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# A BILL FOR AN ACT

RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that hospitals in the  
2 State face major financial challenges in providing quality  
3 health care for Hawaii residents. These challenges are largely  
4 the result of inadequate payments from the medicaid program that  
5 do not cover the actual costs of care. Medicaid is jointly  
6 financed by the federal and state governments by statutory  
7 formula. The federal government pays between fifty per cent and  
8 seventy-four per cent, with assistance levels determined by each  
9 state's per capita income. States with the lowest per capita  
10 income receive higher federal matching rates. Under federal  
11 rules, the state share must be paid from public funds that are  
12 not federal funds. The legislature finds that public funding to  
13 help financially sustain Hawaii's hospitals may be accessed  
14 through a provider fee.

15           The legislature further finds that provider fees exist in  
16 forty-nine states and the District of Columbia as a means of  
17 drawing down federal funds to sustain medicaid programs due to



1 rising state budget deficits, increasing health care costs, and  
 2 expanding medicaid enrollment. Provider fees, which are  
 3 collected from specific categories of health care providers that  
 4 agree to the fee, may be imposed on nineteen different classes  
 5 of health care services, including inpatient and outpatient  
 6 hospital and nursing facility services.

7 The legislature additionally finds that, in Hawaii, a  
 8 provider fee on hospitals has resulted in an increase of  
 9 medicaid payments at a time when there are constraints on the  
 10 State's budget. The additional federal funds obtained via the  
 11 fee program authorized by the hospital sustainability program  
 12 has helped to reduce the amount of losses incurred by hospitals  
 13 and maintain access to care for medicaid recipients.

14 The purpose of this Act is to preserve access to health  
 15 care for medicaid recipients by extending the hospital  
 16 sustainability program.

17 SECTION 2. Section 346G-3, Hawaii Revised Statutes, is  
 18 amended as follows:

19 1. By amending the definition of "net patient service  
 20 revenue" to read:



1            "Net patient service revenue" means gross revenue from  
2 inpatient and outpatient care provided to hospital patients  
3 converted to net patient service revenue utilizing data from  
4 Worksheets G-2 and G-3 of each hospital's medicare cost report  
5 for the fiscal year [2013-2014.] ending three years prior to the  
6 state fiscal year for which net patient service revenue is being  
7 calculated. For example, the net patient service revenue for  
8 fiscal year 2017-2018 shall be based on data from fiscal year  
9 2014-2015. If the hospital is new or did not file a fiscal year  
10 medicare cost report, the department shall obtain the hospital's  
11 net patient service revenue from the most recent period  
12 available."

13            2. By amending the definition of "private hospital" to  
14 read:

15            "Private hospital" means those non-public hospitals named  
16 in attachment A of the medicaid section 1115 demonstration  
17 waiver that were in operation in calendar year [~~2015~~] 2016 and  
18 are currently operating or any hospitals not named in attachment  
19 A of the medicaid section 1115 demonstration waiver that became  
20 private hospitals in calendar year [~~2016~~] 2017 or 2018 and are  
21 currently operating."



1 SECTION 3. Section 346G-5, Hawaii Revised Statutes, is  
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) The hospital sustainability fee for inpatient care  
4 services may differ from the fee for outpatient care services  
5 but the fees charged to the hospital shall not in the aggregate  
6 exceed three per cent of the hospital's net patient service  
7 ~~revenue [as derived from the hospital's medicare cost report~~  
8 ~~ending during state fiscal year 2013-2014]~~. The inpatient  
9 hospital sustainability fee shall not exceed three per cent of  
10 net inpatient hospital service revenue. The outpatient hospital  
11 sustainability fee shall ~~[be]~~ not exceed three per cent of net  
12 outpatient hospital service revenue. Each fee shall be the same  
13 percentage for all affected hospitals, subject to subsection  
14 (d).

15 (d) The department shall exempt children's hospitals,  
16 federal hospitals, public hospitals, and psychiatric hospitals  
17 from the hospital sustainability fees on inpatient services. In  
18 addition, the department shall exempt from the hospital  
19 sustainability fee on outpatient care services children's  
20 hospitals, public hospitals, rehabilitation hospitals,  
21 psychiatric hospitals, and any hospitals with net outpatient



1 revenues of less than \$57,000,000 per year based upon [~~fiscal~~  
2 ~~year 2013-2014~~] the hospital's medicare cost [reports from the  
3 hospital sustainability fee on outpatient care services.] report  
4 for the fiscal year ending three years prior to the state fiscal  
5 year for which the hospital's net patient service revenue is  
6 calculated; provided that the department may exclude any  
7 facility from the hospital sustainability fee on outpatient care  
8 services if it is determined that its exclusion is required to  
9 meet federal standards of approval."

10 SECTION 4. Section 346G-10, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) In accordance with title 42 Code of Federal  
13 Regulations section 438, the department shall use revenues from  
14 the hospital sustainability fee and federal matching funds to  
15 enhance the capitated rates paid to medicaid managed care health  
16 plans for the state fiscal [~~year 2016-2017,~~] years 2017-2018 and  
17 2018-2019, consistent with the following objectives:

18 (1) The rate enhancement shall be used exclusively for  
19 increasing reimbursements to private hospitals to  
20 support the availability of services and to ensure



- 1 access to care to the medicaid managed care health  
2 plan enrollees;
- 3 (2) The rate enhancement shall be made part of the monthly  
4 capitated rates by the department to medicaid managed  
5 care health plans, which shall provide documentation  
6 to the department and the hospital trade association  
7 located in Hawaii certifying that the revenues  
8 received under paragraph (1) are used in accordance  
9 with this section;
- 10 (3) The rate enhancement shall be actuarially sound and  
11 approved by the federal government for federal fund  
12 participation;
- 13 (4) The rate enhancements shall be retroactive to July 1,  
14 2012, or the effective date approved by the federal  
15 government, whichever is later. Retroactive rate  
16 enhancements shall be paid within thirty days of  
17 notification by the Centers for Medicare and Medicaid  
18 Services to the department [~~for~~] of all necessary  
19 approvals; and
- 20 (5) Payments made by the medicaid managed care health  
21 plans shall be made within thirty business days upon



1 receipt of monthly capitation rates from the  
2 department."

3 SECTION 5. Act 217, Session Laws of Hawaii 2012, section  
4 5, as amended by section 2 of Act 141, Session Laws of Hawaii  
5 2013, as amended by section 2 of Act 123, Session Laws of Hawaii  
6 2014, as amended by section 2 of Act 70, Session Laws of Hawaii  
7 2015, as amended by section 3 of Act 60, Session Laws of Hawaii  
8 2016, is amended to read as follows:

9 "SECTION 5. This Act shall take effect on July 1, 2012,  
10 and shall be repealed on June 30, [~~2017,~~] 2019; provided that  
11 section -4, Hawaii Revised Statutes, in section 2 of this  
12 Act, and the amendment to section 36-30(a), Hawaii Revised  
13 Statutes, in section 3 of this Act, shall be repealed on December  
14 31, [~~2017,~~] 2019."

15 SECTION 6. Act 123, Session Laws of Hawaii 2014, section  
16 7, as amended by section 3 of Act 70, Session Laws of Hawaii  
17 2015, as amended by section 4 of Act 60, Session Laws of Hawaii  
18 2016, is amended to read as follows:

19 "SECTION 7. This Act shall take effect on June 29, 2014;  
20 provided that:

21 (1) Section 5 shall take effect on July 1, 2014; and



1 (2) The amendments made to sections 36-27(a) and 36-30(a),  
 2 Hawaii Revised Statutes, in sections 3 and 4 of this  
 3 Act shall be repealed on December 31, [~~2017.~~] 2019."

4 SECTION 7. There is appropriated out of the hospital  
 5 sustainability program special fund the sum of \$ or so  
 6 much thereof as may be necessary for fiscal year 2017-2018 and  
 7 the same sum or so much thereof as may be necessary for fiscal  
 8 year 2018-2019 for the purposes of the hospital sustainability  
 9 program special fund.

10 The sums appropriated shall be expended by the department  
 11 of human services for the purposes of this Act.

12 SECTION 8. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on June 29, 2075;  
 15 provided that section 7 of this Act shall take effect on July 1,  
 16 2075.





**Report Title:**

Hospital Sustainability Program; Appropriation

**Description:**

Continues the Hospital Sustainability Program for two years. Appropriates funds out of the Hospital Sustainability Program Special Fund for Fiscal Years 2017-2018 and 2018-2019. (HB89 HD1)

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