

**EIGHTY-NINTH GENERAL ASSEMBLY
2021 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

February 2, 2021

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
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No amendments filed on February 1, 2021

Fiscal Notes

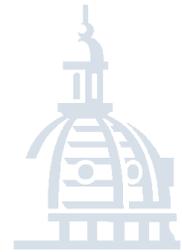
[SF 27](#) — [Research Activities Tax Credit, Refund Limitation](#) (LSB1265XS)

[SF 49](#) — [Tuition and Textbook Tax Credit, Private Instruction](#) (LSB1200SS)

[SF 170](#) — [Disorderly Conduct](#) (LSB1220SV)

[SF 171](#) — [Sexual Misconduct with Arrested or Detained Persons](#) (LSB1039SV)

[SF 172](#) — [Sex Act, Definition](#) (LSB1327SV)



SF 27 – Research Activities Tax Credit, Refund Limitation (LSB1265XS)
Staff Contact: Jeff Robinson (515.281.4614) jeff.robinson@legis.iowa.gov
Fiscal Note Version – New

Description

Senate File 27 limits Research Activities Tax Credit (RATC) refundability to no more than \$1.0 million per taxpayer per tax year. The change is effective retroactive to tax years beginning on or after January 1, 2021.

Background

Refundability refers to the ability of a taxpayer to benefit from an earned tax credit that is larger than the amount of tax liability the taxpayer has for a particular tax year. If the tax credit is refundable and if the tax credit exceeds tax liability, the difference is remitted to the taxpayer in the form of a payment from the State. If a tax credit is not refundable, then any credit amount that is in excess of tax liability cannot be redeemed in that tax year.

For a recent discussion of the RATC and a list of refunds issued in 2019, please see the Department of Revenue [Research Activities Tax Credit Annual Report](#) for 2019. Reports for other years are available [here](#).

Assumptions

- For calendar year 2010 through 2019, Department of Revenue RATC annual reports indicate that of the \$596.0 million in total credits claimed over the 10 years, \$312.1 million (52.4%) represents the portion of company claims that exceeded \$1.0 million.
- The reports do not indicate what portion of a particular claim amount represents refunded dollars. For this estimate, it is assumed that 90.0% of the large claims represent RATC tax refunds.
- Given the first two assumptions, the average annual amount of RATC claims that represents tax refunds in excess of \$1.0 million for a company in a year is estimated to total \$28.1 million. The calculated amount of large refunds in excess of \$1.0 million fluctuates from \$22.6 million (CY 2018) to \$33.2 million (CY 2019), with the remaining eight years falling in between those amounts. For this estimate, future annual totals are projected to average \$28.1 million.
- The refund restriction is effective for tax years beginning on or after January 1, 2021. As RATC claims are paid after tax returns are filed, the first fiscal year that will be impacted by the reduction in refunds is assumed to be FY 2023 (begins July 1, 2022).

Fiscal Impact

Restricting the RATC refunds that a single consolidated company may receive for a tax year to \$1.0 million is projected to increase net General Fund revenue by \$28.1 million per year, beginning FY 2023.

Additional Potential Fiscal Impact

Existing Iowa law provides for a significant change to Iowa's individual income tax system once two General Fund revenue triggers are met. The first year that the triggers may be met is at the conclusion of FY 2022. Once implemented, this contingent income tax system is projected to reduce Iowa individual income tax by roughly \$300.0 million per tax year. Since this Bill is projected to increase net General Fund revenue in FY 2023 and after, the Bill's changes will increase the probability of achieving both revenue triggers by the end of FY 2023 if those triggers were not already met at the end of FY 2022.

Sources

Department of Revenue Research Activities Tax Credit Annual Reports
LSA calculations

/s/ Holly M. Lyons

February 1, 2021

Doc ID 1210944

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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[SF 49](#) – Tuition and Textbook Tax Credit, Private Instruction (LSB1200SS)
Staff Contact: Jeff Robinson (515.281.4614) jeff.robinson@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 49](#) expands eligibility for the existing [Tuition and Textbook Tax Credit](#) to include dependents of a taxpayer who are elementary or secondary students receiving private instruction. The Bill defines the term “private instruction” to include:

- Independent private instruction as defined in Iowa Code section [299A.1\(2\)\(b\)](#).
- Competent private instruction as described in Iowa Code section [299A.2](#).
- Private instruction by a nonlicensed person as described in Iowa Code section [299A.3](#).

Under current law, access to the tax credit is restricted to households with students attending accredited public and nonpublic elementary and secondary schools. School situations that are not accredited are excluded. The change is effective retroactive to the beginning of tax year (TY) 2021.

Background

Current Iowa law allows taxpayers to claim a nonrefundable tax credit equal to 25.0% of up to \$1,000 in qualified elementary and secondary (K-12) school expenses paid by the taxpayer for each dependent attending an accredited K-12 public or nonpublic school. Qualified expenses include:

- Tuition paid to an accredited school.
- Textbooks.
- Specialized play, concert, and sports clothing.
- Driver’s education fees paid to a K-12 school.
- Certain dues, fees, and admission charges.
- Materials for extracurricular activities.
- Rental of musical instruments and other music expenses.
- Required supplies for shop and other specialized classes.
- Fees and charges for transportation if paid to the school.
- Band and athletic uniforms.

Approximately 40.0% of eligible households (those with dependents aged 5 through 18) claim the credit each tax year. Annual credits utilized on Iowa income tax returns total approximately \$15.0 million per year. For TY 2018, 113,900 households claimed a total of \$15.1 million in Tuition and Textbook Tax Credits. A program evaluation of the credit completed by the Department of Revenue in 2018 can be found [here](#).

Assumptions

- The Iowa Department of Education does not track or estimate the number of students attending school outside of the accredited public and private school system.
- The National Center for Education Statistics [estimates](#) that the average number of private elementary and secondary students in Iowa from 2013 through 2017 was 59,400. It is

assumed that this estimate includes accredited nonpublic attendance as well as attendance at schools that are not accredited by the State and also home-schooled students.

- Iowa Department of Education statistics show that the average number of students enrolled in Iowa elementary and secondary accredited nonpublic schools from 2013 through 2017 was 34,900. Subtracting 34,900 from the estimated 59,400 students not attending accredited schools results in 24,500 students who might benefit from the change to the tax credit.
- The rate of participation in the credit will not be 100.0%. To account for situations where the taxpayer does not know about the credit, does not have sufficient qualified expenses, or does not have any income tax liability, it is assumed that 75.0% of the projected 24,500 (18,375) eligible students will benefit from the expanded credit.
- The maximum credit per student is \$250. However, not all taxpayers claiming the credit will have the necessary \$1,000 in expenses for each dependent student. Also, as the credit is nonrefundable, some taxpayers will not have sufficient tax liability to use the full amount allowed. The average tax credit benefit is assumed to be \$210 per student.
- The tax reduction associated with the changes to the tax credit is assumed to occur when tax returns are filed (decreased final tax payments and increased tax refunds).
- As a nonrefundable tax credit, changes to the Tuition and Textbook Tax Credit impact the calculation of the income [surtax](#) for schools. Since the changes in the Bill lower State income tax liability, the changes also reduce the amount of surtax owed by taxpayers in public school districts where the surtax applies.

Fiscal Impact

Expanding the Tuition and Textbook Tax Credit to students who are not enrolled in an accredited public or nonpublic school is projected to decrease annual General Fund revenue by \$3.9 million, beginning FY 2022. The changes are also projected to reduce the amount raised by the income surtax for schools by \$116,000 per year.

Additional Potential Fiscal Impact

Existing Iowa law provides for a significant change to Iowa's individual income tax system once two General Fund revenue triggers are met. The first year that the triggers may be met is at the conclusion of FY 2022. Once implemented, this contingent income tax system is projected to reduce Iowa individual income tax by roughly \$300.0 million per tax year. Since this Bill is projected to reduce General Fund revenue in FY 2022 and after, the Bill's changes will modestly reduce the probability of achieving both revenue triggers; as a consequence, the Bill could result in delayed implementation of the income tax reduction by one or more tax years.

Sources

Department of Revenue
Department of Education
National Center for Education Statistics
LSA calculations

/s/ Holly M. Lyons

February 1, 2021

Doc ID 1210676

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



[SF 170](#) – Disorderly Conduct (LSB1220SV)
Staff Contact: Laura Book (515.205.9275) laura.book@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 170](#) adds to the definition of disorderly conduct the requirement that a person intentionally or recklessly causes unreasonable distress when the person engages in loud and raucous noise in the vicinity of any residence or public building in order to be guilty of disorderly conduct. A person who violates this Bill commits a simple misdemeanor.

Background

Under current law, a person engages in disorderly conduct when the person makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least \$105 but not more than \$855, or both.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Correctional Impact

[Senate File 170](#) adds the requirement of reckless or intentional behavior to the definition of disorderly conduct. Since SF 170 would restrict the definition of disorderly conduct in a way that cannot be accounted for with current data, the correctional impact cannot be estimated. In FY 2019 and FY 2020, there were a combined total of 1,948 disorderly conduct convictions. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

Minority Impact

Of the 1,948 disorderly conduct convictions in FY 2019 and FY 2020, 71.6% were committed by Caucasians and 20.4% were committed by African Americans. In FY 2020, Caucasians and African Americans made up 89.9% and 4.1% of the adult population of the State of Iowa, respectively.

Senate File 170 would restrict the definition of disorderly conduct in a way that cannot be accounted for with current conviction data because it is unknown whether prior convictions would have met the intentional or reckless requirement outlined in this Bill. As a result, the

Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights is unable to estimate the minority impact.

Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Fiscal Impact

[Senate File 170](#) restricts the definition of disorderly conduct, and the fiscal impact cannot be estimated due to the lack of existing conviction data. The average State cost for one simple misdemeanor conviction ranges from \$40 to \$350. The minimum cost includes court time for a magistrate or district associate judge, court reporter, judicial specialist, and clerk of court staff. The maximum includes court time and the costs of indigent defense. The new definition of disorderly conduct under SF 170 may impact fine and surcharge revenue, but the impact is unknown.

Sources

CJJP, Department of Human Rights
Department of Corrections
Judicial Branch

/s/ Holly M. Lyons

January 29, 2021

Doc ID 1210653

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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SF 171 – Sexual Misconduct with Arrested or Detained Persons (LSB1039SV)
Staff Contact: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 171](#) relates to sexual misconduct by a peace officer with offenders and juveniles in the peace officer’s custody, providing that any peace officer who engages in a sex act with an individual, including a juvenile, in the peace officer’s custody commits a Class D felony. Under current law, a peace officer who engages in a sex act with an individual, including a juvenile, in the peace officer’s custody commits an aggravated misdemeanor.

The Bill defines “custody” as the detention of a person by lawful authority or process, and specifies that the term “peace officer” includes sheriffs and their regular deputies who are subject to mandated law enforcement training, marshals and police officers of cities, peace officer members of the Department of Public Safety, parole and probation officers, special security officers employed by the Board of Regents institutions, conservation officers, employees of the Department of Transportation who are designated as peace officers by resolution of the Department, employees of an aviation authority designated as peace officers by the authority, and other persons as may be so designated by law.

Background

A Class D felony is punishable by confinement for no more than five years and a fine of at least \$1,025 but not more than \$10,245. In FY 2019, there was one aggravated misdemeanor conviction under Iowa Code section 709.16. In FY 2020, there were two aggravated misdemeanor convictions under Iowa Code section 709.16.

An individual who violates the provisions of this Bill is subject to a special sentence pursuant to Iowa Code section [903B.2](#). A special sentence is defined as a punishment in addition to the punishment for the underlying criminal offense, and consists of committing the individual to the custody of the Department of Corrections (DOC) for a period of 10 years. An individual serving a special sentence begins the sentence in the same manner as if the individual were on parole or part of a work release program. The special sentence is subject to revocation for up to two years for a first revocation and up to five years for a second or any subsequent revocation.

Additionally, a person who violates the provisions of this Bill is designated as a tier II sex offender under Iowa Code section [692A.102\(1\)\(b\)\(12\)](#) if the victim is 13 years of age or older, or as a tier III sex offender pursuant to Iowa Code section [692A.102\(1\)\(c\)\(28\)](#) if the victim is under the age of 13. In either scenario, the person committing the offense must register as a sex offender pursuant to Iowa Code section [692A.103](#).

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first

entry of affected offenders into the correctional system.

- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Correctional Impact

The correctional impact cannot be determined. The Bill establishes a new criminal offense, and the number of convictions cannot be estimated. The DOC notes that crimes involving professionals are rare, and that within the last five fiscal years, there has been no prison admission for offenses under Iowa Code section [709.16](#).

Table 1 below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of Class D felonies (involving sex crimes). Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

Table 1 — Sentencing Estimates and Length of Stay (LOS)

Conviction Offense Class	Percent to Prison	FY 19 Avg Length of Stay Prison (months)	FY 19 Marginal Cost/Day Prison	FY 19 Avg Length of Stay Parole (months)	FY 19 Marginal Cost/Day Parole	Percent to Probation	FY 19 Avg Length of Stay Probation (months)	FY 19 Avg Cost/Day Probation	Percent to CBC Residential Facility	FY 19 CBC Marginal Cost/Day	Percent to County Jail	Marginal County Jail Cost/Day
Class D Felony (Sex Offense)	85.0%	27.6	\$20.33	5.0	\$5.38	44.0%	35.9	\$5.38	5.0%	\$14.78	25.0%	\$50.00

Minority Impact

The minority impact of SF 171 is unknown. Refer to the LSA Memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of SF 171 cannot be estimated. The Bill establishes a new criminal offense, and the resulting cost to the justice system cannot be estimated. **Table 2** shows estimates for the average State cost per offense class type. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC for one additional conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Average State Cost Per Offense Class Type

Offense Class	Total Minimum Cost	Total Maximum Cost
Class D Felony	\$7,700	\$13,500

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections

/s/ Holly M. Lyons

February 1, 2021

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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[SF 172](#) – Sex Act, Definition (LSB1327SV)

Staff Contact: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov

Fiscal Note Version – New

Description

[Senate File 172](#) relates to the definition of “sex act” or “sexual activity.” The Bill expands the current definition of “sex act,” for purposes of the Iowa criminal code, to include contact between the mouth and anus of two or more persons; contact between the finger, hand, or other body part of one person and the genitalia or anus of another person except in the course of examination or treatment by certain licensed professionals; and the touching of a person’s own genitals or anus with a finger, hand, artificial sexual organ, or other similar device at the direction of another person.

Background

The term “sex act” or “sexual activity” is defined in Iowa Code section [702.17](#). The expansion of the definition, as proposed by SF 172, refers to the term “sex act” in matters of interpretation under the Iowa criminal code, specifically Iowa Code chapter [709](#). In order for a “sex act” or “sexual activity” to be defined as sexual abuse and as criminal in nature, the act must be performed under the following circumstances:

1. The act is done by force or against the will of the other person. If the consent of the other person is obtained by threat of violence or the act is done under the influence of a sleep-inducing drug or otherwise occurs in a state of unconsciousness, the act is done against the will of another individual.
2. The other individual involved is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
3. The other individual involved is a child.

Assumptions

It is assumed that as a result of the expansion of the definition of “sex act,” the number of prison and Community-Based Corrections (CBC) admissions for sex-related offenses will increase.

Correctional Impact

Senate File 172 expands the definition of “sex act,” and the correctional impact cannot be estimated due to a lack of existing data.

Table 1 provides estimates for sentencing to State prison, parole, probation, or CBC residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions ranging from serious misdemeanors to Class A felonies. The LOS data is not applicable to simple misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

Table 1 — Sentencing Estimates and LOS

Conviction Offense Class	Percent to Prison	Avg Length of Stay Prison (months)	FY 20 Marginal Cost/Day Prison	Percent Ordered to Probation	Avg LOS on Probation	Avg Cost/Day on Probation	Percent Sentenced to CBC Residential Facility	FY 20 Marginal Cost CBC/Day	Percent Ordered to County Jail	Avg Length of Stay in County Jail	Marginal Cost/Day	Avg LOS on Parole	FY 20 Average Cost/Day Parole
Serious Misdemeanor	2.0%	5	\$ 20.33	56.0%	13.4	\$ 5.38	1.0%	\$ 14.78	69.0%	N/A	\$ 50	2.4	\$ 5.38
Aggravated Misdemeanor (Sex)	78.0%	10.51	\$ 20.33	58.5%	15.1	\$ 5.38	1.0%	\$ 14.78	74.6%	N/A	\$ 50	2.5	\$ 5.38
Class D Felony (Sex)	85.0%	32.24	\$ 20.33	45.2%	49.7	\$ 5.38	6.8%	\$ 14.78	43.8%	N/A	\$ 50	5.1	\$ 5.38
Class C Felony (Sex)	91.0%	76	\$ 20.33	34.1%	50	\$ 5.38	5.5%	\$ 14.78	32.7%	N/A	\$ 50	7.2	\$ 5.38
Class B Felony (Sex)	95.0%	285.2	\$ 20.33	9.4%	--	\$ 5.38	3.1%	\$ 14.78	15.6%	N/A	\$ 50	29.4	\$ 5.38
Class A Felony	100.0%	510	\$ 20.33	N/A	N/A	N/A	N/A	\$ 14.78	N/A	N/A	\$ 50	N/A	N/A

Minority Impact

Senate File 172 expands the definition of “sex act” or “sexual activity” to include new actions not previously criminalized under Iowa Code chapter 709. As a result, the Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights cannot use prior existing data to estimate the minority impact of SF 172. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of SF 172 cannot be determined. The Department of Corrections (DOC) estimates that the expansion of the definition of “sex act” and subsequent convictions will lead to an increase in the number of offenders in custody of the DOC. This will likely lead to an increase in State costs, but an estimate cannot be determined at this time, as it is not possible to estimate how many new convictions will result or at what level of crime these convictions will be charged.

Table 2 contains cost estimates for the average State cost per offense class type for one conviction. The cost estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC for one conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Average State Cost Per Offense Class Type

Offense Class	Total Cost	
	Minimum	Maximum
Serious Misdemeanor	\$ 410	\$ 7,500
Aggravated Misdemeanor	3,700	7,800
Class D Felony	7,700	13,500
Class C Felony	9,900	19,200
Class B Felony	12,700	35,800
Class A Felony	183,700	188,000

The expansion of the definition of “sex act” and subsequently related convictions resulting from SF 172 may also result in an increase in fine and surcharge revenue, but the impact cannot be determined at this time.

Sources

Department of Corrections
Legislative Services Agency

/s/ Holly M. Lyons

February 1, 2021

Doc ID 1210686

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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