

1 HB285  
2 216689-1  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 08-FEB-22

8 SYNOPSIS: Existing law provides that the current  
9 supplemental privilege assessment, secondary  
10 supplemental privilege assessment, and surcharge  
11 that are imposed on each bed in a nursing facility  
12 expire on August 31, 2022.

13 This bill would extend the current  
14 supplemental privilege assessment, secondary  
15 supplemental privilege assessment, and surcharge  
16 through August 31, 2025.

17 This bill would also provide that the  
18 Medicaid nursing facility program be administered  
19 directly by the Alabama Medicaid Agency during the  
20 period in which the privilege assessment is levied  
21 and collected.

23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           Relating to the privilege assessment for nursing  
2 homes; to amend Section 40-26B-21, Code of Alabama 1975; to  
3 extend the supplemental privilege assessment, the secondary  
4 supplemental privilege assessment, and the surcharge through  
5 August 31, 2025; and provide that the Medicaid nursing  
6 facility program be administered by the Alabama Medicaid  
7 Agency during the period that the privilege assessment is  
8 levied and collected.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10           Section 1. Section 40-26B-21, Code of Alabama 1975,  
11 is amended to read as follows:

12           "§40-26B-21.

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

16           "(a) There is levied and shall be collected a  
17 privilege assessment on the business activities of every  
18 nursing facility in the State of Alabama. The privilege  
19 assessment imposed is in addition to all other taxes and  
20 assessments, and shall be at the annual rate of one thousand  
21 eight hundred ninety-nine dollars and ninety-six cents  
22 (\$1,899.96) for each bed in the nursing facility. Beginning  
23 September 1, 2020, the privilege assessment shall be increased  
24 from one thousand eight hundred ninety-nine dollars and  
25 ninety-six cents (\$1,899.96) for each bed in the nursing  
26 facility, by an addition to the privilege assessment equal to  
27 three hundred twenty-seven dollars and forty-eight cents

1 (\$327.48) per annum. The addition to the privilege assessment  
2 shall be paid in equal monthly installments and shall merge  
3 into and be a part of the privilege assessment described in  
4 this subsection. The payment to nursing facilities of the  
5 determined allowable costs in respect to the addition to the  
6 privilege assessment described in this subsection shall be  
7 included in Medicaid per diem rates for services provided  
8 commencing as of October 1, 2020, and shall continue to be  
9 included in such Medicaid per diem rates in the same manner  
10 that reimbursement for the privilege assessment is included in  
11 Medicaid per diem rates. For each Medicaid nursing facility,  
12 in determining the October 1, 2020 adjustment to the Medicaid  
13 per diem for the allowable costs associated with the addition  
14 to the privilege assessment, the Medicaid Agency shall divide  
15 the total addition to the privilege assessment by the total of  
16 all incurred resident days (regardless of payor class)  
17 reported by each nursing facility in its Medicaid cost report  
18 filed for the period then ended June 30, 2019. Notwithstanding  
19 the foregoing, in the event that the June 30, 2019 cost report  
20 is for a period of less than one year, the resident days  
21 reported shall be annualized. After the October 1, 2020  
22 adjustment under this subsection, the addition to the  
23 privilege assessment shall be fully merged into the privilege  
24 assessment and reimbursed in accordance with the method set  
25 forth for calculating the reimbursement for the privilege  
26 assessment. In the event that any portion of the privilege  
27 assessment paid by a facility cannot be included in the

1 computation of Medicaid per diem rate because of the effect of  
2 any cost ceiling provision of the reimbursement methodology,  
3 the cost ceiling shall be adjusted to ensure continued  
4 treatment of the total privilege assessments as an allowable  
5 cost.

6 "(b) For the period September 1, 2010, through  
7 August 31, ~~2022~~ 2025, there is levied and shall be collected a  
8 supplemental privilege assessment on the business activities  
9 of every nursing facility in the State of Alabama. The  
10 supplemental privilege assessment imposed is in addition to  
11 all other taxes and assessments, including without limitation,  
12 the privilege taxes provided for under this article, and from  
13 September 1, 2010, through August 31, 2011, shall be at the  
14 annual rate of one thousand ~~and~~ sixty-three dollars and eight  
15 cents (\$1,063.08) for each bed in the nursing facility, and  
16 one thousand six hundred three dollars and eight cents  
17 (\$1,603.08) for the period of September 1, 2011, through  
18 August 31, ~~2022~~ 2025, except that beginning with the monthly  
19 payment for the supplemental privilege assessment due  
20 beginning May 20, 2012, and ending August 31, ~~2022~~ 2025, there  
21 shall be a monthly surcharge due with each monthly payment of  
22 the supplemental privilege assessment. The initial monthly  
23 surcharge shall be one hundred thirty-one dollars and  
24 twenty-five cents (\$131.25) per licensed bed. Beginning with  
25 the monthly payment of the supplemental privilege assessment  
26 due on September 20, 2012, the monthly surcharge shall be

1 reduced to forty-three dollars and seventy-five cents (\$43.75)  
2 per month.

3 "For the period October 1, 2015, through August 31,  
4 ~~2022~~ 2025, there shall be collected a secondary supplemental  
5 privilege assessment on the business activities of every  
6 nursing facility in the State of Alabama. The secondary  
7 supplemental privilege assessment imposed in this paragraph is  
8 contingent upon the minimum appropriation provided in Section  
9 2 of Act 2015-536, and is in addition to all other taxes and  
10 assessments, including without limitation, the privilege taxes  
11 provided for under this article, and beginning October 1,  
12 2015, shall be at the annual rate of four hundred one dollars  
13 and twenty-eight cents (\$401.28) for each bed in the nursing  
14 facility, payable monthly.

15 "(c) The total privilege assessment (and the  
16 addition to the privilege assessment), supplemental privilege  
17 assessment, secondary privilege assessment, (privilege  
18 assessments) and surcharge paid by a nursing facility pursuant  
19 to this article shall be considered an allowable cost, as that  
20 term is defined in the reimbursement methodology for nursing  
21 facilities contained in Title 560 of the Alabama  
22 Administrative Code, and, to the extent permitted under  
23 applicable federal law governing the Alabama Medicaid nursing  
24 home program, the total privilege assessments paid must be  
25 included in the computation of the Medicaid per diem rate  
26 determined under the reimbursement methodology for nursing  
27 facilities contained in Title 560 of the Alabama

1 Administrative Code. The payment to nursing facilities of the  
2 determined allowable costs in respect to the supplemental  
3 privilege assessment described in subsection (b) shall be  
4 included in Medicaid per diem rates for services provided  
5 commencing as of January 1, 2011, and shall continue to be  
6 included in such Medicaid per diem rates for a period equal to  
7 the number of months during which the supplemental assessments  
8 shall have been in effect. For each Medicaid nursing facility,  
9 in determining the adjustment to the Medicaid per diem for the  
10 allowable costs associated with the supplemental assessment,  
11 the Medicaid Agency shall divide the total supplemental  
12 assessment due under subsection (b) by the total of all  
13 incurred resident days (regardless of payor class) reported by  
14 such nursing facility in its Medicaid cost report filed for  
15 the period then ended June 30, 2010. To accommodate the  
16 increase in the supplemental assessment and the surcharge  
17 described in subsection (b), the agency shall use the  
18 mechanism described herein to adjust each nursing facility's  
19 rate effective as of October 1, 2011, regarding the privilege  
20 assessment, and May 1, 2012, regarding the surcharge.  
21 Notwithstanding the foregoing, in the event that such cost  
22 report shall be for a period less than one year, the resident  
23 days reported shall be annualized. In the event that any  
24 portion of the privilege assessment paid by a facility cannot  
25 be included in the computation of the Medicaid per diem rate  
26 because of the effect of any cost ceiling provision of the  
27 reimbursement methodology, the cost ceiling must be adjusted

1 to ensure continued treatment of the total privilege  
2 assessments as an allowable cost.

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

22 "(e) The Medicaid nursing facility program shall  
23 continue to be administered directly by the Medicaid Agency  
24 until at least October 1, 2022 during the period in which the  
25 provider assessment provided by this section is levied and  
26 collected."

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