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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  
02/04/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Policy  
02/07/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on State Government Finance and Veterans Affairs  
02/14/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance

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 specifying open meeting requirements and data practices procedures;  
1.5 appropriating money; amending Minnesota Statutes 2012, section 13.7191, by  
1.6 adding a subdivision; proposing coding for new law as Minnesota Statutes,  
1.7 chapter 62V.

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

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

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

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

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

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

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

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

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

1.22 Subd. 4. **Health carrier.** "Health carrier" has the meaning defined in section  
1.23 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. **Exchange enrollment public health care program.** "Exchange  
2.14 enrollment public health care program" means any exchange enrollment public health care  
2.15 program administered by the commissioner of human services whereby eligibility for the  
2.16 program is determined according to a modified adjusted gross income 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, suitable and meaningful choices, health improvement, care management,  
2.25 and portability 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 exchange enrollment public health care programs,  
2.32 premium assistance tax credits and cost-sharing reductions, and certificates of exemption  
2.33 from individual responsibility requirements;

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

3.1 group market and develop processes that, to the maximum extent possible, provide for  
3.2 continuous coverage;

3.3 (5) establish a name for the Web-based exchange based on market studies that show  
3.4 maximum effectiveness in attracting the uninsured and motivating them to take action; and

3.5 (6) evaluate the effectiveness of the outreach and implementation activities of the  
3.6 Minnesota Insurance Marketplace in reducing the rate of uninsurance in Minnesota and  
3.7 in addressing the above responsibilities.

3.8 Subd. 2. **Application of other law.** (a) The Minnesota Insurance Marketplace  
3.9 must be reviewed by the legislative auditor under section 3.971. The legislative auditor  
3.10 shall audit the books, accounts, and affairs of the Minnesota Insurance Marketplace  
3.11 once each year or less frequently as the legislative auditor's funds and personnel permit.  
3.12 Pursuant to section 3.97, subdivision 3a, the Legislative Audit Commission is requested  
3.13 to direct the legislative auditor to report by March 1, 2014, to the legislature on any  
3.14 duplication of services that occurs within state government as a result of the creation of the  
3.15 Minnesota Insurance Marketplace. The legislative auditor may make recommendations on  
3.16 consolidating or eliminating any services deemed duplicative. The board shall reimburse  
3.17 the legislative auditor for any costs incurred in the creation of this report.

3.18 (b) Board members of the Minnesota Insurance Marketplace are subject to section  
3.19 10A.07. Board members and the personnel of the Minnesota Insurance Marketplace  
3.20 are subject to section 10A.071.

3.21 (c) All meetings of the board shall comply with the open meeting law in chapter  
3.22 13D, except that:

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

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

3.29 (3) meetings, or portions of meetings, regarding not public data described in section  
3.30 62V.06, subdivision 2, and regarding trade secret information as defined in section 13.37,  
3.31 subdivision 1, paragraph (b), are closed to the public, but must otherwise comply with  
3.32 the procedures identified in chapter 13D.

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

3.35 (1) chapter 14, including section 14.386 but not sections 14.48 to 14.69; and

4.1 (2) chapters 16B and 16C, with the exception of sections 16C.08, subdivision  
4.2 2, paragraph (b), clauses (1) to (8); 16C.086; 16C.09, paragraph (a), clauses (1) and  
4.3 (3), paragraph (b), and paragraph (c); and section 16C.16. However, the Minnesota  
4.4 Insurance Marketplace, in consultation with the commissioner of administration, shall  
4.5 implement policies and procedures to establish an open and competitive procurement  
4.6 process for the Minnesota Insurance Marketplace that, to the extent practicable, conforms  
4.7 to the principles and procedures contained in chapters 16B and 16C. In addition, the  
4.8 Minnesota Insurance Marketplace may enter into an agreement with the commissioner of  
4.9 administration for other services.

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

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

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

4.15 (1) three members appointed by the governor with the advice and consent of both  
4.16 the senate and the house of representatives acting separately in accordance with paragraph  
4.17 (d), with one member representing the interests of individual consumers eligible for  
4.18 individual market coverage, one member representing individual consumers eligible for  
4.19 exchange enrollment public health care program coverage, and one member representing  
4.20 small employers. Members are appointed to serve four-year staggered terms following the  
4.21 initial staggered-term lot determination;

4.22 (2) three members appointed by the governor with the advice and consent of both  
4.23 the senate and the house of representatives acting separately in accordance with paragraph  
4.24 (d) who have demonstrated expertise, leadership, and innovation in the following areas:  
4.25 one member representing the areas of health administration, health care finance, health  
4.26 plan purchasing, and health care delivery systems; one member representing the areas of  
4.27 public health, health disparities, exchange enrollment public health care programs, and  
4.28 the uninsured; and one member representing health policy issues related to the small  
4.29 group and individual markets. Members are appointed to serve four-year staggered terms  
4.30 following the initial staggered-term lot determination; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.4 Subd. 12. **Compensation.** Board members may be compensated according to  
6.5 section 15.0575.

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

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

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

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

6.15 (b) The board has the power to:

6.16 (1) employ personnel and delegate administrative, operational, and other  
6.17 responsibilities to the director and other personnel as deemed appropriate by the board.  
6.18 This authority is subject to chapters 43A and 179A. The director and managerial staff of  
6.19 the Minnesota Insurance Marketplace shall serve in the unclassified service and shall be  
6.20 governed by a compensation plan prepared by the board, submitted to the commissioner  
6.21 of management and budget for review and comment within 14 days of its receipt, and  
6.22 approved by the Legislative Coordinating Commission and the legislature under section  
6.23 3.855, except that section 15A.0815, subdivision 5, paragraph (e), shall not apply;

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

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

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

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

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

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

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

7.6 (e) If the board's policies, procedures, or other statements are rules, as defined in  
7.7 section 14.02, subdivision 4, the following requirements apply:

7.8 (1) the board shall publish proposed rules in the State Register;

7.9 (2) interested parties have 30 days to comment on the proposed rules. The board  
7.10 must consider comments it receives. After the board has considered all comments, the  
7.11 board shall publish notice in the State Register that the rules have been adopted 30 days  
7.12 before they are to take effect; and

7.13 (3) if the adopted rules are the same as the proposed rules, the notice shall state that  
7.14 the rules have been adopted as proposed and shall cite the prior publication. If the adopted  
7.15 rules differ from the proposed rules, the portions of the adopted rules that differ from the  
7.16 proposed rules shall be included in the notice of adoption, together with a citation to the  
7.17 prior State Register that contained the notice of the proposed rules.

7.18 Subd. 2. **Operations funding.** (a) Beginning January 1, 2015, the board may  
7.19 retain or collect up to 3.5 percent of premiums for individual market and small group  
7.20 market health benefit plans sold through the Minnesota Insurance Marketplace to fund  
7.21 the operations of the Minnesota Insurance Marketplace, including related expenditures  
7.22 incurred by other state agencies.

7.23 (b) Prior to January 1, 2015, the Minnesota Insurance Marketplace shall retain or  
7.24 collect 3.5 percent of total premiums for individual market and small group market health  
7.25 benefit plans sold through the Minnesota Insurance Marketplace to fund the operations  
7.26 of the Minnesota Insurance Marketplace, including related expenditures incurred by  
7.27 other state agencies.

7.28 Subd. 3. **Insurance producers.** (a) The board, in consultation with the  
7.29 commissioner of commerce, shall establish minimum standards for certifying insurance  
7.30 producers who may sell health benefit plans through the Minnesota Insurance Marketplace.  
7.31 Producers must complete four hours of training in order to receive certification.  
7.32 Certification and training shall be administered by the commissioner of commerce, and the  
7.33 training required under this section shall qualify as continuing education required under  
7.34 chapter 60K. In order to remain certified under this subdivision, insurance producers  
7.35 must comply with all applicable certification requirements, including the requirements  
7.36 established under paragraphs (d) and (e).

8.1 (b) Producer compensation shall be established by health carriers that provide health  
8.2 benefit plans through the Minnesota Insurance Marketplace. Compensation to producers  
8.3 must be equivalent for health benefit plans sold through the marketplace or outside the  
8.4 marketplace.

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

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

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

8.17 Subd. 4. **Navigator; in-person assisters; call center.** (a) The board may establish  
8.18 policies and procedures for the ongoing operation of a navigator program, in-person  
8.19 assister program, call center, and customer service provisions for the Minnesota Insurance  
8.20 Marketplace to be implemented beginning January 1, 2015. The policies and procedures  
8.21 must require that a person complete at least eight hours of training specific to helping  
8.22 people obtain insurance through the exchange before working as an in-person assister or  
8.23 before working as or on behalf of a navigator directly with people seeking insurance  
8.24 through the exchange.

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

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

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

8.30 (3) the board shall establish requirements and compensation for the in-person  
8.31 assister program within 30 days of enactment. Compensation for in-person assisters  
8.32 must take into account any other compensation received by the in-person assister for  
8.33 conducting the same or similar services; and

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

9.1 (c) The board shall establish a toll-free number for the Minnesota Insurance  
9.2 Marketplace and may hire and contract for additional resources as deemed necessary.

9.3 Subd. 5. **Health carrier requirements; participation.** (a) Beginning January 1,  
9.4 2015, the board shall have the power to establish certification requirements for health  
9.5 carriers and health benefit plans offered through the Minnesota Insurance Marketplace  
9.6 unless by June 1, 2013, the legislature enacts regulatory requirements that:

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

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

9.11 (3) satisfy federal certification requirements for the Minnesota Insurance  
9.12 Marketplace.

9.13 (b) The board has the power to select health carriers and health benefit plans for  
9.14 participation in the Minnesota Insurance Marketplace from the health carriers and health  
9.15 benefit plans that have met certification requirements. In the selection process, the board  
9.16 shall seek to contract with health carriers and health benefit plans so as to provide  
9.17 health coverage choices that offer the optimal combination of choice, value, quality, and  
9.18 service. Selection must be determined in the best interests of the individual consumers  
9.19 and employers and within federal requirements. In determining the best interests, the  
9.20 board shall consider:

9.21 (1) affordability and value;

9.22 (2) promotion of high-quality care;

9.23 (3) promotion of prevention and wellness;

9.24 (4) ensuring access to care;

9.25 (5) alignment and coordination with state agency and private sector purchasing  
9.26 strategies and payment reform efforts; and

9.27 (6) other criteria that the board determines appropriate.

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

9.32 Subd. 6. **Appeals.** (a) The board may conduct hearings, appoint hearing officers,  
9.33 and recommend final orders related to appeals of any Minnesota Insurance Marketplace  
9.34 determinations, except for those determinations identified in paragraph (d). An appeal  
9.35 by a health carrier regarding a specific certification or selection determination made by  
9.36 the Minnesota Insurance Marketplace under subdivision 5, paragraph (a) or (b), must be

10.1 conducted as a contested case proceeding under chapter 14, with the report or order of  
10.2 the administrative law judge constituting the final decision in the case, subject to judicial  
10.3 review under sections 14.63 to 14.69. For other appeals, the board shall establish hearing  
10.4 processes which provide for a reasonable opportunity to be heard and timely resolution of  
10.5 the appeal and which are consistent with the requirements of federal law and guidance.  
10.6 An appealing party may be represented by legal counsel at these hearings, but this is  
10.7 not a requirement.

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

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

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

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

10.17 (1) establish and maintain an agreement with the chief information officer of  
10.18 the Office of Enterprise Technology for information technology services that ensures  
10.19 coordination with exchange enrollment public health care programs. The board may  
10.20 establish and maintain agreements with the chief information officer of the Office of  
10.21 Enterprise Technology for other information technology services, including an agreement  
10.22 that would permit the Minnesota Insurance Marketplace to administer eligibility  
10.23 for additional health care and public assistance programs under the authority of the  
10.24 commissioner of human services;

10.25 (2) establish and maintain an agreement with the commissioner of human services  
10.26 for cost allocation and services regarding eligibility determinations and enrollment for  
10.27 exchange enrollment public health care programs. The board may establish and maintain  
10.28 an agreement with the commissioner of human services for other services;

10.29 (3) establish and maintain an agreement with the commissioners of commerce  
10.30 and health for services regarding enforcement of Minnesota Insurance Marketplace  
10.31 certification requirements for health benefit plans offered through the Minnesota Insurance  
10.32 Marketplace. The board may establish and maintain agreements with the commissioners  
10.33 of commerce and health for other services; and

10.34 (4) establish interagency agreements to transfer funds to other state agencies for their  
10.35 costs related to implementing and operating the Minnesota Insurance Marketplace.

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

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

11.5 (d) The board shall establish an advisory committee consisting of representatives  
 11.6 from the health care industry, consumers, and other stakeholders to provide information  
 11.7 and advise the board on the operations of the Minnesota Insurance Marketplace.

11.8 Subd. 8. **Limitations; risk-bearing.** (a) The board shall not bear insurance risk or  
 11.9 enter into any agreement with health care providers to pay claims.

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

11.12 Sec. 7. **[62V.06] DATA PRACTICES.**

11.13 Subdivision 1. **Applicability.** The Minnesota Insurance Marketplace is a state  
 11.14 agency for purposes of the Minnesota Government Data Practices Act and is subject to all  
 11.15 provisions of chapter 13, in addition to the requirements contained in this section.

11.16 Subd. 2. **General data classifications.** The following data collected, created, or  
 11.17 maintained by the Minnesota Insurance Marketplace (Marketplace) are classified as  
 11.18 private data on individuals, as defined in section 13.02, subdivision 12, or nonpublic data,  
 11.19 as defined in section 13.02, subdivision 9:

11.20 (1) data on any individual participant in the Marketplace;

11.21 (2) data on employees of an employer participating in the Marketplace; and

11.22 (3) data on employers participating in the Marketplace.

11.23 Subd. 3. **Application and certification data.** (a) Data submitted by an insurance  
 11.24 producer in an application for certification to sell a health benefit plan through the  
 11.25 Marketplace, or submitted by an applicant seeking permission or a commission to act as a  
 11.26 navigator or in-person assister, are classified as follows:

11.27 (1) at the time the application is submitted, all data contained in the application are  
 11.28 private data, as defined in section 13.02, subdivision 12, or nonpublic data as defined in  
 11.29 section 13.02, subdivision 9, except that the name of the applicant is public; and

11.30 (2) upon a final determination related to the application for certification by the  
 11.31 Marketplace, all data contained in the application are public, with the exception of trade  
 11.32 secret data as defined in section 13.37.

11.33 (b) Data created or maintained by a government entity as part of the evaluation of  
 11.34 an application are protected nonpublic data, as defined in section 13.02, subdivision 13,  
 11.35 until a final determination as to certification is made and all rights of appeal have been

12.1 exhausted. Upon a final determination and exhaustion of all rights of appeal, these data are  
12.2 public, with the exception of trade secret data as defined in section 13.37 and data subject  
12.3 to attorney-client privilege or other protection as provided in section 13.393.

12.4 (c) If an application is denied, the public data must include the criteria used by the  
12.5 board to evaluate the application and the specific reasons for the denial, and these data  
12.6 must be published on the Marketplace Web site.

12.7 Subd. 4. **Data sharing.** (a) The Minnesota Insurance Marketplace may share or  
12.8 disseminate data classified as private or nonpublic in subdivisions 2 and 3 as follows:

12.9 (1) to the subject of the data, as provided in section 13.04;

12.10 (2) with other state or federal agencies, only to the extent necessary to carry out the  
12.11 functions of the Marketplace, provided that the Marketplace must enter into a data-sharing  
12.12 agreement with the agency prior to sharing data under this clause; and

12.13 (3) with a nongovernmental person or entity, only to the extent necessary to carry  
12.14 out the functions of the Marketplace, provided that the Marketplace must enter a contract  
12.15 with the person or entity, as provided in section 13.05, subdivision 6 or 11, prior to  
12.16 disseminating data under this clause.

12.17 (b) Sharing or disseminating data outside of the exchange in a manner not authorized  
12.18 by this subdivision is prohibited. The list of authorized dissemination and sharing  
12.19 contained in this subdivision must be included in the Tennessee warning required by  
12.20 section 13.04, subdivision 2.

12.21 (c) State agencies must share data classified as private or nonpublic in subdivisions 2  
12.22 and 3 with the Marketplace, to the extent the data is necessary to verify the identity of,  
12.23 determine the eligibility of, process premiums for, process enrollment of, or investigate  
12.24 fraud related to a Marketplace participant. The Marketplace must enter into a data-sharing  
12.25 agreement with the agency prior to sharing any data under this paragraph.

12.26 Subd. 5. **Notice and disclosures.** (a) In addition to the Tennessee warning required  
12.27 by section 13.04, subdivision 2, the Marketplace must provide any data subject asked to  
12.28 supply private data with:

12.29 (1) a notice of rights related to the handling of genetic information, pursuant to  
12.30 section 13.386; and

12.31 (2) a notice of the records retention policy of the Marketplace, detailing the length of  
12.32 time the Marketplace will retain data on the individual and the manner in which it will  
12.33 be destroyed upon expiration of that time.

12.34 (b) All notices required by this subdivision, including the Tennessee warning, must  
12.35 be provided in an electronic format suitable for downloading or printing.

13.1 Subd. 6. **Summary data.** In addition to creation and disclosure of summary data  
13.2 derived from private data on individuals, as permitted by section 13.05, subdivision 7,  
13.3 the Marketplace may create and disclose summary data derived from data classified as  
13.4 nonpublic under this section.

13.5 Subd. 7. **Access to data; audit trail.** (a) Only individuals with explicit authorization  
13.6 from the board may enter, update, or access not public data collected, created, or  
13.7 maintained by the Marketplace. The ability of authorized individuals to enter, update,  
13.8 or access data must be limited through the use of purpose codes that correspond to the  
13.9 official duties or training level of the individual, and the statutory authorization that  
13.10 grants access for that purpose. All queries and responses, and all actions in which data  
13.11 are modified, accessed, or disseminated by authorized individuals, must be recorded in  
13.12 a data audit trail. Data contained in the audit trail are public, to the extent that the data  
13.13 are not otherwise classified by this section.

13.14 (b) This subdivision shall not limit or affect the authority of the legislative auditor to  
13.15 access data needed to conduct audits, evaluations, or investigations of the Marketplace  
13.16 or the obligation of the board and Marketplace employees to comply with section 3.978,  
13.17 subdivision 2.

13.18 Subd. 8. **Sale of data prohibited.** The Marketplace may not sell any data collected,  
13.19 created, or maintained by the Marketplace, regardless of its classification, for commercial  
13.20 or any other purposes.

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

13.22 All funds received by the Minnesota Insurance Marketplace must be deposited in  
13.23 a dedicated fund which may earn interest and for the fiscal year ending June 30, 2014,  
13.24 are appropriated to the Minnesota Insurance Marketplace for the purpose for which the  
13.25 funds were received.

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

13.27 (a) The Minnesota Insurance Marketplace shall submit a report to the legislature by  
13.28 January 15, 2015, and each January 15 thereafter, on: (1) the performance of Minnesota  
13.29 Insurance Marketplace operations; (2) meeting the Minnesota Insurance Marketplace  
13.30 responsibilities; and (3) an accounting of the Minnesota Insurance Marketplace budget  
13.31 activities.

13.32 (b) The exchange must publish the administrative and operational costs of the  
13.33 exchange on a Web site to educate consumers on those costs. The information published  
13.34 must include the amount of premiums and federal premium subsidies collected by the

14.1 exchange; the amount and source of revenue received under section 62V.05, subdivision  
14.2 1, paragraph (b), clause (3); the amount and source of any other fees collected by the  
14.3 exchange for purposes of supporting its operations; and any misuse of funds as identified  
14.4 in accordance with section 3.975. The Web site must be updated at least annually.

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

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

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

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

14.12 **Sec. 12. TRANSITION OF AUTHORITY.**

14.13 (a) Upon the effective date of this act, the commissioner of management and budget  
14.14 shall exercise all authorities and responsibilities under Minnesota Statutes, sections  
14.15 62V.03 and 62V.05 until the board has satisfied the requirements of Minnesota Statutes,  
14.16 section 62V.05, subdivision 1, paragraph (d).

14.17 (b) Upon the establishment of bylaws, policies, and procedures governing the  
14.18 operations of the Minnesota Insurance Marketplace by the board as required under  
14.19 Minnesota Statutes, section 62V.05, subdivision 1, paragraph (d), all personnel, assets,  
14.20 contracts, obligations, and funds managed by the commissioner of management and  
14.21 budget for the design and development of the Minnesota Insurance Marketplace shall be  
14.22 transferred to the board. Existing personnel managed by the commissioner of management  
14.23 and budget for the design and development of the Minnesota Insurance Marketplace shall  
14.24 staff the board upon enactment.

14.25 **Sec. 13. MINNESOTA COMPREHENSIVE HEALTH INSURANCE**  
14.26 **TERMINATION.**

14.27 The commissioner of commerce, in consultation with the board of directors of the  
14.28 Minnesota Comprehensive Health Insurance Association, has the authority to develop and  
14.29 implement the phase out and eventual termination of coverage provided by the Minnesota  
14.30 Comprehensive Health Insurance Association under Minnesota Statutes, chapter 62E. The  
14.31 phase out of coverage shall begin no sooner than January 1, 2014.

15.1 Sec. 14. **EFFECTIVE DATE.**

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