

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

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 of member tiers under the teachers' fund for
3 retirement; to amend and reenact subsection 1 of section 15-39.1-09, subsection 1 of section
4 15-39.1-10, and sections 15-39.1-12, 15-39.1-18, 15-39.1-19.1, and 15-39.1-19.2 of the North
5 Dakota Century Code, relating to employee and employer contribution requirements, eligibility
6 for normal unreduced retirement benefits, eligibility for early reduced retirement benefits,
7 eligibility for disability benefits, and retiree reemployment under the teachers' fund for
8 retirement; to provide an appropriation; to provide for a transfer; and to provide an effective
9 date.

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

11 **SECTION 1.** Two new subsections to section 15-39.1-04 of the North Dakota Century
12 Code are created and enacted as follows:

13 "Tier one grandfathered member" for purposes of sections 15-39.1-10 and
14 15-39.1-12 means a tier one member who, as of June 30, 2013, is vested as a tier
15 one member in accordance with section 15-39.1-11; and

- 16 a. Is at least fifty-five years of age; or
17 b. Has a combined total of years of service credit in the plan and years of age
18 which equals or exceeds sixty-five.

19 "Tier one nongrandfathered member" for purposes of sections 15-39.1-10 and
20 15-39.1-12 means a tier one member who does not qualify as a tier one
21 grandfathered member.

22 **SECTION 2. AMENDMENT.** Subsection 1 of section 15-39.1-09 of the North Dakota
23 Century Code is amended and reenacted as follows:

1 1. Except as otherwise provided by law, every teacher is a member of the fund and
2 must be assessed upon the teacher's salary seven and seventy-five hundredths
3 percent per annum, which must be deducted, certified, and paid monthly to the
4 fund by the disbursing official of the governmental body by which the teacher is
5 employed. Member contributions increase to nine and seventy-five hundredths
6 percent per annum beginning July 1, 2012, and increase thereafter to eleven and
7 seventy-five hundredths percent per annum beginning July 1, 2014. Except as
8 otherwise provided by law, every governmental body employing a teacher shall pay
9 to the fund eight and seventy-five hundredths percent per annum of the salary of
10 each teacher employed by it. Contributions to be paid by a governmental body
11 employing a teacher increase to ten and seventy-five hundredths percent per
12 annum beginning July 1, 2012, and increase thereafter to twelve and seventy-five
13 hundredths percent per annum beginning July 1, 2014. The required amount of
14 member and employer contributions must be reduced to seven and seventy-five
15 hundredths percent per annum effective on the July first that follows the first
16 valuation showing a ratio of the actuarial value of assets to the actuarial accrued
17 liability of the teachers' fund for retirement that is equal to or greater than ninety
18 percent. The disbursing official of the governmental body shall certify the
19 governmental body payments and remit the payments monthly to the fund.

20 **SECTION 3. AMENDMENT.** Subsection 1 of section 15-39.1-10 of the North Dakota
21 Century Code is amended and reenacted as follows:

- 22 1. The following members who have acquired a vested right to a retirement annuity
23 as set forth in section 15-39.1-11 are eligible to receive monthly lifetime normal
24 unreduced retirement benefits under this section:
- 25 a. All tier one and tier two members who have ~~earned three years of teaching~~
26 ~~service credit and who have~~ attained the age of sixty-five years.
 - 27 b. All tier one grandfathered members who have ~~earned three years of teaching~~
28 ~~service credit and who have~~ a combined total of years of service credit and
29 years of age which equals or exceeds eighty-five.
 - 30 c. All tier ~~two~~ members ~~who have earned five years of teaching service credit~~
31 ~~and who have attained the age of sixty five years~~ one nongrandfathered

1 members and tier two members who are at least sixty years of age and who
2 have a combined total of years of service credit and years of age which
3 equals or exceeds ninety.

4 ~~d. All tier two members who have earned five years of teaching service credit~~
5 ~~and who have a combined total of years of service credit and years of age~~
6 ~~which equals or exceeds ninety.~~

7 **SECTION 4. AMENDMENT.** Section 15-39.1-12 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15-39.1-12. Early reduced retirement benefits.** A ~~tier one~~ member who has acquired
10 a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has attained
11 age fifty-five may retire prior to the normal retirement age as set forth in section 15-39.1-10 but
12 the benefits to which the member is then entitled must be reduced ~~to the actuarial equivalent of~~
13 ~~the benefit credits earned to the date of early retirement from the earlier of age sixty five or the~~
14 ~~age at which current service plus age equals eighty five.~~ A tier two member who has acquired
15 a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has attained
16 age fifty-five may retire prior to the normal retirement age as set forth in section 15-39.1-10 but
17 the benefits to which the member is then entitled must be reduced to the actuarial equivalent of
18 the benefit credits earned to the date of early retirement from the earlier of age sixty five or the
19 age at which current service plus age equals ninety. according to the following schedule:

- 20 1. All tier one grandfathered member benefits must be reduced by six percent per
21 annum from the earlier of:
22 a. Age sixty-five; or
23 b. The age at which the sum of the member's current years of service credit and
24 years of age equals eighty-five.
- 25 2. All tier one nongrandfathered member and tier two member benefits must be
26 reduced by eight percent per annum from the earlier of:
27 a. Age sixty-five; or
28 b. The later of:
29 (1) Age sixty; or
30 (2) The age at which the sum of the member's current years of service
31 credit and years of age equals ninety.

1 **SECTION 5. AMENDMENT.** Section 15-39.1-18 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15-39.1-18. Disability retirements.**

4 1. Any member may also retire and receive a disability annuity if, after a period of at
5 least ~~one year~~ five years of service as a member in this state, the member ~~suffers~~
6 ~~from~~ qualifies for total disability as determined by the board.

7 2. The amount of the disability annuity is the ~~greater of the~~ amount computed by the
8 retirement formula in section 15-39.1-10 without consideration of age ~~or the~~
9 ~~amount computed by that formula without consideration of age but assuming the~~
10 ~~member had twenty years of credited service.~~ A member determined eligible for a
11 disability annuity under this section may elect to receive an annuity under any of
12 the options allowed in section 15-39.1-16, except the level retirement income with
13 social security option or the partial lump sum option.

14 3. The disability annuity continues until the death or prior recovery of the disabled
15 annuitant. The board shall ascertain by periodic medical examinations the
16 continued disability status of a disabled annuitant.

17 4. If a disabled annuitant recovers and returns to active teaching, that annuitant is
18 entitled to the retirement benefit credits which the annuitant earned prior to the time
19 of disablement, and the credits which the annuitant earned after returning to active
20 teaching must be added to those earned prior to disablement.

21 **SECTION 6. AMENDMENT.** Section 15-39.1-19.1 of the North Dakota Century Code
22 is amended and reenacted as follows:

23 **15-39.1-19.1. Retired teachers return to active service - Annuities discontinued**
24 **on resumption of teaching over annual hour limit.**

25 1. a. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is
26 receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may
27 not return to covered employment until thirty calendar days have elapsed from
28 the member's retirement date. A retired member may then return to covered
29 employment under an annual hour limit and continue receiving a monthly
30 retirement benefit. The annual hour limit is based on the length of the
31 reemployed retiree's contract as follows:

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- 1 (1) Retiree reemployment of nine months or less, annual limit is seven
2 hundred hours;
- 3 (2) Retiree reemployment of ten months, annual limit is eight hundred
4 hours;
- 5 (3) Retiree reemployment of eleven months, annual limit is nine hundred
6 hours; or
- 7 (4) Retiree reemployment of twelve months, annual limit is one thousand
8 hours.
- 9 b. Employment as a noncontracted substitute teacher does not apply to the
10 annual hour limit. Professional development and extracurricular duties do not
11 apply to the annual hour limit.
- 12 c. The retired member and the retired member's employer must notify the fund
13 office in writing within thirty days of the retired member's return to covered
14 employment. ~~Should the retired member's employment exceed the annual~~
15 ~~hour limit, the retired member must immediately notify the fund office in~~
16 ~~writing. Failure to notify the fund office results in the loss of one month's~~
17 ~~annuity benefit. The retired member's monthly benefit must be discontinued~~
18 ~~the first of the month following the date the member reaches the annual hour~~
19 ~~limit.~~
- 20 d. A retired member who returns to teaching shall pay the member contributions
21 required by section 15-39.1-09 on ~~those earnings~~ the salary received by the
22 retired member ~~after reaching the annual hour limit.~~ The member
23 contributions must be included in the retired member's account value and may
24 not be refunded except as provided under subdivision a of subsection 2 of
25 section 15-39.1-19.1 and section 15-39.1-17.
- 26 e. A participating employer who employs a retired member under this section
27 shall pay the employer contributions required by section 15-39.1-09 on the
28 salary of the retired member ~~both before and after the retired member~~
29 ~~reaches the annual hour limit.~~
- 30 f. A retired teacher who returns to teaching and does not exceed the annual
31 hour limit must be treated as retired for all other purposes under this chapter.

1 A retired teacher may not earn any additional service during the period of
2 reemployment. The retired teacher's benefits may not be adjusted to reflect
3 changes in the retired teacher's age or final average monthly salary at the end
4 of the period of reemployment, any optional form of payment elected under
5 section 15-39.1-16 remains effective during and after the period of
6 reemployment, and additional benefits normally available to an active
7 member, such as disability benefits, are not available to a retired teacher
8 reemployed under this section.

9 g. A retired teacher who returns to teaching and exceeds the annual hour limit
10 must immediately notify the fund office in writing. Failure to notify the fund
11 office results in the loss of one month's annuity benefit for the member. The
12 retired member's monthly benefit must be discontinued the first of the month
13 following the date the member reaches the annual hour limit.

14 2. Upon the retired teacher's subsequent retirement, the member's benefit must be
15 resumed as follows:

16 a. If the teacher subsequently retires with less than two years of additional
17 earned credited service, the teacher's contributions paid to the fund after the
18 member's benefit was suspended must be refunded in accordance with
19 section 15-39.1-20 and the teacher is entitled to receive the discontinued
20 annuity, plus any postretirement benefit adjustments granted during the period
21 of reemployment, the first day of the month following the teacher's
22 re-retirement.

23 b. If the teacher subsequently retires with two or more but less than five years of
24 additional earned credited service, the retired person's annuity is the greater
25 of the sum of the discontinued annuity, plus an additional annuity computed
26 according to this chapter based upon years of service and average salaries
27 earned during the period of reemployment plus any postretirement benefit
28 adjustments granted during the period of reemployment, or a recalculated
29 annuity computed according to this chapter based on total years of service
30 credit earned during both employment periods offset by the actuarial value of

- 1 payments already received. The new annuity is payable the first day of the
2 month following the member's re-retirement.
- 3 c. If the teacher subsequently retires with five or more years of additional earned
4 credited service, the retired person's annuity is the greater of the sum of the
5 discontinued annuity plus an additional annuity based upon years of service
6 and average salaries earned during the period of reemployment plus any
7 postretirement benefit adjustments granted during the period of
8 reemployment, or a recalculated annuity based on all years of service
9 computed under subsection 2 of section 15-39.1-10. The new annuity is
10 payable the first day of the month following the member's re-retirement.

11 **SECTION 7. AMENDMENT.** Section 15-39.1-19.2 of the North Dakota Century Code
12 is amended and reenacted as follows:

13 **15-39.1-19.2. Retired teachers return to active service - Critical shortage areas**
14 **and disciplines - Rules.**

- 15 1. A retired teacher who is receiving a retirement annuity under chapter 15-39,
16 15-39.1, or 15-39.2 may elect to return to teaching without losing any benefits
17 under the provisions of this section or elect to return to teaching under the
18 provisions of section 15-39.1-19.1. To return to teaching under this section, a
19 retired teacher must:
- 20 a. Return to teach in a critical shortage geographical area or subject discipline
21 as determined by the education standards and practices board by rule;
- 22 b. If retired after January 1, 2001, have been receiving a retirement annuity for at
23 least one year. A retired teacher may perform noncontracted substitute
24 teaching duties but may not engage in full-time or part-time teaching duties
25 during the one-year separation from service; and
- 26 c. Notify the fund office in writing within thirty days of the retired member's return
27 to covered employment. The retired member's employer must also notify the
28 fund office in writing within thirty days of the retired member's return to
29 covered employment.
- 30 2. A retired teacher who returns to teaching under this section ~~is not required to~~ shall
31 pay the ~~employee assessment~~ member contributions required by section

1 15-39.1-09 on the salary of the retired member. The member contributions must
2 be included in the retired member's account value and may not be refunded except
3 as provided under section 15-39.1-17. A retired teacher who returns to teaching
4 under the provisions of this section must be treated as retired for all other purposes
5 under this chapter. A retired teacher may not earn any additional service during
6 the period of reemployment. The retired teacher's benefits may not be adjusted to
7 reflect changes in the retired teacher's age or final average monthly salary at the
8 end of the period of reemployment, any optional form of payment elected under
9 section 15-39.1-16 remains effective during and after the period of reemployment,
10 and additional benefits normally available to an active member, such as disability
11 benefits, are not available to a retired teacher reemployed under this section.
12 3. A participating employer who employs a retired member under this section shall
13 pay the employer contributions required by section 15-39.1-09 on the salary of the
14 retired member.

15 **SECTION 8. APPROPRIATION - TRANSFER.** There is appropriated out of any
16 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
17 \$75,000,000, which the office of management and budget shall transfer on June 30, 2012, to
18 the teachers' fund for retirement for the purpose of reducing the unfunded actuarial accrued
19 liability of the teachers' fund for retirement.

20 **SECTION 9. EFFECTIVE DATE.** Sections 6 and 7 of this Act become effective July 1,
21 2012, and sections 3, 4, and 5 of this Act become effective July 1, 2013.