SB278
205882-1
By Senator Albritton
RFD: Finance and Taxation General Fund
First Read: 05-MAR-20
SYNOPSIS: Under existing law, a privilege assessment and supplemental privilege assessment are imposed on each bed in a nursing facility and a monthly surcharge is also imposed.

This bill would increase the privilege assessment, provide the methodology for recalculation of current asset value as it relates to calculation of nursing facility rates, and authorize the Alabama Medicaid Agency to create a quality incentive program for nursing facilities.

A BILL TO BE ENTITLED
AN ACT

Relating to the privilege assessment for nursing facilities; to amend Sections 40-26B-21, 40-26B-26, and 40-26B-27, Code of Alabama 1975; to increase the privilege assessment; to provide the methodology for recalculation of current asset value as it relates to nursing facility rates;
to create a Medicaid quality incentive program for nursing facilities; and to provide further for the effect of this article if federal financial participation is not available.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-26B-21, 40-26B-26, and 40-26B-27, Code of Alabama 1975 are amended to read as follows:

"§40-26B-21.

"To provide further for the availability of indigent health care, the operation of the Medicaid program, and the maintenance and expansion of medical services:

"(a) There is levied and shall be collected a privilege assessment on the business activities of every nursing facility in the State of Alabama. The privilege assessment imposed is in addition to all other taxes and assessments, and shall be at the annual rate of one thousand eight hundred ninety-nine dollars and ninety-six cents ($1,899.96) for each bed in the nursing facility. Beginning September 1, 2020, the privilege assessment shall be increased from one thousand eight hundred ninety-nine dollars and ninety-six cents for each bed in the nursing facility, by an addition to the privilege assessment equal to three hundred twenty-seven dollars and forty-eight cents ($327.48) per annum. The addition to the privilege assessment shall be paid in equal monthly installments and shall merge into and be a part of the privilege assessment described in this subsection. The payment to nursing facilities of the determined allowable
costs in respect to the addition to the privilege assessment described in this subsection shall be included in Medicaid per diem rates for services provided commencing as of October 1, 2020, and shall continue to be included in such Medicaid per diem rates in the same manner that reimbursement for the privilege assessment is included in Medicaid per diem rates.

For each Medicaid nursing facility, in determining the October 1, 2020 adjustment to the Medicaid per diem for the allowable costs associated with the addition to the privilege assessment, the Medicaid Agency shall divide the total addition to the privilege assessment by the total of all incurred resident days (regardless of payor class) reported by each nursing facility in its Medicaid cost report filed for the period then ended June 30, 2019. Notwithstanding the foregoing, in the event that such June 30, 2019, cost report shall be for a period of less than one year, the resident days reported shall be annualized. After the herein described October 1, 2020, adjustment, the addition to the privilege assessment shall be fully merged into the privilege assessment and reimbursed in accordance with the method set forth for calculating the reimbursement for the privilege assessment. In the event that any portion of the privilege assessment paid by a facility cannot be included in the computation of Medicaid per diem rate because of the effect of any cost ceiling provision of the reimbursement methodology, the cost ceiling must be adjusted to ensure continued treatment of the total privilege assessments as an allowable cost.
"(b) For the period September 1, 2010, through August 31, 2022, there is levied and shall be collected a supplemental privilege assessment on the business activities of every nursing facility in the State of Alabama. The supplemental privilege assessment imposed is in addition to all other taxes and assessments, including without limitation, the privilege taxes provided for under this article, and from September 1, 2010, through August 31, 2011, shall be at the annual rate of one thousand six hundred three dollars and eight cents ($1,063.08) for each bed in the nursing facility, and one thousand and sixty-three dollars and eight cents ($1,603.08) for the period of September 1, 2011, through August 31, 2022, except that beginning with the monthly payment for the supplemental privilege assessment due beginning May 20, 2012, and ending August 31, 2022, there shall be a monthly surcharge due with each monthly payment of the supplemental privilege assessment. The initial monthly surcharge shall be one hundred thirty-one dollars and twenty-five cents ($131.25) per licensed bed. Beginning with the monthly payment of the supplemental privilege assessment due on September 20, 2012, the monthly surcharge shall be reduced to forty-three dollars and seventy-five cents ($43.75) per month.

"For the period October 1, 2015, through August 31, 2022, there shall be collected a secondary supplemental privilege assessment on the business activities of every nursing facility in the State of Alabama. The secondary
supplemental privilege assessment imposed in this paragraph is contingent upon the minimum appropriation provided in Section 2 of the act adding this paragraph, and is in addition to all other taxes and assessments, including without limitation, the privilege taxes provided for under this article, and beginning October 1, 2015, shall be at the annual rate of four hundred one dollars and twenty-eight cents ($401.28) for each bed in the nursing facility, payable monthly.

"(c) The total privilege assessment (and the addition to the privilege assessment), supplemental privilege assessment, secondary privilege assessment, (privilege assessments) and surcharge paid by a nursing facility pursuant to this article shall be considered an allowable cost, as that term is defined in the reimbursement methodology for nursing facilities contained in Title 560 of the Alabama Administrative Code, and, to the extent permitted under applicable federal law governing the Alabama Medicaid nursing home program, the total privilege assessments paid must be included in the computation of the Medicaid per diem rate determined under the reimbursement methodology for nursing facilities contained in Title 560 of the Alabama Administrative Code. The payment to nursing facilities of the determined allowable costs in respect to the supplemental privilege assessment described in subsection (b) shall be included in Medicaid per diem rates for services provided commencing as of January 1, 2011, and shall continue to be included in such Medicaid per diem rates for a period equal to
the number of months during which the supplemental assessments shall have been in effect. For each Medicaid nursing facility, in determining the adjustment to the Medicaid per diem for the allowable costs associated with the supplemental assessment, the Medicaid Agency shall divide the total supplemental assessment due under subsection (b) by the total of all incurred resident days (regardless of payor class) reported by such nursing facility in its Medicaid cost report filed for the period then ended June 30, 2010. To accommodate the increase in the supplemental assessment and the surcharge described in subsection (b), the agency shall use the mechanism described herein to adjust each nursing facility's rate effective as of October 1, 2011, regarding the privilege assessment, and May 1, 2012, regarding the surcharge. Notwithstanding the foregoing, in the event that such cost report shall be for a period less than one year, the resident days reported shall be annualized. In the event that any portion of the privilege assessment paid by a facility cannot be included in the computation of the Medicaid per diem rate because of the effect of any cost ceiling provision of the reimbursement methodology, the cost ceiling must be adjusted to ensure continued treatment of the total privilege assessments as an allowable cost.

"(d) The privilege assessment rate or the supplemental privilege assessment rate or the surcharge rate shall be reduced by the department upon the advice of the Medicaid Agency if, but only if, such reduction is required to
ensure that the total revenues to the State of Alabama produced by this privilege assessment or, if the supplemental privilege assessment and surcharge are in effect, the aggregate of the supplemental privilege assessment and surcharge and the privilege assessment, during any state fiscal year are less than or equal to six percent of the total revenues received by the nursing facilities in the state subject to the assessment during that same fiscal year. In the event that the supplemental privilege assessment or surcharge are reduced as provided in the preceding sentence, then for each Medicaid nursing facility a corresponding reduction shall be made to the Medicaid per diem adjustment described in subsection (c) to ensure that only the amount of supplemental privilege assessment or surcharge actually paid is used in computing that Medicaid nursing facility's allowable costs.

"(e) The Medicaid nursing facility program shall continue to be administered directly by the Medicaid Agency until at least October 1, 2022.

"§40-26B-26.

"(a) No revenues resulting from the privilege assessment established by this article and applied to increases in covered services or reimbursement levels or other enhancements of the Medicaid program shall be subject to reduction or elimination while the privilege assessment is in effect.

"(b) Every nursing facility participating in the Medicaid program in the State of Alabama shall be reimbursed
according to the reimbursement methodology contained in Chapter 560-X-22 of the Alabama Medicaid Agency Administrative Code (Supp. 12/31/95) on January 31, 1998, which methodology is incorporated by reference herein, except that the following shall apply:

"(1) The ceiling for the operating cost center described in Title 560-X-22-.06 (2)(a) of the Alabama Medicaid Agency Administrative Code (Supp. 12/95) shall be computed at the median plus five percent.

"(2) The ceiling for the direct patient care cost center described in Title 560-X-22-.06 (2)(b) of the Alabama Medicaid Agency Administrative Code (Supp. 12/95) shall be computed at the median plus 10 percent, and the provider's actual allowable reported cost per patient day plus 11 percent, or the established ceiling plus 11 percent, whichever is less, will be used for each provider's rate computation.


"(4) In calculating the ceiling for the operating cost center, the direct patient care cost center or the indirect patient care cost center, any increase in that ceiling over such ceiling set in the year next preceding, shall not exceed an amount equal to the product of such ceiling for the previous year times the sum of the Medicaid
Inflation Index, described in Title 560-X-22-.07 of the Alabama Medicaid Agency Administrative Code (Supp. 12/95), plus four percent.

"(5) In determining the reimbursement in any fiscal year to a nursing facility for certain specialized medical equipment as described in Title 560-X-22-.14 (19) of the Alabama Medicaid Agency Administrative Code (Supp. 12/95), there shall be added to the daily Medicaid per diem rate computed for that fiscal year, without regard to the cost of such specialized medical equipment, an amount equal to the actual cost of such specialized medical equipment utilized for Medicaid residents during the fiscal year next preceding and divided by the actual number of Medicaid patient days incurred during that preceding fiscal year. For the purpose of this subdivision the terms Medicaid patient days, Medicaid per diem rate, and fiscal year shall have the meanings assigned to them in Title 560-X-22 et seq. of the Alabama Medicaid Agency Administrative Code (Supp. 12/95).

"(6) For the period that the federal financial participation under Title XIX of the Social Security Act for certain intergovernmental transfers is available to the Alabama Medicaid program, the Commissioner of the agency may pay an enhancement, not to exceed the upper limits for Medicare nursing facility payments, to rural hospital connected nursing facilities under governmental authority or control. Notwithstanding the foregoing, the enhancement shall
not be limited by the provisions of Title 560-X-22 of the
Alabama Medicaid Administrative Code.

"(7) Notwithstanding subdivision (3), from October
1, 2011, through September 30, 2014, in applying the inflation
factor, zero percent shall be used to compute overall rates.

"(8) Beginning with the setting of Medicaid nursing
facility rates set based on the cost reporting period ended
June 30, 2020, the current asset value (as described in Title
560-x-22.14(11) of the Alabama Medicaid Administrative Code)
for each nursing facility, after applying the July 1, 2020
rebasing as provided under Title 560-x-22.14(11) of the
Alabama Medicaid Administrative Code, used to calculate
nursing facility rates, shall be recalculated by adding to
each respective nursing facility’s current asset value an
amount equal to the product derived by multiplying the June
30, 2020, rebasing as provided under Title 560-x-22.14(11) of
the Alabama Medicaid Agency Administrative Code by 41.03%. The
current asset value as adjusted herein, shall be rebased each
subsequent year in accordance with Title 560-x-22.14 of the
Alabama Administrative Code, and applied to calculate Medicaid
nursing facility rates each subsequent cost reporting year.
Notwithstanding anything to the contrary in the foregoing, for
the purposes of applying the recalculated current asset value
to calculate a nursing facility’s Medicaid rate for the cost
reporting year beginning as of July 1, 2020, any resulting
rate increase shall be effective for services provided on or
after October 1, 2020. No nursing facility Medicaid rate
increase for the recalculation of current asset value described in this subparagraph shall be effective for services provided prior to October 1, 2020.

“(c) Payments by the Medicaid program to each nursing facility for nursing home services shall be sufficient to cover the costs determined by cost reporting principles incurred by each such nursing facility in providing care in an economical and efficient manner and that is adequate to permit the provision of care and services necessary to attain or maintain the highest practicable, physical, mental, and psychosocial well-being of each resident eligible for Alabama Medicaid nursing home benefits in conformity with applicable state and federal laws, rules and regulations and quality and safety standards.

“(d) Notwithstanding subsection (b), Medicaid shall be empowered to create a special reimbursement model to accommodate enhanced reimbursed care provided in dedicated ventilator units in nursing facilities that meet special physical plant requirements such as dedicated emergency power generation, through-the-wall medical gases and suction, 24-hour per day staffing with trained licensed respiratory therapists, and medical direction through contract with or employment of an Alabama licensed physician who is a board certified pulmonologist.

“(e) Notwithstanding subsection (b), the Alabama Medicaid Agency shall be empowered to create a quality incentive program for nursing facilities that meet certain
quality measures during the scoring year. For the purpose of this subsection, the scoring year for any year is the cost reporting year beginning July 1 and ending June 30. The first scoring period shall be July 1, 2020 through June 30, 2021. The quality incentive will be paid to nursing facilities in a lump sum on or before February 1, following the scoring period ended the immediately prior June 30. For each scoring year, the Alabama Medicaid Agency shall establish a quality incentive fund of not less than $5,000,000, from which quality incentive awards will be awarded and paid to those nursing facilities qualifying for a quality incentive award. Quality incentive scoring for each scoring period shall be determined from certain measures selected by the Alabama Medicaid Agency from (i) five of the MDS Quality Measures compiled by the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services and (ii) three of customer satisfaction survey categories that are independently gathered and prepared by NRC Health, or another nationally recognized satisfaction survey company with experience in the long term care field. The Alabama Medicaid Agency shall determine the manner that scoring points are awarded, provided that to be eligible to earn points for any category, a nursing facility must either (i) show improvement in that category during the current scoring period over the most recent prior scoring period, and/or (ii) rank for that category at or above the established national average.

§40-26B-27.
"This article is intended to be severable. shall be of no effect if if federal financial participation under Title XIX of the Social Security Act is not available to the Alabama Medicaid program for the purposes of any section, subsection, paragraph or subparagraph of this article at the approved federal medical assistance percentage, established under Section 1905 of the Social Security Act, for the applicable fiscal year then, the section, subsection, paragraph and subparagraph of this article for which the approved federal financial participation at the approved federal medical assistance percentage, established under Section 1905 of the Social Security Act is not available shall be of no effect. All other sections, subsections, paragraphs and subparagraphs of this article eligible for federal financial participation shall remain in effect."

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.