

**FIRST ENGROSSMENT
with House Amendments
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; to provide various transfers; to create and enact a new
3 section to chapter 54-52.1 of the North Dakota Century Code, relating to uniform group
4 insurance program benefits coverage contract requirements, prescription drug coverage audits,
5 and a report to the legislative audit and fiscal review committee; to amend and reenact
6 subsection 17 of section 54-02-01 and section 54-52-03 of the North Dakota Century Code,
7 relating to the retirement board and section 54-52.1-05 of the North Dakota Century Code,
8 relating to public employee retirement system contracts for health insurance benefits coverage;
9 to provide a statement of legislative intent; to provide for application; to limit the use of health
10 insurance program reserves; and to 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	\$568,047	\$4,340,551
22 Accrued leave payments	71,541	(71,541)	0
23 Operating expenses	973,324	17,550	990,874
24 Contingencies	<u>82,000</u>	<u>0</u>	<u>82,000</u>

1	Total special funds	\$4,899,369	\$514,056	\$5,413,425
2	Full-time equivalent positions	19.00	0.00	19.00
3	Subdivision 2.			
4	PUBLIC EMPLOYEES RETIREMENT SYSTEM			
5			Adjustments or	
6		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
7	Salaries and wages	\$5,016,339	\$972,063	\$5,988,402
8	Accrued leave payments	103,217	(103,217)	0
9	Operating expenses	2,280,894	377,050	2,657,944
10	Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
11	Total special funds	\$7,650,450	\$1,245,896	\$8,896,346
12	Full-time equivalent positions	33.00	0.00	33.00

13 Subdivision 3.

14	BILL TOTAL			
15			Adjustments or	
16		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
17	Grand total special funds	\$12,549,819	\$1,759,952	\$14,309,771
18	Full-time equivalent positions	52.00	0.00	52.00

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

24 **SECTION 3. AMENDMENT.** Subsection 17 of section 54-52-01 of the North Dakota
 25 Century Code is amended and reenacted as follows:

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

28 **SECTION 4. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is
 29 amended and reenacted as follows:

1 **54-52-03. Governing authority.**

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

8 1. The majority leader of the house of representatives or a designee is a member of the
9 board.

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

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

14 ~~4.4.~~ One member of the board must be appointed by the governor to serve a term of five
15 years. The appointee must be a North Dakota citizen who is not a state or political
16 subdivision employee and who by experience is familiar with money management.
17 The citizen member is chairman of the board.

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

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

21 ~~4.5.~~ Three board members must be elected by and from among the active participating
22 members, members of the retirement plan established under chapter 54-52.6,
23 members of the retirement plan established under chapter 39-03.1, and members of
24 the job service North Dakota retirement plan. Employees who have terminated their
25 employment for whatever reason are not eligible to serve as elected members of the
26 board under this subsection. Board members must be elected to a five-year term
27 pursuant to an election called by the board. Notice of board elections must be given to
28 all active participating members. The time spent in performing duties as a board
29 member may not be charged against any employee's accumulated annual or any
30 other type of leave.

1 ~~5-6.~~ One board member must be elected by and from among those persons who are
2 receiving retirement benefits under this chapter. The board shall call the election and
3 must give prior notice of the election to the persons eligible to participate in the
4 election pursuant to this subsection. The board member shall serve a term of five
5 years.

6 ~~6-7.~~ The members of the board are entitled to receive one hundred forty-eight dollars per
7 day compensation and necessary mileage and travel expenses as provided in
8 sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due
9 the chairman or a member, plus an allowance for expenses they may incur through
10 service on the board.

11 ~~7-8.~~ A board member shall serve a five-year term and until the board member's successor
12 qualifies. Each board member is entitled to one vote, and ~~four~~five of the ~~seven~~nine
13 board members constitute a quorum. ~~Four~~Five votes are necessary for resolution or
14 action by the board at any meeting.

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

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

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

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

29 (1) Retail;

30 (2) Retail-90; and

31 (3) Mail.

- 1 b. The average annual drug-by-drug costs of each drug dispensed from specialty
2 drug pharmacies used by the carrier or the pharmacy benefits manager.
- 3 c. The rebates and other third-party financial benefits passed through to the board,
4 measured in the aggregate and on a per brand drug prescription basis, to verify
5 the carrier satisfied the contract's rebate guarantees.
- 6 d. (1) At a minimum, an evaluation of the effectiveness of the following programs
7 implemented on behalf of the board by the carrier or the pharmacy benefits
8 manager:
- 9 (a) Quantity limit program;
10 (b) Step therapy program; and
11 (c) Prior authorization program.
- 12 (2) The evaluation of effectiveness under this subdivision must include:
- 13 (a) The approval and disapproval rates for each first-line-treatment drug
14 in the prior authorization program; and
15 (b) Recommendations to the board addressing how to improve each of
16 the programs.
- 17 e. An evaluation of and recommendations concerning the refill practices of the
18 carrier or the pharmacy benefits manager to determine, without limitation:
- 19 (1) Whether and to what extent automatic refills are being dispensed; and
20 (2) The point in time refills are being dispensed.
- 21 2. Upon the request of the board, the health benefits coverage carrier or pharmacy
22 benefits manager that provides prescription drug coverage under the health benefits
23 coverage shall produce, without limitation:
- 24 a. The prescription drug coverage contract controlling prescription coverage under
25 this chapter; and
- 26 b. A list of the prior authorization, step therapy, and quantity limit programs
27 implemented on behalf of the board, identifying, without limitation, each drug in
28 the program and whether the drug is a first- or second-line-of-treatment drug or
29 the relevant quantity limit.
- 30 3. The board shall submit and present this report to the legislative audit and fiscal review
31 committee.

1 **SECTION 6. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-52.1-05. Provisions of contract - Term of contract.**

4 1. Each uniform group insurance contract entered into by the board must be consistent
5 with the provisions of this chapter, must be signed for the state of North Dakota by the
6 chairman of the board, and must include the following:

7 4. a. As many optional coverages as deemed feasible and advantageous by the
8 board.

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

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

16 **SECTION 7.** Section 54-52.1-05.1 of the North Dakota Century Code is created and
17 enacted as follows:

18 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

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

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

27 a. For a provider that is a critical access hospital that does not have common
28 ownership with the carrier, the negotiated provider discount rates may not be less
29 than the negotiated provider discount rates the carrier has with the related health
30 care delivery entity that is a critical access hospital.

1 **b.** For a provider that is not a critical access hospital and that does not have
2 common ownership with the carrier, the negotiated provider discount rates may
3 not be less than the negotiated provider discount rates the carrier has with the
4 related health care delivery entity that is not a critical access hospital.

5 **SECTION 8. UNIFORM GROUP INSURANCE PROGRAM HEALTH INSURANCE**

6 **BENEFITS - LEGISLATIVE INTENT.** During the period beginning with the effective date of this
7 Act through June 30, 2015, if the public employees retirement system board determines it is
8 necessary to rebid the uniform group insurance program health insurance benefits contract, the
9 carrier providing coverage at the time of that determination may continue under the existing
10 contract until a new contract is finalized, but not to exceed nine months beyond the date the
11 board makes that determination.

12 **SECTION 9. HEALTH INSURANCE RESERVE FUNDS - LIMITATIONS.** Notwithstanding
13 any other provision of law, for the period beginning with the effective date of this Act and ending
14 June 30, 2017, the public employees retirement system board may not spend any moneys in
15 the fund created under section 54-52.1-06 or any other accumulated reserves under the uniform
16 group insurance program for the purpose of reducing any increase in uniform group insurance
17 premium amounts beyond the rates used by the sixty-fourth legislative assembly for developing
18 2015-17 state agency budgets.

19 **SECTION 10. EMERGENCY.** Sections 7, 8, and 9 of this Act are declared to be an
20 emergency measure.