

State of Arkansas

87th General Assembly

Regular Session, 2009

# A Bill

SENATE BILL 354

By: Senators Laverty, Altes, G. Baker, Bookout, Broadway, Bryles, Capps, Faris, Horn, G. Jeffress, J. Jeffress, B. Johnson, D. Johnson, J. Key, Miller, Salmon, T. Smith, Steele, Teague, R. Thompson, Trusty, Wilkinson, D. Wyatt  
By: Representatives Saunders, Harrelson, T. Rogers

## For An Act To Be Entitled

AN ACT TO ESTABLISH A PROVIDER FEE FOR  
INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
DEVELOPMENTAL DISABILITIES; TO DESIGNATE THE  
REVENUES COLLECTED FROM THE PROVIDER FEE FOR  
INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
DEVELOPMENTAL DISABILITIES AS SPECIAL REVENUE;  
AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO ESTABLISH A PROVIDER FEE FOR  
INTERMEDIATE CARE FACILITIES FOR  
INDIVIDUALS WITH DEVELOPMENTAL  
DISABILITIES AND DESIGNATE THE REVENUES  
COLLECTED AS SPECIAL REVENUE.

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

SECTION 1. Arkansas Code Title 20, Chapter 48 is amended to add an additional subchapter to read as follows:

20-48-901. Definitions.

As used in this subchapter:

(1)(A) "Gross receipts" means moneys paid as compensation for services provided to residents of intermediate care facilities for individuals with developmental disabilities, including without limitation,



1 client participation.

2 (B) "Gross receipts" does not include charitable  
3 contributions;

4 (2)(A) "Intermediate care facility for individuals with  
5 developmental disabilities" means a residential institution maintained for  
6 the care and training of individuals with developmental disabilities,  
7 including without limitation, individuals with mental retardation.

8 (B) "Intermediate care facility for individuals with  
9 developmental disabilities" does not include:

10 (i) Offices of private physicians and surgeons;  
11 (ii) Residential care facilities;  
12 (iii) Assisted living facilities;  
13 (iv) Hospitals;  
14 (v) Institutions operated by the federal government;  
15 (vi) Life care facilities;  
16 (vii) Nursing facilities; or  
17 (viii) Any facility that is conducted by and for  
18 those who rely exclusively upon treatment by prayer for healing in accordance  
19 with tenets or practices of any recognized religious denomination; and

20 (3) "Medicaid" means the medical assistance program established  
21 by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as it  
22 existed on January 1, 2009, and administered by the Division of Medical  
23 Services of the Department of Human Services.

24  
25 20-48-902. Provider fee.

26 (a)(1) There is levied a provider fee on intermediate care facilities  
27 for individuals with developmental disabilities to be calculated under this  
28 section.

29 (2) The provider fee shall be an amount equal to five and one-  
30 half percent (5.5%) of the aggregate annual gross receipts of each  
31 intermediate care facility for individuals with developmental disabilities  
32 divided by twelve (12).

33 (b)(1) The provider fee of an intermediate care facility for  
34 individuals with developmental disabilities shall be due and payable for the  
35 previous month by the thirtieth of each month.

36 (2) The payment of the provider fee by an intermediate care

facility for individuals with developmental disabilities shall be reported as an allowable cost for Medicaid reimbursement purposes.

(c) No intermediate care facility for individuals with developmental disabilities shall be guaranteed, expressly or otherwise, that any additional gross receipts paid to the intermediate care facility for individuals with developmental disabilities will equal or exceed the amount of its provider fee.

(d)(1) The Division of Medical Services of the Department of Human Services shall ensure that the rate of assessment of the provider fee established in this section does not exceed the maximum rate of assessment established under federal law and rule for healthcare-related provider fees without reduction in federal financial participation.

(2) If the division determines that the rate of assessment of the provider fee established in this section exceeds the maximum rate of assessment that federal law and rule allow without reduction in federal financial participation, the division shall lower the rate of assessment of the provider fee to a rate that is equal to the maximum rate that federal law and rule allow without reduction in federal financial participation.

#### 20-49-903. Administration.

(a) The Director of the Division of Medical Services of the Department of Human Services shall administer this subchapter.

(b)(1) The Division of Medical Services of the Department of Human Services shall adopt rules and prescribe forms for:

(A) The proper imposition and collection of the provider fee;

(B) The enforcement of this subchapter;

(C) The format for reporting gross receipts; and

(D) The administration this subchapter.

(2) The rules shall not grant any exceptions to, or exceptions from, the provider fee.

#### 20-49-904. ICF-MR Provider Fee Fund -- Use of funds.

(a)(1) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "ICF-MR Provider Fee Fund".

1       (2)(A) The ICF-MR Provider Fee Fund shall consist of revenues obtained  
2 under this subchapter and any other revenue as may be provided by law.

3       (B) Gross receipts from the ICF-MR Provider Fee Fund may not  
4 supplant other local, state, or federal funds.

5       (3) All provider fees assessed and collected under this  
6 subchapter shall be deposited into the State Treasury as special revenue and  
7 credited to the ICF-MR Provider Fee Fund, there to be used for the continued  
8 operation of the intermediate care facilities for individuals with  
9 developmental disabilities program and for the support of services to  
10 individuals with developmental disabilities.

11       (4)(A) Funds in the ICF-MR Provider Fee Fund shall be placed in  
12 an interest bearing account.

13       (B) Earnings on funds in the ICF-MR Provider Fee Fund  
14 shall remain a part of the ICF-MR Provider Fee Fund and shall not be  
15 deposited into the general fund.

16       (b) The special revenues in the ICF-MR Provider Fee Fund unused at the  
17 end of any fiscal year shall be carried forward.

18       (c) The ICF-MR Provider Fee Fund shall be exempt from budgetary cuts,  
19 reductions, or eliminations caused by a deficiency of general revenues.