

**HOUSE BILL NO. 1234**

Introduced by

Representatives Weisz, Porter

1 A BILL for an Act to amend and reenact ~~subsection 3 of section 50-24.4-06, subsection 6 of~~  
2 ~~section 50-24.4-07, and~~ section 50-24.4-15 of the North Dakota Century Code, relating to  
3 nursing home rate determination; and to provide an effective date.

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

5 ~~**SECTION 1. AMENDMENT.** Subsection 3 of section 50-24.4-06 of the North Dakota~~  
6 ~~Century Code is amended and reenacted as follows:~~

7 ~~3. For purposes of determining rates, the department shall:~~

8 ~~a. Include, contingent upon approval of the medicaid state plan by the centers for~~  
9 ~~medicare and medicaid services, allowable bad debt expenses in an amount not~~  
10 ~~to exceed one hundred eighty days of resident care per year or an aggregate of~~  
11 ~~three hundred sixty days of resident care for any one individual; and~~

12 ~~b. Include allowable bad debt expenses in the property cost category in the report~~  
13 ~~year in which the bad debt is determined to be uncollectible with no likelihood of~~  
14 ~~future recovery.~~

15 ~~c. Notwithstanding section 50-24.4-07, include as an allowable cost any tax paid by~~  
16 ~~a basic care or nursing facility due to provisions of the federal Patient Protection~~  
17 ~~and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and~~  
18 ~~Education Reconciliation Act of 2010 [Pub. L. 111-152].~~

19 ~~**SECTION 2. AMENDMENT.** Subsection 6 of section 50-24.4-07 of the North Dakota~~  
20 ~~Century Code is amended and reenacted as follows:~~

21 ~~6. The facility shall report the education expense separately on the facility's cost~~  
22 ~~report. The expense is allowed as a passthrough and is limited only by the fifteen~~  
23 ~~thousand dollar maximum per individual.~~

1       **SECTION 1. AMENDMENT.** Section 50-24.4-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **50-24.4-15. Property-related ~~Property~~ costs.**

- 4       1. The department shall include in the ratesetting system for nursing homes a payment  
5 mechanism for the use of real and personal property which provides for depreciation  
6 and related interest ~~property~~ costs. The property cost payment mechanism must:
- 7       a. Recognize the valuation basis of assets acquired in a bona fide transaction as an  
8 ongoing operation after July 1, 1985, limited to the lowest of:
    - 9           (1) Purchase price paid by the purchaser;
    - 10          (2) Fair market value at the time of sale; or
    - 11          (3) Seller's cost basis, increased by one-half of the increase in the consumer  
12 price index for all urban consumers (United States city average) from the  
13 date of acquisition by the seller to the date of acquisition by the buyer, less  
14 accumulated depreciation.
  - 15       b. Recognize depreciation on land improvements, buildings, and fixed equipment  
16 acquired, as an ongoing operation over the estimated useful remaining life of the  
17 asset as determined by a qualified appraiser.
  - 18       c. Recognize depreciation on movable equipment acquired as an ongoing operation  
19 after August 1, 1995, over a composite remaining useful life.
  - 20       d. Provide for an interest expense limitation determined by the department and  
21 established by rule.
  - 22       e. Establish a per bed property cost limitation considering single and double  
23 occupancy construction. The double room limit after June 30, 2015, is one  
24 hundred thirty eight thousand and the single room limit is two hundred seven  
25 thousand. These amounts are inflated each succeeding year by the consumer  
26 price index.
  - 27       f. Recognize increased lease costs of a nursing home operator to the extent the  
28 lessor has incurred increased costs related to the ownership of the facility, the  
29 increased costs are charged to the lessee, and the increased costs would be  
30 allowable had they been incurred directly by the lessee.

1 g. Recognize any mandated costs, fees, or other moneys paid to the attorney  
2 general through transactions under sections 10-33-144 through 10-33-149.

3 2. For rate years beginning after December 31, 2003, the limitations of paragraph 3 of  
4 subdivision a of subsection 1 do not apply to the valuation basis of assets purchased  
5 between July 1, 1985, and July 1, 2000. The provisions of this subsection may not be  
6 applied retroactively to any rate year before July 1, 2005.

7 3. For rate years beginning after December 31, 2007, the limitations of subdivision e of  
8 subsection 1 do not apply to the valuation basis of assets acquired as a result of a  
9 natural disaster before December 31, 2006. The provisions of this subsection may not  
10 be applied retroactively to any rate year before January 1, 2008~~department shall allow~~  
11 ~~a maximum daily payment of property costs in an amount not to exceed the average~~  
12 ~~daily property cost rate on January 1, 2015, of all nursing homes in the state. The~~  
13 ~~department shall adjust the maximum daily payment each January by the amount of~~  
14 ~~the inflationary increase authorized by the legislative assembly in the department's~~  
15 ~~biennial appropriation. The property rate must be calculated based on ninety percent~~  
16 ~~occupancy and must take into account the occupancy rate of the facility and the~~  
17 ~~number of licensed beds. A facility with ninety percent occupancy is entitled to receive~~  
18 ~~one hundred percent of the property rate. For an occupancy rate less than ninety~~  
19 ~~percent, a facility's property cost rate must be one hundred percent of the calculated~~  
20 ~~rate, reduced by two additional percentage points for every percent under ninety~~  
21 ~~percent of occupancy rate down to seventy percent of occupancy for that facility. For~~  
22 ~~an occupancy rate greater than ninety percent, a facility's property cost rate must be~~  
23 ~~one hundred percent of the calculated rate increased by one additional percentage~~  
24 ~~point for every percent over ninety percent occupancy up to ninety-five percent of~~  
25 ~~occupancy for that facility. The department shall round partial occupancy percentage~~  
26 ~~points of less than one-half down to the nearest full percentage point and shall round~~  
27 ~~partial occupancy percentage points of one-half or greater up to the nearest full~~  
28 ~~percentage point. For purposes of this section, "property costs" means those costs~~  
29 ~~identified by the department in the cost category for allowable real property costs.~~

30 **SECTION 2. EFFECTIVE DATE.** This Act is effective for rate years beginning after  
31 December 31, 2016.