

Reprinted 3/88

FILED MAR 4 1988

SENATE FILE 2296
BY COMMITTEE ON EDUCATION
(formerly 55B 2188A)

Passed Senate, Date 4/12/88 (p.1447) Passed House, Date 3/31/88 (p.1297)
Vote: Ayes 42 Nays 6 Vote: Ayes 72 Nays 23
Approved May 4, 1988

A BILL FOR

1 An Act requiring the area education agencies to utilize private
2 health care benefit plans and federally funded health care
3 programs to share in the costs of services provided to certain
4 children requiring special education.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 2296

1 Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION
2 SERVICES.

3 1. The state board of education in conjunction with the
4 department of education shall develop a program to utilize
5 private health care benefit plans and federally funded health
6 care programs, except the federal medically needy program for
7 individuals who have a spend-down, to share in the costs of
8 services which are provided to children requiring special
9 education and which are either listed on an individualized
10 education plan established pursuant to the federal Education
11 for All Handicapped Children Act of 1975, Pub. L. No. 94-142,
12 or are provided under an individualized family service plan
13 established pursuant to the federal Education of the
14 Handicapped Act Amendments of 1986, Pub. L. No. 99-457.

15 For the purposes of this section, a private health care
16 benefit plan is an accident and health insurance policy issued
17 under title XX of the Code including a contract issued by a
18 health service corporation under chapter 514, or a plan issued
19 for health care services provided by a health maintenance
20 organization under chapter 514B, or a plan issued or provided
21 by any similar corporation or organization, and any self-
22 insurance plan providing health care benefits.

23 2. The department of education shall designate an area
24 education agency to develop a system for collecting the
25 information necessary to implement procedures for billing and
26 collecting the costs of the services. The area education
27 agency shall begin to develop the system immediately. The
28 area education agency shall consult with and work jointly with
29 state agencies, federal agencies, and private health care
30 providers to determine procedures and standards which shall be
31 initiated by all area education agencies to qualify for
32 receipt of benefits under federal programs and private health
33 care benefit plans.

34 3. The department of education, in conjunction with the
35 area education agency, shall determine those specific services

1 which are covered by federally funded health care programs and
2 private health care providers, which shall include, but not be
3 limited to, physical therapy, audiology, speech language
4 therapy, and psychological evaluations. The department shall
5 also determine which other special services may be subject to
6 reimbursement and the qualifications necessary for personnel
7 providing those services.

8 4. The department of education, in conjunction with the
9 area education agency, shall review with representatives of
10 insurance companies, nonprofit health service providers,
11 administrators of self-insurance plans, the commissioner of
12 insurance or the commissioner's designee, a representative of
13 the health policy corporation of Iowa, and health maintenance
14 organizations which issue health and accident or disability
15 insurance contracts, health care service subscriber contracts,
16 health maintenance enrollee contracts, or similar health care
17 coverage contracts to determine the methodology for qualifying
18 for and receiving benefits for services provided by an area
19 education agency.

20 5. All services referred to in subsection 1 shall be
21 initially funded by the area education agency and shall be
22 provided regardless of subsequent subrogation collections.
23 The area education agency shall make a claim for reimbursement
24 to all applicable health care benefit plans and federally
25 funded health care programs. A private health care benefit
26 plan covering residents of this state shall provide
27 reimbursement to the area education agencies to the extent
28 that services provided pursuant to such an individualized
29 education plan or individualized family service plan are
30 payable in accordance with the terms of the private health
31 care benefit plan, including any terms relating to medical
32 necessity. Reimbursement for services provided and paid for
33 by the area education agency shall be made to the designated
34 billing agency. A private health care benefit plan shall not
35 cancel the coverage of any child based on the use of such

1 services by a child requiring special education.

2 6. Not later than July 1, 1988, the area education agency
3 designated by the department of education shall have developed
4 the program for collecting for the services provided. The
5 program shall be distributed to all of the area education
6 agencies in the state. All area education agencies shall
7 begin collecting the information on July 1, 1988.

8 7. Effective November 1, 1988, all area education agencies
9 in the state shall participate in the program and begin
10 billing for and collecting for the covered services and shall
11 bill for services provided retroactive to July 1, 1988.

12 8. All reimbursements received by the area education
13 agencies for eligible services shall be paid annually to the
14 treasurer of state. The treasurer of state shall credit all
15 receipts received under this subsection to the general fund of
16 the state.

17 9. The department of education and the department of human
18 services may adopt rules pursuant to chapter 17A as these
19 agencies deem necessary to implement this section. These
20 rules shall take effect immediately as provided in section
21 17A.5, subsection 2, paragraph "b".

22 10. Nothing in this section shall be construed to require
23 students or their parents or guardians to provide health care
24 information, relating to private health care benefit plans to
25 an area education agency in order to receive special education
26 services from the area education agencies or local school
27 districts. However, students or their parents or guardians
28 covered by a federal health care program shall provide health
29 care information to an area education agency or local school
30 district.

31 11. The department of education and the department of
32 human services shall adopt rules to implement this section to
33 be effective immediately upon filing with the administrative
34 rules coordinator, or at a stated date prior to indexing and
35 publication, or at a stated date less than thirty-five days

1 after filing, indexing, and publication.

2 Sec. 2. This Act, being deemed of immediate importance,
3 takes effect upon enactment.

4 EXPLANATION

5 The bill provides that area education agencies shall
6 utilize private health care benefit programs and federally
7 funded health care programs to fund certain services for
8 special education. The bill also outlines procedures to be
9 followed by the department of education to recover costs
10 incurred by the area education agencies.

11 SUCCESSOR TO SSB 2188A (LSB 8224SC)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 2296

S-5359

1 Amend Senate File 2296 as follows:
2 1. Page 2, line 7, by inserting after the word
3 "services" the following: ", provided that the
4 qualifications of personnel providing the services
5 shall be equal to or exceed the qualifications of
6 personnel licensed in this state to provide those same
7 services".

S-5359

Filed March 14, 1988
2-11-88 (by 200)

BY JOHN A. PETERSON

SENATE FILE 2296

S-5425

1 Amend Senate File 2296 as follows:
2 1. Page 2, line 7, by inserting after the word
3 "services." the following: "If it is determined that
4 services are required from other service providers,
5 these providers shall be reimbursed for those
6 services."

S-5425

Filed March 17, 1988
2-11-88 (by 200)

ADOPTED

BY JOHN A. PETERSON

SENATE FILE 2296

S-5421

1 Amend Senate File 2296 as follows:

2 1. Page 4, by inserting after line 1 the
3 following:

4 "Sec. ____ . RESPONSIBILITIES OF THE DEPARTMENT OF
5 HUMAN SERVICES. The department of human services
6 shall amend its title XIX plan to include area
7 education agencies as eligible title XIX providers and
8 to include as reimbursable medical expenditures
9 physical therapy, occupational therapy, psychological
10 evaluations, psychotherapy, speech therapy, and
11 audiological services provided by an area education
12 agency under an individualized education plan
13 established pursuant to the federal Education for All
14 Handicapped Children Act of 1975, Pub. L. No. 94-142,
15 or under an individualized family service plan
16 established pursuant to the federal Education of the
17 Handicapped Amendments of 1986, Pub. L. No. 99-457.
18 It is the intent of the general assembly that the plan
19 amendments be submitted prior to July 1, 1988, so that
20 reimbursement for services can be made for the period
21 beginning July 1, 1988. The department shall adopt
22 rules to be effective immediately upon filing with the
23 administrative rules coordinator, or at a stated date
24 less than thirty-five days after filing, indexing, and
25 publication. The rules also shall provide that the
26 services provided under the title XIX plan shall be
27 considered separate and distinct from other services
28 provided under title XIX and shall not limit the
29 rights of title XIX clients to receive services from
30 other providers as long as those services meet
31 standards of appropriateness and necessity. The area
32 education agencies shall determine their costs
33 incurred in recording and billing the medical
34 assistance program title XIX for services, and these
35 costs shall be recovered from federal funds recovered from the
36 title XIX program, not to exceed five percent of the
37 amount recovered."

S-5421

Filed March 17, 1988

ADOPTED

2/17/88 for 1000

BY CHARLES BRUNER
LARRY MURPHY
RICHARD VARN

House Bill 5/21
Referred for 5/21 - D. G. 5/25 (p. 1082)

SENATE FILE **2296**
BY COMMITTEE ON EDUCATION

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1988)
- New Language by the Senate

Passed Senate, Date 4/12/88 (p. 1447) Passed House, Date 3/31/88 (H. 1297)
Vote: Ayes 42 Nays 5 Vote: Ayes 72 Nays 23
Approved May 4, 1988 Referred House 4/14/88 (p. 1915)
84-10

A BILL FOR

1 An Act requiring the area education agencies to utilize private
2 health care benefit plans and federally funded health care
3 programs to share in the costs of services provided to certain
4 children requiring special education.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6
7
8
9
10
11
12
13
14
15
16
17

J.P.L.10

1 Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION
2 SERVICES.

3 1. The state board of education in conjunction with the
4 department of education shall develop a program to utilize
5 private health care benefit plans and federally funded health
6 care programs, except the federal medically needy program for
7 individuals who have a spend-down, to share in the costs of
8 services which are provided to children requiring special
9 education and which are either listed on an individualized
10 education plan established pursuant to the federal Education
11 for All Handicapped Children Act of 1975, Pub. L. No. 94-142,
12 or are provided under an individualized family service plan
13 established pursuant to the federal Education of the
14 Handicapped Act Amendments of 1986, Pub. L. No. 99-457.

15 For the purposes of this section, a private health care
16 benefit plan is an accident and health insurance policy issued
17 under title XX of the Code including a contract issued by a
18 health service corporation under chapter 514, or a plan issued
19 for health care services provided by a health maintenance
20 organization under chapter 514B, or a plan issued or provided
21 by any similar corporation or organization, and any self-
22 insurance plan providing health care benefits.

23 2. The department of education shall designate an area
24 education agency to develop a system for collecting the
25 information necessary to implement procedures for billing and
26 collecting the costs of the services. The area education
27 agency shall begin to develop the system immediately. The
28 area education agency shall consult with and work jointly with
29 state agencies, federal agencies, and private health care
30 providers to determine procedures and standards which shall be
31 initiated by all area education agencies to qualify for
32 receipt of benefits under federal programs and private health
33 care benefit plans.

34 3. The department of education, in conjunction with the
35 area education agency, shall determine those specific services

1 which are covered by federally funded health care programs and
2 private health care providers, which shall include, but not be
3 limited to, physical therapy, audiology, speech language
4 therapy, and psychological evaluations. The department shall
5 also determine which other special services may be subject to
6 reimbursement and the qualifications necessary for personnel
7 providing those services. If it is determined that services
8 are required from other service providers, these providers
9 shall be reimbursed for those services.

10 4. The department of education, in conjunction with the
11 area education agency, shall review with representatives of
12 insurance companies, nonprofit health service providers,
13 administrators of self-insurance plans, the commissioner of
14 insurance or the commissioner's designee, a representative of
15 the health policy corporation of Iowa, and health maintenance
16 organizations which issue health and accident or disability
17 insurance contracts, health care service subscriber contracts,
18 health maintenance enrollee contracts, or similar health care
19 coverage contracts to determine the methodology for qualifying
20 for and receiving benefits for services provided by an area
21 education agency.

22 5. All services referred to in subsection 1 shall be
23 initially funded by the area education agency and shall be
24 provided regardless of subsequent subrogation collections.
25 The area education agency shall make a claim for reimbursement
26 to all applicable health care benefit plans and federally
27 funded health care programs. A private health care benefit
28 plan covering residents of this state shall provide
29 reimbursement to the area education agencies to the extent
30 that services provided pursuant to such an individualized
31 education plan or individualized family service plan are
32 payable in accordance with the terms of the private health
33 care benefit plan, including any terms relating to medical
34 necessity. Reimbursement for services provided and paid for
35 by the area education agency shall be made to the designated

1 billing agency. A private health care benefit plan shall not
2 cancel the coverage of any child based on the use of such
3 services by a child requiring special education.

4 6. Not later than July 1, 1988, the area education agency
5 designated by the department of education shall have developed
6 the program for collecting for the services provided. The
7 program shall be distributed to all of the area education
8 agencies in the state. All area education agencies shall
9 begin collecting the information on July 1, 1988.

10 7. Effective November 1, 1988, all area education agencies
11 in the state shall participate in the program and begin
12 billing for and collecting for the covered services and shall
13 bill for services provided retroactive to July 1, 1988.

14 8. All reimbursements received by the area education
15 agencies for eligible services shall be paid annually to the
16 treasurer of state. The treasurer of state shall credit all
17 receipts received under this subsection to the general fund of
18 the state.

19 9. The department of education and the department of human
20 services may adopt rules pursuant to chapter 17A as these
21 agencies deem necessary to implement this section. These
22 rules shall take effect immediately as provided in section
23 17A.5, subsection 2, paragraph "b".

24 10. Nothing in this section shall be construed to require
25 students or their parents or guardians to provide health care
26 information, relating to private health care benefit plans to
27 an area education agency in order to receive special education
28 services from the area education agencies or local school
29 districts. However, students or their parents or guardians
30 covered by a federal health care program shall provide health
31 care information to an area education agency or local school
32 district.

33 11. The department of education and the department of
34 human services shall adopt rules to implement this section to
35 be effective immediately upon filing with the administrative

1 rules coordinator, or at a stated date prior to indexing and
2 publication, or at a stated date less than thirty-five days
3 after filing, indexing, and publication.

4 Sec. 2. RESPONSIBILITIES OF THE DEPARTMENT OF HUMAN
5 SERVICES. The department of human services shall amend its
6 title XIX plan to include area education agencies as eligible
7 title XIX providers and to include as reimbursable medical
8 expenditures physical therapy, occupational therapy,
9 psychological evaluations, psychotherapy, speech therapy, and
10 audiological services provided by an area education agency
11 under an individualized education plan established pursuant to
12 the federal Education for All Handicapped Children Act of
13 1975, Pub. L. No. 94-142, or under an individualized family
14 service plan established pursuant to the federal Education of
15 the Handicapped Amendments of 1986, Pub. L. No. 99-457. It is
16 the intent of the general assembly that the plan amendments be
17 submitted prior to July 1, 1988, so that reimbursement for
18 services can be made for the period beginning July 1, 1988.
19 The department shall adopt rules to be effective immediately
20 upon filing with the administrative rules coordinator, or at a
21 stated date less than thirty-five days after filing, indexing,
22 and publication. The rules also shall provide that the
23 services provided under the title XIX plan shall be considered
24 separate and distinct from other services provided under title
25 XIX and shall not limit the rights of title XIX clients to
26 receive services from other providers as long as those
27 services meet standards of appropriateness and necessity. The
28 area education agencies shall determine their costs incurred
29 in recording and billing the medical assistance program title
30 XIX for services, and these costs shall be recovered from
31 federal funds recovered from the title XIX program, not to
32 exceed five percent of the amount recovered.

33 Sec. 3. This Act, being deemed of immediate importance,
34 takes effect upon enactment.

35 SUCCESSOR TO SSB 2188A (LSB 8224SC)

SF 2296

SENATE FILE 2296

H-5912

1 Amend Senate File 2296, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 5, by striking the words "private
4 health care benefit plans and".

5 2. Page 1, by striking lines 9 through 22 and
6 inserting the following: "education."

7 3. Page 1, lines 29 and 30, by striking the words
8 ", federal agencies, and private health care

9 providers" and inserting the following: "and federal
10 agencies".

11 4. Page 1, lines 32 and 33, by striking the words
12 "and private health care benefit plans".

13 5. Page 2, lines 1 and 2, by striking the words
14 "and private health care providers".

15 6. Page 2, by striking lines 7, through 9, and
16 inserting the following: "providing those services."

17 7. Page 2, by striking lines 10 through 21.

18 8. By striking page 2, line 26, through page 3,
19 line 3, and inserting the following: "to federally
20 funded health care programs."

21 9. Page 3, line 13, by inserting after the figure
22 "1988." the following: "Retroactive Title XIX billing
23 is contingent upon state plan approval."

24 10. Page 3, by striking lines 24 through 32 and
25 inserting the following:

26 "10. Students or their parents or guardians
27 covered by a federal health care program shall provide
28 health care information to an area education agency or
29 local school district."

30 11. Page 4, by striking lines 10 through 18 and
31 inserting the following: "audiological services
32 provided by an area education agency."

33 12. Title page, lines 1 and 2, by striking the
34 words "private health care benefit plans and".

35 13. Title page, line 4, by inserting after the
36 word "education" the following: "and providing an
37 effective date".

By COMMITTEE ON EDUCATION
OLLIE of Clinton, Chairperson

H-5912 FILED MARCH 25, 1988

A. Adopted, B. w/o 3/31 (p. 1297)

SENATE FILE 2296

H-6049

1 Amend the amendment, H-5912, to Senate File 2296,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 30, by striking the figure "18"
5 and inserting the following: "15".

6 2. Page 1, line 32, by inserting after the word
7 "agency." the following: "It is".

8 3. Page 1, by inserting after line 32 the
9 following:

10 _____. Page 4, line 17, by striking the words and
11 figures "prior to July 1, 1988" and inserting the fol-
12 lowing: "as soon after July 1, 1988, as possible".

13 _____. Page 4, line 18, by inserting after the
14 figure "1988" the following: "if state plan approval
15 is secured".

H-6049 FILED MARCH 29, 1988 BY OLLIE of Clinton

Adopted 3/31 (p. 1297)

SENATE FILE 2296
AS AMENDED BY H-5192
FISCAL NOTE

REQUESTED BY REPRESENTATIVE OLLIE

in compliance with a written request received March 25, 1988, a fiscal note for SENATE FILE 2296 AS AMENDED BY H-5192 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-5912 to Senate File 2296 removes the utilization of private health care benefit plans by Area Education Agencies for reimbursement of certain services provided for special education. It also provides that retroactive Title XIX billing be contingent upon approval of the state plan.

Fiscal Effect:

This amendment would remove \$225,000 in estimated revenues for FY 89 and FY 90, and also remove \$25,000 in estimated expenses for FY 89 and FY 90. Senate File 2296 as amended by H-5912 would yield the following:

| | (dollars in thousands) | | | | | |
|---------------------|------------------------|-------------------|------------------------|------------------|-------------------|------------------------|
| | Fiscal Year 1989 | | | Fiscal Year 1990 | | |
| | Current Law | Proposed Law | Increase (Decrease) | Current Law | Proposed Law | Increase (Decrease) |
| <u>REVENUE</u> | | | | | | |
| Federal Funds\$ | 0.0 | \$ 4,586.0 | \$ 4,586.0 | \$ 0.0 | \$ 6,879.0 | \$ 6,879.0 |
| Total | \$ 0.0 | \$ 4,586.0 | \$ 4,586.0 | \$ 0.0 | \$ 6,879.0 | \$ 6,879.0 |
| <u>EXPENDITURES</u> | | | | | | |
| Sal. & Supp. | | | | | | |
| DHS | \$ 0.0 | \$ 21.0 | \$ 21.0 | \$ 0.0 | \$ 31.5 | \$ 31.5 |
| Dept. Educ. | 0.0 | 25.5 | 25.5 | 0.0 | 26.7 | 26.7 |
| AEAs | 0.0 | 1,380.0 | 1,380.0 | 0.0 | 2,070.0 | 2,070.0 |
| Total | \$ 0.0 | \$ 1,426.5 | \$ 1,426.5 | \$ 0.0 | \$ 2,128.2 | \$ 2,128.2 |
| NET EFFECT | \$ 0.0 | \$ 3,159.5 | \$ 3,159.5 | \$ 0.0 | \$ 4,750.8 | \$ 4,750.8 |

Source: Dept. of Education
Dept. of Human Services

(LSB 8224S.2, AAW)

FILED MARCH 29, 1988

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE AMENDMENT TO
SENATE FILE 2296

5773

- 1 Amend Senate File 2296, as amended, passed, and
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 5, by striking the words "private
4 health care benefit plans and".
- 5 2. Page 1, by striking lines 9 through 22 and
6 inserting the following: "education."
- 7 3. Page 1, lines 29 and 30, by striking the words
8 ", federal agencies, and private health care
9 providers" and inserting the following: "and federal
10 agencies".
- 11 4. Page 1, lines 32 and 33, by striking the words
12 "and private health care benefit plans".
- 13 5. Page 2, lines 1 and 2, by striking the words
14 "and private health care providers".
- 15 6. Page 2, by striking lines 10 through 21.
- 16 7. By striking page 2, line 26, through page 3,
17 line 3, and inserting the following: "to federally
18 funded health care programs."
- 19 8. Page 3, line 13, by inserting after the figure
20 "1988." the following: "Retroactive Title XIX billing
21 is contingent upon state plan approval."
- 22 9. Page 3, by striking lines 24 through 32 and
inserting the following:
"10. Students or their parents or guardians
25 covered by a federal health care program shall provide
26 health care information to an area education agency or
27 local school district."
- 28 10. Page 4, by striking lines 10 through 15 and
29 inserting the following: "audiological services
30 provided by an area education agency. It is"
- 31 11. Page 4, line 17, by striking the words and
32 figures "prior to July 1, 1988" and inserting the fol-
33 lowing: "as soon after July 1, 1988, as possible".
- 34 12. Page 4, line 18, by inserting after the
35 figure "1988" the following: "if state plan approval
36 is secured".
- 37 13. Title page, lines 1 and 2, by striking the
38 words "private health care benefit plans and".
- 39 14. Title page, line 4, by inserting after the
40 word "education" the following: "and providing an
41 effective date".

S-5773

Filed April 5, 1988

*Senate amended (5969) + Concurred
4/12 (g. 1446)*

RECEIVED FROM THE HOUSE

SENATE FILE 2296

S-5809

1 Amend the House amendment, S-5773, to Senate File
2 2296, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by inserting after line 21 the
5 following:
6 "____". Page 3, line 15, by striking the word
7 "annually" and inserting the following: "quarterly".

S-5809

Filed April 6, 1988

BY RICHARD VARN

House 4/8 (p.135)

SENATE FILE 2296

S-5909

1 Amend the House amendment, S-5773, to Senate File
2 2296, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, line 21, by inserting after the word
5 "approval." the following: "Nothing contained in this
6 section shall be construed to allow nonlicensed
7 individuals to perform services which otherwise
8 require licenses under the laws of this state or to
9 allow licensed providers to perform services outside
10 their scope of practice."

S-5909

Filed April 11, 1988

BY LARRY MURPHY

RICHARD VARN

Adopted 4/12 (p.144C)

SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 2296

H-6405

1 Amend the House amendment, S-5773, to Senate File
2 2296, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, line 21, by inserting after the word
5 "approval." the following: "Nothing contained in this
6 section shall be construed to allow nonlicensed
7 individuals to perform services which otherwise
8 require licenses under the laws of this state or to
9 allow licensed providers to perform services outside
10 their scope of practice."

RECEIVED FROM THE SENATE

H-6405 FILED APRIL 12, 1988

House concurred 4/14 (p. 1915)

SENATE FILE 2296

S-5868

1 Amend the House amendment, S-5773, to Senate File
2 2296, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 18 the
5 following:

6 "____". Page 3, line 4, by striking the figure
7 "1988" and inserting the following: "1989".

8 "____". Page 3, line 9, by striking the figure
9 "1988" and inserting the following: "1989".

10 "____". Page 3, line 10, by striking the word and
11 figures "November 1, 1988" and inserting the
12 following: "July 1, 1990".

13 2. Page 1, by striking lines 19 and 20 and
14 inserting the following:

15 "____". Page 3, line 13, by striking the figure
16 "1988." and inserting the following: "1989.
17 Retroactive Title XIX billing".

18 3. Page 1, by striking lines 31 through 33 and
19 inserting the following:

20 "____". Page 4, line 17, by striking the figure
21 "1988" and inserting the following: "1989".

22 4. Page 1, by striking lines 34 and 35 and
23 inserting the following:

24 "____". Page 4, line 18, by striking the figure
25 "1988" and inserting the following: "1989 if state
26 plan approval".

S-5868

Filed April 8, 1988

Law 4/12 (p. 1446)

BY LARRY MURPHY
DAVID READINGER
JIM LIND

STATE OF IOWA

FILED MAR 15 1988

FISCAL NOTE

LSB No. 8224S

Staff ID. AAW

REQ. BY SENATOR VARN

SENATE FILE 2296

In compliance with a written request received March 3, 1988, a fiscal note for SENATE FILE 2296 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2296 requires the area education agencies to utilize private health care benefit plans and federally funded health care programs to fund certain services for special education. This bill also outlines procedures to be followed by the Department of Education to recover costs incurred by the area education agencies to provide special education services.

Assumptions:

1. The federal financial participation (FFP) rate for the Medicaid program will be 62.9% for FY 1989 and FY 1990.
2. Of all persons receiving service, 18% will meet the eligibility criteria for the Medicaid program.
3. All AEA providers will be eligible for Medicaid enrollment, and therefore eligible for the reimbursement of services.
4. Medicaid reimbursement estimates are based on 1986-87 AEA data from the Department of Education.
5. Private insurance coverage for special education services will not be mandated.
6. Private insurers will be allowed to decide which special education services are medically necessary and therefore eligible for reimbursement.
7. The Department of Education estimates it will cost the AEAs \$1.5 million to collect \$5.0 million in reimbursements. This is based upon the experiences of two separate private therapy agencies and Trans-Allied Medical Educational Services of Illinois, a non-for-profit agency.
8. Staff and support costs for the Department of Education, Department of Human Services and the Insurance Division are included.

Fiscal Effect:

| | (dollars in thousands) | | | | | |
|----------------|------------------------|--------------|---------------------|------------------|--------------|---------------------|
| | Fiscal Year 1989 | | | Fiscal Year 1990 | | |
| | Current Law | Proposed Law | Increase (Decrease) | Current Law | Proposed Law | Increase (Decrease) |
| REVENUE | | | | | | |
| Federal Funds | 0.0 | 4,586.0 | 4,586.0 | 0.0 | 6,879.0 | 6,879.0 |
| Private Insur. | 0.0 | 225.0 | 225.0 | 0.0 | 225.0 | 225.0 |
| Total | \$ 0.0 | \$ 4,811.0 | \$ 4,811.0 | \$ 0.0 | \$ 7,104.0 | \$ 7,104.0 |

STATE OF IOWA
FISCAL NOTE
SENATE FILE 2296

LSB No. 8224S
Staff ID. XXXXXXXXXX


REQ. BY SENATOR VARN

-2-

EXPENDITURES

| Sal. & Supp. \$ | \$ | \$ | \$ | \$ | \$ | \$ |
|-----------------|---------------|-------------------|-------------------|---------------|-------------------|-------------------|
| DHS | 0.0 | 21.0 | 21.0 | 0.0 | 31.5 | 31.5 |
| Insurance Div | 0.0 | 25.0 | 25.0 | 0.0 | 25.0 | 25.0 |
| Dept. Educ. | 0.0 | 25.5 | 25.5 | 0.0 | 26.7 | 26.7 |
| AEAs | 0.0 | <u>1,380.0</u> | <u>1,380.0</u> | 0.0 | <u>2,070.0</u> | <u>2,070.0</u> |
| Total | \$ 0.0 | \$ <u>1,451.5</u> | \$ <u>1,451.5</u> | \$ 0.0 | \$ <u>2,153.2</u> | \$ <u>2,153.2</u> |
| | | | | | | |
| NET EFFECT | \$ <u>0.0</u> | \$ <u>3,359.5</u> | \$ <u>3,359.5</u> | \$ <u>0.0</u> | \$ <u>4,950.8</u> | \$ <u>4,950.8</u> |

Source: Dept. of Education
Dept. of Human Services
Insurance Division, Commerce Dept.

(LSB 8224S, AAW)

Fiscal Director
Legislative Fiscal Bureau
Date: 3/15/88

LSB
SSB 2188A

EDUCATION

NEW

SENATE FILE

2296

BY (PROPOSED COMMITTEE ON
EDUCATION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring the area education agencies to utilize private
2 health care benefit plans and federally funded health care
3 programs to share in the costs of services provided to certain
4 children requiring special education.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION
2 SERVICES.

3 1. The state board of education in conjunction with the
4 department of education shall develop a program to utilize
5 private health care benefit plans and federally funded health
6 care programs, except the federal medically needy program for
7 individuals who have a spend-down, to share in the costs of
8 services which are provided to children requiring special
9 education and which are either listed on an individualized
10 education plan established pursuant to the federal Education
11 for All Handicapped Children Act of 1975, Pub. L. No. 94-142,
12 or are provided under an individualized family service plan
13 established pursuant to the federal Education of the
14 Handicapped Act Amendments of 1986, Pub. L. No. 99-457.

15 For the purposes of this section, a private health care
16 benefit plan is an accident and health insurance policy issued
17 under title XX of the Code including a contract issued by a
18 health service corporation under chapter 514, or a plan issued
19 for health care services provided by a health maintenance
20 organization under chapter 514B, or a plan issued or provided
21 by any similar corporation or organization, and any self-
22 insurance plan providing health care benefits.

23 2. The department of education shall designate an area
24 education agency to develop a system for collecting the
25 information necessary to implement procedures for billing and
26 collecting the costs of the services. The area education
27 agency shall begin to develop the system immediately. The
28 area education agency shall consult with and work jointly with
29 state agencies, federal agencies, and private health care
30 providers to determine procedures and standards which shall be
31 initiated by all area education agencies to qualify for
32 receipt of benefits under federal programs and private health
33 care benefit plans.

34 3. The department of education, in conjunction with the
35 area education agency, shall determine those specific services

1 which are covered by federally funded health care programs and
2 private health care providers, which shall include, but not be
3 limited to, physical therapy, audiology, speech language
4 therapy, and psychological evaluations. The department shall
5 also determine which other special services may be subject to
6 reimbursement and the qualifications necessary for personnel
7 providing those services.

8 4. The department of education, in conjunction with the
9 area education agency, shall review with representatives of
10 insurance companies, nonprofit health service providers,
11 administrators of self-insurance plans, the commissioner of
12 insurance or the commissioner's designee, a representative of
13 the health policy corporation of Iowa, and health maintenance
14 organizations which issue health and accident or disability
15 insurance contracts, health care service subscriber contracts,
16 health maintenance enrollee contracts, or similar health care
17 coverage contracts to determine the methodology for qualifying
18 for and receiving benefits for services provided by an area
19 education agency.

20 5. All services referred to in subsection 1 shall be
21 initially funded by the area education agency and shall be
22 provided regardless of subsequent subrogation collections.
23 The area education agency shall make a claim for reimbursement
24 to all applicable health care benefit plans and federally
25 funded health care programs. A private health care benefit
26 plan covering residents of this state shall provide
27 reimbursement to the area education agencies to the extent
28 that services provided pursuant to such an individualized
29 education plan or individualized family service plan are
30 payable in accordance with the terms of the private health
31 care benefit plan, including any terms relating to medical
32 necessity. Reimbursement for services provided and paid for
33 by the area education agency shall be made to the designated
34 billing agency. A private health care benefit plan shall not
35 cancel the coverage of any child based on the use of such

1 services by a child requiring special education.

2 6. Not later than July 1, 1988, the area education agency
3 designated by the department of education shall have developed
4 the program for collecting for the services provided. The
5 program shall be distributed to all of the area education
6 agencies in the state. All area education agencies shall
7 begin collecting the information on July 1, 1988.

8 7. Effective November 1, 1988, all area education agencies
9 in the state shall participate in the program and begin
10 billing for and collecting for the covered services and shall
11 bill for services provided retroactive to July 1, 1988.

12 8. All reimbursements received by the area education
13 agencies for eligible services shall be paid annually to the
14 treasurer of state. The treasurer of state shall credit all
15 receipts received under this subsection to the general fund of
16 the state.

17 9. The department of education and the department of human
18 services may adopt rules pursuant to chapter 17A as these
19 agencies deem necessary to implement this section. These
20 rules shall take effect immediately as provided in section
21 17A.5, subsection 2, paragraph "b".

22 10. Nothing in this section shall be construed to require
23 students or their parents or guardians to provide health care
24 information, relating to private health care benefit plans to
25 an area education agency in order to receive special education
26 services from the area education agencies or local school
27 districts. However, students or their parents or guardians
28 covered by a federal health care program shall provide health
29 care information to an area education agency or local school
30 district.

31 11. The department of education and the department of
32 human services shall adopt rules to implement this section to
33 be effective immediately upon filing with the administrative
34 rules coordinator, or at a stated date prior to indexing and
35 publication, or at a stated date less than thirty-five days

1 after filing, indexing, and publication.

2 Sec. 2. This Act, being deemed of immediate importance,
3 takes effect upon enactment.

4 EXPLANATION

5 The bill provides that area education agencies shall
6 utilize private health care benefit programs and federally
7 funded health care programs to fund certain services for
8 special education. The bill also outlines procedures to be
9 followed by the department of education to recover costs
10 incurred by the area education agencies.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

LOR

Varn
Murphy
Bruner
Rensink
Corning
SSB 2188
EDUCATION
2296

SSB 2188

EDUCATION: Varn, Chair, Murphy, Bruner, Rensink and Corning

NATE FILE
BY (PROPOSED COMMITTEE ON
EDUCATION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring the area education agencies to utilize private
2 health care benefit plans and federally funded health care
3 programs to share in the costs of services provided to certain
4 children requiring special education.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section. 1. NEW SECTION. 281.15 REIMBURSEMENTS FOR
2 SPECIAL EDUCATION SERVICES.

3 1. The state board of education, in conjunction with the
4 department of education, shall require area education agencies
5 to utilize private health care benefit plans and federally
6 funded health care programs to share in the costs of services
7 which are provided to children requiring special education and
8 which are either listed on an individualized education plan
9 established pursuant to the federal Education for All
10 Handicapped Children Act of 1975, Pub. L. No. 94-142, or are
11 provided under an individualized family service plan
12 established pursuant to the federal Education of the
13 Handicapped Act Amendments of 1986, Pub. L. No. 99-457.
14 However, all such services shall continue to be initially
15 funded by the area education agency and shall be provided
16 regardless of subsequent cost sharing with other funding
17 resources. In addition, the area education agencies shall pay
18 all applicable deductible and coinsurance charges which would
19 otherwise be payable by the parent or guardian of a child
20 requiring special education. Subsequent to the provision of
21 such services, the area education agencies shall make a claim
22 for reimbursement to all applicable health care benefit plans
23 and federally funded health care programs. The requirement of
24 this subsection for initial funding of such services by the
25 area education agencies shall not be construed in any manner
26 to nullify a third party's liability to pay for such services.

27 2. The parent or guardian of a child requiring special
28 education and receiving services pursuant to such an
29 individualized education plan or an individualized family
30 service plan shall provide to the appropriate area education
31 agency all relevant information concerning health care
32 coverage of the child by any private health care benefit plan
33 or federally funded health care program and shall update the
34 information in a timely manner as necessary in accordance with
35 the specific requirements established by the department of

1 education.
2 3. All insurance companies, nonprofit health service
3 corporations, and health maintenance organizations which issue
4 health and accident or disability insurance contracts, health
5 care service subscriber contracts, health maintenance
6 organization enrollee contracts, or similar health care
7 coverage contracts to residents of this state shall recognize
8 services provided pursuant to such an individualized education
9 plan or individualized family service plan as services
10 eligible for reimbursement under the contracts if the services
11 are otherwise covered under the contracts. Preexisting
12 conditions clauses and prior authorization or approval
13 restrictions regarding such services provided pursuant to such
14 an individualized education plan or individualized family
15 service plan are void for the purpose of avoiding
16 reimbursement to the appropriate area education agency for
17 such services. Reimbursements for services provided and paid
18 for by the area education agency shall be made directly to the
19 designated billing agency. In addition to the recognition
20 given to licensed health care practitioners in this state for
21 reimbursement purposes, all such insurance companies,
22 nonprofit health service corporations, and health maintenance
23 organizations shall recognize for reimbursement purposes all
24 providers of services under such an individualized education
25 plan or individualized family service plan if the providers
26 are certified or approved by the department of education to
27 provide such services. All such insurance companies,
28 nonprofit health service corporations, and health maintenance
29 organizations shall not reduce any maximum lifetime contract
30 benefits for the payment of any services provided pursuant to
31 such an individualized education plan or individualized family
32 service plan and shall not cancel any contract covering such
33 services based on the use of such services by a child
34 requiring special education.

35 Sec. 2. NEW SECTION. 281.16 MEDICAL ASSISTANCE

1 REIMBURSEMENTS FOR SPECIAL EDUCATION SERVICES.

2 1. The department of human services shall provide medical
3 assistance to children requiring special education under this
4 chapter for the following outpatient pediatric health care
5 services provided pursuant to an individualized education plan
6 or an individualized family service plan, established pursuant
7 to the federal Education for All Handicapped Children Act of
8 1975, Pub. L. No. 94-142, or to the federal Education of the
9 Handicapped Act Amendments of 1986, Pub. L. No. 99-457, at a
10 reimbursement level equal to seventy-five percent of usual and
11 customary charges for such services: physical therapy;
12 occupational therapy; speech language therapy; audiology;
13 social work services; psychological evaluation; psychotherapy
14 by social workers, psychologists, and nurses with psychiatric
15 training; vocational habilitation assessments; nurse health
16 assessments; and health education services. The department
17 may provide medical assistance to such children for the
18 following additional services provided pursuant to such a plan
19 at the same reimbursement level: developmental vision
20 assessments, low vision evaluations, vision therapy, and early
21 screening and testing for learning disabilities, any of which
22 may be diagnostic, treatment, consultation, or screening
23 services.

24 2. The department shall recognize such an individualized
25 education plan or individualized family service plan as a
26 legitimate health care plan eligible for medical assistance
27 reimbursement per the area education agency's enrollment as a
28 noninstitutional provider under the medical assistance
29 program. This recognition shall be retroactive to July 1,
30 1987, for services provided only pursuant to such an
31 individualized education plan. The department shall recognize
32 for reimbursement purposes all service providers which provide
33 services pursuant to such an individualized education plan or
34 individualized family service plan if the providers are
35 certified or approved by the department of education to

1 provide such services. The department shall make
2 reimbursements directly to the designated billing agency for
3 services provided and paid for by the area education agency
4 pursuant to such an individualized education plan or
5 individualized family service plan.

6 Sec. 3. NEW SECTION. 281.17 BILLING SYSTEM
7 IMPLEMENTATION.

8 The department of education, in cooperation with the area
9 education agencies, shall implement a statewide, uniform
10 billing system for reimbursement of the costs of special
11 education services provided to children requiring special
12 education under chapter 281 pursuant to an individualized
13 education plan or individualized family service plan
14 established pursuant to the federal Education for All
15 Handicapped Children Act of 1975, Pub. L. No. 94-142, or the
16 federal Education of the Handicapped Act Amendments of 1986,
17 Pub. L. No. 99-457, who are eligible for reimbursement for all
18 or a portion of the costs of such services under a contract of
19 health and accident insurance or disability insurance, under a
20 health care service subscriber contract, under a health
21 maintenance organization enrollee contract, or under a similar
22 health care contract, or who are eligible for reimbursement
23 for all or a portion of the costs of such services under the
24 medical assistance program. The department of human services
25 shall cooperate with the department of education and the area
26 education agencies in the implementation and operation of the
27 billing system. The billing system shall be implemented no
28 later than June 30, 1988. The department of education shall
29 expedite the implementation of the billing system and may
30 dispense with time consuming, contract letting procedures, if
31 necessary. Prior to July 1, 1988, the system shall bill all
32 claims for reimbursement for such services provided prior to
33 July 1, 1988. Reimbursements shall be credited to the general
34 fund of the state. On and after July 1, 1988, claims for
35 reimbursement shall be billed when the special education

1 services are provided."

2

EXPLANATION

3 The bill provides that area education agencies shall
4 utilize private health care benefit programs and federally
5 funded health care programs to fund certain services for
6 special education. The bill also outlines procedures to be
7 used by the department of education and the department of
8 human services to bill for recovery of costs incurred by the
9 area education agencies.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 2296

AN ACT
REQUIRING THE AREA EDUCATION AGENCIES TO UTILIZE FEDERALLY
FUNDED HEALTH CARE PROGRAMS TO SHARE IN THE COSTS OF SERVICES
PROVIDED TO CERTAIN CHILDREN REQUIRING SPECIAL EDUCATION AND
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION
SERVICES.

1. The state board of education in conjunction with the department of education shall develop a program to utilize federally funded health care programs, except the federal medically needy program for individuals who have a spend-down, to share in the costs of services which are provided to children requiring special education.

2. The department of education shall designate an area education agency to develop a system for collecting the information necessary to implement procedures for billing and collecting the costs of the services. The area education agency shall begin to develop the system immediately. The area education agency shall consult with and work jointly with state agencies and federal agencies to determine procedures and standards which shall be initiated by all area education agencies to qualify for receipt of benefits under federal programs.

3. The department of education, in conjunction with the area education agency, shall determine those specific services which are covered by federally funded health care programs, which shall include, but not be limited to, physical therapy, audiology, speech language therapy, and psychological evaluations. The department shall also determine which other special services may be subject to reimbursement and the

qualifications necessary for personnel providing those services. If it is determined that services are required from other service providers, these providers shall be reimbursed for those services.

4. All services referred to in subsection 1 shall be initially funded by the area education agency and shall be provided regardless of subsequent subrogation collections. The area education agency shall make a claim for reimbursement to federally funded health care programs.

5. Not later than July 1, 1988, the area education agency designated by the department of education shall have developed the program for collecting for the services provided. The program shall be distributed to all of the area education agencies in the state. All area education agencies shall begin collecting the information on July 1, 1988.

6. Effective November 1, 1988, all area education agencies in the state shall participate in the program and begin billing for and collecting for the covered services and shall bill for services provided retroactive to July 1, 1988. Retroactive Title XIX billing is contingent upon state plan approval. Nothing contained in this section shall be construed to allow nonlicensed individuals to perform services which otherwise require licenses under the laws of this state or to allow licensed providers to perform services outside their scope of practice.

7. All reimbursements received by the area education agencies for eligible services shall be paid annually to the treasurer of state. The treasurer of state shall credit all receipts received under this subsection to the general fund of the state.

8. The department of education and the department of human services may adopt rules pursuant to chapter 17A as these agencies deem necessary to implement this section. These rules shall take effect immediately as provided in section 17A.5, subsection 2, paragraph "b".

9. Students or their parents or guardians covered by a federal health care program shall provide health care information to an area education agency or local school district.

10. The department of education and the department of human services shall adopt rules to implement this section to be effective immediately upon filing with the administrative rules coordinator, or at a stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication.

Sec. 2. RESPONSIBILITIES OF THE DEPARTMENT OF HUMAN SERVICES. The department of human services shall amend its Title XIX plan to include area education agencies as eligible Title XIX providers and to include as reimbursable medical expenditures physical therapy, occupational therapy, psychological evaluations, psychotherapy, speech therapy, and audiological services provided by an area education agency. It is the intent of the general assembly that the plan amendments be submitted as soon after July 1, 1988, as possible, so that reimbursement for services can be made for the period beginning July 1, 1988 if state plan approval is secured. The department shall adopt rules to be effective immediately upon filing with the administrative rules coordinator, or at a stated date less than thirty-five days after filing, indexing, and publication. The rules also shall provide that the services provided under the Title XIX plan shall be considered separate and distinct from other services provided under Title XIX and shall not limit the rights of Title XIX clients to receive services from other providers as long as those services meet standards of appropriateness and necessity. The area education agencies shall determine their costs incurred in recording and billing the medical assistance program Title XIX for services, and these costs shall be recovered from federal funds recovered from the Title XIX program, not to exceed five percent of the amount recovered.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2296, Seventy-second General Assembly.

Approved May 4, 1988

JOHN P. DWYER
Secretary of the Senate

TERRY E. BRANSTAD
Governor