Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1064

Introduced by

Government and Veterans Affairs Committee

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

A BILL for an Act to amend and reenact subsection 10 of section 15-39.1-04, subsection 4 of section 15-39.1-10, sections 15-39.1-10.6 and 15-39.1-20, subsections 8 and 11 of section 15-39.1-24, and section 15-39.1-34 of the North Dakota Century Code, relating to the incorporation of federal law changes for the definition of salary, eligibility for normal retirement benefits, benefit limitations, and withdrawal from the fund under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a plan year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 ~~in effect on August 1, 2013~~, as amended. "Salary" includes amounts paid to members for performance of duties, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013~~, as amended, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013~~, as amended. A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:

    a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation

allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.

b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.

c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.

d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.

e. Teacher's aide pay, referee pay, busdriver pay, or janitorial pay.

f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.

g. Signing bonuses as defined under section 15.1-09-33.1.

h. Other benefits or payments not defined in this section which the board determines to be ineligible teachers' fund for retirement salary.

SECTION 2. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code ~~in effect on August 1, 2013~~, as amended, and the regulations issued under that section, as applicable to governmental plans.

SECTION 3. AMENDMENT. Section 15-39.1-10.6 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.6. Benefit limitations.

Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] ~~in effect on August 1, 2013~~, as amended, for

governmental plans. The maximum dollar benefit applicable under section 415(b)(1)(A) of the Internal Revenue Code must reflect any increases in this amount provided under section 415(d) of the Internal Revenue Code ~~subsequent to August 1, 2013~~, as amended. If a member's benefit is limited by these provisions at the time of retirement or termination of employment, or in any subsequent year, the benefit paid in any following calendar year may be increased to reflect all cumulative increases in the maximum dollar limit provided under section 415(d) of the Internal Revenue Code for years after the year employment terminated or payments commenced, but not to more than would have been payable in the absence of the limits under section 415 of the Internal Revenue Code. If an annuitant's benefit is increased by a plan amendment, after the commencement of payments, the member's benefit may not exceed the maximum dollar benefit under section 415(b)(1)(A) of the Internal Revenue Code, adjusted for the commencement age and form of payment, increased as provided by section 415(d) of the Internal Revenue Code. If this plan must be aggregated with another plan to determine the effect of section 415 of the Internal Revenue Code on a member's benefit, and if the benefit must be reduced to comply with section 415 of the Internal Revenue Code, then the reduction must be made pro rata between the two plans, in proportion to the member's service in each plan.

SECTION 4. AMENDMENT. Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-20. Withdrawal from fund.

When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days, withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter, and by accepting the refund, the member is waiving any right to participate in the fund under the same provisions that existed at the time the refund was accepted regardless of whether the member later repurchases refunded service credit. A member or a beneficiary of a member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the

member or the beneficiary to the extent permitted by section 401(a)(31) of the Internal Revenue Code ~~in effect on August 1, 2011~~, as amended.

SECTION 5. AMENDMENT. Subsection 8 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

8. A teacher who has at least five years of teaching service credit in the fund may purchase credit not based on service for use toward retirement eligibility and benefits. The purchase of service credit for such nonqualified service as defined under section 415(n) of the Internal Revenue Code, as amended, is limited to an aggregate of five years.

SECTION 6. AMENDMENT. Subsection 11 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

11. The fund may accept eligible rollovers, direct rollovers, and trustee-to-trustee transfers from eligible retirement plans specified under Internal Revenue Code section 402(c)(8)(B), as amended, to purchase refunded service credit under section 15-39.1-15 and to purchase additional service credit under section 15-39.1-24. The board shall adopt rules to ensure that the rollovers and transfers comply with the requirements of the Internal Revenue Code and internal revenue service regulations. The total amount rolled over or transferred into the fund may not exceed the amount due to purchase service credit.

SECTION 7. AMENDMENT. Section 15-39.1-34 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-34. Internal Revenue Code compliance.

The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code, as amended, and regulations adopted pursuant to those provisions as they apply to governmental plans.