

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Second Extraordinary Session, 1992**  
4 **By: Senator N. Wilson**

**Call Item 2**

# **A Bill**

**SENATE BILL 5**

## **For An Act To Be Entitled**

8 *"AN ACT TO LEVY A TAX UPON HOME HEALTH CARE SERVICE*  
9 *AGENCIES, PERSONAL CARE SERVICE PROVIDERS, LONG TERM CARE*  
10 *FACILITIES, NURSING FACILITIES, AND INTERMEDIATE CARE*  
11 *FACILITIES FOR THE MENTALLY RETARDED; AND FOR OTHER*  
12 *PURPOSES."*

## **Subtitle**

15 *"ACT TO LEVY TAXES ON HOME HEALTH AND PERSONAL CARE*  
16 *SERVICES, LONG TERM CARE AND NURSING FACILITIES, AND*  
17 *INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED."*

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

21 *SECTION 1. DEFINITIONS.*

22 *As used in this Act, unless the context otherwise requires:*

23 *(a) 'Director' means the Director of the Department of Finance and*  
24 *Administration or his authorized agents.*

25 *(b) 'Gross Receipts' shall mean the entire amount billed for the*  
26 *service or sale without any deduction of any kind. "Gross Receipts" shall*  
27 *not include any payments received by a provider from medicare when the*  
28 *provider is prohibited or precluded by federal law or regulation from recover-*  
29 *ing the tax levied by this Act from the medicare program.*

30 *(c) 'Home Health Care Service Agency' shall mean those agencies*  
31 *licensed pursuant to Ark. Code Ann. §20-10-801 et seq.*

32 *(d) 'Personal Care Service Providers' shall mean those providers*  
33 *certified pursuant to Ark. Code Ann. §20-10-706 or any other person, business*  
34 *or organization providing personal care services as defined in this section.*

35 *(e) 'Long Term Care Facilities' shall mean those facilities licensed*

1 pursuant to Ark. Code Ann. §20-10-101 et seq or §20-10-224.

2 (f) 'Nursing Facilities' shall mean those facilities licensed pursuant  
3 to Ark. Code Ann. §20-10-1101 et seq.

4 (g) 'Intermediate Care Facilities for the Mentally Retarded' shall mean  
5 those long term care facilities defined at Ark. Code Ann. §20-10-101 et seq.  
6 which provide intermediate care for the mentally retarded.

7 (h) 'Personal care services' shall mean physician-prescribed non-  
8 skilled services relating to an individual's functional abilities which enable  
9 the individual to avoid institutional medical care. Such services shall  
10 include the following: basic personal care and grooming, bathing, hair care;  
11 assistance with clothing and bodily functions; assistance with meal prepara-  
12 tion, household services essential to a client's health and comfort; and  
13 transportation of the client to and from a physician or medical facility for  
14 necessary medical services.

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16 SECTION 2. IMPOSITION OF TAX.

17 (a) There is hereby imposed a privilege tax on the privilege of  
18 providing services as a home health care service agency or personal care  
19 service provider. The tax is imposed at the rate of one percent (1%) on the  
20 total gross receipts derived from all services provided by a home health care  
21 service agency or personal care service provider.

22 (b) There is hereby imposed a privilege tax on the privilege of provid-  
23 ing services as a long term care facility or nursing facility. The tax is  
24 imposed at the rate of one percent (1%) from the effective date of this Act  
25 until June 30, 1993 and two and eight tenths percent (2.8%) on and after July  
26 1, 1993 on the total gross receipts derived by long term care facilities or  
27 nursing facilities.

28 (c) There is hereby imposed a privilege tax on the privilege of  
29 providing services as an intermediate care facility for the mentally retarded.  
30 The tax is imposed at the rate of one percent (1%) from the effective date of  
31 this Act until June 30, 1993, and four and seventy-eight one hundredths  
32 (4.78%) on and after July 1, 1993 on the total gross receipts derived by  
33 intermediate care facilities for the mentally retarded.

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35 SECTION 3. ISSUANCE OF PERMIT BY DIRECTOR - PRECONDITION TO OBTAINING  
36 LICENSE.

1 (a) Prior to issuance of a license by a state board or state regulatory  
2 agency to conduct business within this state, any person, business or organi-  
3 zation subject to the tax levied in Section 2 of this Act, shall present  
4 evidence to the licensing board or agency of the issuance of a permit by the  
5 Director to collect the tax imposed by Section 2 of this Act. Those persons,  
6 businesses or organizations subject to the tax levied by Section 2 of this Act  
7 shall obtain a permit as required by this Section prior to conducting business  
8 in the State of Arkansas.

9 (b) It shall be unlawful for anyone upon whom a tax is imposed by  
10 Section 2 of this Act to transact business within this state prior to the  
11 issuance and receipt of a permit issued by the Director.

12 (c) Failure to obtain a permit from the Director as required by this  
13 Section shall result in the licensing board or agency denying the application  
14 for a license to conduct business, or shall result in the revocation of an  
15 existing license to conduct business pursuant to the applicable rules and  
16 regulations of the licensing board or agency.

17 (d) The failure of any person, business or organization responsible for  
18 the tax levied in Section 2 of this Act to pay such tax when due shall result  
19 in the revocation of the permit issued by the Director and suspension or  
20 revocation of any license required to conduct business.

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22 SECTION 4. ADMINISTRATION - RULES AND REGULATIONS.

23 (a) The administration of this Act is vested in and shall be exercised  
24 by the Director and shall be subject to the provisions of the Arkansas Tax  
25 Procedure Act, Ark. Code Ann. §26-18-101 et seq.

26 (b) The Director shall promulgate rules and regulations and prescribe  
27 forms for the proper enforcement of this Act.

28 (c) The tax levied hereunder shall be due and payable to the Arkansas  
29 Department of Finance and Administration in the same manner as provided for by  
30 Ark. Code Ann. §26-52-501. Provided however, that the returns for the tax  
31 collected in the previous month required by §26-52-501(g), shall be due on or  
32 before the fifteenth day of each month.

33 (d) The Director is authorized to provide information to any state  
34 licensing board or agency for purposes of enforcement of the provisions of  
35 this Act.

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*SECTION 5. The taxes levied in Section 2 of this Act are in addition to all other taxes currently levied, including, but not limited to, those taxes levied by Ark. Code Ann. §26-52-1101 et seq., Ark. Code Ann. §26-52-1201 et seq. and Ark. Code Ann. §26-52-1301 et seq. and nothing contained herein shall be construed to repeal the taxes levied therein.*

**SECTION 6. EFFECTIVE DATE.**

*The provisions of this Act shall be effective on and after February 1, 1993.*

*SECTION 7. The revenues derived from the taxes collected under this act shall be remitted to the State Treasurer who shall deposit the revenues in the State Treasury as general revenues.*

*SECTION 8. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.*

*SECTION 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, to this end the provisions of this act are declared to be severable.*

*SECTION 10. All laws and parts of laws in conflict with this Act are hereby repealed.*

**SECTION 11. EMERGENCY CLAUSE.**

*It is hereby found and determined by the General Assembly that the State of Arkansas is in immediate need of additional revenues to maintain Medicaid services at their present level; that this act generates those revenues; and that unless this act goes into effect immediately, the services provided the citizens of this state under the medicaid program will be drastically curtailed. Therefore, an emergency is hereby declared to exist and this act*

1 being necessary for the immediate preservation of the public peace, health and  
2 safety shall be in full force and effect from and after its passage and  
3 approval.

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*/s/N. Wilson*

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