

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 73**  
Final Reading

Introduced by Pahls, 31.

Read first time January 06, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-4217, 44-4219,  
2 44-4220.02, 44-4223, 44-4224, 44-4225, and 77-918,  
3 Reissue Revised Statutes of Nebraska; to provide for a  
4 pool administrator under the Comprehensive Health  
5 Insurance Pool Act; to delete obsolete language; to  
6 harmonize provisions; to repeal the original sections;  
7 and to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 44-4217, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   44-4217 ~~The members shall select the board as it is~~  
4 ~~composed prior to January 1, 2001, except the representative of the~~  
5 ~~general public and the representative of the health agency who shall~~  
6 ~~be appointed by the director. The director shall select the board, as~~  
7 ~~it is composed on and after January 1, 2001. The board shall select~~  
8 ~~one or more insurers to serve as administering insurer a pool~~  
9 ~~administrator pursuant to section 44-4223. The selection of the board~~  
10 ~~as it is composed prior to January 1, 2001, and the selection of the~~  
11 ~~administering insurer by the board prior to January 1, 2001, or after~~  
12 ~~December 31, 2000, shall be subject to the approval of the director.~~

13                   Sec. 2. Section 44-4219, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15                   44-4219 In its plan of operation, the board shall:

16                   (1) Establish procedures for the handling and accounting  
17 of assets and funds of the pool;

18                   (2) ~~Select an administering insurer a pool administrator~~  
19 in accordance with section 44-4223;

20                   (3) Establish procedures for the selection, replacement,  
21 term of office, and qualifications of the directors of the board and  
22 rules of procedures for the operation of the board; and

23                   (4) Develop and implement a program to publicize the  
24 existence of the pool, the eligibility requirements, and the  
25 procedures for enrollment and to maintain public awareness of the

1 pool.

2           Sec. 3. Section 44-4220.02, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-4220.02 (1)(a) In addition to the requirements of  
5 section 44-4220.01, following the close of each calendar year, the  
6 board shall conduct a review of health care provider reimbursement  
7 rates for benefits payable under pool coverage for covered services.  
8 The board shall report to the director the results of the review  
9 within thirty days after the completion of the review.

10           (b) The review required by this section shall include a  
11 determination of whether (i) health care provider reimbursement rates  
12 for benefits payable under pool coverage for covered services are in  
13 excess of reasonable amounts and (ii) cost savings in the operation  
14 of the pool could be achieved by establishing the level of health  
15 care provider reimbursement rates for benefits payable under pool  
16 coverage for covered services as a multiplier of an objective  
17 standard.

18           (c) In the determination pursuant to subdivision (1)(b)  
19 (i) of this section, the board shall consider:

20           (i) The success of any efforts by the ~~administering~~  
21 ~~insurer-pool administrator~~ to negotiate reduced health care provider  
22 reimbursement rates for benefits payable under pool coverage for  
23 covered services on a voluntary basis;

24           (ii) The effect of health care provider reimbursement  
25 rates for benefits payable under pool coverage for covered services

1 on the number and geographic distribution of health care providers  
2 providing covered services to covered individuals;

3 (iii) The administrative cost of implementing a level of  
4 health care provider reimbursement rates for benefits payable under  
5 pool coverage for covered services; and

6 (iv) A filing by the ~~administering insurer pool~~  
7 administrator which shows the difference, if any, between the  
8 aggregate amounts set for health care provider reimbursement rates  
9 for benefits payable under pool coverage for covered services by  
10 existing contracts between the ~~administering insurer pool~~  
11 administrator and health care providers and the amounts generally  
12 charged to reimburse health care providers prevailing in the  
13 commercial market. No such filing shall require the ~~administering~~  
14 ~~insurer pool administrator~~ to disclose proprietary information  
15 regarding health care provider reimbursement rates for specific  
16 covered services under pool coverage.

17 (d) If the board determines that cost savings in the  
18 operation of the pool could be achieved, the board shall set forth  
19 specific findings supporting the determination and may establish the  
20 level of health care provider reimbursement rates for benefits  
21 payable under pool coverage for covered services as a multiplier of  
22 an objective standard.

23 (2) A health care provider who provides covered services  
24 to a covered individual under pool coverage and requests payment is  
25 deemed to have agreed to reimbursement according to the health care

1 provider reimbursement rates for benefits payable under pool coverage  
2 for covered services established pursuant to this section. Any  
3 reimbursement paid to a health care provider for providing covered  
4 services to a covered person under pool coverage is limited to the  
5 lesser of billed charges or the health care provider reimbursement  
6 rates for benefits payable under pool coverage for covered services  
7 established pursuant to this section. A health care provider shall  
8 not collect or attempt to collect from a covered individual any money  
9 owed to the health care provider by the pool. A health care provider  
10 shall not have any recourse against a covered individual for any  
11 covered services under pool coverage in excess of the copayment,  
12 coinsurance, or deductible amounts specified in the pool coverage.

13 (3) Nothing in this section shall prohibit a health care  
14 provider from billing a covered individual under pool coverage for  
15 services which are not covered services under pool coverage.

16 Sec. 4. Section 44-4223, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 44-4223 (1) The board shall select ~~an insurer or insurers~~  
19 a pool administrator through a competitive bidding process to  
20 administer the pool. The pool administrator may be an insurer or a  
21 third-party administrator authorized to transact business in this  
22 state. The board shall evaluate bids submitted on the basis of  
23 criteria established by the board which shall include:

24 (a) The ~~insurer's~~ applicant's proven ability to handle  
25 individual sickness and accident insurance;

1           (b) The efficiency of the ~~insurer's~~ applicant's claim-  
2 paying procedures;

3           (c) The ~~insurer's~~ applicant's estimate of total charges  
4 for administering the pool; ~~and~~

5           (d) The ~~insurer's~~ applicant's ability to administer the  
6 pool in a cost-effective manner; ~~and -~~

7           (e) The applicant's ability to negotiate reduced health  
8 care provider reimbursement rates for benefits payable under pool  
9 coverage for covered services.

10           (2) The ~~administering insurer pool administrator~~ shall  
11 serve for a period of three years subject to removal for cause. At  
12 least one year prior to the expiration of each three-year period of  
13 service by ~~an administering insurer, a pool administrator,~~ the board  
14 shall invite all insurers and third-party administrators authorized  
15 to transact business in this state, including the current  
16 ~~administering insurer, pool administrator,~~ to submit bids to serve as  
17 the ~~administering insurer pool administrator~~ for the succeeding  
18 three-year period. Selection of the ~~administering insurer pool~~  
19 administrator for the succeeding period shall be made at least six  
20 months prior to the end of the current three-year period.

21           Sec. 5. Section 44-4224, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           44-4224 The ~~administering insurer pool administrator~~  
24 shall:

25           (1) Perform all eligibility verification functions

1 relating to the pool;

2 (2) Establish a premium billing procedure for collection  
3 of premiums from covered individuals on a periodic basis as  
4 determined by the board;

5 (3) Perform all necessary functions to assure timely  
6 payment of benefits to covered individuals, including:

7 (a) Making available information relating to the proper  
8 manner of submitting a claim for benefits to the pool and  
9 distributing forms upon which submission shall be made; and

10 (b) Evaluating the eligibility of each claim for payment  
11 by the pool;

12 (4) Submit regular reports to the board regarding the  
13 operation of the pool. The frequency, content, and form of the  
14 reports shall be determined by the board;

15 (5) Following the close of each calendar year, report  
16 such income and expense items as directed by the board to the board  
17 and the department on a form prescribed by the director; and

18 (6) Be paid as provided in the plan of operation for its  
19 expenses incurred in the performance of its services to the pool.

20 Sec. 6. Section 44-4225, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 44-4225 (1) Following the close of each calendar year,  
23 the board shall report the board's determination of the paid and  
24 incurred losses for the year, taking into account investment income  
25 and other appropriate gains and losses. The board shall distribute

1 copies of the report to the director, the Governor, and each member  
2 of the Legislature.

3           (2) The Comprehensive Health Insurance Pool Distributive  
4 Fund is created. Commencing with the premium and related retaliatory  
5 taxes for the taxable year ending December 31, 2001, and for each  
6 taxable year thereafter, any premium and related retaliatory taxes  
7 imposed by section 44-150 or 77-908 paid by insurers writing health  
8 insurance in this state, except as otherwise set forth in  
9 subdivisions (1) and (2) of section 77-912, shall be remitted to the  
10 State Treasurer for credit to the fund. The fund shall be used for  
11 the operation of and payment of claims made against the pool. Any  
12 money in the fund available for investment shall be invested by the  
13 state investment officer pursuant to the Nebraska Capital Expansion  
14 Act and the Nebraska State Funds Investment Act. ~~Funds held by the~~  
15 ~~administering insurer as of December 31, 2000, shall be carried~~  
16 ~~forward by the administering insurer for payment of claims, costs of~~  
17 ~~operation, and any remaining refunds.~~

18           (3) The board shall make periodic estimates of the amount  
19 needed from the fund for payment of losses resulting from claims,  
20 including a reasonable reserve, and administrative, organizational,  
21 and interim operating expenses and shall notify the director of the  
22 amount needed and the justification of the board for the request.

23           (4) The director shall approve all withdrawals from the  
24 fund and may determine when and in what amount any additional  
25 withdrawals may be necessary from the fund to assure the continuing



1 financial stability of the pool.

2 (5) No later than May 1, 2002, and each May 1 thereafter,  
3 after funding of the net loss from operation of the pool for the  
4 prior premium and related retaliatory tax year, taking into account  
5 the policyholder premiums, account investment income, claims, costs  
6 of operation, and other appropriate gains and losses, the director  
7 shall transmit any money remaining in the fund as directed by section  
8 77-912, disregarding the provisions of subdivisions (1) through (3)  
9 of such section. Interest earned on money in the fund shall be  
10 credited proportionately in the same manner as premium and related  
11 retaliatory taxes set forth in section 77-912.

12 ~~(6) By June 30, 2001, the State Treasurer shall transfer~~  
13 ~~three million one hundred sixty five thousand two hundred sixty five~~  
14 ~~dollars from the Department of Insurance Cash Fund to the General~~  
15 ~~Fund.~~

16 Sec. 7. Section 77-918, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 77-918 Insurers transacting insurance in this state whose  
19 annual tax for the preceding taxable year was four thousand dollars  
20 or more shall make prepayments of the annual taxes imposed pursuant  
21 to Chapter 77, article 9, and related retaliatory taxes imposed  
22 pursuant to Chapter 44, article 1.

23 Each insurer required to make prepayments shall remit  
24 such prepayments on or before April 15, June 15, and September 15 of  
25 the current taxable year. Remittance for such prepayments shall be

1 accompanied by a prepayment form prescribed by the director.

2           The amount of each such prepayment shall be at least one-  
3 fourth of either (1) the total tax paid for the immediately preceding  
4 taxable year or (2) eighty percent of the actual tax due for the  
5 current taxable year. ~~For the taxable year ending December 31, 2001,~~  
6 ~~total tax paid for the immediately preceding taxable year means tax~~  
7 ~~payable prior to any offsets taken under subsection (1) of section~~  
8 ~~44-4233.~~

9           The director, for good cause shown, may extend for not  
10 more than ten days the time for making a prepayment. The extension  
11 may be granted at any time if a request for such extension is filed  
12 with the director within or prior to the period for which the  
13 extension may be granted. Insurers who fail to pay any premium or  
14 retaliatory tax, including prepayments, when due shall pay interest  
15 at the rate prescribed by section 45-104.02, as such rate may from  
16 time to time be adjusted, until such tax is paid. Any insurer who  
17 fails to make the prepayments within the prescribed time period or to  
18 obtain an extension shall be subject to the penalties prescribed in  
19 section 77-911.

20           The director shall immediately deposit one-half of the  
21 prepayments received in the Premium and Retaliatory Tax Suspense  
22 Fund, which fund is hereby created, and one-half of the prepayments  
23 received in the General Fund. Commencing with the premium and related  
24 retaliatory taxes for the taxable year ending December 31, 2001, and  
25 for each taxable year thereafter, the director shall determine the

1 amount of the premium and related retaliatory taxes imposed by  
2 section 44-150 or 77-908 paid by insurers writing health insurance in  
3 this state, except as otherwise set forth in subdivisions (1) and (2)  
4 of section 77-912, and such amount shall be credited to the  
5 Comprehensive Health Insurance Pool Distributive Fund. Except as  
6 provided in ~~subsections (5) and (6)~~ subsection (5) of section  
7 44-4225, on May 1 of each year the director shall transfer all of the  
8 interest earned in the Premium and Retaliatory Tax Suspense Fund on  
9 the immediately preceding year's prepayments to the General Fund and  
10 transfer the balance of the preceding year's prepayments deposited in  
11 the Premium and Retaliatory Tax Suspense Fund to the Insurance Tax  
12 Fund. Any money in the Premium and Retaliatory Tax Suspense Fund  
13 available for investment shall be invested by the state investment  
14 officer pursuant to the Nebraska Capital Expansion Act and the  
15 Nebraska State Funds Investment Act.

16           Sec. 8. Original sections 44-4217, 44-4219, 44-4220.02,  
17 44-4223, 44-4224, 44-4225, and 77-918, Reissue Revised Statutes of  
18 Nebraska, are repealed.

19           Sec. 9. Since an emergency exists, this act takes effect  
20 when passed and approved according to law.