



General Assembly

January Session, 2005

Bill No. 1051

LCO No. 3455

*03455 _____ *

Referred to Committee on Human Services

Introduced by:

SEN. DELUCA, 32nd Dist.

REP. WARD, 86th Dist.

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET IMPOSING A NURSING HOME PROVIDER TAX AND INCREASING PROVIDER RATES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2005*) (a) For the purposes of this
2 section:

3 (1) "Commissioner" means the Commissioner of Revenue Services;

4 (2) "Department" means the Department of Revenue Services;

5 (3) "Nursing home" means any licensed chronic and convalescent
6 nursing home or a rest home with nursing supervision;

7 (4) "Nursing home gross receipts" means payments received by a
8 nursing home, including amounts received from or on behalf of an
9 individual, for per diem nursing home care services;

10 (5) "Per diem nursing home care services" means room
11 accommodations, nursing care, food services, institutional laundry

12 services, housekeeping services, services related to the use and
13 maintenance of real property, social and recreation services and all
14 other goods and services included in per diem payment rates received
15 by the nursing home.

16 (b) There is hereby imposed on the nursing home gross receipts of
17 each nursing home in this state, a tax at the rate of six per cent of its
18 nursing home gross receipts for each calendar quarter.

19 (c) Each nursing home shall, on or before the last day of January,
20 April, July, and October of each year, render to the commissioner a
21 return, on forms prescribed or furnished by the commissioner, stating
22 the amount of the nursing home gross receipts for the calendar quarter
23 ending on the last day of the preceding month and stating such other
24 information as the commissioner deems necessary for the proper
25 administration of this section. The tax imposed under this section shall
26 be due and payable on the due date of such return. Each nursing home
27 shall be required to file such return electronically with the department
28 and to make such payment by electronic funds transfer in the manner
29 provided by chapter 228g of the general statutes, irrespective of
30 whether the nursing home would have otherwise been required to file
31 such return electronically or to make such payment by electronic funds
32 transfer under the provisions of said chapter 228g.

33 (d) Whenever such tax is not paid when due, a penalty of ten per
34 cent of the amount due or fifty dollars, whichever is greater, shall be
35 imposed, and interest at the rate of one per cent per month or fraction
36 thereof shall accrue on such tax from the due date of such tax until the
37 date of payment.

38 (e) The commissioner shall notify the Commissioner of Social
39 Services of any amount delinquent under this section and, upon
40 receipt of such notice, the Commissioner of Social Services shall deduct
41 and withhold such amount from amounts otherwise payable by the
42 Department of Social Services to the delinquent nursing home.

43 (f) The provisions of section 12-548, sections 12-550 to 12-554,
44 inclusive, and section 12-555a of the general statutes shall apply to the
45 provisions of this section in the same manner and with the same force
46 and effect as if the language of said sections had been incorporated in
47 full into this section and had expressly referred to the tax imposed
48 under this section, except to the extent that any provision is
49 inconsistent with a provision in this section.

50 (g) The commissioner may enter into an agreement with the
51 Commissioner of Social Services delegating to the Commissioner of
52 Social Services the authority to examine the records and returns of any
53 nursing home subject to the tax imposed under this section and to
54 determine whether the tax has been underpaid or overpaid. If such
55 authority is so delegated, examinations of such records and returns by
56 the Department of Social Services and determinations by said
57 department that the tax has been underpaid or overpaid, shall have the
58 same effect as similar examinations or determinations made by the
59 Department of Revenue Services.

60 (h) (1) The commissioner shall not collect the tax pursuant to this
61 section until all the necessary federal approvals are in effect to impose
62 said tax or to secure federal financial participation matching funds
63 associated with the rate increases as described in section 3 of this act.

64 (2) The commissioner shall cease to collect the tax pursuant to this
65 section if the federal approvals described in subdivision (1) of this
66 subsection are withdrawn.

67 Sec. 2. (NEW) (*Effective July 1, 2005*) At the close of each fiscal year
68 commencing with the fiscal year ending on June 30, 2006, the
69 Comptroller is authorized to record as revenue for such fiscal year the
70 amount of tax imposed under the provisions of section 1 of this act that
71 is received by the Commissioner of Revenue Services not later than
72 five business days from the last day of July immediately following the
73 end of such fiscal year.

74 Sec. 3. Subdivision (4) of subsection (f) of section 17b-340 of the
75 general statutes is repealed and the following is substituted in lieu
76 thereof (*Effective July 1, 2005*):

77 (4) For the fiscal year ending June 30, 1992, (A) no facility shall
78 receive a rate that is less than the rate it received for the rate year
79 ending June 30, 1991; (B) no facility whose rate, if determined pursuant
80 to this subsection, would exceed one hundred twenty per cent of the
81 state-wide median rate, as determined pursuant to this subsection,
82 shall receive a rate which is five and one-half per cent more than the
83 rate it received for the rate year ending June 30, 1991; and (C) no
84 facility whose rate, if determined pursuant to this subsection, would be
85 less than one hundred twenty per cent of the state-wide median rate,
86 as determined pursuant to this subsection, shall receive a rate which is
87 six and one-half per cent more than the rate it received for the rate year
88 ending June 30, 1991. For the fiscal year ending June 30, 1993, no
89 facility shall receive a rate that is less than the rate it received for the
90 rate year ending June 30, 1992, or six per cent more than the rate it
91 received for the rate year ending June 30, 1992. For the fiscal year
92 ending June 30, 1994, no facility shall receive a rate that is less than the
93 rate it received for the rate year ending June 30, 1993, or six per cent
94 more than the rate it received for the rate year ending June 30, 1993.
95 For the fiscal year ending June 30, 1995, no facility shall receive a rate
96 that is more than five per cent less than the rate it received for the rate
97 year ending June 30, 1994, or six per cent more than the rate it received
98 for the rate year ending June 30, 1994. For the fiscal years ending June
99 30, 1996, and June 30, 1997, no facility shall receive a rate that is more
100 than three per cent more than the rate it received for the prior rate
101 year. For the fiscal year ending June 30, 1998, a facility shall receive a
102 rate increase that is not more than two per cent more than the rate that
103 the facility received in the prior year. For the fiscal year ending June
104 30, 1999, a facility shall receive a rate increase that is not more than
105 three per cent more than the rate that the facility received in the prior
106 year and that is not less than one per cent more than the rate that the
107 facility received in the prior year, exclusive of rate increases associated

108 with a wage, benefit and staffing enhancement rate adjustment added
109 for the period from April 1, 1999, to June 30, 1999, inclusive. For the
110 fiscal year ending June 30, 2000, each facility, except a facility with an
111 interim rate or replaced interim rate for the fiscal year ending June 30,
112 1999, and a facility having a certificate of need or other agreement
113 specifying rate adjustments for the fiscal year ending June 30, 2000,
114 shall receive a rate increase equal to one per cent applied to the rate the
115 facility received for the fiscal year ending June 30, 1999, exclusive of
116 the facility's wage, benefit and staffing enhancement rate adjustment.
117 For the fiscal year ending June 30, 2000, no facility with an interim rate,
118 replaced interim rate or scheduled rate adjustment specified in a
119 certificate of need or other agreement for the fiscal year ending June
120 30, 2000, shall receive a rate increase that is more than one per cent
121 more than the rate the facility received in the fiscal year ending June
122 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
123 facility with an interim rate or replaced interim rate for the fiscal year
124 ending June 30, 2000, and a facility having a certificate of need or other
125 agreement specifying rate adjustments for the fiscal year ending June
126 30, 2001, shall receive a rate increase equal to two per cent applied to
127 the rate the facility received for the fiscal year ending June 30, 2000,
128 subject to verification of wage enhancement adjustments pursuant to
129 subdivision (15) of this subsection. For the fiscal year ending June 30,
130 2001, no facility with an interim rate, replaced interim rate or
131 scheduled rate adjustment specified in a certificate of need or other
132 agreement for the fiscal year ending June 30, 2001, shall receive a rate
133 increase that is more than two per cent more than the rate the facility
134 received for the fiscal year ending June 30, 2000. For the fiscal year
135 ending June 30, 2002, each facility shall receive a rate that is two and
136 one-half per cent more than the rate the facility received in the prior
137 fiscal year. For the fiscal year ending June 30, 2003, each facility shall
138 receive a rate that is two per cent more than the rate the facility
139 received in the prior fiscal year, except that such increase shall be
140 effective January 1, 2003, and such facility rate in effect for the fiscal
141 year ending June 30, 2002, shall be paid for services provided until

142 December 31, 2002, except any facility that would have been issued a
143 lower rate effective July 1, 2002, than for the fiscal year ending June 30,
144 2002, due to interim rate status or agreement with the department shall
145 be issued such lower rate effective July 1, 2002, and have such rate
146 increased two per cent effective June 1, 2003. For the fiscal year ending
147 June 30, 2004, rates in effect for the period ending June 30, 2003, shall
148 remain in effect, except any facility that would have been issued a
149 lower rate effective July 1, 2003, than for the fiscal year ending June 30,
150 2003, due to interim rate status or agreement with the department shall
151 be issued such lower rate effective July 1, 2003. For the fiscal year
152 ending June 30, 2005, rates in effect for the period ending June 30, 2004,
153 shall remain in effect until December 31, 2004, except any facility that
154 would have been issued a lower rate effective July 1, 2004, than for the
155 fiscal year ending June 30, 2004, due to interim rate status or
156 agreement with the department shall be issued such lower rate
157 effective July 1, 2004. Effective January 1, 2005, each facility shall
158 receive a rate that is one per cent greater than the rate in effect
159 December 31, 2004. Effective upon receipt of all the necessary federal
160 approvals to secure federal financial participation matching funds
161 associated with the rate increase provided in this subdivision, but in
162 no event earlier than July 1, 2005, and provided the tax imposed under
163 section 1 of this act is required to be collected, each facility with a per
164 diem rate below one hundred sixty-eight dollars for the period ending
165 June 30, 2005, shall receive a rate increase of twenty and six-tenths per
166 cent, provided no such rate shall exceed one hundred ninety dollars
167 and sixty-eight cents, and each facility with a per diem rate equal to or
168 greater than one hundred sixty-eight dollars shall receive a rate
169 increase of thirteen and five-tenths per cent. Such rate increases shall
170 remain in effect unless: (i) The federal financial participation matching
171 funds associated with the rate increases are no longer available; or (ii)
172 the tax created pursuant to section 1 of this act is not in effect. For the
173 fiscal year ending June 30, 2007, rates in effect for the period ending
174 June 30, 2006, shall remain in effect, except any facility that would have
175 been issued a lower rate effective July 1, 2006, than for the fiscal year

176 ending June 30, 2006, due to interim rate status or agreement with the
177 department, shall be issued such lower rate effective July 1, 2006. The
178 Commissioner of Social Services shall add fair rent increases to any
179 other rate increases established pursuant to this subdivision for a
180 facility which has undergone a material change in circumstances
181 related to fair rent.

182 Sec. 4. Subsection (g) of section 17b-340 of the general statutes is
183 repealed and the following is substituted in lieu thereof (*Effective July*
184 *1, 2005*):

185 (g) For the fiscal year ending June 30, 1993, any intermediate care
186 facility for the mentally retarded with an operating cost component of
187 its rate in excess of one hundred forty per cent of the median of
188 operating cost components of rates in effect January 1, 1992, shall not
189 receive an operating cost component increase. For the fiscal year
190 ending June 30, 1993, any intermediate care facility for the mentally
191 retarded with an operating cost component of its rate that is less than
192 one hundred forty per cent of the median of operating cost
193 components of rates in effect January 1, 1992, shall have an allowance
194 for real wage growth equal to thirty per cent of the increase
195 determined in accordance with subsection (q) of section 17-311-52 of
196 the regulations of Connecticut state agencies, provided such operating
197 cost component shall not exceed one hundred forty per cent of the
198 median of operating cost components in effect January 1, 1992. Any
199 facility with real property other than land placed in service prior to
200 October 1, 1991, shall, for the fiscal year ending June 30, 1995, receive a
201 rate of return on real property equal to the average of the rates of
202 return applied to real property other than land placed in service for the
203 five years preceding October 1, 1993. For the fiscal year ending June 30,
204 1996, and any succeeding fiscal year, the rate of return on real property
205 for property items shall be revised every five years. The commissioner
206 shall, upon submission of a request, allow actual debt service,
207 comprised of principal and interest, in excess of property costs allowed
208 pursuant to section 17-311-52 of the regulations of Connecticut state

209 agencies, provided such debt service terms and amounts are
210 reasonable in relation to the useful life and the base value of the
211 property. For the fiscal year ending June 30, 1995, and any succeeding
212 fiscal year, the inflation adjustment made in accordance with
213 subsection (p) of section 17-311-52 of the regulations of Connecticut
214 state agencies shall not be applied to real property costs. For the fiscal
215 year ending June 30, 1996, and any succeeding fiscal year, the
216 allowance for real wage growth, as determined in accordance with
217 subsection (q) of section 17-311-52 of the regulations of Connecticut
218 state agencies, shall not be applied. For the fiscal year ending June 30,
219 1996, and any succeeding fiscal year, no rate shall exceed three
220 hundred seventy-five dollars per day unless the commissioner, in
221 consultation with the Commissioner of Mental Retardation,
222 determines after a review of program and management costs, that a
223 rate in excess of this amount is necessary for care and treatment of
224 facility residents. For the fiscal year ending June 30, 2002, rate period,
225 the Commissioner of Social Services shall increase the inflation
226 adjustment for rates made in accordance with subsection (p) of section
227 17-311-52 of the regulations of Connecticut state agencies to update
228 allowable fiscal year 2000 costs to include a three and one-half per cent
229 inflation factor. For the fiscal year ending June 30, 2003, rate period, the
230 commissioner shall increase the inflation adjustment for rates made in
231 accordance with subsection (p) of section 17-311-52 of the regulations
232 of Connecticut state agencies to update allowable fiscal year 2001 costs
233 to include a one and one-half per cent inflation factor, except that such
234 increase shall be effective November 1, 2002, and such facility rate in
235 effect for the fiscal year ending June 30, 2002, shall be paid for services
236 provided until October 31, 2002, except any facility that would have
237 been issued a lower rate effective July 1, 2002, than for the fiscal year
238 ending June 30, 2002, due to interim rate status or agreement with the
239 department shall be issued such lower rate effective July 1, 2002, and
240 have such rate updated effective November 1, 2002, in accordance with
241 applicable statutes and regulations. For the fiscal year ending June 30,
242 2004, rates in effect for the period ending June 30, 2003, shall remain in

243 effect, except any facility that would have been issued a lower rate
244 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due
245 to interim rate status or agreement with the department shall be issued
246 such lower rate effective July 1, 2003. For the fiscal year ending June
247 30, 2005, rates in effect for the period ending June 30, 2004, shall
248 remain in effect until September 30, 2004. Effective October 1, 2004,
249 each facility shall receive a rate that is five per cent greater than the
250 rate in effect September 30, 2004. Effective upon receipt of all the
251 necessary federal approvals to secure federal financial participation
252 matching funds associated with the rate increase provided in
253 subdivision (4) of subsection (f) of this section, as amended by this act,
254 but in no event earlier than July 1, 2005, and provided the tax imposed
255 under section 1 of this act is required to be collected, each facility shall
256 receive a rate that is four per cent more than the rate the facility
257 received in the prior fiscal year, except any facility that would have
258 been issued a lower rate effective July 1, 2005, than for the fiscal year
259 ending June 30, 2005, due to interim rate status or agreement with the
260 department, shall be issued such lower rate effective July 1, 2005. Such
261 rate increase shall remain in effect unless: (A) The federal financial
262 participation matching funds associated with the rate increase are no
263 longer available; or (B) the tax created pursuant to section 1 of this act
264 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
265 for the period ending June 30, 2006, shall remain in effect, except any
266 facility that would have been issued a lower rate effective July 1, 2006,
267 than for the fiscal year ending June 30, 2006, due to interim rate status
268 or agreement with the department, shall be issued such lower rate
269 effective July 1, 2006.

270 Sec. 5. Subdivision (1) of subsection (h) of section 17b-340 of the
271 general statutes is repealed and the following is substituted in lieu
272 thereof (*Effective July 1, 2005*):

273 (h) (1) For the fiscal year ending June 30, 1993, any residential care
274 home with an operating cost component of its rate in excess of one
275 hundred thirty per cent of the median of operating cost components of

276 rates in effect January 1, 1992, shall not receive an operating cost
277 component increase. For the fiscal year ending June 30, 1993, any
278 residential care home with an operating cost component of its rate that
279 is less than one hundred thirty per cent of the median of operating cost
280 components of rates in effect January 1, 1992, shall have an allowance
281 for real wage growth equal to sixty-five per cent of the increase
282 determined in accordance with subsection (q) of section 17-311-52 of
283 the regulations of Connecticut state agencies, provided such operating
284 cost component shall not exceed one hundred thirty per cent of the
285 median of operating cost components in effect January 1, 1992.
286 Beginning with the fiscal year ending June 30, 1993, for the purpose of
287 determining allowable fair rent, a residential care home with allowable
288 fair rent less than the twenty-fifth percentile of the state-wide
289 allowable fair rent shall be reimbursed as having allowable fair rent
290 equal to the twenty-fifth percentile of the state-wide allowable fair
291 rent. Beginning with the fiscal year ending June 30, 1997, a residential
292 care home with allowable fair rent less than three dollars and ten cents
293 per day shall be reimbursed as having allowable fair rent equal to
294 three dollars and ten cents per day. Property additions placed in
295 service during the cost year ending September 30, 1996, or any
296 succeeding cost year shall receive a fair rent allowance for such
297 additions as an addition to three dollars and ten cents per day if the
298 fair rent for the facility for property placed in service prior to
299 September 30, 1995, is less than or equal to three dollars and ten cents
300 per day. For the fiscal year ending June 30, 1996, and any succeeding
301 fiscal year, the allowance for real wage growth, as determined in
302 accordance with subsection (q) of section 17-311-52 of the regulations
303 of Connecticut state agencies, shall not be applied. For the fiscal year
304 ending June 30, 1996, and any succeeding fiscal year, the inflation
305 adjustment made in accordance with subsection (p) of section
306 17-311-52 of the regulations of Connecticut state agencies shall not be
307 applied to real property costs. Beginning with the fiscal year ending
308 June 30, 1997, minimum allowable patient days for rate computation
309 purposes for a residential care home with twenty-five beds or less shall

310 be eighty-five per cent of licensed capacity. Beginning with the fiscal
311 year ending June 30, 2002, for the purposes of determining the
312 allowable salary of an administrator of a residential care home with
313 sixty beds or less the department shall revise the allowable base salary
314 to thirty-seven thousand dollars to be annually inflated thereafter in
315 accordance with section 17-311-52 of the regulations of Connecticut
316 state agencies. The rates for the fiscal year ending June 30, 2002, shall
317 be based upon the increased allowable salary of an administrator,
318 regardless of whether such amount was expended in the 2000 cost
319 report period upon which the rates are based. Beginning with the fiscal
320 year ending June 30, 2000, the inflation adjustment for rates made in
321 accordance with subsection (p) of section 17-311-52 of the regulations
322 of Connecticut state agencies shall be increased by two per cent, and
323 beginning with the fiscal year ending June 30, 2002, the inflation
324 adjustment for rates made in accordance with subsection (c) of said
325 section shall be increased by one per cent. Beginning with the fiscal
326 year ending June 30, 1999, for the purpose of determining the
327 allowable salary of a related party, the department shall revise the
328 maximum salary to twenty-seven thousand eight hundred fifty-six
329 dollars to be annually inflated thereafter in accordance with section
330 17-311-52 of the regulations of Connecticut state agencies and
331 beginning with the fiscal year ending June 30, 2001, such allowable
332 salary shall be computed on an hourly basis and the maximum
333 number of hours allowed for a related party other than the proprietor
334 shall be increased from forty hours to forty-eight hours per work week.
335 For the fiscal year ending June 30, 2005, each facility shall receive a rate
336 that is two and one-quarter per cent more than the rate the facility
337 received in the prior fiscal year, except any facility that would have
338 been issued a lower rate effective July 1, 2004, than for the fiscal year
339 ending June 30, 2004, due to interim rate status or agreement with the
340 department shall be issued such lower rate effective July 1, 2004.
341 Effective upon receipt of all the necessary federal approvals to secure
342 federal financial participation matching funds associated with the rate
343 increase provided in subdivision (4) of subsection (f) of this section, as

344 amended by this act, but in no event earlier than July 1, 2005, and
345 provided the tax imposed under section 1 of this act is required to be
346 collected, each facility shall receive a rate that is four per cent more
347 than the rate the facility received in the prior fiscal year, except any
348 facility that would have been issued a lower rate effective July 1, 2005,
349 than for the fiscal year ending June 30, 2005, due to interim rate status
350 or agreement with the department, shall be issued such lower rate
351 effective July 1, 2005. Such rate increase shall remain in effect unless:
352 (A) The federal financial participation matching funds associated with
353 the rate increase are no longer available; or (B) the tax created pursuant
354 to section 1 of this act is not in effect. For the fiscal year ending June 30,
355 2007, rates in effect for the period ending June 30, 2006, shall remain in
356 effect, except any facility that would have been issued a lower rate
357 effective July 1, 2006, than for the fiscal year ending June 30, 2006, due
358 to interim rate status or agreement with the department, shall be
359 issued such lower rate effective July 1, 2006.

360 Sec. 6. (NEW) (*Effective July 1, 2005*) For the fiscal year ending June
361 30, 2006, any nursing home that receives a net gain in revenue shall
362 apply such net gain to increased employee wage rates and benefits and
363 additional direct and indirect component staffing. Such net gain shall
364 not be applied to wage and salary increases provided to the
365 administrator, assistant administrator, owners or related party
366 employees. For the purposes of this section, "net gain in revenue"
367 means the difference between the rate in effect June 30, 2005, and the
368 rate in effect on July 1, 2005, multiplied by the number of resident days
369 eligible for state payment for the period between July 1, 2005, and June
370 30, 2006, less state revenue taxes accrued for the period between July 1,
371 2005, and June 30, 2006. The Commissioner of Social Services shall
372 compare expenditures for wages, benefits and staffing for the year
373 ending June 30, 2006, exclusive of administrator, assistant
374 administrator, owners or related party employee expenditures, to such
375 expenditures in the year ending June 30, 2005, to verify whether a
376 facility has applied any net gain to specified wage, benefit and staffing
377 enhancements. In the event that the commissioner determines that a

378 facility did not apply any net gain to increased employee wage rates
379 and benefits and additional direct and indirect component staffing, the
380 commissioner shall recover such amounts from the facility through
381 rate adjustments or other means. The commissioner may require
382 facilities to file cost reporting forms, in addition to the annual cost
383 report, as may be necessary, to verify the appropriate application of
384 any net gain.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	New section
Sec. 2	<i>July 1, 2005</i>	New section
Sec. 3	<i>July 1, 2005</i>	17b-340(f)(4)
Sec. 4	<i>July 1, 2005</i>	17b-340(g)
Sec. 5	<i>July 1, 2005</i>	17b-340(h)(1)
Sec. 6	<i>July 1, 2005</i>	New section

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]