

1 §11-27-38. Contingent increase of tax rate on certain eligible
2 acute care hospitals.

3 (a) In addition to the rate of the tax imposed by sections
4 nine and fifteen of this article on providers of inpatient and
5 outpatient hospital services, there shall be imposed on certain
6 eligible acute care hospitals an additional tax of eighty-eight one
7 hundredths of one percent on the gross receipts received or
8 receivable by eligible acute care hospitals that provide inpatient
9 or outpatient hospital services in this state through a Medicaid
10 upper payment level program. For purposes of this section, the
11 term "eligible acute care hospital" means any inpatient or
12 outpatient hospital conducting operations in this state that is
13 not: (1) A state owned or designated facility; (2) a nonstate, but
14 government owned facility such as a county or city hospital; (3) a
15 critical access hospital, designated as a critical access hospital
16 after meeting all federal eligibility criteria; (4) a licensed
17 free-standing psychiatric or medical rehabilitation hospital; or
18 (5) a licensed long-term acute care hospital.

19 (b) The provisions of this section are intended to maximize
20 federal funding for the purpose of implementing a hospital Medicaid
21 upper payment limit program as described in this section. The
22 taxes imposed by this section may not be imposed or collected until
23 all of the following have occurred: (1) A state plan amendment is
24 developed by the bureau of medical services, as authorized by the

1 Secretary of the Department of Health and Human Resources; (2) the
2 state plan amendment is approved by the Medical Fund Services
3 Advisory Council; (3) a comment period of not less than thirty days
4 for public comment on the state plan amendment shall have passed;
5 and (4) the state plan amendment is approved by the federal center
6 for Medicare and Medicaid services. The state plan amendment shall
7 include all of the following: (1) The provisions of the proposed
8 upper payment limit program or programs; (2) a state maintenance of
9 effort to maintain adequate Medicaid funding; and (3) a provision
10 that any other state Medicaid program will not negatively impact
11 the hospital upper payment limit payments. The taxes imposed and
12 collected may be imposed and collected beginning on the earliest
13 date permissible under applicable federal law under the upper
14 payment limit program, as determined by the Secretary of Health and
15 Human Resources.

16 (c) All taxes, additions to tax, penalties and interest
17 collected in accordance with this section shall be deposited into
18 a dedicated eligible acute care provider enhancement fund, to be
19 administered in accordance with the provisions of section five,
20 article twenty-six of this chapter. Disbursements from the
21 eligible acute care provider enhancement fund may be used only to
22 support the hospital Medicaid upper payment limit program described
23 in this section.

24 (d) The imposition and collection of taxes imposed by this

1 section shall be suspended immediately upon the occurrence of any
2 of the following: (1) The effective date of any action by Congress
3 that would disqualify the taxes imposed by this section from
4 counting towards state Medicaid funds available to be used to
5 determine the federal financial participation; (2) the effective
6 date of any decision, enactment or other determination by the
7 Legislature or by any court, officer, department, agency of office
8 of state or federal government that has the effect of disqualifying
9 the tax from counting towards state Medicaid funds available to be
10 used to determinate federal financial participation for Medicaid
11 matching funds, or creating for any reason a failure of the state
12 to use the assessment of the Medicaid program as described in this
13 section; and (3) the effective date of an appropriation for any
14 state fiscal year for hospital payments under the state Medicaid
15 program that is less than the amount appropriate for state fiscal
16 year ending June 30, 2011. Any funds remaining in the eligible
17 acute care provider enhancement fund upon the occurrence of any of
18 the events described in this subsection that cannot be used to
19 match eligible federal Medicaid funds, shall be refunded to
20 eligible acute care providers in proportion to the amount paid by
21 each eligible acute care provider into the fund.

22 (e) The provisions of this section are retroactive and apply
23 on and after January 1, 2011.

24 (f) This section shall expire on and after June 30, 2013,

1 unless otherwise extended by the Legislature.

NOTE: The purpose of this bill is to maximize federal funding for Medicaid by establishing a hospital Medicaid upper payment level program for a two-year plus period. The bill increases the health care provider tax imposed on gross receipts of providers of certain eligible acute care hospitals. Imposition and collection of taxes under the bill is contingent upon federal approval of a state plan amendment establishing an appropriate hospital Medicaid upper payment level program that meets the requirements set forth in the bill. Imposition and collection of the taxes terminates prior to the end of the two-year term of the program upon the occurrence of certain events.

This section is new, therefore, strike-throughs and underscoring have been omitted.