

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 64, Page 42, Section  
2 190.257, Line 43, by inserting after all of said line the following:

3  
4 "190.839. Sections 190.800 to 190.839 shall expire on September 30, [~~2021~~] 2022."; and

5  
6 Further amend said bill, Page 52, Section 197.135, Line 47, by inserting after all of said line the  
7 following:

8  
9 "198.439. Sections 198.401 to 198.436 shall expire on September 30, [~~2021~~] 2022."; and

10  
11 Further amend said bill, Page 56, Section 208.227, Line 100, by inserting after all of said line the  
12 following:

13  
14 "208.437. 1. A Medicaid managed care organization reimbursement allowance period as  
15 provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of  
16 June. The department shall notify each Medicaid managed care organization with a balance due on  
17 the thirtieth day of June of each year the amount of such balance due. If any managed care  
18 organization fails to pay its managed care organization reimbursement allowance within thirty days  
19 of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance  
20 may remain unpaid during an appeal.

21 2. Except as otherwise provided in this section, if any reimbursement allowance imposed  
22 under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of  
23 social services may compel the payment of such reimbursement allowance in the circuit court  
24 having jurisdiction in the county where the main offices of the Medicaid managed care organization  
25 are located. In addition, the director of the department of social services or the director's designee  
26 may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid  
27 managed care organization which fails to pay such delinquent reimbursement allowance required by  
28 sections 208.431 to 208.437 unless under appeal.

29 3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement  
30 allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or  
31 revocation of a license granted by the department of commerce and insurance. The director of the  
32 department of commerce and insurance may deny, suspend or revoke the license of a Medicaid  
33 managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a  
34 managed care organization's delinquent reimbursement allowance unless under appeal.

35 4. Nothing in sections 208.431 to 208.437 shall be deemed to effect or in any way limit the  
36 tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42

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U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on September 30, ~~[2021]~~ 2022.

208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, ~~[2021]~~ 2022."; and

Further amend said bill, Page 66, Section 338.010, Line 110, by inserting after all of said line the following:

"338.550. 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) September 30, ~~[2021]~~ 2022.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on September 30, ~~[2021]~~ 2022."; and

Further amend said bill, Page 72, Section 579.076, Line 12, by inserting after all of said line the following:

633.401. 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the intellectually disabled", a private or department of mental health facility which admits persons who are intellectually disabled or developmentally disabled for residential habilitation and other services pursuant to chapter 630. Such term shall include habilitation centers and private or public intermediate care facilities for the intellectually disabled that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart I;

(3) "Net operating revenues from providing services of intermediate care facilities for the intellectually disabled" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the intellectually disabled" has the same meaning as the term services of intermediate care facilities for the mentally retarded, as used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the

1 intellectually disabled shall, in addition to all other fees and taxes now required or paid, pay  
2 assessments on their net operating revenues for the privilege of engaging in the business of  
3 providing services of the intermediate care facilities for the intellectually disabled or  
4 developmentally disabled in this state.

5 3. Each facility's assessment shall be based on a formula set forth in rules and regulations  
6 promulgated by the department of mental health.

7 4. For purposes of determining rates of payment under the medical assistance program for  
8 providers of services of intermediate care facilities for the intellectually disabled, the assessment  
9 imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be  
10 reflected as timely as practicable in rates of payment applicable within the assessment period,  
11 contingent, for payments by governmental agencies, on all federal approvals necessary by federal  
12 law and regulation for federal financial participation in payments made for beneficiaries eligible for  
13 medical assistance under Title XIX of the federal Social Security Act, 42 U.S.C. Section 1396, et  
14 seq., as amended.

15 5. Assessments shall be submitted by or on behalf of each provider of services of  
16 intermediate care facilities for the intellectually disabled on a monthly basis to the director of the  
17 department of mental health or his or her designee and shall be made payable to the director of the  
18 department of revenue.

19 6. In the alternative, a provider may direct that the director of the department of social  
20 services offset, from the amount of any payment to be made by the state to the provider, the amount  
21 of the assessment payment owed for any month.

22 7. Assessment payments shall be deposited in the state treasury to the credit of the  
23 "Intermediate Care Facility Intellectually Disabled Reimbursement Allowance Fund", which is  
24 hereby created in the state treasury. All investment earnings of this fund shall be credited to the  
25 fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in  
26 the intermediate care facility intellectually disabled reimbursement allowance fund at the end of the  
27 biennium shall not revert to the general revenue fund but shall accumulate from year to year. The  
28 state treasurer shall maintain records that show the amount of money in the fund at any time and the  
29 amount of any investment earnings on that amount.

30 8. Each provider of services of intermediate care facilities for the intellectually disabled  
31 shall keep such records as may be necessary to determine the amount of the assessment for which it  
32 is liable under this section. On or before the forty-fifth day after the end of each month  
33 commencing July 1, 2008, each provider of services of intermediate care facilities for the  
34 intellectually disabled shall submit to the department of social services a report on a cash basis that  
35 reflects such information as is necessary to determine the amount of the assessment payable for that  
36 month.

37 9. Every provider of services of intermediate care facilities for the intellectually disabled  
38 shall submit a certified annual report of net operating revenues from the furnishing of services of  
39 intermediate care facilities for the intellectually disabled. The reports shall be in such form as may  
40 be prescribed by rule by the director of the department of mental health. Final payments of the  
41 assessment for each year shall be due for all providers of services of intermediate care facilities for  
42 the intellectually disabled upon the due date for submission of the certified annual report.

43 10. The director of the department of mental health shall prescribe by rule the form and  
44 content of any document required to be filed pursuant to the provisions of this section.

45 11. Upon receipt of notification from the director of the department of mental health of a  
46 provider's delinquency in paying assessments required under this section, the director of the  
47 department of social services shall withhold, and shall remit to the director of the department of  
48 revenue, an assessment amount estimated by the director of the department of mental health from  
49 any payment to be made by the state to the provider.

1           12. In the event a provider objects to the estimate described in subsection 11 of this section,  
2 or any other decision of the department of mental health related to this section, the provider of  
3 services may request a hearing. If a hearing is requested, the director of the department of mental  
4 health shall provide the provider of services an opportunity to be heard and to present evidence  
5 bearing on the amount due for an assessment or other issue related to this section within thirty days  
6 after collection of an amount due or receipt of a request for a hearing, whichever is later. The  
7 director shall issue a final decision within forty-five days of the completion of the hearing. After  
8 reconsideration of the assessment determination and a final decision by the director of the  
9 department of mental health, an intermediate care facility for the intellectually disabled provider's  
10 appeal of the director's final decision shall be to the administrative hearing commission in  
11 accordance with sections 208.156 and 621.055.

12           13. Notwithstanding any other provision of law to the contrary, appeals regarding this  
13 assessment shall be to the circuit court of Cole County or the circuit court in the county in which the  
14 facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

15           14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or  
16 nonprofit status of any intermediate care facility for the intellectually disabled granted by state law.

17           15. The director of the department of mental health shall promulgate rules and regulations to  
18 implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that  
19 is created under the authority delegated in this section shall become effective only if it complies  
20 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This  
21 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
22 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
23 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
24 adopted after August 28, 2008, shall be invalid and void.

25           16. The provisions of this section shall expire on September 30, ~~[2024]~~ 2022."; and  
26  
27 Further amend said bill by amending the title, enacting clause, and intersectional references  
28 accordingly.