

**Senate Study Bill 3084 - Introduced**

SENATE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
HEALTH AND HUMAN SERVICES  
BILL BY CHAIRPERSON WARME)

**A BILL FOR**

1 An Act relating to the certificate of need process.

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

1 Section 1. Section 135.61, subsection 1, paragraphs d and f,  
2 Code 2026, are amended by striking the paragraphs.

3 Sec. 2. Section 135.61, subsection 12, paragraph e, Code  
4 2026, is amended by striking the paragraph.

5 Sec. 3. Section 135.61, subsection 16, Code 2026, is amended  
6 to read as follows:

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

9 a. The construction, development, or other establishment  
10 of a new institutional health facility regardless of ownership  
11 if completing the construction, development, or other  
12 establishment requires more than the following amount:

13 (1) Beginning on or after January 1, 2027, and before  
14 December 31, 2031, four million dollars.

15 (2) Beginning on or after January 1, 2032, and before  
16 December 31, 2036, four million five hundred thousand dollars.

17 (3) Beginning on or after January 1, 2037, five million  
18 dollars.

19 b. Relocation of an institutional health facility.

20 c. ~~Any A capital expenditure, or lease, or donation by or~~  
21 ~~on behalf of an institutional health facility in excess of one~~  
22 ~~million five hundred thousand dollars~~ the following amount  
23 within a consecutive twelve-month period:

24 (1) Beginning on or after January 1, 2027, and before  
25 December 31, 2031, four million dollars.

26 (2) Beginning on or after January 1, 2032, and before  
27 December 31, 2036, four million five hundred thousand dollars.

28 (3) Beginning on or after January 1, 2037, five million  
29 dollars.

30 d. A permanent change in the bed capacity, as determined  
31 by the department, of an institutional health facility. For  
32 purposes of this paragraph, a change is permanent if it is  
33 intended to be effective for one year or more.

34 ~~e. Any expenditure in excess of five hundred thousand~~  
35 ~~dollars by or on behalf of an institutional health facility for~~

1 ~~health services which are or will be offered in or through an~~  
2 ~~institutional health facility at a specific time but which were~~  
3 ~~not offered on a regular basis in or through that institutional~~  
4 ~~health facility within the twelve-month period prior to that~~  
5 ~~time.~~

6 ~~f. The deletion of one or more health services, previously~~  
7 ~~offered on a regular basis by an institutional health facility~~  
8 ~~or health maintenance organization or the relocation of one or~~  
9 ~~more health services from one physical facility to another.~~

10 ~~g. Any acquisition by or on behalf of a health care provider~~  
11 ~~or a group of health care providers of any piece of replacement~~  
12 ~~equipment with a value in excess of one million five hundred~~  
13 ~~thousand dollars, whether acquired by purchase, lease, or~~  
14 ~~donation.~~

15 ~~h. Any acquisition by or on behalf of a health care provider~~  
16 ~~or group of health care providers of any piece of equipment~~  
17 ~~with a value in excess of one million five hundred thousand~~  
18 ~~dollars, whether acquired by purchase, lease, or donation,~~  
19 ~~which results in the offering or development of a health~~  
20 ~~service not previously provided. A mobile service provided~~  
21 ~~on a contract basis is not considered to have been previously~~  
22 ~~provided by a health care provider or group of health care~~  
23 ~~providers.~~

24 ~~i. Any acquisition by or on behalf of an institutional~~  
25 ~~health facility or a health maintenance organization of any~~  
26 ~~piece of replacement equipment with a value in excess of one~~  
27 ~~million five hundred thousand dollars, whether acquired by~~  
28 ~~purchase, lease, or donation.~~

29 ~~j. Any acquisition by or on behalf of an institutional~~  
30 ~~health facility or health maintenance organization of any~~  
31 ~~piece of equipment with a value in excess of one million five~~  
32 ~~hundred thousand dollars, whether acquired by purchase, lease,~~  
33 ~~or donation, which results in the offering or development of~~  
34 ~~a health service not previously provided. A mobile service~~  
35 ~~provided on a contract basis is not considered to have been~~

1 ~~previously provided by an institutional health facility.~~

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

8 ~~i. e. Any A mobile health service with a value in excess of~~  
9 ~~one four million five hundred thousand dollars.~~

10 ~~m. Any of the following:~~

11 ~~(1) Cardiac catheterization service.~~

12 ~~(2) Open heart surgical service.~~

13 ~~(3) Organ transplantation service.~~

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

17 Sec. 4. Section 135.62, subsection 1, Code 2026, is amended  
18 to read as follows:

19 1. a. A new institutional health service or changed  
20 institutional health service shall not be offered or developed  
21 in this state without prior application to the department  
22 for, and receipt of, a certificate of need, pursuant to this  
23 subchapter.

24 b. The application shall be made ~~upon~~ on forms furnished or  
25 prescribed by the department and shall contain ~~such~~ information  
26 as required by the department ~~may require under this subchapter~~  
27 by rule adopted pursuant to chapter 17A.

28 c. (1) The application shall be accompanied by a fee  
29 equivalent to three-tenths of one percent of the anticipated  
30 cost of the project with a minimum fee of six hundred dollars  
31 and a maximum fee of twenty-one thousand dollars. The fee  
32 shall be remitted by the department to the treasurer of state,  
33 ~~who shall place it~~ for deposit in the general fund of the  
34 state. An applicant for a new institutional health service or  
35 a changed institutional health service offered or developed by

1 an intermediate care facility for persons with an intellectual  
2 disability or an intermediate care facility for persons with  
3 mental illness, as each of those terms are defined in section  
4 135C.1, shall not be required to pay the application fee.

5 (2) If an application is voluntarily withdrawn within  
6 thirty calendar days after submission, seventy-five percent  
7 of the application fee shall be refunded; ~~if the application~~  
8 ~~is voluntarily withdrawn more than thirty but within sixty~~  
9 ~~days after submission, fifty percent of the application fee~~  
10 ~~shall be refunded; if the application is withdrawn voluntarily~~  
11 ~~more than sixty days after submission, twenty-five percent of~~  
12 ~~the application fee shall be refunded. Notwithstanding the~~  
13 ~~required payment of an application fee under this subsection,~~  
14 ~~an applicant for a new institutional health service or a~~  
15 ~~changed institutional health service offered or developed by~~  
16 ~~an intermediate care facility for persons with an intellectual~~  
17 ~~disability or an intermediate care facility for persons with~~  
18 ~~mental illness as defined pursuant to section 135C.1 is exempt~~  
19 ~~from payment of the application fee.~~

20 Sec. 5. Section 135.62, subsection 2, paragraphs a and e,  
21 Code 2026, are amended to read as follows:

22 a. Private offices and private clinics of an individual  
23 physician, dentist, or other practitioner or group of  
24 health care providers, except as provided by section 135.61,  
25 subsection 16, paragraphs "g", "h", and "m" paragraph "f", and  
26 section 135.61, subsections 2 and 18.

27 e. A health maintenance organization or combination of  
28 health maintenance organizations or an institutional health  
29 facility controlled directly or indirectly by a health  
30 maintenance organization or combination of health maintenance  
31 organizations, except when the health maintenance organization  
32 or combination of health maintenance organizations ~~does any of~~  
33 ~~the following:~~

34 ~~(1) Constructs constructs, develops, renovates, relocates,~~  
35 ~~or otherwise establishes an institutional health facility.~~

1 ~~(2) Acquires major medical equipment as provided by section~~  
2 ~~135.61, subsection 16, paragraphs "i" and "j".~~

3 Sec. 6. Section 135.62, subsection 2, paragraph h,  
4 subparagraph (2), Code 2026, is amended to read as follows:

5 (2) If these conditions are not met, the institutional  
6 health facility or health maintenance organization is subject  
7 to ~~review as a "new institutional health service" or "changed~~  
8 ~~institutional health service" under section 135.61, subsection~~  
9 ~~16, paragraph "f", and is subject to sanctions under section~~  
10 135.72.

11 Sec. 7. Section 135.63, subsection 2, paragraph b, Code  
12 2026, is amended by striking the paragraph.

13 Sec. 8. Section 135.65, subsections 1, 2, and 4, Code 2026,  
14 are amended to read as follows:

15 1. a. Within fifteen business days after receipt of the  
16 date the department receives an application for a certificate  
17 of need, the department shall examine the application for form  
18 and completeness and accept or reject it. An application  
19 shall be rejected only if it fails to provide all information  
20 required by the department pursuant to section 135.62,  
21 subsection 1. The department shall ~~promptly return to the~~  
22 ~~applicant any~~ a rejected application, to the applicant with an  
23 explanation of the reasons for its rejection.

24 b. Within thirty calendar days of the date the department  
25 sends a rejected application to an applicant, the applicant may  
26 revise and resubmit the application once for review without  
27 submitting another application fee under section 135.62.

28 2. Upon acceptance of an application for a certificate  
29 of need, the department shall ~~promptly undertake to~~ notify  
30 all affected persons in writing that formal review of the  
31 application has been initiated. Notification to ~~those~~ affected  
32 persons who are consumers ~~or third-party payers or other payers~~  
33 ~~for health services~~ may be provided by electronic distribution  
34 of the pertinent information ~~to the news media.~~

35 4. a. When a hearing is to be held pursuant to subsection

1 3, paragraph "b", the department shall give at least ten days'  
2 notice of the time and place of the hearing. ~~At the hearing,~~  
3 ~~any~~

4 b. An affected person, or an affected person's legal  
5 representative, may submit written testimony in a manner  
6 prescribed by the department from the date the department gives  
7 notice of the hearing until end of business on the calendar day  
8 immediately preceding the date of the hearing.

9 c. An affected person or that person's designated  
10 ~~representative shall have the opportunity to~~ may present  
11 testimony at the hearing.

12 Sec. 9. Section 135.66, subsection 1, Code 2026, is amended  
13 to read as follows:

14 1. The department may ~~waive the letter of intent procedures~~  
15 ~~prescribed by section 135.64 and substitute~~ conduct a summary  
16 review procedure, ~~which shall be established by rules of~~  
17 adopted by the department, when ~~it~~ the department accepts an  
18 application for a certificate of need for a project ~~which that~~  
19 meets any of the following criteria ~~in paragraphs "a" through~~  
20 ~~"e"~~:

21 a. A project which is limited to repair or replacement of a  
22 facility or equipment damaged or destroyed by a disaster, and  
23 which will not expand the facility nor increase the services  
24 provided beyond the level existing prior to the disaster.

25 b. A project necessary to enable the facility or service to  
26 achieve or maintain compliance with federal, state, or other  
27 appropriate licensing, certification, or safety requirements.

28 c. A project which will not change the existing bed capacity  
29 of the applicant's facility or service, as determined by the  
30 department, by more than ten percent or ten beds, whichever is  
31 less, over a two-year period.

32 ~~d. A project the total cost of which will not exceed one~~  
33 ~~hundred fifty thousand dollars.~~

34 ~~e.~~ d. Any other project for which the applicant proposes  
35 and the department agrees to summary review.

1     Sec. 10. Section 135.68, Code 2026, is amended to read as  
2 follows:

3     **135.68 Department to make final decision.**

4     ~~1.~~ The department shall complete its formal review of  
5 the application within ninety days after acceptance of  
6 the application, except as otherwise provided by section  
7 135.71, subsection 4. Upon completion of the formal review,  
8 the department shall approve or deny the application. The  
9 department shall issue written findings stating the basis for  
10 its decision on the application and shall send copies of the  
11 decision and the written findings supporting the decision to  
12 the applicant and to any other person who so requests.

13     ~~2. Failure by the department to issue a written decision  
14 on an application for a certificate of need within the time  
15 required by this section shall constitute denial of and final  
16 administrative action on the application.~~

17     Sec. 11. Section 135.71, subsection 4, Code 2026, is amended  
18 to read as follows:

19     4. Criteria for determining when it is not feasible to  
20 complete formal review of an application for a certificate of  
21 need within the time ~~limits~~ limit specified in section 135.68.  
22 The rules adopted under this subsection shall include criteria  
23 for determining whether an application proposes introduction  
24 of technologically innovative equipment, and if so, procedures  
25 to be followed in reviewing the application. However, a rule  
26 adopted under this subsection shall not permit a deferral of  
27 more than ~~sixty~~ thirty calendar days beyond the time when a  
28 decision is required under section 135.68, unless both the  
29 applicant and the department agree to a longer deferment.

30     Sec. 12. Section 135P.1, subsection 3, Code 2026, is amended  
31 to read as follows:

32     3. "*Health facility*" means an any of the following:

33     a. An institutional health facility ~~as defined in section~~  
34 ~~135.61, a.~~

35     b. A birth center as defined in section 135.131, a.

- 1 c. A hospice licensed under chapter 135J, ~~a.~~
- 2 d. A home health agency as defined in section 144D.1, ~~an.~~
- 3 e. An assisted living program certified under chapter 231C,
- 4 ~~a.~~
- 5 f. A clinic, ~~a.~~
- 6 g. A community health center, ~~or the.~~
- 7 h. The university of Iowa hospitals and clinics, ~~and~~
- 8 ~~includes any.~~
- 9 i. A corporation, professional corporation, partnership,
- 10 limited liability company, limited liability partnership, or
- 11 other entity comprised of ~~such~~ health facilities.

12 Sec. 13. Section 135P.1, Code 2026, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 3A. "*Institutional health facility*" means  
15 any of the following without regard to whether the facility is  
16 publicly or privately owned, organized for profit, or is part  
17 of or sponsored by a health maintenance organization:

- 18 a. A hospital as defined in section 135B.1.
- 19 b. A health care facility as defined in section 135C.1.
- 20 c. An organized outpatient health facility as defined in  
21 section 135.61.
- 22 d. An ambulatory surgical center as defined in section  
23 135.61.
- 24 e. A community mental health center as defined in section  
25 225A.1.

26 Sec. 14. REPEAL. Section 135.64, Code 2026, is repealed.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with  
29 the explanation's substance by the members of the general assembly.

30 This bill relates to the certificate of need (CON) process.  
31 The bill removes from the definition of "affected person" an  
32 institutional health facility (facility) or health maintenance  
33 organization which, prior to the department health and human  
34 services' (HHS) receipt of an application for a CON, has  
35 formally indicated to HHS an intent to furnish institutional

1 health services as described in the application. The bill also  
2 removes payers and third-party payers for health services from  
3 the definition of "affected persons", and "a community mental  
4 health facility" from the definition of "institutional health  
5 facility".

6 The bill limits the circumstances that require a health  
7 care provider to submit a CON application to the following:  
8 construction, development, or other establishment of a new  
9 facility if completion requires more than a monetary amount  
10 as specified in the bill; relocation of a facility; a capital  
11 expenditure or lease by a facility in excess of a monetary  
12 amount as specified in the bill; a permanent change in the bed  
13 capacity of a facility; and a mobile health service with a  
14 value in excess of \$4 million.

15 The bill eliminates the requirement that a CON applicant  
16 needs to show that any existing facilities providing  
17 institutional health services similar to those being applied  
18 for are being used in an appropriate and efficient manner.

19 The bill no longer allows HHS to refund application fees  
20 if the CON application is voluntarily withdrawn more than 30  
21 calendar days after submission.

22 The bill allows a CON applicant whose application is  
23 rejected to resubmit a revised application once without an  
24 additional application fee.

25 The bill allows HHS to notify all affected persons of  
26 pertinent information regarding a formal review of a CON  
27 application through electronic distribution instead of through  
28 the news media.

29 The bill allows an affected person, or the affected person's  
30 legal representative, to submit written testimony for a hearing  
31 on a CON application from the date HHS gives notice on the  
32 hearing until end of business on the calendar day immediately  
33 preceding the hearing.

34 Under current law, HHS's failure to issue a written  
35 decision on a CON application within 90 days of accepting the

1 application constitutes denial of the application. The bill  
2 eliminates this denial.

3 Under current law, HHS may defer approval or denial of a CON  
4 application for up to 60 days. The bill allows HHS to defer for  
5 a maximum of 30 calendar days unless both the applicant and HHS  
6 agree to a longer deferment.

7 The bill makes conforming changes to Code sections 135.66  
8 (summary review procedure) and 135P.1 (adverse health care  
9 incidents — definitions).

10 The bill repeals Code section 135.64 (letter of intent to  
11 precede application — review and comment).