

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2022

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of various state
 2 retirement and investment agencies; ~~and~~ to provide various transfers; to create and enact a
 3 new section to chapter 54-52.1 and section 54-52.1-05.1 of the North Dakota Century Code,
 4 relating to uniform group insurance program benefits coverage contract requirements,
 5 prescription drug coverage analyses, and a report to the legislative audit and fiscal review
 6 committee; to amend and reenact subsection 17 of section 54-02-01 and sections 54-52-03 and
 7 54-52.1-05 of the North Dakota Century Code, relating to the retirement board and public
 8 employees retirement system contracts for health insurance benefits coverage; to provide a
 9 statement of legislative intent; to limit the use of health insurance program reserves; and to
 10 declare an emergency.

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

12 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 13 as may be necessary, are appropriated out of any moneys from special funds derived from
 14 income, to the retirement and investment agencies listed in this section for the purpose of
 15 defraying their expenses, for the biennium beginning July 1, 2015, and ending June 30, 2017,
 16 as follows:

17 Subdivision 1.

18 RETIREMENT AND INVESTMENT OFFICE

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
21 Salaries and wages	\$3,772,504	\$582,351	\$4,354,855
22 <u>Salaries and wages</u>	<u>\$3,772,504</u>	<u>\$568,047</u>	<u>\$4,340,551</u>
23 Accrued leave payments	71,541	(71,541)	0
24 Operating expenses	973,324	17,550	990,874

Sixty-fourth
Legislative Assembly

1	Contingencies	82,000	0	82,000
2	Total special funds	\$4,899,369	\$528,360	\$5,427,729
3	<u>Total special funds</u>	<u>\$4,899,369</u>	<u>\$514,056</u>	<u>\$5,413,425</u>
4	Full-time equivalent positions	19.00	0.00	19.00
5	Subdivision 2.			
6	PUBLIC EMPLOYEES RETIREMENT SYSTEM			
7			Adjustments or	
8		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
9	Salaries and wages	\$5,016,339	\$1,463,071	\$6,479,410
10	<u>Salaries and wages</u>	<u>\$5,016,339</u>	<u>\$1,399,021</u>	<u>\$6,415,360</u>
11	Accrued leave payments	103,217	(103,217)	0
12	Operating expenses	2,280,894	397,169	2,678,063
13	<u>Operating expenses</u>	<u>2,280,894</u>	<u>397,169</u>	<u>2,678,063</u>
14	Contingencies	250,000	0	250,000
15	Total special funds	\$7,650,450	\$1,757,023	\$9,407,473
16	Full-time equivalent positions	33.00	1.50	34.50
17	<u>Total special funds</u>	<u>\$7,650,450</u>	<u>\$1,692,973</u>	<u>\$9,343,423</u>
18	<u>Full-time equivalent positions</u>	<u>33.00</u>	<u>1.50</u>	<u>34.50</u>

19 Subdivision 3.

20 BILL TOTAL

21			Adjustments or	
22		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
23	Grand total special funds	\$12,549,819	\$2,285,383	\$14,835,202
24	Full-time equivalent positions	52.00	1.50	53.50
25	<u>Grand total special funds</u>	<u>\$12,549,819</u>	<u>\$2,207,029</u>	<u>\$14,756,848</u>
26	<u>Full-time equivalent positions</u>	<u>52.00</u>	<u>1.50</u>	<u>53.00</u>

27 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
 28 **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
 29 items approved by the sixty-third legislative assembly for the 2013-15 biennium and the
 30 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

1	Public employees retirement system		
2	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
3	Temporary salaries	\$0	\$100,000
4	Total special funds	\$0	\$100,000

5 The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19
6 biennium. The public employee retirement system shall report to the appropriations committees
7 of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium
8 beginning July 1, 2015, and ending June 30, 2017.

9 **SECTION 3. APPROPRIATION LINE ITEM TRANSFERS.** Upon approval of the respective
10 boards, the retirement and investment office and the public employees retirement system may
11 transfer from their respective contingencies line items in subdivisions 1 and 2 of section 1 of this
12 Act to all other line items. The agencies shall notify the office of management and budget of
13 each transfer made pursuant to this section.

14 **SECTION 4. AMENDMENT.** Subsection 17 of section 54-52-01 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as~~
17 ~~the governing authority for the retirement system~~ created under section 54-52-03.

18 **SECTION 5. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-52-03. Governing authority.**

21 A state agency is hereby created to constitute the governing authority of the system to
22 consist of a board of ~~seven~~nine persons known as the retirement board. No more than one
23 elected member of the board may be in the employ of a single department, institution, or
24 agency of the state or in the employ of a political subdivision. No employee of the public
25 employees retirement system or the state retirement and investment office may serve on the
26 board.

27 1. The majority leader of the house of representatives or a designee is a member of the
28 board.

29 2. The majority leader of the senate or a designee is a member of the board.

1 3. Two members of the legislative assembly appointed by the chairman of the legislative
2 management consisting of one member from the majority party and one member from
3 the minority party are members of the board.

4 ~~4.4.~~ One member of the board must be appointed by the governor to serve a term of five
5 years. The appointee must be a North Dakota citizen who is not a state or political
6 subdivision employee and who by experience is familiar with money management.
7 The citizen member is chairman of the board.

8 ~~2. One member of the board must be appointed by the attorney general from the~~
9 ~~attorney general's legal staff and shall serve a term of five years.~~

10 ~~3. The state health officer appointed under section 23-01-05 is a member of the board.~~

11 ~~4.5.~~ Three board members must be elected by and from among the active participating
12 members, members of the retirement plan established under chapter 54-52.6,
13 members of the retirement plan established under chapter 39-03.1, and members of
14 the job service North Dakota retirement plan. Employees who have terminated their
15 employment for whatever reason are not eligible to serve as elected members of the
16 board under this subsection. Board members must be elected to a five-year term
17 pursuant to an election called by the board. Notice of board elections must be given to
18 all active participating members. The time spent in performing duties as a board
19 member may not be charged against any employee's accumulated annual or any
20 other type of leave.

21 ~~5.6.~~ One board member must be elected by and from among those persons who are
22 receiving retirement benefits under this chapter. The board shall call the election and
23 must give prior notice of the election to the persons eligible to participate in the
24 election pursuant to this subsection. The board member shall serve a term of five
25 years.

26 ~~6.7.~~ The members of the board are entitled to receive one hundred forty-eight dollars per
27 day compensation and necessary mileage and travel expenses as provided in
28 sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due
29 the chairman or a member, plus an allowance for expenses they may incur through
30 service on the board.

1 7.8. A board member shall serve a five-year term and until the board member's successor
2 qualifies. Each board member is entitled to one vote, and fourfive of the sevennine
3 board members constitute a quorum. FourFive votes are necessary for resolution or
4 action by the board at any meeting.

5 **SECTION 6.** A new section to chapter 54-52.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Health insurance benefits coverage of prescription drug coverage - Analysis - Report**
8 **to legislative audit and fiscal review committee.**

9 1. At least once every two years, the board shall request the state auditor to select a firm
10 to complete a financial and health care analysis of the prescription drug coverage
11 under the health benefits coverage. This may not be construed to require the firm to
12 be a certified public accounting firm. In contracting for the analysis, the state auditor
13 shall consider input from the board regarding the scope of the evaluation and the
14 review of the proposals. The analysis must include a review of the following, without
15 limitation:

16 a. Based on medi-span definitions of "brand drug" and "generic drug", the average
17 annual brand drug costs and the generic drug costs at each of the following
18 pharmacy channels:

19 (1) Retail;

20 (2) Retail-90; and

21 (3) Mail.

22 b. The average annual drug-by-drug costs of each drug dispensed from specialty
23 drug pharmacies used by the carrier or the pharmacy benefits manager.

24 c. The rebates and other third-party financial benefits passed through to the board,
25 measured in the aggregate and on a per brand drug prescription basis, to verify
26 the carrier satisfied the contract's rebate guarantees.

27 d. (1) At a minimum, an evaluation of the effectiveness of the following programs
28 implemented on behalf of the board by the carrier or the pharmacy benefits
29 manager:

30 (a) Quantity limit program;

31 (b) Step therapy program; and

- 1 (c) Prior authorization program.
- 2 (2) The evaluation of effectiveness under this subdivision must include:
- 3 (a) The approval and disapproval rates for each first-line-treatment drug
- 4 in the prior authorization program; and
- 5 (b) Recommendations to the board addressing how to improve each of
- 6 the programs.
- 7 e. An evaluation of and recommendations concerning the refill practices of the
- 8 carrier or the pharmacy benefits manager to determine, without limitation:
- 9 (1) Whether and to what extent automatic refills are being dispensed; and
- 10 (2) The point in time refills are being dispensed.
- 11 2. Upon the request of the board, the health benefits coverage carrier or pharmacy
- 12 benefits manager that provides prescription drug coverage under the health benefits
- 13 coverage shall produce, without limitation:
- 14 a. The prescription drug coverage contract controlling prescription coverage under
- 15 this chapter; and
- 16 b. A list of the prior authorization, step therapy, and quantity limit programs
- 17 implemented on behalf of the board, identifying, without limitation, each drug in
- 18 the program and whether the drug is a first- or second-line-of-treatment drug or
- 19 the relevant quantity limit.
- 20 3. The board shall submit and present this report to the legislative audit and fiscal review
- 21 committee.

22 **SECTION 7. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-52.1-05. Provisions of contract - Term of contract.**

- 25 1. Each uniform group insurance contract entered into by the board must be consistent
- 26 with the provisions of this chapter, must be signed for the state of North Dakota by the
- 27 chairman of the board, and must include the following:
- 28 ~~4.~~ a. As many optional coverages as deemed feasible and advantageous by the
- 29 board.

1 ~~2.~~ b. A detailed statement of benefits offered, including maximum limitations and
2 exclusions, and such other provisions as the board may deem necessary or
3 desirable.

4 2. The term of a uniform group insurance contract for hospital benefits coverage, medical
5 benefits coverage, or prescription drug coverage may not exceed two years. A contract
6 subject to this subsection may not be renewed without solicitation of a bid under
7 section 54-52.1-04.

8 **SECTION 8.** Section 54-52.1-05.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

11 1. The board contract for health insurance benefits coverage under this chapter must
12 provide that for the duration of the term of that contract, except as necessary for
13 treatment, payment, and operations, the carrier may not disclose identifiable or
14 unidentifiable insured or provider data or information with a related or unrelated health
15 care delivery entity.

16 2. If the board enters a contract for health insurance benefits coverage under this chapter
17 with a carrier that has common ownership with a health care delivery entity, for
18 purposes of the carrier's negotiated provider discount rates with in-state providers:

19 a. For a provider that is a critical access hospital that does not have common
20 ownership with the carrier, the negotiated provider discount rates may not be less
21 than the negotiated provider discount rates the carrier has with the related health
22 care delivery entity that is a critical access hospital.

23 b. For a provider that is not a critical access hospital and that does not have
24 common ownership with the carrier, the negotiated provider discount rates may
25 not be less than the negotiated provider discount rates the carrier has with the
26 related health care delivery entity that is not a critical access hospital.

27 **SECTION 9. UNIFORM GROUP INSURANCE PROGRAM HEALTH INSURANCE**

28 **BENEFITS - LEGISLATIVE INTENT.** During the period beginning with the effective date of this
29 Act through June 30, 2015, if the public employees retirement system board determines it is
30 necessary to rebid the uniform group insurance program health insurance benefits contract, the
31 carrier providing coverage at the time of that determination may continue under the existing

1 contract until a new contract is finalized, but not to exceed nine months beyond the date the
2 board makes that determination.

3 **SECTION 10. HEALTH INSURANCE RESERVE FUNDS - LIMITATIONS.** Notwithstanding
4 any other provision of law, for the period beginning with the effective date of this Act and ending
5 June 30, 2017, the public employees retirement system board may not spend any moneys in
6 the fund created under section 54-52.1-06 or any other accumulated reserves under the uniform
7 group insurance program for the purpose of reducing any increase in uniform group insurance
8 premium amounts beyond the rates used by the sixty-fourth legislative assembly for developing
9 2015-17 state agency budgets.

10 **SECTION 11. EMERGENCY.** Sections 8, 9, and 10 of this Act are declared to be an
11 emergency measure.