

AN ACT in relation to public aid.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The State Finance Act is amended by adding Sections 5.620, 5.621, and 6z-56 and changing Section 8h as follows:

(30 ILCS 105/5.620 new)

Sec. 5.620. The Health Care Services Trust Fund.

(30 ILCS 105/5.621 new)

Sec. 5.621. The Health and Human Services Medicaid Trust Fund.

(30 ILCS 105/6z-56 new)

Sec. 6z-56. The Health Care Services Trust Fund. The Health Care Services Trust Fund is hereby created as a special fund in the State treasury.

The Fund shall consist of moneys deposited, transferred, or appropriated into the Fund from units of local government other than a county with a population greater than 3,000,000, from the State, from federal matching funds, or from any other legal source.

Subject to appropriation, the moneys in the Fund shall be used by the Department of Public Aid to make payments to providers of services covered under the Medicaid or State Children's Health Insurance programs. Payments may be made out of the Fund only to providers located within the geographic jurisdiction of units of local government that make deposits, transfers, or appropriations into the Fund.

The Department of Public Aid shall adopt rules concerning application for and disbursement of the moneys in the Fund.

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund.

Notwithstanding any other State law to the contrary, the Director of the Governor's Office of Management and Budget Bureau-of-the-Budget may from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of 8% of the revenues to be deposited into the fund during that year or 25% of the beginning balance in the fund. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use or to any funds in the Motor Fuel Tax Fund or the Hospital Provider Fund. Notwithstanding any other provision of this Section, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed 5% of the revenues to be deposited into the fund during that year.

In determining the available balance in a fund, the Director of the Governor's Office of Management and Budget Bureau-of-the-Budget may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Governor's Office of Management and Budget Bureau-of-the-Budget.

(Source: P.A. 93-32, eff. 6-20-03; revised 8-21-03.)

Section 10. The Illinois Public Aid Code is amended by changing Sections 5-5.4, 5A-1, 5A-2, 5A-3, 5A-4, 5A-5, 5A-7, 5A-8, 5A-10, and 14-1 and by adding Sections 5A-12, 5A-13, and 5A-14 as follows:

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Public Aid. The Department of Public Aid shall develop standards of payment of skilled nursing and intermediate care services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2004, unless specifically provided for in this Section.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care

for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of

the rate effective July 1, 2003. The Department of Public Aid shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department of Public Aid shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 2 years after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or

intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2003, which shall be 3.0% less than the rates in effect on June 30, 2002. This rate shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by

facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Public Aid shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

(Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597, eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20, eff. 6-20-03.)

(305 ILCS 5/5A-1) (from Ch. 23, par. 5A-1)

Sec. 5A-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Hospital Provider Fund.

"Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.

"Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or

trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

"Adjusted-gross-hospital-revenue" shall be determined separately for each hospital conducted, operated, or maintained by a hospital provider, and means the hospital provider's total gross patient revenues less Medicare contractual allowances, but does not include gross patient revenue (and the portion of any Medicare contractual allowance related thereto) from skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act.

"Intergovernmental transfer payment" means the payments established under Section 15-3 of this Code, and includes without limitation payments payable under that Section for July, August, and September of 1992.

(Source: P.A. 87-861; 88-88.)

(305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

Sec. 5A-2. Assessment; no local authorization to tax.

(a) Subject to Sections 5A-3 and 5A-10, an annual assessment on inpatient services is imposed on each hospital provider for State fiscal years 2004 and 2005 in an amount equal to the hospital's occupied bed days multiplied by \$84.19.

The Department of Public Aid shall use the number of occupied bed days as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health to calculate the hospital's annual assessment. If the sum of a hospital's occupied bed days is not reported on the

Annual Survey of Hospitals, then the Department of Public Aid may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department of Public Aid or its duly authorized agents and employees. For--the privilege-of-engaging-in-the-occupation-of-hospital-provider, an--assessment-is-imposed-upon-each-hospital-provider-for-the State-fiscal-year-beginning-on-July-1,--1993--and--ending--on June--30,--1994,--in-an-amount-equal-to-1.88%-of-the-provider's adjusted-gross-hospital-revenue-for-the-most-recent--calendar year-ending-before-the-beginning-of-that-State-fiscal-year.

Effective--July--1,--1994--through--June--30,--1996,--an-annual assessment-is-imposed--upon--each--hospital--provider--in--an amount--equal--to--the--provider's--adjusted--gross--hospital revenue--for--the-most-recent-calendar-year-ending-before-the beginning--of--that--State--fiscal--year--multiplied--by--the Provider's-Savings-Rate.

Effective--July--1,--1996--through--March--31,--1997,--an assessment-is-imposed--upon--each--hospital--provider--in--an amount--equal--to--three-fourths--of--the-provider's-adjusted gross-hospital-revenue-for-calendar-year-1995--multiplied--by the--Provider's-Savings-Rate.--No-assessment-shall-be-imposed on-or-after-April-1,--1997.

Before-July-1,--1995,--the-Provider's-Savings-Rate-is-1.88% multiplied-by-a-fraction,--the--numerator--of--which--is--the Maximum--Section--5A-2--Contribution--minus--the-Cigarette-Tax Contribution,--and--the-denominator--of--which--is--the--Maximum Section--5A-2--Contribution,--Effective--July--1,--1995,--the Provider's-Savings-Rate-is-1.25%--multiplied--by--a--fraction, the--numerator--of--which--is--the--Maximum--Section--5A-2 Contribution--minus--the-Cigarette-Tax--Contribution,--and--the denominator--of--which--is--the--Maximum--Section--5A-2 Contribution.

The Cigarette Tax Contribution is the sum of the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 2(a) of the Cigarette Tax Act, plus the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 5A-3(c) of this Code.

The Maximum Section 5A-2 Contribution is the total amount of tax imposed by this Section in the previous State fiscal year on providers subject to this Act, multiplied by a fraction the numerator of which is adjusted gross hospital revenues reported to the Department by providers subject to this Act for the previous State fiscal year and the denominator of which is adjusted gross hospital revenues reported to the Department by providers subject to this Act for the State fiscal year immediately preceding the previous State fiscal year.

The Department shall notify hospital providers of the Provider's Savings Rate by mailing a notice to each provider's last known address as reflected by the records of the Illinois Department.

(b) Nothing in this amendatory Act of the 93rd General Assembly 1995 shall be construed to authorize any home rule unit or other unit of local government to license for revenue or to impose a tax or assessment upon hospital providers or the occupation of hospital provider, or a tax or assessment measured by the income or earnings of a hospital provider.

(c) As provided in Section 5A-14, this Section is repealed on July 1, 2005.

(Source: P.A. 88-88; 89-21, eff. 7-1-95; 89-499, eff. 6-28-96.)

(305 ILCS 5/5A-3) (from Ch. 23, par. 5A-3)

Sec. 5A-3. Exemptions; ~~intergovernmental transfers.~~

(a) Blank). A hospital provider which is a county with a

population---of---more---than---3,000,000---that---makes
intergovernmental--transfer--payments--as-provided-in-Section
15-3-of-this-Code-shall-be-exempt-from-the-assessment-imposed
by-Section-5A-2, unless--the--exemption--is--adjudged--to--be
unconstitutional--or--otherwise--invalid,--in--which-case-the
county-shall-pay-the-assessment-imposed-by-Section--5A-2--for
all--assessment--periods--beginning-on-or-after-July-1, 1992,
and-the-assessment-so-paid-shall-be--creditable--against--the
intergovernmental-transfer-payments.

(b) A hospital provider that is a State agency, a State university, or a county with a population of 3,000,000 or more is exempt from the assessment imposed by Section 5A-2. A hospital--organized-under-the-University-of-Illinois-Hospital Act-and-exempt-from-the-assessment-imposed-by-Section-5A-2-is hereby-authorized-to-enter-into-an-interagency-agreement-with the-Illinois-Department-to--make--intergovernmental--transfer payments-to-the-Illinois-Department.--These-payments-shall-be deposited--into--the-University-of-Illinois-Hospital-Services Fund-or, if-that-Fund--ceases--to--exist,--into--the--General Revenue-Fund.

(b-2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit is exempt from the assessment imposed by Section 5A-2.

(b-5) (Blank). A-hospital-operated-by-the-Department-of Human-Services-in-the-course-of-performing-its-mental--health and--developmental--disabilities-functions-is-exempt-from-the assessment-imposed-by-Section-5A-2.

(b-10) A hospital provider whose hospital does not charge for its services is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section

5A-2.

(b-15) A hospital provider whose hospital is licensed by the Department of Public Health as a psychiatric hospital is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(b-20) A hospital provider whose hospital is licensed by the Department of Public Health as a rehabilitation hospital is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(b-25) A hospital provider whose hospital (i) is not a psychiatric hospital, rehabilitation hospital, or children's hospital and (ii) has an average length of inpatient stay greater than 25 days is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(c) (Blank). ~~The---Illinois---Department---is---hereby authorized-to-enter-into-agreements-with--publicly--owned--or operated--hospitals---to---make--intergovernmental--transfer payments-to-the-Illinois-Department.--These-payments-shall-be deposited-into-the-Hospital-Provider-Fund,--except--that--any payments-arising-under-an-agreement-with-a-hospital-organized under--the--University--of--Illinois--Hospital--Act--shall-be deposited-into-the-University-of-Illinois--Hospital--Services Fund,--if-that-Fund-exists-~~

(Source: P.A. 88-88; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95; 89-507, eff. 7-1-97.)

Sec. 5A-4. Payment of assessment; penalty.

(a) The annual assessment imposed by Section 5A-2 for State fiscal year 2004 shall be due and payable on June 18 of the year. The assessment imposed by Section 5A-2 for a State fiscal year 2005 shall be due and payable in quarterly installments, each equalling one-fourth of the assessment for the year, on July 19, October 19, January 18, and April 19 ~~September--30,--December-31,--March-31,--and-May-31~~ of the year; ~~except that for the period July 1,--1996--through--March--31, 1997,--the assessment imposed by Section 5A-2 for that period shall be due and payable in 3 equal installments on September 30,--December-31,--and-March-31 of that period.~~ No installment payment of an assessment imposed by Section 5A-2 shall be due and payable, however, until after: (i) the hospital provider receives written notice from the Department of Public Aid that the payment methodologies to hospitals required under Section 5A-12 have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and the waiver under 42 CFR 433.68 for the assessment imposed by Section 5A-2 has been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services; and (ii) the hospital has received the payments required under Section 5A-12.

(b) The Illinois Department is authorized to establish delayed payment schedules for hospital providers that are unable to make installment payments when due under this Section due to financial difficulties, as determined by the Illinois Department.

(c) If a hospital provider fails to pay the full amount of an installment when due (including any extensions granted under subsection (b)), there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment imposed by Section 5A-2 a penalty assessment equal

to the lesser of (i) 5% of the amount of the installment not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each 30-day period month thereafter or (ii) 100% of the installment amount not paid on or before the due date. For purposes of this subsection, payments will be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

(Source: P.A. 88-88; 89-499, eff. 6-28-96.)

(305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

Sec. 5A-5. Notice Reporting; penalty; maintenance of records.

(a) After December 31 of each year (except as otherwise provided in this subsection), and on or before March 31 of the succeeding year, the Department of Public Aid shall send a notice of assessment to every hospital provider subject to assessment under this Article shall file a return with the Illinois Department. The notice of assessment shall notify the hospital of its return shall report the adjusted gross hospital revenue from the calendar year just ended and shall be utilized by the Illinois Department to calculate the assessment for the State fiscal year commencing on the next July 1, except that the notice return for the State fiscal year commencing July 1, 2003 1992 and the report of revenue for calendar year 1991 shall be sent filed on or before June 1, 2004 September 30, 1992. The notice return shall be on a form prepared by the Illinois Department and shall state the following:

(1) The name of the hospital provider.

(2) The address of the hospital provider's principal place of business from which the provider engages in the occupation of hospital provider in this State, and the name and address of each hospital

operated, conducted, or maintained by the provider in this State.

(3) The occupied bed days adjusted--gross--hospital revenue of the hospital provider for-the-calendar-year just--ended, the amount of assessment imposed under Section 5A-2 for the State fiscal year for which the notice return is sent filed, and the amount of each quarterly installment to be paid during the State fiscal year.

(4) (Blank). The-amount-of-penalty-due,-if-any-

(5) Other reasonable information as determined by the Illinois Department requires.

(b) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, the provider shall may-not--file a--single-return-covering-all-these-hospitals,-but-shall-file a-separate-return-for-each-hospital-and-shall-compute-and pay the assessment for each hospital separately.

(c) Notwithstanding any other provision in this Article, in the case of a person who ceases to conduct, operate, or maintain a hospital in respect of which the person is subject to assessment under this Article as a hospital provider, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under Section 5A-2 by a fraction, the numerator of which is the number of days months in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365 12. Immediately upon ceasing to conduct, operate, or maintain a hospital, the person shall pay file--a--final,-amended--return--with--the Illinois-Department-not-more-than-90-days-after-the-cessation reflecting-the-adjustment-and-shall-pay-with-the-final-return the assessment for the year as so adjusted (to the extent not previously paid).

(d) Notwithstanding any other provision in this Article, a provider who commences conducting, operating, or maintaining a hospital, upon notice by the Illinois Department, shall ~~file an initial return for the State fiscal year~~ ~~in which the commencement occurs within 90 days thereafter~~ and shall pay the assessment computed under Section 5A-2 and subsection (e) in equal installments on the due dates stated in the notice ~~date of the return~~ and on the regular installment due dates for the State fiscal year occurring after the due dates ~~date~~ of the initial notice ~~return~~.

(e) Notwithstanding any other provision in this Article, in the case of a hospital provider that did not conduct, operate, or maintain a hospital throughout the calendar year 2001 ~~preceding a State fiscal year~~, the assessment for that State fiscal year shall be computed on the basis of hypothetical occupied bed days ~~adjusted gross hospital revenue~~ for the full calendar year as determined by ~~rules adopted by the Illinois Department (which may be based on annualization of the provider's actual revenues for a portion of the calendar year, or revenues of a comparable hospital for the year, including revenues realized by a prior provider from the same hospital during the year)~~.

(f) (Blank). ~~In the case of a hospital provider existing as a corporation or legal entity other than an individual, the return filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.~~

(g) (Blank). ~~If a hospital provider fails to file its return for a State fiscal year on or before the due date of the return, there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment imposed by Section 5A-2 for the State fiscal year a penalty assessment equal to 25% of the assessment imposed for the~~

year.

(h) (Blank). Every---hospital---provider---subject--to assessment-under-this-Article-shall-keep--sufficient--records to--permit--the--determination--of--adjusted--gross--hospital revenue--on-a-calendar-year-basis.--All-such-records-shall-be kept-in-the-English-language-and-shall,-at-all--times--during business--hours--of--the-day,-be-subject-to-inspection-by-the Illinois--Department--or--its--duly--authorized--agents---and employees.

(Source: P.A. 87-861.)

(305 ILCS 5/5A-7) (from Ch. 23, par. 5A-7)

Sec. 5A-7. Administration; enforcement provisions.

(a) To the extent practicable, the Illinois Department shall administer and enforce this Article and collect the assessments, interest, and penalty assessments imposed under this Article using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA"). Instead of certificates of registration, the Illinois Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name, principal place of business, and the name and address of each hospital operated, conducted, or maintained by the provider in this State. In addition, the following specified provisions of the Retailers' Occupation Tax Act are incorporated by reference into this Section except that the Illinois Department and its Director (rather than the Department of Revenue and its Director) and every hospital provider subject to assessment measured by occupied bed days adjusted-gross-hospital-revenue--and--to--the--return--filing

~~requirements--of-this-Article~~ (rather than persons subject to retailers' occupation tax measured by gross receipts from the sale of tangible personal property at retail and ~~to--the~~ ~~return--filing--requirements--of-ROTA~~) shall have the powers, duties, and rights specified in these ROTA provisions, as modified in this Section or by the Illinois Department in a manner consistent with this Article and except as manifestly inconsistent with the other provisions of this Article:

(1) ROTA, Section 4 (examination of return; notice of correction; evidence; limitations; protest and hearing), except that (i) the Illinois Department shall issue notices of assessment liability (rather than notices of tax liability as provided in ROTA, Section 4); (ii) in the case of a fraudulent return or in the case of an extended period agreed to by the Illinois Department and the hospital provider before the expiration of the limitation period, no notice of assessment liability shall be issued more than 3 years after the later of the due date of the return required by Section 5A-5 or the date the return (or an amended return) was filed (rather within the period stated in ROTA, Section 4); and (iii) the penalty provisions of ROTA, Section 4 shall not apply.

(2) ROTA, Sec. 5 (failure to make return; failure to pay assessment), except that the penalty and interest provisions of ROTA, Section 5 shall not apply.

(3) ROTA, Section 5a (lien; attachment; termination; notice; protest; review; release of lien; status of lien).

(4) ROTA, Section 5b (State lien notices; State lien index; duties of recorder and registrar of titles).

(5) ROTA, Section 5c (liens; certificate of release).

(6) ROTA, Section 5d (Department not required to

furnish bond; claim to property attached or levied upon).

(7) ROTA, Section 5e (foreclosure on liens; enforcement).

(8) ROTA, Section 5f (demand for payment; levy and sale of property; limitation).

(9) ROTA, Section 5g (sale of property; redemption).

(10) ROTA, Section 5j (sales on transfers outside usual course of business; report; payment of assessment; rights and duties of purchaser; penalty), except that notice shall be provided to the Illinois Department as specified by rule.

(11) ROTA, Section 6 (erroneous payments; credit or refund), provided that (i) the Illinois Department may only apply an amount otherwise subject to credit or refund to a liability arising under this Article; (ii) except in the case of an extended period agreed to by the Illinois Department and the hospital provider before the expiration of this limitation period, a claim for credit or refund must be filed no more than 3 years after the due date of the return required by Section 5A-5 (rather than the time limitation stated in ROTA, Section 6); and (iii) credits or refunds shall not bear interest.

(12) ROTA, Section 6a (claims for credit or refund).

(13) ROTA, Section 6b (tentative determination of claim; notice; hearing; review), provided that a hospital provider or its representative shall have 60 days (rather than 20 days) within which to file a protest and request for hearing in response to a tentative determination of claim.

(14) ROTA, Section 6c (finality of tentative determinations).

(15) ROTA, Section 8 (investigations and

hearings).

(16) ROTA, Section 9 (witness; immunity).

(17) ROTA, Section 10 (issuance of subpoenas; attendance of witnesses; production of books and records).

(18) ROTA, Section 11 (information confidential; exceptions).

(19) ROTA, Section 12 (rules and regulations; hearing; appeals), except that a hospital provider shall not be required to file a bond or be subject to a lien in lieu thereof in order to seek court review under the Administrative Review Law of a final assessment or revised final assessment or the equivalent thereof issued by the Illinois Department under this Article.

(b) In addition to any other remedy provided for and without sending a notice of assessment liability, the Illinois Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Illinois Department to the provider.

(Source: P.A. 87-861.)

(305 ILCS 5/5A-8) (from Ch. 23, par. 5A-8)

Sec. 5A-8. Hospital Provider Fund.

(a) There is created in the State Treasury the Hospital Provider Fund. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any moneys appropriated to the Medicaid program by the General Assembly.

(b) The Fund is created for the purpose of receiving moneys in accordance with Section 5A-6 and disbursing moneys only for the following purposes, notwithstanding any other provision of law as follows:

(1) For making payments to hospitals as required

under Articles V, VI, and XIV hospital-inpatient-care, hospital-ambulatory-care, and disproportionate-share hospital-distributive-expenditures-made-under--Title--XIX of the Social Security Act and Article V of this Code and under the Children's Health Insurance Program Act.

(2) For the reimbursement of moneys collected by the Illinois Department from hospitals or hospital providers through error or mistake in performing the activities authorized under this Article and Article V of this Code and for making required payments under--Section 14-9--of--this--Code--if--there--are--no--moneys--available--for these payments in the Hospital Services Trust Fund.

(3) For payment of administrative expenses incurred by the Illinois Department or its agent in performing the activities authorized by this Article.

(4) For payments of any amounts which are reimbursable to the federal government for payments from this Fund which are required to be paid by State warrant.

(5) For making transfers to the General--Obligation Bond-Retirement-and-Interest-Fund, as those transfers are authorized in the proceedings authorizing debt under the Short Term Borrowing Act, but transfers made under this paragraph (5) shall not exceed the principal amount of debt issued in anticipation of the receipt by the State of moneys to be deposited into the Fund.

(6) For making transfers to any other fund in the State treasury, but transfers made under this paragraph (6) shall not exceed the amount transferred previously from that other fund into the Hospital Provider Fund.

(7) For making transfers to the Health and Human Services Medicaid Trust Fund, including 20% of the moneys received from hospital providers under Section 5A-4 and transferred into the Hospital Provider Fund under Section 5A-6. Transfers under this paragraph shall be made within

7 days after the payments have been received pursuant to the schedule of payments provided in subsection (a) of Section 5A-4.

(8) For making refunds to hospital providers pursuant to Section 5A-10.

Disbursements from the Fund, other than transfers authorized under paragraphs (5) and (6) of this subsection to the-General-Obligation-Bond--Retirement--and--Interest--Fund, shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Illinois Department.

(c) The Fund shall consist of the following:

(1) All moneys collected or received by the Illinois Department from the hospital provider assessment imposed by this Article.

(2) All federal matching funds received by the Illinois Department as a result of expenditures made by the Illinois Department that are attributable to moneys deposited in the Fund.

(3) Any interest or penalty levied in conjunction with the administration of this Article.

(4) Moneys transferred from another fund in the State treasury. ~~Any--balance--in--the-Hospital-Services Trust-Fund-in-the-State-Treasury.--The-balance--shall--be transferred---to--the--Fund--upon--certification--by--the Illinois-Department-to-the-State-Comptroller-that-all--of the--disbursements--required--by-Section-14-2(b)--of-this Code-have-been-made.~~

(5) All other moneys received for the Fund from any other source, including interest earned thereon.

(d) (Blank). ~~The-Fund-shall-cease-to-exist-on-October-17, 1999.--Any-balance-in-the-Fund--as--of--that--date--shall--be transferred--to--the--General--Revenue-Fund.--Any-moneys-that otherwise-would-be-paid-into-the-Fund-on-or-after--that--date~~

~~shall be deposited into the General Revenue Fund. Any disbursements on or after that date that otherwise would be made from the Fund may be appropriated by the General Assembly from the General Revenue Fund.~~

(Source: P.A. 89-626, eff. 8-9-96; 90-587, eff. 7-1-98.)

(305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

Sec. 5A-10. Applicability.

(a) The assessment imposed by Section 5A-2 shall not take effect or shall cease to be imposed, and any moneys remaining in the Fund shall be refunded to hospital providers in proportion to the amounts paid by them, if:

(1) the sum of the appropriations for State fiscal years 2004 and 2005 from the General Revenue Fund for hospital payments under the medical assistance program is less than \$4,500,000,000; or

(2) the Department of Public Aid makes changes in its rules that reduce the hospital inpatient or outpatient payment rates, including adjustment payment rates, in effect on October 1, 2003, except for hospitals described in subsection (b) of Section 5A-3 and except for changes in outpatient payment rates made to comply with the federal Health Insurance Portability and Accountability Act, so long as those changes do not reduce aggregate expenditures below the amount expended in State fiscal year 2003 for such services; or

(3) the payments to hospitals required under Section 5A-12 are changed or are not eligible for federal matching funds under Title XIX or XXI of the Social Security Act.

(b) The assessment imposed by Section 5A-2 shall not take effect or shall cease to be imposed if the assessment is determined to be an impermissible tax amount-of-matching federal-funds under Title XIX of the Social Security Act is

eliminated---or--significantly--reduced--on--account--of--the
assessment. Moneys in the Hospital Provider Fund derived
from assessments imposed prior thereto shall be disbursed in
accordance with Section 5A-8 to the extent federal matching
is not reduced due to the impermissibility of by the
assessments, and any remaining moneys assessments shall be
refunded to hospital providers in proportion to the amounts
paid by them.

(Source: P.A. 87-861.)

(305 ILCS 5/5A-12 new)

Sec. 5A-12. Hospital access improvement payments.

(a) To improve access to hospital services, for hospital
services rendered on or after June 1, 2004, the Department of
Public Aid shall make payments to hospitals as set forth in
this Section, except for hospitals described in subsection
(b) of Section 5A-3. These payments shall be paid on a
quarterly basis. For State fiscal year 2004, the Department
shall pay the total amounts required under this Section;
these amounts shall be paid on or before June 15 of the year.
In subsequent State fiscal years, the total amounts required
under this Section shall be paid in 4 equal installments on
or before July 15, October 15, January 14, and April 15 of
the year. Payments under this Section are not due and
payable, however, until (i) the methodologies described in
this Section are approved by the federal government in an
appropriate State Plan amendment, (ii) the assessment imposed
under this Article is determined to be a permissible tax
under Title XIX of the Social Security Act, and (iii) the
assessment is in effect.

(b) High volume payment. In addition to rates paid for
inpatient hospital services, the Department of Public Aid
shall pay, to each Illinois hospital that provided more than
20,000 Medicaid inpatient days of care during State fiscal

year 2001 (except for hospitals that qualify for adjustment payments under Section 5-5.02 for the 12-month period beginning on October 1, 2002), \$190 for each Medicaid inpatient day of care provided during that fiscal year. A hospital that provided less than 30,000 Medicaid inpatient days of care during that period, however, is not entitled to receive more than \$3,500,000 per year in such payments.

(c) Medicaid inpatient utilization rate adjustment. In addition to rates paid for inpatient hospital services, the Department of Public Aid shall pay each Illinois hospital (except for hospitals described in Section 5A-3), for each Medicaid inpatient day of care provided during State fiscal year 2001, an amount equal to the product of \$57.25 multiplied by the quotient of 1 divided by the greater of 1.6% or the hospital's Medicaid inpatient utilization rate (as used to determine eligibility for adjustment payments under Section 5-5.02 for the 12-month period beginning on October 1, 2002). The total payments under this subsection to a hospital may not exceed \$10,500,000 annually.

(d) Psychiatric base rate adjustment.

(1) In addition to rates paid for inpatient psychiatric services, the Department of Public Aid shall pay each Illinois general acute care hospital with a distinct part-psychiatric unit, for each Medicaid inpatient psychiatric day of care provided in State fiscal year 2001, an amount equal to \$400 less the hospital's per-diem rate for Medicaid inpatient psychiatric services as in effect on October 1, 2003. In no event, however, shall that amount be less than zero.

(2) For distinct part-psychiatric units of Illinois general acute care hospitals, except for all hospitals excluded in Section 5A-3, whose inpatient per-diem rate as in effect on October 1, 2003 is greater than \$400, the Department shall pay, in addition to any other amounts

authorized under this Code, \$25 for each Medicaid inpatient psychiatric day of care provided in State fiscal year 2001.

(e) Supplemental tertiary care adjustment. In addition to rates paid for inpatient services, the Department of Public Aid shall pay to each Illinois hospital eligible for tertiary care adjustment payments under 89 Ill. Adm. Code 148.296, as in effect for State fiscal year 2003, a supplemental tertiary care adjustment payment equal to the tertiary care adjustment payment required under 89 Ill. Adm. Code 148.296, as in effect for State fiscal year 2003.

(f) Medicaid outpatient utilization rate adjustment. In addition to rates paid for outpatient hospital services, the Department of Public Aid shall pay each Illinois hospital (except for hospitals described in Section 5A-3), an amount equal to the product of 2.45% multiplied by the hospital's Medicaid outpatient charges multiplied by the quotient of 1 divided by the greater of 1.6% or the hospital's Medicaid outpatient utilization rate. The total payments under this subsection to a hospital may not exceed \$6,750,000 annually.

For purposes of this subsection:

"Medicaid outpatient charges" means the charges for outpatient services provided to Medicaid patients for State fiscal year 2001 as submitted by the hospital on the UB-92 billing form or under the ambulatory procedure listing and adjudicated by the Department of Public Aid on or before September 12, 2003.

"Medicaid outpatient utilization rate" means a fraction, the numerator of which is the hospital's Medicaid outpatient charges and the denominator of which is the total number of the hospital's charges for outpatient services for the hospital's fiscal year ending in 2001.

(g) State outpatient service adjustment. In addition to rates paid for outpatient hospital services, the Department

of Public Aid shall pay each Illinois hospital an amount equal to the product of 75.5% multiplied by the hospital's Medicaid outpatient services submitted to the Department on the UB-92 billing form for State fiscal year 2001 multiplied by the hospital's outpatient access fraction.

For purposes of this subsection, "outpatient access fraction" means a fraction, the numerator of which is the hospital's Medicaid payments for outpatient services for ambulatory procedure listing services submitted to the Department on the UB-92 billing form for State fiscal year 2001, and the denominator of which is the hospital's Medicaid outpatient services submitted to the Department on the UB-92 billing form for State fiscal year 2001.

The total payments under this subsection to a hospital may not exceed \$3,000,000 annually.

(h) Rural hospital outpatient adjustment. In addition to rates paid for outpatient hospital services, the Department of Public Aid shall pay each Illinois rural hospital an amount equal to the product of \$14,500,000 multiplied by the rural hospital outpatient adjustment fraction.

For purposes of this subsection, "rural hospital outpatient adjustment fraction" means a fraction, the numerator of which is the hospital's Medicaid visits for outpatient services for ambulatory procedure listing services submitted to the Department on the UB-92 billing form for State fiscal year 2001, and the denominator of which is the total Medicaid visits for outpatient services for ambulatory procedure listing services for all Illinois rural hospitals submitted to the Department on the UB-92 billing form for State fiscal year 2001.

For purposes of this subsection, "rural hospital" has the same meaning as in 89 Ill. Adm. Code 148.25, as in effect on September 30, 2003.

(i) Merged/closed hospital adjustment. If any hospital

files a combined Medicaid cost report with another hospital after January 1, 2001, and if that hospital subsequently closes, then except for the payments described in subsection (e), all payments described in the various subsections of this Section shall, before the application of the annual limitation amount specified in each such subsection, be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the number of occupied bed days of each open hospital and each closed hospital. For purposes of this subsection, "occupied bed days" has the same meaning as the term is defined in subsection (a) of Section 5A-2.

(j) For purposes of this Section, the terms "Medicaid days", "Medicaid charges", and "Medicaid services" do not include any days, charges, or services for which Medicare was liable for payment.

(k) As provided in Section 5A-14, this Section is repealed on July 1, 2005.

(305 ILCS 5/5A-13 new)

Sec. 5A-13. Emergency rulemaking. The Department of Public Aid may adopt rules necessary to implement this amendatory Act of the 93rd General Assembly through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of that Act, the General Assembly finds that the adoption of rules to implement this amendatory Act of the 93rd General Assembly is deemed an emergency and necessary for the public interest, safety, and welfare.

(305 ILCS 5/5A-14 new)

Sec. 5A-14. Repeal of assessments and disbursements.

(a) Section 5A-2 is repealed on July 1, 2005.

(b) Section 5A-12 is repealed on July 1, 2005.

(305 ILCS 5/14-1) (from Ch. 23, par. 14-1)

Sec. 14-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Hospital Services Trust Fund.

"Estimated Rate Year Utilization" means the hospital's projected utilization for the State fiscal year in which the fee is due (for example, fiscal year 1992 for fees imposed in State fiscal year 1992, fiscal year 1993 for fees imposed in State fiscal year 1993, and so forth).

"Gross Receipts" means all payments for medical services delivered under Title XIX of the Social Security Act and Articles V, VI, and VII of this Code and shall mean any and all payments made by the Illinois Department, or a Division thereof, to a Medical Assistance Program provider certified to participate in the Illinois Medical Assistance Program, for services rendered eligible for Medical Assistance under Articles V, VI and VII of this Code, State regulations and the federal Medicaid Program as defined in Title XIX of the Social Security Act and federal regulations.

"Hospital" means any institution, place, building, or agency, public or private, whether organized for profit or not-for-profit, which is located in the State and is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act or any institution, place, building, or agency, public or private, whether organized for profit or not-for-profit, which meets all comparable conditions and requirements of the Hospital Licensing Act in effect for the state in which it is located, and is required to submit cost reports to the Illinois Department under Title 89, Part 148, of the Illinois Administrative Code, but shall not include the University of Illinois Hospital as defined in the University of Illinois Hospital Act or a county hospital

in a county of over 3 million population.

~~"Total-Medicaid-Base-Year-Spending" means the--hospital's State--fiscal--year--1991--weighted-average-payment-rates, as defined-by-rule, excluding-payments-under-Section--5-5.02--of this--Code,--reduced--by--5%--and-multiplied-by-the-hospital's estimated-rate-year-utilization.~~

(Source: P.A. 87-13.)

(305 ILCS 5/Art. V-D rep.)

(305 ILCS 5/14-2 rep.)

(305 ILCS 5/14-3 rep.)

(305 ILCS 5/14-4 rep.)

(305 ILCS 5/14-5 rep.)

(305 ILCS 5/14-6 rep.)

(305 ILCS 5/14-7 rep.)

(305 ILCS 5/14-9 rep.)

(305 ILCS 5/14-10 rep.)

Section 11. The Illinois Public Aid Code is amended by repealing Article V-D and Sections 14-2, 14-3, 14-4, 14-5, 14-6, 14-7, 14-9, and 14-10.

Section 99. Effective date. This Act takes effect upon becoming law.