

A bill for an act

relating to insurance; creating statewide health insurance pool for school district employees; appropriating money; amending Minnesota Statutes 2006, sections 3.971, subdivision 6; 13.203; 62E.02, subdivision 23; 62E.10, subdivision 1; 62E.11, subdivision 5; 297I.05, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Section 1. Minnesota Statutes 2006, section 3.971, subdivision 6, is amended to read:

Subd. 6. **Financial audits.** The legislative auditor shall audit the financial statements of the state of Minnesota required by section 16A.50 and, as resources permit, shall audit Minnesota State Colleges and Universities, the University of Minnesota, state agencies, departments, boards, commissions, courts, and other state organizations subject to audit by the legislative auditor, including the State Agricultural Society, Agricultural Utilization Research Institute, Minnesota Technology, Inc., the Minnesota School Employee Insurance Pool, Minnesota Historical Society, Labor Interpretive Center, Minnesota Partnership for Action Against Tobacco, Metropolitan Sports Facilities Commission, Metropolitan Airports Commission, and Metropolitan Mosquito Control District. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance by employees of departments and agencies of the state government and the other organizations listed in this subdivision.

Sec. 2. Minnesota Statutes 2006, section 13.203, is amended to read:

**13.203 SERVICE COOPERATIVE AND SCHOOL EMPLOYEE
INSURANCE BOARD CLAIMS DATA.**

(a) Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to Minnesota school districts and other political subdivisions or by the Minnesota School Employee Insurance Pool created under section 62A.662, and survey information collected from employees and employers participating in these plans and programs, ~~except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program~~, are classified as nonpublic data ~~not on individuals~~.

(b) Data that are classified as nonpublic data under paragraph (a) may be disclosed if the executive director of a Minnesota service cooperative or the Minnesota School Employee Insurance Pool determines that release of the data will not be detrimental to the plan or program.

Sec. 3. **[62A.662] SCHOOL EMPLOYEE INSURANCE PLAN.**

Subdivision 1. Definitions. For purposes of this section:

(1) "board" or "board of directors" means the board of directors of the Minnesota School Employee Insurance Pool;

(2) "eligible employee" means an individual who is insurance eligible under a collective bargaining agreement or under the personnel policy of an eligible employer;

(3) "eligible employer" means a school district as defined in section 120A.05, a service cooperative as defined in section 123A.21, an intermediate district as defined in section 136D.01, a cooperative center for vocational education as defined in section 123A.22, a regional management information center as defined in section 123A.23, an education unit organized under section 471.59, or a charter school organized under section 124D.10;

(4) "health plan" means a health plan as defined in section 62A.011;

(5) "pool" or "Minnesota School Employee Insurance Pool" means the Minnesota School Employee Insurance Pool, a public corporation; and

(6) "self-insured health benefit plan" means self-insured health care coverage that is offered by the Minnesota School Employee Insurance Pool under this section.

Subd. 2. Creation of pool. (a) The Minnesota School Employee Insurance Pool is created as a public corporation that is governed by and subject to the provisions of chapter

317A, except as otherwise provided in this section. As provided in section 15.082, the state is not liable for obligations of this public corporation.

(b) The pool shall create and administer the Minnesota School Employee Insurance Plan as described in this section.

(c) Insurance plans and offerings must be effective no later than July 1, 2010.

(d) If the pool does not offer coverage by December 15, 2011, the pool expires and this section expires on that date.

Subd. 3. **Board of directors.** (a) The Minnesota School Employee Insurance Pool shall be governed by a board of directors that consists of:

(1) seven members representing statewide affiliates of exclusive representatives of eligible employees, appointed by exclusive representatives, as provided in paragraph (b); and

(2) seven members representing eligible employers, appointed by the Minnesota School Boards Association.

(b) The seven members of the board who represent statewide affiliates of exclusive representatives of eligible employees are appointed as follows: four members appointed by Education Minnesota and one member each appointed by the Service Employees International Union, the Minnesota School Employees Association, and the American Federation of State, County, and Municipal Employees.

(c) Appointing authorities must make their initial appointments no later than August 1, 2008, by filing a notice of the appointment with the commissioner of commerce. Notices of subsequent appointments must be filed with the board. An entity entitled to appoint a board member may replace the board member at any time.

(d) Board members are eligible for compensation and expense reimbursement from the pool under section 15.0575, subdivision 3.

(e) The board must arrange for one or more methods of dispute resolution so as to minimize the likelihood of deadlocks.

(f) The board shall establish governance requirements, which may include staggered terms, term limits, quorum, a plan of operation, and audit provisions. The pool is subject to financial audit by the legislative auditor under section 3.971, subdivision 6.

Subd. 4. **Design and nature of plan.** (a) Health coverage offered through the Minnesota School Employee Insurance Pool shall be made available by the pool to all eligible employees of eligible employers, as defined in subdivision 1.

(b) If an eligible employer provides health coverage or money to purchase health coverage to eligible employees, the coverage must be provided or purchased only through the health plans or self-insured health benefit plans offered by the pool.

4.1 (c) Nothing in this section affects the right of each eligible employer to determine,
4.2 through collective bargaining under the Public Employment Labor Relations Act:

4.3 (1) the employer's eligibility requirements regarding the terms and conditions under
4.4 which employees, dependents, retirees, and other persons are eligible for health coverage
4.5 through the employer;

4.6 (2) how much of the premium charged for the health coverage will be paid by the
4.7 employer and how much will be paid by the eligible person; and

4.8 (3) which health plans or self-insured health benefit plans offered by the pool will be
4.9 made available by the eligible employer.

4.10 (d) The pool must initially offer at least six health plans or self-insured health benefit
4.11 plans. One plan must provide coverage without a deductible and without other enrollee
4.12 cost-sharing other than reasonable co-payments for nonpreventive care. One plan must be
4.13 a high-deductible health plan that qualifies under federal law for use with a health savings
4.14 account. The other four plans must have levels of enrollee cost-sharing that are between
4.15 the two plans just described. The pool may establish more than one tier of premium
4.16 rates for any specific plan. Plans and premium rates may vary across geographic regions
4.17 established by the pool. Any health plan or self-insured health benefit plan offered by
4.18 the pool must comply with chapters 62A, 62J, 62M, 62Q, and 72A, and must provide
4.19 the optimal combination of coverage, cost, choice, and stability in the judgment of the
4.20 pool. Any health plan or self-insured health benefit plan offered must be approved by the
4.21 commissioner of commerce. The pool shall investigate the feasibility of offering coverage
4.22 through more than one health plan company or other network of health care providers.

4.23 (e) The pool must include claims reserves, stabilization reserves, reinsurance, and
4.24 other features that, in the judgment of the pool, will result in long-term stability and
4.25 solvency of the health plans and self-insured health benefit plans offered.

4.26 (f) The pool may determine whether the plans should be fully insured through a
4.27 health carrier licensed in this state, self-insured, or a combination of those two alternatives.
4.28 If at any time any plan offered by the pool is not fully insured, the pool and the self-insured
4.29 health benefit plan are subject to section 471.617, and any rules adopted under that section,
4.30 including Minnesota Rules, chapter 2785. The pool must not offer a self-insured plan
4.31 within its first two years of operation and may do so thereafter only if the self-insured plan
4.32 has been approved as financially solvent by the commissioner of commerce.

4.33 (g) Any health plan or self-insured health benefit plan must include disease
4.34 management and consumer education, including wellness programs and measures
4.35 encouraging the wise use of health coverage, to the extent determined to be appropriate by
4.36 the pool.

5.1 (h) Upon request by the pool, entities that are providing or have provided coverage
5.2 to employees of eligible employers within two years before the effective date of this
5.3 section, shall provide to the pool at no charge nonidentifiable aggregate claims data for
5.4 that coverage. The information must include data relating to employee group benefit sets,
5.5 demographics, and claims experience. Notwithstanding section 13.203, Minnesota service
5.6 cooperatives must also comply with this paragraph.

5.7 (i) Effective July 1, 2010, a contract entered into between an eligible employer and an
5.8 eligible employee or the exclusive representative of an eligible employee may not contain
5.9 provisions that establish cash payment in lieu of health coverage to an eligible employee,
5.10 unless the employee has been receiving a cash-in-lieu payment on or before June 30, 2010.
5.11 Nothing in this section prevents an eligible employee who otherwise qualifies for payment
5.12 of cash in lieu of insurance on June 30, 2009, from continuing to receive such a payment.

5.13 (j) All premiums paid for health coverage provided by the pool must be used by the
5.14 pool solely for the cost of the operation of the pool and the benefit of eligible employees
5.15 and eligible employers in connection with the health coverage offered by the pool.

5.16 (k) The pool and the commissioner of finance may enter into an agreement whereby
5.17 the pool's health plans would be based upon the plan offered by the commissioner under
5.18 section 43A.23, included within its contracts, or administered by the commissioner.
5.19 If such an agreement is entered into, persons covered through the pool must be rated
5.20 separately for premium purposes from other persons covered under section 43A.23. Such
5.21 an agreement may contain provisions that vary from those of paragraph (d) to conform to
5.22 the terms of the plan under section 43A.23.

5.23 Subd. 5. **MCHA membership and assessments.** The pool is a contributing member
5.24 of the Minnesota Comprehensive Health Association and must pay assessments made by
5.25 the association on its premium revenues, as provided in section 62E.11, subdivision 5,
5.26 paragraph (b).

5.27 Subd. 6. **Report.** The pool shall report to the legislature and to the commissioner
5.28 of commerce by January 15, 2010, on a final design for the pool that complies with
5.29 subdivision 4 and on governance requirements for the board, which may include staggered
5.30 terms, term limits, quorum, a plan of operation, and audit provisions. The report must
5.31 include any legislative changes necessary to ensure conformance with chapters 62A,
5.32 62J, 62M, 62Q, and 72A.

5.33 Subd. 7. **Periodic evaluation.** (a) Beginning December 15, 2010, and for the next
5.34 two years, the pool must submit an annual report to the commissioner of commerce and
5.35 the legislature, in compliance with sections 3.195 and 3.197, summarizing and evaluating
5.36 the performance of the pool during the previous fiscal year of operation.

(b) Beginning in 2013 and in each odd-numbered year thereafter, the pool must submit to the legislature a biennial report summarizing and evaluating the performance of the pool during the preceding two fiscal years.

Subd. 8. **Actuarial study; MCHA and tax effects.** (a) The pool shall have a study prepared by a qualified actuary that estimates for the first two fiscal years of operation of the pool:

(1) the rate of assessment for losses of the comprehensive health insurance plan under section 62E.11, subdivision 5, to be paid by the pool that would provide amounts equal to the assessments that would have been paid by providers of coverage to eligible employers if the pool had not been established; and

(2) the rate of tax under section 297I.05, subdivision 5, paragraph (b), that would provide amounts equal to the premiums tax that would have been paid by providers of coverage to eligible employers if the pool had not been established. This estimate must include the separate amounts of the tax that would have been paid under: (i) section 297I.05, subdivisions 1 to 4; and (ii) section 297I.05, subdivision 5.

(b) The pool shall provide the study to the commissioners of commerce and revenue by January 1, 2009.

(c) After review of the study and after making any necessary modifications or adjustments, the commissioner of commerce shall certify the rate under section 62E.11, subdivision 5, paragraph (b), clause (2), and shall notify the pool and the association of the rate by March 1, 2009. The rate certified applies until modified by legislation enacted into law.

(d) After review of the study and after making any necessary modifications or adjustments, the commissioner of revenue shall certify the rate of tax under section 297I.05, subdivision 5, paragraph (b), by March 1, 2009. The rate certified applies until modified by legislation enacted into law.

Subd. 9. **Applicability of data practices laws.** The pool and its board are government entities that are subject to chapter 13.

Sec. 4. Minnesota Statutes 2006, section 62E.02, subdivision 23, is amended to read:

Subd. 23. **Contributing member.** "Contributing member" means those companies regulated under chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance; health maintenance organizations regulated under chapter 62D; nonprofit health service plan corporations regulated under chapter 62C; community integrated service networks regulated under chapter 62N; fraternal benefit societies regulated under chapter 64B; the Minnesota employees insurance

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program established in section 43A.317, effective July 1, 1993; ~~and~~ joint self-insurance plans regulated under chapter 62H; and the Minnesota School Employee Insurance Pool created under section 62A.662. For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for coverage by a health maintenance organization ~~or~~, a community integrated service network, or the Minnesota School Employee Insurance Pool shall be considered to be accident and health insurance premiums.

Sec. 5. Minnesota Statutes 2006, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. **Creation; tax exemption.** There is established a Comprehensive Health Association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternal; joint self-insurance plans regulated under chapter 62H; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; the Minnesota School Employee Insurance Pool created under section 62A.662; health maintenance organizations; and community integrated service networks licensed or authorized to do business in this state. The Comprehensive Health Association is exempt from the taxes imposed under chapter 297I and any other laws of this state and all property owned by the association is exempt from taxation.

Sec. 6. Minnesota Statutes 2006, section 62E.11, subdivision 5, is amended to read:

Subd. 5. **Allocation of losses.** (a) Each contributing member of the association shall share the losses due to claims expenses of the comprehensive health insurance plan for plans issued or approved for issuance by the association, and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs. Claims expenses of the state plan which exceed the premium payments allocated to the payment of benefits shall be the liability of the contributing members. Contributing members shall share in the claims expense of the state plan and operating and administrative expenses of the association in an amount equal to the ratio of the contributing member's total accident and health insurance premium, received from or on behalf of Minnesota residents as divided by the total accident and health insurance premium, received by all contributing members from or on behalf of Minnesota residents, as determined by the commissioner. Payments made by the state to a contributing member for medical assistance, MinnesotaCare, or general assistance medical care services according to chapters 256, 256B, and 256D shall be excluded when determining a contributing member's total premium.

(b) In making the allocation of losses provided in paragraph (a), the association's assessment against the Minnesota School Employee Insurance Pool must equal the product of: (1) the percentage of premiums assessed against other association members; (2) the rate certified by the commissioner under section 62A.662, subdivision 9, paragraph (c); and (3) premiums received by the Minnesota School Employee Insurance Pool. For purposes of this calculation, premiums of the board used must be net of rate credits and retroactive rate refunds on the same basis as the premiums of other association members.

Sec. 7. Minnesota Statutes 2006, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **Health maintenance organizations, nonprofit health service plan corporations, ~~and~~ community integrated service networks, and the Minnesota School Employee Insurance Pool.** (a) A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.

(b) A tax is imposed on the Minnesota School Employee Insurance Pool under section 62A.662, to the extent the pool receives amounts for coverage not otherwise subject to tax under this section. The rate of tax is equal to the percentage rate certified by the commissioner under section 62A.662, subdivision 9, paragraph (d), multiplied by the gross premiums less return premiums received in the calendar year.

(c) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

(d) By March 1, 2009, based on the study prepared under section 62A.662, subdivision 9, paragraph (a), the commissioner shall certify the percentage of all revenues, including penalties and interest, collected under this chapter from the Minnesota School Employee Insurance Pool, that are to be deposited in the general fund and the health care access fund. The commissioner shall deposit the revenues and pay refunds of overpayments of tax imposed on the Minnesota School Employee Insurance Pool based on the certified percentage. Amounts are appropriated from the respective funds to the commissioner to make any refunds of tax imposed under paragraph (b).

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9.1 Sec. 8. **INITIAL MEETING.**

9.2 The commissioner of commerce shall convene the first meeting of the board of
9.3 directors of the Minnesota School Employee Insurance Pool no later than 30 days after
9.4 all board members have been appointed.

9.5 Sec. 9. **APPROPRIATION.**

9.6 \$4,000,000 is appropriated in fiscal year 2009 from the general fund to the
9.7 commissioner of commerce as a loan for start-up costs to the Minnesota School Employee
9.8 Insurance Pool. The pool must repay the loan to the general fund in ten equal installments
9.9 paid at the end of each fiscal year, beginning with the 2011 fiscal year.

9.10 Sec. 10. **EFFECTIVE DATE.**

9.11 This act is effective July 1, 2008, except that sections 6 and 7, paragraph (b), are
9.12 effective July 1, 2010.