

AMENDMENTS TO LB 841

(Amendments to Final Reading copy)

1 1. Strike section 2 and insert the following new
2 sections:

3 "Sec. 2. Sections 2 to 10 of this act shall be known and
4 may be cited as the ICF/MR Reimbursement Protection Act.

5 Sec. 3. For purposes of the ICF/MR Reimbursement
6 Protection Act:

7 (1) Department means the Department of Health and Human
8 Services Finance and Support;

9 (2) Intermediate care facility for the mentally retarded
10 has the definition found in section 71-421;

11 (3) Medicaid program means the medical assistance program
12 established pursuant to sections 68-1018 to 68-1025; and

13 (4) Net revenue means the revenue paid to an intermediate
14 care facility for the mentally retarded for resident care, room,
15 board, and services less contractual adjustments and does not
16 include revenue from sources other than operations, including, but
17 not limited to, interest and guest meals.

18 Sec. 4. (1) Each intermediate care facility for the
19 mentally retarded shall pay a tax equal to six percent of its net
20 revenue for the most recent State of Nebraska fiscal year.

21 (2) Taxes collected under this section shall be remitted
22 to the State Treasurer for credit to the ICF/MR Reimbursement
23 Protection Fund.

1 (3) Taxes collected pursuant to this section shall be
2 reported on a separate line on the cost report of the intermediate
3 care facility for the mentally retarded, regardless of how such
4 costs are reported on any other cost report or income statement.
5 The department shall recognize such tax as an allowable cost within
6 the state plan for reimbursement of intermediate care facilities
7 for the mentally retarded which participate in the medicaid
8 program. The tax shall be a direct pass-through and shall not be
9 subject to cost limitations.

10 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
11 created. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.
14 Interest and income earned by the fund shall be credited to the
15 fund.

16 (2) For fiscal year 2004-05, proceeds from the tax
17 imposed under section 4 of this act shall be allocated as follows:

18 (a) First, fifty-five thousand dollars to the department
19 for administration of the fund;

20 (b) Second, payment to intermediate care facilities for
21 the mentally retarded for the cost of the tax;

22 (c) Third, three hundred thousand dollars, in addition to
23 any federal medicaid matching funds, for increases in payments to
24 non-state-operated intermediate care facilities for the mentally
25 retarded which shall be such facilities' only increase in payments
26 for such fiscal year;

27 (d) Fourth, three hundred twelve thousand dollars, in

1 addition to any federal medicaid matching funds, for payment to
2 providers of community-based services for the purpose of reducing
3 the waiting list of persons with developmental disabilities; and

4 (e) Fifth, any money remaining in the fund after the
5 allocations required by subdivisions (2)(a) through (d) of this
6 section have been made shall be transferred to the General Fund.

7 (3) For FY2005-06 and each fiscal year thereafter,
8 proceeds from the tax imposed pursuant to section 4 of this act
9 shall be remitted to the State Treasurer for credit as follows:

10 (a) To the ICF/MR Reimbursement Protection Fund for
11 allocation as described in this subdivision: (i) Fifty-five
12 thousand dollars for administration of the fund; (ii) the amount
13 needed to reimburse intermediate care facilities for the mentally
14 retarded for the cost of the tax; (iii) three hundred thousand
15 dollars for payment of rates to non-state-operated intermediate
16 care facilities; and (iv) three hundred twelve thousand dollars for
17 community-based services for persons with developmental
18 disabilities; and

19 (b) To the General Fund: The remainder of the proceeds.

20 Sec. 6. (1) On or before July 1, 2004, the department
21 shall submit an application to the Centers for Medicare and
22 Medicaid Services of the United States Department of Health and
23 Human Services amending the state medicaid plan to provide for
24 utilization of money in the ICF/MR Reimbursement Protection Fund to
25 increase medicaid payments to intermediate care facilities for the
26 mentally retarded.

27 (2) The tax imposed under section 4 of this act is not

1 due and payable until such amendment to the state medicaid plan is
2 approved by the Centers for Medicare and Medicaid Services.

3 Sec. 7. (1) Collection of the tax imposed by section 4
4 of this act shall be discontinued if:

5 (a) The amendment to the state medicaid plan described in
6 section 6 of this act is disapproved by the Centers for Medicare
7 and Medicaid Services;

8 (b) The department reduces rates paid to intermediate
9 care facilities for the mentally retarded to an amount less than
10 the rates effective September 1, 2003; or

11 (c) The department or any other state agency attempts to
12 utilize the money in the ICF/MR Reimbursement Protection Fund for
13 any use other than uses permitted pursuant to the ICF/MR
14 Reimbursement Protection Act.

15 (2) If collection of the tax is discontinued as provided
16 in subsection (1) of this section, all money in the fund shall be
17 returned to the intermediate care facilities for the mentally
18 retarded from which the tax was collected on the same basis as the
19 tax was assessed.

20 Sec. 8. (1) An intermediate care facility for the
21 mentally retarded that fails to pay the tax required by section 4
22 of this act shall be subject to a penalty of five hundred dollars
23 per day of delinquency. The total amount of the penalty assessed
24 under this section shall not exceed five percent of the tax due
25 from the intermediate care facility for the mentally retarded for
26 the year for which the tax is assessed.

27 (2) Penalties shall be collected by the department and

1 remitted to the State Treasurer for credit to the permanent school
2 fund.

3 Sec. 9. An intermediate care facility for the mentally
4 retarded that has paid a tax that is not required by section 4 of
5 this act may file a claim for refund with the department. The
6 department may by rule and regulation establish procedures for
7 filing and consideration of such claims.

8 Sec. 10. The department may adopt and promulgate rules
9 and regulations to carry out the ICF/MR Reimbursement Protection
10 Act.

11 Sec. 11. Sections 1, 12, and 13 of this act become
12 operative on October 1, 2004. The other sections of this act
13 become operative on their effective date.

14 Sec. 13. The following section is outright repealed:
15 Section 77-2704.37, Reissue Revised Statutes of Nebraska.

16 Sec. 14. Since an emergency exists, this act takes
17 effect when passed and approved according to law."

18 2. On page 1, strike lines 4 and 5 and insert
19 "exemptions; to adopt the ICF/MR Reimbursement Protection Act; to
20 eliminate a filing requirement; to provide operative dates; to
21 repeal the original section; to outright repeal section 77-2704.37,
22 Reissue Revised Statutes of Nebraska; and to declare an
23 emergency."