

Reprinted

FILED MAR 17 1992

SENATE FILE 2350

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2283)

Passed Senate, Date 4/8/92 (p. 1300) Passed House, Date _____
 Vote: Ayes 45 Nays 1 Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to supplemental disproportionate share payments
 2 for medical assistance to qualifying hospitals and providing
 3 an effective date.

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

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SENATE FILE 2350

S-5295

- 1 Amend Senate File 2350 as follows:
 2 1. Page 1, line 17, by striking the word "any"
 3 and inserting the following: "the".
 4 2. Page 1, line 18, by inserting after the word
 5 "hospital" the following: "for treatment of indigent
 6 patients as provided in chapter 255".
 7 3. Page 1, line 25, by inserting after the word
 8 "hospital" the following: "for treatment of indigent
 9 patients as provided in chapter 255".

By WILLIAM DIELEMAN

S-5295 FILED MARCH 18, 1992

Adopted 4/8/92 (p. 1299)

SF 2350

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1 Section 1. NEW SECTION. 249A.20 SUPPLEMENTAL
2 DISPROPORTIONATE SHARE PAYMENTS TO QUALIFYING HOSPITALS.
3 1. The department shall implement a supplemental
4 disproportionate share adjustment applicable to state-owned
5 acute care hospitals with more than five hundred beds and
6 shall reimburse qualifying hospitals pursuant to that
7 adjustment with a supplemental amount for services provided
8 medical assistance recipients. The adjustment shall generate
9 payments intended to equal the state appropriation made to a
10 qualifying hospital for treatment of indigent patients as
11 provided in chapter 255. To the extent of the supplemental
12 disproportionate share adjustment payments, a qualifying
13 hospital shall, on the first day of each month, transfer to
14 the department an amount equal to the estimated supplemental
15 payments that will be made by the department to the qualifying
16 hospital in that month. The aggregate amounts for a fiscal
17 year shall not exceed any state appropriation made to the
18 qualifying hospital. The amount to be transferred shall be
19 adjusted to reflect any variance between the estimated and
20 actual supplemental payments made in prior months. The
21 department shall deposit the portion of these funds equal to
22 the state share in the department's medical assistance account
23 and transfer the balance to the state GAAP escrow account
24 created in section 422.69, subsection 3. To the extent that
25 state funds appropriated to a qualifying hospital have been
26 transferred to the department as a result of these
27 supplemental disproportionate share payments made to the
28 qualifying hospital, the department shall not, directly or
29 indirectly, recoup the supplemental disproportionate share
30 adjustment payments made to a qualifying hospital for any
31 reason, unless an equivalent amount of the funds transferred
32 to the department by a qualifying hospital pursuant to this
33 provision is transferred to the qualifying hospital by the
34 department. The department shall, in any compilation of data
35 or other report distributed to the public concerning payments

1 to providers under the medical assistance program, set forth
2 reimbursements to a qualifying hospital through the
3 supplemental disproportionate share adjustment as a separate
4 item and shall not include such payments in the amounts
5 otherwise reported as the reimbursement to a qualifying
6 hospital for services to medical assistance recipients.

7 2. For purposes of this section, "supplemental
8 disproportionate share payment" means a supplemental payment
9 amount paid for medical assistance to a hospital qualifying
10 for that payment under this section.

11 Sec. 2. EFFECTIVE DATE. This Act takes effect October 1,
12 1992.

13 EXPLANATION

14 This bill specifies the procedures for the reimbursement of
15 state-owned acute care hospitals with more than 500 beds for
16 services provided to Iowa medical assistance recipients. A
17 qualified hospital would monthly transfer to the department of
18 human services an amount equal to the estimated supplemental
19 payments that will be made by the department of human services
20 to the qualifying hospital. The fiscal year transfers could
21 not exceed the amount appropriated pursuant to Code chapter
22 255. The amount transferred would be adjusted to reflect any
23 variance between the estimated and actual supplemental
24 payments made in prior months. The department would deposit
25 the state's share of the payments in the medical assistance
26 account, and would transfer the balance to the state GAAP
27 escrow account. Public reports regarding the payments would
28 set forth reimbursements to a qualifying hospital through the
29 supplemental disproportionate share adjustment as a separate
30 item and would not be included in the amounts otherwise
31 reported as the reimbursement to the qualifying hospital for
32 services to medical assistance recipients. For purposes of
33 this bill "supplemental disproportionate share payment" is
34 defined as a supplemental payment amount paid for medical
35 assistance to a hospital qualifying for that payment under the

1 provisions of the bill.

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SENATE CLIP SHEET

APRIL 1, 1992

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SENATE FILE 2350
FISCAL NOTE

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A fiscal note for Senate File 2350 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 2350 specifies the procedures for the reimbursement of State-owned acute care hospitals with more than 500 beds for services provided to Iowa Medical Assistance patients. A qualified hospital would transfer monthly to the Department of Human Services (DHS) an amount equal to the estimated supplemental payments that will be made by the DHS to the qualifying hospital. The fiscal year transfers could not exceed the amount appropriated pursuant to Chapter 255, Code of Iowa, and would be adjusted to reflect any variance between the estimated and actual supplemental payments made in prior months. The Department would deposit the State's share of the payments in the Medical Assistance Account and would transfer the balance to the State Generally Accepted Accounting Principles (GAAP) Escrow Account.

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Public reports regarding the payments would show reimbursements to a qualifying hospital through the supplemental disproportionate share adjustment as a separate item. For the purposes of this bill "supplemental disproportionate share payment" is defined as a supplemental payment paid for Medical Assistance to a hospital qualifying for that payment under the provisions of this bill.

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ASSUMPTIONS

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1. The University of Iowa Hospital is the only State-owned acute care hospital for treatment of indigent patients affected by this bill.
2. The indigent care fund appropriation to the University of Iowa Hospital for FY 1993 is \$27.3 million.
3. The Federal Financial Participation (FFP) for Medical Assistance in FY 1993 is 63.31%.

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FISCAL IMPACT

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The fiscal impact of Senate File 2350 in FY 1993 is an increase to the State GAAP Escrow Account of \$17.3 million.

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Source: Department of Human Services

(LSB 6260sv, PNS)

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FILED MARCH 31, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

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SENATE FILE 2350

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1 Amend Senate File 2350 as follows:

2 1. Page 2, by inserting after line 10 the
3 following:

4 "Sec. 200. NEW SECTION. 422C.1 SHORT TITLE.

5 This chapter may be cited as the "Health Care
6 Provider Assessment Act".

7 Sec. 201. NEW SECTION. 422C.2 DEFINITIONS.

8 For purposes of this chapter, unless the context
9 otherwise requires:

10 1. "Hospital" means a facility defined in section
11 135B.1.

12 2. "Hospital gross receipts" means total patient
13 receipts derived by a hospital from the provision of
14 direct patient care in one or more hospital
15 departments plus other income. Hospital departments
16 include but are not limited to: inpatient services;
17 outpatient services; specialty units; nursing care
18 units; swing beds; intensive care, coronary care, and
19 trauma; home health services; ambulance services;
20 comprehensive outpatient rehabilitation facility;
21 ambulatory surgical center; hospice services;
22 laboratory; radiology, X-ray, MRI, CAT scanning; and
23 other ancillary services. "Other income" includes,
24 but is not limited to, receipts from: telephone
25 services, television rentals, purchase discounts,
26 rebates or refunds, parking lot receipts, laundry or
27 linen services, food service, living quarters rental,
28 sale of supplies sold to persons other than patients,
29 sale of medical records, tuition and book fees, sales
30 from gift shops and canteens, rental of vending
31 machines, rental of building space or other property,
32 and any other sale of goods or services.

33 3. "Nursing facility" means a facility as defined
34 in section 135C.1.

35 4. "Nursing facility gross receipts" means total
36 gross receipts related to nursing care derived by a
37 nursing facility. Gross receipts related to nursing
38 care include, but are not limited to, receipts from
39 all services provided under the nursing facility
40 licensed to include, but not limited to, medicare-
41 certified skilled nursing and other specialized
42 nursing units including, but not limited to, brain
43 injury and alzheimer treatment units.

44 5. "Physician" means a person who is engaged in
45 the practice of medicine and surgery pursuant to
46 chapter 148, the practice of osteopathy pursuant to
47 chapter 150, or the practice of osteopathic medicine
48 and surgery pursuant to chapter 150A.

49 6. "Physician gross receipts" means the total
50 gross receipts related to the practice of a physician.

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1 Gross receipts of a physician related to the practice
2 of a physician include those resulting from, but not
3 limited to: direct patient care services, dispensing
4 or utilization of pharmaceuticals and supplies,
5 laboratory and radiological services, and services
6 performed by employees of the physician within their
7 scope of practice.

8 7. "Dentist" means a person who is engaged in the
9 practice of dentistry pursuant to chapter 153.

10 8. "Dentist gross receipts" means the total gross
11 receipts related to the practice of a dentist. Gross
12 receipts of a dentist related to the practice of a
13 dentist include those resulting from, but not limited
14 to: direct patient care services, dispensing or
15 utilization of pharmaceuticals and supplies,
16 laboratory and radiological services, and services
17 performed by employees of the dentist within their
18 scope of practice.

19 9. "Prescription drugs" means those items exempt
20 from the sales tax under section 422.45, subsections
21 13 and 14.

22 10. "Ambulatory surgery center" means a facility
23 that is certified as an ambulatory surgery center
24 pursuant to 42 C.F.R. 416.2.

25 11. "Ambulatory surgery center gross receipts"
26 means the gross receipts of an ambulatory surgery
27 center related to its certification.

28 12. "Psychiatric medical institution for children"
29 means a facility defined in section 135H.1.

30 13. "Psychiatric medical institution for children
31 gross receipts" means the total receipts of the
32 facility related to the operation of programs under
33 its license.

34 14. "Audiologist" means a person who is engaged in
35 the practice of audiology pursuant to chapter 147.

36 15. "Audiologist gross receipts" means the total
37 gross receipts related to the practice of an
38 audiologist including, but not limited to: audiologic
39 testing, hearing aid selection, travel to perform
40 testing services, and services performed by employees
41 of the audiologist within the scope of practice.

42 16. "Chiropractor" means a person who is engaged
43 in the practice of chiropractic pursuant to chapter
44 151.

45 17. "Chiropractic gross receipts" means the total
46 gross receipts related to the practice of a
47 chiropractor including, but not limited to, manual
48 manipulation of the spine and services performed by
49 employees of the chiropractor within the scope of
50 practice.

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1 18. "Hearing aid dealer" means a person who is
2 engaged in the fitting, dispensing, and the sale of
3 hearing aids, and providing hearing aid services or
4 maintenance pursuant to chapter 154A.

5 19. "Hearing aid dealer gross receipts" means the
6 total gross receipts within the scope of license of a
7 hearing aid dealer including, but not limited to:
8 those related to the hearing aid selection, the
9 hearing aid, ear molds, maintenance items, maintenance
10 services, and repairs and services performed by
11 employees of the hearing aid dealer within the scope
12 of practice.

13 20. "Laboratory or x-ray facility" means a
14 facility engaged in laboratory or x-ray services
15 defined under federal regulation 42 C.F.R. 493 for
16 laboratories, under federal regulation 42 C.F.R.
17 405.1411 for portable x-ray units, and under sections
18 1861(s)(14) and 1834(c)(3) of Title XIX of the federal
19 Social Security Act for mobile mammography x-ray
20 units.

21 21. "Laboratory or x-ray gross receipts" means the
22 total gross receipts related to laboratory and x-ray
23 services provided by a laboratory or x-ray facility.

24 22. "Optometrist" means a person who is engaged in
25 the practice of optometry pursuant to chapter 154.

26 23. "Optometrist gross receipts" means the total
27 gross receipts of an optometrist related to the
28 practice of optometry including, but not limited to,
29 services or supplies provided within the scope of
30 practice and services performed by employees of the
31 optometrist within the scope of practice.

32 24. "Ophthalmic dispenser" means a person who is
33 engaged in the practice of preparing and dispensing
34 ophthalmic supplies or providing related services
35 pursuant to chapter 153A.

36 25. "Ophthalmic dispenser gross receipts" means
37 the total gross receipts of an ophthalmic dispenser
38 from services of preparing and dispensing supplies
39 provided within the scope of license and services
40 performed by employees of the ophthalmic dispenser
41 within the scope of practice.

42 26. "Physical therapist" means a person who is
43 engaged in the practice of physical therapy pursuant
44 to chapter 148A.

45 27. "Physical therapist gross receipts" means the
46 total gross receipts of a physical therapist from
47 services or supplies provided within the scope of
48 practice and services performed by employees of the
49 physical therapist within the scope of practice.

50 28. "Podiatrist" means a person who is engaged in

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1 the practice of podiatry pursuant to chapter 149.

2 29. "Podiatrist gross receipts" means the total

3 gross receipts related to the practice of podiatry.

4 Gross receipts of podiatrists related to their

5 practice include those resulting from, but not limited

6 to: direct patient care services, dispensing or

7 utilization of pharmaceuticals or supplies or orthotic

8 appliances, and services performed by employees of the

9 podiatrist within the scope of practice.

10 30. "Licensed psychologist" means a person who is

11 engaged in the practice of psychology pursuant to

12 chapter 154B.

13 31. "Licensed psychologist gross receipts" means

14 the total gross receipts related to the practice of a

15 psychologist including, but not limited to, direct

16 patient care services and services performed by

17 employees of the licensed psychologist within the

18 scope of practice.

19 32. "Registered nurse with certification" means a

20 person who is actively engaged in the practice of

21 nursing pursuant to chapter 152 as a certified family

22 nurse practitioner, as a certified nurse midwife, a

23 certified nurse anesthetist, or a certified pediatric

24 nurse practitioner and possessing evidence of

25 certification or is eligible for certification as an

26 advanced registered nurse practitioner as set forth in

27 the board of nursing rules 655 I.A.C. 7.

28 33. "Registered nurse with certification gross

29 receipts" means the total gross receipts related to

30 the practice of a registered nurse with certification

31 including, but not limited to, nursing services or

32 dispensing or utilization of supplies and services

33 performed by employees of the registered nurse with

34 certification within the scope of practice.

35 34. "Rehabilitation agency" means an agency

36 engaged in rehabilitative services as defined in

37 federal regulation 42 C.F.R. 405.1701.

38 35. "Rehabilitation agency gross receipts" means

39 the total gross receipts of a rehabilitation agency

40 associated with the providing of rehabilitation

41 services or supplies.

42 36. "Pharmacist" means a person who is engaged in

43 the practice of pharmacy pursuant to chapter 155A.

44 37. "Other health care providers" means the

45 persons, facilities, or agencies defined in

46 subsections 10, 12, 14, 16, 18, 20, 22, 24, 26, 28,

47 30, 32, and 34.

48 38. "Other health care providers' gross receipts"

49 means the gross receipts as defined in subsections 11,

50 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

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1 39. "Provider" means a facility or person as
2 defined in subsections 1, 3, 5, 7, 36, and 37.

3 40. "Director" means the director of revenue and
4 finance.

5 41. "Department" means the department of revenue
6 and finance.

7 42. "Gross receipts" means the gross receipts
8 defined in subsections 2, 4, 5, 8, and 38 valued in
9 money, whether received in money or otherwise from any
10 source, including, but not limited to, direct
11 payments, third-party payments, insurance payments,
12 and government payments. Gross receipts do not
13 include the following: any contractual allowances and
14 discounts allowed under medicare principles of
15 accounting, any payments to another health care
16 provider whose gross receipts, including those
17 payments, are subject to the health care provider
18 assessment, and any private charitable contributions
19 not given for payment of specific goods or services.
20 An employee shall not be subject to the provider
21 assessment as a result of compensation received in an
22 employer-employee relationship.

23 43. "Provider assessment" means the health care
24 provider assessment imposed under section 422C.3.

25 44. "Medicare" means health insurance for the
26 aged, blind, and disabled under 42 U.S.C. § 1395 et.
27 seq.

28 45. "Person" means an individual, corporation,
29 government or governmental subdivision or agency,
30 business, trust, estate trust, partnership,
31 association, or any other legal entity.

32 Sec. 202. NEW SECTION. 422C.3 PROVIDER
33 ASSESSMENT IMPOSED.

34 An assessment is imposed upon each provider's gross
35 receipts associated with facilities located in Iowa or
36 activities occurring within Iowa at the following
37 rates:

38 1. Nine-tenths of one percent on hospital gross
39 receipts.

40 2. Two and four-tenths percent on nursing facility
41 gross receipts.

42 3. Five-tenths of one percent on physician gross
43 receipts.

44 4. Four-tenths of one percent on dentist gross
45 receipts.

46 5. Four-tenths of one percent on the gross
47 receipts from sales of prescription drugs.

48 6. One and seven-tenths percent on the gross
49 receipts of other health care providers.

50 Sec. 203. NEW SECTION. 422C.4 PAYMENT OF
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1 PROVIDER ASSESSMENT -- BOND.

2 1. The provider assessment imposed in section
3 422C.3 is due and payable on or before the fifteenth
4 day of the month following each calendar quarter,
5 except as otherwise provided in this section. The
6 director may establish, by rule, criteria for the
7 monthly deposit of payments of the provider assessment
8 on the tenth day of the month following the end of the
9 first and second months of the calendar quarter.
10 Quarterly or monthly payments shall be made in the
11 form the director prescribes.

12 2. The director, when necessary and advisable in
13 order to secure the collection of the provider
14 assessment imposed under this chapter, may require any
15 person subject to the provider assessment to file with
16 the director a bond, issued by a surety company
17 authorized to transact business in this state and
18 approved by the commissioner of insurance as to
19 solvency and responsibility, in an amount as the
20 director may fix, to secure the payment of any
21 provider assessment, interest, or penalties due or
22 which may become due from a provider. In lieu of a
23 bond, securities approved by the director, in an
24 amount as the director may prescribe, may be deposited
25 with the department, which securities shall be kept in
26 the custody of the department and may be sold by the
27 director at public or private sale, without notice to
28 the depositor, if it becomes necessary to do so in
29 order to recover any provider assessment, interest, or
30 penalties due. Upon any sale, the surplus, if any,
31 above the amounts due under this chapter shall be
32 returned to the person who deposited the securities.

33 Sec. 204. NEW SECTION. 422C.5 TIME AND FORM OF
34 RETURN.

35 Each provider subject to sections 422C.3 and
36 422C.4, on or before the fifteenth day of the month
37 following each calendar quarter, shall make, sign, and
38 file a return for the prior calendar quarter. The
39 return shall be in a form specified by the director.

40 Sec. 205. NEW SECTION. 422C.6 INFORMATION DEEMED
41 CONFIDENTIAL.

42 1. It is unlawful for the director, or any person
43 having an administrative duty under this chapter, or
44 any present or former officer or other employee of the
45 state authorized by the director to examine returns,
46 to divulge in any manner whatever, the business
47 affairs, operations, or information obtained by an
48 investigation under this chapter or the amount or
49 source of gross receipts, income, profits, losses,
50 expenditures or any particular thereof, set forth or

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1 disclosed in any provider assessment return, or to
2 permit any return or copy of a return or any book
3 containing any abstract or particulars thereof to be
4 seen or examined by any person except as provided by
5 law.

6 2. The director, by rule, may authorize
7 examination of state information and provider
8 assessment returns by officers or employees of this
9 state to the extent required by their official duties
10 and responsibilities.

11 3. The director shall provide provider assessment
12 returns and return information to the auditor of
13 state, to the extent that the information is necessary
14 to complete the annual audit of the department
15 required by section 11.2. The provider assessment
16 returns and return information provided by the
17 director shall remain confidential and shall not be
18 included in any public documents issued by the auditor
19 of state.

20 4. Unless otherwise expressly permitted by section
21 421.17, subsections 21, 22, 23, 25, 29, and 32,
22 sections 252B.9, 324.63, 421.19, 421.28, and 422.20,
23 and this section, a provider assessment return, return
24 information, or investigative or audit information
25 shall not be divulged to any person or entity, other
26 than the provider or the department for use in a
27 matter unrelated to the administration of the provider
28 assessment.

29 5. A subpoena, order, or process which requires
30 the department to produce a provider assessment
31 return, return information, or investigative or audit
32 information to a person or entity, other than the
33 provider or the department for use in a proceeding not
34 related to the administration of the provider
35 assessment is void.

36 6. A person violating subsection 1, 2, 3, 4, or 5
37 is guilty of a serious misdemeanor.

38 Sec. 206. NEW SECTION. 422C.7 PENALTIES.

39 1. FAILURE TO TIMELY FILE A RETURN OR DEPOSIT
40 FORM. If a provider fails to file with the department
41 on or before the due date a provider assessment return
42 or deposit form there shall be added to the provider
43 assessment shown due or required to be shown due a
44 penalty of ten percent of the provider assessment
45 shown due or required to be shown due. The penalty,
46 if assessed, shall be waived by the department upon a
47 showing of any of the following conditions:

48 a. At least ninety percent of the provider
49 assessment required to be shown due has been paid by
50 the due date of the provider assessment.

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- 1 b. A provider may have one late provider
2 assessment return or deposit form within a three-year
3 period. The use of any other penalty exception shall
4 not be counted as a late return or deposit form for
5 purposes of this exception.
- 6 c. The death of the person directly responsible
7 for filing the provider assessment return and paying
8 the assessment.
- 9 d. The onset of serious, long-term illness or
10 hospitalization of the person directly responsible for
11 filing the provider assessment return and paying the
12 assessment.
- 13 e. Destruction of records by fire, flood, or other
14 act of God.
- 15 f. The provider presents proof that the provider
16 relied upon applicable, documented, written advice
17 specifically made to the provider, to the provider's
18 return preparer, or to an association representative
19 of the preparer from the department or department of
20 human services that has not been superseded by a court
21 decision, ruling by a quasi-judicial body, or the
22 adoption, amendment, or repeal of a rule or law.
- 23 g. Reliance upon results in a previous audit was a
24 direct cause for the failure to file the provider
25 assessment return or deposit form where the previous
26 audit expressly and clearly addressed the issue and
27 the previous audit results have not been superseded by
28 a court decision, or the adoption, amendment, or
29 repeal of a rule or law.
- 30 h. Under rules prescribed by the director, the
31 provider presents documented proof of substantial
32 authority to rely upon a particular position or upon
33 proof that all facts and circumstances are disclosed
34 on a provider assessment return or deposit form.
- 35 i. The provider provides proof of timely and
36 erroneous mailing of the provider assessment return or
37 deposit form with adequate postage.
- 38 j. The failure to file a provider assessment
39 return or deposit form was discovered through a
40 sanctioned self-audit program conducted by the
41 department.
- 42 2. FAILURE TO PAY. If a provider fails to pay in
43 full the provider assessment shown due or required to
44 be shown due, on a provider assessment return or
45 deposit form on or before the due date there shall be
46 added to the provider assessment shown due or required
47 to be shown due a penalty of five percent of the
48 provider assessment due. The penalty, if assessed,
49 shall be waived by the department upon a showing of
50 any of the following conditions:

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- 1 a. At least ninety percent of the provider
2 assessment required to be shown due has been paid by
3 the due date of the provider assessment.
- 4 b. The provider voluntarily files an amended
5 provider assessment return and pays all the provider
6 assessment shown to be due on the return prior to any
7 contact by the department, except under a sanctioned
8 self-audit program conducted by the department.
- 9 c. The provider presents proof that the provider
10 relied upon applicable, documented, written advice
11 specifically made to the provider, to the provider's
12 return preparer, or to an association representative
13 of the preparer from the department or the department
14 of human services that has not been superseded by a
15 court decision, ruling by a quasi-judicial body, or
16 the adoption, amendment, or repeal of a rule or law.
- 17 d. Reliance upon results in a previous audit was a
18 direct cause for the failure to pay the provider
19 assessment where the previous audit expressly and
20 clearly addressed the issue and the previous audit
21 results have not been superseded by a court decision,
22 or the adoption, amendment, or repeal of a rule or
23 law.
- 24 e. Under rules prescribed by the director, the
25 provider presents documented proof of substantial
26 authority to rely upon a particular position or upon
27 proof that all facts and circumstances are disclosed
28 on a provider assessment return or deposit form.
- 29 f. The provider provides proof of timely and
30 erroneous mailing of the payment with adequate
31 postage.
- 32 3. AUDIT DEFICIENCIES. If any person fails to pay
33 in full the provider assessment required to be shown
34 due with the filing of a provider assessment return or
35 deposit form and the department discovers the
36 underpayment, there shall be added to the provider
37 assessment required to be shown due a penalty of five
38 percent of the provider assessment required to be
39 shown due. The penalty, if assessed, shall be waived
40 by the department upon a showing of any of the
41 following conditions:
- 42 a. At least ninety percent of the provider
43 assessment required to be shown due has been paid by
44 the due date of the provider assessment.
- 45 b. The provider presents proof that the provider
46 relied upon applicable, documented, written advice
47 specifically made to the provider, to the provider's
48 return preparer, or to an association representative
49 of the preparer from the department or the department
50 of human services that has not been superseded by a

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1 court decision, ruling by a quasi-judicial body, or
2 the adoption, amendment, or repeal of a rule or law.

3 c. Reliance upon results in a previous audit was a
4 direct cause for the failure to pay the provider
5 assessment shown due or required to be shown due where
6 the previous audit expressly and clearly addressed the
7 issue and the previous audit results have not been
8 superseded by a court decision, or the adoption,
9 amendment, or repeal of a rule or law.

10 d. Under rules prescribed by the director, the
11 provider presents documented proof of substantial
12 authority to rely upon a particular position or upon
13 proof that all facts and circumstances are disclosed
14 on a provider assessment return or deposit form.

15 4. WILLFUL FAILURE. In case of willful failure to
16 file a provider assessment return or deposit form with
17 the intent to evade the provider assessment, or in
18 case of willfully filing a false provider assessment
19 return or deposit form with the intent to evade the
20 provider assessment, in lieu of the penalties
21 otherwise provided in this section, a penalty of
22 seventy-five percent shall be added to the amount
23 shown due or required to be shown due as the provider
24 assessment on the provider assessment return or
25 deposit form. The penalties imposed under this
26 subsection are not subject to waiver.

27 5. PRIORITY OF PENALTIES. If penalties are
28 applicable for failure to file a provider assessment
29 return or deposit form and failure to pay the provider
30 assessment shown due or required to be shown due on
31 the provider assessment return or deposit form, the
32 penalty provision for failure to file shall apply in
33 lieu of the penalty provision for failure to pay,
34 except in the case of willful failure to file a
35 provider assessment return or deposit form or
36 willfully filing a false provider assessment return or
37 deposit form with intent to evade the provider
38 assessment.

39 Unpaid penalties under this section may be enforced
40 and collected in the same manner as the provider
41 assessment imposed by this chapter.

42 Sec. 207. NEW SECTION. 422C.8 PAYMENT --
43 INTEREST.

44 The total provider assessment due shall be paid in
45 full at the time of filing the provider assessment
46 return or deposit form. When payment in full is not
47 made at the time of filing the provider assessment
48 return or deposit form, the provider shall also pay
49 interest on the unpaid provider assessment at the rate
50 in effect under section 421.7 for each month, counting

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1 each fraction of a month as an entire month, computed
2 from the due date of the provider assessment return or
3 deposit form. Unpaid interest may be enforced and
4 collected in the same manner as the provider
5 assessment imposed by this chapter.

6 Sec. 208. NEW SECTION. 422C.9 PERSONAL LIABILITY
7 FOR PROVIDER ASSESSMENT DUE.

8 If a provider fails to pay a provider assessment
9 under this chapter when due, an officer of a
10 corporation or association, or a partner of a
11 partnership, having control or supervision of or the
12 authority for remitting the provider assessment and
13 having a substantial legal or equitable interest in
14 the ownership of the corporation, association, or
15 partnership, who has intentionally failed to pay the
16 provider assessment is personally liable for the
17 payment of the provider assessment, interest, and
18 penalty due and unpaid. The dissolution of a
19 corporation, association, or partnership shall not
20 discharge a person's liability for failure to remit
21 the provider assessment, interest, and penalty due.

22 Sec. 209. NEW SECTION. 422C.10 COMPUTATION OF
23 ASSESSMENT, INTEREST, AND PENALTIES -- LIMITATION.

24 1. Within three years after the provider
25 assessment return or deposit form is filed or within
26 three years after the return became due, whichever
27 time is the later, the department shall examine the
28 assessment return or deposit form and determine the
29 correct amount of provider assessment. The amount
30 determined by the department is the provider
31 assessment.

32 The period for examination and determination of the
33 correct amount of provider assessment is unlimited in
34 the case of a false or fraudulent provider assessment
35 return or deposit form made with the intent to evade
36 the provider assessment or in the case of a failure to
37 file a provider assessment return or deposit form.

38 2. A person required to supply information, to pay
39 the provider assessment, or to make, sign, or file a
40 monthly deposit or quarterly return, who willfully
41 makes a false or fraudulent monthly deposit or
42 quarterly return, or willfully fails to pay the
43 provider assessment, supply the information, or make,
44 sign, or file the monthly deposit or quarterly return,
45 at the time or times required by law, is guilty of a
46 fraudulent practice.

47 3. A person who willfully attempts in any manner
48 to defeat or evade a provider assessment imposed by
49 this chapter or the payment of the provider
50 assessment, upon conviction for each offense is guilty

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1 of a class "D" felony.

2 4. The certificate of the director to the effect
3 that a provider assessment has not been paid, that a
4 return has not been filed, or that information has not
5 been supplied, as required by this chapter shall be
6 prima facie evidence thereof except as otherwise
7 provided in this section.

8 5. If the amount of the provider assessment as
9 determined by the department is less than the amount
10 paid, the excess shall be refunded with interest, the
11 interest to begin to accrue on the first day of the
12 second calendar month following the date of payment or
13 the date the return was due to be filed or was filed,
14 whichever is the latest, at the rate in effect under
15 section 421.7 counting each fraction of a month as an
16 entire month.

17 6. All payments received must be credited first,
18 to the penalty and interest accrued, and then to the
19 provider assessment due.

20 7. The jurisdiction of any offense as defined in
21 this section is in the county of the residence of the
22 person so charged, unless that person is a nonresident
23 of this state or the person's residence in this state
24 is not established, in either of which events
25 jurisdiction of the offense is in the county of the
26 seat of government of the state of Iowa.

27 8. A prosecution for any offense defined in this
28 section must be commenced within six years after the
29 commission of the offense and not after.

30 Sec. 210. NEW SECTION. 422C.11 CORRECTION OF
31 ERRORS -- REFUNDS AND CREDITS.

32 1. If it appears that an amount of provider
33 assessment, penalty, or interest has been paid which
34 was not due under this chapter, that amount shall be
35 credited against any provider assessment due on the
36 books of the department by the provider who made the
37 excessive payment, or that amount shall be refunded to
38 the provider by the department. A claim for refund
39 that has not been filed with the department within
40 three years after the return upon which a refund
41 claimed became due, or one year after payment of the
42 assessment was made, whichever time is the later,
43 shall not be allowed by the director.

44 2. If a refund is authorized, the director shall
45 certify the amount of the refund and the name of the
46 payee and draw a warrant on the general fund of the
47 state in the amount specified payable to the named
48 payee, and the treasurer of state shall pay the
49 warrant.

50 Sec. 211. NEW SECTION. 422C.12 ADMINISTRATIVE

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1 POWERS AND DUTIES.

2 1. The director may prescribe all rules not
3 inconsistent with the provisions of this chapter,
4 necessary and advisable for its detailed
5 administration and to effectuate its purposes.

6 2. The director may destroy useless returns,
7 records, reports, and communications of any provider
8 filed with or kept by the department after those
9 returns, records, reports, or communications have been
10 in the custody of the department for a period of not
11 less than three years or at such time as the director
12 prescribes by rule. However, after the accounts of a
13 provider have been examined by the director and the
14 amount of provider assessment, interest, and penalty
15 due have been finally determined, the director may
16 order the destruction of any records previously filed
17 by that provider, notwithstanding the fact that those
18 records have been in the custody of the department for
19 a period less than three years. These records and
20 documents shall be destroyed in the manner prescribed
21 by the director.

22 3. The department may make photostat, microfilm,
23 or other photographic copies of records, reports, and
24 other papers either filed by the provider or prepared
25 by the department. If photostat or microfilm copies
26 have been made, the department may destroy the
27 original records in a manner as prescribed by the
28 director. The photostat or microfilm copies, when no
29 longer of use, may be destroyed as provided in
30 subsection 2. The photostat, microfilm, or other
31 photographic records shall be admissible in evidence
32 when duly certified and authenticated by the officer
33 having custody and control of them.

34 Sec. 212. NEW SECTION. 422C.13 LIEN OF ASSESS-
35 MENT -- COLLECTION -- ACTION AUTHORIZED.

36 1. If a provider liable to pay a provider
37 assessment, interest, or penalty imposed under this
38 chapter refuses or neglects to pay the same, the
39 amount, including any interest, penalty, or addition
40 to the provider assessment, together with the costs
41 that may accrue in addition thereto, shall be a lien
42 in favor of the state upon all property and rights to
43 property, whether real or personal, belonging to that
44 provider.

45 2. The lien shall attach at the time the provider
46 assessment becomes due and payable and shall continue
47 for ten years from the date a notice of determination
48 is issued unless sooner released or otherwise
49 discharged. The lien may, within ten years from the
50 date a notice of determination is issued, be extended

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1 by filing for the record a notice with the appropriate
 2 county official of any county and from the time of the
 3 filing, the lien shall be extended to the property in
 4 the county for ten years, unless sooner released or
 5 otherwise discharged, with no limit on the number of
 6 extensions. The director shall charge off any account
 7 whose lien is allowed to lapse and may charge off any
 8 account and release the corresponding lien before the
 9 lien has lapsed if the director determines under
 10 uniform rules adopted by the director that the account
 11 is uncollectible or collection costs involved would
 12 not warrant collection of the amount due.

13 3. In order to preserve the lien against
 14 subsequent mortgagees, purchasers, or judgment
 15 creditors, for value and without notice of the lien,
 16 on any property situated in a county, the director
 17 shall file with the recorder of the county, in which
 18 the property is located, a notice of the lien.

19 4. The county recorder of each county shall
 20 prepare and keep in the recorder's office a book to be
 21 known as "index of provider assessment liens," so
 22 ruled as to show in appropriate columns the following
 23 data, under the names of providers, arranged
 24 alphabetically:

- 25 a. The name of the provider.
- 26 b. The name "State of Iowa" as claimant.
- 27 c. Time notice of lien was received.
- 28 d. Date of notice.
- 29 e. Amount of lien then due.
- 30 f. Date of notice of determination.
- 31 g. When satisfied.

32 5. The recorder shall endorse on each notice of
 33 lien the day, hour, and minute when received and
 34 preserve the notice, and shall forthwith index the
 35 notice in the index book and shall forthwith record
 36 the lien in the manner provided for recording real
 37 estate mortgages, and the lien shall be effective from
 38 the time of the indexing of the lien.

39 6. The department shall pay, from moneys
 40 appropriated to the department for this purpose, a
 41 recording fee as provided in section 331.604, for the
 42 recording of the lien, or for its satisfaction.

43 7. Upon the payment of a provider assessment as to
 44 which the director has filed notice with a county
 45 recorder, the director shall forthwith file with the
 46 recorder a satisfaction of the provider assessment and
 47 the recorder shall enter the satisfaction on the
 48 notice on file in the recorder's office and indicate
 49 the fact on the index.

50 8. The department, substantially as provided in

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1 this chapter and chapter 626, shall proceed to collect
2 all provider assessments, interest, and penalties as
3 soon as practicable after they become delinquent,
4 except that no property of the provider is exempt from
5 payment of the provider assessment, interest, and
6 penalty. If service has not been made on a distress
7 warrant by the officer to whom addressed within five
8 days from the date the distress warrant was received
9 by the officer, the authorized revenue agents of the
10 department may serve and make return of the warrant to
11 the clerk of the district court of the county named in
12 the distress warrant, and all subsequent procedure
13 shall be in compliance with chapter 626.

14 9. The distress warrant shall be in a form as
15 prescribed by the director. It shall be directed to
16 the sheriff of the appropriate county and it shall
17 identify the provider, and the delinquent amount. It
18 shall direct the sheriff to distrain, seize, garnish,
19 or levy upon, and sell, as provided by law, any real
20 or personal property belonging to the provider to
21 satisfy the amount of the delinquency plus costs. It
22 shall also direct the sheriff to make due and prompt
23 return to the department or to the district court
24 under chapters 626 and 642 of all amounts collected.

25 10. The attorney general, upon the request of the
26 director, shall bring an action at law or in equity,
27 as the facts may justify, without bond, to enforce
28 payment of any provider assessment, interest, and
29 penalties, and in this action the attorney general
30 shall have the assistance of the county attorney of
31 the county in which the action is pending.

32 11. It is expressly provided that the foregoing
33 remedies of the state shall be cumulative and that no
34 action taken by the director or attorney general shall
35 be construed to be an election on the part of the
36 state or any of its officers to pursue any remedy
37 hereunder to the exclusion of any other remedy
38 provided by law.

39 Sec. 213. NEW SECTION. 422C.14 REVISION OF
40 PROVIDER ASSESSMENT.

41 A provider may appeal to the director for revision
42 of the provider assessment, interest, or penalties
43 assessed at any time within sixty days from the date
44 of the notice of the determination of a provider
45 assessment, additional provider assessment, interest,
46 or penalties. The director shall grant a hearing and
47 if, upon the hearing, the director determines that the
48 provider assessment, interest, or penalties are
49 excessive or incorrect, the director shall revise them
50 according to the law and the facts and adjust the

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1 computation of the provider assessment, interest, or
 2 penalties accordingly. The director shall notify the
 3 provider by mail of the result of the hearing and
 4 shall refund to the provider the amount, if any, paid
 5 in excess of the provider assessment, interest, or
 6 penalties found by the director to be due, with
 7 interest after sixty days from the date of payment by
 8 the provider at the rate in effect under section 421.7
 9 for each month or a fraction of a month. The
 10 director, on the director's own motion at any time,
 11 may abate any portion of the provider assessment,
 12 interest, or penalties which the director determines
 13 is excessive in amount, or erroneously or illegally
 14 assessed.

15 Sec. 214. NEW SECTION. 422C.15 JUDICIAL REVIEW.

16 All provisions of section 422.29 shall be
17 applicable to the provider assessment.

18 Sec. 215. NEW SECTION. 422C.16 JEOPARDY
19 ASSESSMENTS.

20 If the director believes that the determination or
 21 collection of provider assessments will be jeopardized
 22 by delay, the director may immediately make a
 23 determination of the estimated amount of provider
 24 assessment due, together with all interest, additional
 25 provider assessment, or penalties, as provided by law,
 26 and demand payment thereof from the provider. If that
 27 payment is not made, a distress warrant may be issued
 28 or a lien filed against the provider immediately.

29 The director may accept a bond from the provider to
 30 satisfy collection until the amount of a provider
 31 assessment legally due is determined. This bond is to
 32 be in an amount deemed necessary, but not more than
 33 double the amount of the provider assessment involved,
 34 and with securities satisfactory to the director.

35 Sec. _____. Sections 200 through 215 of this Act
 36 take effect July 1, 1992, and apply to the gross
 37 receipts from services performed or tangible personal
 38 property provided or sold by health care providers on
 39 or after that date."

40 2. Page 2, line 11, by striking the word "This"
41 and inserting the following: "Section 1 of this".

42 3. Title page, line 1, by inserting after the
43 words "relating to" the following: "the state budget
44 and accounting procedures by imposing a health care
45 provider assessment and providing penalties, and
46 making".

By BILL HUTCHINS

S-5581 FILED APRIL 7, 1992

File 4/8/92 (S-5581)

1 Section 1. NEW SECTION. 249A.26 SUPPLEMENTAL
2 DISPROPORTIONATE SHARE PAYMENTS TO QUALIFYING HOSPITALS.
3 1. The department shall implement a supplemental
4 disproportionate share adjustment applicable to state-owned
5 acute care hospitals with more than five hundred beds and
6 shall reimburse qualifying hospitals pursuant to that
7 adjustment with a supplemental amount for services provided
8 medical assistance recipients. The adjustment shall generate
9 payments intended to equal the state appropriation made to a
10 qualifying hospital for treatment of indigent patients as
11 provided in chapter 255. To the extent of the supplemental
12 disproportionate share adjustment payments, a qualifying
13 hospital shall, on the first day of each month, transfer to
14 the department an amount equal to the estimated supplemental
15 payments that will be made by the department to the qualifying
16 hospital in that month. The aggregate amounts for a fiscal
17 year shall not exceed the state appropriation made to the
18 qualifying hospital for treatment of indigent patients as
19 provided in chapter 255. The amount to be transferred shall
20 be adjusted to reflect any variance between the estimated and
21 actual supplemental payments made in prior months. The
22 department shall deposit the portion of these funds equal to
23 the state share in the department's medical assistance account
24 and transfer the balance to the state GAAP escrow account
25 created in section 422.69, subsection 3. To the extent that
26 state funds appropriated to a qualifying hospital for
27 treatment of indigent patients as provided in chapter 255 have
28 been transferred to the department as a result of these
29 supplemental disproportionate share payments made to the
30 qualifying hospital, the department shall not, directly or
31 indirectly, recoup the supplemental disproportionate share
32 adjustment payments made to a qualifying hospital for any
33 reason, unless an equivalent amount of the funds transferred
34 to the department by a qualifying hospital pursuant to this
35 provision is transferred to the qualifying hospital by the

1 department. The department shall, in any compilation of data
2 or other report distributed to the public concerning payments
3 to providers under the medical assistance program, set forth
4 reimbursements to a qualifying hospital through the
5 supplemental disproportionate share adjustment as a separate
6 item and shall not include such payments in the amounts
7 otherwise reported as the reimbursement to a qualifying
8 hospital for services to medical assistance recipients.

9 2. For purposes of this section, "supplemental
10 disproportionate share payment" means a supplemental payment
11 amount paid for medical assistance to a hospital qualifying
12 for that payment under this section.

13 Sec. 2. EFFECTIVE DATE. This Act takes effect October 1,
14 1992.

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CONNOLLY, CH. ^{Dieleman} 3-12-92
DELUHERY
McLAREN

SSB 2283
WAYS + MEANS *WJW*
2350

SENATE FILE
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIR-
PERSON DIELEMAN)

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

A BILL FOR

1 An Act relating to supplemental disproportionate share payments
2 for medical assistance to qualifying hospitals.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 249A.20 SUPPLEMENTAL
2 DISPROPORTIONATE SHARE PAYMENTS TO QUALIFYING HOSPITALS.

3 1. The department shall implement a supplemental
4 disproportionate share adjustment applicable to state-owned
5 acute care hospitals with more than five hundred beds and
6 shall reimburse those qualifying hospitals pursuant to that
7 adjustment with a supplemental amount for services provided
8 medical assistance recipients. To the extent of the
9 supplemental disproportionate share adjustment payments, the
10 university of Iowa hospitals shall subsequently transfer to
11 the department each month an amount equal to the actual
12 supplemental payments to the university hospitals, which
13 amount shall not exceed the allocation made by the state for
14 the current fiscal year. The department shall deposit the
15 portion of these funds equal to the state share in the
16 department's medical assistance account and transfer the
17 balance to the state GAAP escrow account created in section
18 422.69, subsection 3. To the extent that state funds
19 allocated to the university of Iowa hospitals have been
20 transferred to the department as a result of these
21 supplemental disproportionate share payments made to the
22 university hospitals, the department shall not, directly or
23 indirectly, recoup the supplemental disproportionate share
24 adjustment payments to university hospitals for any reason.
25 The department shall, in any compilation of data or other
26 report distributed to the public concerning payments to
27 providers under the medical assistance program, set forth
28 reimbursements to the university hospitals through the
29 supplemental disproportionate share adjustment as a separate
30 item and shall not include such payments in the amounts
31 otherwise reported as the reimbursement to university
32 hospitals for services to medical assistance recipients.

33 2. For purposes of this section, "supplemental
34 disproportionate share payment" means a supplemental payment
35 amount paid for medical assistance to a hospital qualifying for

1 that payment under this section.

2 EXPLANATION

3 This bill specifies the procedures for the reimbursement of
4 qualifying hospitals for services provided to Iowa medical
5 assistance recipients. The university of Iowa hospitals would
6 transfer an amount equal to the amount received from the
7 federal government for supplemental payments to the department
8 of human services. The department would deposit the state's
9 share of the payments in the medical assistance account, and
10 would transfer the balance to the state GAAP escrow account.
11 Public reports regarding the payments would set forth
12 reimbursements to the hospitals through the supplemental
13 disproportionate share adjustment as a separate item and would
14 not be included in the amounts otherwise reported as the
15 reimbursement to the university hospitals for services to
16 medical assistance recipients. For purposes of this bill
17 "supplemental disproportionate share payment" is defined as a
18 supplemental payment amount paid for medical assistance to a
19 hospital qualifying for that payment under the provisions of
20 the bill.

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