

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 55

(SENATE AUTHORS: BENSON)

DATE	D-PG	OFFICIAL STATUS
01/09/2017	58	Introduction and first reading
		Referred to Judiciary and Public Safety Finance and Policy
01/11/2017	62a	Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
1.2 relating to health care; providing for verification of eligibility for premium
1.3 assistance; providing that certain health plan rate data are public; establishing a
1.4 state reinsurance program; amending Minnesota Statutes 2016, section 60A.08,
1.5 subdivision 15; proposing coding for new law in Minnesota Statutes, chapter 62E.

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

1.7 **ARTICLE 1**

1.8 **PREMIUM ASSISTANCE**

1.9 Section 1. Minnesota Statutes 2016, section 60A.08, subdivision 15, is amended to read:

1.10 Subd. 15. **Classification of insurance filings data.** (a) All forms, rates, and related
1.11 information filed with the commissioner under section 61A.02 shall be nonpublic data until
1.12 the filing becomes effective.

1.13 (b) All forms, rates, and related information filed with the commissioner under section
1.14 62A.02 shall be nonpublic data until the filing becomes effective.

1.15 (c) All forms, rates, and related information filed with the commissioner under section
1.16 62C.14, subdivision 10, shall be nonpublic data until the filing becomes effective.

1.17 (d) All forms, rates, and related information filed with the commissioner under section
1.18 70A.06 shall be nonpublic data until the filing becomes effective.

1.19 (e) All forms, rates, and related information filed with the commissioner under section
1.20 79.56 shall be nonpublic data until the filing becomes effective.

1.21 (f) Notwithstanding paragraphs (b) and (c), for all rate increases subject to review under
1.22 section 2794 of the Public Health Services Act and any amendments to, or regulations, or

2.1 guidance issued under the act that are filed with the commissioner on or after September 1,
2.2 2011, the commissioner:

2.3 (1) may acknowledge receipt of the information;

2.4 (2) may acknowledge that the corresponding rate filing is pending review;

2.5 (3) must provide public access from the Department of Commerce's Web site to parts I
2.6 and II of the Preliminary Justifications of the rate increases subject to review; and

2.7 (4) must provide notice to the public on the Department of Commerce's Web site of the
2.8 review of the proposed rate, which must include a statement that the public has 30 calendar
2.9 days to submit written comments to the commissioner on the rate filing subject to review.

2.10 (g) Notwithstanding paragraphs (b) and (c), for all rates for individual health plans, as
2.11 defined in section 62A.011, subdivision 4, and small employer plans, as defined in section
2.12 62L.02, subdivision 28, the commissioner must provide:

2.13 (1) public access to the information described in clause (2) from the Department of
2.14 Commerce's Web site within ten days of receiving a rate filing from a health plan, as defined
2.15 in section 62A.011, subdivision 3; and

2.16 (2) compiled data of the proposed change to rates separated by health plan and geographic
2.17 rating area.

2.18 **EFFECTIVE DATE.** This section is effective 30 days following final enactment.

2.19 Sec. 2. **TRANSITION OF CARE COVERAGE FOR CALENDAR YEAR 2017;**
2.20 **REQUEST FOR AUTHORIZATION.**

2.21 (a) The definitions in Minnesota Statutes, sections 62A.011 and 62Q.01, apply to sections
2.22 2 to 5.

2.23 (b) An enrollee's health plan company may require medical records and other supporting
2.24 documentation to be submitted with a request for authorization for transition of care coverage.
2.25 If authorization is denied, the health plan company must explain the criteria used to make
2.26 its decision on the request for authorization and must explain the enrollee's right to appeal
2.27 the decision. If an enrollee chooses to appeal a denial, the enrollee must appeal the denial
2.28 within five business days of the date on which the enrollee receives the denial. If authorization
2.29 is granted, the health plan company must provide the enrollee, within five business days of
2.30 granting the authorization, with an explanation of how transition of care will be provided.

3.1 **EFFECTIVE DATE.** This section is effective for health plans issued after December
 3.2 31, 2016, and before March 2, 2017, and that are in effect for all or a portion of calendar
 3.3 year 2017. This section expires June 30, 2018.

3.4 Sec. 3. **INFORMATION FROM HEALTH PLAN COMPANIES.**

3.5 (a) The commissioner of management and budget shall require a health plan company
 3.6 to provide to the commissioner the following information on an individual who has applied
 3.7 for health care premium assistance:

3.8 (1) whether the individual is covered by the health plan;

3.9 (2) the qualified premium for the coverage;

3.10 (3) whether the coverage is individual or family coverage;

3.11 (4) whether the individual is receiving advance payment of the credit under section 36B
 3.12 of the Internal Revenue Code; and

3.13 (5) any additional information the commissioner determines appropriate to administer
 3.14 the program.

3.15 (b) A health plan company must notify the commissioner of coverage terminations of
 3.16 eligible individuals within ten business days.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 3.18 expires on July 1, 2018.

3.19 Sec. 4. **VERIFYING ELIGIBILITY FOR PREMIUM ASSISTANCE; PROGRAM**
 3.20 **INTEGRITY.**

3.21 Subdivision 1. **Verification of residency.** The commissioner of management and budget
 3.22 shall verify that persons applying for health care premium assistance are residents of
 3.23 Minnesota. The commissioner has access to data of the Department of Employment and
 3.24 Economic Development and the Department of Revenue for purposes of verifying residency.

3.25 Subd. 2. **Program integrity.** The commissioner of revenue has access to and shall
 3.26 review data from the Department of Management and Budget, the Department of Human
 3.27 Services, MNsure, and the taxable year 2016 tax returns to identify ineligible individuals
 3.28 who received health care premium assistance or individuals who received premium assistance
 3.29 in excess of the amount to which they are entitled. The commissioner of revenue shall
 3.30 recover the amount of any premium assistance paid on behalf of an ineligible individual or

4.1 the amount in excess of the amount to which an individual is entitled, in the manner provided
 4.2 by law for the collection of unpaid taxes or erroneously paid refunds of taxes.

4.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.4 Sec. 5. **DATA PRACTICES.**

4.5 Information submitted by a health plan company under section 3 and data on an individual
 4.6 who applies for or receives health care premium assistance are private data on individuals
 4.7 as defined in Minnesota Statutes, section 13.02, subdivision 12. The data may be shared
 4.8 with the commissioner of revenue for program integrity purposes under section 4, subdivision
 4.9 2.

4.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.11 **ARTICLE 2**

4.12 **REINSURANCE**

4.13 Section 1. **[62E.21] DEFINITIONS.**

4.14 Subdivision 1. **Application.** Solely for purposes of sections 62E.21 to 62E.24, the terms
 4.15 and phrases defined in this section have the meanings given them.

4.16 Subd. 2. **Affordable Care Act.** "Affordable Care Act" means the Affordable Care Act
 4.17 as defined in section 62A.011, subdivision 1a.

4.18 Subd. 3. **Attachment point.** "Attachment point" means the threshold dollar amount for
 4.19 claims costs incurred by an eligible health carrier for an enrolled individual's covered benefits
 4.20 in a plan year, after which threshold the claims costs for such benefits are eligible for
 4.21 Minnesota premium security plan payments.

4.22 Subd. 4. **Plan year.** "Plan year" means a calendar year for which an eligible health carrier
 4.23 provides coverage under a health plan in the individual market.

4.24 Subd. 5. **Board.** "Board" means the board of directors of the Minnesota Comprehensive
 4.25 Health Association established under section 62E.10.

4.26 Subd. 6. **Coinsurance rate.** "Coinsurance rate" means the rate, established by the board
 4.27 of the Minnesota Comprehensive Health Association, at which the association will reimburse
 4.28 the eligible health carrier for claims costs incurred for an enrolled individual's covered
 4.29 benefits in a plan year after the attachment point and before the reinsurance cap.

4.30 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of commerce.

5.1 Subd. 8. **Contributing member.** "Contributing member" has the meaning as defined
 5.2 in section 62E.02, subdivision 23.

5.3 Subd. 9. **Eligible health carrier.** "Eligible health carrier" means:

5.4 (1) an insurance company licensed under chapter 60A to offer, sell, or issue a policy of
 5.5 accident and sickness insurance as defined in section 62A.01;

5.6 (2) a nonprofit health service plan corporation operating under chapter 62C; or

5.7 (3) a health maintenance organization operating under chapter 62D

5.8 offering health plans in the individual market and incurring claims costs for an individual
 5.9 enrollee's covered benefits in the applicable plan year that exceed the attachment point under
 5.10 the Minnesota premium security plan.

5.11 Subd. 10. **Individual market.** "Individual market" has the meaning as defined in section
 5.12 62A.011, subdivision 5.

5.13 Subd. 11. **Minnesota Comprehensive Health Association or association.** "Minnesota
 5.14 Comprehensive Health Association" or "association" has the meaning as defined in section
 5.15 62E.02, subdivision 14.

5.16 Subd. 12. **Minnesota premium security plan.** The "Minnesota premium security plan"
 5.17 means the state-based reinsurance program authorized under section 62E.23.

5.18 Subd. 13. **Reinsurance cap.** "Reinsurance cap" means the threshold dollar amount for
 5.19 claims costs incurred by an eligible health carrier for an enrolled individual's covered
 5.20 benefits, after which threshold the claims costs for such benefits are no longer eligible for
 5.21 Minnesota premium security plan payments, established by the board of the Minnesota
 5.22 Comprehensive Health Association.

5.23 Sec. 2. **[62E.22] DUTIES OF COMMISSIONER.**

5.24 In the implementation and operation of the Minnesota premium security plan, established
 5.25 under section 62E.23, the commissioner shall require eligible health carriers to calculate
 5.26 the premium amount the eligible health carrier would have charged for the applicable plan
 5.27 year had the Minnesota premium security plan not been established, and submit this
 5.28 information as part of the rate filing.

5.29 Sec. 3. **[62E.23] MINNESOTA PREMIUM SECURITY PLAN.**

5.30 Subdivision 1. **The Minnesota premium security plan as state-based reinsurance.**
 5.31 The association is Minnesota's reinsurance entity to administer the state-based reinsurance

6.1 program, referred to throughout this chapter as the Minnesota premium security plan. The
6.2 Minnesota premium security plan shall be designed to protect consumers by mitigating the
6.3 impact of high-risk individuals on rates in the individual market.

6.4 Subd. 2. **Minnesota premium security plan parameters.** (a) The board shall propose
6.5 to the commissioner the Minnesota premium security plan payment parameters for the next
6.6 plan year by January 15 of the calendar year prior to the applicable plan year. In developing
6.7 the proposed payment parameters, the board shall consider the anticipated impact to
6.8 premiums. The commissioner shall approve the payment parameters no later than 14 calendar
6.9 days following the board proposal. In developing the proposed payment parameters for plan
6.10 years 2019 and after, the board may develop methods to account for variations in costs
6.11 within the Minnesota premium security plan.

6.12 (b) For plan year 2018, the Minnesota premium security plan parameters, including the
6.13 attachment point, reinsurance cap, and coinsurance rate, shall be established within the
6.14 parameters of the appropriated funds as follows:

6.15 (1) the attachment point is set at \$70,000;

6.16 (2) the reinsurance cap is set at \$250,000; and

6.17 (3) the coinsurance rate is set at 50 percent.

6.18 (c) All eligible health carriers receiving Minnesota premium security plan payments
6.19 must apply the Minnesota premium security plan's parameters established under paragraph
6.20 (a) or paragraph (b) of this section, as applicable, when calculating reinsurance payments.

6.21 Subd. 3. **Payments under the Minnesota premium security plan.** (a) Each Minnesota
6.22 premium security plan payment must be calculated with respect to an eligible health carrier's
6.23 incurred claims costs for an individual enrollee's covered benefits in the applicable plan
6.24 year. If such claim costs do not exceed the attachment point, payment will be zero dollars.
6.25 If such claim costs exceed the attachment point, payment will be calculated as the product
6.26 of the coinsurance rate multiplied by the lesser of:

6.27 (1) such claims costs minus the attachment point; or

6.28 (2) the reinsurance cap minus the attachment point.

6.29 (b) The board must ensure that the payments made to eligible health carriers must not
6.30 exceed the eligible health carrier's total paid amount for any eligible claim. For purposes
6.31 of this paragraph, total paid amount of an eligible claim means the amount paid by the
6.32 eligible health carrier based upon the allowed amount less any deductible, coinsurance, or

7.1 co-payment, as of the time the data is submitted or made accessible under subdivision 4,
7.2 paragraph (a), clause (1), of this section.

7.3 Subd. 4. **Requests for Minnesota premium security plan payments.** (a) An eligible
7.4 health carrier may make a request for payment when the eligible health carrier's claims costs
7.5 for an enrollee meet the criteria for payment under subdivision 2 and meet the requirements
7.6 of this subdivision.

7.7 (1) to be eligible for Minnesota premium security plan payments, an eligible health
7.8 carrier must provide to the association access to the data within the dedicated data
7.9 environment established by the eligible health carrier under the federal Risk Adjustment
7.10 Program. Eligible health carriers must submit an attestation to the board asserting entity
7.11 compliance with the dedicated data environments, data requirements, establishment and
7.12 usage of masked enrollee identification numbers, and data submission deadlines; and

7.13 (2) an eligible health carrier must provide the required access under clause (1) for the
7.14 applicable plan year by April 30 of the year following the end of the applicable plan year.

7.15 (b) An eligible health carrier must make requests for payment in accordance with the
7.16 requirements established by the board.

7.17 (c) An eligible health carrier must maintain documents and records, whether paper,
7.18 electronic, or in other media, sufficient to substantiate the requests for Minnesota premium
7.19 security plan payments made pursuant to this section for a period of at least ten years, and
7.20 must make those documents and records available upon request from the state or its designee
7.21 for purposes of verification, investigation, audit, or other review of Minnesota premium
7.22 security plan payment requests.

7.23 (d) The association or its designee may audit an eligible health carrier to assess its
7.24 compliance with the requirements of section 62E.23. The eligible health carrier must ensure
7.25 that its relevant contracts, subcontractors, or agents cooperate with any audit under this
7.26 section. If an audit results in a proposed finding of material weakness or significant deficiency
7.27 with respect to compliance with any requirement under section 62E.23, the eligible health
7.28 carrier may provide response to the draft audit report within 30 calendar days. Within 30
7.29 calendar days of the issuance of the final audit report, the eligible health carrier must complete
7.30 the following:

7.31 (1) provide a written corrective action plan to the association for approval if the final
7.32 audit results in a finding of material weakness or significant deficiency with respect to
7.33 compliance with any requirement under section 62E.23;

8.1 (2) implement that plan; and

8.2 (3) provide to the association written documentation of the corrective actions once taken.

8.3 Subd. 5. **Notification of Minnesota premium security plan payments.** (a) For each
8.4 applicable plan year, the association must notify eligible health carriers annually of Minnesota
8.5 premium security plan payments, if applicable, to be made for the applicable plan year no
8.6 later than June 30 of the year following the applicable plan year.

8.7 (b) An eligible health carrier may follow the appeals procedure under section 62E.10,
8.8 subdivision 2a.

8.9 (c) For each applicable plan year, the board must provide to each eligible health carrier
8.10 the calculation of total Minnesota premium security plan payment requests on a quarterly
8.11 basis during the applicable plan year.

8.12 Subd. 6. **Disbursement of Minnesota premium security plan payments.** The
8.13 association must:

8.14 (1) collect or access data required to determine Minnesota premium security plan
8.15 payments from an eligible health carrier according to the data requirements under subdivision
8.16 5; and

8.17 (2) make Minnesota premium security plan payments to the eligible health carrier after
8.18 receiving a valid claim for payment from that eligible health carrier by August 15 of the
8.19 year following the applicable plan year.

8.20 Subd. 7. **Allocation of costs of the Minnesota premium security plan.** Each contributing
8.21 member of the association shall share in the costs of the Minnesota premium security plan,
8.22 including security plan payments, and operating and administrative expenses incurred or
8.23 estimated to be incurred by the association incident to the plan. Contributing members shall
8.24 share in the costs in an amount equal to the ratio of the contributing member's total accident
8.25 and health insurance premium, received from or on behalf of Minnesota residents as divided
8.26 by the total accident and health insurance premium, received by all contributing members
8.27 from or on behalf of Minnesota residents, as determined by the commissioner. Payments
8.28 made by the state to a contributing member for medical assistance or MinnesotaCare services
8.29 according to chapters 256 and 256B shall be excluded when determining a contributing
8.30 member's total premium.

8.31 Subd. 8. **Member assessments.** The association shall make an annual determination of
8.32 each contributing member's liability for costs of the Minnesota premium security plan under
8.33 subdivision 7, and may make an annual fiscal year-end assessment. The association may

9.1 also, subject to the approval of the commissioner, provide for interim assessments against
 9.2 the contributing members whose aggregate assessments comprised a minimum of 90 percent
 9.3 of the most recent prior annual assessment, in the event that the association deems that
 9.4 methodology to be the most administratively efficient and cost-effective means of assessment,
 9.5 and as may be necessary to assure the financial capability of the association in meeting the
 9.6 incurred costs of the Minnesota premium security plan and operating and administrative
 9.7 expenses. Payment of an assessment shall be due within 30 days of receipt by a contributing
 9.8 member of a written notice of a fiscal year end or interim assessment. A contributing member
 9.9 that ceases to do accident and health insurance business within the state shall remain liable
 9.10 for assessments through the calendar year during which accident and health insurance
 9.11 business ceased.

9.12 Subd. 9. **Reserve surplus.** The association must use any monetary reserves of the
 9.13 association to offset costs of the Minnesota premium security plan.

9.14 Subd. 10. **Data.** Government data of the association under this section are private data
 9.15 on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12.

9.16 **Sec. 4. [62E.24] ACCOUNTING, REPORTING, AND AUDITING.**

9.17 Subdivision 1. **Accounting requirements.** The board must ensure that it keeps an
 9.18 accounting for each plan year of:

9.19 (1) all claims for Minnesota premium security plan payments received from eligible
 9.20 health carriers;

9.21 (2) all Minnesota premium security plan payments made to eligible health carriers;

9.22 (3) all administrative expenses incurred for the Minnesota premium security plan; and

9.23 (4) all assessments made for security plan costs.

9.24 Subd. 2. **Summary report.** The board must submit to the commissioner and make public
 9.25 a report on the Minnesota premium security plan operations for each plan year by November
 9.26 1 following the applicable year or 60 calendar days following the last disbursement of
 9.27 Minnesota premium security plan payments for the applicable plan year.

9.28 Subd. 3. **Audits.** The commissioner or designee may conduct a financial or programmatic
 9.29 audit of the Minnesota premium security plan to assess its compliance with the requirements.
 9.30 The board must ensure that it and any relevant contractors, subcontractors, or agents
 9.31 cooperate with any audit. The Minnesota premium security plan is subject to audit by the
 9.32 legislative auditor.

10.1 Subd. 4. **Independent external audit.** The board must engage an independent qualified
10.2 auditing entity to perform a financial and programmatic audit for each plan year of the
10.3 Minnesota premium security plan in accordance with Generally Accepted Auditing Standards
10.4 (GAAS). The board must:

10.5 (1) provide to the commissioner the results of the audit, in the manner and time frame
10.6 to be specified by the commissioner;

10.7 (2) identify to the commissioner any material weakness or significant deficiency identified
10.8 in the audit, and address in writing to the commissioner how the board intends to correct
10.9 any such material weakness or significant deficiency; and

10.10 (3) make public a summary of the results of the audit, including any material weakness
10.11 or significant deficiency and how the board intends to correct the material weakness or
10.12 significant deficiency.

10.13 Subd. 5. **Action on audit findings.** If an audit results in a finding of material weakness
10.14 or significant deficiency with respect to compliance with any requirement under this act,
10.15 the commissioner of commerce must ensure the board:

10.16 (1) within 60 calendar days of the issuance of the final audit report, provides a written
10.17 corrective action plan to the commissioner for approval;

10.18 (2) implements that plan; and

10.19 (3) provides to the commissioner written documentation of the corrective actions once
10.20 taken.

10.21 Sec. 5. **STATE INNOVATION WAIVER.**

10.22 Subdivision 1. **Authority to submit a waiver application.** The commissioner of
10.23 commerce is directed to apply to the United States Secretary of Health and Human Services
10.24 under United States Code, title 42, section 18052, for a waiver of applicable provisions of
10.25 the Affordable Care Act with respect to health insurance coverage in the state for a plan
10.26 year beginning on or after January 1, 2018, for the sole purpose of implementing the
10.27 Minnesota premium security plan in a manner that maximizes federal funding for Minnesota.
10.28 The Minnesota premium security board shall implement a state plan for meeting the waiver
10.29 requirements in a manner consistent with state and federal law, and as approved by the
10.30 United States Secretary of Health and Human Services. The commissioner is directed to
10.31 apply for a waiver to ensure:

11.1 (1) eligible Minnesotans receive advance premium tax credits as though the Minnesota
11.2 premium security plan did not exist; and

11.3 (2) federal funding for MinnesotaCare, as Minnesota's basic health program, continues
11.4 to be based on the market premium and cost-sharing levels before the impact of reinsurance
11.5 under the premium security plan, established under Minnesota Statutes, section 62E.23.

11.6 Subd. 2. **Consultation.** In developing the waiver application, the commissioner shall
11.7 consult with the Minnesota Department of Human Services and MNsure.

11.8 Subd. 3. **Application deadline.** The commissioner shall submit the application waiver
11.9 to the appropriate federal agency on or before July 5, 2017. The commissioner shall follow
11.10 all application instructions. The commissioner shall complete the draft application for public
11.11 review and comment by June 1, 2017.

11.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.13 Sec. 6. **EFFECTIVE DATE.**

11.14 This article is effective the day following final enactment.

APPENDIX
Article locations in S0055-1

ARTICLE 1	PREMIUM ASSISTANCE	Page.Ln 1.7
ARTICLE 2	REINSURANCE	Page.Ln 4.11