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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 5

01/10/2013 Authored by Atkins, Huntley, Abeler, Davids, Fritz and others
The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy
01/24/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations
01/31/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to commerce; establishing the Minnesota Insurance Marketplace;
1.3 prescribing its powers and duties; establishing the right not to participate;
1.4 appropriating money; amending Minnesota Statutes 2012, section 13.7191, by
1.5 adding a subdivision; proposing coding for new law as Minnesota Statutes,
1.6 chapter 62V.

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

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

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

1.12 Sec. 2. [62V.01] TITLE.

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

1.14 Sec. 3. [62V.02] DEFINITIONS.

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

1.17 Subd. 2. **Board.** "Board" means the board of directors specified in section 62V.04.

1.18 Subd. 3. **Health benefit plan.** "Health benefit plan" means a policy, contract,
1.19 certificate, or agreement defined in section 62A.011, subdivision 3, and a dental plan
1.20 defined in section 62Q.76, subdivision 3.

1.21 Subd. 4. **Health carrier.** "Health carrier" has the meaning defined in section
1.22 62A.011.

2.1 Subd. 5. **Individual market.** "Individual market" means the market for health
 2.2 insurance coverage offered to individuals.

2.3 Subd. 6. **Insurance producer.** "Insurance producer" has the meaning defined
 2.4 in section 60K.31.

2.5 Subd. 7. **Minnesota Insurance Marketplace.** "Minnesota Insurance Marketplace"
 2.6 means the Minnesota Insurance Marketplace created as a state health benefit exchange
 2.7 as described in section 1311 of the federal Patient Protection and Affordable Care Act
 2.8 (Public Law 111-148), and further defined through amendments to the act and regulations
 2.9 issued under the act.

2.10 Subd. 8. **Navigator.** "Navigator" has the meaning described in section 1311(i) of
 2.11 the federal Patient Protection and Affordable Care Act (Public Law 111-148), and further
 2.12 defined through amendments to the act and regulations issued under the act.

2.13 Subd. 9. **Public health care program.** "Public health care program" means any
 2.14 public health care program administered by the commissioner of human services whereby
 2.15 eligibility for the program is determined according to a modified adjusted gross income
 2.16 standard.

2.17 Subd. 10. **Small group market.** "Small group market" means the market for health
 2.18 insurance coverage offered to small employers as defined in section 62L.02, subdivision 26.

2.19 **Sec. 4. [62V.03] MINNESOTA INSURANCE MARKETPLACE;**
 2.20 **ESTABLISHMENT.**

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

2.23 (1) promote innovation, competition, quality, value, market participation,
 2.24 affordability, meaningful choices, health improvement, care management, and portability
 2.25 of health benefit plans;

2.26 (2) facilitate and simplify the comparison, choice, enrollment, and purchase of health
 2.27 benefit plans for individuals purchasing in the individual market through the Minnesota
 2.28 Insurance Marketplace and for employees and employers purchasing in the small group
 2.29 market through the Minnesota Insurance Marketplace;

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

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

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

3.3 (b) Board members of the Minnesota Insurance Marketplace are subject to section
3.4 10A.07. Board members and the personnel of the Minnesota Insurance Marketplace
3.5 are subject to section 10A.071.

3.6 (c) All meetings of the board shall comply with the open meeting law in chapter
3.7 13D, except that:

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

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

3.12 (3) meetings regarding private, not public, nonpublic, or trade secret information
3.13 are closed to the public.

3.14 (d) The Minnesota Insurance Marketplace and provisions specified under this
3.15 chapter are exempt from:

3.16 (1) chapter 14, including section 14.386;

3.17 (2) chapters 16B and 16C, with the exception of sections 16C.08, subdivision
3.18 2, paragraph (b), clauses (1) to (8); 16C.086; 16C.09, paragraph (a), clauses (1) and
3.19 (3), paragraph (b), and paragraph (c); and section 16C.16. However, the Minnesota
3.20 Insurance Marketplace, in consultation with the commissioner of administration, shall
3.21 implement policies and procedures to establish an open and competitive procurement
3.22 process for the Minnesota Insurance Marketplace that, to the extent practicable, conforms
3.23 to the principles and procedures contained in chapters 16B and 16C. In addition, the
3.24 Minnesota Insurance Marketplace may enter into an agreement with the commissioner of
3.25 administration for other services.

3.26 Sec. 5. **[62V.04] GOVERNANCE.**

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

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

3.31 (1) three members appointed by the governor with the advice and consent of both the
3.32 senate and the house of representatives acting separately in accordance with paragraph (d),
3.33 with one member representing the interests of individual consumers eligible for individual
3.34 market coverage, one member representing individual consumers eligible for public
3.35 health care program coverage, and one member representing small employers. Members

4.1 are appointed to serve four-year staggered terms following the initial staggered-term
4.2 lot determination;

4.3 (2) three members appointed by the governor with the advice and consent of both
4.4 the senate and the house of representatives acting separately in accordance with paragraph
4.5 (d) who have demonstrated expertise, leadership, and innovation in the following areas:
4.6 one member representing the areas of health administration, health care finance, health
4.7 plan purchasing, and health care delivery systems; one member representing the areas of
4.8 public health, health disparities, public health care programs, and the uninsured; and
4.9 one member representing health policy issues related to the small group and individual
4.10 markets. Members are appointed to serve four-year staggered terms following the initial
4.11 staggered-term lot determination; and

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

4.13 (b) Section 15.0597 shall apply to all appointments, except for the commissioner
4.14 and initial appointments.

4.15 (c) The governor shall make appointments to the board that are consistent with
4.16 federal law and regulations regarding its composition and structure.

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

4.21 (e) Initial appointments shall be made within 30 days of enactment.

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

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

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

4.29 Subd. 4. **Conflicts of interest.** Within one year prior to or at any time during their
4.30 appointed term, board members appointed under subdivision 2, paragraph (a), clauses (1)
4.31 and (2), shall not be employed by, be a member of the board of directors of, or otherwise
4.32 be a representative of a health carrier, health care provider, navigator, insurance producer,
4.33 or other entity in the business of selling items or services of significant value to or through
4.34 the Minnesota Insurance Marketplace. No member of the board may currently serve as a
4.35 lobbyist, as defined under section 10A.01, subdivision 21.

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

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

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

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

5.6 The chair shall serve for one year.

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

5.9 Subd. 8. **Vacancies.** If a vacancy occurs for a board seat that was appointed
5.10 by the governor, the governor shall appoint a new member within 90 days, and the
5.11 newly appointed member shall be subject to the same confirmation process described in
5.12 subdivision 2.

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

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

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

5.20 Subd. 12. **Compensation.** Board members may be compensated according to
5.21 section 15.0575.

5.22 Subd. 13. **Advisory committees.** (a) The board may establish, as necessary,
5.23 advisory committees to gather information related to the operation of the Minnesota
5.24 Insurance Marketplace.

5.25 (b) Section 15.0597 shall not apply to any advisory committee established by the
5.26 board.

5.27 Sec. 6. **[62V.05] RESPONSIBILITIES AND POWERS OF THE MINNESOTA**
5.28 **INSURANCE MARKETPLACE.**

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

5.31 (b) The board has the power to:

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

5.34 This authority is subject to chapters 43A and 179A. The director and managerial staff of
5.35 the Minnesota Insurance Marketplace shall serve in the unclassified service and shall be

6.1 governed by a compensation plan prepared by the board, submitted to the commissioner
6.2 of management and budget for review and comment within 14 days of its receipt, and
6.3 approved by the Legislative Coordinating Commission and the legislature under section
6.4 3.855, except that section 15A.0815, subdivision 5, paragraph (e), shall not apply;

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

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

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

6.10 (5) enter into information-sharing agreements with federal and state agencies and
6.11 other entities, provided the agreements include adequate protections with respect to
6.12 the confidentiality and integrity of the information to be shared, and comply with all
6.13 applicable state and federal laws, regulations, and rules; and

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

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

6.18 (d) Within 180 days of enactment, the board shall establish bylaws, policies,
6.19 and procedures governing the operations of the Minnesota Insurance Marketplace in
6.20 accordance with this chapter.

6.21 Subd. 2. **Operations funding.** (a) Beginning January 1, 2015, the board may
6.22 retain or collect up to 3.5 percent of premiums for individual market and small group
6.23 market health benefit plans sold through the Minnesota Insurance Marketplace to fund
6.24 the operations of the Minnesota Insurance Marketplace.

6.25 (b) Prior to January 1, 2015, the Minnesota Insurance Marketplace shall retain or
6.26 collect 3.5 percent of total premiums for individual market and small group market health
6.27 benefit plans sold through the Minnesota Insurance Marketplace to fund the operations
6.28 of the Minnesota Insurance Marketplace.

6.29 Subd. 3. **Insurance producers.** (a) The commissioner of management and
6.30 budget, in consultation with the commissioner of commerce, shall establish minimum
6.31 standards for certifying insurance producers who may sell health benefit plans through
6.32 the Minnesota Insurance Marketplace. Producers must complete four hours of training
6.33 in order to receive certification. Certification and training shall be administered by the
6.34 commissioner of commerce, and the training required under this section shall qualify as
6.35 continuing education required under chapter 60K.

7.1 (b) Producer compensation shall be established by health carriers that provide health
7.2 benefit plans through the Minnesota Insurance Marketplace. Compensation to producers
7.3 must be equivalent for health benefit plans sold through the marketplace or outside the
7.4 marketplace.

7.5 (c) Each health carrier that offers or sells health benefit plans through the Minnesota
7.6 Insurance Marketplace shall report in writing to the marketplace on a quarterly basis the
7.7 compensation and other incentives it offers or provides to its insurance producers with
7.8 regard to each type of health benefit plan the health carrier offers or sells both inside and
7.9 outside the marketplace.

7.10 (d) An insurance producer that offers health benefits plans for the small group
7.11 market in the marketplace shall not discourage an employer from choosing to offer its
7.12 employees a defined contribution type of group health benefit plan.

7.13 (e) An insurance producer that offers health benefit plans through the Minnesota
7.14 Insurance Marketplace shall disclose to prospective purchasers, at the time of the insurance
7.15 producer's first contact with the prospective purchaser, the health carriers for which the
7.16 insurance producer is authorized to sell health benefit plans through the exchange.

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

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

7.23 (1) the navigator program shall be fulfilled through section 256.962;

7.24 (2) entities eligible to be navigators, including insurance producers, Indian tribes and
7.25 organizations, and counties may serve as in-person assisters;

7.26 (3) the commissioner of management and budget shall establish requirements
7.27 and compensation for the in-person assister program within 30 days of enactment.
7.28 Compensation for in-person assisters must take into account any other compensation
7.29 received by the in-person assister for conducting the same or similar services; and

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

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

7.35 Subd. 5. **Health carrier requirements; participation.** (a) Beginning January 1,
7.36 2015, the board shall have the power to establish certification requirements for health

8.1 carriers and health benefit plans offered through the Minnesota Insurance Marketplace
8.2 unless by June 1, 2013, the legislature enacts regulatory requirements that:

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

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

8.7 (3) satisfy federal certification requirements for the Minnesota Insurance
8.8 Marketplace.

8.9 (b) The board has the power to select health carriers and health benefit plans for
8.10 participation in the Minnesota Insurance Marketplace from the health carriers and health
8.11 benefit plans that have met certification requirements. Selection must be determined in the
8.12 interests of the individual consumers and employers and within federal requirements.

8.13 (c) For health benefit plans offered through the Minnesota Insurance Marketplace
8.14 beginning January 1, 2015, health carriers must use the most current addendum for Indian
8.15 health care providers approved by Centers for Medicare and Medicaid Services and the
8.16 tribes as part of their contracts with Indian health care providers.

8.17 Subd. 6. **Appeals.** (a) The board may conduct hearings, appoint hearing officers,
8.18 and recommend final orders related to appeals of any Minnesota Insurance Marketplace
8.19 determinations, except for those determinations identified in paragraph (d).

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

8.24 (c) For proceedings under this subdivision, the Minnesota Insurance Marketplace may
8.25 be represented by an attorney who is an employee of the Minnesota Insurance Marketplace.

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

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

8.29 (1) establish and maintain an agreement with the chief information officer of
8.30 the Office of Enterprise Technology for information technology services that ensures
8.31 coordination with public health care programs. The board may establish and maintain
8.32 agreements with the chief information officer of the Office of Enterprise Technology for
8.33 other information technology services, including an agreement that would permit the
8.34 Minnesota Insurance Marketplace to administer eligibility for additional health care and
8.35 public assistance programs under the authority of the commissioner of human services;

9.1 (2) establish and maintain an agreement with the commissioner of human services
9.2 for cost allocation and services regarding eligibility determinations and enrollment for
9.3 public health care programs. The board may establish and maintain an agreement with the
9.4 commissioner of human services for other services; and

9.5 (3) establish and maintain an agreement with the commissioners of commerce
9.6 and health for services regarding enforcement of Minnesota Insurance Marketplace
9.7 certification requirements for health benefit plans offered through the Minnesota Insurance
9.8 Marketplace. The board may establish and maintain agreements with the commissioners
9.9 of commerce and health for other services.

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

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

9.14 (d) The board shall establish advisory committees to provide the health care industry,
9.15 consumers, and other stakeholders with the opportunity to share their perspectives
9.16 regarding the operations of the Minnesota Insurance Marketplace.

9.17 **Sec. 7. [62V.06] DATA.**

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

9.19 (b) Government data of the Minnesota Insurance Marketplace on individuals,
9.20 employees of employers, and employers using the Minnesota Insurance Marketplace are
9.21 private data on individuals or nonpublic data. The Minnesota Insurance Marketplace may
9.22 share not public data with state and federal agencies and other entities if the exchange
9.23 of the data is reasonably necessary to carry out the functions of the Minnesota Insurance
9.24 Marketplace. State agencies shall share not public data with the Minnesota Insurance
9.25 Marketplace if the exchange of the data is reasonably necessary to carry out the functions
9.26 of the Minnesota Insurance Marketplace. Notwithstanding the provisions governing
9.27 summary data in sections 13.02, subdivision 19, and 13.05, subdivision 7, the Minnesota
9.28 Insurance Marketplace may derive summary data from nonpublic data under this section.

9.29 **Sec. 8. [62V.07] FUNDS.**

9.30 All funds received by the Minnesota Insurance Marketplace must be deposited in a
9.31 dedicated fund which may earn interest and are appropriated to the Minnesota Insurance
9.32 Marketplace for the purpose for which the funds were received. Funds do not cancel
9.33 and are available until expended.

10.1 Sec. 9. **[62V.08] REPORT.**

10.2 The Minnesota Insurance Marketplace shall submit a report to the legislature by
10.3 January 15, 2015, and each January 15 thereafter, on: (1) the performance of Minnesota
10.4 Insurance Marketplace operations; (2) meeting the Minnesota Insurance Marketplace
10.5 responsibilities; and (3) an accounting of the Minnesota Insurance Marketplace budget
10.6 activities.

10.7 Sec. 10. **[62V.09] EXPIRATION AND SUNSET EXCLUSION.**

10.8 Notwithstanding Minnesota Statutes, section 15.059, the Minnesota Insurance
10.9 Marketplace Act shall not expire. The board is not subject to review or sunseting under
10.10 Minnesota Statutes, chapter 3D.

10.11 Sec. 11. **[62V.10] RIGHT NOT TO PARTICIPATE.**

10.12 Nothing in this chapter infringes on the right of a Minnesota citizen not to participate
10.13 in the Minnesota Insurance Marketplace.

10.14 Sec. 12. **TRANSITION OF AUTHORITY.**

10.15 (a) Upon the effective date of this act, the commissioner of management and budget
10.16 shall exercise all authorities and responsibilities under Minnesota Statutes, sections
10.17 62V.03 and 62V.05 until the board has satisfied the requirements of Minnesota Statutes,
10.18 section 62V.05, subdivision 1, paragraph (d).

10.19 (b) Upon the establishment of bylaws, policies, and procedures governing the
10.20 operations of the Minnesota Insurance Marketplace by the board as required under
10.21 Minnesota Statutes, section 62V.05, subdivision 1, paragraph (d), all personnel, assets,
10.22 contracts, obligations, and funds managed by the commissioner of management and
10.23 budget for the design and development of the Minnesota Insurance Marketplace shall be
10.24 transferred to the board. Existing personnel managed by the commissioner of management
10.25 and budget for the design and development of the Minnesota Insurance Marketplace shall
10.26 staff the board upon enactment.

10.27 Sec. 13. **MINNESOTA COMPREHENSIVE HEALTH INSURANCE**
10.28 **TERMINATION.**

10.29 The commissioner of commerce, in consultation with the board of directors of the
10.30 Minnesota Comprehensive Health Insurance Association, has the authority to develop and
10.31 implement the phase out and eventual termination of coverage provided by the Minnesota

11.1 Comprehensive Health Insurance Association under Minnesota Statutes, chapter 62E. The
11.2 phase out of coverage shall begin no sooner than January 1, 2014.

11.3 Sec. 14. **EFFECTIVE DATE.**

11.4 Sections 1 to 13 are effective the day following final enactment. Any actions taken
11.5 by any state agencies in furtherance of the design, development, and implementation of the
11.6 Minnesota Insurance Marketplace prior to the effective date shall be considered actions
11.7 taken by the Minnesota Insurance Marketplace and shall be governed by the provisions of
11.8 this chapter and state law. Health benefit plan coverage through the Minnesota Insurance
11.9 Marketplace is effective January 1, 2014.