Bill Summary Comparison of

Health and Human Services

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| Senate File 1458, 2nd Engrossment | Senate File 1458, 1st Unofficial Engrossment |
| Article 6: Continuing Care | Article 4: Continuing Care |

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| Article 6: Continuing Care |  | Article 4: Continuing Care |
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| **Section 1 (13.461, subd. 32 – ABLE Act)** places notice in Minnesota Statutes, chapter 13, Minnesota Government Data Practices Act, that the Minnesota ABLE Act, section 256Q.05, subdivision 7, classifies data as other than public, places restrictions on access to government data, or involves data sharing. | Same | Article 4, § 1. ABLE accounts, account owners, and beneficiaries. Amends § 13.461, by adding subd. 32. Specifies how data on ABLE accounts, account owners, and beneficiaries is treated. |
| **Section 2 (144.057, subd. 1 – Background Studies**) requires DHS, when conducting background studies of non-Minnesota residents who provide direct-care services in nursing homes, home care agencies, or boarding care homes, to (1) check for substantiated findings of maltreatment in the individual’s state of residence whenever the study subject’s state of residence makes that information available, and (2) check the national Crime Information Center database. | Senate only |  |
|  | House only  (See SF No. 1181 – Floor) | Article 4, § 2. Correction orders and conditional licenses for programs licensed as home and community-based services. Amends § 245A.06, by adding subdivision 1a. Paragraph (a) requires the commissioner to limit adverse licensing actions to the service site at which the licensing violations occurred unless the commissioner articulates a basis for applying the adverse action to other sites.  Paragraph (b) provides that if a license holder has been issued more than one license, adverse action must be limited to the license for the program at which the licensing violations occurred if other programs, for which there are separate licenses, are being operated in substantial compliance with law and rules. |
|  | House only  (See SF No. 1181 – Floor) | Article 4, § 3. Settlement agreement. Creates § 245A.081. Paragraph (a) allows a license holder or the commissioner to initiate a discussion about a possible settlement agreement related to an adverse licensing action. Provides that if the parties enter into a settlement agreement, then the agreement constitutes a full agreement between the parties. Requires the agreement to identify the actions the license holder has taken or will take to remedy the violation.  Paragraph (b) provides that neither party is required to initiate a settlement discussion.  Paragraph (c) requires the commissioner to respond within 14 days to a settlement request.  Paragraph (d) allows the commissioner to withdraw from settlement agreement negotiations at any time. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 4. Licensed foster care and respite care. Amends § 245A.155, subd. 1. Clarifies that this section applies to foster care agencies and providers that care for individuals who rely on medical monitoring equipment to sustain life or monitor a medical condition that could become life-threatening without proper use of the medical equipment. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 5. Foster care agency requirements. Amends § 245A.155, subd. 2. Makes conforming changes. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 6. Abuse prevention plans. Amends § 245A.65, subd. 2. Adds language allowing a governing body’s delegated representative to review and revise abuse prevention plans. |
| **Section 3 (245C.08, subd. 1 – Background Studies)** provides a cross-reference to section144.057, subdivision 1, thereby requiring DHS to review information from the national Crime Information System when conducting background studies of any non-Minnesota resident who performs direct-care services in a nursing home, home care agency, or boarding care home. This section also permits DHS to inform any entity that initiated a background study of the status of processing the study subject’s fingerprints. | Senate only |  |
| **Section 4 (245C.12 – Background Studies)** requires DHS, when it contracts with Tribes to conduct background studies for staff working in Tribal nursing homes, to obtain criminal history data from the National Criminal Records Repository. | Senate only |  |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 7. Working day. Amends § 245D.02, by adding subd. 37. Defines “working day.” |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 8. Health needs. Amends § 245D.05, subd. 1. Allows for some flexibility in the timing of when the license holder must notify the person’s legal representative and others of changes in the person’s physical and mental health needs affecting health service needs assigned to the license holder. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 9. Medication administration. Amends § 245D.05, subd. 2. Removes language requiring the license holder to obtain annual reauthorization from the person or the person’s legal representative to administer medication or treatment. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 10. Incident response and reporting. Amends § 245D.06, subd. 1. Makes a technical and conforming change. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 11. Environment and safety. Amends § 245D.06, subd. 2. Removes a requirement that CPR training include in-person instruction. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 12. Permitted actions and procedures. Amends § 245D.06, subd. 7. Modifies allowable uses of restraint performed by a licensed health care professional. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 13. Service planning requirements for basic support services. Amends § 245D.07, subd. 2. Clarifies timelines for completing, reviewing, and revising the preliminary coordinated service and support plan addendum. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 14. Service plan review and evaluation. Amends § 245D.071, subd. 5. Modifies license holder requirements related to providing a written status report prior to a progress review meeting and coordinated service and support plan addendum within 10 working days of the meeting. Deems the license holder’s submission of the coordinated service and support plan or plan addendum approved under certain circumstances and makes the plan or plan addendum effective until the legal representative or case manager submits a written request to revise the addendum. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 15. Staff qualifications. Amends § 245D.09, subd. 3. Allows competency in certain areas to be determined through testing or observed skill assessment conducted by the trainer or instructor or by an individual previously deemed competent by the trainer or instructor. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 16. Annual training. Amends § 245D.09, subd. 5. Exempts direct support staff from annual basic first aid training if the direct support staff has a current first aid certification. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 17. First aid must be available on site. Amends § 245D.22, subd. 4. Removes a requirement that CPR training include in-person instruction. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 18. Staff ratio requirement for each person receiving services. Amends § 245D.31, subd. 3. Removes language requiring certain documentation to be recorded on a standard assessment form required by the commissioner. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 19. Person requiring staff ratio of one to four. Amends § 245D.31, subd. 4. Modifies the list of criteria a person must meet to be assigned a staff ratio requirement of one to four. |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 20. Person requiring staff ratio of one to eight. Amends § 245D.31, subd. 5. Modifies the list of criteria a person must meet to be assigned a staff ratio requirement of one to eight. |
|  | House only | Article 4, § 21. Contribution amount. Amends § 252.27, subd. 2a. Reduces TEFRA parental fees by 10 percent. |
| **Section 5 (256.478 – HCBS Transition Grants)** repeals the authority of the Commissioner of Human Services to transfer funds between the Medical Assistance account and the home and community-based services transitions grant account. | Same | Article 4, § 22. HCBS transitions grants. Amends § 256.478. Removes the commissioner’s authority to transfer funds between the MA account and the HCBS transitions grants account. |
|  | House only | Article 4, § 23. Duties. Amends § 256.975, subd. 2. Adds duties to the Minnesota Board on Aging related to (1) administering the regional and local dementia grants, and (2) providing progress reports to the legislature related to the grants. |
| **Section 6 (256.975, subd. 8 – Long-Term Care Call Center)** establishes through the Senior LinkAge Line a long-term care call center, which will provide information about long-term insurance, other long-term care financing options, and resources that support Minnesotans with long-term care needs. | Senate only |  |
|  | House only | Article 4, § 24. Regional and local dementia grants. Amends § 256.975, by adding subd. 11. Paragraph (a) requires the Minnesota Board on Aging to award competitive grants to eligible applicants for regional and local projects and initiatives targeted to a designated community, which may consist of a specific geographic area or population, to increase awareness of Alzheimer’s disease and other dementias, increase the rate of cognitive testing in the population at risk for dementias, promote the benefits of early diagnosis of dementias, or connect caregivers of persons with dementia to education and resources.  Paragraph (b) lists the project areas for the regional and local grants.  Paragraph (c) lists the eligible applicants for the regional and local dementia grants.  Paragraph (d) lists the information that must be included in grant applications and establishes the timeline for submitting proposals.  Paragraph (e) lists the priorities the board must consider when awarding grants.  Paragraph (f) requires the board to divide the state into specific geographic regions and allocate a percentage of the money available for the regional and local dementia grants to projects or initiatives aimed at each geographic region.  Paragraph (g) requires the board to award any available grants by October 1, 2015, and each October 1 thereafter.  Paragraph (h) specifies reporting requirements grant recipients must meet.  Makes this section effective July 1, 2015. |
| **Section 7 (256B.056, subd. 5c – MA Spenddown)** modifies medical assistance eligibility requirements for persons who are over age 64, who are blind, or who have a disability by increasing the excess income standard (aka the spenddown limit) from 75 percent to 85 percent of the federal poverty guidelines on January 1, 2017, and from 85 percent to 95 percent of the federal poverty guidelines on January 1, 2019. | Senate gradually increases MA spenddown limit from 75 percent FPL to 95 percent FPL between January 1, 2017, and January 1, 2019. House increases the MA spenddown limit from 75 percent FPL to 80 percent FPL beginning July 1, 2016. | Article 1, § 7. Excess income standard. Amends § 256B.056, subd. 5c. Effective July 1, 2016, increases the spenddown standard for persons who are aged, blind, or disabled, from 75 to 80 percent of FPG. |
| **Section 8 (256B.057, subd. 9 – MA-EPD Premiums)** reverses a premium increase that was implemented October 1, 2015, by (1) reducing from $65 to $35 the amount of the minimum premium that enrollees in the Medical Assistance for Employed Persons with Disabilities (MA-EPD) program must pay, and (2) reduces the additional premium amount that enrollees who receive unearned income must pay from five percent to one-half of one percent of the unearned income. | Same | Article 4, § 25. Employed persons with disabilities. Amends § 256B.057, subd. 9. Reduces the MA-EPD premium from $65 to $35 and reduces the amount of unearned income MA-EPD enrollees must pay in addition to the premium from 5 percent to 0.5 percent. |
| **Section 9 (256B.059, subd. 5 – Treatment of Assets for MA Long-Term Care Eligibility)** removes language that prohibits under any circumstances a married couple from converting assets to income in order to avoid being subject to the asset limit for the purposes of determining an institutionalized spouse’s eligibility for long-term care under medical assistance. This change is required to bring Minnesota into compliance with the 2013 federal *Geston* decision, in which the Eighth Circuit Court held that federal Medicaid law does not permit treating certain income streams as an asset for the purposes of determining Medicaid eligibility for long-term care. | Senate only |  |
| **Section 10 (256B.0916, subdivision 2 – Disability Waivers Spending)** adds language clarifying that the commissioner must manage developmental disability (DD) waiver allocations in a manner that will maximize the use of all available DD waiver funding. | Same | Article 4, § 26. Distribution of funds; partnerships. Amends § 256B.0916, subd. 2. Requires the commissioner to manage waiver allocations to fully use available waiver appropriations. |
| **Section 11 (256B.0916, subdivision 11 – Disability Waivers Spending)** modifies the existing provisions governing the consequences for lead agencies if they overspend their DD waiver allocation.  Under the proposed language, if a lead agency over spends its allocation for DD waiver services, it must submit a corrective action plan for approval.  The lead agency will have 2 years to successfully implement the plan.  The commissioner must recoup spending in excess of the allocation made to the agency, but only if the statewide appropriation dedicated to home and community-based services (HCBS) waivers is overspent. | Technical punctuation difference. Staff recommends Senate. | Article 4, § 27. Excess spending. Amends § 256.0916, subd. 11. Modifies county and commissioner duties related to HCBS waiver overspending. |
| **Section 12 (256B.0916, subdivision 12 – Disability Waivers Spending)** introduces new language to control underspending of DD waiver funds. A lead agency that underspends its allocation while maintaining a waiting list for waiver services must submit a corrective action plan for approval.  If a lead agency fails to submit a corrective action plan or fails to implement the approved changes, the commissioner is required to make sure that the lead agency’s allocation is used to provide appropriate services to all waiver participants in the county or tribe. | Same | Article 4, § 28. Use of waiver allocations. Amends § 256B.0916, by adding subd. 12. Specifies county and commissioner duties related to HCBS waiver allocations. |
|  | House only | Article 4, § 29. State Quality Council. Amends § 256B.097, subd. 3. Corrects cross-references. |
|  | House only | Article 4, § 30. Regional quality councils. Amends § 256B.097, subd. 4. By July 1, 2015, requires the commissioner to continue the operation of three regional quality councils. By July 1, 2016, requires the commissioner to establish three additional regional quality councils. Lists duties of the commissioner in establishing the regional councils. |
| **Section 13 (256B.441, subdivision 65 – Nursing Facility Rate Increase)** establishes a method for providing a onetime rate increase to nursing facilities that apply for it and encumbers 100 percent of the additional revenue for the purpose of increasing wages. | Senate only |  |
| **Section 14 (256B.49, subdivision 26 – Disability Waivers Spending)** applies to over-authorizations under the community alternatives for disabled individuals (CADI), community alternative care (CAC), and brain injury (BI) waivers provisions similar to the overspending provisions for the DD waiver under section 256B.0916, subdivision 11. | Same | Article 4, § 31. Excess allocations. Amends § 256B.49, subd. 26. Modifies the provision related to excess allocations of certain MA home and community-based waiver funds. |
| **Section 15 (256B.49, subdivision 27 – Disability Waivers Spending)** applies to underauthorizations under the CADI, CAC and BI waivers provisions similar to the underspending provisions for the DD waiver under section 256B.0916, subdivision 12. | Same | Article 4, § 32. Use of waiver allocations. Amends § 256B.49, by adding subd. 27. Modifies county and commissioner duties related to HCBS waivers. |
| **Section 16 (Section 256B.4913, subdivision 4a – Disability Waivers Spending)** creates a rate adjustment moratorium during the 12-month period following the end of the existing CADI, CAC, and BI waiver banding periods, thereby extending the banding period an additional year. | Same | Article 4, § 33. Rate stabilization adjustment. Amends § 256B.4913, subd. 4a. Modifies the banding period. Prohibits the commissioner from enforcing any rate decrease or increase that would otherwise result from the end of the banding period. |
| **Section 17 (Section 256B.4913, subdivision 5 – Disability Waivers Spending**) increases the training of and resources available to county personnel responsible for administering the CADI, CAC, and BI waiver rate-setting framework so that the framework is properly implemented. | Same | Article 4, § 34. Stakeholder consultation and county training. Amends § 256B.4913, subd. 5. Requires the commissioner to (1) train county personnel responsible for administering the rate-setting framework and (2) maintain an online instruction manual explaining the rate-setting framework. Prohibits the commissioner from deferring to the county or tribal agency on matters of technical application of the rate-setting framework. Prohibits county and tribal agencies from setting rates in a manner that conflicts with the rate-setting framework. |
| **Section 18 (Section 256B.4914, subdivision 2 – Disability Waivers Spending)** modifies the definition of individual staffing for the purposes of setting rates under CADI, CAC, and BI waivers. | Same | Article 4, § 35. Definitions. Amends § 256B.4914, subd. 2. Modifies the definition of “individual staffing.” |
|  | House only  (See SF No. 706 – Floor) | Article 4, § 36. Payments for residential support services. Amends § 256B.4914, subd. 6. Removes language requiring the commissioner to establish a Monitoring Technology Review Panel. Makes technical and conforming changes. |
| **Section 19 (Section 256B.4914, subdivision 8 – Disability Waivers Spending)** makes a technical change to a program name under the HCBS waivers. | Same | Article 4, § 37. Payments for unit-based services with programming. Amends § 256B.4914, subd. 8. Makes technical and conforming changes. |
| **Section 20 (Section 256B.4914, subdivision 10 – Disability Waivers Spending)** expands the range of providers the costs of whom the commissioner must research and analyze when refining the HCBS waiver rate-setting methodology. This section also requires the commissioner to develop and implement a methodology to determine appropriate shared staffing levels for HCBS waiver participants living in shared residential settings.  Also, this section requires that individual staffing be used when shared staffing is insufficient to meet the needs of individuals living in shared residential settings. | Same | Article 4, § 38. Updating payment values and additional information. Amends § 256B.4914, subd. 10. Clarifies the information the commissioner must gather related to the underlying costs for services provided by a license holder. Modifies the list of items the commissioner must review and evaluate. By January 1, 2016, requires the commissioner to develop a methodology to determine shared staffing levels. |
| **Section 21 (Section 256B.4914, subdivision 14 – Disability Waivers Spending)** makes extensive revisions to the procedures and policies governing the approval of alternative payment plans for HCBS waiver participants with exceptional needs. | Technical difference. Staff recommends Senate. | Article 4, § 39. Exceptions. Amends § 256B.4914, subd. 14. Modifies the process for requesting and determining rate exceptions under the disability waiver rate system. |
| **Section 22 (Section 256B.4914, subdivision 15 – Disability Waivers Spending)** strikes language that provided for an alternative policy with respect to overspending during the first two years of implementation of the new HCBS rate-setting framework.  The new language inserts cross-references to the overspending provisions in sections 256B.0916 and 246B.49. | Technical differences in cross-references. Staff recommends Senate. | Article 4, § 40. County or tribal allocations. Amends § 256B.4914, subd. 15. Modifies the provision related to excess allocations by requiring lead agencies that exceed their waiver allocations to submit a corrective action plan to the commissioner. Under current law, lead agencies that exceed their waiver allocations are responsible for the overspending. |
|  | House only | Article 4, § 41. Disability Waiver Reimbursement Rate Adjustments. Creates § 256B.4915.  Subd. 1. Historical rate. Requires the commissioner to adjust the historical disability waiver rates in effect during the banding period for each reimbursement rate increase effective on or after July 1, 2015.  Subd. 2. Residential support services. Requires the commissioner to adjust the residential support services rates for each reimbursement rate increase effective on or after July 1, 2015.  Subd. 3. Day programs. Requires the commissioner to adjust the day program rates for each reimbursement rate increase effective on or after July 1, 2015.  Subd. 4. Unit-based services with programming. Requires the commissioner to adjust the unit-based services with programming rates for each reimbursement rate increase effective on or after July 1, 2015.  Subd. 5. Unit-based services without programming. Requires the commissioner to adjust the unit-based services without programming rates for each reimbursement rate increase effective on or after July 1, 2015. |
|  | House only  (See SF No. 1012 – Floor) | Article 4, § 42. Home and community-based settings for people with disabilities. Amends § 256B.492. Modifies the settings in which persons receiving services under an MA disability waiver may receive services. Makes this section effective July 1, 2016. |
|  | House only | Article 4, § 43. ICF/DD rate increase effective July 1, 2016. Amends § 256B.5012, by adding subd. 17. Paragraph (a) requires the commissioner, for the rate period from July 1, 2016, to June 30, 2017, to increase operating payment rates for each ICF/DD reimbursed under this section in the rate year equal to 5 percent of the operating payment rates in effect on June 30, 2016.  Paragraph (b) specifies how the commissioner must apply the rate increase to each facility.  Paragraph (c) requires facilities that receive a rate increase to use 90 percent of the additional revenue to increase compensation-related costs for employees directly employed by the facility on or after the effective dates of the rate adjustments in paragraph (a), except for certain listed employees.  Paragraph (d) lists compensation-related costs.  Paragraph (e) specifies how the wage and benefit increases apply to public employees under a collective bargaining agreement.  Paragraph (f) specifies requirements for facilities that have employees that are represented by an exclusive bargaining representative.  Paragraph (g) requires the commissioner to amend state grant contracts that include direct personnel-related grant expenditures to include the allocation for the portion of the contract related to employee compensation. Specifies the timelines for the contracts to be amended and the effective date of the increase.  Paragraph (h) requires facilities that receive a rate adjustment to prepare, and upon request, submit to the commissioner a distribution plan that specifies the amount of money the facility expects to receive that is subject to the employee compensation encumbrance in paragraphs (c) and (d), including how the money will be distributed to increase compensation for employees.  Paragraph (i) requires facilities to post the distribution plan in an area of the facility’s operation to which all eligible employees have access and to provide instructions for employees who do not believe they have received the wage and other compensation-related increases specified in the plan. Lists the information that must be included in the instructions. |
| **Section 23 (256Q.01 – ABLE Act)** establishes the Minnesota ABLE plan and states its purpose. | Technical differences, House clarifies the federal and state medical and disability programs that are included. Staff recommends House. | Article 4, § 44. Plan established. Creates § 256Q.01. Establishes a savings plan known at the Minnesota ABLE plan. States the purposes of this act are to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life, and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, other specified benefits. |
| **Section 24 (256Q.02 – ABLE Act)** provides a citation for chapter 256Q. | Same. | Article 4, § 45. Citation. Creates § 256Q.02. Allows this chapter to be cited as the “Minnesota Achieving a Better Life Experience Act.” |
| **Section 25 (256A.03 – ABLE Act)** provides definitions, many of which are defined by cross-reference to federal law. | Technical differences. Staff recommends House language, except for subd. 8 (there is a typo in the House language). | Article 4, § 46. Definitions. Creates § 256Q.03.  Subd. 1. Scope. States for the purposes of this section, the terms defined in this section have the meanings given them.  Subd. 2. ABLE account. Defines “ABLE account.”  Subd. 3. ABLE account plan or plan. Defines “ABLE account plan” or “plan.”  Subd. 4. Account. Defines “account.”  Subd. 5. Account owner. Defines “account owner.”  Subd. 6. Annual contribution limit. Defines “annual contribution limit.”  Subd. 7. Application. Defines “application.”  Subd. 8. Board. Defines “board.”  Subd. 9. Commissioner. Defines “commissioner.”  Subd. 10. Contribution. Defines “contribution.”  Subd. 11. Department. Defines “department.”  Subd. 12. Designated beneficiary or beneficiary. Defines “designated beneficiary” or “beneficiary.”  Subd. 13. Earnings. Defines “earnings.”  Subd. 14. Eligible individual. Defines “eligible individual.”  Subd. 15. Executive director. Defines “executive director.”  Subd. 16. Internal Revenue Code. Defines “Internal Revenue Code.”  Subd. 17. Investment in the account. Defines “investment in the account.”  Subd. 18. Member of the family. Defines “member of the family.”  Subd. 19. Participation agreement. Defines “participation agreement.”  Subd. 20. Person. Defines “person.”  Subd. 21. Plan administrator. Defines “plan administrator.”  Subd. 22. Qualified disability expense. Defines “qualified disability expense.”  Subd. 23. Qualified distribution. Defines “qualified distribution.”  Subd. 24. Rollover distribution. Defines “rollover distribution.”  Subd. 25. Total account balance. Defines “total account balance.” |
| **Section 26 (256Q.04 – ABLE Act)** requires the Minnesota ABLE plan to meet the federally mandated requirements for a qualifying ABLE program.  These requirements are that the plan only be available to state residents, that no participant in the plan be the beneficiary of more than one account, that the plan maintain a separate account for each beneficiary, that the state limit the number of opportunities for an account owner to direct investments, and that the state prohibit the use of account balances as security for a loan. | Technical difference in subd. 1. Staff recommends House. | Article 4, § 47. ABLE plan requirements. Creates § 256Q.04.  Subd. 1. State residency requirement. Requires the designated beneficiary of any ABLE account to be a resident of Minnesota, or the resident of a state that has entered into a contract with Minnesota to provide its residents access to the Minnesota ABLE plan.  Subd. 2. Single account requirement. Limits ABLE accounts to one account per beneficiary, except as permitted under certain IRS regulations.  Subd. 3. Accounts-type plan. Requires the plan to be operated as an accounts-type plan. Requires a separate account to be maintained for each beneficiary for whom contributions are made.  Subd. 4. Contribution and account requirements. Subjects contributions to an ABLE account to certain IRS requirements prohibiting noncash contributions and contributions in excess of the annual contribution limit. Limits the total account balance to the maximum account balance limit under 529 college savings plans.  Subd. 5. Limited investment direction. Prohibits designated beneficiaries from directing the investment of assets in their accounts more than twice in any calendar year.  Subd. 6. Security for loans. Prohibits an interest in an account from being used as security for a loan. |
| **Section 27 (256Q.05 – ABLE Act)** directs the Commissioner of Human Services in the administration of the ABLE plan by requiring the commissioner to ensure the plan conforms with federal law; requiring the commissioner to consult with the State Board of Investment and the Commissioner of the Office of Higher Education while establishing plan administration and entering into contracts; permitting the commissioner to enter into contracts with third parties to carry out some or all of the administrative duties and investment management; authorizing the commissioner to impose fees on account owners to cover administrative costs; requiring the commissioner to perform federally mandated reporting; and specifying the conditions under which the commissioner may share private and nonpublic data. | Technical differences in subds. 1, 3, 5, and 6. Staff recommends House language related to future federal regulations and Senate capitalization of a federal title in subd. 1. Staff recommends House headnote for subd. 3 and Senate language for subd. 6. House language in subds. 3 and 5 contain amended language recommended by DHS. | Article 4, § 48. ABLE Plan Administration. Creates § 256Q.05.  Subd. 1. Plan to comply with federal law. Requires the commissioner to ensure that the plan meets the federal requirements for an ABLE account. Allows the commissioner to request a private letter ruling or rulings from the IRS or Secretary of Health and Human Services. Requires the commissioner to take any necessary steps to ensure that the plan qualifies under relevant provisions of federal law.  Subd. 2. Plan rules and procedures. Requires the commissioner to establish the rules, terms, and conditions for the plan, subject to the requirements of this chapter and IRS regulations.  Subd. 3. Consultation with other state agencies; annual fee. Requires the commissioner of human services to consult with the executive director of the State Board of Investment and the commissioner of the Office of Higher Education in designing and establishing the plan’s requirements and in negotiating or entering into contracts with third parties. Requires the commissioner and executive director to establish an annual fee, equal to a percentage of the average daily net assets of the plan, to be imposed on account owners to recover the costs of administration, record-keeping, and investment management.  Subd. 4. Administration. Requires the commissioner to administer the plan, including accepting and processing applications, verifying state residency, verifying eligibility, maintaining account records, making payments, and undertaking any other necessary tasks to administer the plan. Requires DHS to adopt rules for the purposes of implementing and administering the plan. Allows DHS to contract with one or more third parties to carry out some or all of these administrative duties, including providing incentives. Allows DHS and the board to jointly contract with third-party providers, if DHS and the board determine that it is desirable to contract with the same entity or entities for administration and investment management.  Subd. 5. Authority to impose fees. Allows the commissioner, or the commissioner’s designee, to impose annual fees on account owners to recover the costs of administration. Requires the commissioner to keep the fees as low as possible, consistent with efficient administration, so that the returns on savings invested in the plan are as high as possible.  Subd. 6. Federally mandated reporting. Paragraph (a) requires the commissioner to submit a notice to the Secretary of the Treasury upon the establishment of each ABLE account as required in federal law. Specifies the information that must be included in the notice.  Paragraph (b) requires the commissioner to electronically submit to the Commissioner of Social Security monthly statements on relevant distributions and account balances from all ABLE accounts as required under federal law.  Subd. 7. Data. Paragraph (a) makes data on ABLE accounts and designated beneficiaries of ABLE accounts private data on individuals or nonpublic data under the Government Data Practices statute.  Paragraph (b) allows the commissioner to share or disseminate data classified as private or nonpublic under certain circumstances. |
| **Section 28** **(256Q.06 – ABLE Act) Subd. 1** allows anyone to make a cash contribution to any account, but that contribution becomes the property to the account beneficiary, and the contributor acquires no interest in the account. | Technical difference in subd. 1. Staff recommends House. | Article 4, § 49. Plan accounts. Creates § 256Q.06.  Subd. 1. Contributions to an account. Allows any person to make contributions to an ABLE account on behalf of a beneficiary. States that contributions to an account made by persons other than the account holder become the property of the account owner. Specifies that a person does not acquire an interest in an ABLE account by making contributions to an account. Requires contributions to be made in cash, by check, or other commercially acceptable means, as permitted by the IRS and approved by the plan administrator in cooperation with the commissioner and the board. |
| **Subd.  2** states that the annual contribution limit for each account from all sources is equal to the gift tax limit for that taxable year.  This section also states that the total account balance cannot exceed the maximum account balance limit under the Minnesota college savings plan. | Same | Subd. 2. Contribution and account limitations. Subjects contributions to an ABLE account to certain IRS requirements. Prohibits the maximum balance of an ABLE account from exceeding the limit imposed under the Minnesota 529 college savings plan. Requires any portion of a contribution to an account to be rejected if the contribution exceeds the annual contribution limit or would cause the total account balance to exceed the maximum account balance limit. |
| **Subd.  3** specifies that only the account owner may request distributions or change the designated beneficiary of an account. | Same | Subd. 3. Authority of account owner. Specifies the authority the account owner has over the account. |
| **Subd.  4** states that any amendments to chapter 256Q automatically amends ABLE plan participation agreements. | Same | Subd. 4. Effect of plan changes on participation agreement. States that amendments to this statute automatically amend the participation agreement and any amendments to the operating procedures and policies of the plan automatically amend the participation agreement after adoption by DHS or the board. |
| **Subd.  5** specifies that each beneficiary of an ABLE account is to have a separate account, and that plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation be the state. | Same | Subd. 5. Special account to hold plan assets in trust. States that all assets of the plan, including contributions to accounts, are held in trust for the exclusive benefit of account owners. Requires assets to be held in a separate account in the state treasury to be known as the Minnesota ABLE plan account or in accounts with the third-party provider. States that plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation by the state. Requires payments from the Minnesota ABLE plan account to be made under this chapter. |
| **Section 29 (256Q.07 – ABLE Act)** requires the State Board of Investment to invest the money in the accounts in the plan in approved ways or to contract with a third party to do so. The board may charge account owners a fee to recover the costs related to investment management. | Senate includes a subdivision related to fees. On the recommendation of DHS, the House does not. | Article 4, § 50. Investment of ABLE Accounts. Creates § 256Q.07.  Subd. 1. State Board of Investment to invest. Requires the State Board of Investment to invest the money deposited in accounts in the plan.  Subd. 2. Permitted investments. Allows the board to invest the accounts in any permitted investment under certain retirement plans, with certain exceptions.  Subd. 3. Contracting authority. Allows the board to contract with one or more third parties for investment management, record-keeping, or other services in connection with investing the accounts. Allows the board and DHS to jointly contract with third-party providers, if the commissioner and board determine that it is desirable to contract with the same entity or entities for administration and investment management. |
| **Section 30 (256Q.08 – ABLE Act)** specifies to whom and how distributions for qualifying disability expenses can be made. Section 9 also permits nonqualified distributions, but the earnings portions of such distributions are subject to applicable taxes and a ten percent penalty. Finally, this section permits the state, upon the death of an account’s designated beneficiary, to make a claim against the account to recover costs for medical care provided to the account’s beneficiary. | Technical difference in subd. 2 title. Staff recommends Senate. | Article 4, § 51. Account Distributions. Creates § 256Q.08.  Subd. 1. Qualified distribution methods. Specifies how qualified distributions may be made.  Subd. 2. Distributions upon death of a beneficiary. Requires the amount remaining in the beneficiary’s account to be distributed pursuant to IRS regulations upon the death of a beneficiary.  Subd. 3. Nonqualified distribution. Allows an account owner to request a nonqualified distribution from an account at any time. Specifies the manner in which nonqualified distributions must be withdrawn. Subjects the earnings portion of a nonqualified distribution to a federal additional tax pursuant to IRS regulations. Defines “earnings portion” for purposes of this subdivision. |
| **Section 31 (282.241, subd. 1 – MA Lien Processes)** clarifies that if after a parcel of land has been forfeited for taxes it is repurchased by certain individuals associated with the original owner, all MA liens will remain in place. | Senate only |  |
| **Section 32 (514.73, subd. 1 – MA Lien Processes)** clarifies that the state may transfer its interest in any medical assistance lien. | Senate only |  |
| **Subd. 2** allows the state, as a holder of an MA lien, to transfer to a third party its redemption right, which is the right of a creditor to gain possession of a property after foreclosure by paying a price the creditor negotiates with the bank. | Senate only |  |
| **Subd. 3** allows DHS to disclose its financial interest in any MA liens when it transfers that interest or transfers its redemption rights. | Senate only |  |
| **Section 33 (514.981, subd. 2 – MA Lien Processes)** allows DHS, for the purposes of filing an MA lien notice, to presume that MA recipients will not return home if they have resided in a long-term care facility for six months or longer. | Senate only |  |
| **Section 34 (580.032, subd. 1 – MA Lien Processes)** allows a recorded MA lien to constitute a request for notice of a mortgage foreclosure, provided the lien includes a legal description of the real property and the department’s mailing address. | Senate only |  |
|  | House only | Article 4, § 52. Commissioner to seek amendment exception to consumer-directed community supports budget methodology. Amends Laws 2012, ch. 247, art. 4, section 47. Modifies an exception to the CDCS budget methodology to allow more people to be eligible for the exception. |
| **Section 35 (Individual Providers of Direct Support Services)** ratifies the personal care attendants’ contract between SEIU Healthcare Minnesota and the state of Minnesota. | Senate only |  |
| **Section 36 (Rate Increase for Self-Directed Workforce Negotiations)** increases the reimbursement rate by 1.53 percent on July 1, 2015, and by an additional 0.2 percent on July 1, 2016, for direct support services provided through a covered program if the legislature ratifies the contract negotiated between the state and SEIU Healthcare Minnesota.  Covered programs include PCA Choice, Consumer-Directed Community Supports, home and community-based waivered services, alternative care, consumer support grant, and Community First Services and Supports. | Senate only |  |
| **Section 37 (Development of Long-Term Care; Life Stage Planning Insurance Product**) requires the Commissioner of Human Services to work with stakeholders and other state agencies to research, develop, and investigate the marketability of a new long-term care insurance product. | Senate only |  |
|  | House only | Article 4, § 53. Provider rate and grant increases effective July 1, 2016. Paragraph (a) requires the commissioner to increase rates, grants, allocations, individual limits, and rate limits, as applicable, by 5 percent for the rate period from July 1, 2016, to June 30, 2017, for services rendered on or after those dates. Requires county or tribal contracts for services specified in this section to be amended to pass through these rate increases within 60 days of the effective date of the increase.  Paragraph (b) lists the services for which the rate increase must be provided.  Paragraph (c) requires managed care plans or county-based purchasing plans receiving state payments for the services listed in paragraph (b) to include these increases in their payments to providers. Specifies the manner in which the commissioner must implement the rate increases for managed care plans and county-based purchasing plans.  Paragraph (d) requires counties to increase the budget for each recipient of consumer-directed community supports by 5 percent for the rate year beginning July 1, 2016.  Paragraph (e) requires providers that receive a rate increase to use 90 percent of the additional revenue to increase compensation-related costs for employees directly employed by the program on or after the effective dates of the rate adjustments in paragraph (a), except for certain listed employees.  Paragraph (f) lists compensation-related costs.  Paragraph (g) specifies how the wage and benefit increases apply to public employees under a collective bargaining agreement.  Paragraph (h) specifies requirements for providers that have employees that are represented by an exclusive bargaining representative.  Paragraph (i) requires the commissioner to amend state grant contracts that include direct personnel-related grant expenditures to include the allocation for the portion of the contract related to employee compensation. Specifies the timelines for the contracts to be amended and the effective date of the increase.  Paragraph (j) requires the Board on Aging and its area agencies on aging to amend their grants that include direct personnel-related grant expenditures to include the allocation for the portion of the contract related to employee compensation. Specifies the timelines for the contracts to be amended and the effective date of the increase.  Paragraph (k) requires providers that receive a rate adjustment to prepare, and upon request, submit to the commissioner a distribution plan that specifies the amount of money the provider expects to receive that is subject to the employee compensation encumbrance in paragraph (e), including how the money will be distributed to increase compensation for employees.  Paragraph (l) requires providers to post the distribution plan in an area of the provider’s operation to which all eligible employees have access and to provide instructions for employees who do not believe they have received the wage and other compensation-related increases specified in the plan. Lists the information that must be included in the instructions. |
|  | House only | Article 4, § 54. Direction to commissioner; pediatric home care study. Directs the commissioner of human services to review the status of delayed discharges of pediatric patients and determine if an increase in the MA payment rate for intensive pediatric home care would decrease the number of delayed discharges of pediatric patients. Requires the commissioner to report to the legislature on the results of the review by January 15, 2016. |
| **Section 38 (Home and Community-Based Services Incentive Pool)** grants authority to DHS to create a home and community-based services incentive pool to allow DHS to contract with providers and provide incentive payments to those providers to meet outcomes to be determined by DHS. | Senate language requires a report to chairs and ranking members on the project outcomes | Article 4, § 57. Home and community-based services incentive pool. Requires the commissioner to (1) develop an initiative to provide incentives for innovation in achieving integrated competitive employment, living in the most integrated setting, and other outcomes determined by the commissioner; and (2) seek requests for proposals and contract with one or more entities to provide incentive payments for meeting identified outcomes. Requires the initial requests for proposals to be issued by October 1, 2015. |
| **Section 39 (Direction to Commissioner; Report Required)** requires the commissioner to submit two annual reports on the implementation of the reforms to the over and underspending provisions under the disability waivers. | Same | Article 4, § 55. Direction to commissioner; reports required. Directs the commissioner to develop and submit reports to the legislature on the implementation of certain disability waiver overspending provisions by February 15, 2018, and February 15, 2019. |
| **Section 40 (Direction to the Commissioner; Day Training and Habilitation)** requires the commissioner to calculate the transportation portion of the payment rate for day training and habilitation programs using the rates found in section 256B.4914, subdivision 7, clauses (16) and (17). | Senate specifies the calculations are to be used in determining payments for DT&H. Staff recommends Senate. | Article 4, § 56. Direction to commissioner; DT&H. Directs the commissioner to calculate the transportation portion of the DT&H payment according to certain statutory provisions. |
|  | House only provision | Instructions to the commissioner. Requires the commissioner to determine the number of people who were determined ineligible for CFSS because they did not require constant supervision and cuing in order to accomplish activities of daily living. Instructs the commissioner to issue a report with the findings to the legislature. |