

**SENATE BILL NO. 2180**

Introduced by

Senators Holmberg, Freborg, O'Connell

Representatives Carlisle, Delmore, R. Kelsch

1 A BILL for an Act to create and enact a new section to chapter 15-39.1 of the North Dakota  
2 Century Code, relating to retired teachers returning to teaching under the teachers' fund for  
3 retirement; to amend and reenact subsection 1 of section 15-39.1-09 and section 15-39.1-19.1  
4 of the North Dakota Century Code, relating to assessments and resumption of teaching under  
5 the teachers' fund for retirement; and to provide an expiration date.

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

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 15-39.1-09 of the 1999  
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9 1. Except as provided in subsection 2 of section 15-39.1-10.3, section 3 of this Act,  
10 and subsection 3, every teacher is a member of the fund and must be assessed  
11 upon the teacher's salary seven and seventy-five hundredths percent per annum,  
12 which must be deducted, certified, and paid monthly to the fund by the disbursing  
13 official of the governmental body by which the teacher is employed. Every  
14 governmental body employing a teacher shall pay to the fund seven and  
15 seventy-five hundredths percent per annum of the salary of each teacher employed  
16 by it. The disbursing official of the governmental body shall certify the  
17 governmental body payments and remit the payments monthly to the fund.

18 **SECTION 2. AMENDMENT.** Section 15-39.1-19.1 of the 1999 Supplement to the  
19 North Dakota Century Code is amended and reenacted as follows:

20 **15-39.1-19.1. (Contingent effective date and expiration date - See note) Annuities**  
21 **discontinued on resumption of teaching.** A Except as otherwise provided in section 3 of this  
22 Act, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or  
23 15-39.2 may not return to covered employment until sixty calendar days have elapsed from the  
24 member's retirement date. A retired member may then return to covered employment for a

1 maximum of ninety working days and continue receiving a monthly retirement benefit. For  
2 purposes of this section, a working day is four or more hours of teaching. The board may waive  
3 this restriction in emergency situations.

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

9 Any retired member who returns to teaching shall pay the required assessments on  
10 those earnings received by the retired member after the ninety-day maximum. The employer  
11 shall pay the required contributions in a like manner.

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

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

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

- 26 1. A Except as otherwise provided in section 3 of this Act, a retired teacher who is  
27 receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not  
28 return to covered employment until sixty calendar days have elapsed from the  
29 member's retirement date. Except as otherwise provided in this section, a retired  
30 member may then return to covered employment for a maximum of ninety working  
31 days and continue receiving a monthly retirement benefit. For purposes of this

1 section, a working day is four or more hours of teaching. The board may waive this  
2 restriction in emergency situations. Should the retired member's employment  
3 exceed the ninety-day maximum limit, the retired member must immediately notify  
4 the fund office in writing. Failure to notify the fund office will result in the loss of  
5 one month's annuity benefit. Except as otherwise provided in this section, the  
6 retired member's monthly benefit must be discontinued the first of the month  
7 following the date the member reaches the ninety-day maximum. A retired  
8 member who returns to teaching shall pay the required assessments on those  
9 earnings received by the retired member after the ninety-day maximum. The  
10 employer shall pay the required contributions in a like manner.

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

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

- 1           3. Upon the teacher's subsequent retirement, the member's benefit must be resumed  
2 as follows:
- 3           a. If the teacher subsequently retires with less than two years of additional  
4 credited service, the teacher's assessments paid to the fund must be  
5 refunded in accordance with section 15-39.1-20 and the teacher is entitled to  
6 receive the discontinued annuity the first day of the month following the  
7 teacher's re-retirement.
- 8           b. If the teacher subsequently retires with more than two years of additional  
9 credited service, the retired person's annuity is the sum of the discontinued  
10 annuity, plus an additional annuity computed according to this chapter based  
11 upon years of service and average salaries earned during the period of  
12 reemployment. The new annuity is payable the first day of the month  
13 following the member's re-retirement.

14           **SECTION 3.** A new section to chapter 15-39.1 of the North Dakota Century Code is  
15 created and enacted as follows:

16           **Retired teachers return to active service - Critical shortage areas and disciplines -**

17 **Rules.** A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or  
18 15-39.2 may elect to return to teaching without losing any benefits under the provisions of this  
19 section or elect to return to teaching under the provisions of section 15-39.1-19.1. To return to  
20 teaching under this section, a teacher must have been receiving a retirement annuity for at least  
21 one year and must return to teaching in a critical shortage geographical area or subject  
22 discipline as determined by the education standards and practices board by rule. A retired  
23 teacher may not engage in part-time teaching during the one-year separation from service. A  
24 retired teacher who returns to teaching under this section is not required to pay the employee  
25 assessment required by section 15-39.1-09, but the governmental body employing a retired  
26 teacher under this section must pay the employer assessment required by section 15-39.1-09.  
27 A retired teacher who returns to teaching under the provisions of this section must be treated as  
28 retired for all other purposes under this chapter. A retired teacher may not earn any additional  
29 service during the period of reemployment. The retired teacher's benefits may not be adjusted  
30 to reflect changes in the retired teacher's age or final average monthly salary at the end of the  
31 period of reemployment, any optional form of payment elected under section 15-39.1-16

1 remains effective during and after the period of reemployment, and additional benefits normally  
2 available to an active member, such as disability benefits, are not available to a retired teacher  
3 reemployed under this section.

4           **SECTION 4. EXPIRATION DATE.** This Act is effective through July 31, 2005, and  
5 after that date is ineffective.