

**EIGHTY-NINTH GENERAL ASSEMBLY
2022 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

March 2, 2022

Clip Sheet Summary

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

Bill	Amendment	Action	Sponsor
SF 463	S-5031	Filed	RECEIVED FROM THE HOUSE
SF 2255	S-5032	Filed	JEFF EDLER
SF 2309	S-5033	Filed	JASON SCHULTZ

Fiscal Notes

- [SF 2216](#) — [Complex Needs Wards](#) (LSB5813XS)
- [SF 2231](#) — [Pharmacy Benefits Managers](#) (LSB5519SV)
- [SF 2319](#) — [Traffic Cameras](#) (LSB5548SV)
- [SF 2364](#) — [Obscene Material, Schools](#) (LSB5175SV)
- [HF 2416](#) — [Girls' Athletics, Eligibility](#) (LSB5990HV.1)

HOUSE AMENDMENT TO
SENATE FILE 463

S-5031

1 Amend Senate File 463, as passed by the Senate, as follows:

2 1. Page 27, after line 17 by inserting:

3 <Sec. ____ . NEW SECTION. 147F.1 **Audiology and speech**
4 **language pathology interstate compact.**

5 1. *Purpose.* The purpose of this compact is to facilitate
6 interstate practice of audiology and speech language pathology
7 with the goal of improving public access to audiology and
8 speech language pathology services. The practice of audiology
9 and speech language pathology occurs in the state where the
10 patient, client, or student is located at the time of the
11 patient, client, or student encounter. The compact preserves
12 the regulatory authority of states to protect public health and
13 safety through the current system of state licensure. This
14 compact is designed to achieve the following objectives:

15 a. Increase public access to audiology and speech language
16 pathology services by providing for the mutual recognition of
17 other member state licenses.

18 b. Enhance the states' ability to protect the public's
19 health and safety.

20 c. Encourage the cooperation of member states in regulating
21 multistate audiology and speech language pathology practice.

22 d. Support spouses of relocating active duty military
23 personnel.

24 e. Enhance the exchange of licensure, investigative, and
25 disciplinary information between member states.

26 f. Allow a remote state to hold a provider of services with
27 a compact privilege in that state accountable to that state's
28 practice standards.

29 g. Allow for the use of telehealth technology to facilitate
30 increased access to audiology and speech language pathology
31 services.

32 2. *Definitions.* As used in this compact, and except as
33 otherwise provided, the following definitions shall apply:

34 a. "Active duty military" means full-time duty status in
35 the active uniformed service of the United States, including

1 members of the national guard and the reserves on active duty
2 orders pursuant to 10 U.S.C. §1209 and 10 U.S.C. §1211.

3 *b. "Adverse action"* means any administrative, civil,
4 equitable, or criminal action permitted by a state's laws which
5 is imposed by a licensing board or other authority against an
6 audiologist or speech language pathologist, including actions
7 against an individual's license or privilege to practice
8 such as revocation, suspension, probation, monitoring of the
9 licensee, or restriction of the licensee's practice.

10 *c. "Alternative program"* means a nondisciplinary monitoring
11 process approved by an audiology or speech language pathology
12 licensing board to address impaired practitioners.

13 *d. "Audiologist"* means an individual who is licensed by a
14 state to practice audiology.

15 *e. "Audiology"* means the care and services provided by
16 a licensed audiologist as set forth in the member state's
17 statutes and rules.

18 *f. "Audiology and speech language pathology compact
19 commission" or "commission"* means the national administrative
20 body whose membership consists of all states that have enacted
21 the compact.

22 *g. "Audiology and speech language pathology licensing board",
23 "audiology licensing board", "speech language pathology licensing
24 board", or "licensing board"* means the agency of a state that is
25 responsible for the licensing and regulation of audiologists or
26 speech language pathologists.

27 *h. "Compact privilege"* means the authorization granted by
28 a remote state to allow a licensee from another member state
29 to practice as an audiologist or speech language pathologist
30 in the remote state under its laws and rules. The practice of
31 audiology or speech language pathology occurs in the member
32 state where the patient, client, or student is located at the
33 time of the patient, client, or student encounter.

34 *i. "Current significant investigative information"* means
35 investigative information that a licensing board, after an

1 inquiry or investigation that includes notification and an
2 opportunity for the audiologist or speech language pathologist
3 to respond, if required by state law, has reason to believe is
4 not groundless and, if proved true, would indicate more than a
5 minor infraction.

6 *j. "Data system"* means a repository of information about
7 licensees, including but not limited to continuing education,
8 examination, licensure, investigative, compact privilege, and
9 adverse action.

10 *k. "Encumbered license"* means a license in which an adverse
11 action restricts the practice of audiology or speech language
12 pathology by the licensee and said adverse action has been
13 reported to the national practitioners data bank.

14 *l. "Executive committee"* means a group of directors elected
15 or appointed to act on behalf of, and within the powers granted
16 to them by, the commission.

17 *m. "Home state"* means the member state that is the
18 licensee's primary state of residence.

19 *n. "Impaired practitioner"* means an individual whose
20 professional practice is adversely affected by substance abuse,
21 addiction, or other health-related conditions.

22 *o. "Licensee"* means an individual who currently holds an
23 authorization from the state licensing board to practice as an
24 audiologist or speech language pathologist.

25 *p. "Member state"* means a state that has enacted the
26 compact.

27 *q. "Privilege to practice"* means a legal authorization
28 permitting the practice of audiology or speech language
29 pathology in a remote state.

30 *r. "Remote state"* means a member state, other than the home
31 state, where a licensee is exercising or seeking to exercise
32 the compact privilege.

33 *s. "Rule"* means a regulation, principle, or directive
34 promulgated by the commission that has the force of law.

35 *t. "Single-state license"* means an audiology or speech

1 language pathology license issued by a member state that
2 authorizes practice only within the issuing state and does not
3 include a privilege to practice in any other member state.

4 *u.* "*Speech language pathologist*" means an individual who is
5 licensed by a state to practice speech language pathology.

6 *v.* "*Speech language pathology*" means the care and services
7 provided by a licensed speech language pathologist as set forth
8 in the member state's statutes and rules.

9 *w.* "*State*" means any state, commonwealth, district, or
10 territory of the United States that regulates the practice of
11 audiology and speech language pathology.

12 *x.* "*State practice laws*" means a member state's laws, rules,
13 and regulations that govern the practice of audiology or speech
14 language pathology, define the scope of audiology or speech
15 language pathology practice, and create the methods and grounds
16 for imposing discipline.

17 *y.* "*Telehealth*" means the application of telecommunication,
18 audiovisual, or other technologies that meet the applicable
19 standard of care to deliver audiology or speech language
20 pathology services at a distance for assessment, intervention,
21 or consultation.

22 3. *State participation in the compact.*

23 *a.* A license issued to an audiologist or speech language
24 pathologist by a home state to a resident in that state
25 shall be recognized by each member state as authorizing
26 an audiologist or speech language pathologist to practice
27 audiology or speech language pathology, under a privilege to
28 practice, in each member state.

29 *b.* A state must implement or utilize procedures for
30 considering the criminal history records of applicants for
31 initial privilege to practice. These procedures shall include
32 the submission of fingerprints or other biometric-based
33 information by applicants for the purpose of obtaining an
34 applicant's criminal history record information from the
35 federal bureau of investigation and the agency responsible for

1 retaining that state's criminal records.

2 (1) A member state must fully implement a criminal
3 background check requirement, within a time frame established
4 by rule, by receiving the results of the federal bureau of
5 investigation record search on criminal background checks and
6 use the results in making licensure decisions.

7 (2) Communication between a member state, the commission,
8 and among member states regarding the verification of
9 eligibility for licensure through the compact shall not
10 include any information received from the federal bureau of
11 investigation relating to a federal criminal records check
12 performed by a member state under the Department of State,
13 Justice, and Commerce, the Judiciary, and Related Agencies
14 Appropriation Act, 1973, Pub. L. No. 92-544.

15 *c.* Upon application for a privilege to practice, the
16 licensing board in the issuing remote state shall ascertain,
17 through the data system, whether the applicant has ever held,
18 or is the holder of, a license issued by any other state,
19 whether there are any encumbrances on any license or privilege
20 to practice held by the applicant, and whether any adverse
21 action has been taken against any license or privilege to
22 practice held by the applicant.

23 *d.* Each member state shall require an applicant to obtain
24 or retain a license in the home state and meet the home state's
25 qualifications for licensure or renewal of licensure as well as
26 all other applicable state laws.

27 *e.* For an audiologist:

28 (1) Must meet one of the following educational
29 requirements:

30 (a) On or before December 31, 2007, has graduated with a
31 master's degree or doctorate in audiology, or equivalent degree
32 regardless of degree name, from a program that is accredited
33 by an accrediting agency recognized by the council for higher
34 education accreditation, or its successor, or by the United
35 States department of education and operated by a college or

1 university accredited by a regional or national accrediting
2 organization recognized by the board.

3 (b) On or after January 1, 2008, has graduated with a
4 doctoral degree in audiology, or equivalent degree regardless
5 of degree name, from a program that is accredited by an
6 accrediting agency recognized by the council for higher
7 education accreditation, or its successor, or by the United
8 States department of education and operated by a college or
9 university accredited by a regional or national accrediting
10 organization recognized by the board.

11 (c) Has graduated from an audiology program that is housed
12 in an institution of higher education outside of the United
13 States for which the program and institution have been approved
14 by the authorized accrediting body in the applicable country
15 and the degree program has been verified by an independent
16 credentials review agency to be comparable to a state licensing
17 board-approved program.

18 (2) Has completed a supervised clinical practicum
19 experience from an accredited educational institution or its
20 cooperating programs as required by the board.

21 (3) Has successfully passed a national examination approved
22 by the commission.

23 (4) Holds an active, unencumbered license.

24 (5) Has not been convicted or found guilty, and has not
25 entered into an agreed disposition, of a felony related to
26 the practice of audiology, under applicable state or federal
27 criminal law.

28 (6) Has a valid United States social security or national
29 practitioner identification number.

30 *f.* For a speech language pathologist:

31 (1) Must meet one of the following educational
32 requirements:

33 (a) Has graduated with a master's degree from a speech
34 language pathology program that is accredited by an
35 organization recognized by the United States department of

1 education and operated by a college or university accredited
2 by a regional or national accrediting organization recognized
3 by the board.

4 (b) Has graduated from a speech language pathology program
5 that is housed in an institution of higher education outside
6 of the United States for which the program and institution
7 have been approved by the authorized accrediting body in the
8 applicable country and the degree program has been verified by
9 an independent credentials review agency to be comparable to a
10 state licensing board-approved program.

11 (2) Has completed a supervised clinical practicum
12 experience from an educational institution or its cooperating
13 programs as required by the commission.

14 (3) Has completed a supervised postgraduate professional
15 experience as required by the commission.

16 (4) Has successfully passed a national examination approved
17 by the commission.

18 (5) Holds an active, unencumbered license.

19 (6) Has not been convicted or found guilty, and has not
20 entered into an agreed disposition, of a felony related to the
21 practice of speech language pathology, under applicable state
22 or federal criminal law.

23 (7) Has a valid United States social security or national
24 practitioner identification number.

25 *g.* The privilege to practice is derived from the home state
26 license.

27 *h.* An audiologist or speech language pathologist practicing
28 in a member state must comply with the state practice laws of
29 the state in which the client is located at the time service
30 is provided. The practice of audiology and speech language
31 pathology shall include all audiology and speech language
32 pathology practice as defined by the state practice laws of the
33 member state in which the client is located. The practice of
34 audiology and speech language pathology in a member state under
35 a privilege to practice shall subject an audiologist or speech

1 language pathologist to the jurisdiction of the licensing board
2 and the courts and the laws of the member state in which the
3 client is located at the time service is provided.

4 *i.* Individuals not residing in a member state shall continue
5 to be able to apply for a member state's single-state license
6 as provided under the laws of each member state. However, the
7 single-state license granted to these individuals shall not be
8 recognized as granting the privilege to practice audiology or
9 speech language pathology in any other member state. Nothing
10 in this compact shall affect the requirements established by a
11 member state for the issuance of a single-state license.

12 *j.* Member states may charge a fee for granting a compact
13 privilege.

14 *k.* Member states must comply with the bylaws and rules and
15 regulations of the commission.

16 4. *Compact privilege.*

17 *a.* To exercise the compact privilege under the terms and
18 provisions of the compact, the audiologist or speech language
19 pathologist shall do all of the following:

20 (1) Hold an active license in the home state.

21 (2) Have no encumbrance on any state license.

22 (3) Be eligible for a compact privilege in any member state
23 in accordance with subsection 3.

24 (4) Have not had any adverse action against any license or
25 compact privilege within the previous two years from date of
26 application.

27 (5) Notify the commission that the licensee is seeking the
28 compact privilege within a remote state.

29 (6) Pay any applicable fees, including any state fee, for
30 the compact privilege.

31 (7) Report to the commission adverse action taken by any
32 nonmember state within thirty days from the date the adverse
33 action is taken.

34 *b.* For the purposes of the compact privilege, an audiologist
35 or speech language pathologist shall only hold one home state

1 license at a time.

2 *c.* Except as provided in subsection 6, if an audiologist or
3 speech language pathologist changes primary state of residence
4 by moving between two member states, the audiologist or speech
5 language pathologist must apply for licensure in the new home
6 state, and the license issued by the prior home state shall be
7 deactivated in accordance with applicable rules adopted by the
8 commission.

9 *d.* The audiologist or speech language pathologist may apply
10 for licensure in advance of a change in the primary state of
11 residence.

12 *e.* A license shall not be issued by the new home state
13 until the audiologist or speech language pathologist provides
14 satisfactory evidence of a change in the primary state of
15 residence to the new home state and satisfies all applicable
16 requirements to obtain a license from the new home state.

17 *f.* If an audiologist or speech language pathologist changes
18 the primary state of residence by moving from a member state
19 to a nonmember state, the license issued by the prior home
20 state shall convert to a single-state license, valid only in
21 the former home state.

22 *g.* The compact privilege is valid until the expiration date
23 of the home state license. The licensee must comply with the
24 requirements of subsection 4, paragraph "a", to maintain the
25 compact privilege in the remote state.

26 *h.* A licensee providing audiology or speech language
27 pathology services in a remote state under the compact
28 privilege shall function within the laws and regulations of the
29 remote state.

30 *i.* A licensee providing audiology or speech language
31 pathology services in a remote state is subject to that state's
32 regulatory authority. A remote state may, in accordance with
33 due process and that state's laws, remove a licensee's compact
34 privilege in the remote state for a specific period of time,
35 impose fines, or take any other necessary actions to protect

1 the health and safety of its citizens.

2 *j.* If a home state license is encumbered, the licensee shall
3 lose the compact privilege in any remote state until both of
4 the following occur:

5 (1) The home state license is no longer encumbered.

6 (2) Two years have elapsed from the date of the adverse
7 action.

8 *k.* Once an encumbered license in the home state is restored
9 to good standing, the licensee must meet the requirements of
10 subsection 4, paragraph "a", to obtain a compact privilege in
11 any remote state.

12 *l.* Once the requirements of subsection 4, paragraph "j",
13 have been met, the licensee must meet the requirements in
14 subsection 4, paragraph "a", to obtain a compact privilege in a
15 remote state.

16 5. *Compact privilege to practice telehealth.*

17 *a.* Member states shall recognize the right of an audiologist
18 or speech language pathologist, licensed by a home state in
19 accordance with subsection 3 and under rules promulgated by
20 the commission, to practice audiology or speech language
21 pathology in any member state via telehealth under a privilege
22 to practice as provided in the compact and rules promulgated
23 by the commission.

24 *b.* A licensee providing audiology or speech language
25 pathology services in a remote state under the compact
26 privilege shall function within the laws and regulations of the
27 state where the patient or client is located.

28 6. *Active duty military personnel or their spouses.*

29 Active duty military personnel, or their spouse, shall
30 designate a home state where the individual has a current
31 license in good standing. The individual may retain the
32 home state designation during the period the service member
33 is on active duty. Subsequent to designating a home state,
34 the individual shall only change their home state through
35 application for licensure in the new state.

1 7. *Adverse actions.*

2 *a.* In addition to the other powers conferred by state law,
3 a remote state shall have the authority, in accordance with
4 existing state due process law, to do all of the following:

5 (1) Take adverse action against an audiologist's or speech
6 language pathologist's privilege to practice within that member
7 state.

8 (2) Issue subpoenas for both hearings and investigations
9 that require the attendance and testimony of witnesses as well
10 as the production of evidence. Subpoenas issued by a licensing
11 board in a member state for the attendance and testimony of
12 witnesses or the production of evidence from another member
13 state shall be enforced in the latter state by any court of
14 competent jurisdiction, according to the practice and procedure
15 of that court applicable to subpoenas issued in proceedings
16 pending before it. The issuing authority shall pay any witness
17 fees, travel expenses, mileage, and other fees required by
18 the service statutes of the state in which the witnesses or
19 evidence are located.

20 (3) Only the home state shall have the power to take
21 adverse action against an audiologist's or speech language
22 pathologist's license issued by the home state.

23 *b.* For purposes of taking adverse action, the home state
24 shall give the same priority and effect to reported conduct
25 received from a member state as it would if the conduct had
26 occurred within the home state. In so doing, the home state
27 shall apply its own state laws to determine appropriate action.

28 *c.* The home state shall complete any pending investigations
29 of an audiologist or speech language pathologist who
30 changes primary state of residence during the course of the
31 investigations. The home state shall also have the authority
32 to take appropriate action and shall promptly report the
33 conclusions of the investigations to the administrator of
34 the data system. The administrator of the data system shall
35 promptly notify the new home state of any adverse actions.

1 *d.* If otherwise permitted by state law, the member state
2 may recover from the affected audiologist or speech language
3 pathologist the costs of investigations and disposition of
4 cases resulting from any adverse action taken against that
5 audiologist or speech language pathologist.

6 *e.* The member state may take adverse action based on the
7 factual findings of the remote state, provided that the member
8 state follows the member state's own procedures for taking the
9 adverse action.

10 *f. Joint investigations.*

11 (1) In addition to the authority granted to a member state
12 by its respective audiology or speech language pathology
13 practice act or other applicable state law, any member
14 state may participate with other member states in joint
15 investigations of licensees.

16 (2) Member states shall share any investigative,
17 litigation, or compliance materials in furtherance of any joint
18 or individual investigation initiated under the compact.

19 *g.* If adverse action is taken by the home state against an
20 audiologist's or speech language pathologist's license, the
21 audiologist's or speech language pathologist's privilege to
22 practice in all other member states shall be deactivated until
23 all encumbrances have been removed from the home state license.
24 All home state disciplinary orders that impose adverse action
25 against an audiologist's or speech language pathologist's
26 license shall include a statement that the audiologist's
27 or speech language pathologist's privilege to practice is
28 deactivated in all member states during the pendency of the
29 order.

30 *h.* If a member state takes adverse action, it shall promptly
31 notify the administrator of the data system. The administrator
32 of the data system shall promptly notify the home state of any
33 adverse actions by remote states.

34 *i.* Nothing in this compact shall override a member state's
35 decision that participation in an alternative program may be

1 used in lieu of adverse action.

2 8. *Establishment of the audiology and speech language*
3 *pathology compact commission.*

4 a. The compact member states hereby create and establish a
5 joint public agency known as the audiology and speech language
6 pathology compact commission.

7 (1) The commission is an instrumentality of the compact
8 states.

9 (2) Venue is proper and judicial proceedings by or against
10 the commission shall be brought solely and exclusively in a
11 court of competent jurisdiction where the principal office of
12 the commission is located. The commission may waive venue and
13 jurisdictional defenses to the extent it adopts or consents to
14 participate in alternative dispute resolution proceedings.

15 (3) Nothing in this compact shall be construed to be a
16 waiver of sovereign immunity.

17 b. *Membership, voting, and meetings.*

18 (1) Each member state shall have two delegates selected
19 by that member state's licensing board. The delegates shall
20 be current members of the licensing board. One shall be an
21 audiologist and one shall be a speech language pathologist.

22 (2) An additional five delegates, who are either a public
23 member or board administrator from a state licensing board,
24 shall be chosen by the executive committee from a pool of
25 nominees provided by the commission at large.

26 (3) Any delegate may be removed or suspended from office
27 as provided by the law of the state from which the delegate is
28 appointed.

29 (4) The member state board shall fill any vacancy occurring
30 on the commission within ninety days of a vacancy.

31 (5) Each delegate shall be entitled to one vote with regard
32 to the promulgation of rules and creation of bylaws and shall
33 otherwise have an opportunity to participate in the business
34 and affairs of the commission.

35 (6) A delegate shall vote in person or by other means as

1 provided in the bylaws. The bylaws may provide for delegates'
2 participation in meetings by telephone or other means of
3 communication.

4 (7) The commission shall meet at least once during each
5 calendar year. Additional meetings shall be held as set forth
6 in the bylaws.

7 c. The commission shall have the following powers and
8 duties:

9 (1) Establish the fiscal year of the commission.

10 (2) Establish bylaws.

11 (3) Establish a code of ethics.

12 (4) Maintain its financial records in accordance with the
13 bylaws.

14 (5) Meet and take actions as are consistent with the
15 provisions of this compact and the bylaws.

16 (6) Promulgate uniform rules to facilitate and coordinate
17 implementation and administration of this compact. The rules
18 shall have the force and effect of law and shall be binding in
19 all member states to the extent and in the manner provided for
20 in the compact.

21 (7) Bring and prosecute legal proceedings or actions in the
22 name of the commission, provided that the standing of any state
23 audiology or speech language pathology licensing board to sue
24 or be sued under applicable law shall not be affected.

25 (8) Purchase and maintain insurance and bonds.

26 (9) Borrow, accept, or contract for services of personnel,
27 including but not limited to employees of a member state.

28 (10) Hire employees, elect or appoint officers, fix
29 compensation, define duties, grant individuals appropriate
30 authority to carry out the purposes of the compact, and
31 establish the commission's personnel policies and programs
32 relating to conflicts of interest, qualifications of personnel,
33 and other related personnel matters.

34 (11) Accept any and all appropriate donations and grants
35 of money, equipment, supplies, materials, and services, and

1 receive, utilize and dispose of the same; provided that at all
2 times the commission shall avoid any appearance of impropriety
3 or conflict of interest.

4 (12) Lease, purchase, accept appropriate gifts or donations
5 of, or otherwise own, hold, improve, or use, any property,
6 real, personal, or mixed; provided that at all times the
7 commission shall avoid any appearance of impropriety.

8 (13) Sell, convey, mortgage, pledge, lease, exchange,
9 abandon, or otherwise dispose of any property real, personal,
10 or mixed.

11 (14) Establish a budget and make expenditures.

12 (15) Borrow money.

13 (16) Appoint committees, including standing committees
14 composed of members, and other interested persons as may be
15 designated in this compact and the bylaws.

16 (17) Provide and receive information from, and cooperate
17 with, law enforcement agencies.

18 (18) Establish and elect an executive committee.

19 (19) Perform other functions as may be necessary or
20 appropriate to achieve the purposes of this compact consistent
21 with the state regulation of audiology and speech language
22 pathology licensure and practice.

23 *d.* The commission shall have no authority to change or
24 modify the laws of the member states which define the practice
25 of audiology and speech language pathology in the respective
26 states.

27 *e. The executive committee.* The executive committee shall
28 have the power to act on behalf of the commission according to
29 the terms of this compact.

30 (1) The executive committee shall be composed of ten
31 members:

32 (a) Seven voting members who are elected by the commission
33 from the current membership of the commission.

34 (b) Two ex officio members, consisting of one nonvoting
35 member from a recognized national audiology professional

1 association and one nonvoting member from a recognized national
2 speech language pathology association.

3 (c) One ex officio, nonvoting member from the recognized
4 membership organization of the audiology and speech language
5 pathology licensing boards.

6 (d) The ex officio members shall be selected by their
7 respective organizations.

8 (2) The commission may remove any member of the executive
9 committee as provided in the bylaws.

10 (3) The executive committee shall meet at least annually.

11 (4) The executive committee shall have the following duties
12 and responsibilities:

13 (a) Recommend to the entire commission changes to the rules
14 or bylaws, changes to this compact, fees paid by compact member
15 states such as annual dues, and any commission compact fee
16 charged to licensees for the compact privilege.

17 (b) Ensure compact administration services are
18 appropriately provided, contractual or otherwise.

19 (c) Prepare and recommend the budget.

20 (d) Maintain financial records on behalf of the commission.

21 (e) Monitor compact compliance of member states and provide
22 compliance reports to the commission.

23 (f) Establish additional committees as necessary.

24 (g) Other duties as provided in rules or bylaws.

25 (5) *Meetings of the commission.*

26 All meetings shall be open to the public, and public notice
27 of meetings shall be given in the same manner as required under
28 the rulemaking provisions in subsection 10.

29 (6) (a) The commission or the executive committee or other
30 committees of the commission may convene in a closed, nonpublic
31 meeting if the commission or executive committee or other
32 committees of the commission must discuss any of the following:

33 (i) Noncompliance of a member state with its obligations
34 under the compact.

35 (ii) The employment, compensation, discipline, or other

1 matters, practices, or procedures related to specific employees
2 or other matters related to the commission's internal personnel
3 practices and procedures.

4 (iii) Current, threatened, or reasonably anticipated
5 litigation.

6 (iv) Negotiation of contracts for the purchase, lease, or
7 sale of goods, services, or real estate.

8 (v) Accusing any person of a crime or formally censuring any
9 person.

10 (vi) Disclosure of trade secrets or commercial or financial
11 information that is privileged or confidential.

12 (vii) Disclosure of information of a personal nature where
13 disclosure would constitute a clearly unwarranted invasion of
14 personal privacy.

15 (viii) Disclosure of investigative records compiled for law
16 enforcement purposes.

17 (ix) Disclosure of information related to any investigative
18 reports prepared by or on behalf of or for use of the
19 commission or other committee charged with responsibility of
20 investigation or determination of compliance issues pursuant
21 to the compact.

22 (x) Matters specifically exempted from disclosure by
23 federal or member state statute.

24 (b) If a meeting, or portion of a meeting, is closed
25 pursuant to this provision, the commission's legal counsel or
26 designee shall certify that the meeting may be closed and shall
27 reference each relevant exempting provision.

28 (7) The commission shall keep minutes that fully and clearly
29 describe all matters discussed in a meeting and shall provide
30 a full and accurate summary of actions taken, and the reasons
31 therefor, including a description of the views expressed. All
32 documents considered in connection with an action shall be
33 identified in such minutes. All minutes and documents of a
34 closed meeting shall remain under seal, subject to release
35 by a majority vote of the commission or order of a court of

1 competent jurisdiction.

2 (8) *Financing the commission.*

3 (a) The commission shall pay, or provide for the payment of,
4 the reasonable expenses of its establishment, organization, and
5 ongoing activities.

6 (b) The commission may accept any and all appropriate
7 revenue sources, donations, and grants of money, equipment,
8 supplies, materials, and services.

9 (c) The commission may levy on and collect an annual
10 assessment from each member state or impose fees on other
11 parties to cover the cost of the operations and activities
12 of the commission and its staff, which must be in a total
13 amount sufficient to cover its annual budget as approved each
14 year for which revenue is not provided by other sources. The
15 aggregate annual assessment amount shall be allocated based
16 upon a formula to be determined by the commission, which shall
17 promulgate a rule binding upon all member states.

18 (d) The commission shall not incur obligations of any kind
19 prior to securing the funds adequate to meet the same; nor
20 shall the commission pledge the credit of any of the member
21 states, except by and with the authority of the member state.

22 (e) The commission shall keep accurate accounts of all
23 receipts and disbursements. The receipts and disbursements of
24 the commission shall be subject to the audit and accounting
25 procedures established under its bylaws. However, all receipts
26 and disbursements of funds handled by the commission shall be
27 audited yearly by a certified or licensed public accountant,
28 and the report of the audit shall be included in and become
29 part of the annual report of the commission.

30 *f. Qualified immunity, defense, and indemnification.*

31 (1) The members, officers, executive director, employees,
32 and representatives of the commission shall be immune from
33 suit and liability, either personally or in their official
34 capacity, for any claim for damage to or loss of property or
35 personal injury or other civil liability caused by or arising

1 out of any actual or alleged act, error, or omission that
2 occurred, or that the person against whom the claim is made had
3 a reasonable basis for believing occurred within the scope of
4 commission employment, duties, or responsibilities; provided
5 that nothing in this paragraph "f" shall be construed to protect
6 any person from suit or liability for any damage, loss, injury,
7 or liability caused by the intentional, willful, or wanton
8 misconduct of that person.

9 (2) The commission shall defend any member, officer,
10 executive director, employee, or representative of the
11 commission in any civil action seeking to impose liability
12 arising out of any actual or alleged act, error, or omission
13 that occurred within the scope of commission employment,
14 duties, or responsibilities, or that the person against
15 whom the claim is made had a reasonable basis for believing
16 occurred within the scope of commission employment, duties,
17 or responsibilities; provided that nothing herein shall be
18 construed to prohibit that person from retaining the person's
19 own counsel; and provided further, that the actual or alleged
20 act, error, or omission did not result from that person's
21 intentional, willful, or wanton misconduct.

22 (3) The commission shall indemnify and hold harmless
23 any member, officer, executive director, employee, or
24 representative of the commission for the amount of any
25 settlement or judgment obtained against that person arising
26 out of any actual or alleged act, error, or omission that
27 occurred within the scope of commission employment, duties,
28 or responsibilities, or that such person had a reasonable
29 basis for believing occurred within the scope of commission
30 employment, duties, or responsibilities, provided that the
31 actual or alleged act, error, or omission did not result from
32 the intentional, willful, or wanton misconduct of that person.

33 9. *Data system.*

34 a. The commission shall provide for the development,
35 maintenance, and utilization of a coordinated database and

1 reporting system containing licensure, adverse action, and
2 investigative information on all licensed individuals in member
3 states.

4 *b.* Notwithstanding any other provision of state law to
5 the contrary, a member state shall submit a uniform data set
6 to the data system on all individuals to whom this compact
7 is applicable as required by the rules of the commission,
8 including all of the following:

9 (1) Identifying information.

10 (2) Licensure data.

11 (3) Adverse actions against a license or compact privilege.

12 (4) Nonconfidential information related to alternative
13 program participation.

14 (5) Any denial of application for licensure, and the reason
15 for denial.

16 (6) Other information that may facilitate the
17 administration of this compact, as determined by the rules of
18 the commission.

19 *c.* Investigative information pertaining to a licensee in any
20 member state shall only be available to other member states.

21 *d.* The commission shall promptly notify all member states of
22 any adverse action taken against a licensee or an individual
23 applying for a license. Adverse action information pertaining
24 to a licensee in any member state shall be available to any
25 other member state.

26 *e.* Member states contributing information to the data
27 system may designate information that may not be shared with
28 the public without the express permission of the contributing
29 state.

30 *f.* Any information submitted to the data system that is
31 subsequently required to be expunged by the laws of the member
32 state contributing the information shall be removed from the
33 data system.

34 10. *Rulemaking.*

35 *a.* The commission shall exercise its rulemaking powers

1 pursuant to the criteria set forth in this subsection and the
2 rules adopted thereunder. Rules and amendments shall become
3 binding as of the date specified in each rule or amendment.

4 *b.* If a majority of the legislatures of the member states
5 rejects a rule, by enactment of a statute or resolution in the
6 same manner used to adopt the compact within four years of the
7 date of adoption of the rule, the rule shall have no further
8 force and effect in any member state.

9 *c.* Rules or amendments to the rules shall be adopted at a
10 regular or special meeting of the commission.

11 *d.* Prior to promulgation and adoption of a final rule or
12 rules by the commission, and at least thirty days in advance
13 of the meeting at which the rule shall be considered and voted
14 upon, the commission shall file a notice of proposed rulemaking
15 in all of the following locations:

16 (1) On the internet site of the commission or other publicly
17 accessible platform.

18 (2) On the internet site of each member state audiology or
19 speech language pathology licensing board or other publicly
20 accessible platform or the publication in which each state
21 would otherwise publish proposed rules.

22 *e.* A notice of proposed rulemaking shall include all of the
23 following:

24 (1) The proposed time, date, and location of the meeting in
25 which the rule shall be considered and voted upon.

26 (2) The text of the proposed rule or amendment and the
27 reason for the proposed rule.

28 (3) A request for comments on the proposed rule from any
29 interested person.

30 (4) The manner in which interested persons may submit notice
31 to the commission of their intention to attend the public
32 hearing and any written comments.

33 *f.* Prior to the adoption of a proposed rule, the commission
34 shall allow persons to submit written data, facts, opinions,
35 and arguments, which shall be made available to the public.

1 *g.* The commission shall grant an opportunity for a public
2 hearing before it adopts a rule or amendment if a hearing is
3 requested by any of the following:

4 (1) At least twenty-five persons.

5 (2) A state or federal governmental subdivision or agency.

6 (3) An association having at least twenty-five members.

7 *h.* If a hearing is held on the proposed rule or amendment,
8 the commission shall publish the place, time, and date of
9 the scheduled public hearing. If the hearing is held via
10 electronic means, the commission shall publish the mechanism
11 for access to the electronic hearing.

12 (1) All persons wishing to be heard at the hearing shall
13 notify the executive director of the commission or other
14 designated member in writing of their desire to appear and
15 testify at the hearing not less than five business days before
16 the scheduled date of the hearing.

17 (2) Hearings shall be conducted in a manner providing each
18 person who wishes to comment a fair and reasonable opportunity
19 to comment orally or in writing.

20 (3) All hearings shall be recorded. A copy of the recording
21 shall be made available on request.

22 (4) Nothing in this paragraph "*h*" shall be construed as
23 requiring a separate hearing on each rule. Rules may be
24 grouped for the convenience of the commission at hearings
25 required by this paragraph "*h*".

26 *i.* Following the scheduled hearing date, or by the close
27 of business on the scheduled hearing date if the hearing was
28 not held, the commission shall consider all written and oral
29 comments received.

30 *j.* If no written notice of intent to attend the public
31 hearing by interested parties is received, the commission may
32 proceed with promulgation of the proposed rule without a public
33 hearing.

34 *k.* The commission shall, by majority vote of all members,
35 take final action on the proposed rule and shall determine the

1 effective date of the rule, if any, based on the rulemaking
2 record and the full text of the rule.

3 1. Upon determination that an emergency exists, the
4 commission may consider and adopt an emergency rule without
5 prior notice, opportunity for comment, or hearing, provided
6 that the usual rulemaking procedures provided in the compact
7 and in this section shall be retroactively applied to the rule
8 as soon as reasonably possible, in no event later than ninety
9 days after the effective date of the rule. For the purposes of
10 this provision, an emergency rule is one that must be adopted
11 immediately in order to do any of the following:

12 (1) Meet an imminent threat to public health, safety, or
13 welfare.

14 (2) Prevent a loss of commission or member state funds.

15 (3) Meet a deadline for the promulgation of an
16 administrative rule that is established by federal law or rule.

17 *m.* The commission or an authorized committee of the
18 commission may direct revisions to a previously adopted rule
19 or amendment for purposes of correcting typographical errors,
20 errors in format, errors in consistency, or grammatical
21 errors. Public notice of any revisions shall be posted on
22 the internet site of the commission. The revision shall be
23 subject to challenge by any person for a period of thirty days
24 after posting. The revision may be challenged only on grounds
25 that the revision results in a material change to a rule. A
26 challenge shall be made in writing and delivered to the chair
27 of the commission prior to the end of the notice period. If
28 no challenge is made, the revision shall take effect without
29 further action. If the revision is challenged, the revision
30 may not take effect without the approval of the commission.

31 11. *Oversight, dispute resolution, and enforcement.*

32 *a. Dispute resolution.*

33 (1) Upon request by a member state, the commission shall
34 attempt to resolve disputes related to the compact that arise
35 among member states and between member and nonmember states.

1 (2) The commission shall promulgate a rule providing for
2 both mediation and binding dispute resolution for disputes as
3 appropriate.

4 *b. Enforcement.*

5 (1) The commission, in the reasonable exercise of its
6 discretion, shall enforce the provisions and rules of this
7 compact.

8 (2) By majority vote, the commission may initiate legal
9 action in the United States district court for the District
10 of Columbia or the federal district where the commission has
11 its principal offices against a member state in default to
12 enforce compliance with the provisions of the compact and its
13 promulgated rules and bylaws. The relief sought may include
14 both injunctive relief and damages. In the event judicial
15 enforcement is necessary, the prevailing member shall be
16 awarded all costs of litigation, including reasonable attorney
17 fees.

18 (3) The remedies herein shall not be the exclusive remedies
19 of the commission. The commission may pursue any other
20 remedies available under federal or state law.

21 12. *Date of implementation of the interstate commission for*
22 *audiology and speech language pathology practice and associated*
23 *rules, withdrawal, and amendment.*

24 *a.* The compact shall come into effect on the date on
25 which the compact statute is enacted into law in the tenth
26 member state. The provisions, which become effective at
27 that time, shall be limited to the powers granted to the
28 commission relating to assembly and the promulgation of rules.
29 Thereafter, the commission shall meet and exercise rulemaking
30 powers necessary to the implementation and administration of
31 the compact.

32 *b.* Any state that joins the compact subsequent to the
33 commission's initial adoption of the rules shall be subject
34 to the rules as they exist on the date on which the compact
35 becomes law in that state. Any rule that has been previously

1 adopted by the commission shall have the full force and effect
2 of law on the day the compact becomes law in that state.

3 *c.* A member state may withdraw from this compact by enacting
4 a statute repealing the same.

5 (1) A member state's withdrawal shall not take effect until
6 six months after enactment of the repealing statute.

7 (2) Withdrawal shall not affect the continuing requirement
8 of the withdrawing state's audiology or speech language
9 pathology licensing board to comply with the investigative and
10 adverse action reporting requirements of this compact prior to
11 the effective date of withdrawal.

12 *d.* Nothing contained in this compact shall be construed
13 to invalidate or prevent any audiology or speech language
14 pathology licensure agreement or other cooperative arrangement
15 between a member state and a nonmember state that does not
16 conflict with the provisions of this compact.

17 *e.* This compact may be amended by the member states. No
18 amendment to this compact shall become effective and binding
19 upon any member state until it is enacted into the laws of all
20 member states.

21 13. *Construction and severability.*

22 This compact shall be liberally construed so as to
23 effectuate the purposes thereof. The provisions of this
24 compact shall be severable, and if any phrase, clause,
25 sentence, or provision of this compact is declared to be
26 contrary to the constitution of any member state or of the
27 United States or the applicability thereof to any government,
28 agency, person, or circumstance is held invalid, the validity
29 of the remainder of this compact and the applicability thereof
30 to any government, agency, person, or circumstance shall not be
31 affected thereby. If this compact shall be held contrary to
32 the constitution of any member state, the compact shall remain
33 in full force and effect as to the remaining member states and
34 in full force and effect as to the member state affected as to
35 all severable matters.

1 14. *Binding effect of compact and other laws.*

2 a. Nothing herein prevents the enforcement of any other law
3 of a member state that is not inconsistent with the compact.

4 b. All laws in a member state in conflict with the compact
5 are superseded to the extent of the conflict.

6 c. All lawful actions of the commission, including all rules
7 and bylaws promulgated by the commission, are binding upon the
8 member states.

9 d. All agreements between the commission and the member
10 states are binding in accordance with their terms.

11 e. In the event any provision of the compact exceeds the
12 constitutional limits imposed on the legislature of any member
13 state, the provision shall be ineffective to the extent of the
14 conflict with the constitutional provision in question in that
15 member state.>

16 2. Title page, line 1, after <compact> by inserting <and the
17 audiology and speech language pathology interstate compact>

18 3. By renumbering as necessary.

SENATE FILE 2255

S-5032

1 Amend Senate File 2255 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 135.61, subsection 18, Code 2022, is
5 amended to read as follows:

6 18. "*New institutional health service*" or "*changed*
7 *institutional health service*" means any of the following:

8 a. (1) The construction, development, or other
9 establishment of a new institutional health facility other than
10 a nursing facility regardless of ownership if the building
11 or structure of the new institutional health facility has an
12 interior floor space of forty thousand square feet or more.

13 (2) The construction, development, or other establishment
14 of a nursing facility regardless of ownership.

15 b. Relocation of ~~an institutional health~~ a nursing facility.

16 c. Any capital expenditure, lease, or donation by or
17 on behalf of ~~an institutional health~~ a nursing facility in
18 excess of one million five hundred thousand dollars within a
19 twelve-month period.

20 d. A permanent change in the bed capacity, as determined by
21 the department, of ~~an institutional health~~ a nursing facility.
22 For purposes of this paragraph, a change is permanent if it is
23 intended to be effective for one year or more.

24 e. Any expenditure in excess of five hundred thousand
25 dollars by or on behalf of ~~an institutional health~~ a nursing
26 facility for health services which are or will be offered in
27 or through ~~an institutional health~~ a nursing facility at a
28 specific time but which were not offered on a regular basis in
29 or through that ~~institutional health~~ nursing facility within
30 the twelve-month period prior to that time.

31 f. The deletion of one or more health services, previously
32 offered on a regular basis by ~~an institutional health~~ a nursing
33 facility or ~~health maintenance organization~~ or the relocation
34 of one or more health services from one physical facility to
35 another.

1 *g.* Any acquisition by or on behalf of a health care provider
2 or a group of health care providers of any piece of replacement
3 equipment with a value in excess of ~~one~~ ten million ~~five~~
4 ~~hundred thousand~~ dollars, whether acquired by purchase, lease,
5 or donation.

6 *h.* Any acquisition by or on behalf of a health care provider
7 or group of health care providers of any piece of equipment
8 with a value in excess of ~~one~~ ten million ~~five hundred thousand~~
9 dollars, whether acquired by purchase, lease, or donation,
10 which results in the offering or development of a health
11 service not previously provided. A mobile service provided
12 on a contract basis is not considered to have been previously
13 provided by a health care provider or group of health care
14 providers.

15 *i.* (1) Any acquisition by or on behalf of an institutional
16 health facility, other than a nursing facility, or a health
17 maintenance organization of any piece of replacement equipment
18 with a value in excess of ~~one~~ ten million ~~five hundred thousand~~
19 dollars, whether acquired by purchase, lease, or donation.

20 (2) Any acquisition by or on behalf of a nursing facility of
21 any piece of replacement equipment with a value in excess of
22 one million five hundred thousand dollars, whether acquired by
23 purchase, lease, or donation.

24 *j.* (1) Any acquisition by or on behalf of an institutional
25 health facility, other than a nursing facility, or health
26 maintenance organization of any piece of equipment with a value
27 in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars,
28 whether acquired by purchase, lease, or donation, which
29 results in the offering or development of a health service not
30 previously provided. A mobile service provided on a contract
31 basis is not considered to have been previously provided by an
32 institutional health facility.

33 (2) Any acquisition by or on behalf of a nursing facility
34 of any piece of equipment with a value in excess of one
35 million five hundred thousand dollars, whether acquired by

1 purchase, lease, or donation, which results in the offering or
2 development of a health service not previously provided.

3 k. Any air transportation service for transportation of
4 patients or medical personnel in excess of ten million dollars
5 offered through an institutional health facility at a specific
6 time but which was not offered on a regular basis in or through
7 that institutional health facility within the twelve-month
8 period prior to the specific time.

9 l. Any mobile health service with a value in excess of ~~one~~
10 ten million five hundred thousand dollars.

11 m. Any of the following with a value in excess of ten
12 million dollars:

13 (1) Cardiac catheterization service.

14 (2) Open heart surgical service.

15 (3) Organ transplantation service.

16 (4) Radiation therapy service applying ionizing radiation
17 for the treatment of malignant disease using megavoltage
18 external beam equipment.

19 Sec. 2. Section 135.61, Code 2022, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 18A. "*Nursing facility*" means the same as
22 defined in section 135C.1.

23 Sec. 3. Section 135.63, Code 2022, is amended to read as
24 follows:

25 **135.63 Certificate of need required — exclusions.**

26 1. A new institutional health service or changed
27 institutional health service shall not be offered or developed
28 in this state without prior application to the department
29 for and receipt of a certificate of need, pursuant to
30 this subchapter. The application shall be made upon forms
31 furnished or prescribed by the department and shall contain
32 such information as the department may require under this
33 subchapter. The application shall be accompanied by a fee
34 equivalent to three-tenths of one percent of the anticipated
35 cost of the project with a minimum fee of six hundred dollars

1 and a maximum fee of twenty-one thousand dollars. The fee
2 shall be remitted by the department to the treasurer of
3 state, who shall place it in the general fund of the state.
4 If an application is voluntarily withdrawn within thirty
5 calendar days after submission, seventy-five percent of the
6 application fee shall be refunded; if the application is
7 voluntarily withdrawn more than thirty but within sixty days
8 after submission, fifty percent of the application fee shall
9 be refunded; if the application is withdrawn voluntarily more
10 than sixty days after submission, twenty-five percent of
11 the application fee shall be refunded. Notwithstanding the
12 required payment of an application fee under this subsection,
13 an applicant for a new institutional health service or a
14 changed institutional health service offered or developed by
15 an intermediate care facility for persons with an intellectual
16 disability or an intermediate care facility for persons with
17 mental illness as defined pursuant to section 135C.1 is exempt
18 from payment of the application fee.

19 2. This subchapter shall not be construed to augment, limit,
20 contravene, or repeal in any manner any other statute of this
21 state which may authorize or relate to licensure, regulation,
22 supervision, or control of, nor to be applicable to:

23 ~~a. Private offices and private clinics of an individual~~
24 ~~physician, dentist, or other practitioner or group of~~
25 ~~health care providers, except as provided by section 135.61,~~
26 ~~subsection 18, paragraphs "g", "h", and "m", and section 135.61,~~
27 ~~subsections 20 and 21.~~

28 ~~b. Dispensaries and first aid stations, located within~~
29 ~~schools, businesses, or industrial establishments, which are~~
30 ~~maintained solely for the use of students or employees of those~~
31 ~~establishments and which do not contain inpatient or resident~~
32 ~~beds that are customarily occupied by the same individual for~~
33 ~~more than twenty-four consecutive hours.~~

34 ~~c. Establishments such as motels, hotels, and boarding~~
35 ~~houses which provide medical, nursing personnel, and other~~

1 ~~health related services as an incident to their primary~~
2 ~~business or function.~~

3 ~~d. a.~~ The remedial care or treatment of residents or
4 patients in any home or institution conducted only for those
5 who rely solely upon treatment by prayer or spiritual means in
6 accordance with the creed or tenets of any recognized church or
7 religious denomination.

8 ~~e. A health maintenance organization or combination of~~
9 ~~health maintenance organizations or an institutional health~~
10 ~~facility controlled directly or indirectly by a health~~
11 ~~maintenance organization or combination of health maintenance~~
12 ~~organizations, except when the health maintenance organization~~
13 ~~or combination of health maintenance organizations does any of~~
14 ~~the following:~~

15 ~~(1) Constructs, develops, renovates, relocates, or~~
16 ~~otherwise establishes an institutional health facility.~~

17 ~~(2) Acquires major medical equipment as provided by section~~
18 ~~135.61, subsection 18, paragraphs "i" and "j".~~

19 ~~f. b.~~ A residential care facility, as defined in section
20 135C.1, including a residential care facility for persons with
21 an intellectual disability, notwithstanding any provision in
22 this subchapter to the contrary.

23 ~~g. (1) c.~~ A reduction in bed capacity of an institutional
24 health facility, notwithstanding any provision in this
25 subchapter to the contrary, if all of the following conditions
26 exist:

27 ~~(a) (1)~~ The institutional health facility reports to
28 the department the number and type of beds reduced on a form
29 prescribed by the department at least thirty days before the
30 reduction. In the case of a health care facility, the new bed
31 total must be consistent with the number of licensed beds at
32 the facility. In the case of a hospital, the number of beds
33 must be consistent with bed totals reported to the department
34 of inspections and appeals for purposes of licensure and
35 certification.

1 ~~(b)~~ (2) The institutional health facility reports the new
2 bed total on its next annual report to the department.

3 ~~(2) If these conditions are not met, the institutional~~
4 ~~health facility is subject to review as a "new institutional~~
5 ~~health service" or "changed institutional health service" under~~
6 ~~section 135.61, subsection 18, paragraph "d", and subject to~~
7 ~~sanctions under section 135.73. If the institutional health~~
8 ~~facility reestablishes the deleted beds at a later time,~~
9 ~~review as a "new institutional health service" or "changed~~
10 ~~institutional health service" is required pursuant to section~~
11 ~~135.61, subsection 18, paragraph "d".~~

12 ~~h.~~ (1) d. The deletion of one or more health services,
13 previously offered on a regular basis by an institutional
14 health facility or health maintenance organization,
15 notwithstanding any provision of this subchapter to the
16 contrary, if all of the following conditions exist:

17 ~~(a)~~ (1) The institutional health facility or health
18 maintenance organization reports to the department the deletion
19 of the service or services at least thirty days before the
20 deletion on a form prescribed by the department.

21 ~~(b)~~ (2) The institutional health facility or health
22 maintenance organization reports the deletion of the service or
23 services on its next annual report to the department.

24 ~~(2) If these conditions are not met, the institutional~~
25 ~~health facility or health maintenance organization is subject~~
26 ~~to review as a "new institutional health service" or "changed~~
27 ~~institutional health service" under section 135.61, subsection~~
28 ~~18, paragraph "f", and subject to sanctions under section~~
29 ~~135.73.~~

30 ~~(3) If the institutional health facility or health~~
31 ~~maintenance organization reestablishes the deleted service~~
32 ~~or services at a later time, review as a "new institutional~~
33 ~~health service" or "changed institutional health service" may~~
34 ~~be required pursuant to section 135.61, subsection 18.~~

35 ~~i.~~ e. A residential program exempt from licensing as a

1 health care facility under chapter 135C in accordance with
2 section 135C.6, subsection 8.

3 ~~j.~~ f. The construction, modification, or replacement
4 of nonpatient care services, including parking facilities,
5 heating, ventilation and air conditioning systems, computers,
6 telephone systems, medical office buildings, and other projects
7 of a similar nature, notwithstanding any provision in this
8 subchapter to the contrary.

9 ~~k.~~ ~~(1)~~ g. The redistribution of beds by a hospital within
10 the acute care category of bed usage, notwithstanding any
11 provision in this subchapter to the contrary, if all of the
12 following conditions exist:

13 (a) (1) The hospital reports to the department the number
14 and type of beds to be redistributed on a form prescribed by
15 the department at least thirty days before the redistribution.

16 (b) (2) The hospital reports the new distribution of beds
17 on its next annual report to the department.

18 ~~(2) If these conditions are not met, the redistribution~~
19 ~~of beds by the hospital is subject to review as a new~~
20 ~~institutional health service or changed institutional health~~
21 ~~service pursuant to section 135.61, subsection 18, paragraph~~
22 ~~"d", and is subject to sanctions under section 135.73.~~

23 ~~i.~~ h. The replacement or modernization of any institutional
24 health facility if the replacement or modernization does
25 not add new health services or additional bed capacity for
26 existing health services, notwithstanding any provision in
27 this subchapter to the contrary. With respect to a nursing
28 facility, "replacement" means establishing a new facility within
29 the same county as the prior facility to be closed. With
30 reference to a hospital, "replacement" means establishing a new
31 hospital that demonstrates compliance with all of the following
32 criteria through evidence submitted to the department:

33 (1) Is designated as a critical access hospital pursuant to
34 42 U.S.C. §1395i-4.

35 (2) Serves at least seventy-five percent of the same service

1 area that was served by the prior hospital to be closed and
2 replaced by the new hospital.

3 (3) Provides at least seventy-five percent of the same
4 services that were provided by the prior hospital to be closed
5 and replaced by the new hospital.

6 (4) Is staffed by at least seventy-five percent of the
7 same staff, including medical staff, contracted staff, and
8 employees, as constituted the staff of the prior hospital to be
9 closed and replaced by the new hospital.

10 ~~m.~~ i. Hemodialysis services provided by a hospital or
11 freestanding facility, notwithstanding any provision in this
12 subchapter to the contrary.

13 ~~n.~~ j. Hospice services provided by a hospital,
14 notwithstanding any provision in this subchapter to the
15 contrary.

16 ~~o.~~ k. The change in ownership, licensure, organizational
17 structure, or designation of the type of institutional health
18 facility if the health services offered by the successor
19 institutional health facility are unchanged. This exclusion
20 is applicable only if the institutional health facility
21 consents to the change in ownership, licensure, organizational
22 structure, or designation of the type of institutional health
23 facility and ceases offering the health services simultaneously
24 with the initiation of the offering of health services by the
25 successor institutional health facility.

26 ~~p.~~ l. The conversion of an existing number of beds by an
27 intermediate care facility for persons with an intellectual
28 disability to a smaller facility environment, including but not
29 limited to a community-based environment which does not result
30 in an increased number of beds, notwithstanding any provision
31 in this subchapter to the contrary, including subsection 4, if
32 all of the following conditions exist:

33 (1) The intermediate care facility for persons with an
34 intellectual disability reports the number and type of beds to
35 be converted on a form prescribed by the department at least

1 thirty days before the conversion.

2 (2) The intermediate care facility for persons with an
3 intellectual disability reports the conversion of beds on its
4 next annual report to the department.

5 ~~3. This subchapter shall not be construed to be applicable
6 to a health care facility operated by and for the exclusive use
7 of members of a religious order, which does not admit more than
8 two individuals to the facility from the general public, and
9 which was in operation prior to July 1, 1986. However, this
10 subchapter is applicable to such a facility if the facility
11 is involved in the offering or developing of a new or changed
12 institutional health service on or after July 1, 1986.~~

13 ~~4.~~ 3. A copy of the application shall be sent to the
14 department of human services at the time the application is
15 submitted to the Iowa department of public health.

16 4. The department shall not process applications for and
17 the council shall not consider a new or changed institutional
18 health service for an intermediate care facility for persons
19 with an intellectual disability unless both of the following
20 conditions are met:

21 a. The new or changed beds shall not result in an
22 increase in the total number of medical assistance certified
23 intermediate care facility beds for persons with an
24 intellectual disability in the state, exclusive of those beds
25 at the state resource centers or other state institutions,
26 beyond one thousand six hundred thirty-six beds.

27 b. A letter of support for the application is provided by
28 the county board of supervisors, or the board's designee, in
29 the county in which the beds would be located.

30 Sec. 4. Section 135.64, subsection 2, Code 2022, is amended
31 to read as follows:

32 2. In addition to the findings required with respect to
33 any of the criteria listed in subsection 1 of this section,
34 the council shall grant a certificate of need for a new
35 institutional health service or changed institutional health

1 service only if it finds in writing, on the basis of data
2 submitted to it by the department, that all of the following
3 conditions are met:

4 *a.* Less costly, more efficient, or more appropriate
5 alternatives to the proposed institutional health service are
6 not available and the development of such alternatives is not
7 practicable₊.

8 *b.* Any existing facilities providing institutional health
9 services similar to those proposed are being used in an
10 appropriate and efficient manner₊.

11 *c.* In the case of new construction, alternatives including
12 but not limited to modernization or sharing arrangements have
13 been considered and have been implemented to the maximum extent
14 practicable₊.

15 *d.* Patients will experience serious problems in obtaining
16 care of the type which will be furnished by the proposed new
17 institutional health service or changed institutional health
18 service, in the absence of that proposed new service.

19 Sec. 5. Section 135.67, subsection 1, Code 2022, is amended
20 to read as follows:

21 1. The department may waive the letter of intent procedures
22 prescribed by section 135.65 and substitute a summary
23 review procedure, which shall be established by rules of the
24 department, when it accepts an application for a certificate
25 of need for a project which meets any of the criteria in
26 paragraphs "a" through "e":

27 *a.* A project which is limited to repair or replacement of a
28 facility or equipment damaged or destroyed by a disaster, and
29 which will not expand the facility nor increase the services
30 provided beyond the level existing prior to the disaster.

31 *b.* A project necessary to enable the facility or service to
32 achieve or maintain compliance with federal, state, or other
33 appropriate licensing, certification, or safety requirements.

34 *c.* A project which will not change the existing bed capacity
35 of the nursing facility applicant's facility or service, as

1 determined by the department, by more than ten percent or ten
2 beds, whichever is less, over a two-year period.

3 *d.* A nursing facility project the total cost of which will
4 not exceed one hundred fifty thousand dollars.

5 *e.* Any other project for which the applicant proposes and
6 the department agrees to summary review.

7 Sec. 6. Section 135B.5A, Code 2022, is amended to read as
8 follows:

9 **135B.5A Conversion of a hospital.**

10 A conversion of a long-term acute care hospital,
11 rehabilitation hospital, or psychiatric hospital as defined by
12 federal regulations to a general hospital or to a specialty
13 hospital of a different type ~~is a permanent change in bed~~
14 ~~capacity and~~ that results in a building or structure with a
15 floor space of forty thousand square feet or more shall require
16 a certificate of need pursuant to section 135.63.

17 Sec. 7. Section 135H.6, subsection 1, paragraph d, Code
18 2022, is amended to read as follows:

19 *d.* The applicant has been awarded a certificate of need, if
20 applicable pursuant to chapter 135, ~~unless exempt as provided~~
21 ~~in this section.~~

22 Sec. 8. ADMINISTRATIVE RULES. The department of public
23 health, in accordance with section 135.72, may adopt rules
24 pursuant to chapter 17A to administer this Act.>

25 2. Title page, by striking lines 1 and 2 and inserting <An
26 Act relating to the certificate of need process.>

By JEFF EDLER

S-5032 FILED MARCH 1, 2022

SENATE FILE 2309

S-5033

1 Amend Senate File 2309 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. NEW SECTION. 137D.2A Raw milk, raw milk
4 products, and raw milk dairy products.

5 A home bakery shall not advertise for sale, offer for sale,
6 sell or otherwise distribute, or use raw milk, a raw milk
7 product, or a raw milk dairy product as provided in section
8 192.145.

9 Sec. _____. Section 137F.1, subsection 8, Code 2022, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. o. (1) The premises of a dairy farm
12 where raw milk is produced, processed, labeled, marketed, or
13 distributed by a milk producer in compliance with section
14 192.145.

15 (2) The premises of a dairy farm where a raw milk product or
16 a raw milk dairy product is manufactured, labeled, marketed,
17 or distributed by a milk producer in compliance with section
18 192.145.

19 Sec. _____. Section 137F.1, subsection 9, Code 2022, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. d. (1) The premises of a dairy farm
22 where raw milk is produced, processed, labeled, marketed, or
23 distributed in compliance with section 192.145.

24 (2) A premises of a dairy farm where a raw milk product or
25 raw milk dairy product is manufactured, labeled, marketed, or
26 distributed in compliance with section 192.145.

27 Sec. _____. NEW SECTION. 137F.8B Raw milk, raw milk products,
28 and raw milk dairy products.

29 A food establishment or farmers market shall not advertise
30 for sale, offer for sale, sell or otherwise distribute, or use
31 raw milk, a raw milk product, or a raw milk dairy product,
32 regardless of whether the food establishment or farmers market
33 is regulated by the department under this chapter or another
34 chapter, another state agency, or a municipality.>

35 2. Page 1, by striking lines 8 through 10 and inserting:

1 <a. The production, processing, labeling, marketing, and
2 distribution of raw milk by a milk producer in compliance with
3 section 192.145.>

4 3. Page 1, by striking lines 11 through 13 and inserting:

5 <b. The manufacture, labeling, marketing, and distribution
6 of a raw milk product or raw milk dairy product by a milk
7 producer in>

8 4. By striking page 2, line 34, through page 3, line 1, and
9 inserting:

10 <NEW SUBSECTION. 5A. Raw milk, raw milk products, and raw
11 milk dairy products. A container holding raw milk, a raw milk
12 product, or a raw milk dairy product sold by a milk producer
13 shall be labeled as required in>

14 5. Page 3, by striking line 4 and inserting <raw milk, raw
15 milk products, and raw milk dairy products.>

16 6. Page 3, by striking lines 5 through 10 and inserting:

17 <1. A milk producer who sells raw milk, a raw milk product,
18 or a raw milk dairy product to an individual in compliance with
19 section 192.145 shall label the container holding the raw milk,
20 raw milk product, or raw milk dairy product. The label shall
21 be permanently affixed to the>

22 7. Page 3, line 15, by striking <unpasteurized> and
23 inserting <raw>

24 8. Page 3, line 21, by striking <milk product or> and
25 inserting <raw milk product or raw milk>

26 9. Page 3, line 24, before <dairy> by inserting <raw milk>

27 10. Page 3, line 25, by striking <includes raw milk> and
28 inserting <is>

29 11. Page 4, lines 3 and 4, by striking <sell milk or a
30 milk product> and inserting <distribute raw milk, a raw milk
31 product, or a raw milk dairy product>

32 12. Page 4, after line 27 by inserting:

33 <___. "Milk producer" means a person who owns or operates
34 a dairy farm where raw milk is produced from one or more cows,
35 sheep, or goats.

1 _____. "Raw milk" means milk that is not pasteurized or
2 graded.

3 _____. "Raw milk dairy product" means a dairy product that
4 includes raw milk or a raw milk product.

5 _____. "Raw milk product" means a milk product that includes
6 raw milk.>

7 13. Page 4, line 29, by striking <and marketing> and
8 inserting <marketing, and distribution>

9 14. By striking page 4, line 30, through page 5, line 22,
10 and inserting:

11 <1. A milk producer may elect to process, market, or
12 distribute raw milk produced at that milk producer's dairy
13 farm. To the extent that the milk producer makes this
14 election, all of the following apply:

15 a. A milk producer must only take an order for the
16 distribution of raw milk at the milk producer's dairy farm
17 where the raw milk was produced. The milk producer must
18 only distribute the raw milk to the individual placing the
19 order. The milk producer may distribute the raw milk to the
20 individual without charge or on a retail basis. A person shall
21 not resell the raw milk. The milk producer must distribute
22 the raw milk directly to the individual at the dairy farm or
23 to a location specified by the individual. However, a person
24 shall not deliver the raw milk to a place of business where
25 food items are distributed on a retail basis, including but
26 not limited to a home bakery regulated under chapter 137D or a
27 food establishment or farmers market regulated under chapter
28 137F. The raw milk shall only be used for consumption by the
29 individual, members of the individual's household, and the
30 individual's nonpaying guests or nonpaying employees.

31 b. If the milk producer sells raw milk in a container, that
32 container shall be labeled as provided in section 191.9A.

33 2. A milk producer may elect to manufacture, market, or
34 distribute a raw milk product or raw milk dairy product at
35 that milk producer's dairy farm. To the extent that the milk

1 producer makes this election, all of the following apply:

2 *a.* The raw milk product or raw milk dairy product must only
3 include raw milk produced at the milk producer's dairy farm.

4 *b.* A milk producer must only take an order for the
5 distribution of a raw milk product or raw milk dairy product
6 at the milk producer's dairy farm where the raw milk product
7 or raw milk dairy product was manufactured. The milk producer
8 must only distribute the raw milk product or raw milk dairy
9 product to the individual placing the order. The milk producer
10 may distribute the raw milk product or raw milk dairy product
11 to the individual without charge or on a retail basis. A
12 person shall not resell the raw milk product or raw milk dairy
13 product. The milk producer must distribute the raw milk
14 product or raw milk dairy product directly to the individual at
15 the dairy farm or to a location specified by the individual.
16 However, a person shall not deliver the raw milk product or
17 raw milk dairy product to a place of business where food
18 items are distributed on a retail basis, including but not
19 limited to a home bakery regulated under chapter 137D or a food
20 establishment or farmers market regulated under chapter 137F.
21 The raw milk product or raw milk dairy product shall only be
22 distributed for consumption by the individual, members of the
23 individual's household, or the individual's nonpaying guests
24 or nonpaying employees.

25 *c.* If the milk producer sells a raw milk product or raw milk
26 dairy product in a container, that container shall be labeled
27 as provided in section 191.9A.

28 3. This section does not prevent a milk producer from also
29 electing to produce and sell milk under the other applicable
30 provisions of this chapter and related provisions in chapters
31 190 and 194. This chapter does not apply to a receiving
32 station, transfer station, milk handler, milk grader, or
33 milk plant. A dairy farm is not a food establishment, food
34 processing plant, or other person regulated under chapter 137F
35 or other chapter regulating such entities.>

S-5033 (Continued)

1 15. Page 5, line 23, by striking <3.> and inserting <4.>

2 16. Page 5, line 27, after <194.> by inserting <The
3 department shall not adopt rules to administer or enforce this
4 section.>

5 17. Page 5, line 29, by striking <and marketing> and
6 inserting <marketing, and distribution>

7 18. Page 5, by striking lines 31 and 32 and inserting:

8 <1. The production, processing, marketing, and distribution
9 of raw milk, if the raw milk is produced by a milk producer in>

10 19. By striking page 5, line 34, through page 6, line 1, and
11 inserting:

12 <2. The manufacture, marketing, and distribution of a raw
13 milk product or raw milk dairy product, if the raw milk product
14 or raw milk dairy product is manufactured by a milk producer in
15 compliance with section>

16 20. Title page, line 4, by striking <unpasteurized and
17 ungraded milk and> and inserting <raw milk and associated>

18 21. By renumbering, redesignating, and correcting internal
19 references as necessary.

By JASON SCHULTZ

S-5033 FILED MARCH 1, 2022



[SF 2216](#) – Complex Needs Wards (LSB5813XS)
Staff Contact: Jess Benson (515.281.4611) jess.benson@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2216](#) requires the Department of Human Services (DHS) to establish intensive psychiatric units for adults and children at the State mental health institutes (MHIs) at Cherokee and Independence.

The Bill requires each intensive psychiatric unit to have a minimum of 12 residential service beds to be used by adults and children with the highest acuity level of needs, but the MHIs may use the beds for persons with lower-level acuity needs if beds are otherwise available within an intensive psychiatric unit.

The Bill requires the DHS to collect data necessary to determine the effectiveness of each intensive psychiatric unit. Four years after the DHS determines an intensive psychiatric unit is operational, the DHS is required to provide a report to the chairpersons and ranking members of the Health and Human Services Appropriations Subcommittee with details on the effectiveness of the intensive psychiatric units and recommendations for such units. No later than one year from the date the DHS submits its report, the Legislature is to determine whether to continue operations of the intensive psychiatric units based on the efficacy and feasibility for continued use of such units.

Assumptions

The DHS will open a 12-bed adult psychiatric unit at the Cherokee MHI and a 12- to 15-bed psychiatric medical institution for children (PMIC) at the Independence MHI. Due to required capital improvements, the estimated start date for admitting patients is January 1, 2023.

Capital Costs

One-time capital upgrades will be required to update previously used areas at both MHIs to bring them into compliance with current federal and State health and safety requirements.

Full-Time Equivalent (FTE) Positions

- It is assumed that FTE positions will be filled beginning December 1, 2022.
- Due to the health care workforce shortage, particularly in rural areas, midpoint salary and benefits pay scale costs are assumed for all FTE positions.
- The 12-bed adult psychiatric unit at the Cherokee MHI will require 32.5 FTE positions ranging from Residential Treatment Workers (RTWs) to a Physician Assistant.
- The 12- to 15-bed PMIC at the Independence MHI will require 30.5 FTE positions ranging from RTWs to a Child Psychiatrist.

Support Costs

- Additional support costs for food, pharmacy and medical services, miscellaneous supplies, and transportation will be required at each of the two MHIs with six months of costs assumed in FY 2023 due to the January 1 start date.
- Inflation of 2.3% is for support costs in FY 2024.

Information Technology (IT) Infrastructure

- There will be approximately \$22,000 in one-time costs to the Bureau of Enterprise Infrastructure Services for IT upgrades necessary for each MHI. In addition, the Independence MHI will require additional one-time IT infrastructure costs of \$30,000.
- The data warehouse will need to be updated to collect, store, and produce information specified in the reporting requirements of the Bill. The updates are estimated to have a one-time cost of \$195,000.
- The 32.5 FTE positions at Cherokee and the 30.5 FTE positions at Independence will require a computer and software license totaling \$2,900 in FY 2023 and \$1,000 in FY 2024 and beyond.

Revenue Offset

The MHIs will bill Medicare and Medicaid for patient services; however, revenues are returned to the Medicaid Program as a revenue offset or to the General Fund and are not retained by the MHIs.

Fiscal Impact

Senate File 2216 is estimated to cost the General Fund \$2.8 million in FY 2023 and \$2.7 million in FY 2024. This includes revenues received from billing both Medicaid and Medicare, which the two MHIs must revert to Medicaid and the General Fund. To open the two units, it is estimated the DHS will need an appropriation of \$4.2 million in FY 2023 and \$5.5 million in FY 2024. Details for FY 2023 and FY 2024 are in the table below.

Net Fiscal Impact Estimate for SF 2216

	FY 2023	FY 2024
Capital Costs		
Cherokee	\$ 331,000	\$ 0
Independence	300,000	0
Total Capital Costs	\$ 631,000	\$ 0
FTE Positions		
Cherokee	\$ 1,591,000	\$ 2,710,000
Independence	1,417,000	2,408,000
Total FTE Positions	\$ 3,008,000	\$ 5,118,000
Support Costs		
Cherokee	\$ 111,000	\$ 227,000
Independence	30,000	61,000
Total Support Costs	\$ 141,000	\$ 288,000
IT Costs		
Cherokee	\$ 118,000	\$ 34,000
Independence	142,000	32,000
Data Warehouse Updates	195,000	0
Total IT Costs	\$ 455,000	\$ 66,000
Total DHS Cost	\$ 4,235,000	\$ 5,472,000
Medicaid and Medicare Revenue		
Reversion to Medicaid	\$ -400,000	\$ -801,000
Reversion to General Fund	-998,000	-1,996,000
Total Medicaid and Medicare Revenue	\$ -1,398,000	\$ -2,797,000
Net Cost to the State	\$ 2,837,000	\$ 2,675,000

Sources

Department of Human Services
LSA analysis

/s/ Holly M. Lyons

February 28, 2022

Doc ID 1287950

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.

www.legis.iowa.gov



[SF 2231](#) – Pharmacy Benefits Managers (LSB5519SV)
Staff Contact: Xavier Leonard (515.725.0509) xavier.leonard@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2231](#) relates to pharmacy benefits managers (PBMs), pharmacies, and prescription drug benefits. The Bill does the following:

- Defines terms; requires rulemaking; clarifies language; adds additional duties to PBMs, health carriers, and the Iowa Insurance Division in the Department of Commerce; and makes changes to PBM reimbursements.
- Prohibits a covered person from making a cost-sharing payment at the point of sale for a prescription drug in an amount that exceeds the maximum allowable cost (MAC) for that drug. The MAC is the maximum amount a pharmacy will be reimbursed by a PBM or a health carrier for a prescription drug.
- Prevents PBMs from prohibiting pharmacies from disclosing or selling lower-cost drug options to covered persons.
- Applies prescription drug copayments to the covered person's deductible.
- Allows a covered person to fill prescription drug orders at any pharmacy in the State, provided that the pharmacy accepts the same terms and conditions of the covered person's health benefit plan. Prohibits PBMs from changing cost-sharing and additional fees based on the pharmacy.
- Prohibits PBMs from requiring purchases exclusively through a mail-order pharmacy.
- Calculates a covered person's cost-sharing at the point of sale to ensure the covered person does not pay more than the cost of a drug after rebates have been applied.
- Requires PBMs to include moneys paid by, or on the behalf of, a covered person when calculating the covered person's cost-sharing.
- Allows a pharmacy to decline to fill a prescription if the maximum the pharmacy may charge for the prescription is less than the pharmacy's acquisition cost.
- Prohibits a PBM from paying a reimbursement to a pharmacy or pharmacist less than the national average drug acquisition cost for each drug.
- Requires a PBM to reimburse a dispensing fee no less than the Iowa Medicaid enterprise provider fee schedule. Requires a PBM to reimburse all in-state pharmacies at the rate the PBM reimburses its affiliates for dispersing the same prescription drug.

Background

Cost-sharing payments are out-of-pocket cost obligations imposed by a health benefit plan on a covered person. These include but are not limited to coverage limits, copayments, coinsurance, and deductibles.

Currently, as a cost-saving measure, Wellmark supplies specialty drugs that are obtained via mail order through restricted outlets. This impacts the State of Iowa Plan.

The Commissioner of Insurance is responsible for ensuring parties subject to laws related to cost-sharing payments law are in compliance.

Senate File 2231 is estimated to impact approximately 25.8% of the population (822,000). This includes individual coverage, fully insured small and large employer groups, self-insured public employees, and the State of Iowa Plan.

Of the population covered by insurance plans not regulated by Iowa law, approximately 45.2% are covered by government-sponsored health insurance, 23.0% are covered by employer coverage that is governed by the federal [Employee Retirement Income Security Act of 1974](#) (ERISA), and the remaining 6.0% are uninsured.

Population Covered by Insurance Plans Regulated by Iowa Law

Type of Coverage	Iowa Population	Percent of Population
Total Population 2020	3,190,369	100.0%
Regulated by Iowa Law		
Individual Coverage	95,732	3.0%
Fully Insured Small Employer Group	150,607	4.7%
Fully Insured Large Employer Group	310,458	9.7%
Self-Insured Public Employees	215,000	6.7%
State of Iowa Plan	50,000	1.6%
Total	821,797	25.8%
Not Regulated by Iowa Law		
Employer (self-insured + other types not listed)	733,995	23.0%
Uninsured	192,400	6.0%
Other Public (Military, Tricare, Veterans Affairs)	50,300	1.6%
Medicare	641,859	20.1%
Medicaid - Children's Health Insurance Plan	750,018	23.5%
Total	2,368,572	74.2%

Source: Iowa Insurance Division, Department of Commerce

State of Iowa Plan

Assumptions

- Prescription drug utilization by insured individuals will increase 0.5% annually.
- Prescription drug cost will increase 8.5% annually.
- Reducing point-of-sale price by 100.0% of all rebates will increase utilization of generic and brand-name drug prescriptions. Between 0.5% and 1.5% of generic drug prescriptions will move to a brand-name alternative over the course of a year.
- There will be a 1.0% to 3.0% increase in brand-name prescriptions filled.
- The PBM affiliate provisions in the Bill are estimated to increase costs for the State of Iowa Plan by 5.3%. The MAC provisions will increase the amount reimbursed per unit for filling prescriptions. This language is estimated to increase costs for the State of Iowa Plan group by 6.6%. There is overlap of the increased cost between the Bill language affecting both the affiliate pharmacies and the MAC.
- The supply of specialty drugs solely through mail-order pharmacies is not allowed under the Bill. The discontinuance of this cost-saving measure will raise the costs of specialty drugs by approximately 6.0%. For the State of Iowa Plan group, specialty drugs account for 30.0% of drug expenses. Drug-related claims for the State of Iowa Plan group, specifically, are estimated to increase by 1.8%.
- There will be an increase of \$10.30 per prescription for increased dispensing fees.

- The State of Iowa Plan generates approximately 640,000 prescriptions annually.

Fiscal Impact

Senate File 2231 is expected to increase claim liabilities for the State of Iowa Plan between \$20.6 million and \$30.8 million annually. This corresponds to an increase between 6.2% and 9.3% in total claim spending.

The estimated cost increases due to SF 2231 are broken down as follows:

- An increase of approximately \$3.0 million due to prescription drug copayments counting toward a covered individual's deductible.
- An increase of between \$4.0 million and \$11.0 million for anticipated changes in utilization (switching from generic to brand-name drugs).
- An increase of between \$5.3 million and \$8.5 million for higher reimbursement levels for pharmacies.
- An increase of approximately \$1.7 million for removing the requirement of purchasing certain prescriptions solely through mail-order pharmacies.
- An increase of approximately \$6.6 million (\$10.30 multiplied by 640,000 prescriptions) for dispensing fee reimbursements.

Board of Regents

Assumptions

- The Board of Regents, included in Self-Insured Public Employees, generates approximately 987,000 prescriptions annually.
- There will be an increase of \$10.00 per prescription for increased dispensing fees.

Fiscal Impact

Senate File 2231 is expected to increase claim liabilities for the Board of Regents self-funded health plans by approximately \$25.0 million annually.

The estimated cost increases due to SF 2231 are broken down as follows:

- An increase of approximately \$9.9 million (\$10 multiplied by 987,000 prescriptions) for dispensing fee reimbursements.
- An increase of approximately \$15.1 million for higher reimbursement levels for pharmacies.

Iowa Insurance Division, Department of Commerce

Assumption

Additional examination and enforcement actions as carried out by the Insurance Division will require the Division to add 2.0 full-time equivalent (FTE) positions for an Insurance Examiner Specialist and an Insurance Complaint Analyst.

Fiscal Impact

The total cost to the Commerce Revolving Fund is approximately \$200,000 and 2.0 FTE positions annually. This cost is for an Insurance Examiner Specialist FTE position, with a salary of approximately \$110,000, and an Insurance Complaint Analyst, with a salary of approximately \$90,000, for the purposes of examining and enforcing compliance with the provisions of the Bill.

Sources

Board of Regents
Insurance Division, Department of Commerce
Wellmark

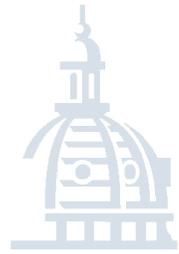
/s/ Holly M. Lyons

March 1, 2022

Doc ID 1287258

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 2319](#) – Traffic Cameras (LSB5548SV)
Staff Contact: Danielle Beavers (515.725.1286) danielle.beavers@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2319](#) prohibits the use of automated or remote systems for traffic enforcement (ATE) by State and local authorities on or adjacent to a highway. Under the Bill, information used to impose or collect a civil penalty that results from a violation that was captured using an ATE is not to be shared between the Department of Transportation (DOT) and the Department of Public Safety (DPS). This Bill requires the removal of all existing ATE devices by July 1, 2022. Citations issued before July 1, 2022, remain enforceable under the Bill. The Bill is effective upon enactment.

Background

As of February 2022, there are eight cities in Iowa that operate ATE devices, including Fort Dodge, Council Bluffs, Waterloo, Muscatine, Sioux City, Davenport, Cedar Rapids, and Des Moines. This does not include the city of Windsor Heights. Windsor Heights ceased operating ATE devices April 21, 2020. The data for ATE devices in Fort Dodge, Council Bluffs, and Waterloo is currently not available, and therefore these cities are not included in this analysis.

In January 2014, the DOT adopted an administrative rule that regulated the use of ATE devices on the primary road system. In April 2018, the Iowa Supreme Court ruled that the DOT did not have the authority to regulate ATE devices.

Polk County declined to renew its vendor contract for ATE devices and ceased issuing violations from its two mobile units in December 2017; Ottumwa ceased operating ATE devices in October 2018.

Under Iowa Code section [8A.504](#), the Department of Administrative Services (DAS) operates the Iowa Offset Program which can withhold certain State payments on behalf of local authorities to individuals and companies that do not pay their ATE violations. The DAS charges \$7 per violation collected to offset the costs of administering the Program. Fees are deposited into the DAS general operating budget.

The cities of Council Bluffs, Davenport, Des Moines, Fort Dodge, Muscatine, and Windsor Heights participated in the Program in FY 2018. Cedar Rapids has a signed agreement with the Iowa Offset Program; however, as of February 2019, the city is not submitting any unpaid violations for collection. Waterloo began participation in the Iowa Offset Program in September 2018 (FY 2019).

Assumptions

- All existing ATE devices will cease operation on or before July 1, 2022. **Table 1** provides data on the number of ATE devices, base cost per violation, vendor's share, and share of local authorities' revenues.
- All citations issued prior to July 1, 2022, will remain valid.

- Automated traffic enforcement device-issued citations will not be submitted for offset after June 30, 2023.
- Assumes citations at FY 2021 level would have occurred if the Bill had not been passed.

Fiscal Impact

Senate File 2319 is estimated to reduce annual revenue to DAS by \$65,000 in FY 2023. While cities have discretion on submitting unpaid citations to the Iowa Offset Program, given the stated assumptions the revenue decrease would occur in FY 2023.

The Bill is estimated to decrease revenue to local authorities by at least an estimated \$14.6 million per fiscal year. This estimate does not include the decrease in local revenue to Fort Dodge, Council Bluffs, and Waterloo. **Table 1** includes information obtained by the Legislative Services Agency (LSA) for the last full fiscal year. **Table 2** shows each city’s use of ATE revenue and which cities participate in the Iowa Offset Program.

Table 1

Estimated Violations and Revenues from ATE Devices***
(As of February 2022)

<u>Local Authority</u>	<u>Number of Operating ATEs</u>	<u>Number of Violations Issued</u>	<u>Number of Violations Collected</u>	<u>Base Fine Per Violation*</u>	<u>Vendor Revenue</u>	<u>Local Authority Revenue**</u>
Cedar Rapids	27	171,919	105,108	\$ 75	\$ 2,336,035	\$ 8,094,784
Davenport	18	47,013	23,152	65	506,457	1,017,176
Des Moines	9	102,138	71,687	65	1,738,092	2,921,510
Sioux City	8	15,246	20,956	100	629,515	2,028,155
Muscatine	9	10,675	9,368	75	253,152	565,265
Totals	71	346,991	230,271		\$ 5,463,251	\$ 14,626,890

* Lowest violation amount. Actual violation amounts may increase depending on miles over the legal speed limit.
 ** Collected revenue may include fine moneys collected through the Iowa Offset Program for violations issued in prior years.
 *** Fort Dodge, Council Bluffs, and Waterloo are not included in revenue totals.
 Source: Local authorities

Table 2

Local Uses of ATE Revenues

<u>Authority</u>	<u>Uses</u>	<u>Offset Program</u>
Cedar Rapids	Police Department Operating Fund	Yes
Davenport	General Fund	No
Des Moines	Des Moines Public Safety Radio System	Yes
Muscatine	Police Department	No
Sioux City	Public Safety Projects	No
Windsor Heights	General Fund	No

Sources

Iowa Department of Transportation
Local authorities
LSA calculations
Department of Administrative Services

/s/ Holly M. Lyons

March 1, 2022

Doc ID 1287696

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 2364](#) – Obscene Material, Schools (LSB5175SV)
Staff Contact: Lora Vargason (515.725.2249) lora.vargason@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2364](#) requires the Board of Educational Examiners (BOEE) to disqualify an applicant for a license or revoke the license of a person for providing obscene material or hard-core pornography to students from a school library or requiring a student to read or view such material. “Obscene materials” is defined in Iowa Code section [728.1](#), and a definition of “hard-core pornography” is established in the Bill. The BOEE is required to suspend the license of an administrator or teacher upon the Board’s finding by a preponderance of evidence that the administrator or teacher violated an injunction as detailed in the Bill.

Public school districts, accredited nonpublic schools, and charter schools will be required to designate one administrator to ensure that no obscene material or hard-core pornography is present and available to students in a school library under the administrator’s supervision. An administrator who knowingly provides obscene material to a student in a library operated by the school under the administrator’s supervision will be guilty of a serious misdemeanor. An administrator who knowingly provides hard-core pornography to a student in a library under the administrator’s supervision will be guilty of an aggravated misdemeanor.

A teacher who knowingly requires a student to read or view obscene material as part of an instructional program or curriculum will be guilty of a serious misdemeanor. A teacher who knowingly requires a student to read or view hard-core pornography as part of an instructional program or curriculum will be guilty of an aggravated misdemeanor.

Civil action for injunctive relief, as detailed in the Bill, is provided for parents or guardians, including the awarding of penalties and fees if the parent or guardian is found to be the prevailing party. The clerk of court will send a copy of the court’s order issued pertaining to a violation, of the Bill to the Attorney General and county attorney.

A parent or guardian who is the prevailing party in civil action for injunctive relief may bring a civil action for damages against the school that employs the administrator or teacher if the administrator or teacher violates an injunction issued related to the Bill. Potential damages to be awarded are detailed in the Bill.

A county attorney or the Attorney General may initiate criminal or civil actions to enforce the provisions of the Bill.

“Appropriate material” for educational purposes in any accredited school, public library, or educational program is defined as not including obscene material or hard-core pornography.

Background

Under current law, violations of Iowa Code section [728.2](#) involving the dissemination or exhibition of obscene materials to a minor is considered a serious misdemeanor.

An aggravated misdemeanor is punishable by confinement for up to two years and a fine of at least \$855 but not more than \$8,540. A serious misdemeanor is punishable by confinement for up to one year and a fine of at least \$430 but not more than \$2,560.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); 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 2364](#) creates a new criminal offense specific to school administrators and teachers, and the correctional impact cannot be determined at this time. **Table 1** below shows estimates for sentencing to State prisons, parole, probation, or community-based corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors for sex offenses and serious misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 18, 2022, for information related to the correctional system.

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

Conviction Offense Class	Percent Ordered to State Prison	FY 21 Avg LOS in Prison in Months (All Releases)	FY 21 Marginal Cost Per Day Prison	Percent Ordered to Probation	Avg LOS on Probation in Months	FY 21 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 21 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	Avg LOS on Parole in Months	FY 21 Marginal Cost Per Day Parole
Aggravated Misdemeanor (Sex Offense)	80.1%	14.5	\$23.33	58.5%	25.0	\$7.01	1.1%	\$17.78	74.6%	\$50.00	26.9	\$7.01
Serious Misdemeanor	1.8%	6.5	\$23.33	56.0%	14.5	\$7.01	0.9%	\$17.78	69.0%	\$50.00	18.1	\$7.01

Minority Impact

Senate File 2364 is estimated to have an unknown minority impact. Of the 10 convictions for dissemination and exhibition of obscene materials to minors under Iowa Code section [728.2](#) in FY 2021, 88.1% were White and 1.3% were African American, while the Iowa population is 85.3% White and 3.9% African American. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 18, 2022, for information related to minorities in the criminal justice system.

Fiscal Impact

Senate File 2364 does not have a fiscal impact to the State. However, there may be a fiscal impact to schools related to increased future exposure to litigation. In addition, county attorney offices may hire additional staff to handle complaints as outlined in the Bill.

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Iowa County Attorneys Association
Legislative Services Agency

/s/ Holly M. Lyons

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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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[HF 2416](#) – Girls' Athletics, Eligibility (LSB5990HV.1)

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Fiscal Note Version – As amended and passed by the House

Description

[House File 2416](#) requires an interscholastic athletic team, sport, or athletic event that is sponsored or sanctioned by an educational institution or organization as defined in Iowa Code section [280.13](#) to designate that team, sport, or event as females, women, or girls; males, men, or boys; or coeducational or mixed. An educational institution is defined as an accredited nonpublic school; school district; Board of Regents institution; community college; or any institution of higher education located in the State that is a member of the National Collegiate Athletic Association (NCAA), National Association of Intercollegiate Athletics (NAIA), or National Junior College Athletic Association (NJCAA). Only female students, based on their sex as defined in the Bill, may participate in any team, sport, or athletic event designated as being for females, women, or girls.

A student who suffers direct or indirect harm as a result of violation of this Bill's requirements, or is subjected to retaliation or other adverse action by an educational institution or organization as a result of reporting a violation of this Bill's requirements, has a private right of action against the educational institution or organization. Tort liability protection of governmental subdivisions or the State, as defined in Iowa Code chapter [670](#) or Iowa Code chapter [669](#), will not apply to an educational institution employee or educational institution that does not comply with the requirements of this Bill. A governmental entity will not investigate a complaint or take any adverse action against an educational institution or organization for compliance with the requirements of this Bill.

If an educational institution or organization suffers direct or indirect harm as a result of violation of this Bill's requirements, it has a private right of action against the violating entity. A governmental entity, educational institution, or organization will not be liable to any student for compliance with requirements of this Bill.

Any civil action related to this Bill must be initiated within two years from the date the alleged harm occurred. The Attorney General is required to provide legal representation at no cost for an accredited nonpublic school, school district, school employee, school board member, or authority of a nonpublic school for any lawsuit initiated or any complaint filed against such entity for compliance with this Bill. The State is required to assume financial responsibility for any expenses related to the lawsuit or complaint as incurred by the accredited nonpublic school, school district, school employee, school board member, or authority of a nonpublic school.

The Bill is effective upon enactment.

Background

[Title IX](#) of the Education Amendments Act of 1972 protects persons from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the United States Department of Education.

The United States Department of Education's Office for Civil Rights (OCR) issued a [notice of interpretation](#) on June 16, 2021, requiring that a recipient institution that received United States Department of Education funds must operate its education program or activity in a manner free of discrimination based on sex, which is to encompass sexual orientation and gender identity. If a Title IX complaint meets applicable requirements and standards, the OCR will open an investigation allowing for due process, including the reasoning by a state as to why it should not lose federal funds. Opportunities for resolution agreement and an appeals process provide additional pathways for the state to settle the matter with the OCR without the loss of federal funds.

At the collegiate level, the NCAA is a nonprofit organization that regulates student athletes from 1,268 institutions across the United States and Canada. The NCAA's January 19, 2022, press release on updated participation rules [states](#) that effective starting with the 2022 winter championships, "Transgender student-athletes will need to document sport-specific testosterone levels beginning four weeks before their sport's championship selections. Starting with the 2022-23 academic year, transgender student-athletes will need documented levels at the beginning of their season and a second documentation six months after the first. They will also need documented testosterone levels four weeks before championship selections. Full implementation would begin with the 2023-24 academic year."

At the junior college level, the NJCAA is the governing association of community college, state college, and junior college athletics across the United States. The organization is divided into 24 regions, with region 11 representing institutions in Iowa.

Current [rules](#) of participation for the NJCAA state the following in Article VI, Section 6:

- A transgender male (female to male) student-athlete who has received a medical exception for treatment with testosterone for gender transition may compete on a men's team but is no longer eligible to compete on a women's team.
- A transgender female (male to female) student-athlete being treated with testosterone suppression medication for gender transition may continue to compete on a men's team but may not compete on a women's team until completing one calendar year of documented testosterone-suppression treatment.

The NAIA policy for transgender student-athlete participation at national championships can be found [here](#).

Fiscal Impact

House File 2416 may have a fiscal impact related to noncompliance with Title IX. The loss of federal funds is unlikely due to precedent, but the outcome of future enforcement by the OCR cannot be predicted.

At the collegiate level, House File 2416 may conflict with participation rules of the NCAA and may risk eligibility and media rights or competition hosting revenues. At the junior college level, House File 2416 also may conflict with current NJCAA participation rules and thereby risk eligibility and athletic competition hosting revenues.

In addition, House File 2416 may have a fiscal impact related to increased future exposure to litigation to the State of Iowa; however, the number of claims is unknown. Fiscal impacts may include financial responsibility, as described in the Bill, and the potential for additional costs related to required legal representation that is to be provided by the Attorney General. Attorney General costs would be dependent on the number of lawsuits filed.

Sources

United States Department of Education
United States Department of Justice
National Collegiate Athletic Association
National Junior College Athletic Association
National Association of Intercollegiate Athletics

/s/ Holly M. Lyons

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