired member's monthly benefit must be
9 discontinued the first of the month following the date the member reaches the
10 ~~ninety-day~~ seven hundred-hour maximum. A retired member who returns to
11 teaching shall pay the required assessments on those earnings received by the
12 retired member after the ~~ninety-day~~ seven hundred-hour maximum. The employer
13 shall pay the required contributions in a like manner.

14 2. A retired member may return to teaching for up to one year without losing any
15 benefits provided at least fifty percent of the salary earned by that person is placed
16 in a school district's educational foundation or a private educational foundation.
17 Employee and employer assessments under this arrangement must be paid by the
18 person's employer. Assessments must be paid on the total salary earned by the
19 retired member without regard to the amount of money placed in an educational
20 foundation. A retired member reemployed under the provisions of this subsection
21 must be treated as retired for all other purposes under this chapter.
22 Notwithstanding subdivision a of subsection 3, a retired member may not earn any
23 additional service during the period of reemployment. The member's benefits may
24 not be adjusted to reflect changes in the member's age or final average monthly
25 salary at the end of the period of reemployment, any optional form of payment
26 elected under section 15-39.1-16 remains effective during and after the period of
27 reemployment, additional benefits normally available to an active member, such as
28 disability benefits, are not available to a retired member reemployed under this
29 subsection, and refunds may not be made to a retired member at the end of that
30 person's period of reemployment. For purposes of this subsection, a school
31 district's educational foundation must be a nonprofit or charitable organization

1 exempt from federal income taxation under section 501(c)(3) of the United States
2 Internal Revenue Code [26 U.S.C. 501(c)(3)].

3 3. Upon the retired teacher's subsequent retirement, the member's benefit must be
4 resumed as follows:

5 a. If the teacher subsequently retires with less than two years of additional
6 earned credited service, the teacher's assessments paid to the fund must be
7 refunded in accordance with section 15-39.1-20 and the teacher is entitled to
8 receive the discontinued annuity, plus any postretirement benefit adjustments
9 granted during the period of reemployment, the first day of the month
10 following the teacher's re-retirement.

11 b. If the teacher subsequently retires with two or more ~~than two~~ but less than
12 five years of additional earned credited service, the retired person's annuity is
13 the greater of the sum of the discontinued annuity, plus an additional annuity
14 computed according to this chapter based upon years of service and average
15 salaries earned during the period of reemployment plus any postretirement
16 benefit adjustments granted during the period of reemployment, or a
17 recalculated annuity computed according to this chapter based on total years
18 of service credit earned during both employment periods offset by the
19 actuarial value of payments already received. The new annuity is payable the
20 first day of the month following the member's re-retirement.

21 c. If the teacher subsequently retires with five or more years of additional earned
22 credited service, the retired person's annuity is the greater of the sum of the
23 discontinued annuity plus an additional annuity based upon years of service
24 and average salaries earned during the period of reemployment plus any
25 postretirement benefit adjustments granted during the period of
26 reemployment, or a recalculated annuity based on all years of service
27 computed under subsection 2 of section 15-39.1-10. The new annuity is
28 payable the first day of the month following the member's re-retirement.

29 **SECTION 5. AMENDMENT.** Section 15-39.1-30 of the North Dakota Century Code is
30 amended and reenacted as follows:

- 1 **15-39.1-30. Confidentiality of records.** ~~Information pertaining to a teacher's~~
2 ~~retirement assessments and accumulated interest, disability applications and benefits, and~~
3 ~~surviving spouse applications and benefits~~ All records relating to the retirement benefits of a
4 member or a beneficiary under this chapter ~~is~~ are confidential and ~~is~~ are not a public ~~record~~
5 records. The information and records may be disclosed, under rules adopted by the board,
6 only to:
- 7 1. A person to whom the teacher has given written consent to have the information
8 disclosed.
 - 9 2. A person legally representing the teacher, upon proper proof of representation,
10 and unless the teacher specifically withholds consent.
 - 11 3. A person authorized by a court order.
 - 12 4. A member's participating employer, limited to information concerning the member's
13 years of service credit, years of age, employer and employee contribution
14 amounts, and salary. The board may share other types of information as needed
15 by the employer to validate the employer's compliance with existing state or federal
16 law. Any information provided to the member's participating employer under this
17 subsection must remain confidential except as provided in subsection 6.
 - 18 5. The administrative staff of the public employees retirement system for purposes
19 relating to membership and benefits determination.
 - 20 6. State or federal agencies for the purpose of validating member eligibility or
21 employer compliance with existing state or federal law.
 - 22 7. Member interest groups approved by the board, limited to information concerning
23 the member's death.