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RWH 5/16/08

P.L. 2007, CHAPTER 230, *approved January 3, 2008*  
Senate, No. 2943

1 **AN ACT** concerning the annual assessment on intermediate care  
2 facilities for the mentally retarded and amending P.L.1998, c.40.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 4 of P.L.1998, c.40 (C.30:6D-46) is amended to read  
8 as follows:

9 4. a. Beginning July 1, 1998, except as provided in subsection  
10 b. of this section, all ICF-MRs in the State shall annually pay an  
11 assessment of 5.8% annually of gross revenue. This assessment  
12 shall be paid on a quarterly basis to the Director of the Division of  
13 Revenue in the Department of the Treasury. The Director of the  
14 Division of Revenue, in consultation with the Director of the  
15 Division of Taxation in the Department of the Treasury, shall  
16 establish appropriate procedures and forms for the purpose of  
17 collecting and recording this assessment. The provisions of the  
18 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq. shall apply  
19 to the extent that its provisions, including the confidentiality,  
20 protest and appeal provisions, are not inconsistent with the  
21 provisions of **[this act]** P.L.1998, c.40 (C. 30:6D-43 et seq.).

22 b. For the period January 1, 2008 through September 30, 2011,  
23 all ICF-MRs in the State shall annually pay an assessment of 5.3%  
24 annually of gross revenue. This assessment shall be paid on a  
25 quarterly basis to the Director of the Division of Revenue in the  
26 Department of the Treasury. The Director of the Division of  
27 Revenue, in consultation with the Director of the Division of  
28 Taxation in the Department of the Treasury, shall establish  
29 appropriate procedures and forms for the purpose of collecting and  
30 recording this assessment. The provisions of the State Tax Uniform  
31 Procedure Law, R.S. 54:48-1 et seq. shall apply to the extent that its  
32 provisions, including the confidentiality, protest and appeal  
33 provisions, are not inconsistent with the provisions of P.L.1998,  
34 c.40.

35 (cf: P.L.1998, c.40, s.4).

36  
37 2. This act shall take effect on January 1, 2008.

38  
39 STATEMENT

40  
41 This bill reduces the annual assessment percentage for all  
42 intermediate care facilities for the mentally retarded (ICF-MRs)  
43 from 5.8% to 5.3% for the period January 1, 2008 through

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 September 30, 2011 in order to allow for the continued claiming of  
2 federal reimbursement for the assessment payments. The  
3 provisions of this bill will allow the State to continue to receive  
4 approximately \$16 million in federal Medicaid reimbursement  
5 related to the ICF-MR assessment.

6 The original assessment of 5.8%, established pursuant to  
7 P.L.1998, c.40, was in accordance with federal regulations at 42  
8 C.F.R. 433.55 and 433.68, which allowed for the claiming of  
9 Medicaid reimbursement for health care-related taxes/assessments  
10 imposed on ICF-MR providers pursuant to criteria set forth in the  
11 regulations. P.L.1998, c.40 established the assessment percentage  
12 at 5.8%, rather than the maximum percentage permitted under  
13 federal regulations (6.0%), to provide a cushion for assessment  
14 calculation error. This was done because federal regulations state  
15 that assessments applied at a rate that produces revenues in excess  
16 of 6.0% would result in the forfeiture of the entire amount of  
17 reimbursement generated from the assessment, not just the amount  
18 that was generated in excess of 6.0%.

19 The federal Tax Relief and Health Care Act of 2006, Pub.L.109-  
20 432, reduced the maximum allowable health care-related  
21 tax/assessment from 6.0% to 5.5%, effective January 1, 2008.  
22 Under the federal law, the maximum allowable percentage is  
23 scheduled to revert to 6.0% on October 1, 2011. This bill,  
24 therefore, lowers the State's ICF-MR provider assessment  
25 percentage for the 45-month period specified in federal law.

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30 Reduces annual assessment on intermediate care facilities for the  
31 mentally retarded from 5.8% to 5.3% for limited period.

# SENATE, No. 2943

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 8, 2007

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Co-Sponsored by:**

**Assemblyman Fisher**

**SYNOPSIS**

Reduces annual assessment on intermediate care facilities for the mentally retarded from 5.8% to 5.3% for limited period.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/14/2007)**

1 AN ACT concerning the annual assessment on intermediate care  
2 facilities for the mentally retarded and amending P.L.1998, c.40.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 4 of P.L.1998, c.40 (C.30:6D-46) is amended to read  
8 as follows:

9 4. a. Beginning July 1, 1998, except as provided in subsection  
10 b. of this section, all ICF-MRs in the State shall annually pay an  
11 assessment of 5.8% annually of gross revenue. This assessment  
12 shall be paid on a quarterly basis to the Director of the Division of  
13 Revenue in the Department of the Treasury. The Director of the  
14 Division of Revenue, in consultation with the Director of the  
15 Division of Taxation in the Department of the Treasury, shall  
16 establish appropriate procedures and forms for the purpose of  
17 collecting and recording this assessment. The provisions of the  
18 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq. shall apply  
19 to the extent that its provisions, including the confidentiality,  
20 protest and appeal provisions, are not inconsistent with the  
21 provisions of **[this act]** P.L.1998, c.40 (C. 30:6D-43 et seq.).

22 b. For the period January 1, 2008 through September 30, 2011,  
23 all ICF-MRs in the State shall annually pay an assessment of 5.3%  
24 annually of gross revenue. This assessment shall be paid on a  
25 quarterly basis to the Director of the Division of Revenue in the  
26 Department of the Treasury. The Director of the Division of  
27 Revenue, in consultation with the Director of the Division of  
28 Taxation in the Department of the Treasury, shall establish  
29 appropriate procedures and forms for the purpose of collecting and  
30 recording this assessment. The provisions of the State Tax Uniform  
31 Procedure Law, R.S. 54:48-1 et seq. shall apply to the extent that its  
32 provisions, including the confidentiality, protest and appeal  
33 provisions, are not inconsistent with the provisions of P.L.1998,  
34 c.40.

35 (cf: P.L.1998, c.40, s.4).

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37 2. This act shall take effect on January 1, 2008.

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STATEMENT

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42 This bill reduces the annual assessment percentage for all  
43 intermediate care facilities for the mentally retarded (ICF-MRs)  
44 from 5.8% to 5.3% for the period January 1, 2008 through  
45 September 30, 2011 in order to allow for the continued claiming of

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

**S2943 SWEENEY**

1 federal reimbursement for the assessment payments. The  
2 provisions of this bill will allow the State to continue to receive  
3 approximately \$16 million in federal Medicaid reimbursement  
4 related to the ICF-MR assessment.

5 The original assessment of 5.8%, established pursuant to  
6 P.L.1998, c.40, was in accordance with federal regulations at 42  
7 C.F.R. 433.55 and 433.68, which allowed for the claiming of  
8 Medicaid reimbursement for health care-related taxes/assessments  
9 imposed on ICF-MR providers pursuant to criteria set forth in the  
10 regulations. P.L.1998, c.40 established the assessment percentage  
11 at 5.8%, rather than the maximum percentage permitted under  
12 federal regulations (6.0%), to provide a cushion for assessment  
13 calculation error. This was done because federal regulations state  
14 that assessments applied at a rate that produces revenues in excess  
15 of 6.0% would result in the forfeiture of the entire amount of  
16 reimbursement generated from the assessment, not just the amount  
17 that was generated in excess of 6.0%.

18 The federal Tax Relief and Health Care Act of 2006, Pub.L.109-  
19 432, reduced the maximum allowable health care-related  
20 tax/assessment from 6.0% to 5.5%, effective January 1, 2008.  
21 Under the federal law, the maximum allowable percentage is  
22 scheduled to revert to 6.0% on October 1, 2011. This bill,  
23 therefore, lowers the State's ICF-MR provider assessment  
24 percentage for the 45-month period specified in federal law.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2943

# STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2943.

Senate Bill No. 2943 reduces the annual assessment percentage for all intermediate care facilities for the mentally retarded (ICF-MRs) from 5.8% to 5.3% for the period January 1, 2008 through September 30, 2011 to allow for the continued claiming of federal reimbursement for the assessment payments. This bill will allow the State to continue to receive approximately \$16 million in federal Medicaid reimbursement related to the ICF-MR assessment.

The original assessment of 5.8%, established pursuant to P.L.1998, c.40, was in accordance with federal regulations at 42 C.F.R. 433.55 and 433.68, which allowed for the claiming of Medicaid reimbursement for health care-related taxes/assessments imposed on ICF-MR providers pursuant to criteria set forth in the regulations. P.L.1998, c.40 established the assessment percentage at 5.8%, rather than the maximum percentage permitted under federal regulations (6.0%), to provide a cushion for assessment calculation error. This was done because federal regulations state that assessments applied at a rate that produces revenues in excess of 6.0% would result in the forfeiture of the entire amount of reimbursement generated from the assessment, not just the amount that was generated in excess of 6.0%.

The federal Tax Relief and Health Care Act of 2006, Pub.L.109-432, reduced the maximum allowable health care-related tax/assessment from 6.0% to 5.5%, effective January 1, 2008. Under the federal law, the maximum allowable percentage is scheduled to revert to 6.0% on October 1, 2011. This bill, therefore, lowers the State's ICF-MR provider assessment percentage for the 45-month period specified in federal law.

#### FISCAL IMPACT:

The Governor's FY 2008 recommended budget and the FY 2008 appropriations act provided \$1.1 million in State funds to offset the loss of federal revenue resulting from the reduction in the maximum allowable health care-related tax/assessment for the January – June 2008 period.



It is assumed that subsequent recommended budgets for FY 2009 – FY 2011 will provide about \$2.2 million to offset the loss of federal revenues.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2943**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: DECEMBER 5, 2007

**SUMMARY**

**Synopsis:** Reduces annual assessment on intermediate care facilities for the mentally retarded from 5.8 percent to 5.3 percent for limited period.

**Type of Impact:** None. The FY 2008 appropriations act includes about \$1.1 million to offset the loss of federal funds.

**Agencies Affected:** Department of Human Services.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Years 1 -3</u></b>
<b>State Cost</b>	The FY 2008 appropriations act provided about \$1.1 million to offset the loss of federal funds for the January - June 2008 period. It is assumed that the recommended budgets for the FY 2009 - FY 2011 period will annualize this amount to reflect an entire fiscal year.

**BILL DESCRIPTION**

Senate Bill No. 2943 of 2007 reduces the annual assessment percentage for all intermediate care facilities for the mentally retarded (ICF-MRs) from 5.8 percent to 5.3 percent for the January 2008 - September 2011 period to comply with the federal Tax Relief and Health Care Act of 2006, Pub.L.109-432, which reduced the maximum allowable health care-related tax/assessment from 6.0 percent to 5.5 percent, effective January 2008. Under the federal law, the maximum allowable percentage is scheduled to increase to 6.0 percent on October 1, 2011.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The Governor's FY 2008 recommended budget and the FY 2008 appropriations act provided \$1.1 million in State funds to offset the loss of federal revenue resulting from the reduction in the maximum allowable health care-related tax/assessment for the January – June 2008 period.

It is assumed that subsequent recommended budgets for FY 2009 – FY 2011 will provide about \$2.2 million to offset the loss of federal revenues.

*Section: Human Services*

*Analyst: Jay A. Hershberg  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67. (C. 52:13B-1 et seq.).

# ASSEMBLY, No. 4594

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 19, 2007

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD  
District 6 (Camden)**

**Co-Sponsored by:**

**Assemblyman Fisher**

**SYNOPSIS**

Reduces annual assessment on intermediate care facilities for the mentally retarded from 5.8% to 5.3% for limited period.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/14/2007)**

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17 collecting and recording this assessment. The provisions of the  
18 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq. shall apply  
19 to the extent that its provisions, including the confidentiality,  
20 protest and appeal provisions, are not inconsistent with the  
21 provisions of **[this act]** P.L.1998, c.40 (C. 30:6D-43 et seq.).

22 b. For the period January 1, 2008 through September 30, 2011,  
23 all ICF-MRs in the State shall annually pay an assessment of 5.3%  
24 annually of gross revenue. This assessment shall be paid on a  
25 quarterly basis to the Director of the Division of Revenue in the  
26 Department of the Treasury. The Director of the Division of  
27 Revenue, in consultation with the Director of the Division of  
28 Taxation in the Department of the Treasury, shall establish  
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9 imposed on ICF-MR providers pursuant to criteria set forth in the  
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14 that assessments applied at a rate that produces revenues in excess  
15 of 6.0% would result in the forfeiture of the entire amount of  
16 reimbursement generated from the assessment, not just the amount  
17 that was generated in excess of 6.0%.

18 The federal Tax Relief and Health Care Act of 2006, Pub.L.109-  
19 432, reduced the maximum allowable health care-related  
20 tax/assessment from 6.0% to 5.5%, effective January 1, 2008.  
21 Under the federal law, the maximum allowable percentage is  
22 scheduled to revert to 6.0% on October 1, 2011. This bill,  
23 therefore, lowers the State's ICF-MR provider assessment  
24 percentage for the 45-month period specified in federal law.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4594

# STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2007

The Assembly Appropriations Committee reports favorably on Assembly Bill No. 4594.

The bill reduces the annual assessment percentage for all intermediate care facilities for the mentally retarded (ICF-MRs) from 5.8% to 5.3% for the period January 1, 2008 through September 30, 2011 to allow for the continued claiming of federal reimbursement for the assessment payments. This bill will allow the State to continue to receive approximately \$16 million in federal Medicaid reimbursement related to the ICF-MR assessment.

The original assessment of 5.8%, established pursuant to P.L.1998, c.40, was in accordance with federal regulations at 42 C.F.R. 433.55 and 433.68, which allowed for the claiming of Medicaid reimbursement for health care-related taxes/assessments imposed on ICF-MR providers pursuant to criteria set forth in the regulations. P.L.1998, c.40 established the assessment percentage at 5.8%, rather than the maximum percentage permitted under federal regulations (6.0%), to provide a cushion for assessment calculation error. This was done because federal regulations state that assessments applied at a rate that produces revenues in excess of 6.0% would result in the forfeiture of the entire amount of reimbursement generated from the assessment, not just the amount that was generated in excess of 6.0%.

The federal Tax Relief and Health Care Act of 2006, Pub.L.109-432, reduced the maximum allowable health care-related tax/assessment from 6.0% to 5.5%, effective January 1, 2008. Under the federal law, the maximum allowable percentage is scheduled to revert to 6.0% on October 1, 2011. This bill, therefore, lowers the State's ICF-MR provider assessment percentage for the 45-month period specified in federal law.

#### FISCAL IMPACT:

The change in federal law resulted in a loss of approximately \$1.1 million in FY07-08, which has been accounted for in the current budget. An additional \$1.1 million was appropriated to the Division of Developmental Disabilities (DDD). The annualized reduction in funds of \$2.2 million will have to be provided by State funds to keep DDD service levels the same.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4594**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: DECEMBER 5, 2007

**SUMMARY**

**Synopsis:** Reduces annual assessment on intermediate care facilities for the mentally retarded from 5.8 percent to 5.3 percent for limited period.

**Type of Impact:** None. The FY 2008 appropriations act includes about \$1.1 million to offset the loss of federal funds.

**Agencies Affected:** Department of Human Services.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Years 1 -3</u></b>
<b>State Cost</b>	The FY 2008 appropriations act provided about \$1.1 million to offset the loss of federal funds for the January - June 2008 period. It is assumed that the recommended budgets for the FY 2009 - FY 2011 period will include approximately \$2.2 million. to offset the loss of federal funds.

**BILL DESCRIPTION**

Assembly Bill No. 4594 of 2007 reduces the annual assessment percentage for all intermediate care facilities for the mentally retarded (ICF-MRs) from 5.8 percent to 5.3 percent for the January 2008 - September 2011 period to comply with the federal Tax Relief and Health Care Act of 2006, Pub.L.109-432, which reduced the maximum allowable health care-related tax/assessment from 6.0 percent to 5.5 percent, effective January 2008. Under the federal law, the maximum allowable percentage will increase to 6.0 percent on October 1, 2011.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.



***OFFICE OF LEGISLATIVE SERVICES***

The Governor's FY 2008 recommended budget and the FY 2008 appropriations act provided \$1.1 million in State funds to offset the loss of federal revenue resulting from the reduction in the maximum allowable health care-related tax/assessment for the January – June 2008 period.

It is assumed that subsequent recommended budgets for FY 2009 – FY 2011 will provide about \$2.2 million to offset the loss of federal revenues.

*Section: Human Services*

*Analyst: Jay A. Hershberg  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67. (C. 52:13B-1 et seq.).