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AN ACT

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RELATING TO STATE REVENUE; IMPOSING A DAILY BED SURCHARGE ON
CERTAIN LICENSED HEALTH FACILITIES; PROVIDING FOR A DISTRIBUTION
TO THE MEDICAID PROGRAM; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. DAILY BED SURCHARGE--IMPOSITION--ADMINISTRATION.--

A. A daily bed surcharge is imposed on each licensed nursing home, licensed intermediate care facility for the mentally retarded and licensed residential treatment center. Unless exempted pursuant to Subsection C of this section, the surcharge shall be per day for each occupied bed of the nursing home, intermediate care facility for the mentally retarded or residential treatment center. The rate of the surcharge shall be annually determined by the human services department pursuant to Subsection B of this section.

B. No later than June 1 of each year, the human services department shall, pursuant to the provisions of this subsection, determine the rate of the daily bed surcharge to be paid by each licensed nursing home, licensed intermediate care facility for the mentally retarded and licensed residential treatment center during the subsequent fiscal year and shall notify the taxation and revenue department and each such nursing home, intermediate care facility and treatment center of the applicable rates. In determining the rates, the human services department shall:

(1) set a uniform rate on the maximum number of nursing homes, intermediate care facilities for the mentally retarded and residential treatment centers as allowed by any federal law or rule governing the approval of the state medicaid plan or any waiver from that plan; and

(2) structure the rates for each nursing home, intermediate

1 care facility for the mentally retarded and residential treatment center so that the
2 total estimated revenue received in the subsequent fiscal year from all such nursing
3 homes, intermediate care facilities and treatment centers will equal six percent of
4 the gross revenue, calculated on an accrual basis, received by the nursing homes,
5 intermediate care facilities and treatment centers in the previous calendar year.

6 C. The human services department shall study the feasibility of
7 applying for a federal waiver to exempt medicare and private beds from the daily
8 bed surcharge. If, upon application of the department, such a waiver is granted,
9 medicare and private beds are exempt from the surcharge.

10 D. The surcharge imposed pursuant to this section may be referred
11 to as the "daily bed surcharge". Each licensed nursing home, licensed intermediate
12 care facility for the mentally retarded and licensed residential treatment center is
13 responsible for remitting the daily bed surcharge to the taxation and revenue
14 department. The surcharge shall be remitted on or before the twenty-fifth day of the
15 month following the month for which the surcharge is due. The taxation and
16 revenue department shall administer and enforce the collection of the surcharge
17 pursuant to the provisions of the Tax Administration Act.

18 Section 2. DISTRIBUTION--MEDICAID PROGRAM.--A distribution
19 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the general fund to be
20 used solely for the medicaid program in an amount equal to the net receipts
21 attributable to the daily bed surcharge.

22 Section 3. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248,
23 Section 2, as amended) is amended to read:

24 "7-1-2. APPLICABILITY.--The Tax Administration Act applies to and
25 governs:

A. the administration and enforcement of the following taxes or tax
acts as they now exist or may hereafter be amended:

1 (1) Income Tax Act; S
2 (2) Withholding Tax Act; B
3 (3) Venture Capital Investment Act; 3
4 (4) Gross Receipts and Compensating Tax Act and any state 8
5 gross receipts tax; 5
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6 (5) Liquor Excise Tax Act; g
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7 (6) Local Liquor Excise Tax Act; 3
8 (7) any municipal local option gross receipts tax;
9 (8) any county local option gross receipts tax;
10 (9) Special Fuels Supplier Tax Act;
11 (10) Gasoline Tax Act;
12 (11) petroleum products loading fee, which fee shall be
13 considered a tax for the purpose of the Tax Administration Act;
14 (12) Alternative Fuel Tax Act;
15 (13) Cigarette Tax Act;
16 (14) Estate Tax Act;
17 (15) Railroad Car Company Tax Act;
18 (16) Investment Credit Act, Capital Equipment Tax Credit
19 Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act
20 and Technology Jobs Tax Credit Act;
21 (17) Corporate Income and Franchise Tax Act;
22 (18) Uniform Division of Income for Tax Purposes Act;
23 (19) Multistate Tax Compact;
24 (20) Tobacco Products Tax Act;
25 (21) the telecommunications relay service surcharge
 imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a
 tax for the purposes of the Tax Administration Act; and

1 (22) the daily bed surcharge imposed on licensed nursing
2 homes, intermediate care facilities for the mentally retarded and residential
3 treatment centers, which surcharge shall be considered a tax for purposes of the
4 Tax Administration Act until June 30, 2007;

5 B. the administration and enforcement of the following taxes,
6 surtaxes, advanced payments or tax acts as they now exist or may hereafter be
7 amended:

- 8 (1) Resources Excise Tax Act;
- 9 (2) Severance Tax Act;
- 10 (3) any severance surtax;
- 11 (4) Oil and Gas Severance Tax Act;
- 12 (5) Oil and Gas Conservation Tax Act;
- 13 (6) Oil and Gas Emergency School Tax Act;
- 14 (7) Oil and Gas Ad Valorem Production Tax Act;
- 15 (8) Natural Gas Processors Tax Act;
- 16 (9) Oil and Gas Production Equipment Ad Valorem Tax Act;
- 17 (10) Copper Production Ad Valorem Tax Act;
- 18 (11) any advance payment required to be made by any act
19 specified in this subsection, which advance payment shall be considered a tax for
20 the purposes of the Tax Administration Act;
- 21 (12) Enhanced Oil Recovery Act;
- 22 (13) Natural Gas and Crude Oil Production Incentive Act;
- 23 and
- 24 (14) intergovernmental production tax credit and
25 intergovernmental production equipment tax credit;

C. the
administration and enforcement of the following taxes, surcharges, fees or acts as
they now exist or may hereafter be amended:

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- 1 (1) Weight Distance Tax Act;
- 2 (2) the workers' compensation fee authorized by Section 52-
3 5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax
4 Administration Act;
- 5 (3) Uniform Unclaimed Property Act;
- 6 (4) 911 emergency surcharge and the network and database
7 surcharge, which surcharges shall be considered taxes for purposes of the Tax
8 Administration Act;
- 9 (5) the solid waste assessment fee authorized by the Solid
10 Waste Act, which fee shall be considered a tax for purposes of the Tax
11 Administration Act;
- 12 (6) the water conservation fee imposed by Section 74-1-13
13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax
14 Administration Act; and
- 15 (7) the gaming tax imposed pursuant to the Gaming Control
16 Act; and

17 D. the administration and enforcement of all other laws, with respect
18 to which the department is charged with responsibilities pursuant to the Tax
19 Administration Act, but only to the extent that the other laws do not conflict with the
20 Tax Administration Act."

21 Section 4. DELAYED REPEAL.--Sections 1 and 2 of this act are repealed
22 effective June 30, 2007.

23 Section 5. APPLICABILITY.--The daily bed surcharge imposed pursuant to
24 Section 1 of this 2004 act applies to beds occupied on or after July 1, 2004.

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