



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5046

Introduced 2/7/2012, by Rep. Roger L. Eddy - Michael W. Tryon - Chapin Rose

SYNOPSIS AS INTRODUCED:

See Index

Amends the Medical Assistance Article and the Long-Term Care Provider Funding Article of the Illinois Public Aid Code. Requires the revised methodology for reimbursement of nursing facility services to be based on the Resource Utilization Group methodology (RUGs) and to incorporate patient acuity, patient health outcomes, and measures of quality and quality improvement for the determination of payment. Removes language concerning rates that took effect April 1, 2011 and language concerning enhanced payments. Removes language concerning payment increases for the MDS methodology, exceptional care residents, or the socio-development established by Public Act 96-1530. Provides how licensed bed days shall be computed. Provides that beginning July 1, 2011 an assessment is imposed upon each long-term care provider in an amount equal to \$2.04 (rather than \$6.07) times the number of licensed (rather than occupied) bed days due and payable each month. Provides that assessments imposed on long-term care providers in excess of \$1.50 per licensed bed day effective prior to July 1, 2011 shall not be due and payable until after the Department of Healthcare and Family Services notifies the long-term care providers, in writing, that the assessment is deemed permissible and certain waivers have been granted by the U.S. Department of Health and Human Services. Provides that the assessment shall not take effect or shall cease to be imposed, and any moneys remaining in the Long-Term Care Provider Fund shall be refunded to long-term care providers in proportion to the amounts paid by them, if certain conditions exist. Repeals the Nursing Home Licensing Fee Article of the Illinois Public Aid Code. Effective immediately.

LRB097 17708 KTG 62922 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 5-5.2, 5-5.4, 5B-1, 5B-2, 5B-4, 5B-7, and
6 5B-8 as follows:

7 (305 ILCS 5/5-5.2) (from Ch. 23, par. 5-5.2)

8 Sec. 5-5.2. Payment.

9 (a) All nursing facilities that are grouped pursuant to
10 Section 5-5.1 of this Act shall receive the same rate of
11 payment for similar services.

12 (b) It shall be a matter of State policy that the Illinois
13 Department shall utilize a uniform billing cycle throughout the
14 State for the long-term care providers.

15 (c) Notwithstanding any other provisions of this Code,
16 beginning July 1, 2012 the methodologies for reimbursement of
17 nursing facility services as provided under this Article shall
18 no longer be applicable for bills payable for State fiscal
19 years 2012 and thereafter. The Department of Healthcare and
20 Family Services shall, effective July 1, 2012, implement an
21 evidence-based payment methodology for the reimbursement of
22 nursing facility services. The methodology shall continue to
23 take into consideration the needs of individual residents, as

1 assessed and reported by the most current version of the
2 nursing facility Resident Assessment Instrument, adopted and
3 in use by the federal government. Additionally the revised
4 methodology shall be based on the Resource Utilization Group
5 methodology (RUGs) and must incorporate patient acuity,
6 patient health outcomes, and measures of quality and quality
7 improvement for the determination of payment.

8 (Source: P.A. 96-1530, eff. 2-16-11.)

9 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

10 Sec. 5-5.4. Standards of Payment - Department of Healthcare
11 and Family Services. The Department of Healthcare and Family
12 Services shall develop standards of payment of nursing facility
13 and ICF/DD services in facilities providing such services under
14 this Article which:

15 (1) Provide for the determination of a facility's payment
16 for nursing facility or ICF/DD services on a prospective basis.
17 The amount of the payment rate for all nursing facilities
18 certified by the Department of Public Health under the ID/DD
19 Community Care Act or the Nursing Home Care Act as Intermediate
20 Care for the Developmentally Disabled facilities, Long Term
21 Care for Under Age 22 facilities, Skilled Nursing facilities,
22 or Intermediate Care facilities under the medical assistance
23 program shall be prospectively established annually on the
24 basis of historical, financial, and statistical data
25 reflecting actual costs from prior years, which shall be

1 applied to the current rate year and updated for inflation,
2 except that the capital cost element for newly constructed
3 facilities shall be based upon projected budgets. The annually
4 established payment rate shall take effect on July 1 in 1984
5 and subsequent years. No rate increase and no update for
6 inflation shall be provided on or after July 1, 1994 and before
7 July 1, 2012, unless specifically provided for in this Section.
8 The changes made by Public Act 93-841 extending the duration of
9 the prohibition against a rate increase or update for inflation
10 are effective retroactive to July 1, 2004.

11 For facilities licensed by the Department of Public Health
12 under the Nursing Home Care Act as Intermediate Care for the
13 Developmentally Disabled facilities or Long Term Care for Under
14 Age 22 facilities, the rates taking effect on July 1, 1998
15 shall include an increase of 3%. For facilities licensed by the
16 Department of Public Health under the Nursing Home Care Act as
17 Skilled Nursing facilities or Intermediate Care facilities,
18 the rates taking effect on July 1, 1998 shall include an
19 increase of 3% plus \$1.10 per resident-day, as defined by the
20 Department. For facilities licensed by the Department of Public
21 Health under the Nursing Home Care Act as Intermediate Care
22 Facilities for the Developmentally Disabled or Long Term Care
23 for Under Age 22 facilities, the rates taking effect on January
24 1, 2006 shall include an increase of 3%. For facilities
25 licensed by the Department of Public Health under the Nursing
26 Home Care Act as Intermediate Care Facilities for the

1 Developmentally Disabled or Long Term Care for Under Age 22
2 facilities, the rates taking effect on January 1, 2009 shall
3 include an increase sufficient to provide a \$0.50 per hour wage
4 increase for non-executive staff.

5 For facilities licensed by the Department of Public Health
6 under the Nursing Home Care Act as Intermediate Care for the
7 Developmentally Disabled facilities or Long Term Care for Under
8 Age 22 facilities, the rates taking effect on July 1, 1999
9 shall include an increase of 1.6% plus \$3.00 per resident-day,
10 as defined by the Department. For facilities licensed by the
11 Department of Public Health under the Nursing Home Care Act as
12 Skilled Nursing facilities or Intermediate Care facilities,
13 the rates taking effect on July 1, 1999 shall include an
14 increase of 1.6% and, for services provided on or after October
15 1, 1999, shall be increased by \$4.00 per resident-day, as
16 defined by the Department.

17 For facilities licensed by the Department of Public Health
18 under the Nursing Home Care Act as Intermediate Care for the
19 Developmentally Disabled facilities or Long Term Care for Under
20 Age 22 facilities, the rates taking effect on July 1, 2000
21 shall include an increase of 2.5% per resident-day, as defined
22 by the Department. For facilities licensed by the Department of
23 Public Health under the Nursing Home Care Act as Skilled
24 Nursing facilities or Intermediate Care facilities, the rates
25 taking effect on July 1, 2000 shall include an increase of 2.5%
26 per resident-day, as defined by the Department.

1 For facilities licensed by the Department of Public Health
2 under the Nursing Home Care Act as skilled nursing facilities
3 or intermediate care facilities, a new payment methodology must
4 be implemented for the nursing component of the rate effective
5 July 1, 2003. The Department of Public Aid (now Healthcare and
6 Family Services) shall develop the new payment methodology
7 using the Minimum Data Set (MDS) as the instrument to collect
8 information concerning nursing home resident condition
9 necessary to compute the rate. The Department shall develop the
10 new payment methodology to meet the unique needs of Illinois
11 nursing home residents while remaining subject to the
12 appropriations provided by the General Assembly. A transition
13 period from the payment methodology in effect on June 30, 2003
14 to the payment methodology in effect on July 1, 2003 shall be
15 provided for a period not exceeding 3 years and 184 days after
16 implementation of the new payment methodology as follows:

17 (A) For a facility that would receive a lower nursing
18 component rate per patient day under the new system than
19 the facility received effective on the date immediately
20 preceding the date that the Department implements the new
21 payment methodology, the nursing component rate per
22 patient day for the facility shall be held at the level in
23 effect on the date immediately preceding the date that the
24 Department implements the new payment methodology until a
25 higher nursing component rate of reimbursement is achieved
26 by that facility.

1 (B) For a facility that would receive a higher nursing
2 component rate per patient day under the payment
3 methodology in effect on July 1, 2003 than the facility
4 received effective on the date immediately preceding the
5 date that the Department implements the new payment
6 methodology, the nursing component rate per patient day for
7 the facility shall be adjusted.

8 (C) Notwithstanding paragraphs (A) and (B), the
9 nursing component rate per patient day for the facility
10 shall be adjusted subject to appropriations provided by the
11 General Assembly.

12 For facilities licensed by the Department of Public Health
13 under the Nursing Home Care Act as Intermediate Care for the
14 Developmentally Disabled facilities or Long Term Care for Under
15 Age 22 facilities, the rates taking effect on March 1, 2001
16 shall include a statewide increase of 7.85%, as defined by the
17 Department.

18 Notwithstanding any other provision of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, except facilities participating
22 in the Department's demonstration program pursuant to the
23 provisions of Title 77, Part 300, Subpart T of the Illinois
24 Administrative Code, the numerator of the ratio used by the
25 Department of Healthcare and Family Services to compute the
26 rate payable under this Section using the Minimum Data Set

1 (MDS) methodology shall incorporate the following annual
2 amounts as the additional funds appropriated to the Department
3 specifically to pay for rates based on the MDS nursing
4 component methodology in excess of the funding in effect on
5 December 31, 2006:

6 (i) For rates taking effect January 1, 2007,
7 \$60,000,000.

8 (ii) For rates taking effect January 1, 2008,
9 \$110,000,000.

10 (iii) For rates taking effect January 1, 2009,
11 \$194,000,000.

12 (iv) (Blank). ~~For rates taking effect April 1, 2011, or~~
13 ~~the first day of the month that begins at least 45 days~~
14 ~~after the effective date of this amendatory Act of the 96th~~
15 ~~General Assembly, \$416,500,000 or an amount as may be~~
16 ~~necessary to complete the transition to the MDS methodology~~
17 ~~for the nursing component of the rate. Increased payments~~
18 ~~under this item (iv) are not due and payable, however,~~
19 ~~until (i) the methodologies described in this paragraph are~~
20 ~~approved by the federal government in an appropriate State~~
21 ~~Plan amendment and (ii) the assessment imposed by Section~~
22 ~~5B-2 of this Code is determined to be a permissible tax~~
23 ~~under Title XIX of the Social Security Act.~~

24 Notwithstanding any other provision of this Section, for
25 facilities licensed by the Department of Public Health under
26 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, the support component of the
2 rates taking effect on January 1, 2008 shall be computed using
3 the most recent cost reports on file with the Department of
4 Healthcare and Family Services no later than April 1, 2005,
5 updated for inflation to January 1, 2006.

6 For facilities licensed by the Department of Public Health
7 under the Nursing Home Care Act as Intermediate Care for the
8 Developmentally Disabled facilities or Long Term Care for Under
9 Age 22 facilities, the rates taking effect on April 1, 2002
10 shall include a statewide increase of 2.0%, as defined by the
11 Department. This increase terminates on July 1, 2002; beginning
12 July 1, 2002 these rates are reduced to the level of the rates
13 in effect on March 31, 2002, as defined by the Department.

14 For facilities licensed by the Department of Public Health
15 under the Nursing Home Care Act as skilled nursing facilities
16 or intermediate care facilities, the rates taking effect on
17 July 1, 2001 shall be computed using the most recent cost
18 reports on file with the Department of Public Aid no later than
19 April 1, 2000, updated for inflation to January 1, 2001. For
20 rates effective July 1, 2001 only, rates shall be the greater
21 of the rate computed for July 1, 2001 or the rate effective on
22 June 30, 2001.

23 Notwithstanding any other provision of this Section, for
24 facilities licensed by the Department of Public Health under
25 the Nursing Home Care Act as skilled nursing facilities or
26 intermediate care facilities, the Illinois Department shall

1 determine by rule the rates taking effect on July 1, 2002,
2 which shall be 5.9% less than the rates in effect on June 30,
3 2002.

4 Notwithstanding any other provision of this Section, for
5 facilities licensed by the Department of Public Health under
6 the Nursing Home Care Act as skilled nursing facilities or
7 intermediate care facilities, if the payment methodologies
8 required under Section 5A-12 and the waiver granted under 42
9 CFR 433.68 are approved by the United States Centers for
10 Medicare and Medicaid Services, the rates taking effect on July
11 1, 2004 shall be 3.0% greater than the rates in effect on June
12 30, 2004. These rates shall take effect only upon approval and
13 implementation of the payment methodologies required under
14 Section 5A-12.

15 Notwithstanding any other provisions of this Section, for
16 facilities licensed by the Department of Public Health under
17 the Nursing Home Care Act as skilled nursing facilities or
18 intermediate care facilities, the rates taking effect on
19 January 1, 2005 shall be 3% more than the rates in effect on
20 December 31, 2004.

21 Notwithstanding any other provision of this Section, for
22 facilities licensed by the Department of Public Health under
23 the Nursing Home Care Act as skilled nursing facilities or
24 intermediate care facilities, effective January 1, 2009, the
25 per diem support component of the rates effective on January 1,
26 2008, computed using the most recent cost reports on file with

1 the Department of Healthcare and Family Services no later than
2 April 1, 2005, updated for inflation to January 1, 2006, shall
3 be increased to the amount that would have been derived using
4 standard Department of Healthcare and Family Services methods,
5 procedures, and inflators.

6 Notwithstanding any other provisions of this Section, for
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as intermediate care facilities that
9 are federally defined as Institutions for Mental Disease, or
10 facilities licensed by the Department of Public Health under
11 the Specialized Mental Health Rehabilitation ~~Facilities~~ Act, a
12 socio-development component rate equal to 6.6% of the
13 facility's nursing component rate as of January 1, 2006 shall
14 be established and paid effective July 1, 2006. The
15 socio-development component of the rate shall be increased by a
16 factor of 2.53 on the first day of the month that begins at
17 least 45 days after January 11, 2008 (the effective date of
18 Public Act 95-707). As of August 1, 2008, the socio-development
19 component rate shall be equal to 6.6% of the facility's nursing
20 component rate as of January 1, 2006, multiplied by a factor of
21 3.53. For services provided on or after July 1, 2012, ~~April 1,~~
22 ~~2011, or the first day of the month that begins at least 45~~
23 ~~days after the effective date of this amendatory Act of the~~
24 ~~96th General Assembly, whichever is later,~~ the Illinois
25 Department may by rule adjust these socio-development
26 component rates, and may use different adjustment

1 methodologies for those facilities participating, and those
2 not participating, in the Illinois Department's demonstration
3 program pursuant to the provisions of Title 77, Part 300,
4 Subpart T of the Illinois Administrative Code, but in no case
5 may such rates be diminished below those in effect on August 1,
6 2008.

7 For facilities licensed by the Department of Public Health
8 under the Nursing Home Care Act as Intermediate Care for the
9 Developmentally Disabled facilities or as long-term care
10 facilities for residents under 22 years of age, the rates
11 taking effect on July 1, 2003 shall include a statewide
12 increase of 4%, as defined by the Department.

13 For facilities licensed by the Department of Public Health
14 under the Nursing Home Care Act as Intermediate Care for the
15 Developmentally Disabled facilities or Long Term Care for Under
16 Age 22 facilities, the rates taking effect on the first day of
17 the month that begins at least 45 days after the effective date
18 of this amendatory Act of the 95th General Assembly shall
19 include a statewide increase of 2.5%, as defined by the
20 Department.

21 Notwithstanding any other provision of this Section, for
22 facilities licensed by the Department of Public Health under
23 the Nursing Home Care Act as skilled nursing facilities or
24 intermediate care facilities, effective January 1, 2005,
25 facility rates shall be increased by the difference between (i)
26 a facility's per diem property, liability, and malpractice

1 insurance costs as reported in the cost report filed with the
2 Department of Public Aid and used to establish rates effective
3 July 1, 2001 and (ii) those same costs as reported in the
4 facility's 2002 cost report. These costs shall be passed
5 through to the facility without caps or limitations, except for
6 adjustments required under normal auditing procedures.

7 Rates established effective each July 1 shall govern
8 payment for services rendered throughout that fiscal year,
9 except that rates established on July 1, 1996 shall be
10 increased by 6.8% for services provided on or after January 1,
11 1997. Such rates will be based upon the rates calculated for
12 the year beginning July 1, 1990, and for subsequent years
13 thereafter until June 30, 2001 shall be based on the facility
14 cost reports for the facility fiscal year ending at any point
15 in time during the previous calendar year, updated to the
16 midpoint of the rate year. The cost report shall be on file
17 with the Department no later than April 1 of the current rate
18 year. Should the cost report not be on file by April 1, the
19 Department shall base the rate on the latest cost report filed
20 by each skilled care facility and intermediate care facility,
21 updated to the midpoint of the current rate year. In
22 determining rates for services rendered on and after July 1,
23 1985, fixed time shall not be computed at less than zero. The
24 Department shall not make any alterations of regulations which
25 would reduce any component of the Medicaid rate to a level
26 below what that component would have been utilizing in the rate

1 effective on July 1, 1984.

2 (2) Shall take into account the actual costs incurred by
3 facilities in providing services for recipients of skilled
4 nursing and intermediate care services under the medical
5 assistance program.

6 (3) Shall take into account the medical and psycho-social
7 characteristics and needs of the patients.

8 (4) Shall take into account the actual costs incurred by
9 facilities in meeting licensing and certification standards
10 imposed and prescribed by the State of Illinois, any of its
11 political subdivisions or municipalities and by the U.S.
12 Department of Health and Human Services pursuant to Title XIX
13 of the Social Security Act.

14 The Department of Healthcare and Family Services shall
15 develop precise standards for payments to reimburse nursing
16 facilities for any utilization of appropriate rehabilitative
17 personnel for the provision of rehabilitative services which is
18 authorized by federal regulations, including reimbursement for
19 services provided by qualified therapists or qualified
20 assistants, and which is in accordance with accepted
21 professional practices. Reimbursement also may be made for
22 utilization of other supportive personnel under appropriate
23 supervision.

24 ~~The Department shall develop enhanced payments to offset~~
25 ~~the additional costs incurred by a facility serving exceptional~~
26 ~~need residents and shall allocate at least \$8,000,000 of the~~

1 ~~funds collected from the assessment established by Section 5B-2~~
2 ~~of this Code for such payments. For the purpose of this~~
3 ~~Section, "exceptional needs" means, but need not be limited to,~~
4 ~~ventilator care, tracheotomy care, bariatric care, complex~~
5 ~~wound care, and traumatic brain injury care. The enhanced~~
6 ~~payments for exceptional need residents under this paragraph~~
7 ~~are not due and payable, however, until (i) the methodologies~~
8 ~~described in this paragraph are approved by the federal~~
9 ~~government in an appropriate State Plan amendment and (ii) the~~
10 ~~assessment imposed by Section 5B-2 of this Code is determined~~
11 ~~to be a permissible tax under Title XIX of the Social Security~~
12 ~~Act.~~

13 (5) Beginning July 1, 2012 the methodologies for
14 reimbursement of nursing facility services as provided under
15 this Section 5-5.4 shall no longer be applicable for bills
16 payable for State fiscal years 2012 and thereafter.

17 (6) (Blank). ~~No payment increase under this Section for the~~
18 ~~MDS methodology, exceptional care residents, or the~~
19 ~~socio development component rate established by Public Act~~
20 ~~96-1530 of the 96th General Assembly and funded by the~~
21 ~~assessment imposed under Section 5B-2 of this Code shall be due~~
22 ~~and payable until after the Department notifies the long term~~
23 ~~care providers, in writing, that the payment methodologies to~~
24 ~~long term care providers required under this Section have been~~
25 ~~approved by the Centers for Medicare and Medicaid Services of~~
26 ~~the U.S. Department of Health and Human Services and the~~

1 ~~waivers under 42 CFR 433.68 for the assessment imposed by this~~
2 ~~Section, if necessary, have been granted by the Centers for~~
3 ~~Medicare and Medicaid Services of the U.S. Department of Health~~
4 ~~and Human Services. Upon notification to the Department of~~
5 ~~approval of the payment methodologies required under this~~
6 ~~Section and the waivers granted under 42 CFR 433.68, all~~
7 ~~increased payments otherwise due under this Section prior to~~
8 ~~the date of notification shall be due and payable within 90~~
9 ~~days of the date federal approval is received.~~

10 (Source: P.A. 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959,
11 eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11;
12 97-10, eff. 6-14-11; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
13 97-584, eff. 8-26-11; revised 10-4-11.)

14 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

15 Sec. 5B-1. Definitions. As used in this Article, unless the
16 context requires otherwise:

17 "Fund" means the Long-Term Care Provider Fund.

18 "Long-term care facility" means (i) a nursing facility,
19 whether public or private and whether organized for profit or
20 not-for-profit, that is subject to licensure by the Illinois
21 Department of Public Health under the Nursing Home Care Act or
22 the ID/DD Community Care Act, including a county nursing home
23 directed and maintained under Section 5-1005 of the Counties
24 Code, and (ii) a part of a hospital in which skilled or
25 intermediate long-term care services within the meaning of

1 Title XVIII or XIX of the Social Security Act are provided;
2 except that the term "long-term care facility" does not include
3 a facility operated by a State agency or operated solely as an
4 intermediate care facility for the mentally retarded within the
5 meaning of Title XIX of the Social Security Act.

6 "Long-term care provider" means (i) a person licensed by
7 the Department of Public Health to operate and maintain a
8 skilled nursing or intermediate long-term care facility or (ii)
9 a hospital provider that provides skilled or intermediate
10 long-term care services within the meaning of Title XVIII or
11 XIX of the Social Security Act. For purposes of this paragraph,
12 "person" means any political subdivision of the State,
13 municipal corporation, individual, firm, partnership,
14 corporation, company, limited liability company, association,
15 joint stock association, or trust, or a receiver, executor,
16 trustee, guardian, or other representative appointed by order
17 of any court. "Hospital provider" means a person licensed by
18 the Department of Public Health to conduct, operate, or
19 maintain a hospital.

20 "Occupied bed days" shall be computed separately for each
21 long-term care facility operated or maintained by a long-term
22 care provider, and means the sum for all beds of the number of
23 days during the month on which each bed was occupied by a
24 resident, other than a resident for whom Medicare Part A is the
25 primary payer.

26 "Licensed bed days" shall be computed separately for each

1 nursing home operated or maintained by a nursing home provider
2 and means, with respect to a nursing home provider, the sum for
3 all nursing home beds of the number of days during a calendar
4 quarter on which each bed is covered by a license issued to
5 that provider under the Nursing Home Care Act or the Hospital
6 Licensing Act.

7 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11;
8 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; revised 10-4-11.)

9 (305 ILCS 5/5B-2) (from Ch. 23, par. 5B-2)

10 Sec. 5B-2. Assessment; no local authorization to tax.

11 (a) For the privilege of engaging in the occupation of
12 long-term care provider, beginning July 1, 2011 an assessment
13 is imposed upon each long-term care provider in an amount equal
14 to \$2.04 ~~\$6.07~~ times the number of licensed ~~occupied~~ bed days
15 due and payable each month. Notwithstanding any provision of
16 any other Act to the contrary, this assessment shall be
17 construed as a tax, but shall not be billed or passed on to any
18 resident of a nursing home operated by the nursing home
19 provider.

20 (b) Nothing in this amendatory Act of 1992 shall be
21 construed to authorize any home rule unit or other unit of
22 local government to license for revenue or impose a tax or
23 assessment upon long-term care providers or the occupation of
24 long-term care provider, or a tax or assessment measured by the
25 income or earnings or occupied bed days or licensed bed days of

1 a long-term care provider.

2 (c) The assessment imposed by this Section that is in
3 excess of \$1.50 per licensed bed day effective prior to July 1,
4 2011 shall not be due and payable, however, until after the
5 Department notifies the long-term care providers, in writing,
6 that the assessment is deemed permissible and the waivers under
7 42 CFR 433.68 for the assessment imposed by this Section, if
8 necessary, have been granted by the Centers for Medicare and
9 Medicaid Services of the U.S. Department of Health and Human
10 Services shall not be due and payable, however, until after the
11 Department notifies the long-term care providers, in writing,
12 that the payment methodologies to long-term care providers
13 required under Section 5-5.4 of this Code have been approved by
14 the Centers for Medicare and Medicaid Services of the U.S.
15 Department of Health and Human Services and the waivers under
16 42 CFR 433.68 for the assessment imposed by this Section, if
17 necessary, have been granted by the Centers for Medicare and
18 Medicaid Services of the U.S. Department of Health and Human
19 Services.

20 (d) The assessment imposed by this Section shall cease to
21 be imposed if the assessment is determined to be an
22 impermissible tax under Title XIX of the Social Security Act or
23 a change in federal law no longer allows revenues from this
24 assessment to be eligible for federal financial participation
25 under Title XIX of the Social Security Act. Moneys in the
26 Long-Term Care Provider Fund derived from assessments imposed

1 prior thereto shall be disbursed in accordance with Section
2 5B-8 to the extent federal financial participation is not
3 reduced due to the impermissibility of the assessments, and any
4 remaining moneys shall be refunded to long-term care providers
5 in proportion to the amounts paid by them.

6 (e) The assessment imposed by this Section shall not take
7 effect or shall cease to be imposed, and any moneys remaining
8 in the Fund shall be refunded to long-term care providers in
9 proportion to the amounts paid by them, if:

10 (1) the sum of General Revenue Fund resources for
11 payments to long-term care providers for the medical
12 assistance program are reduced below the amounts enacted
13 for the State fiscal year 2012; General Revenue Fund
14 resources for the purpose of this Section are defined as
15 any General Revenue appropriation specifically made for
16 long-term care providers or any payments made by other
17 State funds to long-term care providers and means the
18 amount originally enacted for State fiscal year 2012 and
19 may not be reduced for purposes of this Section by
20 allowable appropriation transfers or supplemental
21 appropriation legislation; or

22 (2) the Department of Healthcare and Family Services
23 adopts any administrative rule change to reduce payment
24 rates or alters any payment methodology that reduces any
25 payment rates made to operating long-term care providers
26 under the approved Title XIX or Title XXI State plan in

1 effect April 1, 2011; or

2 (3) the new reimbursement methodology required by July
3 1, 2012 under Section 5-5.2 of this Code is funded less
4 than the aggregate amount required to fund the current rate
5 methodology in effect April 1, 2011 under the approved
6 Title XIX State plan. Amounts attributable to State plan
7 amendments that are pending, but not approved by April 1,
8 2011, are excluded for the purposes of this Section.

9 (Source: P.A. 96-1530, eff. 2-16-11; 97-10, eff. 6-14-11;
10 97-584, eff. 8-26-11.)

11 (305 ILCS 5/5B-4) (from Ch. 23, par. 5B-4)

12 Sec. 5B-4. Payment of assessment; penalty.

13 (a) The assessment imposed by Section 5B-2 shall be due and
14 payable monthly, on the last State business day of the month
15 for licensed ~~occupied~~ bed days reported for the preceding third
16 month prior to the month in which the tax is payable and due. A
17 facility that has delayed payment due to the State's failure to
18 reimburse for services rendered may request an extension on the
19 due date for payment pursuant to subsection (b) and shall pay
20 the assessment within 30 days of reimbursement by the
21 Department. The Illinois Department may provide that county
22 nursing homes directed and maintained pursuant to Section
23 5-1005 of the Counties Code may meet their assessment
24 obligation by certifying to the Illinois Department that county
25 expenditures have been obligated for the operation of the

1 county nursing home in an amount at least equal to the amount
2 of the assessment.

3 (a-5) The Illinois Department shall provide for an
4 electronic submission process for each long-term care facility
5 to report at a minimum the number of occupied bed days of the
6 long-term care facility for the reporting period and other
7 reasonable information the Illinois Department requires for
8 the administration of its responsibilities under this Code.
9 Beginning July 1, 2013, a separate electronic submission shall
10 be completed for each long-term care facility in this State
11 operated by a long-term care provider. The Illinois Department
12 shall prepare an assessment bill stating the amount due and
13 payable each month and submit it to each long-term care
14 facility via an electronic process. Each assessment payment
15 shall be accompanied by a copy of the assessment bill sent to
16 the long-term care facility by the Illinois Department. To the
17 extent practicable, the Department shall coordinate the
18 assessment reporting requirements with other reporting
19 required of long-term care facilities.

20 (b) The Illinois Department is authorized to establish
21 delayed payment schedules for long-term care providers that are
22 unable to make assessment payments when due under this Section
23 due to financial difficulties, as determined by the Illinois
24 Department. The Illinois Department may not deny a request for
25 delay of payment of the assessment imposed under this Article
26 if the long-term care provider has not been paid for services

1 provided during the month on which the assessment is levied.

2 (c) If a long-term care provider fails to pay the full
3 amount of an assessment payment when due (including any
4 extensions granted under subsection (b)), there shall, unless
5 waived by the Illinois Department for reasonable cause, be
6 added to the assessment imposed by Section 5B-2 a penalty
7 assessment equal to the lesser of (i) 5% of the amount of the
8 assessment payment not paid on or before the due date plus 5%
9 of the portion thereof remaining unpaid on the last day of each
10 month thereafter or (ii) 100% of the assessment payment amount
11 not paid on or before the due date. For purposes of this
12 subsection, payments will be credited first to unpaid
13 assessment payment amounts (rather than to penalty or
14 interest), beginning with the most delinquent assessment
15 payments. Payment cycles of longer than 60 days shall be one
16 factor the Director takes into account in granting a waiver
17 under this Section.

18 (c-5) If a long-term care facility fails to file its
19 assessment bill with payment, there shall, unless waived by the
20 Illinois Department for reasonable cause, be added to the
21 assessment due a penalty assessment equal to 25% of the
22 assessment due. After July 1, 2013, no penalty shall be
23 assessed under this Section if the Illinois Department does not
24 provide a process for the electronic submission of the
25 information required by subsection (a-5).

26 (d) Nothing in this amendatory Act of 1993 shall be

1 construed to prevent the Illinois Department from collecting
2 all amounts due under this Article pursuant to an assessment
3 imposed before the effective date of this amendatory Act of
4 1993.

5 (e) Nothing in this amendatory Act of the 96th General
6 Assembly shall be construed to prevent the Illinois Department
7 from collecting all amounts due under this Code pursuant to an
8 assessment, tax, fee, or penalty imposed before the effective
9 date of this amendatory Act of the 96th General Assembly.

10 (f) No installment of the assessment imposed by Section
11 5B-2 shall be due and payable until after the Department
12 notifies the long-term care providers, in writing, that the
13 payment methodologies to long-term care providers required
14 under Section 5-5.4 of this Code have been approved by the
15 Centers for Medicare and Medicaid Services of the U.S.
16 Department of Health and Human Services and the waivers under
17 42 CFR 433.68 for the assessment imposed by this Section, if
18 necessary, have been granted by the Centers for Medicare and
19 Medicaid Services of the U.S. Department of Health and Human
20 Services. Upon notification to the Department of approval of
21 the payment methodologies required under Section 5-5.4 of this
22 Code and the waivers granted under 42 CFR 433.68, all
23 installments otherwise due under Section 5B-4 prior to the date
24 of notification shall be due and payable to the Department upon
25 written direction from the Department within 90 days after
26 issuance by the Comptroller of the payments required under

1 Section 5-5.4 of this Code.

2 (Source: P.A. 96-444, eff. 8-14-09; 96-1530, eff. 2-16-11;
3 97-10, eff. 6-14-11; 97-403, eff. 1-1-12; 97-584, eff. 8-26-11;
4 revised 10-4-11.)

5 (305 ILCS 5/5B-7) (from Ch. 23, par. 5B-7)

6 Sec. 5B-7. Administration; enforcement provisions.

7 (a) To the extent practicable, the Illinois Department
8 shall administer and enforce this Article and collect the
9 assessments, interest, and penalty assessments imposed under
10 this Article, using procedures employed in its administration
11 of this Code generally and, as it deems appropriate, in a
12 manner similar to that in which the Department of Revenue
13 administers and collects the retailers' occupation tax under
14 the Retailers' Occupation Tax Act ("ROTA"). Instead of
15 certificates of registration, the Illinois Department shall
16 establish and maintain a listing of all long-term care
17 providers appearing in the licensing records of the Department
18 of Public Health, which shall show each provider's name,
19 principal place of business, and the name and address of each
20 long-term care facility operated or maintained by the provider
21 in this State. In addition, the following provisions of the
22 Retailers' Occupation Tax Act are incorporated by reference
23 into this Section, except that the Illinois Department and its
24 Director (rather than the Department of Revenue and its
25 Director) and every long-term care provider subject to

1 assessment measured by licensed ~~occupied~~ bed days and to the
2 return filing requirements of this Article (rather than persons
3 subject to retailers' occupation tax measured by gross receipts
4 from the sale of tangible personal property at retail and to
5 the return filing requirements of ROTA) shall have the powers,
6 duties, and rights specified in these ROTA provisions, as
7 modified in this Section or by the Illinois Department in a
8 manner consistent with this Article and except as manifestly
9 inconsistent with the other provisions of this Article:

10 (1) ROTA, Section 4 (examination of return; notice of
11 correction; evidence; limitations; protest and hearing),
12 except that (i) the Illinois Department shall issue notices
13 of assessment liability (rather than notices of tax
14 liability as provided in ROTA, Section 4); (ii) in the case
15 of a fraudulent return or in the case of an extended period
16 agreed to by the Illinois Department and the long-term care
17 provider before the expiration of the limitation period, no
18 notice of assessment liability shall be issued more than 3
19 years after the later of the due date of the return
20 required by Section 5B-5 or the date the return (or an
21 amended return) was filed (rather within the period stated
22 in ROTA, Section 4); and (iii) the penalty provisions of
23 ROTA, Section 4 shall not apply.

24 (2) ROTA, Section 5 (failure to make return; failure to
25 pay assessment), except that the penalty and interest
26 provisions of ROTA, Section 5 shall not apply.

1 (3) ROTA, Section 5a (lien; attachment; termination;
2 notice; protest; review; release of lien; status of lien).

3 (4) ROTA, Section 5b (State lien notices; State lien
4 index; duties of recorder and registrar of titles).

5 (5) ROTA, Section 5c (liens; certificate of release).

6 (6) ROTA, Section 5d (Department not required to
7 furnish bond; claim to property attached or levied upon).

8 (7) ROTA, Section 5e (foreclosure on liens;
9 enforcement).

10 (8) ROTA, Section 5f (demand for payment; levy and sale
11 of property; limitation).

12 (9) ROTA, Section 5g (sale of property; redemption).

13 (10) ROTA, Section 5j (sales on transfers outside usual
14 course of business; report; payment of assessment; rights
15 and duties of purchaser; penalty).

16 (11) ROTA, Section 6 (erroneous payments; credit or
17 refund), provided that (i) the Illinois Department may only
18 apply an amount otherwise subject to credit or refund to a
19 liability arising under this Article; (ii) except in the
20 case of an extended period agreed to by the Illinois
21 Department and the long term care provider prior to the
22 expiration of this limitation period, a claim for credit or
23 refund must be filed no more than 3 years after the due
24 date of the return required by Section 5B-5 (rather than
25 the time limitation stated in ROTA, Section 6); and (iii)
26 credits or refunds shall not bear interest.

1 (12) ROTA, Section 6a (claims for credit or refund).

2 (13) ROTA, Section 6b (tentative determination of
3 claim; notice; hearing; review), provided that a long-term
4 care provider or its representative shall have 60 days
5 (rather than 20 days) within which to file a protest and
6 request for hearing in response to a tentative
7 determination of claim.

8 (14) ROTA, Section 6c (finality of tentative
9 determinations).

10 (15) ROTA, Section 8 (investigations and hearings).

11 (16) ROTA, Section 9 (witness; immunity).

12 (17) ROTA, Section 10 (issuance of subpoenas;
13 attendance of witnesses; production of books and records).

14 (18) ROTA, Section 11 (information confidential;
15 exceptions).

16 (19) ROTA, Section 12 (rules and regulations; hearing;
17 appeals), except that a long-term care provider shall not
18 be required to file a bond or be subject to a lien in lieu
19 thereof in order to seek court review under the
20 Administrative Review Law of a final assessment or revised
21 final assessment or the equivalent thereof issued by the
22 Illinois Department under this Article.

23 (b) In addition to any other remedy provided for and
24 without sending a notice of assessment liability, the Illinois
25 Department may collect an unpaid assessment by withholding, as
26 payment of the assessment, reimbursements or other amounts

1 otherwise payable by the Illinois Department to the provider.

2 (Source: P.A. 87-861.)

3 (305 ILCS 5/5B-8) (from Ch. 23, par. 5B-8)

4 Sec. 5B-8. Long-Term Care Provider Fund.

5 (a) There is created in the State Treasury the Long-Term
6 Care Provider Fund. Interest earned by the Fund shall be
7 credited to the Fund. The Fund shall not be used to replace any
8 moneys appropriated to the Medicaid program by the General
9 Assembly.

10 (b) The Fund is created for the purpose of receiving and
11 disbursing moneys in accordance with this Article.
12 Disbursements from the Fund shall be made only as follows:

13 (1) For payments to nursing facilities, including
14 county nursing facilities but excluding State-operated
15 facilities, under Title XIX of the Social Security Act and
16 Article V of this Code.

17 (2) For the reimbursement of moneys collected by the
18 Illinois Department through error or mistake.

19 (3) For payment of administrative expenses incurred by
20 the Illinois Department or its agent in performing the
21 activities authorized by this Article.

22 (3.5) For reimbursement of expenses incurred by
23 long-term care facilities, and payment of administrative
24 expenses incurred by the Department of Public Health, in
25 relation to the conduct and analysis of background checks

1 for identified offenders under the Nursing Home Care Act.

2 (4) For payments of any amounts that are reimbursable
3 to the federal government for payments from this Fund that
4 are required to be paid by State warrant.

5 (5) For making transfers to the General Obligation Bond
6 Retirement and Interest Fund, as those transfers are
7 authorized in the proceedings authorizing debt under the
8 Short Term Borrowing Act, but transfers made under this
9 paragraph (5) shall not exceed the principal amount of debt
10 issued in anticipation of the receipt by the State of
11 moneys to be deposited into the Fund.

12 (6) For making transfers, at the direction of the
13 Director of the Governor's Office of Management and Budget
14 during each fiscal year beginning on or after July 1, 2011,
15 to other State funds in an annual amount of \$20,000,000 of
16 the tax collected pursuant to this Article for the purpose
17 of enforcement of nursing home standards, support of the
18 ombudsman program, and efforts to expand home and
19 community-based services. No transfer under this paragraph
20 shall occur until the assessment imposed by Section 5B-2 of
21 this Code is determined to be a permissible tax under Title
22 XIX of the Social Security Act. Additionally, no transfer
23 under this paragraph shall occur if any of the conditions
24 under subsection (d) of Section 5B-2 exist ~~(i) the payment~~
25 ~~methodologies created by Public Act 96-1530 under Section~~
26 ~~5-5.4 of this Code have been approved by the Centers for~~

~~Medicare and Medicaid Services of the U.S. Department of Health and Human Services and (ii) the assessment imposed by Section 5B-2 of this Code is determined to be a permissible tax under Title XIX of the Social Security Act.~~

Disbursements from the Fund, other than transfers made pursuant to paragraphs (5) and (6) of this subsection, shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Illinois Department.

(c) The Fund shall consist of the following:

(1) All moneys collected or received by the Illinois Department from the long-term care provider assessment imposed by this Article.

(2) All federal matching funds received by the Illinois Department as a result of expenditures made by the Illinois Department that are attributable to moneys deposited in the Fund.

(3) Any interest or penalty levied in conjunction with the administration of this Article.

(4) (Blank).

(5) All other monies received for the Fund from any other source, including interest earned thereon.

(Source: P.A. 96-1530, eff. 2-16-11; 97-584, eff. 8-26-11.)

(305 ILCS 5/Art. V-E rep.)

Section 10. The Illinois Public Aid Code is amended by

1 repealing Article V-E.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.

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305 ILCS 5/5B-1	from Ch. 23, par. 5B-1
305 ILCS 5/5B-2	from Ch. 23, par. 5B-2
305 ILCS 5/5B-4	from Ch. 23, par. 5B-4
305 ILCS 5/5B-7	from Ch. 23, par. 5B-7
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