

HOUSE BILL NO. 1044

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 section 15-39.1-34 of the North Dakota Century Code,
2 relating to Internal Revenue Code compliance.

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

4 **SECTION 1. AMENDMENT.** Section 15-39.1-34 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15-39.1-34. Internal Revenue Code compliance.**

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

11 2. Pursuant to the rollover rules under section 401(a)(31) of the Internal Revenue Code,
12 a distributee may elect to have an eligible rollover distribution, as defined in section
13 402(f)(2)(A) of the Internal Revenue Code, paid in a direct rollover to an eligible
14 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
15 specified by the distributee.

16 a. The definition of eligible retirement plan also applies in the case of a distribution
17 to an alternate payee under a qualified domestic relations order, as defined in
18 section 414(p) of the Internal Revenue Code.

19 b. Any portion of a distribution that consists of after-tax employee contributions not
20 included in gross income may not be transferred except to an individual
21 retirement account or individual retirement annuity described in section 408 or
22 408A of the Internal Revenue Code or to a qualified plan or an annuity contract
23 described in sections 401(a) and 403(b) of the Internal Revenue Code,
24 respectively, which agrees to separately account for such amounts, including

- 1 separately accounting for the portion of the distribution which is included in gross
2 income and the portion of the distribution which is not so included.
- 3 c. For purposes of this section, "distributee" includes a nonspouse beneficiary of a
4 deceased member; except in the case of a nonspouse beneficiary, the direct
5 rollover may be made only to an individual retirement account or individual
6 retirement annuity described in section 408 or 408A of the Internal Revenue
7 Code which is established on behalf of the nonspouse beneficiary and will be
8 treated as an inherited individual retirement account or inherited individual
9 retirement annuity pursuant to section 402(c)(11) of the Internal Revenue Code.