

1 **acute care hospitals.**

2 (a) In addition to the rate of the tax imposed by sections
3 nine and fifteen of this article on providers of inpatient and
4 outpatient hospital services, there ~~shall be~~ is imposed on certain
5 eligible acute care hospitals an additional tax of ~~forty-five~~
6 sixty-two one hundredths of one percent on the gross receipts
7 received or receivable by eligible acute care hospitals that
8 provide inpatient or outpatient hospital services in this state
9 through a Medicaid upper payment limit program.

10 (b) For purposes of this section, the term "eligible acute
11 care hospital" means any inpatient or outpatient hospital
12 conducting business in this state that is not:

13 (1) A state-owned or -designated facility;

14 (2) A nonstate, but government-owned facility such as a county
15 or city hospital;

16 (3) A critical access hospital, designated as a critical
17 access hospital after meeting all federal eligibility criteria;

18 (4) A licensed free-standing psychiatric or medical
19 rehabilitation hospital; or

20 (5) A licensed long-term acute care hospital.

21 ~~(b)~~ (c) The taxes imposed by this section may not be imposed
22 or collected until all of the following have occurred:

1 (1) A state plan amendment is developed by the Bureau of
2 Medical Services, as authorized by the Secretary of the Department
3 of Health and Human Resources;

4 (2) The state plan amendment is reviewed by the Medical Fund
5 Services Advisory Council;

6 (3) A comment period of not less than thirty days for public
7 comment on the state plan amendment shall have passed; and

8 (4) The state plan amendment is approved by the Centers for
9 Medicare and Medicaid Services.

10 (d) The state plan amendment shall include all of the
11 following:

12 (1) The provisions of the proposed upper payment limit program
13 or programs;

14 (2) A state maintenance of effort to maintain adequate
15 Medicaid funding; and

16 (3) A provision that any other state Medicaid program will not
17 negatively impact the hospital upper payment limit payments. The
18 taxes imposed and collected may be imposed and collected beginning
19 on the earliest date permissible under applicable federal law under
20 the upper payment limit program, as determined by the ~~West Virginia~~
21 secretary. ~~of Health and Human Resources.~~

22 ~~(c)~~ (e) There is ~~hereby created~~ continued a special revenue

1 account in the State Treasury, designated the Medicaid State Share
2 Fund. The amount of taxes collected under this section, including
3 any interest, additions to tax and penalties collected under
4 article ten of this chapter, less the amount of allowable refunds,
5 the amount of any interest payable with respect to such refunds and
6 costs of administration and collection, shall be deposited into the
7 Special Revenue Fund and ~~shall~~ may not revert to general revenue.
8 The Tax Commissioner shall establish and maintain a separate
9 account and accounting for the funds collected under this section
10 in an account to be designated as the Eligible Acute Care Provider
11 Enhancement Account. The amounts collected shall be deposited,
12 within fifteen days after receipt by the Tax Commissioner, into the
13 Eligible Acute Care Provider Enhancement Account. Disbursements
14 from the Eligible Acute Care Provider Enhancement Account within
15 the Medicaid State Share Fund may only be used as set forth in this
16 section.

17 ~~(d)~~ (f) The imposition and collection of taxes imposed by
18 this section ~~shall be~~ is suspended immediately upon the occurrence
19 of any of the following:

20 (1) The effective date of any action by Congress that would
21 disqualify the taxes imposed by this section from counting toward
22 state Medicaid funds available to be used to determine the federal

1 financial participation;

2 (2) The effective date of any decision, enactment or other
3 determination by the Legislature or by any court, officer,
4 department, agency or office of state or federal government that
5 has the effect of disqualifying the tax from counting toward state
6 Medicaid funds available to be used to determine federal financial
7 participation for Medicaid matching funds, or creating for any
8 reason a failure of the state to use the assessment of the Medicaid
9 program as described in this section; and

10 (3) The effective date of an appropriation for any state
11 fiscal year for hospital payments under the state Medicaid program
12 that is less than the amount appropriate for state fiscal year
13 ending June 30, 2011. Fifty percent of any funds remaining in the
14 Eligible Acute Care Provider Enhancement Account as of June 30,
15 ~~2013,~~ 2014, shall be transferred to the West Virginia Medical
16 Services Fund. This transfer shall occur no later than September
17 30, ~~2013.~~ 2014. These funds shall be used during state fiscal year
18 ~~2014~~ 2015 at the discretion of the Bureau of Medical Services. The
19 remaining fifty percent of any funds in the Eligible Acute Care
20 Provider Enhancement Account as of June 30, ~~2013,~~ 2014, shall
21 remain in the Eligible Acute Care Provider Enhancement Account and
22 shall be used in state fiscal year ~~2014~~ 2015. If the program

1 expires on June 30, ~~2014~~, 2015, as set forth in subsection ~~(f)~~ (h)
2 of this section, fifty percent of any funds remaining as of June
3 30, ~~2015~~, 2016, shall be transferred on that date to the West
4 Virginia Medical Services Fund. This transfer shall occur only
5 after state fiscal year ~~2014~~ 2015 fourth quarter tax collections
6 and program payments. The remaining fifty percent of the funds
7 shall be distributed to the eligible acute care providers no later
8 than June 30, ~~2015~~ 2016. The distribution of funds to the eligible
9 acute care providers shall be made in the same proportion as the
10 taxes paid by the eligible acute care providers into the Eligible
11 Acute Care Provider Enhancement Fund during state fiscal year ~~2014~~
12 2015.

13 ~~(e)~~ (g) The provisions of this section are retroactive and
14 ~~shall~~ become effective on the first day of the quarter in which the
15 state plan amendment is submitted.

16 ~~(f)~~ (h) The tax imposed by this section ~~shall expire~~ expires
17 on and after June 30, ~~2014~~, 2015, unless otherwise extended by the
18 Legislature.