

**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.