

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1

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DATE	D-PG	OFFICIAL STATUS
01/10/2013	47	Introduction and first reading Referred to State and Local Government
01/17/2013	66a	Comm report: To pass as amended and re-refer to Judiciary
01/24/2013	88a	Comm report: To pass as amended and re-refer to Commerce
01/31/2013	115a	Comm report: To pass as amended and re-refer to Health, Human Services and Housing
02/06/2013	153a	Comm report: To pass as amended and re-refer to Taxes
02/07/2013	182a	Comm report: To pass as amended and re-refer to Finance
02/21/2013	315a	Comm report: To pass as amended and re-refer to Rules and Administration
02/28/2013	405a	Comm report: To pass as amended
	435	Second reading
03/06/2013	619	HF substituted on General Orders HF5

A bill for an act

relating to commerce; establishing the Minnesota Insurance Marketplace; prescribing its powers and duties; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2012, sections 13.7191, by adding a subdivision; 13D.08, by adding a subdivision; 16A.725, subdivision 3, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 62V; repealing Minnesota Statutes 2012, section 256.9658, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 13.7191, is amended by adding a subdivision to read:

Subd. 14a. **Minnesota Insurance Marketplace.** Classification and sharing of data of the Minnesota Insurance Marketplace is governed by section 62V.06.

Sec. 2. Minnesota Statutes 2012, section 13D.08, is amended by adding a subdivision to read:

Subd. 5a. **Minnesota Insurance Marketplace.** Meetings of the Minnesota Insurance Marketplace are governed by section 62V.03, subdivision 2.

Sec. 3. Minnesota Statutes 2012, section 16A.725, is amended by adding a subdivision to read:

Subd. 2a. **Certified Minnesota Insurance Marketplace operating costs.** (a) By March 1 of each year, beginning March 1, 2015, the board of directors of the Minnesota Insurance Marketplace shall certify to the commissioner of management and budget the estimated costs necessary to fund the operations of the Minnesota Insurance Marketplace, under chapter 62V for the next fiscal year.

2.1 (b) By June 1, 2013, the board of directors of the Minnesota Insurance Marketplace
 2.2 shall certify to the commissioner of management and budget the estimated costs necessary
 2.3 to fund the operations of the Minnesota Insurance Marketplace under chapter 62V for the
 2.4 next biennium that are not covered by federal funds.

2.5 Sec. 4. Minnesota Statutes 2012, section 16A.725, subdivision 3, is amended to read:

2.6 Subd. 3. **Fund reimbursements.** (a) Each fiscal year, beginning fiscal year 2016,
 2.7 the commissioner of management and budget shall first transfer from the health impact
 2.8 fund to the Minnesota Insurance Marketplace account in the special revenue fund, the
 2.9 amount of certified expenditures under subdivision 2a, paragraph (a), or the balance of the
 2.10 fund, whichever is less.

2.11 (b) For the 2014-2015 biennium, the commissioner of management and budget shall
 2.12 first transfer from the health impact fund to the Minnesota Insurance Marketplace account
 2.13 in the special revenue fund, the amount of certified expenditures under subdivision 2a,
 2.14 paragraph (b), or the balance of the fund, whichever is less. These funds may be used in
 2.15 either year of the biennium.

2.16 ~~Each fiscal year,~~ (c) If any balance remains in the health impact fund after the
 2.17 transfer in paragraph (a) or (b), the commissioner of management and budget shall first
 2.18 transfer from the health impact fund to the general fund an amount sufficient to offset the
 2.19 general fund cost of the certified expenditures under subdivision 2 or the balance of the
 2.20 fund, whichever is less.

2.21 ~~(b)~~ (d) If any balance remains in the health impact fund after the transfer transfers in
 2.22 paragraph paragraphs (a) to (c), the commissioner of management and budget shall transfer
 2.23 to the health care access fund the amount sufficient to offset the health care access fund cost
 2.24 of the certified expenditures in subdivision 2, or the balance of the fund, whichever is less.

2.25 Sec. 5. **[62V.01] TITLE.**

2.26 This chapter may be cited as the "Minnesota Insurance Marketplace Act."

2.27 Sec. 6. **[62V.02] DEFINITIONS.**

2.28 Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have
 2.29 the meanings given.

2.30 Subd. 2. **Board.** "Board" means the Board of Directors of the Minnesota Insurance
 2.31 Marketplace specified in section 62V.04.

2.32 Subd. 3. **Dental plan.** "Dental plan" has the meaning defined in section 62Q.76,
 2.33 subdivision 3.

3.1 Subd. 4. **Health plan.** "Health plan" means a policy, contract, certificate, or
 3.2 agreement defined in section 62A.011, subdivision 3.

3.3 Subd. 5. **Health carrier.** "Health carrier" has the meaning defined in section
 3.4 62A.011.

3.5 Subd. 6. **Individual market.** "Individual market" means the market for health
 3.6 insurance coverage offered to individuals.

3.7 Subd. 7. **Insurance producer.** "Insurance producer" has the meaning defined
 3.8 in section 60K.31.

3.9 Subd. 8. **Minnesota Insurance Marketplace.** "Minnesota Insurance Marketplace"
 3.10 means the Minnesota Insurance Marketplace created as a state health benefit exchange
 3.11 as described in section 1311 of the federal Patient Protection and Affordable Care Act
 3.12 (Public Law 111-148), and further defined through amendments to the act and regulations
 3.13 issued under the act.

3.14 Subd. 9. **Navigator.** "Navigator" has the meaning described in section 1311(i) of
 3.15 the federal Patient Protection and Affordable Care Act (Public Law 111-148), and further
 3.16 defined through amendments to the act and regulations issued under the act.

3.17 Subd. 10. **Public health care program.** "Public health care program" means any
 3.18 public health care program administered by the commissioner of human services.

3.19 Subd. 11. **Qualified health plan.** "Qualified health plan" means a health plan that
 3.20 meets the definition in section 1301(a) of the Affordable Care Act (Public Law 111-148),
 3.21 and has been certified by the board in accordance with section 62V.05, subdivision 5, to
 3.22 be offered through the Minnesota Insurance Marketplace.

3.23 Subd. 12. **Small group market.** "Small group market" means the market for health
 3.24 insurance coverage offered to small employers as defined in section 62L.02, subdivision 26.

3.25 Sec. 7. **[62V.03] MINNESOTA INSURANCE MARKETPLACE;**
 3.26 **ESTABLISHMENT.**

3.27 Subdivision 1. **Creation.** The Minnesota Insurance Marketplace is created as a
 3.28 board under section 15.012, paragraph (a), to:

3.29 (1) promote innovation, competition, quality, value, market participation,
 3.30 affordability, meaningful choices, health improvement, care management, reduction of
 3.31 health disparities, and portability of health plans;

3.32 (2) facilitate and simplify the comparison, choice, enrollment, and purchase of
 3.33 health plans for individuals purchasing in the individual market through the Minnesota
 3.34 Insurance Marketplace and for employees and employers purchasing in the small group
 3.35 market through the Minnesota Insurance Marketplace;

4.1 (3) assist small employers with access to small business health insurance tax credits
4.2 and to assist individuals with access to public health care programs, premium assistance
4.3 tax credits and cost-sharing reductions, and certificates of exemption from individual
4.4 responsibility requirements; and

4.5 (4) facilitate the integration and transition of individuals between public health care
4.6 programs and health plans in the individual market.

4.7 Subd. 2. **Application of other law.** (a) The Minnesota Insurance Marketplace is
4.8 subject to review by the legislative auditor under section 3.971.

4.9 (b) Board members of the Minnesota Insurance Marketplace are subject to section
4.10 10A.07. Board members and the personnel of the Minnesota Insurance Marketplace
4.11 are subject to section 10A.071.

4.12 (c) All meetings of the board shall comply with the open meeting law in chapter
4.13 13D, except that:

4.14 (1) meetings regarding personnel negotiations may be closed at the discretion of
4.15 the board;

4.16 (2) meetings regarding contract negotiations may be closed at the discretion of
4.17 the board; and

4.18 (3) meetings or portions of meetings where not public data, as defined in section
4.19 13.02, subdivision 8a, or trade secret information, as defined in section 13.37, subdivision
4.20 1, are discussed must be closed to the public.

4.21 (d) The Minnesota Insurance Marketplace and provisions specified under this chapter
4.22 are exempt from chapter 14, including section 14.386, except as specified in section 62V.05.

4.23 (e) The board and the Web site are exempt from chapter 60K.

4.24 (f) Section 3.3005 applies to any federal funds received by the Minnesota Insurance
4.25 Marketplace.

4.26 (g) The Minnesota Insurance Marketplace is exempt from the following sections in
4.27 chapter 16E: 16E.01, subdivision 3, paragraph (b); 16E.03, subdivisions 3 and 4; 16E.04,
4.28 subdivision 1, subdivision 2, paragraph (e), and subdivision 3, paragraph (b); 16E.0465;
4.29 16E.055; 16E.145; 16E.15; 16E.16; 16E.17; 16E.18; and 16E.22.

4.30 Sec. 8. **[62V.04] GOVERNANCE.**

4.31 Subdivision 1. **Board.** The Minnesota Insurance Marketplace is governed by a
4.32 board of directors with seven members.

4.33 Subd. 2. **Appointment.** (a) Board membership of the Minnesota Insurance
4.34 Marketplace consists of the following:

5.1 (1) three members appointed by the governor and confirmed by the senate, with
5.2 one member representing the interests of individual consumers eligible for individual
5.3 market coverage, one member representing individual consumers eligible for public health
5.4 care program coverage, and one member representing small employers. Members are
5.5 appointed to serve a four-year term following the initial staggered-term lot determination;

5.6 (2) three members appointed by the governor and confirmed by the senate, who
5.7 have demonstrated expertise, leadership, and innovation in the following areas: one
5.8 member representing the areas of health administration, health care finance, health plan
5.9 purchasing, and health care delivery systems; one member representing the areas of
5.10 public health, health disparities, public health care programs, and the uninsured; and
5.11 one member representing health policy issues related to the small group and individual
5.12 markets. Members are appointed to serve a four-year term following the initial staggered
5.13 term lot determination; and

5.14 (3) the commissioner of human services or a designee.

5.15 (b) The governor shall make appointments to the board that are consistent with
5.16 federal law and regulations regarding its composition and structure.

5.17 (c) Section 15.0597 shall apply to all appointments, except for the commissioner
5.18 and initial appointments.

5.19 (d) Initial appointments shall be made within 30 days of enactment.

5.20 Subd. 3. **Terms.** (a) Board members may serve no more than two consecutive
5.21 terms, except for the commissioner or the commissioner's designee, who shall serve
5.22 until replaced by the governor.

5.23 (b) A board member may resign at any time by giving written notice to the board.

5.24 (c) The appointed members under subdivision 2, paragraph (a), clauses (1) and (2),
5.25 shall have an initial term of two, three, or four years, determined by lot by the secretary of
5.26 state.

5.27 Subd. 4. **Conflicts of interest.** Within one year prior to or at any time during their
5.28 appointed term, board members appointed under subdivision 2, paragraph (a), clauses (1)
5.29 and (2), shall not be employed by, be a member of the board of directors of, or otherwise
5.30 be a representative of a health carrier, health care provider, navigator, insurance producer,
5.31 or other entity in the business of selling items or services of significant value to or through
5.32 the Minnesota Insurance Marketplace.

5.33 Subd. 5. **Acting chair; first meeting; supervision.** (a) The governor shall designate
5.34 as acting chair one of the appointees described in subdivision 2.

5.35 (b) The board shall hold its first meeting within 60 days of enactment.

5.36 (c) The board shall elect a chair to replace the acting chair at the first meeting.

6.1 Subd. 6. **Chair.** The board shall have a chair, elected by a majority of members.
6.2 The chair shall serve for one year.

6.3 Subd. 7. **Officers.** The members of the board shall elect officers by a majority of
6.4 members. The officers shall serve for one year.

6.5 Subd. 8. **Vacancies.** If a vacancy occurs on the board, the governor shall appoint a
6.6 new member within 90 days to serve the remainder of the unexpired term.

6.7 Subd. 9. **Removal.** A board member may be removed by the board only for cause,
6.8 following notice, hearing, and a two-thirds vote of the board. A conflict of interest as
6.9 defined in subdivision 4 shall be cause for removal from the board.

6.10 Subd. 10. **Meetings.** The board shall meet at least quarterly.

6.11 Subd. 11. **Quorum.** A majority of the members of the board constitutes a quorum,
6.12 and the affirmative vote of a majority of members of the board is necessary and sufficient
6.13 for action taken by the board.

6.14 Subd. 12. **Compensation.** (a) The board members shall be paid a salary not to
6.15 exceed the salary limits established under section 15A.0815, subdivision 4. The salary for
6.16 board members shall be set in accordance with this subdivision and section 15A.0815,
6.17 subdivision 5. This paragraph expires December 31, 2015.

6.18 (b) Beginning January 1, 2016, the board members may be compensated in
6.19 accordance with section 15.0575.

6.20 Subd. 13. **Advisory committees.** (a) The board shall establish and maintain
6.21 advisory committees to provide insurance producers, health care providers, the health
6.22 care industry, consumers, and other stakeholders with the opportunity to share their
6.23 perspectives regarding the operation of the Minnesota Insurance Marketplace as required
6.24 under section 1311(d)(6) of the Affordable Care Act (Public Law 111-148). The board
6.25 shall regularly consult with the advisory committees. The advisory committees established
6.26 under this paragraph shall not expire.

6.27 (b) The board may establish additional advisory committees, as necessary, to gather
6.28 and provide information to the board in order to facilitate the operation of the Minnesota
6.29 Insurance Marketplace. The advisory committees established under this paragraph shall
6.30 not expire, except by action of the board.

6.31 (c) Section 15.0597 shall not apply to any advisory committee established by the
6.32 board under this subdivision.

6.33 Sec. 9. **[62V.05] RESPONSIBILITIES AND POWERS OF THE MINNESOTA**
6.34 **INSURANCE MARKETPLACE.**

7.1 Subdivision 1. **General.** (a) The board shall operate the Minnesota Insurance
7.2 Marketplace according to this chapter and applicable state and federal law.

7.3 (b) The board has the power to:

7.4 (1) employ personnel and delegate administrative, operational, and other
7.5 responsibilities to the director and other personnel as deemed appropriate by the board.

7.6 The director and managerial staff of the Minnesota Insurance Marketplace shall serve in
7.7 the unclassified service and shall be governed by a compensation plan prepared by the
7.8 board, submitted to the commissioner of management and budget for review and comment
7.9 within 14 days of its receipt, and approved by the Legislative Coordinating Commission
7.10 and the legislature under section 3.855, subdivision 3, except that section 15A.0815,
7.11 subdivision 5, paragraph (e), shall not apply;

7.12 (2) establish the budget of the Minnesota Insurance Marketplace;

7.13 (3) seek and accept money, grants, loans, donations, materials, services, or
7.14 advertising revenue from government agencies, philanthropic organizations, and public
7.15 and private sources to fund the operation of the Minnesota Insurance Marketplace;

7.16 (4) contract for the receipt and provision of goods and services;

7.17 (5) enter into information-sharing agreements with federal and state agencies and
7.18 other entities as authorized under section 62V.06; and

7.19 (6) take any other actions reasonably required to implement and administer its
7.20 responsibilities.

7.21 (c) Within 180 days of enactment, the board shall establish bylaws, policies,
7.22 and procedures governing the operations of the Minnesota Insurance Marketplace in
7.23 accordance with this chapter.

7.24 Subd. 2. **Operations funding.** Funding for the operations of the Minnesota
7.25 Insurance Marketplace shall cover any compensation provided to navigators participating
7.26 in the navigator program.

7.27 Subd. 3. **Insurance producers.** (a) Within 30 days of enactment, the commissioner
7.28 of management and budget, in consultation with the commissioner of commerce, shall
7.29 establish certification requirements that must be met by insurance producers in order to
7.30 assist individuals and small employers with purchasing coverage through the Minnesota
7.31 Insurance Marketplace. The requirements established under this paragraph shall remain
7.32 in effect until the implementation of the requirements established under paragraph (b)
7.33 or January 1, 2015, whichever is later. Prior to January 1, 2015, the commissioner of
7.34 management and budget may amend the requirements, if necessary, due to a change in
7.35 federal rules.

8.1 (b) The board, in consultation with the commissioner of commerce, may establish
8.2 certification requirements for insurance producers assisting individuals and small
8.3 employers with purchasing coverage through the Minnesota Insurance Marketplace.
8.4 Certification shall be issued by the Minnesota Insurance Marketplace.

8.5 (c) Certification requirements shall not exceed the requirements established under
8.6 Code of Federal Regulations, title 45, part 155.220. Certification shall include training on
8.7 health plans available through the Minnesota Insurance Marketplace, available tax credits
8.8 and cost-sharing arrangements, compliance with privacy and security standards, eligibility
8.9 verification processes, online enrollment tools, and basic information on available public
8.10 health care programs. Training required for certification under this subdivision shall
8.11 qualify for continuing education requirements for insurance producers required under
8.12 chapter 60K, and must comply with course approval requirements under chapter 45.

8.13 (d) Any compensation, including, but not limited to, commissions, service fees,
8.14 and brokerage fees paid to an insurance producer for selling, soliciting, or negotiating
8.15 coverage offered through the Minnesota Insurance Marketplace shall be paid by the
8.16 health carrier and must be the same for health plans offered or sold inside the Minnesota
8.17 Insurance Marketplace as for health plans offered or sold outside the Minnesota Insurance
8.18 Marketplace.

8.19 (e) Any insurance producer compensation structure established by a health carrier
8.20 for the small group market must include compensation for defined contribution plans that
8.21 involve multiple health carriers. The compensation offered must be commensurate with
8.22 other small group market defined health plans.

8.23 (f) Any insurance producer assisting an individual or small employer with
8.24 purchasing coverage through the Minnesota Insurance Marketplace must disclose, orally
8.25 and in writing, to the individual or small employer at the time of the first solicitation with
8.26 the prospective purchaser the following:

8.27 (1) the health carriers and qualified health plans offered through the Minnesota
8.28 Insurance Marketplace that the producer is authorized to sell, and that the producer may
8.29 not be authorized to sell all the qualified health plans offered through the Minnesota
8.30 Insurance Marketplace;

8.31 (2) the producer may be receiving compensation from a health carrier for enrolling
8.32 the individual or small employer into a particular health plan; and

8.33 (3) information on all qualified health plans offered through the Minnesota Insurance
8.34 Marketplace is available through the Minnesota Insurance Marketplace Web site.

8.35 For purposes of this paragraph, "solicitation" means any contact by a producer, or any
8.36 person acting on behalf of a producer made for the purpose of selling or attempting to sell

9.1 coverage through the Minnesota Insurance Marketplace. If the first solicitation is made by
9.2 telephone, the disclosures required under this paragraph need not be made in writing.

9.3 (g) Beginning January 15, 2015, each health carrier that offers or sells qualified
9.4 health plans through the Minnesota Insurance Marketplace shall report in writing to the
9.5 board and the commissioner of commerce the compensation and other incentives it offers
9.6 or provides to insurance producers with regard to each type of health plan the health carrier
9.7 offers or sells both inside and outside of the Minnesota Insurance Marketplace. Each
9.8 health carrier shall submit a report annually and upon any change to the compensation or
9.9 other incentives offered or provided to insurance producers.

9.10 (h) Nothing in this subdivision shall be construed to limit the licensure requirements
9.11 or regulatory functions of the commissioner of commerce under chapter 60K.

9.12 Subd. 4. **Navigator; in-person assisters; call center.** (a) The board shall establish
9.13 policies and procedures for the ongoing operation of a navigator program, in-person
9.14 assister program, call center, and customer service provisions for the Minnesota Insurance
9.15 Marketplace to be implemented beginning January 1, 2015.

9.16 (b) Until the implementation of the policies and procedures described in paragraph
9.17 (a), the following shall be in effect:

9.18 (1) the navigator program shall be met by section 256.962;

9.19 (2) entities eligible to be navigators may serve as in-person assisters;

9.20 (3) the commissioner of management and budget shall establish requirements and
9.21 compensation for the navigator program and the in-person assister program within 30 days
9.22 of enactment. Compensation for navigators and in-person assisters must take into account
9.23 any other compensation received by the navigator or in-person assister for conducting
9.24 the same or similar services; and

9.25 (4) call center operations shall utilize existing state resources and personnel,
9.26 including referrals to counties for medical assistance.

9.27 (c) The commissioner of management and budget shall establish a toll-free number
9.28 for the Minnesota Insurance Marketplace and may hire and contract for additional
9.29 resources as deemed necessary.

9.30 (d) The navigator program and in-person assister program must meet the
9.31 requirements of section 1311(i) of the Affordable Care Act (Public Law 111-148). In
9.32 establishing training standards for the navigators and in-person assisters, the board must
9.33 ensure that all entities and individuals carrying out navigator and in-person assister
9.34 functions have training in the needs of underserved and vulnerable populations; eligibility
9.35 and enrollment rules and procedures; the range of available public health care programs
9.36 and qualified health plan options offered through the Minnesota Insurance Marketplace;

10.1 and privacy and security standards. For calendar year 2014, the commissioner of
10.2 human services shall ensure that the navigator program under section 256.962 provides
10.3 application assistance for both qualified health plans offered through the Minnesota
10.4 Insurance Marketplace and public health care programs.

10.5 (e) The board must ensure that any information provided by navigators, in-person
10.6 assistants, the call center, or other customer assistance portals be accessible to persons
10.7 with disabilities and that information provided on public health care programs include
10.8 information on other coverage options available to persons with disabilities.

10.9 Subd. 5. **Health carrier and health plan requirements; participation.** (a)
10.10 Beginning January 1, 2015, the board may establish minimum certification requirements
10.11 for health carriers and health plans to be offered through the Minnesota Insurance
10.12 Marketplace that satisfy the federal requirements under section 1311(c)(1) of the
10.13 Affordable Care Act (Public Law 111-148).

10.14 (b) Paragraph (a) does not apply if by June 1, 2013, the legislature enacts regulatory
10.15 requirements that:

10.16 (1) apply uniformly to all health carriers and health plans in the individual market;

10.17 (2) apply uniformly to all health carriers and health plans in the small group market;

10.18 and

10.19 (3) satisfy minimum federal certification requirements under section 1311(c)(1) of
10.20 the Affordable Care Act (Public Law 111-148).

10.21 (c) In accordance with section 1311(e) of the Affordable Care Act (Public Law
10.22 111-148), the board shall establish certification procedures for selection of qualified health
10.23 plans to be offered through the Minnesota Insurance Marketplace. The board shall certify
10.24 a health plan as a qualified health plan, if:

10.25 (1) the health plan meets the minimum certification requirements established in
10.26 paragraph (a) or the market regulatory requirements described in paragraph (b); and

10.27 (2) the board determines that making the health plan available through the Minnesota
10.28 Insurance Marketplace is in the interests of qualified individuals and qualified employers
10.29 using the Minnesota Insurance Marketplace.

10.30 (d) In determining the interests of qualified individuals and employers under
10.31 paragraph (c), clause (2), the board may consider affordability; quality and value of
10.32 the health plans; promotion of initiatives to reduce health disparities; long-term cost
10.33 containment; market stability; and meaningful choice and access. The board may
10.34 not exclude a health plan for any reason specified under section 1311(e)(1)(B) of the
10.35 Affordable Care Act (Public Law 111-148).

11.1 (e) For qualified health plans offered through the Minnesota Insurance Marketplace,
11.2 effective January 1, 2014, the board shall determine whether a health plan satisfies
11.3 paragraph (c), clause (2), by considering a combination of the following criteria:

11.4 (1) reasonableness of expected costs supporting the health plan's premiums and
11.5 cost-sharing structure;

11.6 (2) quality and sufficiency of the health plan's provider networks;

11.7 (3) quality improvement activities;

11.8 (4) quality initiatives related to cultural and linguistic competency;

11.9 (5) promotion of initiatives for improving health, disease prevention, and wellness;

11.10 and

11.11 (6) providing a manageable number of choices to consumers that present clear
11.12 product differentiation.

11.13 (f) For qualified health plans offered through the Minnesota Insurance Marketplace,
11.14 on or after January 1, 2015, the board shall establish the criteria for satisfying paragraph
11.15 (c), clause (2), by February 1 of each year, beginning February 1, 2014. The criteria
11.16 must include the measures to be used by the board to determine whether the criteria have
11.17 been met. The board may use the rulemaking process described in subdivision 9 for
11.18 selection criteria.

11.19 (g) For qualified health plans offered through the Minnesota Insurance Marketplace
11.20 beginning January 1, 2015, health carriers must use the most current addendum for Indian
11.21 health care providers approved by Centers for Medicare and Medicaid Services and the
11.22 tribes as part of their contracts with Indian health care providers.

11.23 Subd. 6. **Appeals process; eligibility determinations.** (a) The board shall
11.24 establish a process for appeal of individual or employer eligibility determinations or
11.25 redeterminations of the Minnesota Insurance Marketplace. The process must provide for a
11.26 reasonable opportunity to be heard and timely resolution of the appeal, consistent with the
11.27 requirements of federal law and regulations.

11.28 (b) The Minnesota Insurance Marketplace may establish service-level agreements
11.29 with state agencies to conduct hearings for appeals. Notwithstanding section 471.59,
11.30 subdivision 1, a state agency is authorized to enter into service-level agreements for this
11.31 purpose with the Minnesota Insurance Marketplace.

11.32 (c) For proceedings under this subdivision and subdivision 7, the Minnesota
11.33 Insurance Marketplace may be represented by an attorney who is an employee of the
11.34 Minnesota Insurance Marketplace.

11.35 (d) This subdivision does not apply to appeals of determinations where a state
11.36 agency hearing is available under section 256.045.

12.1 Subd. 7. **Contested case proceeding; health carrier determinations.** A health
12.2 carrier that is aggrieved by a decision of the board regarding its compliance with
12.3 certification requirements or participation in the Minnesota Insurance Marketplace under
12.4 subdivision 5 is entitled to a contested case proceeding under chapter 14. The report or
12.5 order of the administrative law judge constitutes the final decision in the case, subject to
12.6 judicial review under sections 14.63 to 14.69.

12.7 Subd. 8. **Agreements; consultation.** (a) The board shall:

12.8 (1) establish and maintain an agreement with the chief information officer of
12.9 the Office of Enterprise Technology for information technology services that ensures
12.10 coordination with public health care programs. The board may establish and maintain
12.11 agreements with the chief information officer of the Office of Enterprise Technology for
12.12 other information technology services, including an agreement that would permit the
12.13 Minnesota Insurance Marketplace to administer eligibility for additional health care and
12.14 public assistance programs under the authority of the commissioner of human services;

12.15 (2) establish and maintain an agreement with the commissioner of human services
12.16 for cost allocation and services regarding eligibility determinations and enrollment for
12.17 public health care programs that use a modified adjusted gross income standard to
12.18 determine program eligibility. The board may establish and maintain an agreement with
12.19 the commissioner of human services for other services; and

12.20 (3) establish and maintain an agreement with the commissioners of commerce
12.21 and health for services regarding enforcement of Minnesota Insurance Marketplace
12.22 certification requirements for health plans and dental plans offered through the Minnesota
12.23 Insurance Marketplace. The board may establish and maintain agreements with the
12.24 commissioners of commerce and health for other services.

12.25 (b) The board shall consult with the commissioners of commerce and health
12.26 regarding the operations of the Minnesota Insurance Marketplace.

12.27 (c) The board shall consult with Indian tribes and organizations regarding the
12.28 operation of the Minnesota Insurance Marketplace.

12.29 (d) Beginning March 15, 2014, and each March 15 thereafter, the board shall submit
12.30 a report to the chairs and ranking minority members of the committees in the senate and
12.31 house of representatives with primary jurisdiction over commerce, health, and human
12.32 services on all the agreements entered into with the chief information officer of the Office
12.33 of Enterprise Technology, or the commissioners of human services, health, or commerce
12.34 in accordance with this subdivision. The report shall include the agency in which the
12.35 agreement is with; the time period of the agreement; the purpose of the agreement; and

13.1 a summary of the terms of the agreement. A copy of the agreement must be submitted
13.2 to the extent practicable.

13.3 Subd. 9. **Rulemaking in first year.** (a) Effective upon enactment until January 1,
13.4 2014, the Minnesota Insurance Marketplace may adopt rules to implement any provisions
13.5 of this chapter following the process in this subdivision.

13.6 (b) The Minnesota Insurance Marketplace shall publish proposed rules in the State
13.7 Register.

13.8 (c) Interested parties have 21 days after publication to comment on the proposed
13.9 rules. After the Minnesota Insurance Marketplace has considered all comments, the
13.10 Minnesota Insurance Marketplace shall publish notice in the State Register that the rules
13.11 have been adopted and the rules shall take effect on publication.

13.12 (d) If the adopted rules are the same as the proposed rules, the notice shall state that
13.13 the rules have been adopted as proposed and shall cite the prior publication. If the adopted
13.14 rules differ from the proposed rules, the portions of the adopted rules that differ from the
13.15 proposed rules shall be included in the notice of adoption, together with a citation to the
13.16 prior State Register that contained the notice of the proposed rules.

13.17 (e) The Minnesota Insurance Marketplace shall seek comments from the Department
13.18 of Administration, Information Policy Analysis Division, before adopting any final rules
13.19 involving the sharing, use, or disclosure of not public data.

13.20 (f) By January 15, 2014, the board shall submit a report to the chairs and ranking
13.21 minority members of the committees in the senate and the house of representatives
13.22 with primary jurisdiction over commerce and health, that lists and describes all rules
13.23 promulgated under this subdivision.

13.24 (g) If the rulemaking process described in this subdivision is not used, the board
13.25 must comply with the standard rulemaking process in chapter 14.

13.26 Subd. 10. **Rulemaking after the first year.** Beginning January 1, 2014, the
13.27 board may adopt rules to implement any provisions in this chapter using the expedited
13.28 rulemaking process in section 14.389. If the expedited rulemaking process is not used, the
13.29 board must comply with the standard rulemaking process in chapter 14.

13.30 Subd. 11. **Dental plans.** (a) The provisions of this section that apply to health plans
13.31 shall apply to dental plans offered as stand-alone dental plans through the Minnesota
13.32 Insurance Marketplace, to the extent practicable.

13.33 (b) A stand-alone dental plan offered through the Minnesota Insurance Marketplace
13.34 must meet all certification requirements under section 1311(c)(1) of the Affordable Care
13.35 Act (Public Law 111-148) that are applicable to health plans, except for certification
13.36 requirements that cannot be met because the dental plan only covers dental benefits.

14.1 Subd. 12. **Limitations; risk-bearing.** (a) The board shall not bear insurance risk or
14.2 enter into any agreement with health care providers to pay claims.

14.3 (b) Nothing in this subdivision shall prevent the Minnesota Insurance Marketplace
14.4 from providing insurance for its employees.

14.5 **Sec. 10. [62V.06] DATA.**

14.6 (a) The definitions in section 13.02 apply to this section.

14.7 (b) Government data of the Minnesota Insurance Marketplace on individuals,
14.8 employees of employers, and employers using the Minnesota Insurance Marketplace are
14.9 private data on individuals or nonpublic data. The Minnesota Insurance Marketplace
14.10 may share not public data with state and federal agencies and other entities if the board
14.11 determines that the exchange of the data is necessary to carry out the functions of the
14.12 Minnesota Insurance Marketplace. State agencies shall share not public data with the
14.13 Minnesota Insurance Marketplace if the board determines that the exchange of the
14.14 data is reasonably necessary to carry out the functions of the Minnesota Insurance
14.15 Marketplace. Data-sharing agreements must include adequate protections with respect to
14.16 the confidentiality and integrity of the data to be shared and comply with applicable law.
14.17 Notwithstanding the provisions governing summary data in sections 13.02, subdivision
14.18 19, and 13.05, subdivision 7, the Minnesota Insurance Marketplace may derive summary
14.19 data from nonpublic data under this section.

14.20 **Sec. 11. [62V.07] FUNDS.**

14.21 The Minnesota Insurance Marketplace account is created in the special revenue fund
14.22 of the state treasury. All funds received by the Minnesota Insurance Marketplace shall
14.23 be deposited in the account. Funds in the account are appropriated to the Minnesota
14.24 Insurance Marketplace for the operation of the Minnesota Insurance Marketplace.

14.25 **Sec. 12. [62V.08] REPORT.**

14.26 The Minnesota Insurance Marketplace shall submit a report to the legislature by
14.27 January 15, 2015, and each January 15 thereafter, on: (1) the performance of Minnesota
14.28 Insurance Marketplace operations; (2) meeting the Minnesota Insurance Marketplace
14.29 responsibilities; and (3) an accounting of the Minnesota Insurance Marketplace budget
14.30 activities.

14.31 **Sec. 13. [62V.09] EXPIRATION AND SUNSET EXCLUSION.**

15.1 Notwithstanding section 15.059, the board and its advisory committees shall not
15.2 expire, except as specified in section 62V.04, subdivision 13. The board and its advisory
15.3 committees are not subject to review or sunseting under chapter 3D.

15.4 **Sec. 14. [62V.10] LEGISLATIVE OVERSIGHT COMMITTEE.**

15.5 Subdivision 1. **Legislative oversight.** (a) The Legislative Oversight Committee is
15.6 established to provide oversight to the implementation of this chapter and the operation
15.7 of the Minnesota Insurance Marketplace.

15.8 (b) The committee shall review the operations of the Minnesota Insurance
15.9 Marketplace at least annually and shall recommend necessary changes in policy,
15.10 implementation, and statutes to the board and to the legislature.

15.11 (c) The Minnesota Insurance Marketplace shall present to the committee the annual
15.12 report required in section 62V.08, as well as the reports on rules required in section
15.13 62V.05, subdivision 9, the appeals process under section 62V.05, subdivision 6, and the
15.14 actions taken regarding the treatment of multiemployer plans.

15.15 Subd. 2. **Membership; meetings; compensation.** (a) The Legislative Oversight
15.16 Committee shall consist of five members of the senate, three members appointed by
15.17 the majority leader of the senate, and two members appointed by the minority leader of
15.18 the senate; and five members of the house of representatives, three members appointed
15.19 by the speaker of the house, and two members appointed by the minority leader of the
15.20 house of representatives.

15.21 (b) Appointed legislative members serve at the pleasure of the appointing authority
15.22 and shall continue to serve until their successors are appointed.

15.23 (c) The first meeting of the committee shall be convened by the chair of the
15.24 Legislative Coordinating Commission. Members shall elect a chair at the first meeting.
15.25 The chair must convene at least one meeting annually, and may convene other meetings as
15.26 deemed necessary.

15.27 (d) The members shall serve without compensation.

15.28 Subd. 3. **Review of costs.** The board shall submit for review the estimated costs
15.29 necessary to fund the operations of the Minnesota Insurance Marketplace as certified under
15.30 section 16A.725, subdivision 2a, to the committee at the same time as the certification is
15.31 provided to the commissioner of management and budget.

15.32 **Sec. 15. TRANSITION OF AUTHORITY.**

15.33 (a) Upon the effective date of this act, the commissioner of management and budget
15.34 shall exercise all authorities and responsibilities under Minnesota Statutes, sections 62V.03

16.1 and 62V.05 until the board has satisfied the requirements of Minnesota Statutes, section
16.2 62V.05, subdivision 1, paragraph (c). In exercising these authorities and responsibilities of
16.3 the board, the commissioner of management and budget shall be subject to or exempted
16.4 from the same statutory provisions as the board, as identified in Minnesota Statutes,
16.5 section 62V.03, subdivision 2.

16.6 (b) Upon the establishment of bylaws, policies, and procedures governing the
16.7 operations of the Minnesota Insurance Marketplace by the board as required under
16.8 Minnesota Statutes, section 62V.05, subdivision 1, paragraph (c), all personnel, assets,
16.9 contracts, obligations, and funds managed by the commissioner of management and
16.10 budget for the design and development of the Minnesota Insurance Marketplace shall be
16.11 transferred to the board. Existing personnel managed by the commissioner of management
16.12 and budget for the design and development of the Minnesota Insurance Marketplace shall
16.13 staff the board upon enactment.

16.14 **Sec. 16. MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION**
16.15 **TERMINATION.**

16.16 The commissioner of commerce, in consultation with the board of directors of
16.17 the Minnesota Comprehensive Health Association, has the authority to develop and
16.18 implement the phase-out and eventual termination of coverage provided by the Minnesota
16.19 Comprehensive Health Association under Minnesota Statutes, chapter 62E. The phase-out
16.20 of coverage shall begin no sooner than January 1, 2014, or upon the effective date of the
16.21 operation of the Minnesota Insurance Marketplace and the ability to purchase qualified
16.22 health plans through the Minnesota Insurance Marketplace, whichever is later, and shall,
16.23 to the extent practicable, ensure the least amount of disruption to the enrollees' health care
16.24 coverage. The member assessments established under Minnesota Statutes, section 62E.11,
16.25 shall take into consideration any phase-out of coverage implemented under this section.

16.26 **Sec. 17. REPORT ON APPEALS PROCESS.**

16.27 By February 1, 2014, and February 1, 2015, the board of directors of the Minnesota
16.28 Insurance Marketplace shall submit a report to the chairs and ranking minority members
16.29 of the committees in the senate and house of representatives with primary jurisdiction over
16.30 commerce, health, and civil law on the appeals process for eligibility determinations
16.31 established under Minnesota Statutes, section 62V.05, subdivision 6.

16.32 **Sec. 18. CONTINGENT TREATMENT OF MULTIEmployer PLANS.**

17.1 On or after the date that final federal regulations are adopted regarding the treatment
17.2 of multiemployer plans, the Minnesota Insurance Marketplace shall take such actions as
17.3 are necessary, in consultation with the commissioner of commerce and in accordance with
17.4 final federal regulations, to: (1) ensure that all multiemployer plans are notified of the
17.5 final federal rules; (2) conform all policies and procedures of the Minnesota Insurance
17.6 Marketplace with applicable federal rules related to multiemployer plans; and (3) permit
17.7 multiemployer plans to be integrated in the Minnesota Insurance Marketplace to the
17.8 maximum extent permitted by federal rules. The Minnesota Insurance Marketplace shall
17.9 submit written notification to the legislature regarding its compliance with this section.

17.10 Sec. 19. **REPEALER.**

17.11 Minnesota Statutes 2012, section 256.9658, subdivision 1, is repealed.

17.12 Sec. 20. **EFFECTIVE DATE.**

17.13 Sections 1 to 18 are effective the day following final enactment. Any actions taken
17.14 by any state agencies in furtherance of the design, development, and implementation
17.15 of the Minnesota Insurance Marketplace prior to the effective date shall be considered
17.16 actions taken by the Minnesota Insurance Marketplace and shall be governed by the
17.17 provisions of this chapter and state law. Health plan and dental plan coverage through the
17.18 Minnesota Insurance Marketplace is effective January 1, 2014.

APPENDIX
Repealed Minnesota Statutes: S0001-7

256.9658 TOBACCO HEALTH IMPACT FEE.

Subdivision 1. **Purpose.** A tobacco use health impact fee is imposed on and collected from cigarette distributors and tobacco products distributors to recover for the state health costs related to or caused by tobacco use and to reduce tobacco use, particularly by youths.