

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 835

Introduced by Nordquist, 7; Ashford, 20; Campbell, 25; Cook, 13;
Dubas, 34; Gloor, 35; Hadley, 37; Harr, 8; Howard, 9;
Mello, 5.

Read first time January 05, 2012

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 77-912, Revised
2 Statutes Cumulative Supplement, 2010, and section
3 81-1316, Revised Statutes Supplement, 2011; to adopt the
4 Nebraska Health Benefit Exchange Act; to change
5 distribution of insurance premium tax revenue; to provide
6 an exception from the State Personnel System; to repeal
7 the original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 14 of this act shall be known
2 and may be cited as the Nebraska Health Benefit Exchange Act.

3 Sec. 2. The purpose of the Nebraska Health Benefit
4 Exchange Act is to provide for the establishment of a Nebraska health
5 benefit exchange to facilitate the purchase and sale of qualified
6 health plans in the individual market in this state and to provide
7 for the establishment of a small business health benefit exchange to
8 assist qualified small employers in this state in facilitating the
9 enrollment of their employees in qualified health plans offered in
10 the small group market.

11 Sec. 3. The intent of the Nebraska Health Benefit
12 Exchange Act is to:

13 (1) Increase access to quality affordable health care
14 coverage, reduce the number of uninsured persons in Nebraska, and
15 increase the availability of health care coverage through the private
16 insurance market to qualified individuals and small employers and
17 through medicaid to the eligible uninsured;

18 (2) Provide affordable options for small businesses to
19 purchase private health insurance for their employees;

20 (3) Provide consumer choice and portability of health
21 insurance, regardless of employment status;

22 (4) Create a transparent health insurance marketplace for
23 Nebraskans to purchase affordable, quality health care coverage and
24 to access available federal refundable premium tax credits and cost-
25 sharing subsidies;

1 (5) Promote consumer education and empower consumers to
2 compare plans and make informed decisions about their health care and
3 coverage;

4 (6) Create a health insurance marketplace that competes
5 on the basis of price, quality, service, and other innovative
6 efforts; and

7 (7) Integrate medicaid eligibility to ensure
8 administrative efficiency and seamless coverage for consumers.

9 Sec. 4. For purposes of the Nebraska Health Benefit
10 Exchange Act:

11 (1) Board means the governing board of the exchange
12 appointed pursuant to section 7 of this act;

13 (2) Exchange means the Nebraska health benefit exchange
14 established pursuant to section 5 of the act;

15 (3) Federal act means the federal Patient Protection and
16 Affordable Care Act, Public Law 111-148, as amended by the federal
17 Health Care and Education Reconciliation Act of 2010, Public Law
18 111-152, and any amendments thereto or regulations or guidance issued
19 under those acts;

20 (4) Health care consumer advocate means an individual who
21 is knowledgeable about private market insurance, public health
22 insurance programs, enrollment and access, or related areas and has
23 background or experience in consumer health care advocacy;

24 (5) Health insurance carrier means an entity subject to
25 the insurance laws, rules, and regulations of this state or subject

1 to the jurisdiction of the Director of Insurance that contracts or
2 offers to contract to provide, deliver, arrange, pay for, or
3 reimburse any of the costs of health care services, including a
4 sickness and accident insurance company, a health maintenance
5 organization, a nonprofit hospital and health service corporation, or
6 any other entity providing a plan of health insurance, health
7 benefits, or health services;

8 (6) Qualified health plan means a health benefit plan the
9 availability of which through the exchange has been determined by the
10 exchange to be in the interest of qualified individuals and qualified
11 small employers in this state. A qualified health plan must meet the
12 criteria described in section 1311(c) of the federal act unless the
13 federal act is repealed or is held to be unconstitutional or
14 otherwise invalid or unlawful;

15 (7) Qualified individual means an individual, including a
16 minor as defined in section 43-2101, who:

17 (a) Is seeking to enroll in a qualified health plan
18 offered to individuals through the exchange;

19 (b) Resides in this state;

20 (c) At the time of enrollment, is not incarcerated, other
21 than incarceration pending the disposition of charges; and

22 (d) Is and is reasonably expected to be for the entire
23 period for which enrollment is sought a citizen or national of the
24 United States or an alien lawfully present in the United States; and

25 (8) Secretary means the Secretary of the federal

1 Department of Health and Human Services.

2 Sec. 5. (1) The Nebraska health benefit exchange is
3 hereby established within the Department of Insurance.

4 (2) The exchange, under the supervision and control of
5 the board, shall pursue available federal funding for planning,
6 implementation, and operation of the exchange, and the board shall
7 adopt and promulgate rules necessary to obtain federal recognition of
8 the exchange as a certified exchange under the federal act unless the
9 federal act is repealed or is held to be unconstitutional or
10 otherwise invalid or unlawful.

11 (3) The exchange, under the supervision and control of
12 the board, may contract with or enter into a memorandum of
13 understanding with an eligible entity for any of its functions
14 described in the Nebraska Health Benefit Exchange Act. An eligible
15 entity includes, but is not limited to, the Department of Health and
16 Human Services or an entity that has experience in individual and
17 small group health insurance, in benefit administration, or relevant
18 to the responsibilities to be assumed by the entity, but a health
19 insurance carrier or an affiliate of a health insurance carrier is
20 not an eligible entity. The contracts entered into by the exchange,
21 under the supervision and control of the board, prior to December 31,
22 2014, shall not be subject to the approval of any other state
23 department, office, or agency and shall be exempt from the
24 requirements of sections 73-501 to 73-509 if the contract is
25 necessary to meet an urgent or unexpected requirement or to meet an

1 externally imposed deadline beyond the exchange's control. Copies of
2 all contracts or memorandums of understanding entered into by the
3 exchange, under the supervision and control of the board, shall be
4 maintained by the exchange as public records, subject to the
5 proprietary rights of any party to the contract. To the extent that
6 the exchange establishes such arrangements, the exchange remains
7 responsible for ensuring that all state and federal requirements
8 related to contracted functions are met. The contracts entered into
9 by the exchange on or after January 1, 2015, shall comply with
10 contracting requirements as specified by sections 73-501 to 73-509
11 except that the board shall be responsible for the requirements under
12 such sections prescribed to state agency directors.

13 (4) The exchange shall enter into information-sharing
14 agreements with federal and state agencies and other state exchanges
15 as needed to carry out its responsibilities under the act if the
16 agreements include adequate protections with respect to the
17 confidentiality of the information to be shared and comply with all
18 state and federal laws, rules, and regulations.

19 Sec. 6. The exchange, under the supervision and control
20 of the board, shall:

21 (1) Facilitate the purchase and sale of qualified health
22 plans;

23 (2) Provide for the establishment of a small business
24 health benefit exchange to assist qualified small employers in this
25 state in facilitating the enrollment of their employees in qualified

1 health plans. The small business health benefit exchange shall
2 include the functions and operations required for the small business
3 health options plan as established under the federal act unless the
4 federal act is repealed or is held to be unconstitutional or
5 otherwise invalid or unlawful;

6 (3) Coordinate the policy and operations of the exchange
7 with those of other state agencies whose policies and operations
8 relate to those of the exchange, including, but not limited to, the
9 state agency that administers Title XIX of the Social Security Act,
10 the state agency that administers Title XXI of the Social Security
11 Act, and other relevant agencies; and

12 (4) Unless the federal act is repealed or is held to be
13 unconstitutional or otherwise invalid or unlawful, on or before
14 January 1, 2014, the functions and operations of the exchange shall
15 include at a minimum all functions required by section 1311(d)(4) of
16 the federal Affordable Care Act and perform duties required of the
17 exchange by the secretary related to exchange coverage.

18 Sec. 7. (1) The exchange shall operate subject to the
19 supervision and control of a governing board. The powers conferred
20 upon the board by the Nebraska Health Benefit Exchange Act and the
21 carrying out of its purposes and duties shall be considered to be
22 essential governmental functions and for a public purpose. For
23 administrative and budgetary purposes only, the board shall be housed
24 within the Department of Insurance.

25 (2)(a) The board shall be composed of eleven members.

1 (b) Eight members shall be appointed by the Governor in
2 the following manner:

3 (i) Three members who are health care consumer advocates,
4 one from each congressional district, to represent the interest of
5 individual consumers who will access health insurance in the
6 exchange. These members shall be appointed from a list of at least
7 five individuals from each congressional district submitted to the
8 Governor by the Executive Board of the Legislative Council;

9 (ii) One member to represent the interests of small
10 businesses who are qualified to purchase health insurance in the
11 exchange. This member shall be appointed from a list of at least five
12 individuals submitted to the Governor by the executive board;

13 (iii) Two members to represent the interests of health
14 care providers in the state. These members shall be appointed from a
15 list of at least ten individuals submitted to the Governor by the
16 Health and Human Services Committee of the Legislature;

17 (iv) One member to represent the interests of health
18 insurance carriers who are eligible to offer health insurance in the
19 exchange. This member shall be appointed from a list of at least five
20 individuals submitted to the Governor by the Banking, Commerce, and
21 Insurance Committee of the Legislature; and

22 (v) One member to represent the interests of health
23 insurance agents. This member shall not be a captive agent of any
24 health insurance carrier. This member shall be appointed from a list
25 of at least five individuals submitted to the Governor by the

1 Banking, Commerce, and Insurance Committee of the Legislature.

2 (c) The following state employees shall be nonvoting, ex
3 officio members:

4 (i) The Director of Insurance or his or her designee;

5 (ii) The Director of Medicaid and Long-Term Care or his
6 or her designee; and

7 (iii) The Director of Children and Family Services or his
8 or her designee.

9 (3) The initial lists submitted by the executive board
10 and the committees of the Legislature shall be submitted to the
11 Governor by June 1, 2012. The Governor shall make the initial
12 appointments by July 1, 2012.

13 (4) The appointed members of the board shall serve for
14 terms of four years, except that, of the members first appointed the
15 Governor shall designate:

16 (a) One of the members representing the interests of
17 health care providers in the state to serve a term of three years and
18 the other to serve a term of two years;

19 (b) The member representing the interests of health
20 insurance carriers to serve a term of two years; and

21 (c) The member representing the interests of health
22 insurance agents to serve a term of three years.

23 (5) A member may be reappointed at the expiration of his
24 or her term.

25 All succeeding appointments to the board shall be made in

1 the same manner as the original appointments are made and succeeding
2 appointees shall have the same qualifications as their predecessors.

3 (6) An individual appointed to fill a vacancy, occurring
4 other than by the expiration of a term of office, shall be appointed
5 for the unexpired term of the member such individual succeeds and
6 shall be eligible for appointment to subsequent full four-year terms
7 thereafter.

8 (7) All appointments whether initial or subsequent shall
9 be subject to the approval of a majority of the members of the
10 Legislature, if the Legislature is in session, and if the Legislature
11 is not in session, any appointment shall be temporary until the next
12 session of the Legislature, at which time a majority of the members
13 of the Legislature may approve or disapprove such appointment.

14 A member shall have his or her membership terminated if
15 he or she ceases to meet the qualification for his or her
16 appointment. A member may be removed from the board for good cause
17 upon written notice and upon an opportunity to be heard before the
18 Governor. After the hearing, the Governor shall file in the office of
19 the Secretary of State a complete statement of the charges and the
20 findings and disposition together with a complete record of the
21 proceedings.

22 Sec. 8. (1) The board shall organize by selecting a
23 chairperson, a vice-chairperson, and a secretary from among its
24 members who shall hold office at the pleasure of the board. The vice-
25 chairperson shall act as chairperson in the absence of the

1 chairperson or in the event of a vacancy in that position. The
2 secretary shall keep all records of meetings and actions taken by the
3 board.

4 (2) Five voting members of the board shall constitute a
5 quorum and the concurrence of five voting members of the board shall
6 be required for any action or recommendation of the board.

7 (3) A member shall not be liable for an act or omission
8 when acting in his or her official capacity, in good faith, without
9 intent to defraud, and in connection with the administration,
10 management, or conduct of the Nebraska Health Benefit Exchange Act.

11 (4) Members of the board shall be reimbursed for their
12 actual and necessary expenses as provided in sections 81-1174 to
13 81-1177.

14 Sec. 9. The board shall:

15 (1) Meet the requirements of the Nebraska Health Benefit
16 Exchange Act and all applicable state and federal laws, rules, and
17 regulations, serve the public interest of the individuals and small
18 businesses seeking health care coverage through the exchange, and
19 ensure the operational well-being and fiscal solvency of the
20 exchange;

21 (2) Hold regular meetings;

22 (3) Adopt bylaws, rules, and policies, including, but not
23 limited to, governance principles that include ethics, conflict of
24 interest standards, accountability and transparency standards, and
25 disclosure of financial interest requirements;

1 (4) Employ an executive director and such other staff as
2 are necessary to carry out its duties pursuant to the act. The
3 executive director shall serve at the pleasure of the board and shall
4 be solely responsible to it. The executive director shall be
5 responsible for the administrative operations of the exchange and
6 shall perform such other duties as may be delegated or assigned to
7 him or her by the board, except that the board shall not delegate
8 rule and regulation authority to the executive director;

9 (5) Obtain the services of experts and consultants as
10 necessary to carry out its duties pursuant to the act. Unless
11 prohibited by law, the Tax Commissioner, the Auditor of Public
12 Accounts, and the Attorney General shall make available to the board
13 such personnel, facilities, and other assistance as the board may
14 request;

15 (6) Create an initial operational and financial plan from
16 the implementation of the act through 2014 for the exchange;

17 (7) Implement procedures for disclosure of financial
18 interests and conflicts of interest by members of the board;

19 (8) Apply for planning and establishment grants made
20 available to the exchange pursuant to the federal act and apply for,
21 receive, and expend other gifts, grants, and donations. If an
22 executive director has not been hired when the secretary makes the
23 grants available, the Department of Insurance shall, upon request of
24 the board, submit the initial application for grants to the
25 secretary. If the majority of the board has not been appointed when

1 the secretary makes grants available, the department shall submit the
2 initial application for grants to the secretary. The board shall use
3 the funds awarded by the secretary for the planning and establishment
4 of the exchange consistent with subdivision (b) of section 1311 of
5 the federal act;

6 (9) Create technical and advisory groups as needed to
7 discuss issues related to the exchange and make recommendations to
8 the board;

9 (10) Leverage any usable information and systems from the
10 federal government, early innovator states, the private market, and
11 other relevant sources in order to become compliant with the federal
12 act;

13 (11) Work with the Department of Health and Human
14 Services to ensure that the exchange coordinates with medicaid, the
15 Children's Health Insurance Program, and any other applicable public
16 programs to create a single point of entry for users of the exchange
17 who are eligible for such programs and to promote continuity of
18 coverage and care;

19 (12) Work with the board of directors of the
20 Comprehensive Health Insurance Pool to create a plan to transition
21 pool coverage recipients to qualified health plans within the
22 exchange no later than January 1, 2014; and

23 (13) Provide a written report on or before December 1,
24 2012, to the Governor and the Legislature concerning the planning,
25 establishment, and operations of the exchange. The report shall

1 include recommendations:

2 (a) To ensure that the exchange is financially
3 sustainable by 2015 as required by the federal act unless the federal
4 act is repealed or is held to be unconstitutional or otherwise
5 invalid or unlawful;

6 (b) To reduce the negative impact of adverse selection on
7 the sustainability of the exchange, including, but not limited to,
8 recommendations to ensure that regulation of health insurance
9 carriers and health benefit plans are similar for qualified health
10 plans offered through the exchange and health benefit plans offered
11 outside the exchange;

12 (c) Regarding the number or types of plans offered
13 through the exchange, ensuring qualified individuals and small
14 employers have an adequate number and selection of choices;

15 (d) To establish a navigator grant program that awards
16 grants to certain entities to market the exchange;

17 (e) To promote a seamless integration with the medicaid
18 program and for policies and procedures to ensure continuity of
19 coverage and continuity of care for consumers transitioning between
20 health insurance carriers, including between publicly funded coverage
21 and unsubsidized private coverage;

22 (f) To establish an appropriate payment or commission
23 structure for brokers and agents;

24 (g) To ensure the small business health benefit exchange
25 will meet the needs and provide value to small businesses; and

1 (h) For public relations and outreach campaigns.

2 The enumeration of specific powers in this section is not
3 intended to restrict the board's power to take any lawful action that
4 the board determines is necessary or convenient to carry out the
5 functions authorized by the federal act and consistent with the
6 intent of the Nebraska Health Benefit Exchange Act and purposes of
7 the exchange.

8 Sec. 10. (1) The Open Meetings Act applies to the board.

9 (2) Sections 81-145 to 81-162 do not apply to the
10 exchange.

11 Sec. 11. If any portion of the federal act or any
12 regulation or other guidance issued thereunder is legislatively or
13 judicially invalidated and rendered of no effect in this state, the
14 board shall immediately issue a legal opinion as to the effect of
15 such legislative or judicial action on the legal status of the
16 corresponding provisions of the Nebraska Health Benefit Exchange Act
17 and the federal act, regulation, or guidance. The board shall also
18 issue recommendations to the Legislature for amendments to the
19 Nebraska Health Benefit Exchange Act necessitated by such judicial or
20 legislative action.

21 Sec. 12. The board may adopt and promulgate rules and
22 regulations to implement the Nebraska Health Benefit Exchange Act.
23 The rules and regulations shall not conflict with or prevent the
24 application of regulations promulgated by the secretary under the
25 federal act.

1 Sec. 13. Nothing in the Nebraska Health Benefit Exchange
2 Act, and no action taken by the exchange pursuant to the act,
3 preempts or supersedes the authority of the Director of Insurance to
4 regulate the business of insurance within this state and, except as
5 expressly provided to the contrary in the act, all health insurance
6 carriers offering health benefit plans in this state shall comply
7 fully with all applicable health insurance laws of this state and
8 orders issued by the director.

9 Sec. 14. (1) The Nebraska Health Benefit Exchange Fund is
10 created. The fund shall be used for the operation of the exchange.
11 Any money in the fund available for investment shall be invested by
12 the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 (2) The following funds shall be paid into this fund:

15 (a) All funds from the federal government received and
16 dedicated to or otherwise able to be used for the purposes of the
17 Nebraska Health Benefit Exchange Act;

18 (b) Commencing with the premium and related retaliatory
19 taxes for the taxable year ending December 31, 2014, and for each
20 taxable year thereafter, any premium and related retaliatory taxes
21 imposed by section 44-150 or 77-908 paid by insurers for writing
22 health insurance in this state;

23 (c) All other payments, gifts, grants, bequests, or
24 income from any source;

25 (d) Assessments or user fees to health insurance

1 carriers; and

2 (e) Appropriations by the Legislature.

3 (3) Any unexpended balance remaining in the fund at the
4 close of the biennium shall be reappropriated for the ensuing year.

5 Sec. 15. Section 77-912, Revised Statutes Cumulative
6 Supplement, 2010, is amended to read:

7 77-912 The Director of Insurance shall transmit fifty
8 percent of the taxes paid in conformity with Chapter 44, article 1,
9 and Chapter 77, article 9, to the State Treasurer, forty percent of
10 such taxes paid to the General Fund, and ten percent of such taxes
11 paid to the Mutual Finance Assistance Fund promptly upon completion
12 of his or her audit and examination and in no event later than May 1
13 of each year, except that:

14 (1) All fire insurance taxes paid pursuant to sections
15 44-150 and 81-523 shall be remitted to the State Treasurer for credit
16 to the General Fund;

17 (2) All workers' compensation insurance taxes paid
18 pursuant to section 44-150 shall be remitted to the State Treasurer
19 for credit to the Compensation Court Cash Fund; ~~and~~

20 (3) Commencing with the premium and related retaliatory
21 taxes for the taxable year ending December 31, 2001, and for each
22 taxable year thereafter through December 31, 2013, all premium and
23 related retaliatory taxes imposed by section 44-150 or 77-908 paid by
24 insurers writing health insurance in this state shall be remitted to
25 the Comprehensive Health Insurance Pool Distributive Fund; and -

1 (4) Commencing with the premium and related retaliatory
2 taxes for the taxable year ending December 31, 2014, and for each
3 taxable year thereafter, all premium and related retaliatory taxes
4 imposed by section 44-150 or 77-908 paid by insurers writing health
5 insurance in this state shall be remitted to the Nebraska Health
6 Benefit Exchange Fund.

7 Sec. 16. Section 81-1316, Revised Statutes Supplement,
8 2011, is amended to read:

9 81-1316 (1) All agencies and personnel of state
10 government shall be covered by sections 81-1301 to 81-1319 and shall
11 be considered subject to the State Personnel System, except the
12 following:

13 (a) All personnel of the office of the Governor;

14 (b) All personnel of the office of the Lieutenant
15 Governor;

16 (c) All personnel of the office of the Secretary of
17 State;

18 (d) All personnel of the office of the State Treasurer;

19 (e) All personnel of the office of the Attorney General;

20 (f) All personnel of the office of the Auditor of Public
21 Accounts;

22 (g) All personnel of the Legislature;

23 (h) All personnel of the court systems;

24 (i) All personnel of the Board of Educational Lands and
25 Funds;

- 1 (j) All personnel of the Public Service Commission;
- 2 (k) All personnel of the Nebraska Brand Committee;
- 3 (l) All personnel of the Commission of Industrial
4 Relations;
- 5 (m) All personnel of the State Department of Education;
- 6 (n) All personnel of the Nebraska state colleges and the
7 Board of Trustees of the Nebraska State Colleges;
- 8 (o) All personnel of the University of Nebraska;
- 9 (p) All personnel of the Coordinating Commission for
10 Postsecondary Education;
- 11 (q) All personnel of the Governor's Policy Research
12 Office, but not to include personnel within the State Energy Office;
- 13 (r) All personnel of the Commission on Public Advocacy;
- 14 (s) All agency heads;
- 15 (t)(i) The Director of Behavioral Health of the Division
16 of Behavioral Health; (ii) the Director of Children and Family
17 Services of the Division of Children and Family Services; (iii) the
18 Director of Developmental Disabilities of the Division of
19 Developmental Disabilities; (iv) the Director of Medicaid and Long-
20 Term Care of the Division of Medicaid and Long-Term Care; (v) the
21 Director of Public Health of the Division of Public Health; and (vi)
22 the Director of Veterans' Homes of the Division of Veterans' Homes;
- 23 (u) The chief medical officer established under section
24 81-3115, the Administrator of the Office of Juvenile Services, and
25 the chief executive officers of the Beatrice State Developmental

1 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings
2 Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home,
3 Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home,
4 Youth Rehabilitation and Treatment Center-Kearney, and Youth
5 Rehabilitation and Treatment Center-Geneva;

6 (v) The chief executive officers of all facilities
7 operated by the Department of Correctional Services and the medical
8 director for the department appointed pursuant to section 83-4,156;

9 (w) All personnel employed as pharmacists, physicians,
10 psychiatrists, or psychologists by the Department of Correctional
11 Services;

12 (x) All personnel employed as pharmacists, physicians,
13 psychiatrists, psychologists, service area administrators, or
14 facility operating officers of the Department of Health and Human
15 Services;

16 (y) Deputies and examiners of the Department of Banking
17 and Finance and the Department of Insurance as set forth in sections
18 8-105 and 44-119, except for those deputies and examiners who remain
19 in the State Personnel System; ~~and~~

20 (z) All personnel of the Tax Equalization and Review
21 Commission; and -

22 (aa) All personnel of the Nebraska health benefit
23 exchange established pursuant to section 5 of this act.

24 (2) At each agency head's discretion, up to the following
25 number of additional positions may be exempted from the State

1 Personnel System, based on the following agency size categories:

2	Number of Agency	Number of Noncovered
3	Employees	Positions
4	less than 25	0
5	25 to 100	1
6	101 to 250	2
7	251 to 500	3
8	501 to 1000	4
9	1001 to 2000	5
10	2001 to 3000	8
11	3001 to 4000	11
12	4001 to 5000	14
13	over 5000	50

14 The purpose of having such noncovered positions shall be
 15 to allow agency heads the opportunity to recruit, hire, and supervise
 16 critical, confidential, or policymaking personnel without
 17 restrictions from selection procedures, compensation rules, career
 18 protections, and grievance privileges. Persons holding the noncovered
 19 positions shall serve at the pleasure of the agency head and shall be
 20 paid salaries set by the agency head. An agency with over five
 21 thousand employees shall provide notice in writing to the Health and
 22 Human Services Committee of the Legislature when forty noncovered
 23 positions have been filled by the agency head pursuant to this

1 subsection.

2 (3) No changes to this section or to the number of
3 noncovered positions within an agency shall affect the status of
4 personnel employed on the date the changes become operative without
5 their prior written agreement. A state employee's career protections
6 or coverage by personnel rules and regulations shall not be revoked
7 by redesignation of the employee's position as a noncovered position
8 without the prior written agreement of such employee.

9 Sec. 17. Original section 77-912, Revised Statutes
10 Cumulative Supplement, 2010, and section 81-1316, Revised Statutes
11 Supplement, 2011, are repealed.

12 Sec. 18. Since an emergency exists, this act takes effect
13 when passed and approved according to law.