

HOUSE BILL NO. 1360  
with Conference Committee Amendments

Sixty-first  
Legislative Assembly  
of North Dakota

HOUSE BILL NO. 1360

Introduced by

Representatives R. Kelsch, Porter, Rust

Senators Flakoll, Freborg

1 A BILL for an Act to create and enact a new section to chapter 15.1-09.1 of the North Dakota  
2 Century Code, relating to the rights of regional education association employees; and to amend  
3 and reenact subsection 11 of section 15-39.1-04, section 15-39.1-23, subsection 17 of section  
4 65-01-02, and section 65-04-04 of the North Dakota Century Code, relating to the rights of  
5 regional education association employees, the inclusion of teachers employed by regional  
6 education associations in the teachers' fund for retirement, to provide a date by which  
7 workforce safety and insurance premiums paid by regional education associations are due, and  
8 to reconcile references to other education entities.

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

10 **SECTION 1. AMENDMENT.** Subsection 11 of section 15-39.1-04 of the North Dakota  
11 Century Code is amended and reenacted as follows:

- 12 11. "Teacher" means:
  - 13 a. All persons licensed by the education standards and practices board who are
  - 14 contractually employed in teaching, supervisory, administrative, or
  - 15 extracurricular services by a state institution, multidistrict special education
  - 16 unit, area career and technology center, regional education association,
  - 17 school board, or other governing body of a school district of this state,
  - 18 including superintendents, assistant superintendents, business managers,
  - 19 principals, assistant principals, and special teachers. For purposes of this
  - 20 subdivision, "teacher" includes persons contractually employed by one of the
  - 21 above employers to provide teaching, supervisory, administrative, or
  - 22 extracurricular services to a separate state institution, state agency,
  - 23 multidistrict special education unit, area career and technology center,

- 1                   regional education association, school board, or other governing body of a  
2                   school district of this state under a third-party contract.
- 3                   b. The superintendent of public instruction, assistant superintendents of public  
4                   instruction, county superintendents, assistant superintendents, supervisors of  
5                   instruction, the professional staff of the department of career and technical  
6                   education, the professional staff of the center for distance education, the  
7                   executive director and professional staff of the North Dakota education  
8                   association who are members of the fund on July 1, 1995, the professional  
9                   staff of an interim school district, and the professional staff of the North  
10                  Dakota high school activities association who are members of the fund on  
11                  July 1, 1995.
- 12                  c. The executive director and professional staff of the North Dakota council of  
13                  school administrators who are members of the fund on July 1, 1995, and  
14                  licensed staff of teachers centers, but only if the person was previously a  
15                  member of and has credits in the fund.
- 16                  d. Employees of institutions under the control and administration of the state  
17                  board of higher education who are members of the fund on July 16, 1989.

18                  **SECTION 2. AMENDMENT.** Section 15-39.1-23 of the North Dakota Century Code is  
19                  amended and reenacted as follows:

20                  **15-39.1-23. Penalties for failure to make required reports and payments.** Except  
21                  for unintentional reporting errors, an employing body failing to file reports required by the board  
22                  or failing to pay over for credit to the fund the amounts required to be paid by this chapter is  
23                  subject to a civil penalty of two hundred fifty dollars and, as interest, one percent of the amount  
24                  due for each month of delay or fraction thereof after the report was required to be filed or the  
25                  payment became due. The board, if satisfied the delay or underpayment was unintentional and  
26                  excusable, may waive, or if paid, refund all or part of the two hundred fifty dollar penalty and  
27                  may reduce the interest rate charge to the investment return rate used in the most recent  
28                  actuarial valuation, compounded annually, but may not waive the entire amount of the interest.  
29                  The penalty must be paid to the fund and deposited in the same manner as other receipts  
30                  under this chapter.

1           In addition, a school district, multidistrict special education unit, area career and  
2 technology center, and regional education association may not share in the apportionment of  
3 any money from the state for any year unless the school ~~board, or an officer thereof,~~ district,  
4 multidistrict special education unit, area career and technology center, or regional education  
5 association has made the reports required by the board as permitted by this chapter, and has  
6 paid over for credit to the fund the amounts required to be paid under this chapter.

7           **SECTION 3.** A new section to chapter 15.1-09.1 of the North Dakota Century Code is  
8 created and enacted as follows:

9           **Rights of employees.** Any individual employed by the board of a regional education  
10 association has the same statutory rights as those accorded to an individual employed by a  
11 public school district for the same purpose.

12           **SECTION 4. AMENDMENT.** Subsection 17 of section 65-01-02 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14           17. "Employer" means a person who engages or received the services of another for  
15 remuneration unless the person performing the services is an independent  
16 contractor under the "common law" test. The term includes:
- 17           a. The state and all political subdivisions thereof.
  - 18           b. All public and quasi-public corporations in this state.
  - 19           c. Every person, partnership, limited liability company, association, and private  
20 corporation, including a public service corporation.
  - 21           d. The legal representative of any deceased employer.
  - 22           e. The receiver or trustee of any person, partnership, limited liability company,  
23 association, or corporation having one or more employees as herein defined.
  - 24           f. The president, vice presidents, secretary, or treasurer of a business  
25 corporation, but not members of the board of directors of a business  
26 corporation who are not also officers of the corporation.
  - 27           g. The managers of a limited liability company.
  - 28           h. The president, vice presidents, secretary, treasurer, or board of directors of  
29 an association or cooperative organized under chapter 6-06, 10-12, 10-13,  
30 10-15, 36-08, or 49-21.

- 1           i.    The clerk, assessor, treasurer, or any member of the board of supervisors of
- 2                    an organized township, if the person is not employed by the township in any
- 3                    other capacity.
- 4           j.    A multidistrict special education unit.
- 5           k.    An area career and technology center.
- 6           l.    A regional education association.

7           **SECTION 5. AMENDMENT.** Section 65-04-04 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **65-04-04. Employers obligated to pay premiums - Premium and certificates to be**  
10 **mailed.** Each employer subject to this title shall pay into the fund annually the amount of  
11 premiums determined and fixed by the organization for the employment or occupation of the  
12 employer. The amount must be determined by the classifications, rules, and rates made and  
13 published by the organization and must be based on a proportion of the annual expenditure of  
14 money by the employer for the service of persons subject to the provisions of this title. The  
15 organization shall mail to the employer a certificate specifying that the payment has been  
16 made. The certificate, attested by the seal of the organization, is prima facie evidence of the  
17 payment of the premium. Notwithstanding the provisions of section 65-04-15, the certificate  
18 may reflect the employer has paid the minimum premium and has no employees for the period  
19 indicated on the certificate. If an employer defaults on premium payments after a certificate  
20 has been issued, the organization may revoke that employer's certificate. The organization  
21 shall provide that premiums to be paid by school districts, multidistrict special education units,  
22 area career and technology centers, and regional education associations, townships, and all  
23 public corporations or agencies, except municipal corporations, fall due at the end of the fiscal  
24 year of that entity, and that premiums to be paid by all municipal corporations fall due at the  
25 end of the calendar year, and may make provisions so that premiums of other employers fall  
26 due on different or specified dates. For the purpose of effectuating different or specified due  
27 dates the organization may carry new or current risks for a period of less than one year and not  
28 to exceed eighteen months, either by request of the employer or action of the organization. An  
29 employer subject to this chapter shall display in a conspicuous manner at the workplace and in  
30 a sufficient number of places to reasonably inform employees of the fact, a certificate of  
31 premium payment showing compliance with this chapter and the toll-free telephone number

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- 1 used to report unsafe working conditions and actual or suspected workforce safety and
- 2 insurance fraud. Any employer subject to this chapter is liable to pay a civil penalty of two
- 3 hundred fifty dollars for failure to display the notice of compliance and the toll-free telephone
- 4 number as required by this section.