

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

400N0373

## HOUSE BILL NO. 1077

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to impose a tax on the net revenues of intermediate care  
2 facilities for the mentally retarded.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Department," the Department of Revenue and Regulation;

6 (2) "Intermediate care facility for the mentally retarded," a treatment or care center as  
7 defined by 1905(d) of the Social Security Act and Code of Federal Regulations 42  
8 CFR 435.1009 as of January 1, 2007;

9 (3) "Net revenues," the revenue paid to an intermediate care facility for the mentally  
10 retarded for resident care, room, board, and services less contractual adjustments and  
11 does not include revenue from sources other than operations, including interest and  
12 guest meals.

13 Section 2. There is hereby imposed a tax of five and one-half percent on the net revenues  
14 of each intermediate care facility for the mentally retarded.

15 Section 3. The department shall collect and administer the tax imposed by this Act.



1 Section 4. The returns and remittances may be required at a time determined by the secretary  
2 of revenue and regulation. The provisions of chapter 10-59 are applicable to the tax imposed by  
3 this chapter.

4 Section 5. The secretary of revenue and regulation may promulgate rules pursuant to chapter  
5 1-26 concerning:

- 6 (1) Licensing, including bonding and filing license applications;
- 7 (2) The filing of returns and payment of the tax;
- 8 (3) Taxpayer record-keeping requirements; and
- 9 (4) Determining auditing methods.

10 Section 6. Any person who:

- 11 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
12 by this Act is guilty of a Class 6 felony;
- 13 (2) Fails to pay tax due under this Act within sixty days from the date the tax becomes  
14 due is guilty of a Class 1 misdemeanor;
- 15 (3) Fails to keep the records and books required by this Act or refuses to exhibit these  
16 records to the secretary of revenue and regulation or the secretary's agents for the  
17 purpose of examination is guilty of a Class 1 misdemeanor;
- 18 (4) Fails to file a return required by this Act within sixty days from the date the return  
19 is due is guilty of a Class 1 misdemeanor;
- 20 (5) Willfully violates any rule of the secretary of revenue and regulation for the  
21 administration and enforcement of the provisions of this Act is guilty of a Class 1  
22 misdemeanor; or
- 23 (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-  
24 month period is guilty of a Class 6 felony.

1       Section 7. Each person subject to tax under this Act shall keep records and books of all  
2 receipts, together with invoices, and other pertinent papers and documents. The books and  
3 records and other papers and documents are, at all times during business hours of the day,  
4 subject to inspection by the secretary of revenue and regulation or the secretary's agents and  
5 employees to determine the amount of tax due. The books and records shall be preserved for a  
6 period of three years unless the secretary of revenue and regulation, in writing, authorized their  
7 destruction or disposal at an earlier date.

8       Section 8. Taxes collected under this Act shall be remitted to the state treasurer for credit  
9 to the state general fund.

10       Section 9. The tax implemented under section 2 of this Act is not due and payable until the  
11 Department of Social Services receives an approved medicaid state plan amendment from the  
12 Centers for Medicare and Medicaid Services.