

MAR 15 2005
Place On Calendar

HOUSE FILE 788
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 124)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a nursing facility quality assurance
2 assessment, providing a contingent effective date, providing
3 for retroactive applicability, and providing an effective
4 date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 788

1 Section 1. Section 249A.20B, Code 2005, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 249A.20B NURSING FACILITY QUALITY ASSURANCE ASSESSMENT.

5 1. The department may assess licensed nursing facilities a
6 quality assurance assessment not to exceed six percent of the
7 total annual revenue of all nursing facilities, in the
8 aggregate. The maximum assessment shall be consistent with
9 the guidelines established by the centers for Medicare and
10 Medicaid services of the United States department of health
11 and human services and the corresponding waiver request
12 submitted in accordance with this section.

13 2. The department may require that the quality assurance
14 assessment be paid to the department by a nursing facility in
15 equal monthly amounts on or before the fifteenth day of the
16 month, or the department may deduct the monthly assessment
17 amount from the medical assistance payments to a nursing
18 facility. The amount deducted from medical assistance
19 payments shall not exceed the total amount of the fee due.
20 The department shall assess interest on any assessment amount
21 not paid or on any assessment amount paid after the date the
22 assessment is due to be paid.

23 3. The department of human services shall provide a
24 reimbursement to nursing facilities under this section. The
25 reimbursement amount shall be calculated as a per patient day
26 amount and shall be paid to nursing facilities in addition to
27 the reimbursement payment specified in 2001 Iowa Acts, chapter
28 192, section 4, subsection 2, paragraph "c".

29 4. In addition to the reimbursement amount paid pursuant
30 to subsection 3, and the reimbursement payment specified in
31 2001 Iowa Acts, chapter 192, section 4, subsection 2,
32 paragraph "c", the department may pay nursing facilities an
33 additional amount during the period in which the quality
34 assurance assessment is provided under this section as a per
35 patient day amount.

1 5. Revenue generated from the quality assurance assessment
2 less any amount paid to nursing facilities under subsections 3
3 and 4, shall be deposited in the senior living trust fund
4 created in section 249H.4.

5 6. If federal financial participation to match the
6 assessment made under subsection 1 becomes unavailable under
7 federal law or if federal approval of the assessment is
8 otherwise terminated following approval:

9 a. The department shall terminate the imposition of the
10 assessment beginning on the date that the federal statutory,
11 regulatory, or interpretive changes take effect.

12 b. The department shall terminate payment of the
13 reimbursement amount pursuant to subsection 3 and the
14 additional amount pursuant to subsection 4.

15 c. The department is not required to continue payment or
16 to replace payment of the reimbursement amount or any
17 additional payment with state-only funds.

18 7. The department may procure a sole source contract to
19 implement the provisions of this section.

20 8. This section shall not be interpreted to authorize the
21 department to seek federal approval to implement any other
22 quality assurance assessment unless specifically authorized by
23 the general assembly.

24 9. For the purposes of this section, "nursing facility"
25 means nursing facility as defined in section 135C.1, excluding
26 residential care facilities and nursing facilities that are
27 operated by the state.

28 10. The department of human services may adopt
29 administrative rules under section 17A.4, subsection 2, and
30 section 17A.5, subsection 2, paragraph "b", to implement this
31 section.

32 **Sec. 2. STATE PLAN AMENDMENT -- QUALITY ASSURANCE**
33 **ASSESSMENT -- WAIVER OF UNIFORM TAX.** If the department of
34 human services determines that the opportunities for the state
35 to receive additional federal funding under the medical

1 assistance program will not be jeopardized by implementation
2 of a quality assurance assessment on licensed nursing
3 facilities, the department shall do both of the following:

4 1. Submit a medical assistance state plan amendment to the
5 centers for Medicare and Medicaid services of the United
6 States department of health and human services to effectuate
7 the nursing facility quality assurance assessment. The
8 department of human services may take any necessary steps to
9 preserve the original applicability date of October 1, 2003,
10 established pursuant to 2003 Iowa Acts, chapter 112, section
11 4, subsection 9, as amended by 2004 Iowa Acts, chapter 1085,
12 sections 8 and 10.

13 2. Submit an application to the secretary of the United
14 States department of health and human services to request a
15 waiver of the uniform tax requirement pursuant to 42 U.S.C. §
16 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2).

17 Sec. 3. CONTINGENT EFFECTIVE DATE.

18 1. Section 1 of this Act, amending section 249A.20B, shall
19 not take effect unless all of the following conditions are
20 met:

21 a. The department of human services receives approval of
22 both the medical assistance state plan amendment submitted
23 pursuant to section 2 of this Act from the centers for
24 Medicare and Medicaid services of the United States department
25 of health and human services to effectuate the nursing
26 facility quality assurance assessment and of the application
27 to the secretary of the United States department of health and
28 human services for a waiver of the uniform tax requirement
29 pursuant to 42 U.S.C. § 1396(w)(3)(E) and 42 C.F.R. §
30 433.68(e)(2) submitted pursuant to section 2 of this Act.

31 b. The reimbursement payments and any additional payments
32 proposed to be made are not deemed hold harmless payments by
33 the centers for Medicare and Medicaid services of the United
34 States department of health and human services, contrary to
35 federal rules regarding allowable health care provider taxes.

MAR 15 2005
Place On Calendar

HOUSE FILE 788
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 124)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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A BILL FOR

1 An Act relating to a nursing facility quality assurance
2 assessment, providing a contingent effective date, providing
3 for retroactive applicability, and providing an effective
4 date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 788

1 Section 1. Section 249A.20B, Code 2005, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 249A.20B NURSING FACILITY QUALITY ASSURANCE ASSESSMENT.

5 1. The department may assess licensed nursing facilities a
6 quality assurance assessment not to exceed six percent of the
7 total annual revenue of all nursing facilities, in the
8 aggregate. The maximum assessment shall be consistent with
9 the guidelines established by the centers for Medicare and
10 Medicaid services of the United States department of health
11 and human services and the corresponding waiver request
12 submitted in accordance with this section.

13 2. The department may require that the quality assurance
14 assessment be paid to the department by a nursing facility in
15 equal monthly amounts on or before the fifteenth day of the
16 month, or the department may deduct the monthly assessment
17 amount from the medical assistance payments to a nursing
18 facility. The amount deducted from medical assistance
19 payments shall not exceed the total amount of the fee due.
20 The department shall assess interest on any assessment amount
21 not paid or on any assessment amount paid after the date the
22 assessment is due to be paid.

23 3. The department of human services shall provide a
24 reimbursement to nursing facilities under this section. The
25 reimbursement amount shall be calculated as a per patient day
26 amount and shall be paid to nursing facilities in addition to
27 the reimbursement payment specified in 2001 Iowa Acts, chapter
28 192, section 4, subsection 2, paragraph "c".

29 4. In addition to the reimbursement amount paid pursuant
30 to subsection 3, and the reimbursement payment specified in
31 2001 Iowa Acts, chapter 192, section 4, subsection 2,
32 paragraph "c", the department may pay nursing facilities an
33 additional amount during the period in which the quality
34 assurance assessment is provided under this section as a per
35 patient day amount.

1 5. Revenue generated from the quality assurance assessment
2 less any amount paid to nursing facilities under subsections 3
3 and 4, shall be deposited in the senior living trust fund
4 created in section 249H.4.

5 6. If federal financial participation to match the
6 assessment made under subsection 1 becomes unavailable under
7 federal law or if federal approval of the assessment is
8 otherwise terminated following approval:

9 a. The department shall terminate the imposition of the
10 assessment beginning on the date that the federal statutory,
11 regulatory, or interpretive changes take effect.

12 b. The department shall terminate payment of the
13 reimbursement amount pursuant to subsection 3 and the
14 additional amount pursuant to subsection 4.

15 c. The department is not required to continue payment or
16 to replace payment of the reimbursement amount or any
17 additional payment with state-only funds.

18 7. The department may procure a sole source contract to
19 implement the provisions of this section.

20 8. This section shall not be interpreted to authorize the
21 department to seek federal approval to implement any other
22 quality assurance assessment unless specifically authorized by
23 the general assembly.

24 9. For the purposes of this section, "nursing facility"
25 means nursing facility as defined in section 135C.1, excluding
26 residential care facilities and nursing facilities that are
27 operated by the state.

28 10. The department of human services may adopt
29 administrative rules under section 17A.4, subsection 2, and
30 section 17A.5, subsection 2, paragraph "b", to implement this
31 section.

32 Sec. 2. STATE PLAN AMENDMENT -- QUALITY ASSURANCE
33 ASSESSMENT -- WAIVER OF UNIFORM TAX. If the department of
34 human services determines that the opportunities for the state
35 to receive additional federal funding under the medical

1 assistance program will not be jeopardized by implementation
2 of a quality assurance assessment on licensed nursing
3 facilities, the department shall do both of the following:

4 1. Submit a medical assistance state plan amendment to the
5 centers for Medicare and Medicaid services of the United
6 States department of health and human services to effectuate
7 the nursing facility quality assurance assessment. The
8 department of human services may take any necessary steps to
9 preserve the original applicability date of October 1, 2003,
10 established pursuant to 2003 Iowa Acts, chapter 112, section
11 4, subsection 9, as amended by 2004 Iowa Acts, chapter 1085,
12 sections 8 and 10.

13 2. Submit an application to the secretary of the United
14 States department of health and human services to request a
15 waiver of the uniform tax requirement pursuant to 42 U.S.C. §
16 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2).

17 Sec. 3. CONTINGENT EFFECTIVE DATE.

18 1. Section 1 of this Act, amending section 249A.20B, shall
19 not take effect unless all of the following conditions are
20 met:

21 a. The department of human services receives approval of
22 both the medical assistance state plan amendment submitted
23 pursuant to section 2 of this Act from the centers for
24 Medicare and Medicaid services of the United States department
25 of health and human services to effectuate the nursing
26 facility quality assurance assessment and of the application
27 to the secretary of the United States department of health and
28 human services for a waiver of the uniform tax requirement
29 pursuant to 42 U.S.C. § 1396(w)(3)(E) and 42 C.F.R. §
30 433.68(e)(2) submitted pursuant to section 2 of this Act.

31 b. The reimbursement payments and any additional payments
32 proposed to be made are not deemed hold harmless payments by
33 the centers for Medicare and Medicaid services of the United
34 States department of health and human services, contrary to
35 federal rules regarding allowable health care provider taxes.

1 c. The department of human services submits a plan for
2 implementation of the quality assurance assessment to the
3 administrative rules review committee which includes an
4 evaluation of the projected effect of the assessment and the
5 specific effect of payment of an additional amount to nursing
6 facilities relative to all of the following:

7 (1) The impact on the nursing facility case-mix
8 reimbursement system.

9 (2) The interest of the state in rebalancing the long-
10 term care system.

11 (3) The potential that the centers for Medicare and
12 Medicaid services of the United States department of health
13 and human services will reduce the ability of the state to
14 effectively utilize the quality assurance assessment.

15 2. If the approvals described in subsection 1, paragraph
16 "a", are not received by December 31, 2005, the section of
17 this Act amending section 249A.20B is repealed.

18 Sec. 4. CONTINGENT REPEAL. If the amendment to section
19 249A.20B in this Act takes effect as provided in section 3 of
20 this Act, section 249A.20B, as amended, is repealed June 30,
21 2006.

22 Sec. 5. RETROACTIVE APPLICABILITY. If the amendment to
23 section 249A.20B in this Act takes effect as provided in
24 section 3 of this Act, any assessment made under section
25 249A.20B, as amended, may be made retroactive to October 1,
26 2003, if preserved as provided in section 2 of this Act, or
27 the applicability date approved in the state plan amendment.

28 Sec. 6. EFFECTIVE DATES. Section 2 of this Act, relating
29 to directing the department of human services to submit a
30 medical assistance state plan amendment to the centers for
31 Medicare and Medicaid services of the United States department
32 of health and human services to effectuate the nursing
33 facility quality assurance assessment and directing the
34 department of human services to submit an application to the
35 secretary of the United States department of health and human

1 services for a waiver of the uniform tax requirement pursuant
2 to 42 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2),
3 being deemed of immediate importance, takes effect upon
4 enactment.

5

EXPLANATION

6 This bill provides for the imposition of a quality
7 assurance assessment not to exceed 6 percent of the total
8 annual revenue of all licensed nursing facilities, in the
9 aggregate, under the medical assistance program. The maximum
10 assessment is to be consistent with the guidelines established
11 by the centers for Medicare and Medicaid services of the
12 United States department of health and human services and the
13 corresponding waiver of uniformity of the assessment granted
14 by the federal government. The bill provides for payment of
15 the assessment by nursing facilities and for reimbursement of
16 the nursing facilities by the department of human services
17 (DHS). The bill also provides for payment of an additional
18 amount to nursing facilities beyond any reimbursement amounts.
19 The bill provides that the net revenue generated by imposition
20 of the assessment is to be deposited in the senior living
21 trust fund.

22 The bill provides that if federal financial participation
23 to match the assessment becomes unavailable or if federal
24 approval of the assessment is otherwise terminated following
25 approval, DHS is to terminate the imposition of the assessment
26 and payment of the reimbursement amount and any additional
27 amount, and is not required to continue payment or to replace
28 payment of the reimbursement amount or any additional amount
29 with state-only funds.

30 The bill authorizes DHS to procure a sole source contract
31 to implement the bill and provides that the bill is not to be
32 interpreted as authorizing the department to seek federal
33 approval to implement any other quality assurance assessment
34 unless specifically authorized by the general assembly.

35 If DHS determines that the opportunities for the state to

1 receive additional federal funding under the medical
2 assistance program will not be jeopardized by implementation
3 of the assessment, the bill directs DHS to seek the necessary
4 waiver of the uniform tax requirement and submit a state plan
5 amendment to implement the assessment.

6 The quality assurance assessment does not take effect
7 unless DHS receives approval of the necessary waiver and state
8 plan amendment, the reimbursement payments and additional
9 payments are not deemed hold harmless payments by the federal
10 government, and the department submits an implementation plan
11 to the administrative rules review committee. Additionally,
12 if federal approval of the waiver and the state plan amendment
13 are not received by December 31, 2005, the assessment
14 provision is repealed.

15 If the assessment does take effect, the assessment
16 provision is repealed June 30, 2006. If the assessment does
17 take effect, the assessment may be retroactive to October 1,
18 2003, or is applicable from the date approved in the state
19 plan amendment.

20 The provision directing DHS to submit a medical assistance
21 state plan amendment and to request a waiver of the uniform
22 tax requirement takes effect upon enactment.

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HSB 124
HUMAN RESOURCES

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON UPMEYER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a nursing facility quality assurance
2 assessment, providing a contingent effective date, providing
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1 Section 1. Section 249A.20B, Code 2005, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 249A.20B NURSING FACILITY QUALITY ASSURANCE ASSESSMENT.

5 1. The department shall assess licensed nursing facilities
6 a quality assurance assessment not to exceed six percent of
7 the total annual revenue of the nursing facility. The maximum
8 assessment shall be consistent with the guidelines established
9 by the centers for Medicare and Medicaid services of the
10 United States department of health and human services and the
11 corresponding waiver of the uniform tax requirement granted
12 pursuant to the waiver request submitted under this section.

13 2. The quality assurance assessment shall be collected by
14 the department in equal monthly amounts on or before the
15 fifteenth day of each month. The department may deduct the
16 monthly assessment amount from medical assistance payments to
17 a nursing facility. The amount deducted from payments shall
18 not exceed the total amount of the fee due.

19 3. Revenue generated from the quality assurance assessment
20 shall be deposited in the senior living trust fund created in
21 section 249H.4. The revenues shall only be used for services
22 for which federal financial participation under the medical
23 assistance program is available to match state funds.

24 4. The department of human services shall provide a
25 reimbursement to nursing facilities under this section. The
26 reimbursement amount shall be calculated as a per patient day
27 amount and shall be paid to nursing facilities in addition to
28 the reimbursement payment specified in 2001 Iowa Acts, chapter
29 192, section 4, subsection 2, paragraph "c".

30 5. If federal financial participation to match the
31 assessments made under subsection 1 becomes unavailable under
32 federal law, the department shall terminate the imposition of
33 the assessment beginning on the date that the federal
34 statutory, regulatory, or interpretive change takes effect.

35 6. The department may procure a sole source contract to

1 implement the provisions of this section.

2 7. For the purposes of this section, "nursing facility"
3 means nursing facility as defined in section 135C.1, excluding
4 residential care facilities and nursing facilities that are
5 operated by the state.

6 8. The department may adopt administrative rules under
7 section 17A.4, subsection 2, and section 17A.5, subsection 2,
8 paragraph "b", to implement this section.

9 Sec. 2. STATE PLAN AMENDMENT -- QUALITY ASSURANCE
10 ASSESSMENT -- WAIVER OF UNIFORM TAX.

11 1. The department of human services shall submit a medical
12 assistance state plan amendment to the centers for Medicare
13 and Medicaid services of the United States department of
14 health and human services to effectuate the nursing facility
15 quality assurance assessment. The department of human
16 services shall take any necessary steps to preserve the
17 original applicability date of October 1, 2003, established
18 pursuant to 2003 Iowa Acts, chapter 112, section 4, subsection
19 9, as amended by 2004 Iowa Acts, chapter 1085, sections 8 and
20 10.

21 2. The department of human services shall submit an
22 application to the secretary of the United States department
23 of health and human services to request a waiver of the
24 uniform tax requirement pursuant to 42 U.S.C. § 1396b(w)(3)(E)
25 and 42 C.F.R. § 433.68(e)(2).

26 Sec. 3. CONTINGENT EFFECTIVE DATE.

27 1. Section 1 of this Act, amending section 249A.20B, shall
28 not take effect unless the department of human services
29 receives approval of both the medical assistance state plan
30 amendment submitted pursuant to section 2 of this Act from the
31 centers for Medicare and Medicaid services of the United
32 States department of health and human services to effectuate
33 the nursing facility quality assurance assessment and of the
34 application to the secretary of the United States department
35 of health and human services for a waiver of the uniform tax

1 requirement pursuant to 42 U.S.C. § 1396b(w)(3)(E) and 42
2 C.F.R. § 433.68(e)(2) submitted pursuant to section 2 of this
3 Act. If both approvals are received, the amendment to section
4 249A.20B in this Act shall take effect upon the date that both
5 approvals have been received by the department, and the
6 department shall notify the Code editor of the date of receipt
7 of the approvals.

8 2. If both approvals described in subsection 1 are not
9 received by June 30, 2005, the section of this Act amending
10 section 249A.20B is repealed.

11 Sec. 4. RETROACTIVE APPLICABILITY. If the amendment to
12 section 249A.20B in this Act takes effect as provided in
13 section 3 of this Act, any assessment made under section
14 249A.20B, as amended, may be made retroactive to October 1,
15 2003, if preserved as provided in section 2 of this Act, or
16 the applicability date approved in the state plan amendment.

17 Sec. 5. EFFECTIVE DATES. Section 2 of this Act, relating
18 to directing the department of human services to submit a
19 medical assistance state plan amendment to the centers for
20 Medicare and Medicaid services of the United States department
21 of health and human services to effectuate the nursing
22 facility quality assurance assessment and directing the
23 department of human services to submit an application to the
24 secretary of the United States department of health and human
25 services for a waiver of the uniform tax requirement pursuant
26 to 42 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2),
27 being deemed of immediate importance, takes effect upon
28 enactment.

29

EXPLANATION

30 This bill provides for a quality assurance assessment not
31 to exceed 6 percent of the total annual revenue of a licensed
32 nursing facility. The maximum assessment on a nursing
33 facility is to be consistent with the guidelines established
34 by the centers for Medicare and Medicaid services of the
35 United States department of health and human services and the

1 corresponding waiver of uniformity of the assessment granted
2 by the federal government. This is similar to a provision
3 enacted in 2003 which did not take effect due to lack of
4 federal approval of the medical assistance state plan
5 amendment and the waiver of the uniform tax requirement.

6 The bill directs the department of human services (DHS) to
7 submit a medical assistance state plan amendment to the
8 centers for Medicare and Medicaid services of the United
9 States department of health and human services to effectuate
10 the assessment. The bill directs DHS to take any necessary
11 steps to preserve the original retroactive applicability date
12 of October 1, 2003, that was established pursuant to the 2003
13 enactment as amended by a 2004 enactment.

14 The bill also directs DHS to submit an application to the
15 secretary of the United States department of health and human
16 services to request a waiver of the uniform tax requirement on
17 nursing facilities.

18 The bill provides that the assessment is to be collected by
19 DHS in equal monthly amounts on or before the 15th day of each
20 month, and that DHS may deduct the monthly assessment amount
21 from medical assistance payments to a nursing facility. The
22 amount deducted from payments is not to exceed the total
23 amount of the fee due.

24 Revenue generated from the assessment is to be deposited in
25 the senior living trust fund, and the revenues are only to be
26 used for services for which federal financial participation
27 under the medical assistance program is available to match
28 state funds.

29 The bill provides that if federal financial participation
30 to match the assessments becomes unavailable under federal
31 law, DHS is to terminate the imposition of the assessment
32 beginning on the date that the federal statutory, regulatory,
33 or interpretive change takes effect.

34 DHS may procure a sole source contract and may adopt
35 administrative rules to implement the bill.

1 The portions of the bill relating to implementation of the
2 quality assurance assessment do not take effect until DHS
3 receives approval of both the medical assistance state plan
4 amendment and the waiver of the uniform tax requirement. If
5 both approvals are received, these portions of the bill take
6 effect upon the date that both approvals have been received by
7 the department, and DHS is to notify the Code editor of the
8 date of receipt of the approvals. If both approvals are not
9 received by June 30, 2005, the provision is repealed. The
10 bill also provides that if the bill takes effect, the
11 assessment may be made retroactive to October 1, 2003, if
12 preserved under the original state plan amendment submitted,
13 or the applicability date approved in the state plan
14 amendment.

15 The portions of the bill directing DHS to submit a medical
16 assistance state plan amendment and to request a waiver of the
17 uniform tax requirement take effect upon enactment.

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