

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 810**

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DATE	D-PG	OFFICIAL STATUS
02/12/2015	278	Introduction and first reading Referred to Health, Human Services and Housing

A bill for an act

1.1 relating to health; establishing MNsure as a nonprofit corporation; amending  
1.2 Minnesota Statutes 2014, sections 62V.03; 62V.04; 62V.05; 62V.06, subdivision  
1.3 1; 62V.08; proposing coding for new law in Minnesota Statutes, chapter 62V;  
1.4 repealing Minnesota Statutes 2014, sections 62V.07; 62V.09; 62V.11.  
1.5

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

1.7 Section 1. Minnesota Statutes 2014, section 62V.03, is amended to read:

1.8 **62V.03 MNSURE; ESTABLISHMENT.**

1.9 Subdivision 1. **Creation.** (a) MNsure is created as a board under section 15.012,  
1.10 paragraph (a), nonprofit corporation pursuant to the Minnesota Nonprofit Corporation  
1.11 Act, sections 317A.001 to 317A.909, to:

1.12 (1) promote informed consumer choice, innovation, competition, quality, value,  
1.13 market participation, affordability, suitable and meaningful choices, health improvement,  
1.14 care management, reduction of health disparities, and portability of health plans;

1.15 (2) facilitate and simplify the comparison, choice, enrollment, and purchase of  
1.16 health plans for individuals purchasing in the individual market through MNsure and for  
1.17 employees and employers purchasing in the small group market through MNsure;

1.18 (3) assist small employers with access to small business health insurance tax credits  
1.19 and inform individuals of eligibility requirements to public health care programs, and  
1.20 ~~to assist individuals with access to public health care programs,~~ premium assistance  
1.21 tax credits and cost-sharing reductions, and certificates of exemption from individual  
1.22 responsibility requirements; and

2.1 ~~(4) facilitate the integration and transition of individuals between public health care~~  
2.2 ~~programs and health plans in the individual or group market and develop processes that, to~~  
2.3 ~~the maximum extent possible, provide for continuous coverage; and~~

2.4 ~~(5) (4) establish and modify as necessary a name and brand for MNsure based~~  
2.5 ~~on market studies that show maximum effectiveness in attracting the uninsured and~~  
2.6 ~~motivating them to take action.~~

2.7 (b) If any provision of the Minnesota Nonprofit Corporation Act conflicts with any  
2.8 provision of this chapter, the provisions of this chapter apply.

2.9 Subd. 2. **Application of other law.** ~~(a) MNsure must be reviewed by the legislative~~  
2.10 ~~auditor under section 3.971. The legislative auditor shall audit the books, accounts, and~~  
2.11 ~~affairs of MNsure once each year or less frequently as the legislative auditor's funds and~~  
2.12 ~~personnel permit. Upon the audit of the financial accounts and affairs of MNsure, MNsure~~  
2.13 ~~is liable to the state for the total cost and expenses of the audit, including the salaries paid~~  
2.14 ~~to the examiners while actually engaged in making the examination. The legislative~~  
2.15 ~~auditor may bill MNsure either monthly or at the completion of the audit. All collections~~  
2.16 ~~received for the audits must be deposited in the general fund and are appropriated to~~  
2.17 ~~the legislative auditor. Pursuant to section 3.97, subdivision 3a, the Legislative Audit~~  
2.18 ~~Commission is requested to direct the legislative auditor to report by March 1, 2014, to~~  
2.19 ~~the legislature on any duplication of services that occurs within state government as a~~  
2.20 ~~result of the creation of MNsure. The legislative auditor may make recommendations on~~  
2.21 ~~consolidating or eliminating any services deemed duplicative. The board shall reimburse~~  
2.22 ~~the legislative auditor for any costs incurred in the creation of this report.~~

2.23 ~~(b) Board members of MNsure are subject to sections 10A.07 and 10A.09. Board~~  
2.24 ~~members and the personnel of MNsure are subject to section 10A.071.~~

2.25 ~~(e) (b) All meetings of the board shall comply with the open meeting law in chapter~~  
2.26 ~~13D, except that:~~

2.27 (1) meetings, or portions of meetings, regarding compensation negotiations with the  
2.28 director or managerial staff may be closed in the same manner and according to the same  
2.29 procedures identified in section 13D.03;

2.30 (2) meetings regarding contract negotiation strategy may be closed in the same  
2.31 manner and according to the same procedures identified in section 13D.05, subdivision 3,  
2.32 paragraph (c); and

2.33 (3) meetings, or portions of meetings, regarding not public data described in section  
2.34 62V.06, subdivision 3, and regarding trade secret information as defined in section 13.37,  
2.35 subdivision 1, paragraph (b), are closed to the public, but must otherwise comply with  
2.36 the procedures identified in chapter 13D.

3.1 ~~(d) MNsure and provisions specified under this chapter are exempt from:~~  
 3.2 ~~(1) chapter 14, including section 14.386, except as specified in section 62V.05; and~~  
 3.3 ~~(2) chapters 16B and 16C, with the exception of sections 16C.08, subdivision 2,~~  
 3.4 ~~paragraph (b), clauses (1) to (8); 16C.086; 16C.09, paragraph (a), clauses (1) and (3),~~  
 3.5 ~~paragraph (b), and paragraph (c); and section 16C.16. However, MNsure, in consultation~~  
 3.6 ~~with the commissioner of administration, shall implement policies and procedures to~~  
 3.7 ~~establish an open and competitive procurement process for MNsure that, to the extent~~  
 3.8 ~~practicable, conforms to the principles and procedures contained in chapters 16B and 16C.~~  
 3.9 ~~In addition, MNsure may enter into an agreement with the commissioner of administration~~  
 3.10 ~~for other services.~~

3.11 ~~(e)~~ (c) The board and the Web site are exempt from not subject to chapter 60K. Any  
 3.12 employee of MNsure who sells, solicits, or negotiates insurance to individuals or small  
 3.13 employers must be licensed as an insurance producer under chapter 60K.

3.14 ~~(f)~~ (d) Section 3.3005 applies to any federal funds received by MNsure.

3.15 ~~(g) MNsure is exempt from the following sections in chapter 16E: 16E.01,~~  
 3.16 ~~subdivision 3, paragraph (b); 16E.03, subdivisions 3 and 4; 16E.04, subdivision 1,~~  
 3.17 ~~subdivision 2, paragraph (c), and subdivision 3, paragraph (b); 16E.0465; 16E.055;~~  
 3.18 ~~16E.145; 16E.15; 16E.16; 16E.17; 16E.18; and 16E.22.~~

3.19 ~~(h) A MNsure decision that requires a vote of the board, other than a decision that~~  
 3.20 ~~applies only to hiring of employees or other internal management of MNsure, is an~~  
 3.21 ~~"administrative action" under section 10A.01, subdivision 2.~~

3.22 Subd. 3. **Continued operation of a private marketplace.** (a) Nothing in this  
 3.23 chapter shall be construed to prohibit: (1) a health carrier from offering outside of MNsure  
 3.24 a health plan to a qualified individual or qualified employer; and (2) a qualified individual  
 3.25 from enrolling in, or a qualified employer from selecting for its employees, a health plan  
 3.26 offered outside of MNsure.

3.27 (b) Nothing in this chapter shall be construed to restrict the choice of a qualified  
 3.28 individual to enroll or not enroll in a qualified health plan or to participate in MNsure.  
 3.29 Nothing in this chapter shall be construed to compel an individual to enroll in a qualified  
 3.30 health plan or to participate in MNsure.

3.31 (c) For purposes of this subdivision, "qualified individual" and "qualified employer"  
 3.32 have the meanings given in section 1312 of the Affordable Care Act, Public Law 111-148,  
 3.33 and further defined through amendments to the act and regulations issued under the act.

3.34 Sec. 2. Minnesota Statutes 2014, section 62V.04, is amended to read:

3.35 **62V.04 GOVERNANCE.**

4.1 Subdivision 1. **Board.** MNSure is governed by a board of directors with ~~seven~~ 11  
4.2 members.

4.3 Subd. 2. **Appointment.** (a) Board membership of MNSure consists of the following:

4.4 ~~(1) three members appointed by the governor with the advice and consent of both the~~  
4.5 ~~senate and the house of representatives acting separately in accordance with paragraph (d),~~  
4.6 ~~with one member representing the interests of individual consumers eligible for individual~~  
4.7 ~~market coverage, one member representing individual consumers eligible for public health~~  
4.8 ~~care program coverage, and one member representing small employers. Members are~~  
4.9 ~~appointed to serve four-year terms following the initial staggered-term lot determination;~~

4.10 ~~(2) three members appointed by the governor with the advice and consent of both the~~  
4.11 ~~senate and the house of representatives acting separately in accordance with paragraph (d)~~  
4.12 ~~who have demonstrated expertise, leadership, and innovation in the following areas: one~~  
4.13 ~~member representing the areas of health administration, health care finance, health plan~~  
4.14 ~~purchasing, and health care delivery systems; one member representing the areas of public~~  
4.15 ~~health, health disparities, public health care programs, and the uninsured; and one member~~  
4.16 ~~representing health policy issues related to the small group and individual markets.~~

4.17 ~~Members are appointed to serve four-year terms following the initial staggered-term lot~~  
4.18 ~~determination; and~~

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

4.20 ~~(b) Section 15.0597 shall apply to all appointments, except for the commissioner.~~

4.21 ~~(c) The governor shall make appointments to the board that are consistent with~~  
4.22 ~~federal law and regulations regarding its composition and structure. All board members~~  
4.23 ~~appointed by the governor must be legal residents of Minnesota.~~

4.24 ~~(d) Upon appointment by the governor, a board member shall exercise duties of~~  
4.25 ~~office immediately. If both the house of representatives and the senate vote not to confirm~~  
4.26 ~~an appointment, the appointment terminates on the day following the vote not to confirm~~  
4.27 ~~in the second body to vote.~~

4.28 ~~(e) Initial appointments shall be made by April 30, 2013.~~

4.29 ~~(f) One of the six members appointed under paragraph (a), clause (1) or (2), must~~  
4.30 ~~have experience in representing the needs of vulnerable populations and persons with~~  
4.31 ~~disabilities.~~

4.32 ~~(g) Membership on the board must include representation from outside the~~  
4.33 ~~seven-county metropolitan area, as defined in section 473.121, subdivision 2.~~

4.34 (1) six members representing the interests of individual consumers, employees, and  
4.35 small employers served by MNSure that reflect the cultural diversity and geography of  
4.36 Minnesota and the population served by MNSure;

- 5.1 (2) five members representing health care providers, health carriers, and producers;  
 5.2 (3) the commissioner of management and budget;  
 5.3 (4) the commissioner of commerce;  
 5.4 (5) the commissioner of health; and  
 5.5 (6) the commissioner of human services.

5.6 (b) The commissioners shall serve as ex-officio nonvoting members.

5.7 (c) Appointments under this subdivision shall be made by June 30, 2015, and the  
 5.8 appointed members shall begin to exercise the duties of office beginning July 1, 2015.

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

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

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

5.16 ~~Subd. 4. **Conflicts of interest.** (a) Within one year prior to or at any time during~~  
 5.17 ~~their appointed term, board members appointed under subdivision 2, paragraph (a),~~  
 5.18 ~~clauses (1) and (2), shall not be employed by, be a member of the board of directors of, or~~  
 5.19 ~~otherwise be a representative of a health carrier, institutional health care provider or other~~  
 5.20 ~~entity providing health care, navigator, insurance producer, or other entity in the business~~  
 5.21 ~~of selling items or services of significant value to or through MNsure. For purposes of this~~  
 5.22 ~~paragraph, "health care provider or entity" does not include an academic institution.~~

5.23 ~~(b) Board members must recuse themselves from discussion of and voting on an~~  
 5.24 ~~official matter if the board member has a conflict of interest. A conflict of interest means~~  
 5.25 ~~an association including a financial or personal association that has the potential to bias or~~  
 5.26 ~~have the appearance of biasing a board member's decisions in matters related to MNsure~~  
 5.27 ~~or the conduct of activities under this chapter.~~

5.28 ~~(c) No board member shall have a spouse who is an executive of a health carrier.~~

5.29 ~~(d) No member of the board may currently serve as a lobbyist, as defined under~~  
 5.30 ~~section 10A.01, subdivision 21.~~

5.31 Subd. 4a. **Conflict of interest.** Members of the board must recuse themselves from  
 5.32 discussion of and voting on an official matter if the member has a conflict of interest. A  
 5.33 conflict of interest means an association, including a financial or personal association, that  
 5.34 has the potential to bias or have the appearance of biasing a member's decisions in matters  
 5.35 related to the exchange or the conduct of activities under this chapter.

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

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

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

6.5 ~~Subd. 6. **Chair.** The board shall have a chair, elected by a majority of members.~~

6.6 ~~The chair shall serve for one year.~~

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

6.9 ~~Subd. 8. **Vacancies.** If a vacancy occurs, the governor shall appoint a new member~~  
6.10 ~~within 90 days, and the newly appointed member shall be subject to the same confirmation~~  
6.11 ~~process described in subdivision 2.~~

6.12 ~~Subd. 9. **Removal.** (a) A board member may be removed by the appointing~~  
6.13 ~~authority and a majority vote of the board following notice and hearing before the board.~~  
6.14 ~~For purposes of this subdivision, the appointing authority or a designee of the appointing~~  
6.15 ~~authority shall be a voting member of the board for purposes of constituting a quorum.~~

6.16 ~~(b) A conflict of interest as defined in subdivision 4, shall be cause for removal~~  
6.17 ~~from the board.~~

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

6.19 ~~Subd. 11. **Quorum.** A majority of the members of the board constitutes a quorum,~~  
6.20 ~~and the affirmative vote of a majority of members of the board is necessary and sufficient~~  
6.21 ~~for action taken by the board.~~

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

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

6.28 ~~Subd. 13. **Advisory committees.** (a) The board shall establish and maintain~~  
6.29 ~~advisory committees to provide insurance producers, health care providers, the health care~~  
6.30 ~~industry, consumers, and other stakeholders with the opportunity to advise the board~~  
6.31 ~~regarding the operation of MNsure as required under section 1311(d)(6) of the Affordable~~  
6.32 ~~Care Act, Public Law 111-148. The board shall regularly consult with the advisory~~  
6.33 ~~committees. The advisory committees established under this paragraph shall not expire.~~

6.34 ~~(b) The board may establish additional advisory committees, as necessary, to gather~~  
6.35 ~~and provide information to the board in order to facilitate the operation of MNsure. The~~

7.1 advisory committees established under this paragraph shall not expire, except by action of  
7.2 the board.

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

7.5 (d) The board may provide compensation and expense reimbursement under section  
7.6 15.059, subdivision 3, to members of the advisory committees.

7.7 Sec. 3. Minnesota Statutes 2014, section 62V.05, is amended to read:

7.8 **62V.05 RESPONSIBILITIES AND POWERS OF MNSURE.**

7.9 Subdivision 1. **General.** (a) The board shall operate MNSure according to this  
7.10 chapter and applicable state and federal law.

7.11 (b) The board has the power to:

7.12 (1) employ personnel and delegate administrative, operational, and other  
7.13 responsibilities to the director and other personnel as deemed appropriate by the board.  
7.14 ~~This authority is subject to chapters 43A and 179A. The director and managerial staff of~~  
7.15 ~~MNSure shall serve in the unclassified service and shall be governed by a compensation~~  
7.16 ~~plan prepared by the board, submitted to the commissioner of management and budget~~  
7.17 ~~for review and comment within 14 days of its receipt, and approved by the Legislative~~  
7.18 ~~Coordinating Commission and the legislature under section 3.855, except that section~~  
7.19 ~~15A.0815, subdivision 5, paragraph (c), shall not apply~~ MNSure employees are not state  
7.20 employees and are not subject to any state civil service regulations;

7.21 (2) establish ~~the~~ a budget of MNSure;

7.22 (3) seek and accept money, grants, loans, donations, materials, services, or  
7.23 advertising revenue from government agencies, philanthropic organizations, and public  
7.24 and private sources to fund the operation of MNSure. No health carrier or insurance  
7.25 producer shall advertise on MNSure;

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

7.27 (5) enter into information-sharing agreements with federal and state agencies and  
7.28 other entities, provided the agreements include adequate protections with respect to  
7.29 the confidentiality and integrity of the information to be shared, and comply with all  
7.30 applicable state and federal laws, regulations, and rules, including the requirements of  
7.31 section 62V.06; and

7.32 (6) exercise all powers reasonably necessary to implement and administer the  
7.33 requirements of this chapter and the Affordable Care Act, Public Law 111-148.

7.34 (c) The board shall establish policies and procedures to gather public comment and  
7.35 provide public notice in the State Register.

8.1 (d) ~~Within 180 days of enactment,~~ The board shall establish bylaws, policies, and  
8.2 procedures governing the operations of MNsure in accordance with this chapter.

8.3 Subd. 2. **Operations funding.** ~~(a) Prior to January 1, 2015, MNsure shall retain or~~  
8.4 ~~collect up to 1.5 percent of total premiums for individual and small group market health~~  
8.5 ~~plans and dental plans sold through MNsure to fund the cash reserves of MNsure, but~~  
8.6 ~~the amount collected shall not exceed a dollar amount equal to 25 percent of the funds~~  
8.7 ~~collected under section 62E.11, subdivision 6, for calendar year 2012.~~

8.8 ~~(b)~~ (a) Beginning January 1, 2015, MNsure shall retain or collect up to 3.5 percent  
8.9 of total premiums for individual and small group market health plans and dental plans  
8.10 sold through MNsure to fund the operations of MNsure, but the amount collected shall not  
8.11 exceed a dollar amount equal to 50 percent of the funds collected under section 62E.11,  
8.12 subdivision 6, for calendar year 2012.

8.13 ~~(c)~~ (b) Beginning January 1, 2016, MNsure shall retain or collect up to ~~3.5~~ 2.0  
8.14 percent of total premiums for individual and small group market health plans and dental  
8.15 plans sold through MNsure to fund the operations of MNsure, ~~but the amount collected~~  
8.16 ~~may never exceed a dollar amount greater than 100 percent of the funds collected under~~  
8.17 ~~section 62E.11, subdivision 6, for calendar year 2012.~~

8.18 ~~(d)~~ (c) For fiscal years 2014 and 2015, the commissioner of management and  
8.19 budget is authorized to provide cash flow assistance of up to \$20,000,000 from the  
8.20 special revenue fund or the statutory general fund under section 16A.671, subdivision 3,  
8.21 paragraph (a), to MNsure. Any funds provided under this paragraph shall be repaid,  
8.22 with interest, by June 30, 2015.

8.23 ~~(e) Funding for the operations of MNsure shall cover any compensation provided to~~  
8.24 ~~navigators participating in the navigator program.~~

8.25 Subd. 3. **Insurance producers.** ~~(a) By April 30, 2013,~~ The board, in consultation  
8.26 with the commissioner of commerce, shall establish certification requirements that must  
8.27 be met by insurance producers in order to assist individuals and small employers with  
8.28 purchasing coverage through MNsure. ~~Prior to January 1, 2015, the board may amend the~~  
8.29 ~~requirements, only if necessary, due to a change in federal rules.~~

8.30 (b) Certification requirements shall not exceed the requirements established  
8.31 under Code of Federal Regulations, title 45, part 155.220. Certification shall include  
8.32 training on health plans available through MNsure, available tax credits and cost-sharing  
8.33 arrangements, compliance with privacy and security standards, eligibility verification  
8.34 processes, online enrollment tools, and basic information on available public health care  
8.35 programs. Training required for certification under this subdivision shall qualify for

9.1 continuing education requirements for insurance producers required under chapter 60K,  
9.2 and must comply with course approval requirements under chapter 45.

9.3 (c) Producer compensation shall be established by health carriers that provide health  
9.4 plans through MNsure. The structure of compensation to insurance producers must be  
9.5 similar for health plans sold through MNsure and outside MNsure.

9.6 (d) Any insurance producer compensation structure established by a health carrier  
9.7 for the small group market must include compensation for defined contribution plans that  
9.8 involve multiple health carriers. The compensation offered must be commensurate with  
9.9 other small group market defined health plans.

9.10 (e) Any insurance producer assisting an individual or small employer with purchasing  
9.11 coverage through MNsure must disclose, orally and in writing, to the individual or small  
9.12 employer at the time of the first solicitation with the prospective purchaser the following:

9.13 (1) the health carriers and qualified health plans offered through MNsure that the  
9.14 producer is authorized to sell, and that the producer may not be authorized to sell all the  
9.15 qualified health plans offered through MNsure;

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

9.18 (3) that information on all qualified health plans offered through MNsure is available  
9.19 through the MNsure Web site.

9.20 For purposes of this paragraph, "solicitation" means any contact by a producer, or any  
9.21 person acting on behalf of a producer made for the purpose of selling or attempting to sell  
9.22 coverage through MNsure. If the first solicitation is made by telephone, the disclosures  
9.23 required under this paragraph need not be made in writing, but the fact that disclosure  
9.24 has been made must be acknowledged on the application.

9.25 ~~(f) Beginning January 15, 2015, each health carrier that offers or sells qualified~~  
9.26 ~~health plans through MNsure shall report in writing to the board and the commissioner~~  
9.27 ~~of commerce the compensation and other incentives it offers or provides to insurance~~  
9.28 ~~producers with regard to each type of health plan the health carrier offers or sells both inside~~  
9.29 ~~and outside of MNsure. Each health carrier shall submit a report annually and upon any~~  
9.30 ~~change to the compensation or other incentives offered or provided to insurance producers.~~

9.31 ~~(g)~~ (f) Nothing in this chapter shall prohibit an insurance producer from offering  
9.32 professional advice and recommendations to a small group purchaser based upon  
9.33 information provided to the producer.

9.34 ~~(h)~~ (g) An insurance producer that offers health plans in the small group market  
9.35 shall notify each small group purchaser of which group health plans qualify for Internal  
9.36 Revenue Service approved section 125 tax benefits. The insurance producer shall also

10.1 notify small group purchasers of state law provisions that benefit small group plans when  
 10.2 the employer agrees to pay 50 percent or more of its employees' premium. Individuals  
 10.3 who are eligible for cost-effective medical assistance will count toward the 75 percent  
 10.4 participation requirement in section 62L.03, subdivision 3.

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

10.7 Subd. 4. **Navigator; in-person assisters; call center.** (a) The board shall  
 10.8 establish policies and procedures for the ongoing operation of a navigator program,  
 10.9 in-person assister program, call center, and customer service provisions for MNsure to be  
 10.10 implemented beginning January 1, 2015.

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

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

10.14 ~~(2) entities eligible to be navigators, including entities defined in Code of Federal~~  
 10.15 ~~Regulations, title 45, part 155.210 (e)(2), may serve as in-person assisters;~~

10.16 ~~(3) the board shall establish requirements and compensation for the navigator~~  
 10.17 ~~program and the in-person assister program by April 30, 2013. Compensation for~~  
 10.18 ~~navigators and in-person assisters must take into account any other compensation received~~  
 10.19 ~~by the navigator or in-person assister for conducting the same or similar services; and~~

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

10.22 ~~(e)~~ (b) The board shall establish a toll-free number for MNsure and may hire and  
 10.23 contract for additional resources as deemed necessary.

10.24 ~~(d)~~ (c) The navigator program and in-person assister program must meet the  
 10.25 requirements of section 1311(i) of the Affordable Care Act, Public Law 111-148. In  
 10.26 establishing training standards for the navigators and in-person assisters, the board must  
 10.27 ensure that all entities and individuals carrying out navigator and in-person assister  
 10.28 functions have training in the needs of underserved and vulnerable populations; eligibility  
 10.29 and enrollment rules and procedures; the range of available public health care programs  
 10.30 and qualified health plan options offered through MNsure; and privacy and security  
 10.31 standards. For calendar year 2014, the commissioner of human services shall ensure that  
 10.32 the navigator program under section 256.962 provides application assistance for both  
 10.33 qualified health plans offered through MNsure and public health care programs.

10.34 ~~(e) The board must ensure that any information provided by navigators, in-person~~  
 10.35 ~~assisters, the call center, or other customer assistance portals be accessible to persons~~

11.1 ~~with disabilities and that information provided on public health care programs include~~  
 11.2 ~~information on other coverage options available to persons with disabilities.~~

11.3 **Subd. 5. Health carrier and health plan requirements; participation.** (a)  
 11.4 ~~Beginning January 1, 2015, the board may establish certification requirements for health~~  
 11.5 ~~carriers and health plans to be offered through MNsure that satisfy federal requirements~~  
 11.6 ~~under section 1311(e)(1) of the Affordable Care Act, Public Law 111-148.~~

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

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

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

11.11 ~~and~~

11.12 (3) ~~satisfy minimum federal certification requirements under section 1311(e)(1) of~~  
 11.13 ~~the Affordable Care Act, Public Law 111-148.~~

11.14 (e) ~~In accordance with section 1311(e) of the Affordable Care Act, Public Law~~  
 11.15 ~~111-148, the board shall establish policies and procedures for certification and selection~~  
 11.16 ~~of health plans to be offered as qualified health plans through MNsure. The board shall~~  
 11.17 ~~certify and select a health plan as a qualified health plan to be offered through MNsure, if:~~

11.18 (1) ~~the health plan meets the minimum certification requirements established in~~  
 11.19 ~~paragraph (a) or the market regulatory requirements in paragraph (b);~~

11.20 (2) ~~the board determines that making the health plan available through MNsure is in~~  
 11.21 ~~the interest of qualified individuals and qualified employers;~~

11.22 (3) ~~the health carrier applying to offer the health plan through MNsure also applies~~  
 11.23 ~~to offer health plans at each actuarial value level and service area that the health carrier~~  
 11.24 ~~currently offers in the individual and small group markets; and~~

11.25 (4) ~~the health carrier does not apply to offer health plans in the individual and~~  
 11.26 ~~small group markets through MNsure under a separate license of a parent organization~~  
 11.27 ~~or holding company under section 60D.15, that is different from what the health carrier~~  
 11.28 ~~offers in the individual and small group markets outside MNsure.~~

11.29 (d) ~~In determining the interests of qualified individuals and employers under~~  
 11.30 ~~paragraph (c), clause (2), the board may not exclude a health plan for any reason specified~~  
 11.31 ~~under section 1311(e)(1)(B) of the Affordable Care Act, Public Law 111-148. The board~~  
 11.32 ~~may consider:~~

11.33 (1) ~~affordability;~~

11.34 (2) ~~quality and value of health plans;~~

11.35 (3) ~~promotion of prevention and wellness;~~

11.36 (4) ~~promotion of initiatives to reduce health disparities;~~

12.1 ~~(5) market stability and adverse selection;~~

12.2 ~~(6) meaningful choices and access;~~

12.3 ~~(7) alignment and coordination with state agency and private sector purchasing~~  
 12.4 ~~strategies and payment reform efforts; and~~

12.5 ~~(8) other criteria that the board determines appropriate.~~

12.6 ~~(e) For qualified health plans offered through MNsure on or after January 1, 2015,~~  
 12.7 ~~the board shall establish policies and procedures under paragraphs (c) and (d) for selection~~  
 12.8 ~~of health plans to be offered as qualified health plans through MNsure by February 1~~  
 12.9 ~~of each year, beginning February 1, 2014. The board shall consistently and uniformly~~  
 12.10 ~~apply all policies and procedures and any requirements, standards, or criteria to all health~~  
 12.11 ~~carriers and health plans. For any policies, procedures, requirements, standards, or criteria~~  
 12.12 ~~that are defined as rules under section 14.02, subdivision 4, the board may use the process~~  
 12.13 ~~described in subdivision 9.~~

12.14 ~~(f) For 2014, the board shall not have the power to select health carriers and health~~  
 12.15 ~~plans for participation in MNsure. (a) The board shall permit all health plans that meet the~~  
 12.16 ~~certification requirements under section 1311(c)(1) of the Affordable Care Act, Public~~  
 12.17 ~~Law 111-148, to be offered through MNsure.~~

12.18 ~~(g) Under this subdivision, (b) The board shall have the power to verify that health~~  
 12.19 ~~carriers and health plans are properly certified to be eligible for participation in MNsure.~~

12.20 ~~(h) (c) The board has the authority to decertify health carriers and health plans that~~  
 12.21 ~~fail to maintain compliance with section 1311(c)(1) of the Affordable Care Act, Public~~  
 12.22 ~~Law 111-148.~~

12.23 ~~(i) For qualified health plans offered through MNsure beginning January 1, 2015,~~  
 12.24 ~~(d) Health carriers must use the most current addendum for Indian health care providers~~  
 12.25 ~~approved by the Centers for Medicare and Medicaid Services and the tribes as part of their~~  
 12.26 ~~contracts with Indian health care providers. MNsure shall comply with all future changes~~  
 12.27 ~~in federal law with regard to health coverage for the tribes.~~

12.28 Subd. 6. **Appeals.** (a) The board may conduct hearings, appoint hearing officers,  
 12.29 and recommend final orders related to appeals of any MNsure determinations, ~~except for~~  
 12.30 ~~those determinations identified in paragraph (d). An appeal by a health carrier regarding~~  
 12.31 ~~a specific certification or selection determination made by MNsure under subdivision 5~~  
 12.32 ~~must be conducted as a contested case proceeding under chapter 14, with the report or~~  
 12.33 ~~order of the administrative law judge constituting the final decision in the case, subject to~~  
 12.34 ~~judicial review under sections 14.63 to 14.69. For other appeals, the board shall establish~~  
 12.35 ~~hearing processes which provide for a reasonable opportunity to be heard and timely~~  
 12.36 ~~resolution of the appeal and which are consistent with the requirements of federal law and~~

13.1 guidance. An appealing party may be represented by legal counsel at these hearings, but  
 13.2 this is not a requirement.

13.3 (b) ~~MNsure~~ The board may establish service-level agreements with state agencies  
 13.4 to conduct hearings for appeals. Notwithstanding section 471.59, subdivision 1, a state  
 13.5 agency is authorized to enter into service-level agreements for this purpose with MNsure.

13.6 (e) ~~For proceedings under this subdivision, MNsure may be represented by an~~  
 13.7 ~~attorney who is an employee of MNsure.~~

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

13.10 Subd. 7. **Agreements; consultation.** (a) The board shall:

13.11 (1) ~~establish and maintain an agreement with the chief information officer of the~~  
 13.12 ~~Office of MN.IT Services for information technology services that ensures coordination~~  
 13.13 ~~with public health care programs. The board may establish and maintain agreements~~  
 13.14 ~~with the chief information officer of the Office of MN.IT Services for other information~~  
 13.15 ~~technology services, including an agreement that would permit MNsure to administer~~  
 13.16 ~~eligibility for additional health care and public assistance programs under the authority~~  
 13.17 ~~of the commissioner of human services;~~

13.18 (2) ~~establish and maintain an agreement with the commissioner of human services~~  
 13.19 ~~for cost allocation and services regarding eligibility determinations and enrollment for~~  
 13.20 ~~public health care programs that use a modified adjusted gross income standard to~~  
 13.21 ~~determine program eligibility. The board may establish and maintain an agreement with~~  
 13.22 ~~the commissioner of human services for other services;~~

13.23 (3) establish and maintain an agreement with the commissioners of commerce and  
 13.24 health for services regarding enforcement of MNsure certification requirements for health  
 13.25 plans and dental plans offered through MNsure. The board may establish and maintain  
 13.26 agreements with the commissioners of commerce and health for other services; ~~and~~

13.27 (4) ~~establish interagency agreements to transfer funds to other state agencies for~~  
 13.28 ~~their costs related to implementing and operating MNsure, excluding medical assistance~~  
 13.29 ~~allocatable costs.~~

13.30 (b) The board shall ~~consult with the commissioners of commerce and health~~  
 13.31 ~~regarding the operations of MNsure~~ provide eligibility requirements for public health care  
 13.32 programs on the MNsure Web site, and shall provide contact information on its Web site  
 13.33 regarding enrollment in public health care programs for individuals who believe they may  
 13.34 be eligible for a public health care program.

13.35 (c) The board shall consult with Indian tribes and organizations regarding the  
 13.36 operation of MNsure.

14.1 ~~(d) Beginning March 15, 2014, and each March 15 thereafter, the board shall submit a~~  
14.2 ~~report to the chairs and ranking minority members of the committees in the senate and house~~  
14.3 ~~of representatives with primary jurisdiction over commerce, health, and human services on~~  
14.4 ~~all the agreements entered into with the chief information officer of the Office of MN.IT~~  
14.5 ~~Services, or the commissioners of human services, health, or commerce in accordance with~~  
14.6 ~~this subdivision. The report shall include the agency in which the agreement is with; the~~  
14.7 ~~time period of the agreement; the purpose of the agreement; and a summary of the terms~~  
14.8 ~~of the agreement. A copy of the agreement must be submitted to the extent practicable.~~

14.9 ~~Subd. 8. **Rulemaking.** (a) If the board's policies, procedures, or other statements are~~  
14.10 ~~rules, as defined in section 14.02, subdivision 4, the requirements in either paragraph (b)~~  
14.11 ~~or (c) apply, as applicable.~~

14.12 ~~(b) Effective upon enactment until January 1, 2015:~~

14.13 ~~(1) the board shall publish notice of proposed rules in the State Register after~~  
14.14 ~~complying with section 14.07, subdivision 2;~~

14.15 ~~(2) interested parties have 21 days to comment on the proposed rules. The board~~  
14.16 ~~must consider comments it receives. After the board has considered all comments and~~  
14.17 ~~has complied with section 14.07, subdivision 2, the board shall publish notice of the~~  
14.18 ~~final rule in the State Register;~~

14.19 ~~(3) if the adopted rules are the same as the proposed rules, the notice shall state that~~  
14.20 ~~the rules have been adopted as proposed and shall cite the prior publication. If the adopted~~  
14.21 ~~rules differ from the proposed rules, the portions of the adopted rules that differ from the~~  
14.22 ~~proposed rules shall be included in the notice of adoption, together with a citation to the~~  
14.23 ~~prior State Register that contained the notice of the proposed rules; and~~

14.24 ~~(4) rules published in the State Register before January 1, 2014, take effect upon~~  
14.25 ~~publication of the notice. Rules published in the State Register on and after January 1,~~  
14.26 ~~2014, take effect 30 days after publication of the notice.~~

14.27 ~~(c) Beginning January 1, 2015, the board may adopt rules to implement any~~  
14.28 ~~provisions in this chapter using the expedited rulemaking process in section 14.389.~~

14.29 ~~(d) The notice of proposed rules required in paragraph (b) must provide information~~  
14.30 ~~as to where the public may obtain a copy of the rules. The board shall post the proposed~~  
14.31 ~~rules on the MNsure Web site at the same time the notice is published in the State Register.~~

14.32 ~~Subd. 9. **Dental plans.** (a) The provisions of this section that apply to health plans~~  
14.33 ~~shall apply to dental plans offered as stand-alone dental plans through MNsure, to the~~  
14.34 ~~extent practicable.~~

14.35 ~~(b) A stand-alone dental plan offered through MNsure must meet all certification~~  
14.36 ~~requirements under section 1311(c)(1) of the Affordable Care Act, Public Law 111-148,~~

15.1 that are applicable to health plans, except for certification requirements that cannot be met  
15.2 because the dental plan only covers dental benefits.

15.3 Subd. 10. **Limitations; risk-bearing.** (a) The board shall not bear insurance risk or  
15.4 enter into any agreement with health care providers to pay claims.

15.5 (b) ~~Nothing in this subdivision shall prevent MNSure from providing insurance~~  
15.6 ~~for its employees.~~

15.7 Sec. 4. Minnesota Statutes 2014, section 62V.06, subdivision 1, is amended to read:

15.8 Subdivision 1. **Applicability.** ~~MNSure is a state agency for purposes of the~~  
15.9 ~~Minnesota Government Data Practices Act and is subject to all provisions of chapter 13,~~  
15.10 ~~in addition to the requirements contained in this section.~~

15.11 Sec. 5. Minnesota Statutes 2014, section 62V.08, is amended to read:

15.12 **62V.08 REPORTS.**

15.13 (a) MNSure shall submit a report to the legislature by January 15, ~~2015~~ 2016, and  
15.14 each January 15 thereafter, on: (1) the performance of MNSure operations; (2) meeting  
15.15 MNSure responsibilities; and (3) an accounting of MNSure budget activities; ~~(4) practices~~  
15.16 ~~and procedures that have been implemented to ensure compliance with data practices~~  
15.17 ~~laws, and a description of any violations of data practices laws or procedures; and (5)~~  
15.18 ~~the effectiveness of the outreach and implementation activities of MNSure in reducing~~  
15.19 ~~the rate of uninsurance.~~

15.20 (b) MNSure must publish its administrative and operational costs on a its Web site  
15.21 to educate consumers on those costs. The information published must include: (1) the  
15.22 amount of premiums and federal premium subsidies collected; (2) the amount and source  
15.23 of revenue received under section ~~62V.05, subdivision 1, paragraph (b), clause (3)~~ 62V.12;  
15.24 and (3) the amount and source of any other fees collected for purposes of supporting  
15.25 operations; ~~and (4) any misuse of funds as identified in accordance with section 3.975.~~  
15.26 The Web site must be updated at least annually.

15.27 Sec. 6. **[62V.12] ACCOUNTS; AUDITS.**

15.28 (a) The board shall provide for and pay the cost of an independent annual audit of  
15.29 MNSure's books, accounts, and affairs by the legislative auditor subject to sections 3.971  
15.30 and 3.972. A copy of the audit shall be filed with the secretary of state.

15.31 (b) The board may establish funds and accounts that it finds necessary.

15.32 (c) The board may accept and use gifts, grants, or contributions from any public or  
15.33 private source, to the extent permitted under this chapter. Unless otherwise restricted,

16.1 the board may sell, exchange, or otherwise dispose of and invest or reinvest the money,  
16.2 securities, or property given or bequested it. The principal of these funds, the income from  
16.3 them, and all other revenues received by it from any nonstate source, including the premium  
16.4 amounts retained or collected under section 62V.05, subdivision 2, must be placed in the  
16.5 depositories the board determines, and is subject to expenditures for the board's purposes.

16.6 **Sec. 7. FEDERAL WAIVER REQUEST.**

16.7 (a) The commissioner of human services, in consultation with the Board of Directors  
16.8 of MNsure, shall develop a proposal that:

16.9 (1) requires the Department of Human Services to determine eligibility and to enroll  
16.10 eligible individuals and families into applicable state public health care programs; and

16.11 (2) requires MNsure to assist qualified individuals in determining premium tax  
16.12 credits and cost-sharing reductions; provide through a Web site, standardized comparative  
16.13 information on qualified health plans offered through the Web site; make available through  
16.14 the Web site to qualified individuals and employers the opportunity to enroll in qualified  
16.15 health plans; and provide information on the Web site informing individuals of eligibility  
16.16 requirements for state public health programs.

16.17 (b) The commissioner shall seek all federal waivers and approvals necessary to  
16.18 implement this proposal and notify the Board of Directors of MNsure of any federal  
16.19 decision or action related to the requested waiver and proposal.

16.20 **Sec. 8. REPEALER.**

16.21 Minnesota Statutes 2014, sections 62V.07; 62V.09; and 62V.11, are repealed.

16.22 **Sec. 9. EFFECTIVE DATE.**

16.23 Sections 1 to 6 and 8 are effective 90 days after the approval of the waiver request  
16.24 described in section 7, or July 1, 2016, whichever is earlier. Section 7 is effective the  
16.25 day following final enactment.

**62V.07 FUNDS.**

(a) The MNsure account is created in the special revenue fund of the state treasury. All funds received by MNsure shall be deposited in the account. Funds in the account are appropriated to MNsure for the operation of MNsure. Notwithstanding section 11A.20, all investment income and all investment losses attributable to the investment of the MNsure account not currently needed, shall be credited to the MNsure account.

(b) The budget submitted to the legislature under section 16A.11 must include budget information for MNsure.

**62V.09 EXPIRATION AND SUNSET EXCLUSION.**

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

**62V.11 LEGISLATIVE OVERSIGHT COMMITTEE.**

Subdivision 1. **Legislative oversight.** (a) The Legislative Oversight Committee is established to provide oversight to the implementation of this chapter and the operation of MNsure.

(b) The committee shall review the operations of MNsure at least annually and shall recommend necessary changes in policy, implementation, and statutes to the board and to the legislature.

(c) MNsure shall present to the committee the annual report required in section 62V.08, the appeals process under section 62V.05, subdivision 6, and the actions taken regarding the treatment of multiemployer plans.

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

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

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

Subd. 3. **Review of proposed rules.** (a) Prior to the implementation of rules proposed under section 62V.05, subdivision 8, paragraph (b), the board shall submit the proposed rules to the committee at the same time the proposed rules are published in the State Register.

(b) When the legislature is in session, the rule may be adopted, but, if within ten days of receipt of the proposed rule a majority of the committee members appointed by the senate and a majority of the committee members appointed by the house of representatives request further review of the proposed rule, the rule shall not be effective until the request has been satisfied and withdrawn, the rule is approved in law, or the regular session of the legislature is adjourned for the year.

(c) If the legislature is not in session, the rule may be adopted, but, if within ten days of receipt of the proposed rule a majority of the committee members appointed by the senate and a majority of the committee members appointed by the house of representatives request further review of the proposed rule, the rule shall not be effective until the request has been satisfied and withdrawn, or February 1, whichever occurs first.

Subd. 4. **Review of costs.** The board shall submit for review the annual budget of MNsure for the next fiscal year by March 15 of each year, beginning March 15, 2014.