



Sen. Toi W. Hutchinson

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1 AMENDMENT TO SENATE BILL 1368

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1368 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-5.4 as follows:

6 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

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

12 (1) Provide for the determination of a facility's payment  
13 for nursing facility or ICF/DD services on a prospective basis.  
14 The amount of the payment rate for all nursing facilities  
15 certified by the Department of Public Health under the ID/DD  
16 Community Care Act or the Nursing Home Care Act as Intermediate

1 Care for the Developmentally Disabled facilities, Long Term  
2 Care for Under Age 22 facilities, Skilled Nursing facilities,  
3 or Intermediate Care facilities under the medical assistance  
4 program shall be prospectively established annually on the  
5 basis of historical, financial, and statistical data  
6 reflecting actual costs from prior years, which shall be  
7 applied to the current rate year and updated for inflation,  
8 except that the capital cost element for newly constructed  
9 facilities shall be based upon projected budgets. The annually  
10 established payment rate shall take effect on July 1 in 1984  
11 and subsequent years. No rate increase and no update for  
12 inflation shall be provided on or after July 1, 1994 and before  
13 January 1, 2014, unless specifically provided for in this  
14 Section. The changes made by Public Act 93-841 extending the  
15 duration of the prohibition against a rate increase or update  
16 for inflation are effective retroactive to July 1, 2004.

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, 1998  
21 shall include an increase of 3%. For facilities licensed by the  
22 Department of Public Health under the Nursing Home Care Act as  
23 Skilled Nursing facilities or Intermediate Care facilities,  
24 the rates taking effect on July 1, 1998 shall include an  
25 increase of 3% plus \$1.10 per resident-day, as defined by the  
26 Department. For facilities licensed by the Department of Public

1 Health under the Nursing Home Care Act as Intermediate Care  
2 Facilities for the Developmentally Disabled or Long Term Care  
3 for Under Age 22 facilities, the rates taking effect on January  
4 1, 2006 shall include an increase of 3%. For facilities  
5 licensed by the Department of Public Health under the Nursing  
6 Home Care Act as Intermediate Care Facilities for the  
7 Developmentally Disabled or Long Term Care for Under Age 22  
8 facilities, the rates taking effect on January 1, 2009 shall  
9 include an increase sufficient to provide a \$0.50 per hour wage  
10 increase for non-executive staff.

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, 1999  
15 shall include an increase of 1.6% plus \$3.00 per resident-day,  
16 as defined by the Department. For facilities licensed by the  
17 Department of Public Health under the Nursing Home Care Act as  
18 Skilled Nursing facilities or Intermediate Care facilities,  
19 the rates taking effect on July 1, 1999 shall include an  
20 increase of 1.6% and, for services provided on or after October  
21 1, 1999, shall be increased by \$4.00 per resident-day, as  
22 defined by the Department.

23 For facilities licensed by the Department of Public Health  
24 under the Nursing Home Care Act as Intermediate Care for the  
25 Developmentally Disabled facilities or Long Term Care for Under  
26 Age 22 facilities, the rates taking effect on July 1, 2000

1 shall include an increase of 2.5% per resident-day, as defined  
2 by the Department. For facilities licensed by the Department of  
3 Public Health under the Nursing Home Care Act as Skilled  
4 Nursing facilities or Intermediate Care facilities, the rates  
5 taking effect on July 1, 2000 shall include an increase of 2.5%  
6 per resident-day, as defined by the Department.

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

23 (A) For a facility that would receive a lower nursing  
24 component rate per patient day under the new system than  
25 the facility received effective on the date immediately  
26 preceding the date that the Department implements the new

1 payment methodology, the nursing component rate per  
2 patient day for the facility shall be held at the level in  
3 effect on the date immediately preceding the date that the  
4 Department implements the new payment methodology until a  
5 higher nursing component rate of reimbursement is achieved  
6 by that facility.

7 (B) For a facility that would receive a higher nursing  
8 component rate per patient day under the payment  
9 methodology in effect on July 1, 2003 than the facility  
10 received effective on the date immediately preceding the  
11 date that the Department implements the new payment  
12 methodology, the nursing component rate per patient day for  
13 the facility shall be adjusted.

14 (C) Notwithstanding paragraphs (A) and (B), the  
15 nursing component rate per patient day for the facility  
16 shall be adjusted subject to appropriations provided by the  
17 General Assembly.

18 For facilities licensed by the Department of Public Health  
19 under the Nursing Home Care Act as Intermediate Care for the  
20 Developmentally Disabled facilities or Long Term Care for Under  
21 Age 22 facilities, the rates taking effect on March 1, 2001  
22 shall include a statewide increase of 7.85%, as defined by the  
23 Department.

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, except facilities participating  
2 in the Department's demonstration program pursuant to the  
3 provisions of Title 77, Part 300, Subpart T of the Illinois  
4 Administrative Code, the numerator of the ratio used by the  
5 Department of Healthcare and Family Services to compute the  
6 rate payable under this Section using the Minimum Data Set  
7 (MDS) methodology shall incorporate the following annual  
8 amounts as the additional funds appropriated to the Department  
9 specifically to pay for rates based on the MDS nursing  
10 component methodology in excess of the funding in effect on  
11 December 31, 2006:

12 (i) For rates taking effect January 1, 2007,  
13 \$60,000,000.

14 (ii) For rates taking effect January 1, 2008,  
15 \$110,000,000.

16 (iii) For rates taking effect January 1, 2009,  
17 \$194,000,000.

18 (iv) For rates taking effect April 1, 2011, or the  
19 first day of the month that begins at least 45 days after  
20 the effective date of this amendatory Act of the 96th  
21 General Assembly, \$416,500,000 or an amount as may be  
22 necessary to complete the transition to the MDS methodology  
23 for the nursing component of the rate. Increased payments  
24 under this item (iv) are not due and payable, however,  
25 until (i) the methodologies described in this paragraph are  
26 approved by the federal government in an appropriate State

1 Plan amendment and (ii) the assessment imposed by Section  
2 5B-2 of this Code is determined to be a permissible tax  
3 under Title XIX of the Social Security Act.

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, the support component of the  
8 rates taking effect on January 1, 2008 shall be computed using  
9 the most recent cost reports on file with the Department of  
10 Healthcare and Family Services no later than April 1, 2005,  
11 updated for inflation to January 1, 2006.

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 April 1, 2002  
16 shall include a statewide increase of 2.0%, as defined by the  
17 Department. This increase terminates on July 1, 2002; beginning  
18 July 1, 2002 these rates are reduced to the level of the rates  
19 in effect on March 31, 2002, as defined by the Department.

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

1 of the rate computed for July 1, 2001 or the rate effective on  
2 June 30, 2001.

3 Notwithstanding any other provision of this Section, for  
4 facilities licensed by the Department of Public Health under  
5 the Nursing Home Care Act as skilled nursing facilities or  
6 intermediate care facilities, the Illinois Department shall  
7 determine by rule the rates taking effect on July 1, 2002,  
8 which shall be 5.9% less than the rates in effect on June 30,  
9 2002.

10 Notwithstanding any other provision of this Section, for  
11 facilities licensed by the Department of Public Health under  
12 the Nursing Home Care Act as skilled nursing facilities or  
13 intermediate care facilities, if the payment methodologies  
14 required under Section 5A-12 and the waiver granted under 42  
15 CFR 433.68 are approved by the United States Centers for  
16 Medicare and Medicaid Services, the rates taking effect on July  
17 1, 2004 shall be 3.0% greater than the rates in effect on June  
18 30, 2004. These rates shall take effect only upon approval and  
19 implementation of the payment methodologies required under  
20 Section 5A-12.

21 Notwithstanding any other provisions 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, the rates taking effect on  
25 January 1, 2005 shall be 3% more than the rates in effect on  
26 December 31, 2004.



1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, effective January 1, 2009, the  
5 per diem support component of the rates effective on January 1,  
6 2008, computed using the most recent cost reports on file with  
7 the Department of Healthcare and Family Services no later than  
8 April 1, 2005, updated for inflation to January 1, 2006, shall  
9 be increased to the amount that would have been derived using  
10 standard Department of Healthcare and Family Services methods,  
11 procedures, and inflators.

12           Notwithstanding any other provisions of this Section, for  
13 facilities licensed by the Department of Public Health under  
14 the Nursing Home Care Act as intermediate care facilities that  
15 are federally defined as Institutions for Mental Disease, or  
16 facilities licensed by the Department of Public Health under  
17 the Specialized Mental Health Rehabilitation Act, a  
18 socio-development component rate equal to 6.6% of the  
19 facility's nursing component rate as of January 1, 2006 shall  
20 be established and paid effective July 1, 2006. The  
21 socio-development component of the rate shall be increased by a  
22 factor of 2.53 on the first day of the month that begins at  
23 least 45 days after January 11, 2008 (the effective date of  
24 Public Act 95-707). As of August 1, 2008, the socio-development  
25 component rate shall be equal to 6.6% of the facility's nursing  
26 component rate as of January 1, 2006, multiplied by a factor of

1 3.53. For services provided on or after April 1, 2011, or the  
2 first day of the month that begins at least 45 days after the  
3 effective date of this amendatory Act of the 96th General  
4 Assembly, whichever is later, the Illinois Department may by  
5 rule adjust these socio-development component rates, and may  
6 use different adjustment methodologies for those facilities  
7 participating, and those not participating, in the Illinois  
8 Department's demonstration program pursuant to the provisions  
9 of Title 77, Part 300, Subpart T of the Illinois Administrative  
10 Code, but in no case may such rates be diminished below those  
11 in effect on August 1, 2008.

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 as long-term care  
15 facilities for residents under 22 years of age, the rates  
16 taking effect on July 1, 2003 shall include a statewide  
17 increase of 4%, as defined by the Department.

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

26 Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under  
2 the Nursing Home Care Act as skilled nursing facilities or  
3 intermediate care facilities, effective January 1, 2005,  
4 facility rates shall be increased by the difference between (i)  
5 a facility's per diem property, liability, and malpractice  
6 insurance costs as reported in the cost report filed with the  
7 Department of Public Aid and used to establish rates effective  
8 July 1, 2001 and (ii) those same costs as reported in the  
9 facility's 2002 cost report. These costs shall be passed  
10 through to the facility without caps or limitations, except for  
11 adjustments required under normal auditing procedures.

12 Rates established effective each July 1 shall govern  
13 payment for services rendered throughout that fiscal year,  
14 except that rates established on July 1, 1996 shall be  
15 increased by 6.8% for services provided on or after January 1,  
16 1997. Such rates will be based upon the rates calculated for  
17 the year beginning July 1, 1990, and for subsequent years  
18 thereafter until June 30, 2001 shall be based on the facility  
19 cost reports for the facility fiscal year ending at any point  
20 in time during the previous calendar year, updated to the  
21 midpoint of the rate year. The cost report shall be on file  
22 with the Department no later than April 1 of the current rate  
23 year. Should the cost report not be on file by April 1, the  
24 Department shall base the rate on the latest cost report filed  
25 by each skilled care facility and intermediate care facility,  
26 updated to the midpoint of the current rate year. In

1 determining rates for services rendered on and after July 1,  
2 1985, fixed time shall not be computed at less than zero. The  
3 Department shall not make any alterations of regulations which  
4 would reduce any component of the Medicaid rate to a level  
5 below what that component would have been utilizing in the rate  
6 effective on July 1, 1984.

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

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

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

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

1 utilization of other supportive personnel under appropriate  
2 supervision.

3 The Department shall develop enhanced payments to offset  
4 the additional costs incurred by a facility serving exceptional  
5 need residents and shall allocate at least \$8,000,000 of the  
6 funds collected from the assessment established by Section 5B-2  
7 of this Code for such payments. For the purpose of this  
8 Section, "exceptional needs" means, but need not be limited to,  
9 ventilator care, tracheotomy care, bariatric care, complex  
10 wound care, and traumatic brain injury care. The enhanced  
11 payments for exceptional need residents under this paragraph  
12 are not due and payable, however, until (i) the methodologies  
13 described in this paragraph are approved by the federal  
14 government in an appropriate State Plan amendment and (ii) the  
15 assessment imposed by Section 5B-2 of this Code is determined  
16 to be a permissible tax under Title XIX of the Social Security  
17 Act.

18 Beginning January 1, 2014 the methodologies for  
19 reimbursement of nursing facility services as provided under  
20 this Section 5-5.4 shall no longer be applicable for services  
21 provided on or after January 1, 2014.

22 No payment increase under this Section for the MDS  
23 methodology, exceptional care residents, or the  
24 socio-development component rate established by Public Act  
25 96-1530 of the 96th General Assembly and funded by the  
26 assessment imposed under Section 5B-2 of this Code shall be due

1 and payable until after the Department notifies the long-term  
2 care providers, in writing, that the payment methodologies to  
3 long-term care providers required under this Section have been  
4 approved by the Centers for Medicare and Medicaid Services of  
5 the U.S. Department of Health and Human Services and the  
6 waivers under 42 CFR 433.68 for the assessment imposed by this  
7 Section, if necessary, have been granted by the Centers for  
8 Medicare and Medicaid Services of the U.S. Department of Health  
9 and Human Services. Upon notification to the Department of  
10 approval of the payment methodologies required under this  
11 Section and the waivers granted under 42 CFR 433.68, all  
12 increased payments otherwise due under this Section prior to  
13 the date of notification shall be due and payable within 90  
14 days of the date federal approval is received.

15 On and after July 1, 2012, the Department shall reduce any  
16 rate of reimbursement for services or other payments or alter  
17 any methodologies authorized by this Code to reduce any rate of  
18 reimbursement for services or other payments in accordance with  
19 Section 5-5e.

20 For facilities licensed by the Department of Public Health  
21 under the ID/DD Community 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 July 1,  
24 2013 shall include an increase sufficient to provide a \$1 per  
25 hour wage increase for direct care staff, front-line  
26 supervisors, nurses, and non-administrative support staff.

1 (Source: P.A. 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959,  
2 eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11;  
3 97-10, eff. 6-14-11; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;  
4 97-584, eff. 8-26-11; 97-689, eff. 6-14-12; 97-813, eff.  
5 7-13-12.)

6 Section 99. Effective date. This Act takes effect July 1,  
7 2013.".