



Rep. Gary Hannig

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1 AMENDMENT TO SENATE BILL 1863

2 AMENDMENT NO. _____. Amend Senate Bill 1863 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 FY2007 Budget Implementation (Human Services) Act.

6 Section 5. Purpose. It is the purpose of this Act to
7 implement the Governor's FY2007 budget recommendations
8 concerning human services.

9 Section 10. The Illinois Administrative Procedure Act is
10 amended by changing Section 5-45 and adding Section 5-46.2 as
11 follows:

12 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

13 Sec. 5-45. Emergency rulemaking.

14 (a) "Emergency" means the existence of any situation that
15 any agency finds reasonably constitutes a threat to the public
16 interest, safety, or welfare.

17 (b) If any agency finds that an emergency exists that
18 requires adoption of a rule upon fewer days than is required by
19 Section 5-40 and states in writing its reasons for that
20 finding, the agency may adopt an emergency rule without prior
21 notice or hearing upon filing a notice of emergency rulemaking
22 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be
2 published in the Illinois Register. Consent orders or other
3 court orders adopting settlements negotiated by an agency may
4 be adopted under this Section. Subject to applicable
5 constitutional or statutory provisions, an emergency rule
6 becomes effective immediately upon filing under Section 5-65 or
7 at a stated date less than 10 days thereafter. The agency's
8 finding and a statement of the specific reasons for the finding
9 shall be filed with the rule. The agency shall take reasonable
10 and appropriate measures to make emergency rules known to the
11 persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not
13 longer than 150 days, but the agency's authority to adopt an
14 identical rule under Section 5-40 is not precluded. No
15 emergency rule may be adopted more than once in any 24 month
16 period, except that this limitation on the number of emergency
17 rules that may be adopted in a 24 month period does not apply
18 to (i) emergency rules that make additions to and deletions
19 from the Drug Manual under Section 5-5.16 of the Illinois
20 Public Aid Code or the generic drug formulary under Section
21 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
22 emergency rules adopted by the Pollution Control Board before
23 July 1, 1997 to implement portions of the Livestock Management
24 Facilities Act, or (iii) emergency rules adopted by the
25 Illinois Department of Public Health under subsections (a)
26 through (i) of Section 2 of the Department of Public Health Act
27 when necessary to protect the public's health. Two or more
28 emergency rules having substantially the same purpose and
29 effect shall be deemed to be a single rule for purposes of this
30 Section.

31 (d) In order to provide for the expeditious and timely
32 implementation of the State's fiscal year 1999 budget,
33 emergency rules to implement any provision of Public Act 90-587
34 or 90-588 or any other budget initiative for fiscal year 1999

1 may be adopted in accordance with this Section by the agency
2 charged with administering that provision or initiative,
3 except that the 24-month limitation on the adoption of
4 emergency rules and the provisions of Sections 5-115 and 5-125
5 do not apply to rules adopted under this subsection (d). The
6 adoption of emergency rules authorized by this subsection (d)
7 shall be deemed to be necessary for the public interest,
8 safety, and welfare.

9 (e) In order to provide for the expeditious and timely
10 implementation of the State's fiscal year 2000 budget,
11 emergency rules to implement any provision of this amendatory
12 Act of the 91st General Assembly or any other budget initiative
13 for fiscal year 2000 may be adopted in accordance with this
14 Section by the agency charged with administering that provision
15 or initiative, except that the 24-month limitation on the
16 adoption of emergency rules and the provisions of Sections
17 5-115 and 5-125 do not apply to rules adopted under this
18 subsection (e). The adoption of emergency rules authorized by
19 this subsection (e) shall be deemed to be necessary for the
20 public interest, safety, and welfare.

21 (f) In order to provide for the expeditious and timely
22 implementation of the State's fiscal year 2001 budget,
23 emergency rules to implement any provision of this amendatory
24 Act of the 91st General Assembly or any other budget initiative
25 for fiscal year 2001 may be adopted in accordance with this
26 Section by the agency charged with administering that provision
27 or initiative, except that the 24-month limitation on the
28 adoption of emergency rules and the provisions of Sections
29 5-115 and 5-125 do not apply to rules adopted under this
30 subsection (f). The adoption of emergency rules authorized by
31 this subsection (f) shall be deemed to be necessary for the
32 public interest, safety, and welfare.

33 (g) In order to provide for the expeditious and timely
34 implementation of the State's fiscal year 2002 budget,

1 emergency rules to implement any provision of this amendatory
2 Act of the 92nd General Assembly or any other budget initiative
3 for fiscal year 2002 may be adopted in accordance with this
4 Section by the agency charged with administering that provision
5 or initiative, except that the 24-month limitation on the
6 adoption of emergency rules and the provisions of Sections
7 5-115 and 5-125 do not apply to rules adopted under this
8 subsection (g). The adoption of emergency rules authorized by
9 this subsection (g) shall be deemed to be necessary for the
10 public interest, safety, and welfare.

11 (h) In order to provide for the expeditious and timely
12 implementation of the State's fiscal year 2003 budget,
13 emergency rules to implement any provision of this amendatory
14 Act of the 92nd General Assembly or any other budget initiative
15 for fiscal year 2003 may be adopted in accordance with this
16 Section by the agency charged with administering that provision
17 or initiative, except that the 24-month limitation on the
18 adoption of emergency rules and the provisions of Sections
19 5-115 and 5-125 do not apply to rules adopted under this
20 subsection (h). The adoption of emergency rules authorized by
21 this subsection (h) shall be deemed to be necessary for the
22 public interest, safety, and welfare.

23 (i) In order to provide for the expeditious and timely
24 implementation of the State's fiscal year 2004 budget,
25 emergency rules to implement any provision of this amendatory
26 Act of the 93rd General Assembly or any other budget initiative
27 for fiscal year 2004 may be adopted in accordance with this
28 Section by the agency charged with administering that provision
29 or initiative, except that the 24-month limitation on the
30 adoption of emergency rules and the provisions of Sections
31 5-115 and 5-125 do not apply to rules adopted under this
32 subsection (i). The adoption of emergency rules authorized by
33 this subsection (i) shall be deemed to be necessary for the
34 public interest, safety, and welfare.

1 (j) In order to provide for the expeditious and timely
2 implementation of the provisions of the State's fiscal year
3 2005 budget as provided under the Fiscal Year 2005 Budget
4 Implementation (Human Services) Act, emergency rules to
5 implement any provision of the Fiscal Year 2005 Budget
6 Implementation (Human Services) Act may be adopted in
7 accordance with this Section by the agency charged with
8 administering that provision, except that the 24-month
9 limitation on the adoption of emergency rules and the
10 provisions of Sections 5-115 and 5-125 do not apply to rules
11 adopted under this subsection (j). The Department of Public Aid
12 may also adopt rules under this subsection (j) necessary to
13 administer the Illinois Public Aid Code and the Children's
14 Health Insurance Program Act. The adoption of emergency rules
15 authorized by this subsection (j) shall be deemed to be
16 necessary for the public interest, safety, and welfare.

17 (k) In order to provide for the expeditious and timely
18 implementation of the provisions of the State's fiscal year
19 2006 budget, emergency rules to implement any provision of this
20 amendatory Act of the 94th General Assembly or any other budget
21 initiative for fiscal year 2006 may be adopted in accordance
22 with this Section by the agency charged with administering that
23 provision or initiative, except that the 24-month limitation on
24 the adoption of emergency rules and the provisions of Sections
25 5-115 and 5-125 do not apply to rules adopted under this
26 subsection (k). The Department of Healthcare and Family
27 Services ~~Public Aid~~ may also adopt rules under this subsection
28 (k) necessary to administer the Illinois Public Aid Code, the
29 Senior Citizens and Disabled Persons Property Tax Relief and
30 Pharmaceutical Assistance Act, the Senior Citizens and
31 Disabled Persons Prescription Drug Discount Program Act, and
32 the Children's Health Insurance Program Act. The adoption of
33 emergency rules authorized by this subsection (k) shall be
34 deemed to be necessary for the public interest, safety, and

1 welfare.

2 (1) In order to provide for the expeditious and timely
3 implementation of the provisions of the State's fiscal year
4 2007 budget, the Department of Healthcare and Family Services
5 may adopt emergency rules during fiscal year 2007, including
6 rules effective July 1, 2007, in accordance with this
7 subsection to the extent necessary to administer the
8 Department's responsibilities with respect to amendments to
9 the State plans and Illinois waivers approved by the federal
10 Centers for Medicare and Medicaid Services necessitated by the
11 requirements of Title XIX and Title XXI of the federal Social
12 Security Act. The adoption of emergency rules authorized by
13 this subsection (1) shall be deemed to be necessary for the
14 public interest, safety, and welfare.

15 (Source: P.A. 93-20, eff. 6-20-03; 93-829, eff. 7-28-04;
16 93-841, eff. 7-30-04; 94-48, eff. 7-1-05; revised 12-5-05.)

17 (5 ILCS 100/5-46.2 new)

18 Sec. 5-46.2. Implementation of changes to State Medicaid
19 plan. In order to provide for the timely and expeditious
20 implementation of the federally approved amendment to the Title
21 XIX State Plan as authorized by subsection (r-5) of Section
22 5A-12.1 of the Illinois Public Aid Code, the Department of
23 Healthcare and Family Services may adopt any rules necessary to
24 implement changes resulting from that amendment to the hospital
25 access improvement payments authorized by Public Act 94-242 and
26 subsection (d) of Section 5A-2 of the Illinois Public Aid Code.
27 The Department is authorized to adopt rules implementing those
28 changes by emergency rulemaking. This emergency rulemaking
29 authority is granted by, and may be exercised only during, the
30 94th General Assembly.

31 Section 15. The Illinois Public Aid Code is amended by
32 changing Sections 5-5.4, 5A-2, and 5A-12.1 and adding Section

1 12-4.36 as follows:

2 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

3 Sec. 5-5.4. Standards of Payment - Department of Healthcare
4 and Family Services ~~Public Aid~~. The Department of Healthcare
5 and Family Services ~~Public Aid~~ shall develop standards of
6 payment of skilled nursing and intermediate care services in
7 facilities providing such services under this Article which:

8 (1) Provide for the determination of a facility's payment
9 for skilled nursing and intermediate care services on a
10 prospective basis. The amount of the payment rate for all
11 nursing facilities certified by the Department of Public Health
12 under the Nursing Home Care Act as Intermediate Care for the
13 Developmentally Disabled facilities, Long Term Care for Under
14 Age 22 facilities, Skilled Nursing facilities, or Intermediate
15 Care facilities under the medical assistance program shall be
16 prospectively established annually on the basis of historical,
17 financial, and statistical data reflecting actual costs from
18 prior years, which shall be applied to the current rate year
19 and updated for inflation, except that the capital cost element
20 for newly constructed facilities shall be based upon projected
21 budgets. The annually established payment rate shall take
22 effect on July 1 in 1984 and subsequent years. No rate increase
23 and no update for inflation shall be provided on or after July
24 1, 1994 and before July 1, 2007 ~~2006~~, unless specifically
25 provided for in this Section. The changes made by Public Act
26 93-841 ~~this amendatory Act of the 93rd General Assembly~~
27 extending the duration of the prohibition against a rate
28 increase or update for inflation are effective retroactive to
29 July 1, 2004.

30 For facilities licensed by the Department of Public Health
31 under the Nursing Home Care Act as Intermediate Care for the
32 Developmentally Disabled facilities or Long Term Care for Under
33 Age 22 facilities, the rates taking effect on July 1, 1998

1 shall include an increase of 3%. For facilities licensed by the
2 Department of Public Health under the Nursing Home Care Act as
3 Skilled Nursing facilities or Intermediate Care facilities,
4 the rates taking effect on July 1, 1998 shall include an
5 increase of 3% plus \$1.10 per resident-day, as defined by the
6 Department. For facilities licensed by the Department of Public
7 Health under the Nursing Home Care Act as Intermediate Care
8 Facilities for the Developmentally Disabled or Long Term Care
9 for Under Age 22 facilities, the rates taking effect on January
10 1, 2006 shall include an increase of 3%.

11 For facilities licensed by the Department of Public Health
12 under the Nursing Home Care Act as Intermediate Care for the
13 Developmentally Disabled facilities or Long Term Care for Under
14 Age 22 facilities, the rates taking effect on July 1, 1999
15 shall include an increase of 1.6% plus \$3.00 per resident-day,
16 as defined by the Department. For facilities licensed by the
17 Department of Public Health under the Nursing Home Care Act as
18 Skilled Nursing facilities or Intermediate Care facilities,
19 the rates taking effect on July 1, 1999 shall include an
20 increase of 1.6% and, for services provided on or after October
21 1, 1999, shall be increased by \$4.00 per resident-day, as
22 defined by the Department.

23 For facilities licensed by the Department of Public Health
24 under the Nursing Home Care Act as Intermediate Care for the
25 Developmentally Disabled facilities or Long Term Care for Under
26 Age 22 facilities, the rates taking effect on July 1, 2000
27 shall include an increase of 2.5% per resident-day, as defined
28 by the Department. For facilities licensed by the Department of
29 Public Health under the Nursing Home Care Act as Skilled
30 Nursing facilities or Intermediate Care facilities, the rates
31 taking effect on July 1, 2000 shall include an increase of 2.5%
32 per resident-day, as defined by the Department.

33 For facilities licensed by the Department of Public Health
34 under the Nursing Home Care Act as skilled nursing facilities

1 or intermediate care facilities, a new payment methodology must
2 be implemented for the nursing component of the rate effective
3 July 1, 2003. The Department of Public Aid (now Healthcare and
4 Family Services) shall develop the new payment methodology
5 using the Minimum Data Set (MDS) as the instrument to collect
6 information concerning nursing home resident condition
7 necessary to compute the rate. The Department ~~of Public Aid~~
8 shall develop the new payment methodology to meet the unique
9 needs of Illinois nursing home residents while remaining
10 subject to the appropriations provided by the General Assembly.
11 A transition period from the payment methodology in effect on
12 June 30, 2003 to the payment methodology in effect on July 1,
13 2003 shall be provided for a period not exceeding 3 years after
14 implementation of the new payment methodology as follows:

15 (A) For a facility that would receive a lower nursing
16 component rate per patient day under the new system than
17 the facility received effective on the date immediately
18 preceding the date that the Department implements the new
19 payment methodology, the nursing component rate per
20 patient day for the facility shall be held at the level in
21 effect on the date immediately preceding the date that the
22 Department implements the new payment methodology until a
23 higher nursing component rate of reimbursement is achieved
24 by that facility.

25 (B) For a facility that would receive a higher nursing
26 component rate per patient day under the payment
27 methodology in effect on July 1, 2003 than the facility
28 received effective on the date immediately preceding the
29 date that the Department implements the new payment
30 methodology, the nursing component rate per patient day for
31 the facility shall be adjusted.

32 (C) Notwithstanding paragraphs (A) and (B), the
33 nursing component rate per patient day for the facility
34 shall be adjusted subject to appropriations provided by the

1 General Assembly.

2 For facilities licensed by the Department of Public Health
3 under the Nursing Home Care Act as Intermediate Care for the
4 Developmentally Disabled facilities or Long Term Care for Under
5 Age 22 facilities, the rates taking effect on March 1, 2001
6 shall include a statewide increase of 7.85%, as defined by the
7 Department.

8 For facilities licensed by the Department of Public Health
9 under the Nursing Home Care Act as Intermediate Care for the
10 Developmentally Disabled facilities or Long Term Care for Under
11 Age 22 facilities, the rates taking effect on April 1, 2002
12 shall include a statewide increase of 2.0%, as defined by the
13 Department. This increase terminates on July 1, 2002; beginning
14 July 1, 2002 these rates are reduced to the level of the rates
15 in effect on March 31, 2002, as defined by the Department.

16 For facilities licensed by the Department of Public Health
17 under the Nursing Home Care Act as skilled nursing facilities
18 or intermediate care facilities, the rates taking effect on
19 July 1, 2001 shall be computed using the most recent cost
20 reports on file with the Department of Public Aid no later than
21 April 1, 2000, updated for inflation to January 1, 2001. For
22 rates effective July 1, 2001 only, rates shall be the greater
23 of the rate computed for July 1, 2001 or the rate effective on
24 June 30, 2001.

25 Notwithstanding any other provision of this Section, for
26 facilities licensed by the Department of Public Health under
27 the Nursing Home Care Act as skilled nursing facilities or
28 intermediate care facilities, the Illinois Department shall
29 determine by rule the rates taking effect on July 1, 2002,
30 which shall be 5.9% less than the rates in effect on June 30,
31 2002.

32 Notwithstanding any other provision of this Section, for
33 facilities licensed by the Department of Public Health under
34 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, if the payment methodologies
2 required under Section 5A-12 and the waiver granted under 42
3 CFR 433.68 are approved by the United States Centers for
4 Medicare and Medicaid Services, the rates taking effect on July
5 1, 2004 shall be 3.0% greater than the rates in effect on June
6 30, 2004. These rates shall take effect only upon approval and
7 implementation of the payment methodologies required under
8 Section 5A-12.

9 Notwithstanding any other provisions of this Section, for
10 facilities licensed by the Department of Public Health under
11 the Nursing Home Care Act as skilled nursing facilities or
12 intermediate care facilities, the rates taking effect on
13 January 1, 2005 shall be 3% more than the rates in effect on
14 December 31, 2004.

15 Notwithstanding any other provisions of this Section, for
16 facilities licensed by the Department of Public Health under
17 the Nursing Home Care Act as intermediate care facilities that
18 are federally defined as Institutions for Mental Disease, a
19 socio-development component rate equal to 6.6% of the
20 facility's nursing component rate as of January 1, 2006 shall
21 be established and paid effective July 1, 2006. The Illinois
22 Department may by rule adjust these socio-development
23 component rates, but in no case may such rates be diminished.

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as Intermediate Care for the
26 Developmentally Disabled facilities or as long-term care
27 facilities for residents under 22 years of age, the rates
28 taking effect on July 1, 2003 shall include a statewide
29 increase of 4%, as defined by the Department.

30 Notwithstanding any other provision of this Section, for
31 facilities licensed by the Department of Public Health under
32 the Nursing Home Care Act as skilled nursing facilities or
33 intermediate care facilities, effective January 1, 2005,
34 facility rates shall be increased by the difference between (i)

1 a facility's per diem property, liability, and malpractice
2 insurance costs as reported in the cost report filed with the
3 Department of Public Aid and used to establish rates effective
4 July 1, 2001 and (ii) those same costs as reported in the
5 facility's 2002 cost report. These costs shall be passed
6 through to the facility without caps or limitations, except for
7 adjustments required under normal auditing procedures.

8 Rates established effective each July 1 shall govern
9 payment for services rendered throughout that fiscal year,
10 except that rates established on July 1, 1996 shall be
11 increased by 6.8% for services provided on or after January 1,
12 1997. Such rates will be based upon the rates calculated for
13 the year beginning July 1, 1990, and for subsequent years
14 thereafter until June 30, 2001 shall be based on the facility
15 cost reports for the facility fiscal year ending at any point
16 in time during the previous calendar year, updated to the
17 midpoint of the rate year. The cost report shall be on file
18 with the Department no later than April 1 of the current rate
19 year. Should the cost report not be on file by April 1, the
20 Department shall base the rate on the latest cost report filed
21 by each skilled care facility and intermediate care facility,
22 updated to the midpoint of the current rate year. In
23 determining rates for services rendered on and after July 1,
24 1985, fixed time shall not be computed at less than zero. The
25 Department shall not make any alterations of regulations which
26 would reduce any component of the Medicaid rate to a level
27 below what that component would have been utilizing in the rate
28 effective on July 1, 1984.

29 (2) Shall take into account the actual costs incurred by
30 facilities in providing services for recipients of skilled
31 nursing and intermediate care services under the medical
32 assistance program.

33 (3) Shall take into account the medical and psycho-social
34 characteristics and needs of the patients.

1 (4) Shall take into account the actual costs incurred by
2 facilities in meeting licensing and certification standards
3 imposed and prescribed by the State of Illinois, any of its
4 political subdivisions or municipalities and by the U.S.
5 Department of Health and Human Services pursuant to Title XIX
6 of the Social Security Act.

7 The Department of Healthcare and Family Services ~~Public Aid~~
8 shall develop precise standards for payments to reimburse
9 nursing facilities for any utilization of appropriate
10 rehabilitative personnel for the provision of rehabilitative
11 services which is authorized by federal regulations, including
12 reimbursement for services provided by qualified therapists or
13 qualified assistants, and which is in accordance with accepted
14 professional practices. Reimbursement also may be made for
15 utilization of other supportive personnel under appropriate
16 supervision.

17 (Source: P.A. 93-20, eff. 6-20-03; 93-649, eff. 1-8-04; 93-659,
18 eff. 2-3-04; 93-841, eff. 7-30-04; 93-1087, eff. 2-28-05;
19 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697, eff. 11-21-05;
20 revised 12-15-05.)

21 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

22 (Section scheduled to be repealed on July 1, 2008)

23 Sec. 5A-2. Assessment; no local authorization to tax.

24 (a) Subject to Sections 5A-3 and 5A-10, an annual
25 assessment on inpatient services is imposed on each hospital
26 provider in an amount equal to the hospital's occupied bed days
27 multiplied by \$84.19 multiplied by the proration factor for
28 State fiscal year 2004 and the hospital's occupied bed days
29 multiplied by \$84.19 for State fiscal year 2005.

30 The Department of Healthcare and Family Services ~~Public Aid~~
31 shall use the number of occupied bed days as reported by each
32 hospital on the Annual Survey of Hospitals conducted by the
33 Department of Public Health to calculate the hospital's annual

1 assessment. If the sum of a hospital's occupied bed days is not
2 reported on the Annual Survey of Hospitals or if there are data
3 errors in the reported sum of a hospital's occupied bed days as
4 determined by the Department of Healthcare and Family Services
5 (formerly Department of Public Aid), then the Department of
6 Healthcare and Family Services ~~Public Aid~~ may obtain the sum of
7 occupied bed days from any source available, including, but not
8 limited to, records maintained by the hospital provider, which
9 may be inspected at all times during business hours of the day
10 by the Department of Healthcare and Family Services ~~Public Aid~~
11 or its duly authorized agents and employees.

12 Subject to Sections 5A-3 and 5A-10, for the privilege of
13 engaging in the occupation of hospital provider, beginning
14 August 1, 2005, an annual assessment is imposed on each
15 hospital provider for State fiscal years 2006, 2007, and 2008,
16 in an amount equal to 2.5835% of the hospital provider's
17 adjusted gross hospital revenue for inpatient services and
18 2.5835% of the hospital provider's adjusted gross hospital
19 revenue for outpatient services. If the hospital provider's
20 adjusted gross hospital revenue is not available, then the
21 Illinois Department may obtain the hospital provider's
22 adjusted gross hospital revenue from any source available,
23 including, but not limited to, records maintained by the
24 hospital provider, which may be inspected at all times during
25 business hours of the day by the Illinois Department or its
26 duly authorized agents and employees.

27 (b) Nothing in this Article shall be construed to authorize
28 any home rule unit or other unit of local government to license
29 for revenue or to impose a tax or assessment upon hospital
30 providers or the occupation of hospital provider, or a tax or
31 assessment measured by the income or earnings of a hospital
32 provider.

33 (c) As provided in Section 5A-14, this Section is repealed
34 on July 1, 2008.

1 (d) Notwithstanding any of the other provisions of this
2 Section, the Department is authorized, during this 94th General
3 Assembly, to adopt rules to reduce the rate of any annual
4 assessment imposed under this Section, as authorized by Section
5 5-46.2 of the Illinois Administrative Procedure Act.

6 (Source: P.A. 93-659, eff. 2-3-04; 93-841, eff. 7-30-04;
7 93-1066, eff. 1-15-05; 94-242, eff. 7-18-05; revised
8 12-15-05.)

9 (305 ILCS 5/5A-12.1)

10 (Section scheduled to be repealed on July 1, 2008)

11 Sec. 5A-12.1. Hospital access improvement payments.

12 (a) To preserve and improve access to hospital services,
13 for hospital services rendered on or after August 1, 2005, the
14 Department of Public Aid shall make payments to hospitals as
15 set forth in this Section, except for hospitals described in
16 subsection (b) of Section 5A-3. These payments shall be paid on
17 a quarterly basis. For State fiscal year 2006, once the
18 approval of the payment methodology required under this Section
19 and any waiver required under 42 CFR 433.68 by the Centers for
20 Medicare and Medicaid Services of the U.S. Department of Health
21 and Human Services is received, the Department shall pay the
22 total amounts required for fiscal year 2006 under this Section
23 within 100 days of the latest notification. In State fiscal
24 years 2007 and 2008, the total amounts required under this
25 Section shall be paid in 4 equal installments on or before the
26 seventh State business day of September, December, March, and
27 May, except that if the date of notification of the approval of
28 the payment methodologies required under this Section and any
29 waiver required under 42 CFR 433.68 is on or after July 1,
30 2006, the sum of amounts required under this Section prior to
31 the date of notification shall be paid within 100 days of the
32 date of the last notification. Payments under this Section are
33 not due and payable, however, until (i) the methodologies

1 described in this Section are approved by the federal
2 government in an appropriate State Plan amendment, (ii) the
3 assessment imposed under this Article is determined to be a
4 permissible tax under Title XIX of the Social Security Act, and
5 (iii) the assessment is in effect.

6 (b) Medicaid eligibility payment. In addition to amounts
7 paid for inpatient hospital services, the Department shall pay
8 each Illinois hospital (except for hospitals described in
9 Section 5A-3) for each inpatient Medicaid admission in State
10 fiscal year 2003, \$430 multiplied by the percentage by which
11 the number of Medicaid recipients in the county in which the
12 hospital is located increased from State fiscal year 1998 to
13 State fiscal year 2003.

14 (c) Medicaid high volume adjustment.

15 (1) In addition to rates paid for inpatient hospital
16 services, the Department shall pay to each Illinois
17 hospital (except for hospitals that qualify for Medicaid
18 Percentage Adjustment payments under 89 Ill. Adm. Code
19 148.122 for the 12-month period beginning on October 1,
20 2004) that provided more than 10,000 Medicaid inpatient
21 days of care (determined using the hospital's fiscal year
22 2002 Medicaid cost report on file with the Department on
23 July 1, 2004) amounts as follows:

24 (i) for hospitals that provided more than 10,000
25 Medicaid inpatient days of care but less than or equal
26 to 14,500 Medicaid inpatient days of care, \$90 for each
27 Medicaid inpatient day of care provided during that
28 period; and

29 (ii) for hospitals that provided more than 14,500
30 Medicaid inpatient days of care but less than or equal
31 to 18,500 Medicaid inpatient days of care, \$135 for
32 each Medicaid inpatient day of care provided during
33 that period; and

34 (iii) for hospitals that provided more than 18,500

1 Medicaid inpatient days of care but less than or equal
2 to 20,000 Medicaid inpatient days of care, \$225 for
3 each Medicaid inpatient day of care provided during
4 that period; and

5 (iv) for hospitals that provided more than 20,000
6 Medicaid inpatient days of care, \$900 for each Medicaid
7 inpatient day of care provided during that period.

8 Provided, however, that no hospital shall receive more
9 than \$19,000,000 per year in such payments under
10 subparagraphs (i), (ii), (iii), and (iv).

11 (2) In addition to rates paid for inpatient hospital
12 services, the Department shall pay to each Illinois general
13 acute care hospital that as of October 1, 2004, qualified
14 for Medicaid percentage adjustment payments under 89 Ill.
15 Adm. Code 148.122 and provided more than 21,000 Medicaid
16 inpatient days of care (determined using the hospital's
17 fiscal year 2002 Medicaid cost report on file with the
18 Department on July 1, 2004) \$35 for each Medicaid inpatient
19 day of care provided during that period. Provided, however,
20 that no hospital shall receive more than \$1,200,000 per
21 year in such payments.

22 (d) Intensive care adjustment. In addition to rates paid
23 for inpatient services, the Department shall pay an adjustment
24 payment to each Illinois general acute care hospital located in
25 a large urban area that, based on the hospital's fiscal year
26 2002 Medicaid cost report, had a ratio of Medicaid intensive
27 care unit days to total Medicaid days greater than 19%. If such
28 ratio for the hospital is less than 30%, the hospital shall be
29 paid an adjustment payment for each Medicaid inpatient day of
30 care provided equal to \$1,000 multiplied by the hospital's
31 ratio of Medicaid intensive care days to total Medicaid days.
32 If such ratio for the hospital is equal to or greater than 30%,
33 the hospital shall be paid an adjustment payment for each
34 Medicaid inpatient day of care provided equal to \$2,800

1 multiplied by the hospital's ratio of Medicaid intensive care
2 days to total Medicaid days.

3 (e) Trauma center adjustments.

4 (1) In addition to rates paid for inpatient hospital
5 services, the Department shall pay to each Illinois general
6 acute care hospital that as of January 1, 2005, was
7 designated as a Level I trauma center and is either located
8 in a large urban area or is located in an other urban area
9 and as of October 1, 2004 qualified for Medicaid percentage
10 adjustment payments under 89 Ill. Adm. Code 148.122, a
11 payment equal to \$800 multiplied by the hospital's Medicaid
12 intensive care unit days (excluding Medicare crossover
13 days). This payment shall be calculated based on data from
14 the hospital's 2002 cost report on file with the Department
15 on July 1, 2004. For hospitals located in large urban areas
16 outside of a city with a population in excess of 1,000,000
17 people, the payment required under this subsection shall be
18 multiplied by 4.5. For hospitals located in other urban
19 areas, the payment required under this subsection shall be
20 multiplied by 8.5.

21 (2) In addition to rates paid for inpatient hospital
22 services, the Department shall pay an additional payment to
23 each Illinois general acute care hospital that as of
24 January 1, 2005, was designated as a Level II trauma center
25 and is located in a county with a population in excess of
26 3,000,000 people. The payment shall equal \$4,000 per day
27 for the first 500 Medicaid inpatient days, \$2,000 per day
28 for the Medicaid inpatient days between 501 and 1,500, and
29 \$100 per day for any Medicaid inpatient day in excess of
30 1,500. This payment shall be calculated based on data from
31 the hospital's 2002 cost report on file with the Department
32 on July 1, 2004.

33 (3) In addition to rates paid for inpatient hospital
34 services, the Department shall pay an additional payment to

1 each Illinois general acute care hospital that as of
2 January 1, 2005, was designated as a Level II trauma
3 center, is located in a large urban area outside of a
4 county with a population in excess of 3,000,000 people, and
5 as of January 1, 2005, was designated a Level III perinatal
6 center or designated a Level II or II+ prenatal center that
7 has a ratio of Medicaid intensive care unit days to total
8 Medicaid days greater than 5%. The payment shall equal
9 \$4,000 per day for the first 500 Medicaid inpatient days,
10 \$2,000 per day for the Medicaid inpatient days between 501
11 and 1,500, and \$100 per day for any Medicaid inpatient day
12 in excess of 1,500. This payment shall be calculated based
13 on data from the hospital's 2002 cost report on file with
14 the Department on July 1, 2004.

15 (4) In addition to rates paid for inpatient hospital
16 services, the Department shall pay an additional payment to
17 each Illinois children's hospital that as of January 1,
18 2005, was designated a Level I pediatric trauma center that
19 had more than 30,000 Medicaid days in State fiscal year
20 2003 and to each Level I pediatric trauma center located
21 outside of Illinois and that had more than 700 Illinois
22 Medicaid cases in State fiscal year 2003. The amount of
23 such payment shall equal \$325 multiplied by the hospital's
24 Medicaid intensive care unit days, and this payment shall
25 be multiplied by 2.25 for hospitals located outside of
26 Illinois. This payment shall be calculated based on data
27 from the hospital's 2002 cost report on file with the
28 Department on July 1, 2004.

29 (5) Notwithstanding any other provision of this
30 subsection, a children's hospital, as defined in 89 Ill.
31 Adm. Code 149.50(c)(3)(B), is not eligible for the payments
32 described in paragraphs (1), (2), and (3) of this
33 subsection.

34 (f) Psychiatric rate adjustment.

1 (1) In addition to rates paid for inpatient psychiatric
2 services, the Department shall pay each Illinois
3 psychiatric hospital and general acute care hospital with a
4 distinct part psychiatric unit, for each Medicaid
5 inpatient psychiatric day of care provided in State fiscal
6 year 2003, an amount equal to \$420 less the hospital's per
7 diem rate for Medicaid inpatient psychiatric services as in
8 effect on July 1, 2002. In no event, however, shall that
9 amount be less than zero.

10 (2) For Illinois psychiatric hospitals and distinct
11 part psychiatric units of Illinois general acute care
12 hospitals whose inpatient per diem rate as in effect on
13 July 1, 2002 is greater than \$420, the Department shall
14 pay, in addition to any other amounts authorized under this
15 Code, \$40 for each Medicaid inpatient psychiatric day of
16 care provided in State fiscal year 2003.

17 (3) In addition to rates paid for inpatient psychiatric
18 services, for Illinois psychiatric hospitals located in a
19 county with a population in excess of 3,000,000 people that
20 did not qualify for Medicaid percentage adjustment
21 payments under 89 Ill. Adm. Code 148.122 for the 12-month
22 period beginning on October 1, 2004, the Illinois
23 Department shall make an adjustment payment of \$150 for
24 each Medicaid inpatient psychiatric day of care provided by
25 the hospital in State fiscal year 2003. In addition to
26 rates paid for inpatient psychiatric services, for
27 Illinois psychiatric hospitals located in a county with a
28 population in excess of 3,000,000 people, but outside of a
29 city with a population in excess of 1,000,000 people, that
30 did qualify for Medicaid percentage adjustment payments
31 under 89 Ill. Adm. Code 148.122 for the 12-month period
32 beginning on October 1, 2004, the Illinois Department shall
33 make an adjustment payment of \$20 for each Medicaid
34 inpatient psychiatric day of care provided by the hospital

1 in State fiscal year 2003.

2 (g) Rehabilitation adjustment.

3 (1) In addition to rates paid for inpatient
4 rehabilitation services, the Department shall pay each
5 Illinois general acute care hospital with a distinct part
6 rehabilitation unit that had at least 40 beds as reported
7 on the hospital's 2003 Medicaid cost report on file with
8 the Department as of March 31, 2005, for each Medicaid
9 inpatient day of care provided during State fiscal year
10 2003, an amount equal to \$230.

11 (2) In addition to rates paid for inpatient
12 rehabilitation services, for Illinois rehabilitation
13 hospitals that did not qualify for Medicaid percentage
14 adjustment payments under 89 Ill. Adm. Code 148.122 for the
15 12-month period beginning on October 1, 2004, the Illinois
16 Department shall make an adjustment payment of \$200 for
17 each Medicaid inpatient day of care provided during State
18 fiscal year 2003.

19 (h) Supplemental tertiary care adjustment. In addition to
20 rates paid for inpatient services, the Department shall pay to
21 each Illinois hospital eligible for tertiary care adjustment
22 payments under 89 Ill. Adm. Code 148.296, as in effect for
23 State fiscal year 2005, a supplemental tertiary care adjustment
24 payment equal to 2.5 multiplied by the tertiary care adjustment
25 payment required under 89 Ill. Adm. Code 148.296, as in effect
26 for State fiscal year 2005.

27 (i) Crossover percentage adjustment. In addition to rates
28 paid for inpatient services, the Department shall pay each
29 Illinois general acute care hospital, excluding any hospital
30 defined as a cancer center hospital in rules by the Department,
31 located in an urban area that provided over 500 days of
32 inpatient care to Medicaid recipients, that had a ratio of
33 crossover days to total Medicaid days, utilizing information
34 used for the Medicaid percentage adjustment determination

1 described in 84 Ill. Adm. Code 148.122, effective October 1,
2 2004, of greater than 40%, and that does not qualify for
3 Medicaid percentage adjustment payments under 89 Ill. Adm. Code
4 148.122, on October 1, 2004, an amount as follows:

5 (1) for hospitals located in an other urban area, \$140
6 per Medicaid inpatient day (including crossover days);

7 (2) for hospitals located in a large urban area whose
8 ratio of crossover days to total Medicaid days is less than
9 55%, \$350 per Medicaid inpatient day (including crossover
10 days);

11 (3) for hospitals located in a large urban area whose
12 ratio of crossover days to total Medicaid days is equal to
13 or greater than 55%, \$1,400 per Medicaid inpatient day
14 (including crossover days).

15 The term "Medicaid days" in paragraphs (1), (2), and (3) of
16 this subsection (i) means the Medicaid days utilized for the
17 Medicaid percentage adjustment determination described in 89
18 Ill. Adm. Code 148.122 for the October 1, 2004 determination.

19 (j) Long term acute care hospital adjustment. In addition
20 to rates paid for inpatient services, the Department shall pay
21 each Illinois long term acute care hospital that, as of October
22 1, 2004, qualified for a Medicaid percentage adjustment under
23 89 Ill. Adm. Code 148.122, \$125 for each Medicaid inpatient day
24 of care provided in State fiscal year 2003. In addition to
25 rates paid for inpatient services, the Department shall pay
26 each long term acute care hospital that, as of October 1, 2004,
27 did not qualify for a Medicaid percentage adjustment under 89
28 Ill. Adm. Code 148.122, \$1,250 for each Medicaid inpatient day
29 of care provided in State fiscal year 2003. For purposes of
30 this subsection, "long term acute care hospital" means a
31 hospital that (i) is not a psychiatric hospital, rehabilitation
32 hospital, or children's hospital and (ii) has an average length
33 of inpatient stay greater than 25 days.

34 (k) Obstetrical care adjustments.

1 (1) In addition to rates paid for inpatient services,
2 the Department shall pay each Illinois hospital an amount
3 equal to \$550 multiplied by each Medicaid obstetrical day
4 of care provided by the hospital in State fiscal year 2003.

5 (2) In addition to rates paid for inpatient services,
6 the Department shall pay each Illinois hospital that
7 qualified as a Medicaid disproportionate share hospital
8 under 89 Ill. Adm. Code 148.120 as of October 1, 2004, and
9 that had a Medicaid obstetrical percentage greater than 10%
10 and a Medicaid emergency care percentage greater than 40%,
11 an amount equal to \$650 multiplied by each Medicaid
12 obstetrical day of care provided by the hospital in State
13 fiscal year 2003.

14 (3) In addition to rates paid for inpatient services,
15 the Department shall pay each Illinois hospital that is
16 located in the St. Louis metropolitan statistical area and
17 that provided more than 500 Medicaid obstetrical days of
18 care in State fiscal year 2003, an amount equal to \$1,800
19 multiplied by each Medicaid obstetrical day of care
20 provided by the hospital in State fiscal year 2003.

21 (4) In addition to rates paid for inpatient services,
22 the Department shall pay \$600 for each Medicaid obstetrical
23 day of care provided in State fiscal year 2003 by each
24 Illinois hospital that (i) is located in a large urban
25 area, (ii) is located in a county whose number of Medicaid
26 recipients increased from State fiscal year 1998 to State
27 fiscal year 2003 by more than 60%, and (iii) that had a
28 Medicaid obstetrical percentage used for the October 1,
29 2004, Medicaid percentage adjustment determination
30 described in 89 Ill. Adm. Code 148.122 greater than 25%.

31 (5) In addition to rates paid for inpatient services,
32 the Department shall pay \$400 for each Medicaid obstetrical
33 day of care provided in State fiscal year 2003 by each
34 Illinois rural hospital that (i) was designated a Level II

1 perinatal center as of January 1, 2005, (ii) had a Medicaid
2 inpatient utilization rate greater than 34% in State fiscal
3 year 2002, and (iii) had a Medicaid obstetrical percentage
4 used for the October 1, 2004, Medicaid percentage
5 adjustment determination described in 89 Ill. Adm. Code
6 148.122 greater than 15%.

7 (l) Outpatient access payments. In addition to the rates
8 paid for outpatient hospital services, the Department shall pay
9 each Illinois hospital (except for hospitals described in
10 Section 5A-3), an amount equal to 2.38 multiplied by the
11 hospital's outpatient ambulatory procedure listing payments
12 for services provided during State fiscal year 2003 multiplied
13 by the percentage by which the number of Medicaid recipients in
14 the county in which the hospital is located increased from
15 State fiscal year 1998 to State fiscal year 2003.

16 (m) Outpatient utilization payment.

17 (1) In addition to the rates paid for outpatient
18 hospital services, the Department shall pay each Illinois
19 rural hospital, an amount equal to 1.7 multiplied by the
20 hospital's outpatient ambulatory procedure listing
21 payments for services provided during State fiscal year
22 2003.

23 (2) In addition to the rates paid for outpatient
24 hospital services, the Department shall pay each Illinois
25 hospital located in an urban area, an amount equal to 0.45
26 multiplied by the hospital's outpatient ambulatory
27 procedure listing payments received for services provided
28 during State fiscal year 2003.

29 (n) Outpatient complexity of care adjustment. In addition
30 to the rates paid for outpatient hospital services, the
31 Department shall pay each Illinois hospital located in an urban
32 area an amount equal to 2.55 multiplied by the hospital's
33 emergency care percentage multiplied by the hospital's
34 outpatient ambulatory procedure listing payments received for

1 services provided during State fiscal year 2003. For children's
2 hospitals with an inpatient utilization rate used for the
3 October 1, 2004, Medicaid percentage adjustment determination
4 described in 89 Ill. Adm. Code 148.122 greater than 90%, this
5 adjustment shall be multiplied by 2. For cancer center
6 hospitals, this adjustment shall be multiplied by 3.

7 (o) Rehabilitation hospital adjustment. In addition to the
8 rates paid for outpatient hospital services, the Department
9 shall pay each Illinois freestanding rehabilitation hospital
10 that does not qualify for a Medicaid percentage adjustment
11 under 89 Ill. Adm. Code 148.122 as of October 1, 2004, an
12 amount equal to 3 multiplied by the hospital's outpatient
13 ambulatory procedure listing payments for Group 6A services
14 provided during State fiscal year 2003.

15 (p) Perinatal outpatient adjustment. In addition to the
16 rates paid for outpatient hospital services, the Department
17 shall pay an adjustment payment to each large urban general
18 acute care hospital that is designated as a perinatal center as
19 of January 1, 2005, has a Medicaid obstetrical percentage of at
20 least 10% used for the October 1, 2004, Medicaid percentage
21 adjustment determination described in 89 Ill. Adm. Code
22 148.122, has a Medicaid intensive care unit percentage of at
23 least 3%, and has a ratio of ambulatory procedure listing Level
24 3 services to total ambulatory procedure listing services of at
25 least 50%. The amount of the adjustment payment under this
26 subsection shall be \$550 multiplied by the hospital's
27 outpatient ambulatory procedure listing Level 3A services
28 provided in State fiscal year 2003. If the hospital, as of
29 January 1, 2005, was designated a Level III or II+ perinatal
30 center, the adjustment payments required by this subsection
31 shall be multiplied by 4.

32 (q) Supplemental psychiatric adjustment payments. In
33 addition to rates paid for inpatient services, the Department
34 shall pay to each Illinois hospital that does not qualify for

1 Medicaid percentage adjustments described in 89 Ill. Adm. Code
2 148.122 but is eligible for psychiatric adjustment payments
3 under 89 Ill. Adm. Code 148.105 for State fiscal year 2005, a
4 supplemental psychiatric adjustment payment equal to 0.7
5 multiplied by the psychiatric adjustment payment required
6 under 89 Ill. Adm. Code 148.105, as in effect for State fiscal
7 year 2005.

8 (r) Outpatient community access adjustment. In addition to
9 the rates paid for outpatient hospital services, the Department
10 shall pay an adjustment payment to each general acute care
11 hospital that is designated as a perinatal center as of January
12 1, 2005, that had a Medicaid obstetrical percentage used for
13 the October 1, 2004, Medicaid percentage adjustment
14 determination described in 89 Ill. Adm. Code 148.122 of at
15 least 12.5%, that had a ratio of crossover days to total
16 Medicaid days utilizing information used for the Medicaid
17 percentage adjustment described in 89 Ill. Adm. Code 148.122
18 determination effective October 1, 2004, of greater than or
19 equal to 25%, and that qualified for the Medicaid percentage
20 adjustment payments under 89 Ill. Adm. Code 148.122 on October
21 1, 2004, an amount equal to \$100 multiplied by the hospital's
22 outpatient ambulatory procedure listing services provided
23 during State fiscal year 2003.

24 (r-5) Notwithstanding any of the other provisions of this
25 Section, the Department is authorized, during this 94th General
26 Assembly, to adopt rules that change the hospital access
27 improvement payments specified in this Section, but only to the
28 extent necessary to conform to any federally approved amendment
29 to the Title XIX State plan. Any such rules shall be adopted by
30 the Department, as authorized by Section 5-46.2 of the Illinois
31 Administrative Procedure Act. Notwithstanding any other
32 provision of law, any changes implemented in relation to Public
33 Act 94-242 shall be given retroactive effect so that they shall
34 be deemed to have taken effect as of the effective date of that

1 Public Act.

2 (s) Definitions. Unless the context requires otherwise or
3 unless provided otherwise in this Section, the terms used in
4 this Section for qualifying criteria and payment calculations
5 shall have the same meanings as those terms have been given in
6 the Illinois Department's administrative rules as in effect on
7 May 1, 2005. Other terms shall be defined by the Illinois
8 Department by rule.

9 As used in this Section, unless the context requires
10 otherwise:

11 "Emergency care percentage" means a fraction, the
12 numerator of which is the total Group 3 ambulatory procedure
13 listing services provided by the hospital in State fiscal year
14 2003, and the denominator of which is the total ambulatory
15 procedure listing services provided by the hospital in State
16 fiscal year 2003.

17 "Large urban area" means an area located within a
18 metropolitan statistical area, as defined by the U.S. Office of
19 Management and Budget in OMB Bulletin 04-03, dated February 18,
20 2004, with a population in excess of 1,000,000.

21 "Medicaid intensive care unit days" means the number of
22 hospital inpatient days during which Medicaid recipients
23 received intensive care services from the hospital, as
24 determined from the hospital's 2002 Medicaid cost report that
25 was on file with the Department as of July 1, 2004.

26 "Other urban area" means an area located within a
27 metropolitan statistical area, as defined by the U.S. Office of
28 Management and Budget in OMB Bulletin 04-03, dated February 18,
29 2004, with a city with a population in excess of 50,000 or a
30 total population in excess of 100,000.

31 (t) For purposes of this Section, a hospital that enrolled
32 to provide Medicaid services during State fiscal year 2003
33 shall have its utilization and associated reimbursements
34 annualized prior to the payment calculations being performed

1 under this Section.

2 (u) For purposes of this Section, the terms "Medicaid
3 days", "ambulatory procedure listing services", and
4 "ambulatory procedure listing payments" do not include any
5 days, charges, or services for which Medicare was liable for
6 payment, except where explicitly stated otherwise in this
7 Section.

8 (v) As provided in Section 5A-14, this Section is repealed
9 on July 1, 2008.

10 (Source: P.A. 94-242, eff. 7-18-05.)

11 (305 ILCS 5/12-4.36 new)

12 Sec. 12-4.36. Pilot program for persons who are medically
13 fragile and technology-dependent.

14 (a) Subject to appropriations for the first fiscal year of
15 the pilot program beginning July 1, 2006, the Department of
16 Human Services, in cooperation with the Department of
17 Healthcare and Family Services, shall adopt rules to initiate a
18 3-year pilot program to (i) test a standardized assessment tool
19 for persons who are medically fragile and technology-dependent
20 who may be provided home and community-based services to meet
21 their medical needs rather than be provided care in an
22 institution not solely because of a severe mental or
23 developmental impairment and (ii) provide appropriate home and
24 community-based medical services for such persons as provided
25 in subsection (c) of this Section. The Department of Human
26 Services may administer the pilot program until June 30, 2009
27 if the General Assembly annually appropriates funds for this
28 purpose.

29 (b) Notwithstanding any other provisions of this Code, the
30 rules implementing the pilot program shall provide for
31 criteria, standards, procedures, and reimbursement for
32 services that are not otherwise being provided in scope,
33 duration, or amount through any other program administered by

1 any Department of Human Services or any other agency of the
2 State for these medically fragile, technology-dependent
3 persons. At a minimum, the rules shall include the following:

4 (1) A requirement that a pilot program participant be
5 eligible for medical assistance under this Code, a citizen
6 of the United States, or an individual who is lawfully
7 residing permanently in the United States, and a resident
8 of Illinois.

9 (2) A requirement that a standardized assessment for
10 medically fragile, technology-dependent persons will
11 establish the level of care and the service-cost maximums.

12 (3) A requirement for a determination by a physician
13 licensed to practice medicine in all its branches (i) that,
14 except for the provision of home and community-based care,
15 these individuals would require the level of care provided
16 in an institutional setting and (ii) that the necessary
17 level of care can be provided safely in the home and
18 community through the provision of medical support
19 services.

20 (4) A requirement that the services provided be
21 medically necessary and appropriate for the level of
22 functioning of the persons who are participating in the
23 pilot program.

24 (5) Provisions for care coordination and family
25 support services that will enable the person to receive
26 services in the most integrated setting possible
27 appropriate to his or her medical condition and level of
28 functioning.

29 (6) The frequency of assessment and plan-of-care
30 reviews.

31 (7) The family or guardian's active participation as
32 care givers in meeting the individual's medical needs.

33 (8) The estimated cost to the State for in-home care,
34 as compared to the institutional level of care appropriate

1 to the individual's medical needs, may not exceed 100% of
2 the institutional care as indicated by the standardized
3 assessment tool.

4 (9) When determining the hours of medically necessary
5 support services needed to maintain the individual at home,
6 consideration shall be given to the availability of other
7 services, including direct care provided by the
8 individual's family or guardian that can reasonably be
9 expected to meet the medical needs of the individual.

10 (c) During the pilot program, an individual who has
11 received services pursuant to paragraph 7 of Section 5-2 of
12 this Code, but who no longer receive such services because he
13 or she has reached the age of 21, may be provided additional
14 services pursuant to rule if the Department of Human Services,
15 Division of Rehabilitation Services, determines from
16 completion of the assessment tool for that individual that the
17 exceptional care rate established by the Department of
18 Healthcare and Family Services under Section 5-5.8a of this
19 Code is not sufficient to cover the medical needs of the
20 individual under the home and community-based services (HCBS)
21 waivers for persons with disabilities.

22 (d) The Department of Human Services is authorized to lower
23 the payment levels established under this Section or take such
24 other actions, including, without limitation, cessation of
25 enrollment, reduction of available medical services, and
26 changing standards for eligibility, that are deemed necessary
27 by the Department during a State fiscal year to ensure that
28 payments under this Section do not exceed available funds.
29 These changes may be accomplished by emergency rulemaking under
30 Section 5-45 of the Illinois Administrative Procedure Act,
31 except that the limitation on the number of emergency rules
32 that may be adopted in a 24-month period shall not apply.

33 (e) The Department of Human Services must make an annual
34 report to the Governor and the General Assembly with respect to

1 the persons eligible for medical assistance under this pilot
2 program. The report must cover the State fiscal year ending on
3 June 30 of the preceding year. The first report is due by
4 January 1, 2008. The report must include the following
5 information for the fiscal year covered by the report:

6 (1) The number of persons who were evaluated through
7 the assessment tool under this pilot program.

8 (2) The number of persons who received services not
9 available under the home and community-based services
10 (HCBS) waivers for persons with disabilities under this
11 pilot program.

12 (3) The number of persons whose services were reduced
13 under this pilot program.

14 (4) The nature, scope, and cost of services provided
15 under this pilot program.

16 (5) The comparative costs of providing those services
17 in other institutions.

18 (6) The Department's progress in establishing an
19 objective, standardized assessment tool for the HCBS
20 waiver that assesses the medical needs of medically
21 fragile, technology-dependent adults.

22 (7) Recommendations for the funding needed to expand
23 this pilot program to all medically fragile,
24 technology-dependent individuals in HCBS waivers.

25 (305 ILCS 5/5-5.22 rep.)

26 Section 16. The Illinois Public Aid Code is amended by
27 repealing Section 5-5.22.

28 Section 99. Effective date. This Act takes effect upon
29 becoming law."