Bill Summary Comparison of

Health and Human Services

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| Senate File 1458 | Senate File 1458, 1st Unofficial Engrossment |
| Article 11: MNsure | Article 3: MNsure |

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| Article 11: MNsure |  | Article 3: MNsure |
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| **Section 1 (15.01)** designates the Department of MNsure as a department of the state government. | Senate only provision |  |
| **Section 2 (15A.0815, subd. 2)** adds the Commissioner of MNsure to the list of positions in which the salary for the position cannot exceed 133 per cent of the governor’s salary. | Senate includes executive director of MNsure in the list of positions in which the salary cannot exceed 133 percent of the governor’s salary; House in list of positions in which salary cannot exceed 120 percent of the governor’s salary. | Section 2. Group II salary limits. Amends § 15A.0815, subdivision 3. Adds the executive director of MNsure to positions that may not receive a salary exceeding 120 percent of the salary of the governor. |
| **Section 3 (62A.02, subd. 2)** requires health plans offered outside of MNsure and qualified health plans offered through MNsure must receive rate approval from the Commissioner of Commerce no later than 30 days prior to the beginning of the annual open enrollment period for MNsure and final and approved rates must be released to the public at a uniform time no later than 30 days prior to the beginning of the open enrollment period. | Identical | Section 3. Approval. Amends § 62A.02, subdivision 2. Requires that, beginning January 1, 2016, and each January 1 thereafter, individual and small group market health plans that are offered inside and outside of MNsure receive rate approval from the commissioner of commerce no later than 30 days prior to the beginning of open enrollment for MNsure. Requires that premium rates for all carriers in the applicable market be made available at a uniform time and only after all rates for that market are final and approved. Requires the premium rates for the next calendar year to be made publicly available no later than 30 days prior to the beginning of the open enrollment period for MNsure. |
| **Section 4 (62V.02, subd. 2)** removes the definition of “board” and changes it to “commissioner” to refer to the Commissioner of MNsure. | Senate only provision |  |
| **Section 5 (62V.02, subd. 2a)** adds a definition for consumer assistance partner. | Nearly identical. Senate refers “commissioner” rather than MNsure. Also technical difference (staff recommend Senate). | Section 4. Consumer assistance partner. Amends § 62V.02, by adding subdivision 2a. Defines “consumer assistance partner” as individuals and entities certified by MNsure to serve as a navigator, in-person assister, or certified application counselor. |
| **Section 6 (62V.02, subd. 11)** changes reference to “board” to “commissioner” in the definition of “qualified health plan.” | Senate only provision |  |
| **Section 7 (62V.03)** specifies that MNsure is a department of the state government.  This section also specifies that MNsure will be subject to audits by the legislative auditor like any other state agency.  This section also removes the following references to specific laws that were applicable to the MNsure board:  10A.07 (conflicts of interest); 10A.09 (statements of economic interest); 10A.071 (gifts by lobbyists prohibited).  It should be noted that these sections would continue to apply to the commissioner, deputy commissioner, and all assistant commissioners of the Department of MNsure as they apply to all other state agencies.  This section also strikes the reference to the open meeting law in chapter 13D (this chapter would apply to MNsure as it currently does for state agencies and departments.)  This section also removes the current exemptions to certain sections of chapter 16E (Office of MN.IT Services), requiring the Department of MNsure to comply with all applicable sections of chapter 16E. | Subd. 1. Senate adds reference to MNsure as a state agency.  Subd. 2. Differences as follows:  Senate changes references from “board” to “commissioner,” and other references to coincide with a new state agency.  Senate removes references to open meetings, the legislative auditor, and sections 10A.07 (conflict of interest) and 10A.09 (statements of economic interest) since Senate creates MNsure as a new state agency (these sections would still apply, as to any state agency, so not necessary to specify). House eliminates the exemptions from open meetings, but retains requirements related to the legislative auditor and conflicts of interest.  Senate keeps the exemption from chapter 16B (Department of Administration) and sections of chapter 16C (state procurement), House removes these exemptions. (Both House and Senate eliminate exemption from sections of chapter 16E (MN.IT) | Section 5. Application of other law. Amends § 62V.03, subd. 2. The amendments to paragraph (c) eliminate certain exemptions for MNsure from the open meeting law. The exemptions stricken: (1) allow compensation negotiations to be closed in the same manner as meetings on labor negotiation strategy under § 13D.03; (2) allow meetings on contract negotiation strategy to be closed in the same manner as meetings related to the pricing and appraisal of property to be sold or purchased by a government entity; and (3) allow meetings related to not public individual and employer data and trade secret information to be closed to the public.  The amendments to paragraph (d) eliminate exemptions for MNsure from many of the provisions of chapters 16B (Department of Administration) and 16C (state procurement). Under current law, MNsure is exempt from all of the provisions of these chapters, except: sections 16C.08, subd. 2, paragraph (b), clauses (1) to (8) (contract requirements for professional and technical services); 16C.086 (contracts for call centers); 16C.09, paragraphs (a), clauses (1) and (3), (b), and (c) (procedures for general services contracts); and 16C.16 (procurement from small businesses).  The section also strikes all of paragraph (g), which exempts MNsure from specified sections of chapter 16E (Office of MN.IT Services). Under current law, MNsure is exempt from: sections 16E.01, subd. 3, paragraph (b) (chief information officer may require use of shared information and telecommunications technology systems and services); 16E.03, subds. 3 and 4 (evaluation required before implementation of a technology project); 16E.04, subds. 1, 2 (c), and 3 (b) (policies and standards for technology systems and services, review of agency requests for technology grant funding, payment for risk assessment and risk mitigation); 16E.0465 (review and approval of state technology projects); 16E.055 (use of single entry site for electronic government services); 16E.145 (appropriations for technology project made to chief information officer); 16E.15 (chief information officer may sell or license computer software products or services); 16E.16 (chief information officer may require a state agency to adjust its operating and management procedures); 16E.17 (chief information officer to supervise and control all state telecommunications facilities and services); 16E.18 (requirements for state information infrastructure); and 16E.22 (statewide electronic licensing system). |
|  | House only provision (Senate establishes new state agency and eliminates the board) | Section 6. Board. Amends § 62V.04, subd. 1. Increases the size of the MNsure board, from seven to eleven members. |
|  | House only provision | Section 7. Appointment. Amends § 62V.04, subd. 2. Adds the following individuals to the MNsure board: one member who is an insurance producer, two members who are county employees involved in the administration of public health care programs, and the chief information officer of MN.IT, or a designee. Makes related changes. Provides board members are subject to confirmation by the Senate. Strikes language providing that members serve unless both the House of Representatives and the Senate vote not to confirm. |
|  | House only provision | Section 8. Conflicts of interest. Amends § 62V.04, subd. 4. Provides that a MNsure board member who is an insurance producer or a county employee must meet the conflict of interest standards in state law that apply to public and local officials. Makes a conforming change. |
| **Section 8 (62V.041)** requires the establishment of an executive steering committee to establish an overall governance structure of the shared eligibility system and to be responsible for the overall governance of the system.  The commissioner shall be made up of two members appointed by the Commissioner of Human Services, two members appointed by the Commissioner of MNsure, two members appointed by MN.IT, and one member representing the counties appointed by the Commissioner of Human Services. | Senate only provision |  |
| **Section 9 (62V.042)** requires the commissioner to continue to maintain advisory committees to provide stakeholders the opportunity to advise the commissioner regarding the operation of MNsure. Requires the commissioner to establish an advisory committee to advise the commissioner on the MNsure enrollment process.  Clarifies that the advisory committees are subject to the Open Meeting Law and must meet at least on a quarterly basis.  This section also changes a number of references from the “board” to the “commissioner.” | Senate only provision |  |
|  | House only provision | Section 9. Executive director. Adds § 62V.045. Provides that the governor appoints the executive director of MNsure, and that the executive director serves in the unclassified service. |
| **Section 10 (62V.05)** contains the responsibilities and powers of MNsure and makes the following changes: | Differences: Senate changes references from “board” to “commissioner” and makes related changes. House retains board and modifies compensation requirements and duties. These differences in intent are reflected in the various sections. |  |
| **Subdivision 1** changes references from the “board” to the “commissioner.”  This subdivision also strikes the reference to a separate compensation plan for MNsure’s director and managerial staff and the power to establish a budget to MNsure. | Both House and Senate both strike a provision under which board compensation is governed by a separate compensation plan.  Senate strikes references to various duties, to reflect the establishment of a state agency.  House includes additional language governing salary increases for the director. | Section 10. General. Amends § 62V.05, subd. 1. Strikes language under which the salaries of the director and managerial staff of MNsure are governed by a compensation plan prepared by the board, submitted to the commissioner of management and budget, and approved by the Legislative Coordinating Commission and the legislature. Also provides that the director shall not receive a salary increase on or after July 1, 2015, unless the increase is approved under the procedures specified in current law for setting salaries for positions whose salaries are set in relation to the governor’s. |
| **Subdivision 3** strikes obsolete language and changes references.  Requires the Commissioners of MNsure and Human Services to establish an insurance producer incentive program to compensate insurance producers for application enrollment assistance for public health care programs. Requires the training program to include certification training standards for producers seeking compensation. Requires the program to be at least 8 hours in length and count toward continuing education for procedures. | Senate only provision |  |
| **Subdivision 4** strikes obsolete language and changes references.  It also adds language specifying that entities that are eligible to be navigators may serve as in-person assisters. | Senate only provision |  |
| **Subdivision 5** strikes obsolete language, changes references, and updates several date references. | House permits all health plans that meet applicable certification requirements to be offered through MNsure. Senate retains current language allowing establishment of additional criteria for health plans to participate in MNsure. | Section 11. Health carrier and health plan requirements; MNsure participation. Amends § 62V.05, subd. 5. Strikes language that allows the MNsure board to establish policies and procedures for the selection of health plans to be offered as qualified health plans, beginning January 1, 2015. Requires the board to permit all health plans that meet the applicable certification requirements to be offered through MNsure. Makes conforming changes.  Effective date. States the effective date of this section is July 1, 2015. |
| **Subdivision 6** changes references.  This subdivision also provides details for an appeals process for appellants aggrieved by orders of MNsure. | Senate includes specifications regarding appeals of MNsure decisions.  House makes a conforming change related to elimination of the board’s authority to establish additional criteria for plan selection. | Section 12. Appeals. Amends § 62V.05, subdivision 6. Removes conforming language to the board’s ability to select specific qualified health plans (removed in section 11 of this article). |
| **Subdivision 7** changes references.  This subdivision also strikes the requirement that MNsure establish and maintain an agreement with the Office of MN.IT Services for information technology (IT) services. | Senate only provision |  |
| **Subdivision 8** changes references and strikes the “super” expedited rulemaking authority the MNsure board had until January 1, 2015.  The commissioner will still have the option to use expedited rulemaking process under section 14.389. | Senate only provision |  |
| **Subdivision 10** changes references and strikes the language that states that MNsure can provide insurance to its employees. (MNsure employees would be state employees.) | Senate only provision |  |
| **Subdivision 11** prohibits MNsure from certifying, selecting, or offering products and policies of coverage other than qualified health plans or dental plans.  This prohibition expires July 1, 2018. | Similar, except Senate adds “either directly or through another agency or business partner.”  Senate also sunsets this prohibition; House does not. | Section 15. Prohibition on other product lines. Amends § 62V.05 by adding subdivision 13. Prohibits MNsure from certifying, selecting, or offering products and policies of coverage that are not health or dental plans. |
|  | House only provision | Section 13. Health carrier notification. Amends § 62V.05 by adding subdivision 11. Requires MNsure to provide enrollee information to a health carrier within 48 hours of MNsure having determined the enrollee’s eligibility in the qualified health plan. |
|  | House only provision | Section 14. Purchase of individual health coverage. Amends § 62V.05 by adding subdivision 12. Requires MNsure to provide the options of members of the same household to purchase individual health plans and apportion any advanced premium tax credit between the separate health plans. |
| **Section 11 (62V.06)** changes references and strikes obsolete language. | Senate only provision |  |
| **Section 12 (62V.07)** specifies that all funds received by Mnsure shall be deposited in the state government special revenue fund instead of the special revenue fund and strikes the language appropriating funds in the MNsure account to MNsure for the operations of MNsure.  (The result of these changes is that the budget for MNsure would follow the same procedure that is followed by every other state agency, and would require funds for the operation of MNsure be appropriated by the legislature.) | Senate only provision |  |
| **Section 13 (62V.08)** changes references. | Senate only provision |  |
|  | House only provision | Section 16. Membership; meetings; compensation. Amends § 62V.11, subd. 2. Requires the legislative oversight committee to meet at least quarterly. |
|  | House only provision | Section 17. Reports to the committee. Amends § 62V.11, by adding subd. 5. Directs the board to submit enrollment reports to the legislative oversight committee on a monthly basis and specifies report requirements. Also requires the board to report specified information to the committee at quarterly meetings. |
|  | House only provision (Senate mistakenly did not include) | Section 18. MNsure consumer assistance partners. Amends § 245C.03, by adding subd. 10. Requires the commissioner of human services to conduct background studies on individuals as required under section 256.962, subdivision 9, effective January 1, 2016. |
| **Section 14 (245C.10, subd. 12)** requires the commissioner to recover the cost of the background studies on consumer assistance partners through a fee of no more than $20 per study.  Appropriates the fee to the commissioner to conduct the background studies. | Identical | Section 19. MNsure consumer assistance partners. Amends § 245C.10, by adding subd. 11. Requires the commissioner of human services to collect a fee of no more than $20 per background study and appropriates that money to the commissioner for purposes of conducting background studies. |
| **Section 15 (256.962, subd. 5)** specifies that community assistance partners and insurance producers shall be paid an application assistance bonus of $70 for each applicant the partner or producer assists in successfully enrolling in medical assistance or MinnesotaCare.  To be eligible for this bonus, an insurance producer must have completed a certification training program administered by the Commissioner of MNsure. | Senate only provision |  |
| **Section 16 (256.692, subd. 9)** requires all consumer assistance partners to undergo a background study under chapter 245C. | Identical, except House has January 1, 2016 effective date. | Section 20. Background studies for consumer assistance partners. Amends § 256.962, by adding subd. 9. Requires consumer assistance partners, as defined in § 62V.02, subdivision 2a (section 4 of this article), to undergo a background study effective January 1, 2016. |
| **Section 17** requires the Commissioner of Human Services, in consultation with the Commissioners of Commerce and MNsure, to develop a proposal to allow small employers the ability to receive the small business health care tax credit when the small employer pays the premiums on behalf of employees enrolled in either a qualified health plan or small group health plan offered outside of MNsure. | Similar. Senate requires consultation with the commissioners of commerce and MNsure; House with the MNsure board and the legislative oversight committee.  Senate requires draft proposal to be submitted to the legislature, with the legislature being notified of any federal decision or action; House refers to the board and the legislative oversight committee.  Technical differences. Staff recommend House in (a) and Senate in (b). | Section 22. Expanded access to the small business health care tax credit. (a) Requires the commissioner of human services, in consultation with the Board of Directors of MNsure and the MNsure Legislative Oversight Committee, to develop a proposal to allow eligible small businesses to obtain the small business tax credit for policies purchases inside or outside of the SHOP marketplace.  (b) Requires the commissioner to seek federal waivers necessary to implement paragraph (a) and submit a draft proposal to the MNsure board and MNsure Legislative Oversight Committee prior to submission to the federal government.  Effective date. This section is effective the day following final enactment. |
| **Section 18** specifies the transition plan to a new state agency and specifies that section 15.039 applies. | Senate only provision |  |
|  | House only provision | Section 1. Expanded access to qualified health plans and subsidies. Requires the commissioner of commerce, in consultation with the MNsure board and the MNsure legislative oversight committee, to develop a proposal to allow individuals to purchase qualified health plans directly from health plan companies (rather than through MNsure), and receive advanced premium tax credits and cost-sharing subsidies. Requires the commissioner to seek all federal waivers and approvals to implement this proposal. Requires the commissioner to submit a draft proposal to the MNsure board and legislative oversight committee at least 30 days before submitting the final proposal to the federal government, and to notify the board and oversight committee of any federal decision or action related to the proposal. |
|  | House only provision | Section 21. Transition. Requires the commissioner of management and budget to assign the positions of MNsure managerial employees (other than the director) to salary ranges and salaries in the managerial plan, effective the first payroll period beginning on or after July 1, 2015. Specifies staggered terms for the new board members, and requires these members to be appointed by the governor within 30 days of enactment. |
|  | House only provision | Section 23. Confirmation deadline. Provides that MNsure board members on the effective date of this section and new members appointed under section 7 are subject to Senate confirmation. Provides that if any of these members is not confirmed before adjournment of the 2016 regular session, the appointment of that member terminates. |
|  | House only provision | Section 24. Establishment of federally facilitated marketplace.  Subd. 1. Establishment. Requires the commissioner of commerce, in cooperation with the secretary of health and human services, to establish a federally facilitated marketplace for Minnesota, for coverage beginning January 1, 2017. States that the federally facilitated marketplace shall take the place of MNsure. Requires the commissioner of commerce, in developing the marketplace, to: (1) incorporate, where appropriate and cost-effective, elements of the MNsure eligibility determination system; (2) regularly consult with stakeholders; and (3) seek all available federal grants and funds.  Subd. 2. Implementation plan; draft legislation. Requires the commissioner of commerce, in consultation with the commissioner of human services, MN.IT, and the MNsure board, to develop and present to the 2016 legislature an implementation plan for conversion to a federally facilitated marketplace. Requires the plan to include draft legislation.  Subd. 3. Vendor contract. Requires the commissioner of commerce, in consultation with the commissioner of human services, MN.IT, and the MNsure board, to contract with a vendor to provide technical assistance in developing and implementing the plan to convert to a federally facilitated marketplace.  Subd. 4. Contingent implementation. Prohibits the commissioner from implementing this section if the U.S. Supreme court rules that federal advanced premium tax credits are not available to persons receiving coverage through a federally facilitated marketplace. |
|  | House only provision | Section 25. Requirements for state match for federal grants. (a) Prohibits any state funds from being used as a state match to obtain federal grant funding for MNsure unless the following conditions are met:  (1) 20 percent of the state match and 20 percent of the federal grant are deposited into a premium reimbursement account for uses described in paragraph (b);  (2) the commissioner of human services and the legislative auditor have verified that persons enrolled in medical assistance or MinnesotaCare as of September 20, 2013 have had their eligibility re-determined at least once since enrollment;  (3) the administrative costs of MNsure are less than 5 percent of MNsure’s total operating budget in each year; and  (4) verification from the Office of the Legislative Auditor that (i) all life events or changes in circumstances are being processed in a timely manner by MNsure and the Department of Human Services; and (ii) MNsure is transmitting electronic enrollment files in a format that conforms with standards under the federal Health Insurance Portability Act of 1996.  (b) Requires funds deposited according to paragraph (a) to be used only for reimbursement of the first month’s premium for any individual who submitted a complete application for coverage through MNsure, but did not receive a policy card or other appropriate documentation within 20 days of submitted of a complete application. Requires the MNsure board to provide reimbursement on a first-come, first-served basis, subject to the limits of available funding.  Effective date. This section is effective the day following final enactment. |
| **Section 19** repeals sections 62V.04 (governance); 62V.09 (expiration and sunset exclusion); and 62V.11 (Legislative Oversight Committee). | Differences.  Senate repeals the MNsure board and provisions related to advisory committee sunsets and the legislative oversight committee.  House in (a) repeals MNsure on a contingent basis (repeal would take effect only if the Supreme Court rules that coverage provided through federal exchanges is not eligible for advanced premium tax credits). House in (b) repeals a cross-reference to the exemption from the open meeting law. | Section 26. Repealer. (a) Repeals sections 62V.01, 62V.02, 62V.03, 62V.04, 62V.05, 62V.06, 62V.07, 62V.08, 62V.09, 62V.10, and 62V.11 (MNsure), effective January 1, 2017. States this repealer will not take effect if the U.S. Supreme Court rules in the same way stated in section 24, subdivision 4, of this article.  (b) Repeals section 13D.08, subd. 5a (cross-reference to an exemption from the open meeting law). |