

# SB2972



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2972

Introduced 12/15/2021, by Sen. Ann Gillespie

### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5A-2

from Ch. 23, par. 5A-2

Amends the Illinois Public Aid Code. Makes a technical change in a Section concerning assessments.

LRB102 22231 KTG 31361 b

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5A-2 as follows:

6 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

7 (Section scheduled to be repealed on December 31, 2022)

8 Sec. 5A-2. Assessment.

9 (a)(1) Subject to Sections 5A-3 and 5A-10, for State  
10 fiscal years 2009 through 2018, or as long as continued under  
11 Section 5A-16, an annual assessment on inpatient services is  
12 imposed on each hospital provider in an amount equal to  
13 \$218.38 multiplied by the ~~the~~ difference of the hospital's  
14 occupied bed days less the hospital's Medicare bed days,  
15 provided, however, that the amount of \$218.38 shall be  
16 increased by a uniform percentage to generate an amount equal  
17 to 75% of the State share of the payments authorized under  
18 Section 5A-12.5, with such increase only taking effect upon  
19 the date that a State share for such payments is required under  
20 federal law. For the period of April through June 2015, the  
21 amount of \$218.38 used to calculate the assessment under this  
22 paragraph shall, by emergency rule under subsection (s) of  
23 Section 5-45 of the Illinois Administrative Procedure Act, be

1 increased by a uniform percentage to generate \$20,250,000 in  
2 the aggregate for that period from all hospitals subject to  
3 the annual assessment under this paragraph.

4 (2) In addition to any other assessments imposed under  
5 this Article, effective July 1, 2016 and semi-annually  
6 thereafter through June 2018, or as provided in Section 5A-16,  
7 in addition to any federally required State share as  
8 authorized under paragraph (1), the amount of \$218.38 shall be  
9 increased by a uniform percentage to generate an amount equal  
10 to 75% of the ACA Assessment Adjustment, as defined in  
11 subsection (b-6) of this Section.

12 For State fiscal years 2009 through 2018, or as provided  
13 in Section 5A-16, a hospital's occupied bed days and Medicare  
14 bed days shall be determined using the most recent data  
15 available from each hospital's 2005 Medicare cost report as  
16 contained in the Healthcare Cost Report Information System  
17 file, for the quarter ending on December 31, 2006, without  
18 regard to any subsequent adjustments or changes to such data.  
19 If a hospital's 2005 Medicare cost report is not contained in  
20 the Healthcare Cost Report Information System, then the  
21 Illinois Department may obtain the hospital provider's  
22 occupied bed days and Medicare bed days from any source  
23 available, including, but not limited to, records maintained  
24 by the hospital provider, which may be inspected at all times  
25 during business hours of the day by the Illinois Department or  
26 its duly authorized agents and employees.

1           (3) Subject to Sections 5A-3, 5A-10, and 5A-16, for State  
2 fiscal years 2019 and 2020, an annual assessment on inpatient  
3 services is imposed on each hospital provider in an amount  
4 equal to \$197.19 multiplied by the difference of the  
5 hospital's occupied bed days less the hospital's Medicare bed  
6 days. For State fiscal years 2019 and 2020, a hospital's  
7 occupied bed days and Medicare bed days shall be determined  
8 using the most recent data available from each hospital's 2015  
9 Medicare cost report as contained in the Healthcare Cost  
10 Report Information System file, for the quarter ending on  
11 March 31, 2017, without regard to any subsequent adjustments  
12 or changes to such data. If a hospital's 2015 Medicare cost  
13 report is not contained in the Healthcare Cost Report  
14 Information System, then the Illinois Department may obtain  
15 the hospital provider's occupied bed days and Medicare bed  
16 days from any source available, including, but not limited to,  
17 records maintained by the hospital provider, which may be  
18 inspected at all times during business hours of the day by the  
19 Illinois Department or its duly authorized agents and  
20 employees. Notwithstanding any other provision in this  
21 Article, for a hospital provider that did not have a 2015  
22 Medicare cost report, but paid an assessment in State fiscal  
23 year 2018 on the basis of hypothetical data, that assessment  
24 amount shall be used for State fiscal years 2019 and 2020.

25           (4) Subject to Sections 5A-3 and 5A-10, for the period of  
26 July 1, 2020 through December 31, 2020 and calendar years 2021

1 and 2022, an annual assessment on inpatient services is  
2 imposed on each hospital provider in an amount equal to  
3 \$221.50 multiplied by the difference of the hospital's  
4 occupied bed days less the hospital's Medicare bed days,  
5 provided however: for the period of July 1, 2020 through  
6 December 31, 2020, (i) the assessment shall be equal to 50% of  
7 the annual amount; and (ii) the amount of \$221.50 shall be  
8 retroactively adjusted by a uniform percentage to generate an  
9 amount equal to 50% of the Assessment Adjustment, as defined  
10 in subsection (b-7). For the period of July 1, 2020 through  
11 December 31, 2020 and calendar years 2021 and 2022, a  
12 hospital's occupied bed days and Medicare bed days shall be  
13 determined using the most recent data available from each  
14 hospital's 2015 Medicare cost report as contained in the  
15 Healthcare Cost Report Information System file, for the  
16 quarter ending on March 31, 2017, without regard to any  
17 subsequent adjustments or changes to such data. If a  
18 hospital's 2015 Medicare cost report is not contained in the  
19 Healthcare Cost Report Information System, then the Illinois  
20 Department may obtain the hospital provider's occupied bed  
21 days and Medicare bed days from any source available,  
22 including, but not limited to, records maintained by the  
23 hospital provider, which may be inspected at all times during  
24 business hours of the day by the Illinois Department or its  
25 duly authorized agents and employees. Should the change in the  
26 assessment methodology for fiscal years 2021 through December

1 31, 2022 not be approved on or before June 30, 2020, the  
2 assessment and payments under this Article in effect for  
3 fiscal year 2020 shall remain in place until the new  
4 assessment is approved. If the assessment methodology for July  
5 1, 2020 through December 31, 2022, is approved on or after July  
6 1, 2020, it shall be retroactive to July 1, 2020, subject to  
7 federal approval and provided that the payments authorized  
8 under Section 5A-12.7 have the same effective date as the new  
9 assessment methodology. In giving retroactive effect to the  
10 assessment approved after June 30, 2020, credit toward the new  
11 assessment shall be given for any payments of the previous  
12 assessment for periods after June 30, 2020. Notwithstanding  
13 any other provision of this Article, for a hospital provider  
14 that did not have a 2015 Medicare cost report, but paid an  
15 assessment in State Fiscal Year 2020 on the basis of  
16 hypothetical data, the data that was the basis for the 2020  
17 assessment shall be used to calculate the assessment under  
18 this paragraph.

19 (b) (Blank).

20 (b-5)(1) Subject to Sections 5A-3 and 5A-10, for the  
21 portion of State fiscal year 2012, beginning June 10, 2012  
22 through June 30, 2012, and for State fiscal years 2013 through  
23 2018, or as provided in Section 5A-16, an annual assessment on  
24 outpatient services is imposed on each hospital provider in an  
25 amount equal to .008766 multiplied by the hospital's  
26 outpatient gross revenue, provided, however, that the amount

1 of .008766 shall be increased by a uniform percentage to  
2 generate an amount equal to 25% of the State share of the  
3 payments authorized under Section 5A-12.5, with such increase  
4 only taking effect upon the date that a State share for such  
5 payments is required under federal law. For the period  
6 beginning June 10, 2012 through June 30, 2012, the annual  
7 assessment on outpatient services shall be prorated by  
8 multiplying the assessment amount by a fraction, the numerator  
9 of which is 21 days and the denominator of which is 365 days.  
10 For the period of April through June 2015, the amount of  
11 .008766 used to calculate the assessment under this paragraph  
12 shall, by emergency rule under subsection (s) of Section 5-45  
13 of the Illinois Administrative Procedure Act, be increased by  
14 a uniform percentage to generate \$6,750,000 in the aggregate  
15 for that period from all hospitals subject to the annual  
16 assessment under this paragraph.

17 (2) In addition to any other assessments imposed under  
18 this Article, effective July 1, 2016 and semi-annually  
19 thereafter through June 2018, in addition to any federally  
20 required State share as authorized under paragraph (1), the  
21 amount of .008766 shall be increased by a uniform percentage  
22 to generate an amount equal to 25% of the ACA Assessment  
23 Adjustment, as defined in subsection (b-6) of this Section.

24 For the portion of State fiscal year 2012, beginning June  
25 10, 2012 through June 30, 2012, and State fiscal years 2013  
26 through 2018, or as provided in Section 5A-16, a hospital's

1 outpatient gross revenue shall be determined using the most  
2 recent data available from each hospital's 2009 Medicare cost  
3 report as contained in the Healthcare Cost Report Information  
4 System file, for the quarter ending on June 30, 2011, without  
5 regard to any subsequent adjustments or changes to such data.  
6 If a hospital's 2009 Medicare cost report is not contained in  
7 the Healthcare Cost Report Information System, then the  
8 Department may obtain the hospital provider's outpatient gross  
9 revenue from any source available, including, but not limited  
10 to, records maintained by the hospital provider, which may be  
11 inspected at all times during business hours of the day by the  
12 Department or its duly authorized agents and employees.

13 (3) Subject to Sections 5A-3, 5A-10, and 5A-16, for State  
14 fiscal years 2019 and 2020, an annual assessment on outpatient  
15 services is imposed on each hospital provider in an amount  
16 equal to .01358 multiplied by the hospital's outpatient gross  
17 revenue. For State fiscal years 2019 and 2020, a hospital's  
18 outpatient gross revenue shall be determined using the most  
19 recent data available from each hospital's 2015 Medicare cost  
20 report as contained in the Healthcare Cost Report Information  
21 System file, for the quarter ending on March 31, 2017, without  
22 regard to any subsequent adjustments or changes to such data.  
23 If a hospital's 2015 Medicare cost report is not contained in  
24 the Healthcare Cost Report Information System, then the  
25 Department may obtain the hospital provider's outpatient gross  
26 revenue from any source available, including, but not limited



1 to, records maintained by the hospital provider, which may be  
2 inspected at all times during business hours of the day by the  
3 Department or its duly authorized agents and employees.  
4 Notwithstanding any other provision in this Article, for a  
5 hospital provider that did not have a 2015 Medicare cost  
6 report, but paid an assessment in State fiscal year 2018 on the  
7 basis of hypothetical data, that assessment amount shall be  
8 used for State fiscal years 2019 and 2020.

9 (4) Subject to Sections 5A-3 and 5A-10, for the period of  
10 July 1, 2020 through December 31, 2020 and calendar years 2021  
11 and 2022, an annual assessment on outpatient services is  
12 imposed on each hospital provider in an amount equal to .01525  
13 multiplied by the hospital's outpatient gross revenue,  
14 provided however: (i) for the period of July 1, 2020 through  
15 December 31, 2020, the assessment shall be equal to 50% of the  
16 annual amount; and (ii) the amount of .01525 shall be  
17 retroactively adjusted by a uniform percentage to generate an  
18 amount equal to 50% of the Assessment Adjustment, as defined  
19 in subsection (b-7). For the period of July 1, 2020 through  
20 December 31, 2020 and calendar years 2021 and 2022, a  
21 hospital's outpatient gross revenue shall be determined using  
22 the most recent data available from each hospital's 2015  
23 Medicare cost report as contained in the Healthcare Cost  
24 Report Information System file, for the quarter ending on  
25 March 31, 2017, without regard to any subsequent adjustments  
26 or changes to such data. If a hospital's 2015 Medicare cost

1 report is not contained in the Healthcare Cost Report  
2 Information System, then the Illinois Department may obtain  
3 the hospital provider's outpatient revenue data from any  
4 source available, including, but not limited to, records  
5 maintained by the hospital provider, which may be inspected at  
6 all times during business hours of the day by the Illinois  
7 Department or its duly authorized agents and employees. Should  
8 the change in the assessment methodology above for fiscal  
9 years 2021 through calendar year 2022 not be approved prior to  
10 July 1, 2020, the assessment and payments under this Article  
11 in effect for fiscal year 2020 shall remain in place until the  
12 new assessment is approved. If the change in the assessment  
13 methodology above for July 1, 2020 through December 31, 2022,  
14 is approved after June 30, 2020, it shall have a retroactive  
15 effective date of July 1, 2020, subject to federal approval  
16 and provided that the payments authorized under Section 12A-7  
17 have the same effective date as the new assessment  
18 methodology. In giving retroactive effect to the assessment  
19 approved after June 30, 2020, credit toward the new assessment  
20 shall be given for any payments of the previous assessment for  
21 periods after June 30, 2020. Notwithstanding any other  
22 provision of this Article, for a hospital provider that did  
23 not have a 2015 Medicare cost report, but paid an assessment in  
24 State Fiscal Year 2020 on the basis of hypothetical data, the  
25 data that was the basis for the 2020 assessment shall be used  
26 to calculate the assessment under this paragraph.

1 (b-6) (1) As used in this Section, "ACA Assessment  
2 Adjustment" means:

3 (A) For the period of July 1, 2016 through December  
4 31, 2016, the product of .19125 multiplied by the sum of  
5 the fee-for-service payments to hospitals as authorized  
6 under Section 5A-12.5 and the adjustments authorized under  
7 subsection (t) of Section 5A-12.2 to managed care  
8 organizations for hospital services due and payable in the  
9 month of April 2016 multiplied by 6.

10 (B) For the period of January 1, 2017 through June 30,  
11 2017, the product of .19125 multiplied by the sum of the  
12 fee-for-service payments to hospitals as authorized under  
13 Section 5A-12.5 and the adjustments authorized under  
14 subsection (t) of Section 5A-12.2 to managed care  
15 organizations for hospital services due and payable in the  
16 month of October 2016 multiplied by 6, except that the  
17 amount calculated under this subparagraph (B) shall be  
18 adjusted, either positively or negatively, to account for  
19 the difference between the actual payments issued under  
20 Section 5A-12.5 for the period beginning July 1, 2016  
21 through December 31, 2016 and the estimated payments due  
22 and payable in the month of April 2016 multiplied by 6 as  
23 described in subparagraph (A).

24 (C) For the period of July 1, 2017 through December  
25 31, 2017, the product of .19125 multiplied by the sum of  
26 the fee-for-service payments to hospitals as authorized

1 under Section 5A-12.5 and the adjustments authorized under  
2 subsection (t) of Section 5A-12.2 to managed care  
3 organizations for hospital services due and payable in the  
4 month of April 2017 multiplied by 6, except that the  
5 amount calculated under this subparagraph (C) shall be  
6 adjusted, either positively or negatively, to account for  
7 the difference between the actual payments issued under  
8 Section 5A-12.5 for the period beginning January 1, 2017  
9 through June 30, 2017 and the estimated payments due and  
10 payable in the month of October 2016 multiplied by 6 as  
11 described in subparagraph (B).

12 (D) For the period of January 1, 2018 through June 30,  
13 2018, the product of .19125 multiplied by the sum of the  
14 fee-for-service payments to hospitals as authorized under  
15 Section 5A-12.5 and the adjustments authorized under  
16 subsection (t) of Section 5A-12.2 to managed care  
17 organizations for hospital services due and payable in the  
18 month of October 2017 multiplied by 6, except that:

19 (i) the amount calculated under this subparagraph  
20 (D) shall be adjusted, either positively or  
21 negatively, to account for the difference between the  
22 actual payments issued under Section 5A-12.5 for the  
23 period of July 1, 2017 through December 31, 2017 and  
24 the estimated payments due and payable in the month of  
25 April 2017 multiplied by 6 as described in  
26 subparagraph (C); and

1 (ii) the amount calculated under this subparagraph  
2 (D) shall be adjusted to include the product of .19125  
3 multiplied by the sum of the fee-for-service payments,  
4 if any, estimated to be paid to hospitals under  
5 subsection (b) of Section 5A-12.5.

6 (2) The Department shall complete and apply a final  
7 reconciliation of the ACA Assessment Adjustment prior to June  
8 30, 2018 to account for:

9 (A) any differences between the actual payments issued  
10 or scheduled to be issued prior to June 30, 2018 as  
11 authorized in Section 5A-12.5 for the period of January 1,  
12 2018 through June 30, 2018 and the estimated payments due  
13 and payable in the month of October 2017 multiplied by 6 as  
14 described in subparagraph (D); and

15 (B) any difference between the estimated  
16 fee-for-service payments under subsection (b) of Section  
17 5A-12.5 and the amount of such payments that are actually  
18 scheduled to be paid.

19 The Department shall notify hospitals of any additional  
20 amounts owed or reduction credits to be applied to the June  
21 2018 ACA Assessment Adjustment. This is to be considered the  
22 final reconciliation for the ACA Assessment Adjustment.

23 (3) Notwithstanding any other provision of this Section,  
24 if for any reason the scheduled payments under subsection (b)  
25 of Section 5A-12.5 are not issued in full by the final day of  
26 the period authorized under subsection (b) of Section 5A-12.5,

1 funds collected from each hospital pursuant to subparagraph  
2 (D) of paragraph (1) and pursuant to paragraph (2),  
3 attributable to the scheduled payments authorized under  
4 subsection (b) of Section 5A-12.5 that are not issued in full  
5 by the final day of the period attributable to each payment  
6 authorized under subsection (b) of Section 5A-12.5, shall be  
7 refunded.

8 (4) The increases authorized under paragraph (2) of  
9 subsection (a) and paragraph (2) of subsection (b-5) shall be  
10 limited to the federally required State share of the total  
11 payments authorized under Section 5A-12.5 if the sum of such  
12 payments yields an annualized amount equal to or less than  
13 \$450,000,000, or if the adjustments authorized under  
14 subsection (t) of Section 5A-12.2 are found not to be  
15 actuarially sound; however, this limitation shall not apply to  
16 the fee-for-service payments described in subsection (b) of  
17 Section 5A-12.5.

18 (b-7)(1) As used in this Section, "Assessment Adjustment"  
19 means:

20 (A) For the period of July 1, 2020 through December  
21 31, 2020, the product of .3853 multiplied by the total of  
22 the actual payments made under subsections (c) through (k)  
23 of Section 5A-12.7 attributable to the period, less the  
24 total of the assessment imposed under subsections (a) and  
25 (b-5) of this Section for the period.

26 (B) For each calendar quarter beginning on and after

1           January 1, 2021, the product of .3853 multiplied by the  
2           total of the actual payments made under subsections (c)  
3           through (k) of Section 5A-12.7 attributable to the period,  
4           less the total of the assessment imposed under subsections  
5           (a) and (b-5) of this Section for the period.

6           (2) The Department shall calculate and notify each  
7           hospital of the total Assessment Adjustment and any additional  
8           assessment owed by the hospital or refund owed to the hospital  
9           on either a semi-annual or annual basis. Such notice shall be  
10          issued at least 30 days prior to any period in which the  
11          assessment will be adjusted. Any additional assessment owed by  
12          the hospital or refund owed to the hospital shall be uniformly  
13          applied to the assessment owed by the hospital in monthly  
14          installments for the subsequent semi-annual period or calendar  
15          year. If no assessment is owed in the subsequent year, any  
16          amount owed by the hospital or refund due to the hospital,  
17          shall be paid in a lump sum.

18          (3) The Department shall publish all details of the  
19          Assessment Adjustment calculation performed each year on its  
20          website within 30 days of completing the calculation, and also  
21          submit the details of the Assessment Adjustment calculation as  
22          part of the Department's annual report to the General  
23          Assembly.

24          (c) (Blank).

25          (d) Notwithstanding any of the other provisions of this  
26          Section, the Department is authorized to adopt rules to reduce

1 the rate of any annual assessment imposed under this Section,  
2 as authorized by Section 5-46.2 of the Illinois Administrative  
3 Procedure Act.

4 (e) Notwithstanding any other provision of this Section,  
5 any plan providing for an assessment on a hospital provider as  
6 a permissible tax under Title XIX of the federal Social  
7 Security Act and Medicaid-eligible payments to hospital  
8 providers from the revenues derived from that assessment shall  
9 be reviewed by the Illinois Department of Healthcare and  
10 Family Services, as the Single State Medicaid Agency required  
11 by federal law, to determine whether those assessments and  
12 hospital provider payments meet federal Medicaid standards. If  
13 the Department determines that the elements of the plan may  
14 meet federal Medicaid standards and a related State Medicaid  
15 Plan Amendment is prepared in a manner and form suitable for  
16 submission, that State Plan Amendment shall be submitted in a  
17 timely manner for review by the Centers for Medicare and  
18 Medicaid Services of the United States Department of Health  
19 and Human Services and subject to approval by the Centers for  
20 Medicare and Medicaid Services of the United States Department  
21 of Health and Human Services. No such plan shall become  
22 effective without approval by the Illinois General Assembly by  
23 the enactment into law of related legislation. Notwithstanding  
24 any other provision of this Section, the Department is  
25 authorized to adopt rules to reduce the rate of any annual  
26 assessment imposed under this Section. Any such rules may be



1 adopted by the Department under Section 5-50 of the Illinois  
2 Administrative Procedure Act.

3 (Source: P.A. 100-581, eff. 3-12-18; 101-10, eff. 6-5-19;  
4 101-650, eff. 7-7-20; reenacted by P.A. 101-655, eff.  
5 3-12-21.)