

DRAFT

Sixty-sixth
Legislative Assembly
of North Dakota

_____ BILL NO. _____

Introduced by

_____ Committee

1 A BILL for an Act to create and enact a new chapter to Title 26.1 of the North Dakota
2 Century Code, relating to a uniform group North Dakota Public Employees Retirement
3 System self-insurance health benefit plan; to amend and reenact section 26.1-07.1-01,
4 relating to jurisdiction over health care benefits; section 54-52.1-04, relating to board to
5 contract for insurance; section 54-52.1-04.2, relating to self-insurance plans for hospital
6 and medical benefits coverage; and section 54-52.1-04.3, relating to contingency reserve
7 fund - continuing appropriation.

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

9 **SECTION 1.** Chapter 26.1-36.6 of the North Dakota Century Code is created and
10 enacted as follows:

11 **26.1-36.6-01. Definitions.**

12 1. “Self-insurance health benefit plan” means a plan of self-insurance providing
13 health insurance benefits coverage pursuant to section 54-52.1-04.

1 2. “Health insurance benefits coverage” means hospital benefits coverage and
2 medical benefits coverage as defined in section 54-52.1-01.

3 **26.1-36.6-02. Regulation of self-insurance health benefit plan.**

4 The commissioner shall regulate the financial condition, integrity, and equitable
5 administration of the self-insurance health benefit plan. In order to facilitate regulation of
6 the self-insurance health benefit plan, all of the powers granted to the commissioner to
7 regulate insurance companies and insurers under title 26.1 and all of the powers provided
8 to the commissioner to regulate multiple employer welfare arrangements under section
9 26.1-01-07.4 are provided to the commissioner.

10 **26.1-36.6-03. Self-insurance health benefit plan.**

11 The following provisions of Chapter 26.1-36 shall apply to and govern the self-insurance
12 health benefit plan and are subject to the jurisdiction of the commissioner: 26.1-36-03,
13 26.1-36-03.1, 26.1-36-05, 26.1-36-06, 26.1-36-06.1, 26.1-36-07, 26.1-36-08, 26.1-36-
14 08.1, 26.1-36-09, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.8, 26.1-36-09.10, 26.1-36-
15 09.11, 26.1-36-09.12, 26.1-36-10, 26.1-36-11, 26.1-36-12, 26.1-36-12.2, 26.1-36-12.4,
16 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-20,
17 26.1-36-21, 26.1-36-22, 26.1-36-23, 26.1-36-23.1, 26.1-36-29, 26.1-36-37.1, 26.1-36-38,
18 26.1-36-39, 26.1-36-41, 26.1-36-43, 26.1-36-44, and 26.1-36-46.

19
20 **SECTION 2. AMENDMENT.** Section 26.1-07.1-01 of the North Dakota Century
21 Code is amended and reenacted as follows:

22 **26.1-07.1-01. Jurisdiction over providers of health care benefits.**

1 Notwithstanding any other provision of law, and except as provided herein, any person
2 or other entity, other than an insurance company duly licensed in this or another state
3 which provides coverage in this state for medical, surgical, chiropractic, physical
4 therapy, speech pathology, audiology, professional mental health, dental, hospital, or
5 optometric expenses, whether such coverage is by direct payment, reimbursement, or
6 otherwise, must be presumed to be subject to the jurisdiction of the commissioner
7 unless the person or other entity shows that while providing such services it is subject to
8 the jurisdiction of another agency of this state, any subdivisions thereof, or the federal
9 government. A self-insurance health benefit plan formed pursuant to chapter 54-52.1 is
10 not subject to this section and is subject to the jurisdiction of the commissioner under
11 chapter 26.1-36.6.

12

13 **SECTION 3. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century
14 Code is amended and reenacted as follows:

15 **54-52.1-01. Definitions.**

16 As used in this chapter, unless the context otherwise requires:

17 1. "Board" means the public employees retirement board.

18 2. "Carrier" means:

19 a. For the hospital benefits coverage, an insurance company authorized to do
20 business in the state, or a nonprofit hospital service association, or a
21 prepaid group practice hospital care plan authorized to do business in the
22 state, or the state if a self-insurance plan is used for providing hospital
23 benefits coverage.

- 1 b. For the medical benefits coverage, an insurance company authorized to do
2 business in the state, or a nonprofit medical service association, or a
3 prepaid group practice medical care plan authorized to do business in the
4 state, or the state if a self-insurance plan is used for providing medical
5 benefits coverage.
- 6 c. For the life insurance benefits coverage, an insurance company authorized
7 to do business in the state.
- 8 3. "Department, board, or agency" means the departments, boards, agencies, or
9 associations of this state, and includes the state's charitable, penal, and higher
10 educational institutions; the Bank of North Dakota; the state mill and elevator
11 association; and counties, cities, district health units, and school districts.
- 12 4. "Eligible employee" means every permanent employee who is employed by a
13 governmental unit, as that term is defined in section 54-52-01. "Eligible
14 employee" includes members of the legislative assembly, judges of the
15 supreme court, paid members of state or political subdivision boards,
16 commissions, or associations, full-time employees of political subdivisions,
17 elective state officers as defined by subsection 2 of section 54-06-01, and
18 disabled permanent employees who are receiving compensation from the
19 North Dakota workforce safety and insurance fund. As used in this subsection,
20 "permanent employee" means one whose services are not limited in duration,
21 who is filling an approved and regularly funded position in a governmental unit,
22 and who is employed at least seventeen and one-half hours per week and at
23 least five months each year or for those first employed after August 1, 2003, is

1 employed at least twenty hours per week and at least twenty weeks each year
2 of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-
3 04.8, and 54-52.1-11, "eligible employee" includes retired and terminated
4 employees who remain eligible to participate in the uniform group insurance
5 program pursuant to applicable state or federal law.

6 5. "Health insurance benefits coverage" has the same meaning as defined by
7 section 26.1-36.6-01(2).

8 ~~5.6.~~ "Health maintenance organization" means an organization certified to
9 establish and operate a health maintenance organization in compliance with
10 chapter 26.1-18.1.

11 ~~6.7.~~ "Hospital benefits coverage" means a plan which either provides coverage
12 for, or pays, or reimburses expenses for hospital services incurred in
13 accordance with the uniform contract.

14 ~~7.8.~~ "Life insurance benefits coverage" means a plan which provides both term
15 life insurance and accidental death and dismemberment insurance in amounts
16 determined by the board, with a minimum of one thousand dollars provided for
17 the term life insurance portion of the coverage.

18 ~~8.9.~~ "Medical benefits coverage" means a plan which either provides coverage
19 for, or pays, or reimburses expenses for medical services in accordance with
20 the uniform contract.

21 ~~9.10.~~ "Member contribution" means the payment by the member into the retiree
22 health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.

1 ~~40-11.~~ "Member's account balance" means the member's contributions plus
2 interest at the rate set by the board.

3 ~~44-12.~~ "Self-insurance health benefit plan" has the same meaning as defined by
4 section 26.1-36-01(1).

5 13. "Temporary employee" means a governmental unit employee who is not
6 filling an approved and regularly funded position in an eligible governmental
7 unit and whose services may or may not be limited in duration.

8
9 **SECTION 4. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 **54-52.1-04. Board to contract for insurance.**

12 The board shall receive bids for the providing of hospital benefits coverage, medical
13 benefits coverage, life insurance benefits coverage for a specified term, and employee
14 assistance program services; may receive bids separately for the prescription drug
15 coverage component of medical benefits coverage; and shall accept one or more bids
16 of and contract with the carriers that in the judgment of the board best serves the
17 interests of the state and its eligible employees. Solicitations must be made not later
18 than ninety days before the expiration of an existing uniform group insurance contract.
19 Bids must be solicited by advertisement in a manner selected by the board that will
20 provide reasonable notice to prospective bidders. In preparing bid proposals and
21 evaluating bids, the board may utilize the services of consultants on a contract basis in
22 order that the bids received

1 may be uniformly compared and properly evaluated. In determining which bid, if any,
2 will best serve the interests of eligible employees and the state, the board shall give
3 adequate consideration to the following factors:

- 4 1. The economy to be effected.
- 5 2. The ease of administration.
- 6 3. The adequacy of the coverages.
- 7 4. The financial position of the carrier, with special emphasis as to its solvency.
- 8 5. The reputation of the carrier and any other information that is available
9 tending to show past experience with the carrier in matters of claim
10 settlement, underwriting, and services.

11 The board may reject any or all bids and, in the event it does so, shall again solicit bids
12 as provided in this section. The board may establish a plan of self-insurance for
13 providing health insurance benefits coverage only under an administrative services only
14 (ASO) contract or a third-party administrator (TPA) contract.

15 **SECTION 5. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century
16 Code is amended and reenacted as follows:

17 **54-52.1-04.2. Self-insurance plan for hospital and medical benefits**
18 **coverage.**

- 19 1. The board may establish a self-insurance plan for providing:
 - 20 a. Health insurance benefits coverage;
 - 21 b. Health insurance benefits coverage excluding all or part of prescription
22 drug coverage; or
 - 23 c. All or part of prescription drug coverage.

1 2. Any self-insurance plan under this section must be provided under an
2 administrative services only (ASO) contract or a third-party administrator (TPA) contract
3 under the uniform group insurance program, and may be established only if it is
4 determined by the board that an administrative services only or third-party administrator
5 plan is less costly than the lowest bid submitted by a carrier for underwriting the plan
6 with equivalent contract benefits. Upon establishing a self-insurance plan, the board
7 shall solicit bids for an administrative services only or third-party administrator contract
8 only every other biennium, and the board is authorized to renegotiate an existing
9 administrative services only or third-party administrator contract during the interim. In
10 addition, ~~individual~~ stop-loss coverage insured by a carrier authorized to do business
11 in this state ~~must~~ may be made part of any self-insured plan and is exempt from stop-
12 loss coverage requirements under section 26.1-01-07.4. All bids under this section are
13 due no later than January first, and must be awarded no later than March first,
14 preceding the end of each biennium. All bids under this section must be opened at a
15 public meeting of the board.

16
17 **SECTION 6. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century
18 Code is amended and reenacted as follows:

19 **54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

20 The board shall establish under a self-insurance plan a contingency reserve fund
21 to provide for adverse fluctuations in future charges, claims, costs, or expenses of the
22 uniform group insurance program. The board shall determine the amount necessary to
23 provide a balance in the contingency reserve fund between ~~one and one-half~~ two

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1 months and three months of claims paid based on the average monthly claims paid
2 during the twelve-month period immediately preceding March first of each year. The
3 board also shall determine the amount necessary to provide an additional balance in the
4 contingency reserve fund between one month and one and one-half months for claims
5 incurred but not yet reported. The board may arrange for the services of an actuarial
6 consultant to assist the board in making these determinations. Upon the
7 initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a
8 self-insurance plan pursuant to section 54-52.1-04.2, the board must have a plan in
9 place which is reasonably calculated to meet the funding requirements of this chapter
10 ~~within sixty months~~. All moneys in the contingency reserve fund, not otherwise
11 appropriated, are appropriated for the payment of claims and other costs of the uniform
12 group insurance program during periods of adverse claims or cost fluctuations. The
13 insurance commissioner shall ensure compliance with and enforce the provisions of this
14 section pursuant to chapter 26.1-36.6.

North Dakota Century Code- NDPers Proposed Bill Changes-2-1-2018

ND Statute 26.1-36 Accident and Health	Included	Reason/Topic of Statute	Not Included	Reason/Topic of Statute
26.1-36-01			X	Scope- Not Applicable
26.1-36-02			X	Definition - not applicable
26.1-36-02.1			X	Free Look- Not Applicable
26.1-36-02.2			X	Applies to Individual policies only
26.1-36-03	X	How a policy reads		
26.1-36-03.1	X	Information disclosure		
26.1-36-04			X	Applies to Individual policies only
26.1-36-05	X	Some standard provisions		
26.1-36-06	X	Guidelines for some drugs and chiropractic care		
26.1-36-06.1	X	Coverage for Off-Label Drugs		
26.1-36-07	X	Newborn/Adoption coverage		
26.1-36-08	X	MANDATE- Substance Abuse		
26.1-36-08.1	X	Substance abuse- Residential treatment		
26.1-36-09	X	MANDATE- Mental Health		
26.1-36-09.1			X	State mandate, but in NDPERS code (Mammograms)
26.1-36-09.2			X	State mandate, but in NDPERS code (Pregnancy Complications)
26.1-36-09.3			X	State mandate, but in NDPERS code (TMJ)
26.1-36-09.5	X	Nurse Practitioner - Provider requirements		
26.1-36-09.6	X	MANDATE- Prostate Antigen Testing		
26.1-36-09.7			X	State mandate, but in NDPERS code (PKU)
26.1-36-09.8	X	Post Delivery coverage for mothers and newborns		
26.1-36-09.9			X	State mandate, but in NDPERS code (Dental Anesthesia)
26.1-36-09.10	X	Pre-hospital emergency services		

ND Statute 26.1-36 Accident and Health	Included	Reason/Topic of Statute	Not Included	Reason/Topic of Statute
26.1-36-09.11	X	MANDATE- Breast Reconstruction Surgery		
26.1-36-09.12	X	Medical services related to suicide		
26.1-36-09.13			X	In NDPERS Code-Medical services related to intoxication
26.1-36-09.14			X	State Mandate- but in NDPERS code (Cancer Treatment Medication)
26.1-36-09.15			X	State Mandate- but in NDPERS code (Telehealth)
26.1-36-10	X	Coordination of Benefits		
26.1-36-11	X	Insured's right to employ doctor or enter hospital		
26.1-36-12	X	Non-Profit Health Service contracts		
26.1-36-12.1			X	Health Service Corporation contracts
26.1-36-12.2	X	Pharmacy Benefits		
26.1-36-12.4	X	Confidentiality of Medical Information		
26.1-36-12.5			X	Basic Health Insurance Coverage-N/A
26.1-36-12.6	X	Ambulance Services Classifications		
26.1-36-13	X	Simplification Standards		
26.1-36-14	X	Simplification Standards		
26.1-36-15			X	Approval of accident and health forms - pursuant to 26.1-36-14
26.1-36-16			X	Effect of simplification standards
26.1-36-17	X	Application requirements		
26.1-36-18	X	Investigation Waivers		
26.1-36-19	X	Misstatement of Age		
26.1-36-20	X	Juvenile conditions		
26.1-36-21	X	Prisoners conditions		
26.1-36-22	X	Dependent of Dependent		
26.1-36-23	X	COBRA standards		
26.1-36-23.1	X	Formers spouse and dependents		
26.1-36-24			X	Health Policy Transferable - N/A
26.1-36-25			X	Transfer of Policy - N/A
26.1-36-26			X	Transfer of Coverage - N/A

ND Statute 26.1-36 Accident and Health	Included	Reason/Topic of Statute	Not Included	Reason/Topic of Statute
26.1-36-27			X	Continuation of Coverage- Payments - N/A
26.1-36-28			X	Measure of Indemnity
26.1-36-29	X	Coordination of Benefits		
26.1-36-30			X	Release of Information to Dept of Human Services
26.1-36-36.2			X	Noncustodial care - N/A
26.1-36-37.1	X	Proof of loss- Claim Payment time limits		
26.1-36-37.2			X	Loss Ratio Requirements
26.1-36-38	X	Rule Making Authority		
26.1-36-39	X	Effect of Policy Not Conforming to chapter		
26.1-36-40			X	License Suspension or Revocation - N/A
26.1-36-41	X	Contract Limitations- Providers		
26.1-36-42			X	Internal company grievance procedures - N/A
26.1-36-43	X	Uniform Prescription Card		
26.1-36-44	X	Independent External Review		
26.1-36-45			X	Health Insurance not required - N/A
26.1-36-46	X	External Review		
26.1-36-47			X	Internal company claims and appeals procedures - N/A
26.1-36-48			X	Short Term Care Insurance- N/A