

1 State of Arkansas  
2 78th General Assembly  
3 Regular Session, 1991

# A Bill      ACT 889 OF 1991

HOUSE BILL    1666

4 By: Representatives Lipton, Walker, Townsend, Brownlee, J. Wilson, Smith, McGee and Jones

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## For An Act To Be Entitled

8            "AN ACT TO ESTABLISH THE ARKANSAS MEDICAID GROSS RECEIPTS  
9            TAX; AND FOR OTHER PURPOSES."

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

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13            SECTION 1. Title 26, Chapter 52 of the Arkansas Code of 1987 Annotated  
14 is hereby amended by adding a new subchapter to read as follows:

15            "26-52-1101. This subchapter may be cited as the 'Arkansas Medicaid  
16 Gross Receipts Tax Act of 1991'.

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18            26-52-1102. As used in this subchapter:

19            (1) "Department" means the Department of Human Services;

20            (2) "Director" means the Director of the Department of Human Services;

21            (3) "Gross receipts or gross proceeds" means all payments for services

22 delivered pursuant to Title XIX of the United States Social Security Act, as

23 amended, and shall mean any and all Medicaid reimbursement payments made by

24 the Arkansas Department of Human Services, or a Division thereof, to a

25 Medicaid provider certified to participate in the Arkansas Medical Assistance

26 Program, regardless of the provider's location, for Medicaid covered services

27 rendered to an individual who, at the time such services were delivered, was

28 found by the Arkansas Division of Economic and Medical Services to be eligible

29 to receive Medicaid services.

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31            26-52-1103. There is levied an excise tax of fifteen percent (15%) upon

32 the gross proceeds or gross receipts derived by certified Medicaid providers

33 from that portion of the payments made from state revenues for all services

34 delivered pursuant to Title XIX of the United States Social Security Act.

35 This provision of this subchapter shall not apply to:

36            (1) payments made for pharmaceutical ingredients limited to the

1 estimated acquisition costs as defined within the Arkansas Medicaid  
 2 Prescription Drug Program State Plan, provided that rebates from  
 3 pharmaceutical manufacturers paid to the Department of Human Services shall be  
 4 in lieu of this tax on the said pharmaceutical ingredients exclusively; or

5 (2) payments made directly to the Department of Human Services or to a  
 6 Division thereof.

7 No other exemptions, whether contained in this subchapter or any other  
 8 provision of existing law, shall apply.

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10 26-52-1104. The tax imposed by this subchapter shall apply solely and  
 11 exclusively to that portion of the payments made from state revenues for  
 12 services delivered pursuant to Title XIX of the Social Security Act.

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14 26-52-1105. The administration of this subchapter is vested in and  
 15 shall be exercised by the Director of the Department of Human Services who  
 16 shall promulgate rules and regulations and prescribe forms for the proper  
 17 implementation and enforcement of this subchapter. The Department shall be  
 18 responsible for sending tax bills to Medicaid providers. The Department shall  
 19 account for all payments of tax, interest and penalty and shall be responsible  
 20 for collecting any delinquent tax, interest and penalty. Taxpayers shall file  
 21 all returns and remit any tax due on those returns to the Director of the  
 22 Department of Finance and Administration. The Director of the Department of  
 23 Finance and Administration shall be responsible for making available to the  
 24 Department of Human Services funds received under this act for deposit into  
 25 the Department of Human Services Grants Fund Account. All returns received by  
 26 the Director of the Department of Finance and Administration shall be  
 27 forwarded to the Director of the Department of Human Services, or his  
 28 designee, for processing.

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30 26-52-1106. (a) The tax levied by this act shall be paid quarterly.  
 31 Each Medicaid provider subject to tax pursuant to this act shall file a return  
 32 and remit any tax due to the Director of the Department of Finance and  
 33 Administration on or before the fortieth (40th) day following the last day of  
 34 the quarter.

35 (b) For the purpose of ascertaining the amount of tax payable under  
 36 this subchapter, it shall be the duty of all Medicaid providers to verify and

1 deliver to the Director of the Department of Finance and Administration, upon  
2 forms prescribed and furnished by the Director of the Department of Human  
3 Services and at a time prescribed herein, returns under oath showing the total  
4 of all payments for services delivered pursuant to Title XIX of the United  
5 States Social Security Act, as amended, during the applicable reporting  
6 period. The returns shall show such further information as the director may  
7 require to enable him to completely and correctly collect the tax levied.

8 (c) The tax shall be computed by multiplying all taxable gross proceeds  
9 or gross receipts derived by certified Medicaid providers from that portion of  
10 payments made by state revenues for all services delivered pursuant to Title  
11 XIX of the Social Security Act by the applicable tax rate of fifteen percent  
12 (15%).

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

16 (e) Claims for refunds of overpayments and payment of interest on  
17 deficient payments or overpayments shall be subject to the terms and  
18 conditions of Ark. Code Ann. §§26-18-507 and 26-18-508. All claims for  
19 refunds must be filed with the Director of the Department of Human Services.

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

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24 26-52-1107. The Director of the Department of Human Services may cancel  
25 or refuse to issue, extend, or reinstate a Medicaid certification to any  
26 provider who has failed to pay any delinquent tax or penalty. The director  
27 shall collect delinquent taxes by any lawful means for collection of a civil  
28 debt.

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30 26-52-1108. All taxes, interest, and penalties received by the Director  
31 of the Department of Finance and Administration under this subchapter shall be  
32 special revenues and shall be deposited as special revenues to the credit of  
33 the Department of Human Services Grants Fund Account, which is hereby created  
34 on the books of the State Treasurer, State Auditor, and the Chief Fiscal  
35 Officer of the State. All revenues generated under this act shall not be

1 considered as any part of 'those additional revenues' as defined in Act 10 of  
2 1991. *Neither the three percent (3%) nor the one and one-half percent (1-  
3 1/2%) deduction provided for in Ark. Code Ann. §19-5-203, shall be made from  
4 the net special revenues collected under this subchapter.*

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6 26-52-1109. The Arkansas Medicaid Gross Receipts Tax shall become  
7 effective on July 1, 1991, and shall expire on June 30, 1993."

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9 SECTION 2. All provisions of this act of a general and permanent nature  
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
11 Revision Commission shall incorporate the same in the Code.

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13 SECTION 3. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.

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19 SECTION 4. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

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22 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the  
23 Seventy-Eighth General Assembly that this act establishes the Arkansas  
24 Medicaid Gross Receipts Tax; that for the effective administration of this  
25 act, this act should become effective on July 1, 1991; that unless this  
26 emergency clause is adopted, this act may not become effective on that date.  
27 Therefore, an emergency is hereby declared to exist and this act being  
28 necessary for the immediate preservation of the public peace, health, and  
29 safety shall be in full force and effect from and after July 1, 1991.

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31 /s/ John Lipton et al

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33 APPROVED: 3/29/91

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