

.As Engrossed: 2/18/91 3/26/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative J. E. Miller**

A BILL ACT 1004 OF 1991
HOUSE BILL 1669

For An Act To Be Entitled

8 *"AN ACT TO LEVY AN EXCISE TAX UPON THE GROSS RECEIPTS*
9 *DERIVED BY ANY MEDICAID PROVIDER FOR THE DELIVERY OF*
10 *PERSONAL CARE SERVICES TO RESIDENTS OF RESIDENTIAL CARE*
11 *FACILITIES FROM THAT PORTION OF THE PAYMENTS MADE BY STATE*
12 *REVENUES; AND FOR OTHER PURPOSES."*

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16 *SECTION 1. As used in this act:*

17 (1) *"Department" means the Department of Human Services;*
18 (2) *"Director" means the Director of the Department of Human Services;*
19 (3) *"Gross receipts" means all payments for personal care services*
20 *delivered to residents of residential care facilities pursuant to Title XIX of*
21 *the Social Security Act, as amended, and shall mean any and all Medicaid*
22 *reimbursement payments made by the Arkansas Department of Human Services, or a*
23 *Division thereof, for the delivery of personal care services to a resident of*
24 *a residential care facility;*

25 (4) *"Residential care facility" means a building or structure which is*
26 *used or maintained to provide, for pay on a twenty-four (24) hour basis, a*
27 *place of residence and board for three (3) or more individuals whose*
28 *functional capabilities may have been impaired but do not require hospital or*
29 *nursing home care on a daily basis but could require other assistance in*
30 *activities of daily living.*

32 *SECTION 2. Any facility that meets the definition of a residential care*
33 *facility as defined in this act that has not been licensed or certified by the*
34 *appropriate state agency or has not received a Permit of Approval from the*
35 *Arkansas Health Services Agency prior to January 15, 1991, shall not be*
36 *eligible for any reimbursement from state revenues for any services they*

1 offer. This provision does not apply to those facilities that are renewing
2 their license after January 15, 1991, those facilities that have been
3 receiving reimbursement prior to January 15, 1991, or those facilities that
4 have been exempted from review by the Health Services Agency prior to January
5 15, 1991.

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7 SECTION 3. There is levied an excise tax of fifty percent (50%) upon
8 the gross proceeds or gross receipts derived by any medicaid provider for the
9 delivery of personal care services to residents of residential care facilities
10 from that portion of the payments made by state revenues for services
11 delivered to residents of the residential care facilities pursuant to Title
12 XIX of the United States Social Security Act, as amended. This tax shall be
13 in addition to any other Medicaid gross receipts tax now or hereinafter in
14 effect.

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16 SECTION 4. The tax imposed by this act shall apply solely and
17 exclusively to payments for the delivery of personal care services to
18 residents of residential care facilities.

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20 SECTION 5. The administration of this act is vested and shall be
21 exercised by the Director of the Department of Human Services who shall
22 promulgate rules and regulations and prescribe forms for the proper
23 implementation and enforcement of this act. The department shall send tax
24 bills to any medicaid provider delivering services under the provisions of
25 this act. The department shall account for all payments of tax, interest and
26 penalty and shall collect any delinquent tax, interest and penalty. Taxpayers
27 shall file all returns and remit any tax due on those returns to the Director
28 of the Department of Finance and Administration. The Director of the
29 Department of Finance and Administration shall make available to the
30 department funds received under this act for deposit into the Department of
31 Human Services Grants Fund Account. All returns received by the Director of
32 the Department of Finance and Administration shall be forwarded to the
33 director for processing.

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35 SECTION 6. (a) The tax levied by this act shall be paid quarterly.
36 Each medicaid provider subject to tax pursuant to this act shall file a return

1 and remit any tax due to the Director of the Department of Finance and
2 Administration on or before the fortieth (40th) day following the last day of
3 the quarter.

4 (b) For the purpose of ascertaining the amount of tax payable under
5 this act, it shall be the duty of the medicaid provider subject to tax
6 pursuant to this act to verify and deliver to the director, upon forms
7 prescribed and furnished by the director and at a time prescribed by the
8 director, returns under oath showing the total of all payments for services
9 delivered pursuant to Title XIX of the Social Security Act, as amended, during
10 the applicable reporting period. The returns shall show such further
11 information as the director may require to enable him to completely and
12 correctly collect the tax levied.

13 (c) The tax shall be computed by multiplying all taxable gross proceeds
14 or gross receipts derived by any medicaid provider subject to tax pursuant to
15 this act from that portion of payments made by state revenues for all services
16 delivered pursuant to Title XIX of the Social Security Act, as amended, by the
17 applicable tax rate of fifty percent (50%).

18 (d) Any tax not paid within thirty (30) days of the due date shall be
19 delinquent from that date and it shall be the duty of the director to add a
20 penalty of ten percent (10%) upon all delinquent taxes.

21 (e) Claims for refunds of overpayments and payment of interest on
22 deficient payments or overpayments shall be subject to the terms and
23 conditions of Ark. Code Ann. §§26-18-507 and 26-18-508. All claims for
24 refunds shall be filed with the director.

25 (f) Except as provided in paragraph (e) of this section, The Arkansas
26 Tax Procedure Act, Ark. Code Ann. §26-18-101 et seq., shall not apply to the
27 provisions of this act.

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29 SECTION 7. The director may cancel or refuse to issue, extend, or
30 reinstate a Medicaid certification to any medicaid provider subject to tax
31 pursuant to this act which has failed to pay any delinquent tax or penalty.
32 The director shall collect delinquent taxes by any lawful means for collection
33 of a civil debt.

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35 SECTION 8. All taxes, interest, penalties, and costs received by the

1 *Director of the Department of Finance and Administration under the provisions*
2 *of this act shall be deposited in the State Treasury as special revenues to be*
3 *credited to the Department of Human Services Grants Fund Account. Neither the*
4 *three percent (3%) nor the one and one-half percent (1-1/2%) deduction*
5 *provided for in Ark. Code Ann. §19-5-203, shall be made from the net special*
6 *revenues collected under this subchapter.*

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8 SECTION 9. This tax shall become effective on July 1, 1991, and shall
9 expire on June 30, 1993.

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11 SECTION 10. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 11. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 12. All laws and parts of laws in conflict with this act are
22 hereby repealed.

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24 SECTION 13. EMERGENCY CLAUSE. It is hereby found and determined by the
25 Seventy-Eighth General Assembly that this act establishes an excise tax on the
26 gross receipts on that portion of state money paid to any *medicaid provider*
27 *for the delivery of personal care services to residents of residential care*
28 *facilities; that for the effective administration of this act, this act should*
29 *become effective on July 1, 1991; that unless this emergency clause is*
30 *adopted, this act may not become effective on that date. Therefore, an*
31 *emergency is hereby declared to exist and this act being necessary for the*
32 *immediate preservation of the public peace, health, and safety shall be in*
33 *full force and effect from and after July 1, 1991.*

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35 /s/ John E. Miller

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APPROVED: 4/8/91