

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2130  
(Senators Lee, Anderson, Dever)  
(Representatives Keiser, Meier, Weisz)

AN ACT to create and enact section 26.1-36-01.1 of the North Dakota Century Code, relating to the scope of health insurance mandates; and to amend and reenact section 54-03-28 of the North Dakota Century Code, relating to a cost-benefit analysis for mandated health insurance coverage measures; to provide an effective date; and to declare an emergency.

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

**SECTION 1.** Section 26.1-36-01.1 of the North Dakota Century Code is created and enacted as follows:

**26.1-36-01.1. Scope - Accident and health insurance policy mandates.**

Unless expressly provided otherwise, an accident and health insurance policy health coverage mandate under this chapter does not apply to an accident and health insurance policy that is a high-deductible health plan under 26 U.S.C. 223 if the mandate would cause the policy to fail to qualify as a high-deductible health plan under this federal law.

**SECTION 2. AMENDMENT.** Section 54-03-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-28. Health insurance mandated coverage of services - Cost-benefit analysis requirement.**

1. ~~Alf the legislative management determines a legislative measure mandating~~mandates health insurance coverage of services or payment for specified providers of services, the measure may not be acted on by any committee of the legislative assembly unless the measure is accompanied by a cost-benefit analysis provided by the legislative council~~referred to a committee of the legislative assembly unless a cost-benefit analysis provided by the legislative management is appended to that measure.~~
  - a. If a committee of the legislative assembly determines a measure mandating health insurance coverage of services or payment of specified providers was referred to committee without a cost-benefit analysis, the committee shall request the legislative management provide a cost-benefit analysis. The committee may not act on the measure unless the measure is accompanied by the cost-benefit analysis.
  - b. If a committee of the legislative assembly determines a proposed amendment to a measure mandates health insurance coverage of services or payment of specified providers, the committee may not act on the proposed amendment unless the amendment is accompanied by a cost-benefit analysis or amended cost-benefit analysis provided by the legislative management.
2. ~~Factors to consider in this~~considered in the cost-benefit analysis must include:
  - a. The extent to which the proposed mandate would increase or decrease the cost of the service.
  - b. The extent to which the proposed mandate would increase the appropriate use of the service.

- c. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
- d. The impact of the proposed mandate on the total cost of health care.

~~2.3.~~ A committee of the legislative assembly may not act on a legislative measure mandating that the legislative management or committee determines mandates health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure as recommended by the committee provides:

- a. The measure is effective through June thirtieth of the next odd-numbered year following the year in which the legislative assembly enacted the measure, and after that date the measure is ineffective.
  - b. The application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program. The application of such mandate begins with every contract for health insurance which becomes effective after June thirtieth of the year in which the measure becomes effective.
  - c. That for the next legislative assembly, the public employees retirement system shall prepare and request introduction of a bill to repeal the expiration date and to extend the mandated coverage or payment to apply to accident and health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the mandated coverage or payment on the system's health insurance programs. The report must include information on the utilization and costs relating to the mandated coverage or payment and a recommendation on whether the coverage or payment should continue. For purposes of this section, the bill is not a legislative measure mandating health insurance coverage of services or payment for specified providers of services, unless the bill is amended following introduction so as to change the bill's mandate.
- ~~3.~~ A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative measure mandates coverage of services under this section.
- ~~4.~~ Any amendment made during a legislative session to a measure which mandates health insurance coverage of services may not be acted on by a committee of the legislative assembly unless the amendment is accompanied by a cost-benefit analysis provided by the legislative council. The legislative management shall adopt a procedure for identifying measures and proposed measures mandating health insurance coverage of services or payment for specified providers of services. The procedure must include solicitation of draft measures and proposals during the interim between legislative sessions from legislators and agencies with bill introduction privileges and must include deadlines for identification of the measures or proposals.
5. The legislative council shall contract with a private entity, after receiving one or more recommendations from the insurance commissioner, to provide the legislative management ~~the~~ cost-benefit analysis required by this section. The insurance commissioner shall pay the cost of the contracted services to the entity providing the services.

**SECTION 3. EFFECTIVE DATE.** This Act is effective May 1, 2021.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2130 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 46                      Nays 1                      Absent 0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 91                      Nays 0                      Absent 3

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State