

**FIRST ENGROSSMENT
with Conference Committee 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 and section 54-52.1-05.1 of the North Dakota Century Code, relating
4 to uniform group insurance program benefits coverage contract requirements, prescription drug
5 coverage analyses, and a report to the legislative audit and fiscal review committee; to amend
6 and reenact subsection 17 of section 54-02-01 and sections 54-52-03 and 54-52.1-05 of the
7 North Dakota Century Code, relating to the retirement board and public employees retirement
8 system contracts for health insurance benefits coverage; to provide a statement of legislative
9 intent; to limit the use of health insurance program reserves; and to declare an emergency.

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

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

16 Subdivision 1.

17 RETIREMENT AND INVESTMENT OFFICE

		Adjustments or		
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>	
18				
19				
20	Salaries and wages	\$3,772,504	\$568,047	\$4,340,551
21	Accrued leave payments	71,541	(71,541)	0
22	Operating expenses	973,324	17,550	990,874
23	Contingencies	<u>82,000</u>	<u>0</u>	<u>82,000</u>

Sixty-fourth
Legislative Assembly

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.			

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	\$1,399,021	\$6,415,360
8	Accrued leave payments	103,217	(103,217)	0
9	Operating expenses	2,280,894	397,169	2,678,063
10	Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
11	Total special funds	\$7,650,450	\$1,692,973	\$9,343,423
12	Full-time equivalent positions	33.00	1.50	34.50
13	Subdivision 3.			

BILL TOTAL

15			Adjustments or	
16		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
17	Grand total special funds	\$12,549,819	\$2,207,029	\$14,756,848
18	Full-time equivalent positions	52.00	1.50	53.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

Public employees retirement system

24	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
25	Temporary salaries	\$0	\$100,000
26	Total special funds	\$0	\$100,000

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

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

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

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

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

12 **54-52-03. Governing authority.**

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

19 1. The majority leader of the house of representatives or a designee is a member of the
20 board.

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

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

25 ~~1.4.~~ One member of the board must be appointed by the governor to serve a term of five
26 years. The appointee must be a North Dakota citizen who is not a state or political
27 subdivision employee and who by experience is familiar with money management.
28 The citizen member is chairman of the board.

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

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

1 ~~4.5.~~ Three board members must be elected by and from among the active participating
2 members, members of the retirement plan established under chapter 54-52.6,
3 members of the retirement plan established under chapter 39-03.1, and members of
4 the job service North Dakota retirement plan. Employees who have terminated their
5 employment for whatever reason are not eligible to serve as elected members of the
6 board under this subsection. Board members must be elected to a five-year term
7 pursuant to an election called by the board. Notice of board elections must be given to
8 all active participating members. The time spent in performing duties as a board
9 member may not be charged against any employee's accumulated annual or any
10 other type of leave.

11 ~~5.6.~~ One board member must be elected by and from among those persons who are
12 receiving retirement benefits under this chapter. The board shall call the election and
13 must give prior notice of the election to the persons eligible to participate in the
14 election pursuant to this subsection. The board member shall serve a term of five
15 years.

16 ~~6.7.~~ The members of the board are entitled to receive one hundred forty-eight dollars per
17 day compensation and necessary mileage and travel expenses as provided in
18 sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due
19 the chairman or a member, plus an allowance for expenses they may incur through
20 service on the board.

21 ~~7.8.~~ A board member shall serve a five-year term and until the board member's successor
22 qualifies. Each board member is entitled to one vote, and ~~four~~five of the ~~seven~~nine
23 board members constitute a quorum. ~~Four~~Five votes are necessary for resolution or
24 action by the board at any meeting.

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

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

29 1. At least once every two years, the board shall request the state auditor to select a firm
30 to complete a financial and health care analysis of the prescription drug coverage
31 under the health benefits coverage. This may not be construed to require the firm to

1 be a certified public accounting firm. In contracting for the analysis, the state auditor
2 shall consider input from the board regarding the scope of the evaluation and the
3 review of the proposals. The analysis must include a review of the following, without
4 limitation:

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

8 (1) Retail;

9 (2) Retail-90; and

10 (3) Mail.

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

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

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

19 (a) Quantity limit program;

20 (b) Step therapy program; and

21 (c) Prior authorization program.

22 (2) The evaluation of effectiveness under this subdivision must include:

23 (a) The approval and disapproval rates for each first-line-treatment drug
24 in the prior authorization program; and

25 (b) Recommendations to the board addressing how to improve each of
26 the programs.

27 e. An evaluation of and recommendations concerning the refill practices of the
28 carrier or the pharmacy benefits manager to determine, without limitation:

29 (1) Whether and to what extent automatic refills are being dispensed; and

30 (2) The point in time refills are being dispensed.

- 1 2. Upon the request of the board, the health benefits coverage carrier or pharmacy
2 benefits manager that provides prescription drug coverage under the health benefits
3 coverage shall produce, without limitation:
- 4 a. The prescription drug coverage contract controlling prescription coverage under
5 this chapter; and
- 6 b. A list of the prior authorization, step therapy, and quantity limit programs
7 implemented on behalf of the board, identifying, without limitation, each drug in
8 the program and whether the drug is a first- or second-line-of-treatment drug or
9 the relevant quantity limit.
- 10 3. The board shall submit and present this report to the legislative audit and fiscal review
11 committee.

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

14 **54-52.1-05. Provisions of contract - Term of contract.**

- 15 1. Each uniform group insurance contract entered into by the board must be consistent
16 with the provisions of this chapter, must be signed for the state of North Dakota by the
17 chairman of the board, and must include the following:
- 18 4. a. As many optional coverages as deemed feasible and advantageous by the
19 board.
- 20 2. b. A detailed statement of benefits offered, including maximum limitations and
21 exclusions, and such other provisions as the board may deem necessary or
22 desirable.
- 23 2. The term of a uniform group insurance contract for hospital benefits coverage, medical
24 benefits coverage, or prescription drug coverage may not exceed two years. A contract
25 subject to this subsection may not be renewed without solicitation of a bid under
26 section 54-52.1-04.

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

29 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

- 30 1. The board contract for health insurance benefits coverage under this chapter must
31 provide that for the duration of the term of that contract, except as necessary for

- 1 treatment, payment, and operations, the carrier may not disclose identifiable or
2 unidentifiable insured or provider data or information with a related or unrelated health
3 care delivery entity.
- 4 2. If the board enters a contract for health insurance benefits coverage under this chapter
5 with a carrier that has common ownership with a health care delivery entity, for
6 purposes of the carrier's negotiated provider discount rates with in-state providers:
- 7 a. For a provider that is a critical access hospital that does not have common
8 ownership with the carrier, the negotiated provider discount rates may not be less
9 than the negotiated provider discount rates the carrier has with the related health
10 care delivery entity that is a critical access hospital.
- 11 b. For a provider that is not a critical access hospital and that does not have
12 common ownership with the carrier, the negotiated provider discount rates may
13 not be less than the negotiated provider discount rates the carrier has with the
14 related health care delivery entity that is not a critical access hospital.

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

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

22 **SECTION 10. HEALTH INSURANCE RESERVE FUNDS - LIMITATIONS.** Notwithstanding
23 any other provision of law, for the period beginning with the effective date of this Act and ending
24 June 30, 2017, the public employees retirement system board may not spend any moneys in
25 the fund created under section 54-52.1-06 or any other accumulated reserves under the uniform
26 group insurance program for the purpose of reducing any increase in uniform group insurance
27 premium amounts beyond the rates used by the sixty-fourth legislative assembly for developing
28 2015-17 state agency budgets.

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