

Sixty-fourth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

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

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

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

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

9 10. "Salary" means a member's earnings in eligible employment under this chapter for
10 teaching, supervisory, administrative, and extracurricular services during a plan year
11 reported as salary on the member's federal income tax withholding statements plus
12 any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k),
13 403(b), 414(h), or 457 in effect on August 1, ~~2013~~2015. "Salary" includes amounts
14 paid to members for performance of duties, unless amounts are conditioned on or
15 made in anticipation of an individual member's retirement or termination. The annual
16 salary of each member taken into account in determining benefit accruals and
17 contributions may not exceed the annual compensation limits established under
18 26 U.S.C. 401(a)(17)(B) in effect on August 1, ~~2013~~2015, as adjusted for increases in
19 the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) in effect on August 1,
20 ~~2013~~2015. A salary maximum is not applicable to members whose participation began
21 before July 1, 1996. "Salary" does not include:

22 a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a
23 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~~2015, 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~~2015, 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~~2015. 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~~2015.