

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1044  
(Government and Veterans Affairs Committee)  
(At the request of the Teachers' Fund for Retirement)

AN ACT to amend and reenact section 15-39.1-34 of the North Dakota Century Code, relating to Internal Revenue Code compliance.

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

**SECTION 1. 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.**

1. 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.
2. Pursuant to the rollover rules under section 401(a)(31) of the Internal Revenue Code, a distributee may elect to have an eligible rollover distribution, as defined in section 402(f)(2)(A) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  - a. The definition of eligible retirement plan also applies in the case of a distribution to an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.
  - b. Any portion of a distribution that consists of after-tax employee contributions not included in gross income may not be transferred except to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code or to a qualified plan or an annuity contract described in sections 401(a) and 403(b) of the Internal Revenue Code, respectively, which agrees to separately account for such amounts, including separately accounting for the portion of the distribution which is included in gross income and the portion of the distribution which is not so included.
  - c. For purposes of this section, "distributee" includes a nonspouse beneficiary of a deceased member; except in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the nonspouse beneficiary and will be treated as an inherited individual retirement account or inherited individual retirement annuity pursuant to section 402(c)(11) of the Internal Revenue Code.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1044.

House Vote:    Yeas 92            Nays 0            Absent 2

Senate Vote:    Yeas 42            Nays 0            Absent 5

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State