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1 A bill to be entitled
 2 An act relating to the state group insurance program;
 3 amending s. 110.123, F.S.; providing application of
 4 definitions; revising definitions; repealing legislative
 5 intent; revising duties of the Department of Management
 6 Services; providing state contribution toward cost of
 7 health insurance plans in the state group insurance
 8 program; revising authorized benefits; directing the
 9 department to contract with certain number of HMOs under
 10 certain circumstances; providing certain data must be
 11 reported to the department by HMOs under specified
 12 circumstances; providing for specified benefit levels for
 13 specified plan years; providing for repeal of certain
 14 duties of the department at a specified time; repealing
 15 the Florida State Employees Wellness Council; amending s.
 16 110.12302, F.S.; requiring the department to contract with
 17 HMOs with a self-insurance plan design for specified plan
 18 years; creating s. 110.12303, F.S.; directing the
 19 department to contract with an independent benefits
 20 manager; providing vendor qualifications; providing duties
 21 of the independent benefits manger; providing contract
 22 management duties for the department; providing duties of
 23 the department for the state group insurance program;
 24 creating s. 110.12304, F.S.; providing state and employee
 25 contributions toward health plan premium costs for a
 26 specified plan year; creating s. 110.12305, F.S.;
 27 providing that the department shall establish a single
 28 health insurance risk pool for specified plan years;

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29 providing the department shall contract with multiple HMOs
 30 under specified circumstances; providing an effective
 31 date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Section 110.123, Florida Statutes, is amended
 36 to read:

37 110.123 State group insurance program.—

38 (1) TITLE.—Sections 110.123 - 110.1239 ~~This section~~ may
 39 be cited as the "State Group Insurance Program Law."

40 (2) DEFINITIONS.—As used in sections 110.123 - 110.1239
 41 ~~this section~~, the term:

42 (a) "Department" means the Department of Management
 43 Services.

44 (b) "Enrollee" means all state officers and employees,
 45 retired state officers and employees, surviving spouses of
 46 deceased state officers and employees, and terminated employees
 47 or individuals with continuation coverage who are enrolled in an
 48 insurance plan offered by the state group insurance program.

49 "Enrollee" includes all state university officers and employees,
 50 retired state university officers and employees, surviving
 51 spouses of deceased state university officers and employees, and
 52 terminated state university employees or individuals with
 53 continuation coverage who are enrolled in an insurance plan
 54 offered by the state group insurance program.

55 (c) "Full-time state employees" includes all full-time
 56 employees of all branches or agencies of state government

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57 holding salaried positions and paid by state warrant or from
 58 agency funds, and employees paid from regular salary
 59 appropriations for 8 months' employment, including university
 60 personnel on academic contracts, but in no case shall "state
 61 employee" or "salaried position" include persons paid from
 62 other-personal-services (OPS) funds. "Full-time employees"
 63 includes all full-time employees of the state universities.

64 (d) "Health maintenance organization" or "HMO" means an
 65 entity certified under part I of chapter 641.

66 (e) "Health plan member" means any person participating in
 67 a state group health insurance plan, ~~a TRICARE supplemental~~
 68 ~~insurance plan,~~ or a health maintenance organization plan under
 69 the state group insurance program, including enrollees and
 70 covered dependents thereof.

71 (f) "Part-time state employee" means any employee of any
 72 branch or agency of state government paid by state warrant from
 73 salary appropriations or from agency funds, and who is employed
 74 for less than the normal full-time workweek established by the
 75 department or, if on academic contract or seasonal or other type
 76 of employment which is less than year-round, is employed for
 77 less than 8 months during any 12-month period, but in no case
 78 shall "part-time" employee include a person paid from other-
 79 personal-services (OPS) funds. "Part-time state employee"
 80 includes any part-time employee of the state universities.

81 (g) "Plan year" means a calendar year.

82 (h) "Retired state officer or employee" or "retiree" means
 83 any state or state university officer or employee who retires
 84 under a state retirement system or a state optional annuity or

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85 retirement program or is placed on disability retirement, and
 86 who was insured under the state group insurance program at the
 87 time of retirement, and who begins receiving retirement benefits
 88 immediately after retirement from state or state university
 89 office or employment. In addition to these requirements, any
 90 state officer or state employee who retires under the Public
 91 Employee Optional Retirement Program established under part II
 92 of chapter 121 shall be considered a "retired state officer or
 93 employee" or "retiree" as used in this section if he or she:

94 1. Meets the age and service requirements to qualify for
 95 normal retirement as set forth in s. 121.021(29); or

96 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
 97 the Internal Revenue Code and has 6 years of creditable service.

98 (i) ~~(h)~~ "State agency" or "agency" means any branch,
 99 department, or agency of state government. "State agency" or
 100 "agency" includes any state university for purposes of this
 101 section only.

102 (j) ~~(i)~~ "State group health insurance plan or plans" or
 103 "state plan or plans" mean the state self-insured health
 104 insurance plan or plans, including self-insured health
 105 maintenance organization plans, offered to state officers and
 106 employees, retired state officers and employees, and surviving
 107 spouses of deceased state officers and employees pursuant to
 108 this section.

109 ~~(j) "State contracted HMO" means any health maintenance~~
 110 ~~organization under contract with the department to participate~~
 111 ~~in the state group insurance program.~~

112 (k) "State group insurance program" or "programs" means

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113 the package of insurance plans offered to state officers and
 114 employees, retired state officers and employees, and surviving
 115 spouses of deceased state officers and employees pursuant to
 116 this section, including the state group health insurance plan or
 117 plans, health maintenance organization plans, ~~TRICARE~~
 118 ~~supplemental insurance plans,~~ and other plans required or
 119 authorized by law.

120 (l) "State officer" means any constitutional state
 121 officer, any elected state officer paid by state warrant, or any
 122 appointed state officer who is commissioned by the Governor and
 123 who is paid by state warrant.

124 (m) "Surviving spouse" means the widow or widower of a
 125 deceased state officer, full-time state employee, part-time
 126 state employee, or retiree if such widow or widower was covered
 127 as a dependent under the state group health insurance plan,~~a~~
 128 ~~TRICARE supplemental insurance plan,~~ or a health maintenance
 129 organization plan established pursuant to this section at the
 130 time of the death of the deceased officer, employee, or retiree.
 131 "Surviving spouse" also means any widow or widower who is
 132 receiving or eligible to receive a monthly state warrant from a
 133 state retirement system as the beneficiary of a state officer,
 134 full-time state employee, or retiree who died prior to July 1,
 135 1979. For the purposes of this section, any such widow or
 136 widower shall cease to be a surviving spouse upon his or her
 137 remarriage.

138 ~~(n) "TRICARE supplemental insurance plan" means the~~
 139 ~~Department of Defense Health Insurance Program for eligible~~
 140 ~~members of the uniformed services authorized by 10 U.S.C. s.~~

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141 | ~~1097.~~

142 | (3) STATE GROUP INSURANCE PROGRAM.—

143 | ~~(a) The Division of State Group Insurance is created~~

144 | ~~within the Department of Management Services.~~

145 | ~~(a)(b) It is the intent of the Legislature to offer a~~

146 | ~~comprehensive package of health insurance and retirement~~

147 | ~~benefits and a personnel system for state employees which are~~

148 | ~~provided in a cost-efficient and prudent manner, and to allow~~

149 | ~~state employees the option to choose benefit plans which best~~

150 | ~~suit their individual needs. Therefore, The state group~~

151 | insurance program is established which may include the state

152 | group health insurance plan or plans, health maintenance

153 | organization plans, group life insurance plans, TRICARE

154 | ~~supplemental insurance plans, group accidental death and~~

155 | ~~dismemberment plans, and group disability insurance plans,~~

156 | ~~Furthermore, the department is additionally authorized to~~

157 | ~~establish and provide as part of the state group insurance~~

158 | ~~program any and~~ and other group insurance plans or coverage choices

159 | ~~that are consistent with the provisions of this section.~~

160 | ~~(b) (c) Notwithstanding any provision in this section to~~

161 | ~~the contrary, it is the intent of the Legislature that The~~

162 | department shall be responsible for specific duties related to

163 | the state group insurance program. ~~all aspects of the purchase~~

164 | ~~of health care for state employees under the state group health~~

165 | ~~insurance plan or plans, TRICARE supplemental insurance plans,~~

166 | ~~and the health maintenance organization plans. Responsibilities~~

167 | shall include the competitive procurement of such contracts as

168 | may be necessary to implement the state group insurance

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169 ~~program., but not be limited to, the development of requests for~~
 170 ~~proposals or invitations to negotiate for state employee health~~
 171 ~~services, the determination of health care benefits to be~~
 172 ~~provided, and the negotiation of contracts for health care and~~
 173 ~~health care administrative services. Prior to the negotiation of~~
 174 ~~contracts for health care services, the Legislature intends that~~
 175 ~~the department shall develop, with respect to state collective~~
 176 ~~bargaining issues, the health benefits and terms to be included~~
 177 ~~in the state group health insurance program. The department~~
 178 ~~shall adopt rules necessary to perform its responsibilities~~
 179 ~~pursuant to this section. It is the intent of the Legislature~~
 180 ~~that~~ The department shall be responsible for the contract
 181 management and ~~day-to-day management of the state employee~~
 182 ~~health insurance program, including, but not limited to,~~
 183 employee enrollment, premium collection, payment to health care
 184 providers, and other administrative functions described in s.
 185 110.12303(6) ~~related to the program.~~

186 (c) ~~(d)~~1. ~~Notwithstanding the provisions of chapter 287~~
 187 ~~and the authority of the department, for the purpose of~~
 188 ~~protecting the health of, and providing medical services to,~~
 189 ~~state employees participating in the state group insurance~~
 190 ~~program, the department may contract to retain the services of~~
 191 ~~professional administrators for the state group insurance~~
 192 ~~program. The agency shall follow good purchasing practices of~~
 193 ~~state procurement to the extent practicable under the~~
 194 ~~circumstances.~~

195 1. ~~2.~~ Each vendor in a major procurement, and any other
 196 vendor if the department deems it necessary to protect the

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197 | state's financial interests, shall, at the time of executing any
 198 | contract with the department, post an appropriate bond with the
 199 | department in an amount determined by the department to be
 200 | adequate to protect the state's interests but not higher than
 201 | the full amount estimated to be paid annually to the vendor
 202 | under the contract.

203 | 2. ~~3.~~ Each major contract entered into by the department
 204 | pursuant to this section shall contain a provision for payment
 205 | of liquidated damages to the department for material
 206 | noncompliance by a vendor with a contract provision. The
 207 | department may require a liquidated damages provision in any
 208 | contract if the department deems it necessary to protect the
 209 | state's financial interests.

210 | 3. ~~4.~~ The provisions of s. 120.57(3) apply to the
 211 | department's contracting process, except:

212 | a. A formal written protest of any decision, intended
 213 | decision, or other action subject to protest shall be filed
 214 | within 72 hours after receipt of notice of the decision,
 215 | intended decision, or other action.

216 | b. As an alternative to any provision of s. 120.57(3), the
 217 | department may proceed with the bid selection or contract award
 218 | process if the director of the department sets forth, in
 219 | writing, particular facts and circumstances which demonstrate
 220 | the necessity of continuing the procurement process or the
 221 | contract award process in order to avoid a substantial
 222 | disruption to the provision of any scheduled insurance services.

223 | (d) ~~(e)~~ The Department of Management Services and the
 224 | Division of State Group Insurance may not prohibit or limit any

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225 properly licensed insurer, health maintenance organization,
 226 prepaid limited health services organization, or insurance agent
 227 from competing for any insurance product or plan purchased,
 228 provided, or endorsed by the department or the division on the
 229 basis of the compensation arrangement used by the insurer or
 230 organization for its agents.

231 (e) (f) 1. For plans years that begin prior to January 1,
 232 2013, Except as provided for in subparagraph (h)2., the state
 233 contribution toward the cost of any plan in the state group
 234 insurance program shall be uniform with respect to all state
 235 employees in a state collective bargaining unit participating in
 236 the same coverage tier in the same plan. This section does not
 237 prohibit the development of separate benefit plans for officers
 238 and employees exempt from the career service or the development
 239 of separate benefit plans for each collective bargaining unit.

240 2. For plan years that begin on or after January 1, 2013,
 241 the state contribution toward the cost of any health insurance
 242 plan in the state group insurance program shall be as provided
 243 in s. 110.12304. This section does not prohibit the development
 244 of separate benefit plans for officers and employees exempt from
 245 the career service or the development of separate benefit plans
 246 for each collective bargaining unit.

247 (f) (g) Participation by individuals in the program is
 248 available to all state officers, full-time state employees, and
 249 part-time state employees; and such participation in the program
 250 or any plan is voluntary. Participation in the program is also
 251 available to retired state officers and employees, as defined in
 252 paragraph (2) (g), who elect at the time of retirement to

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253 | continue coverage under the program, but they may elect to
 254 | continue all or only part of the coverage they had at the time
 255 | of retirement. A surviving spouse may elect to continue coverage
 256 | only under a state group health insurance plan, ~~a TRICARE~~
 257 | ~~supplemental insurance plan,~~ or a health maintenance
 258 | organization plan.

259 | (g) ~~(h)~~1. A person eligible to participate in the state
 260 | group insurance program may be authorized by rules adopted by
 261 | the department to select any benefits and coverage as may be
 262 | offered to qualified persons as authorized by the Legislature
 263 | and approved in accordance with applicable federal regulations.
 264 | ~~, in lieu of participating in the state group health insurance~~
 265 | ~~plan, to exercise an option to elect membership in a health~~
 266 | ~~maintenance organization plan which is under contract with the~~
 267 | ~~state in accordance with criteria established by this section~~
 268 | ~~and by said rules. The offer of optional membership in a health~~
 269 | ~~maintenance organization plan permitted by this paragraph may be~~
 270 | ~~limited or conditioned by rule as may be necessary to meet the~~
 271 | ~~requirements of state and federal laws.~~

272 | 2. For the plan years beginning in January 2012 and
 273 | January 2013, the department shall contract with health
 274 | maintenance organizations seeking to participate in the state
 275 | group insurance program through a competitive request for
 276 | ~~proposal or other~~ procurement process consistent with s.
 277 | 110.12302, ~~as developed by the Department of Management Services~~
 278 | ~~and determined to be appropriate.~~

279 | a. For the 2012 plan year, the department shall establish
 280 | a schedule of minimum benefits for health maintenance

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281 organization coverage, and that schedule shall include all
 282 services covered by participating health maintenance
 283 organizations in the 2011 plan year. For the 2013 plan year,
 284 subject to legislative approval, the department shall, in
 285 consultation with the health benefits manager, establish a
 286 schedule of minimum benefits for health maintenance organization
 287 coverage, and that schedule shall be consistent with the benefit
 288 levels described in paragraph (j). ~~: physician services;~~
 289 ~~inpatient and outpatient hospital services; emergency medical~~
 290 ~~services, including out-of-area emergency coverage; diagnostic~~
 291 ~~laboratory and diagnostic and therapeutic radiologic services;~~
 292 ~~mental health, alcohol, and chemical dependency treatment~~
 293 ~~services meeting the minimum requirements of state and federal~~
 294 ~~law; skilled nursing facilities and services; prescription~~
 295 ~~drugs; age-based and gender-based wellness benefits; and other~~
 296 ~~benefits as may be required by the department. Additional~~
 297 ~~services may be provided subject to the contract between the~~
 298 ~~department and the HMO. As used in this paragraph, the term~~
 299 ~~"age-based and gender-based wellness benefits" includes aerobic~~
 300 ~~exercise, education in alcohol and substance abuse prevention,~~
 301 ~~blood cholesterol screening, health risk appraisals, blood~~
 302 ~~pressure screening and education, nutrition education, program~~
 303 ~~planning, safety belt education, smoking cessation, stress~~
 304 ~~management, weight management, and women's health education.~~

305 b. For the plan year beginning January 2012, the department
 306 may establish uniform deductibles, copayments, coverage tiers,
 307 or coinsurance schedules for all participating HMO plans.

308 c. The department may require detailed information from

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309 each health maintenance organization participating in the
 310 procurement process, including information pertaining to
 311 organizational status, experience in providing prepaid health
 312 benefits, accessibility of services, financial stability of the
 313 plan, quality of management services, accreditation status,
 314 quality of medical services, network access and adequacy,
 315 performance measurement, ability to meet the department's
 316 reporting requirements, and the actuarial basis of the proposed
 317 rates and other data determined by the director to be necessary
 318 for the evaluation and selection of health maintenance
 319 organization plans and negotiation of appropriate rates for
 320 these plans. Upon receipt of proposals by health maintenance
 321 organization plans and the evaluation of those proposals, the
 322 department may negotiate ~~enter into negotiations~~ with all of the
 323 plans or a subset of the plans, as the department determines
 324 appropriate. ~~Nothing shall preclude~~ The department may negotiate
 325 ~~from negotiating~~ regional or statewide contracts with health
 326 maintenance organization plans ~~when this is cost-effective and~~
 327 ~~when the department determines that the plan offers high value~~
 328 ~~to enrollees.~~

329 d. The department may limit the number of HMOs that it
 330 contracts with in each service area based on the nature of the
 331 bids the department receives, the number of state employees in
 332 the service area, or any unique geographical characteristics of
 333 the service area. The department shall establish by rule service
 334 areas throughout the state. For the 2012 and 2013 plan years,
 335 the department shall contract in each defined service area with
 336 no fewer than the same number of HMOs as it contracted with at

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337 the beginning of the 2011 plan year.

338 e. All persons participating in the state group insurance
 339 program may be required to contribute towards a total state
 340 group health premium that may vary depending upon the plan and
 341 coverage tier selected by the enrollee and the level of state
 342 contribution authorized by the Legislature.

343 ~~3. The department is authorized to negotiate and to~~
 344 ~~contract with specialty psychiatric hospitals for mental health~~
 345 ~~benefits, on a regional basis, for alcohol, drug abuse, and~~
 346 ~~mental and nervous disorders. The department may establish,~~
 347 ~~subject to the approval of the Legislature pursuant to~~
 348 ~~subsection (5), any such regional plan upon completion of an~~
 349 ~~actuarial study to determine any impact on plan benefits and~~
 350 ~~premiums.~~

351 ~~4. In addition to contracting pursuant to subparagraph 2.,~~
 352 ~~the department may enter into contract with any HMO to~~
 353 ~~participate in the state group insurance program which:~~

354 ~~a. Serves greater than 5,000 recipients on a prepaid basis~~
 355 ~~under the Medicaid program;~~

356 ~~b. Does not currently meet the 25-percent non-~~
 357 ~~Medicare/non-Medicaid enrollment composition requirement~~
 358 ~~established by the Department of Health excluding participants~~
 359 ~~enrolled in the state group insurance program;~~

360 ~~c. Meets the minimum benefit package and copayments and~~
 361 ~~deductibles contained in sub-subparagraphs 2.a. and b.;~~

362 ~~d. Is willing to participate in the state group insurance~~
 363 ~~program at a cost of premiums that is not greater than 95~~
 364 ~~percent of the cost of HMO premiums accepted by the department~~

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365 ~~in each service area; and~~
 366 ~~— e. Meets the minimum surplus requirements of s. 641.225.~~
 367
 368 ~~The department is authorized to contract with HMOs that meet the~~
 369 ~~requirements of sub-subparagraphs a.-d. prior to the open~~
 370 ~~enrollment period for state employees. The department is not~~
 371 ~~required to renew the contract with the HMOs as set forth in~~
 372 ~~this paragraph more than twice. Thereafter, the HMOs shall be~~
 373 ~~eligible to participate in the state group insurance program~~
 374 ~~only through the request for proposal or invitation to negotiate~~
 375 ~~process described in subparagraph 2.~~
 376 3. ~~5.~~ All enrollees in a state group health insurance
 377 plan, ~~a TRICARE supplemental insurance plan,~~ or any health
 378 maintenance organization plan have the option of changing to any
 379 other health plan that is offered by the state within any open
 380 enrollment period designated by the department. Open enrollment
 381 shall be held at least once each calendar year.
 382 4. ~~6.~~ When a contract between a treating provider and the
 383 state-contracted health maintenance organization is terminated
 384 for any reason other than for cause, each party shall allow any
 385 enrollee for whom treatment was active to continue coverage and
 386 care when medically necessary, through completion of treatment
 387 of a condition for which the enrollee was receiving care at the
 388 time of the termination, until the enrollee selects another
 389 treating provider, or until the next open enrollment period
 390 offered, whichever is longer, but no longer than 6 months after
 391 termination of the contract. Each party to the terminated
 392 contract shall allow an enrollee who has initiated a course of

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393 prenatal care, regardless of the trimester in which care was
 394 initiated, to continue care and coverage until completion of
 395 postpartum care. This does not prevent a provider from refusing
 396 to continue to provide care to an enrollee who is abusive,
 397 noncompliant, or in arrears in payments for services provided.
 398 For care continued under this subparagraph, the program and the
 399 provider shall continue to be bound by the terms of the
 400 terminated contract. Changes made within 30 days before
 401 termination of a contract are effective only if agreed to by
 402 both parties.

403 5. 7. Any HMO participating in the state group insurance
 404 program shall submit health care utilization and cost data to
 405 the department, in such form and in such manner as the
 406 department shall require, as a condition of participating in the
 407 program. For any health maintenance organization that
 408 participated in the program prior to January 2012 and is
 409 selected to participate in the 2012 or 2013 plan years, health
 410 care utilization and cost data for at least the last contract
 411 period shall be submitted to the department before a contract is
 412 entered into for the 2012 or 2013 plan years. The department
 413 ~~shall enter into negotiations with its contracting HMOs to~~
 414 ~~determine the nature and scope of the data submission and the~~
 415 ~~final requirements, format, penalties associated with~~
 416 ~~noncompliance, and timetables for submission. These~~
 417 ~~determinations shall be adopted by rule.~~

418 8. The department may establish and direct, with respect
 419 to collective bargaining issues, a comprehensive package of
 420 insurance benefits that may include supplemental health and life

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421 coverage, dental care, long-term care, vision care, and other
 422 benefits it determines necessary to enable state employees to
 423 select from among benefit options that best suit their
 424 individual and family needs.

425 a. Based upon a desired benefit package, the department
 426 shall issue a request for proposal or invitation to negotiate
 427 for health insurance providers interested in participating in
 428 the state group insurance program, and the department shall
 429 issue a request for proposal or invitation to negotiate for
 430 insurance providers interested in participating in the non-
 431 health-related components of the state group insurance program.
 432 Upon receipt of all proposals, the department may enter into
 433 contract negotiations with insurance providers submitting bids
 434 or negotiate a specially designed benefit package. Insurance
 435 providers offering or providing supplemental coverage as of May
 436 30, 1991, which qualify for pretax benefit treatment pursuant to
 437 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
 438 state employees currently enrolled may be included by the
 439 department in the supplemental insurance benefit plan
 440 established by the department without participating in a request
 441 for proposal, submitting bids, negotiating contracts, or
 442 negotiating a specially designed benefit package. These
 443 contracts shall provide state employees with the most cost-
 444 effective and comprehensive coverage available; however, no
 445 state or agency funds shall be contributed toward the cost of
 446 any part of the premium of such supplemental benefit plans. With
 447 respect to dental coverage, the division shall include in any
 448 solicitation or contract for any state group dental program made

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449 after July 1, 2001, a comprehensive indemnity dental plan option
 450 which offers enrollees a completely unrestricted choice of
 451 dentists. If a dental plan is endorsed, or in some manner
 452 recognized as the preferred product, such plan shall include a
 453 comprehensive indemnity dental plan option which provides
 454 enrollees with a completely unrestricted choice of dentists.

455 b. Pursuant to the applicable provisions of s. 110.161,
 456 and s. 125 of the Internal Revenue Code of 1986, the department
 457 shall enroll in the pretax benefit program those state employees
 458 who voluntarily elect coverage in any of the supplemental
 459 insurance benefit plans as provided by sub-subparagraph a.

460 c. Nothing herein contained shall be construed to prohibit
 461 insurance providers from continuing to provide or offer
 462 supplemental benefit coverage to state employees as provided
 463 under existing agency plans.

464 (h) ~~(i)~~ The benefits of the insurance authorized by this
 465 section shall not be in lieu of any benefits payable under
 466 chapter 440, the Workers' Compensation Law. The insurance
 467 authorized by this law shall not be deemed to constitute
 468 insurance to secure workers' compensation benefits as required
 469 by chapter 440.

470 (i) ~~(j)~~ Notwithstanding the provisions of paragraph (e)
 471 ~~(f)~~ requiring uniform contributions, and for the 2011 -2012
 472 ~~2010-2011~~ fiscal year only, the state contribution toward the
 473 cost of any plan in the state group insurance plan shall be the
 474 difference between the overall premium and the employee
 475 contribution. This subsection expires June 30, 2012 ~~2011~~.

476 (j) Beginning in the 2013 plan year, benefits offered in

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477 the state group health insurance program shall be the following:

478 1. Platinum Level benefits which are actuarially
 479 equivalent to 90 percent of the benefits covered in the 2012
 480 plan year.

481 2. Gold Level benefits which are actuarially equivalent
 482 to 80 percent of the benefits covered in the 2012 plan year.

483 3. Silver Level benefits which are actuarially equivalent
 484 to 70 percent of the benefits covered in the 2012 plan year.

485 4. Bronze Level benefits which are actuarially equivalent
 486 to 60 percent of the benefits covered in the 2012 plan year.

487 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION
 488 ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

489 (a) Except as provided in paragraph (e) with respect to
 490 law enforcement officers, correctional and correctional
 491 probation officers, and firefighters, legislative authorization
 492 through the appropriations act is required for payment by a
 493 state agency of any part of the premium cost of participation in
 494 any group insurance plan. However, the state contribution for
 495 full-time employees or part-time permanent employees shall
 496 continue in the respective proportions for up to 6 months for
 497 any such officer or employee who has been granted an approved
 498 parental or medical leave of absence without pay.

499 (b) If a state officer or full-time state employee selects
 500 membership in a health maintenance organization as authorized by
 501 paragraph (3)(h), the officer or employee is entitled to a state
 502 contribution toward individual and dependent membership as
 503 provided by the Legislature through the appropriations act.

504 (c) During each policy or budget year, no state agency

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505 shall contribute a greater dollar amount of the premium cost for
 506 its officers or employees for any plan option under the state
 507 group insurance program than any other agency for similar
 508 officers and employees, nor shall any greater dollar amount of
 509 premium cost be made for employees in one state collective
 510 bargaining unit than for those in any other state collective
 511 bargaining unit. Nothing in this section prohibits the use of
 512 different levels of state contributions for positions exempt
 513 from career service.

514 (d) The state contribution for a part-time permanent state
 515 employee who elects to participate in the program shall be
 516 prorated so that the amount of the cost contributed for the
 517 part-time permanent employee bears that relation to the amount
 518 of cost contributed for a similar full-time employee that the
 519 part-time employee's normal workday bears to a full-time
 520 employee's normal workday.

521 (e) No state contribution for the cost of any part of the
 522 premium shall be made for retirees or surviving spouses for any
 523 type of coverage under the state group insurance program.
 524 However, any state agency that employs a full-time law
 525 enforcement officer, correctional officer, or correctional
 526 probation officer who is killed or suffers catastrophic injury
 527 in the line of duty as provided in s. 112.19, or a full-time
 528 firefighter who is killed or suffers catastrophic injury in the
 529 line of duty as provided in s. 112.191, shall pay the entire
 530 premium of the state group health insurance plan selected for
 531 the employee's surviving spouse until remarried, and for each
 532 dependent child of the employee, subject to the conditions and

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533 limitations set forth in s. 112.19 or s. 112.191, as applicable.

534 (f) Pursuant to the request of each state officer, full-
 535 time or part-time state employee, or retiree participating in
 536 the state group insurance program, and upon certification of the
 537 employing agency approved by the department, the Chief Financial
 538 Officer shall deduct from the salary or retirement warrant
 539 payable to each participant the amount so certified and shall
 540 handle such deductions in accordance with rules established by
 541 the department.

542 (g) No administrative or civil proceeding shall be
 543 commenced to collect an underpayment or refund an overpayment of
 544 premiums collected pursuant to this subsection unless such claim
 545 is filed with the department within 2 years after the alleged
 546 underpayment or overpayment was made. For purposes of this
 547 paragraph, a payroll deduction, salary reduction, or
 548 contribution by an agency is deemed to be made on the date the
 549 salary warrant is issued.

550 (5) DEPARTMENT POWERS AND DUTIES.—The department is
 551 responsible for the administration of the state group insurance
 552 program. The department shall initiate and supervise the program
 553 as established by this section and shall adopt such rules as are
 554 necessary to perform its responsibilities. To implement this
 555 program, the department shall, with prior approval by the
 556 Legislature:

557 (a) Determine the benefits to be provided and the
 558 contributions to be required for the state group insurance
 559 program. Such determinations, whether for a contracted plan or a
 560 self-insurance plan pursuant to paragraph (c), do not constitute

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561 rules within the meaning of s. 120.52 or final orders within the
 562 meaning of s. 120.52. Any physician's fee schedule used in the
 563 health and accident plan shall not be available for inspection
 564 or copying by medical providers or other persons not involved in
 565 the administration of the program. However, in the determination
 566 of the design of the program, the department shall consider
 567 existing and complementary benefits provided by the Florida
 568 Retirement System and the Social Security System.

569 (b) Prepare, in cooperation with the Office of Insurance
 570 Regulation of the Financial Services Commission, the
 571 specifications necessary to implement the program.

572 (c) Competitively procure a contract ~~on a competitive~~
 573 ~~proposal basis~~ with an insurance carrier or carriers, or
 574 professional administrator, determined by the Office of
 575 Insurance Regulation of the Financial Services Commission to be
 576 fully qualified, financially sound, and capable of meeting all
 577 servicing requirements. ~~Alternatively, the department may self-~~
 578 ~~insure any plan or plans contained in the state group insurance~~
 579 ~~program subject to approval based on actuarial soundness by the~~
 580 ~~Office of Insurance Regulation. The department may contract with~~
 581 ~~an insurance company or professional administrator qualified and~~
 582 ~~approved by the Office of Insurance Regulation to administer~~
 583 ~~such plan. Before entering into any contract, the department~~
 584 ~~shall advertise for competitive proposals, and such contract~~
 585 ~~shall be let upon the consideration of the benefits provided in~~
 586 ~~relationship to the cost of such benefits. In the selection of a~~
 587 ~~third-party administrator~~ determining which entity to contract
 588 ~~with,~~ the department shall, at a minimum, consider: the entity's

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589 previous experience and expertise in administering group
 590 insurance programs of the type it proposes to administer; the
 591 entity's ability to specifically perform its contractual
 592 obligations in this state and other governmental jurisdictions;
 593 the entity's anticipated administrative costs and claims
 594 experience; the entity's capability to adequately provide
 595 service coverage and sufficient number of experienced and
 596 qualified personnel in the areas of claims processing,
 597 recordkeeping, and underwriting, as determined by the
 598 department; the entity's accessibility to state employees and
 599 providers; the financial solvency of the entity, using accepted
 600 business sector measures of financial performance. ~~The~~
 601 ~~department may contract for medical services which will improve~~
 602 ~~the health or reduce medical costs for employees who participate~~
 603 ~~in the state group insurance plan.~~

604 (d) With respect to a state group health insurance plan,
 605 be authorized to require copayments with respect to all
 606 providers under the plan.

607 (e) Have authority to establish a voluntary program for
 608 comprehensive health maintenance, which may include health
 609 educational components and health appraisals.

610 (f) With respect to any contract with an insurance carrier
 611 or carriers or professional administrator entered into by the
 612 department, require that the state and the enrollees be held
 613 harmless and indemnified for any financial loss caused by the
 614 failure of the insurance carrier or professional administrator
 615 to comply with the terms of the contract.

616 (g) With respect to any contract with an insurance carrier

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617 | or carriers, or professional administrator entered into by the
 618 | department, require that the carrier or professional
 619 | administrator provide written notice to individual enrollees if
 620 | any payment due to any health care provider of the enrollee
 621 | remains unpaid beyond a period of time as specified in the
 622 | contract.

623 | (h) Have authority to establish other voluntary programs
 624 | to be funded on a pretax contribution basis or on a posttax
 625 | contribution basis, as the department determines.

626 | (i) Contract with a single custodian to provide services
 627 | necessary to implement and administer the health savings
 628 | accounts authorized in subsection (12).

629 | (j) This subsection shall expire January 1, 2014.

630 |

631 | Final decisions concerning enrollment, the existence of
 632 | coverage, or covered benefits under the state group insurance
 633 | program shall not be delegated or deemed to have been delegated
 634 | by the department.

635 | (6) DEPOSIT OF PREMIUMS AND REFUNDS.—Premium dollars
 636 | collected and not required to pay the costs of the program,
 637 | prior to being paid to the carrier insurance company, shall be
 638 | invested, and the earnings from such investment shall be
 639 | deposited in a trust fund to be designated in the State Treasury
 640 | and utilized for increased benefits or reduced premiums for the
 641 | participants or may be used to pay for the administration of the
 642 | state group insurance program. Any refunds paid the state by the
 643 | insurance carrier from premium dollar reserves held by the
 644 | carrier and earned on such refunds shall be deposited in the

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645 trust fund and used for such purposes.

646 (7) CONTINUATION OF AGENCY INSURANCE PLANS.—Nothing
 647 contained in this section shall require the discontinuation of
 648 any insurance plan provided by any state agency; however, no
 649 state or agency funds shall be contributed toward the cost of
 650 any part of the premium of such agency plans. Such agency plans
 651 shall not be deemed to be included in the state group insurance
 652 program.

653 (8) COVERAGE FOR LEGISLATIVE MEMBERS AND EMPLOYEES.—

654 (a) The Legislature may provide coverage for its members
 655 and employees under all or any part of the state group insurance
 656 program; may provide coverage for its members and employees
 657 under a legislative group insurance program in lieu of all or
 658 any part of the state group insurance program; and,
 659 notwithstanding the provisions of paragraph (4)(c), may assume
 660 the cost of any group insurance coverage provided to its members
 661 and employees.

662 (b) Any legislative member who terminates his or her
 663 elected service after January 1, 1999, after having vested in
 664 the state retirement system, may purchase coverage in a state
 665 group health insurance plan at the same premium cost as that for
 666 retirees and surviving spouses. Such legislators may also elect
 667 coverage under the group term life insurance program prevailing
 668 for current members at the premium cost in effect for that plan.

669 (9) PUBLIC RECORDS LAW; EXEMPTION.—Patient medical records
 670 and medical claims records of state employees, former state
 671 employees, and their eligible covered dependents in the custody
 672 or control of the state group insurance program are confidential

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673 and exempt from the provisions of s. 119.07(1). Such records
 674 shall not be furnished to any person other than the affected
 675 state employee or former state employee or his or her legal
 676 representative, except upon written authorization of the
 677 employee or former state employee, but may be furnished in any
 678 civil or criminal action, unless otherwise prohibited by law,
 679 upon the issuance of a subpoena from a court of competent
 680 jurisdiction and proper notice to the state employee, former
 681 state employee, or his or her legal representative by the party
 682 seeking such records.

683 (10) STATEMENTS OF PURPOSE AND INTENT AND OTHER PROVISIONS
 684 REQUIRED FOR QUALIFICATION UNDER THE INTERNAL REVENUE CODE OF
 685 THE UNITED STATES.—Any other provisions in this chapter to the
 686 contrary notwithstanding:

687 (a) Any provision in this chapter relating to a state
 688 group insurance program shall be construed and administered to
 689 the extent possible to qualify such program to be a qualified
 690 and nondiscriminatory employee benefit plan under existing or
 691 hereafter-enacted provisions of the Internal Revenue Code of the
 692 United States.

693 (b) The department may adopt any rule necessary to
 694 accomplish the purposes of this subsection not inconsistent with
 695 this chapter.

696 (c) This subsection is declaratory of the legislative
 697 intent upon the original enactment of this section and is deemed
 698 to have been in effect since that date.

699 (11) NOTICE BY HEALTH CARE PROVIDERS.—Any health care
 700 provider that has entered into a contract with a carrier or

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701 professional administrator that has contracted with the
 702 department to administer the self-insurance program under this
 703 section shall provide written notification to the enrollee and
 704 the carrier or administrator at least 10 days before assigning
 705 or transferring the responsibility for collecting any payment or
 706 debt related to the plan to a collection agency or to any other
 707 third party.

708 (12) HEALTH SAVINGS ACCOUNTS.—The department is authorized
 709 to establish health savings accounts for full-time and part-time
 710 state employees in association with a health insurance plan
 711 option authorized by the Legislature and conforming to the
 712 requirements and limitations of federal provisions relating to
 713 the Medicare Prescription Drug, Improvement, and Modernization
 714 Act of 2003.

715 (a)1. A member participating in this health insurance plan
 716 option shall be eligible to receive an employer contribution
 717 into the employee's health savings account from the State
 718 Employees Health Insurance Trust Fund in an amount to be
 719 determined by the Legislature. A member is not eligible for an
 720 employer contribution upon termination of employment. For the
 721 2010-2011 fiscal year, the state's monthly contribution for
 722 employees having individual coverage shall be \$41.66 and the
 723 monthly contribution for employees having family coverage shall
 724 be \$83.33.

725 2. A member participating in this health insurance plan
 726 option shall be eligible to deposit the member's own funds into
 727 a health savings account.

728 (b) The monthly premiums paid by the employer for a member

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729 participating in this health insurance plan option shall include
 730 an amount equal to the monthly employer contribution authorized
 731 by the Legislature for that fiscal year.

732 (c) The health savings accounts shall be administered in
 733 accordance with the requirements and limitations of federal
 734 provisions relating to the Medicare Prescription Drug,
 735 Improvement, and Modernization Act of 2003.

736 ~~(13) FLORIDA STATE EMPLOYEE WELLNESS COUNCIL.~~

737 ~~— (a) There is created within the department the Florida
 738 State Employee Wellness Council.~~

739 ~~— (b) The council shall be an advisory body to the
 740 department to provide health education information to employees
 741 and to assist the department in developing minimum benefits for
 742 all health care providers when providing age-based and gender-
 743 based wellness benefits.~~

744 ~~— (c) The council shall be composed of nine members
 745 appointed by the Governor. When making appointments to the
 746 council, the Governor shall appoint persons who are residents of
 747 the state and who are highly knowledgeable concerning, active
 748 in, and recognized leaders in the health and medical field, at
 749 least one of whom must be an employee of the state. Council
 750 members shall equitably represent the broadest spectrum of the
 751 health industry and the geographic areas of the state. Not more
 752 than one member of the council may be from any one company,
 753 organization, or association.~~

754 ~~— (d)1. Council members shall be appointed to 4-year terms,
 755 except that the initial terms shall be staggered. The Governor
 756 shall appoint three members to 2-year terms, three members to 3-~~

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757 ~~year terms, and three members to 4-year terms.~~
 758 ~~—— 2. A member's absence from three consecutive meetings~~
 759 ~~shall result in his or her automatic removal from the council. A~~
 760 ~~vacancy on the council shall be filled for the remainder of the~~
 761 ~~unexpired term.~~
 762 ~~—— (e) The council shall annually elect from its membership~~
 763 ~~one member to serve as chair of the council and one member to~~
 764 ~~serve as vice chair.~~
 765 ~~—— (f) The first meeting of the council shall be called by~~
 766 ~~the chair not more than 60 days after the council members are~~
 767 ~~appointed by the Governor. The council shall thereafter meet at~~
 768 ~~least once quarterly and may meet more often as necessary. The~~
 769 ~~department shall provide staff assistance to the council which~~
 770 ~~shall include, but not be limited to, keeping records of the~~
 771 ~~proceedings of the council and serving as custodian of all~~
 772 ~~books, documents, and papers filed with the council.~~
 773 ~~—— (g) A majority of the members of the council constitutes a~~
 774 ~~quorum.~~
 775 ~~—— (h) Members of the council shall serve without~~
 776 ~~compensation, but are entitled to reimbursement for per diem and~~
 777 ~~travel expenses as provided in s. 112.061 while performing their~~
 778 ~~duties.~~
 779 ~~—— (i) The council shall:~~
 780 ~~—— 1. Work to encourage participation in wellness programs by~~
 781 ~~state employees. The council may prepare informational programs~~
 782 ~~and brochures for state agencies and employees.~~
 783 ~~—— 2. In consultation with the department, develop standards~~
 784 ~~and criteria for age-based and gender-based wellness programs.~~

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785 Section 2. Section 110.12302, Florida Statutes, is amended
786 to read:

787 110.12302 Costing options for plan designs required for
788 contract solicitation; best value recommendations; required plan
789 design.—

790 (1) For the state group insurance program, the Department
791 of Management Services shall require costing options for both
792 fully insured and self-insured plan designs, or some combination
793 thereof, as part of the department's solicitation for health
794 maintenance organization contracts. Prior to contracting, the
795 department shall recommend to the Legislature, no later than
796 February 1, 2011, the best value to the State group insurance
797 program relating to health maintenance organizations.

798 (2) Beginning with the 2012 plan year, the department
799 shall only contract with health maintenance organizations for a
800 self-insured plan design. In implementing this subsection, the
801 department shall ensure that no fewer health maintenance
802 organizations participate in the state group insurance program
803 than participated in each service area in the 2011 plan year.

804 Section 3. Section 110.12303, Florida Statutes, is created
805 to read:

806 110.12303 Independent benefits manager.—

807 (1) The department shall competitively procure an
808 independent benefits manager. The department shall initiate the
809 procurement no later than August 1, 2011.

810 (2) The independent benefits manager shall not:

811 (a) Be owned or controlled by any HMO or insurer.

812 (b) Have an ownership interest in any HMO or insurer.

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813 (c) Have any direct or indirect financial interest in any
 814 HMO or insurer.

815 (3) The independent benefits manager shall have
 816 substantial experience in the design and administration of
 817 employee benefit programs for large employers and public
 818 employers, including experience administering plans that qualify
 819 as cafeteria plans pursuant to s. 125 of the Internal Revenue
 820 Code.

821 (4) The independent benefits manager shall:

822 (a) Provide an ongoing assessment of trends in benefits
 823 and employer sponsored insurance that affect the state group
 824 insurance program.

825 (b) Conduct comprehensive analysis of the state group
 826 insurance program including available benefits, coverage
 827 options, and claims experience.

828 (c) Evaluate designs for the state group insurance program
 829 including a full cafeteria plan, an employer-sponsored multi-
 830 carrier exchange plan, and alternatives to and variations of
 831 these designs.

832 (d) Identify and establish appropriate adjustment
 833 procedures necessary to respond to any risk segmentation that
 834 may occur when increased choices are offered to employees.

835 (e) Submit recommendations for any modifications to the
 836 state group insurance program no later than January 1 of each
 837 year.

838 (f) Establish a transition plan for assuming the
 839 responsibilities described in subsection (5).

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840 (g) Develop a plan to convert the state group insurance
 841 program to a defined contribution plan. The plan shall be
 842 submitted to the Legislature by January 1, 2013, and include
 843 recommendations for:

844 1. An implementation timeline for conversion as of the
 845 2014 plan year or an explanation of the factors that prevent
 846 implementation by 2014 and a timeline for conversion in the 2015
 847 plan year.

848 2. Employer and employee contribution policies including
 849 provisions that reward and incentivize nonsmoking and other
 850 healthy lifestyle choices.

851 3. Steps necessary for maintaining or improving total
 852 employee compensation levels when a transition to a defined
 853 contribution plan is initiated.

854 4. Establishing an employment-based benefits exchange or
 855 implementing a full cafeteria plan to provide a variety of plan
 856 and benefit options.

857 5. Securing the appropriate federal approval for plan
 858 revisions.

859 (h) Subject to approval by the legislature, direct and
 860 implement the plan described in paragraph (g).

861 (5) Notwithstanding the provisions of s. 110.123 and
 862 beginning no later than the 2013 plan year, the independent
 863 benefits manager shall:

864 (a) Manage the state group insurance program, including
 865 negotiation and supervision of contracts, and other
 866 administrative functions as may be necessary.

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867 (b) If the Legislature authorizes the creation of a state
 868 employee benefits exchange, certify health insurance plans,
 869 health maintenance organizations, and other providers eligible
 870 to participate.

871 (c) If the Legislature authorizes the implementation of a
 872 full cafeteria plan, supervise the procurement process and
 873 conduct contract negotiations with providers necessary for these
 874 entities to participate in defined service areas.

875 (d) Develop and implement wellness initiatives for
 876 enrollees.

877 (e) Provide enrollee education and decision support tools,
 878 including an online interface, to assist enrollees in choosing
 879 benefit plans that best suit their individual needs.

880 (f) Assure compliance with applicable federal and state
 881 regulations.

882 (6) The department shall manage the contract with the
 883 independent benefits manager and shall provide financial
 884 management of the program including financial and budget
 885 oversight of program operations, management of vendor payments
 886 and premium administration, analyzing and forecasting program
 887 revenues and expenditures, monitoring of financial compliance of
 888 contractors, and auditing.

889 Section 4. Section 110.12304, Florida Statutes, is created
 890 to read:

891 110.12304 State and employee contributions toward health
 892 plan premium cost.-

893 (1) For the 2013 plan years the state's share of
 894 contribution toward cost of the health plan shall be:

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895 (a) Platinum Level: 90 percent for an individual plan and
 896 86 percent for a family plan.

897 (b) Gold Level: 85 percent for an individual or a family
 898 plan.

899 (c) Silver Level: 80 percent for an individual or a
 900 family plan.

901 (d) Bronze Level: 75 percent for an individual or a
 902 family plan.

903 (2) The employee shall pay the remaining cost of the plan
 904 premium; however, if the employee chooses a Gold, Silver, or
 905 Bronze Level plan, the employee's salary shall be increased by
 906 60 percent of the difference between the premium for the
 907 employee's selected plan and the premium for a Platinum Level
 908 plan.

909 Section 5. Section 110.12305, Florida Statutes, is created
 910 to read:

911 110.12305 Health insurance risk pool.-

912 (1) For the 2012 plan year and for each plan year
 913 thereafter, the department shall establish a single health
 914 insurance risk pool for the state group insurance plans.

915 (2) For the 2012 plan year and for each plan year
 916 thereafter, the department shall continue to contract with
 917 multiple HMOs in each service area based on the nature of the
 918 bids the department receives, the number of state employees in
 919 the service area, or any unique geographical characteristics of
 920 the service area.

921

922 Section 6. This act shall take effect July 1, 2011.