

HOUSE BILL NO. 1467

Introduced by

Representatives Kreidt, Ekstrom

1 A BILL for an Act to provide for nursing facility assessments; and to provide a continuing
2 appropriation.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

5 1. "Assessment rate" means the rate established by the commissioner under
6 section 3 of this Act.

7 2. "Commissioner" means the state tax commissioner.

8 3. "Gross revenue" means the revenue paid to a nursing facility for patient care,
9 room, board, and services, less contractual adjustments. The term does not
10 include revenue derived from sources other than operations, including interest and
11 guest meals.

12 4. "Nursing facility" means an institution or a distinct part of an institution established
13 to provide health care under the supervision of a licensed health care practitioner
14 and continuous nursing care for twenty-four or more consecutive hours to two or
15 more residents who are not related to the licensee by marriage, blood, or adoption
16 and who do not require care in a hospital setting.

17 5. "Patient days" means the total number of patients occupying beds in a nursing
18 facility, determined as of 11:59 p.m. of each day, for all days in the calendar period
19 for which an assessment is being reported and paid. For purposes of this
20 subsection, if a nursing facility patient is admitted and discharged on the same day,
21 the patient is deemed to be present on 11:59 p.m. of that day.

22 **SECTION 2. Nursing facility assessment.**

23 1. A nursing facility assessment is imposed on each nursing facility in this state.

- 1 2. The amount of the assessment equals the assessment rate times the number of
2 patient days at the nursing facility for a calendar quarter. An assessment may be
3 imposed only in a calendar quarter beginning after December 31, 2007, for which
4 the nursing facility reimbursement rate is calculated according to the methodology
5 provided for in subsection 4 of section 8 of this Act and in accordance with the
6 payment rules of the department of human services.
- 7 3. The assessment must be reported on a form prescribed by the commissioner and
8 must contain the information required to be reported by the commissioner. The
9 assessment form must be filed with the commissioner before the thirtieth day of the
10 month following the end of the calendar quarter for which the assessment is being
11 reported. The nursing facility shall pay the assessment at the time the facility files
12 the assessment report. The payment must accompany the report unless the
13 payment is transmitted electronically.
- 14 4. A nursing facility is not guaranteed that any additional moneys paid to the facility in
15 the form of reimbursements calculated according to the methodology provided for
16 in subsection 4 of section 8 of this Act will equal or exceed the amount of the
17 nursing facility assessment paid by the facility.

18 **SECTION 3. Assessment rate.**

- 19 1. Before June fifteenth of each year, the commissioner shall establish an
20 assessment rate for nursing facilities that applies prospectively to the twelve-month
21 period beginning July first of that year. The assessment rate must be a rate
22 estimated to collect an amount that does not exceed three percent of the annual
23 gross revenue of all nursing facilities in this state, as determined from the previous
24 year's cost reports or other required revenue reports, excluding the annual gross
25 revenue of nursing facilities that are exempt from the assessment imposed under
26 section 2 of this Act.
- 27 2. Before June fifteenth of each year, the commissioner shall refund any overage in
28 tax dollars collected under section 2 of this Act which exceeds the maximum
29 percentage of the projected annual gross revenue of all nursing facilities in this
30 state as described in subsection 1. The commissioner shall refund any overage
31 described in this subsection by crediting the percentage of the overage attributable

1 to each nursing facility subject to the assessment described in section 2 of this Act
2 against taxes owed by that facility in succeeding assessment periods. The
3 commissioner may collect any delinquent assessments, but may not collect any
4 underages in actual collections through an adjustment in assessment rates.

5 **SECTION 4. Penalty for failure to pay assessment.**

- 6 1. A nursing facility that fails to file a report or pay an assessment under section 2 of
7 this Act by the date the report or payment is due is subject to a penalty of five
8 hundred dollars per day of delinquency. The total amount of penalties imposed
9 under this section for each reporting period may not exceed five percent of the
10 assessment for the reporting period for which penalties are being imposed.
11 2. Penalties imposed under this section must be collected by the commissioner and
12 deposited in the nursing facility quality assurance fund.
13 3. Penalties paid under this section are in addition to and not in lieu of the
14 assessment imposed under section 2 of this Act.

15 **SECTION 5. Claim for refund.** A nursing facility that has paid an amount that is not
16 required under this Act may file a claim for a refund with the commissioner.

17 **SECTION 6. Records - Audits.**

- 18 1. Each nursing facility subject to assessment under section 2 of this Act shall
19 maintain records sufficient to determine the amount of the assessment under
20 section 2 of this Act.
21 2. Unless otherwise exempt, a nursing facility shall report the payment of the
22 assessment as an allowable cost for medical assistance reimbursement purposes.
23 3. The commissioner may audit the records of any nursing facility in this state to
24 determine compliance with this Act. The commissioner may audit records at any
25 time for a period of three years following the date an assessment is due to be
26 reported and paid under section 2 of this Act.

27 **SECTION 7. Assessments - Deposits - Nursing facility quality assurance fund.**

28 The commissioner shall deposit amount collected by the commissioner from the assessment
29 under section 2 in the nursing facility quality assurance fund.

30 **SECTION 8. Nursing facility quality assurance fund.**

- 1 1. The nursing facility quality assurance fund is established in the state treasury.
2 Interest earned by the nursing facility quality assurance fund must be credited to
3 the fund.
- 4 2. Amounts in the nursing facility quality assurance fund are continuously
5 appropriated to the commissioner for the purposes of paying refunds due under
6 section 5 of this Act and funding nursing facilities.
- 7 3. Funds in the nursing facility quality assurance fund and the matching federal
8 financial participation under title XIX of the Social Security Act may be used to fund
9 medicaid-certified nursing facilities using the reimbursement methodology
10 described in subsection 4.
- 11 4. The reimbursement methodology used to make additional payments to
12 medicaid-certified nursing facilities includes:
 - 13 a. Rebasing at least every four years; and
 - 14 b. Adjusting for inflation annually, at a minimum of the consumer price index and
15 at a maximum of six percent.

16 **SECTION 9. Adjustments.** An assessment in a calendar quarter may be adjusted as
17 provided in subsection 2 of section 3 of this Act to take into account overages or underages
18 raised under the assessment rate set under subsection 1 of section 3 of this Act. An
19 adjustment under this subsection may be made at any time.