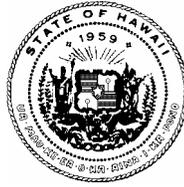


HB 2294

HD1

Measure Title:	RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.
Report Title:	Nursing Facility Sustainability Program; Special Fund; Appropriation (\$)
Description:	Continues the Nursing Facility Sustainability Program by extending the sunset date of the Act to June 30, 2015, updating the referral dates in the statute, and appropriating funds from the Nursing Facility Sustainability Program Special Fund for fiscal year 2014-2015. Effective July 1, 2030. (HB2294 HD1)
Companion:	<u>SB2844</u>
Package:	Governor
Current Referral:	HMS, WAM
Introducer(s):	SOUKI (Introduced by request of another party)

NEIL ABERCROMBIE
GOVERNOR



PATRICIA MCMANAMAN
DIRECTOR

BARBARA A. YAMASHITA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 18, 2014

TO: The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2294, H.D.1 - RELATING TO THE NURSING FACILITY
SUSTAINABILITY PROGRAM**

Hearing: Tuesday, March 18, 2014; 1:30 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of the bill is to continue the Nursing Facility Sustainability Program, established by Act 156, Session Laws of Hawaii 2012, as amended by Act 142, Session Laws of Hawaii 2013, by extending the sunset date of Act 156, Session Laws of Hawaii 2012, updating the referral dates in the statute, and appropriating funding out of the Nursing Facility Sustainability Program Special Fund for fiscal year 2014-2015.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration measure as it proposes to extend the Nursing Facility Sustainability Program for another year. The DHS, the Healthcare Association of Hawaii, and the Hawaii Long Term Care Association have worked collaboratively on this bill that will help to sustain nursing facilities so that there will be continued access to needed resources by the residents of the State.

The appropriation of \$12 million out of the nursing facility special fund was deleted from this bill. The Department is requesting that the appropriation, which does not require any

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appropriation from the general funds, be inserted into Section 3 of the bill. This will ensure that Hawaii is able to match the maximum amount allowed under federal regulations with federal funds that will benefit nursing facilities statewide.

Additionally, this measure does not have the language to exempt the Nursing Facility Sustainability Program Fund from Section 36-27, Hawaii Revised Statutes (HRS), that is currently included in S.B. 2057, S.D.2, which would exempt the Nursing Facility Sustainability Program Special Fund from the central services expenses fee assessed under section 36-27, HRS.

The 2012 Legislature, in conference committee, added an exemption for the Nursing Facility Sustainability Program Special Fund from the departmental administrative expenses assessed under section 36-30, HRS. This ensures that any moneys received in fees are only used to increase the sustainability of nursing facilities in Hawaii and to benefit Medicaid program recipients. The exemption from section 36-27, HRS, for central services expenses, however, was not added at the same time.

Without these two exemptions from the departmental administrative expenses and central services expenses assessments, the Nursing Facility Sustainability Program would have to pay \$500,000 in central services expenses assessed under section 36-27 and \$982,000 for departmental administrative services expenses assessed under section 36-30 for fiscal year 2013-2014. This is a total of \$1,482,000 that the Department would not be able to use to sustain nursing facilities and improve services to Medicaid recipients.

The DHS requests that the exemption of the Nursing Facility Sustainability Program Special Fund from the central services expenses assessed under section 36-27, HRS, be re-inserted into H.B. 2294.

The Nursing Facility Sustainability Program fee is levied on non-governmental nursing facilities and the revenue from the program fee is used to leverage federal funds and increase

reimbursements to nursing facilities, with a greater benefit to those providing proportionately more services to Medicaid recipients. These additional moneys will increase the sustainability of nursing facilities in Hawaii to continue as a critical part of the long-term care safety-net.

In fiscal year 2012-2013, the nursing facilities were assessed \$11,535,405 in sustainability fees and received \$21,086,740 in additional reimbursement. In fiscal year 2013-2014 it is anticipated that the nursing facilities will be assessed \$11,436,642 and will receive \$20,906,201 in additional reimbursement.

The DHS utilized 12% of the sustainability fees authorized for use by the DHS to restore the 3% reduction in reimbursement rates for the nursing facilities. In fiscal year 2012-2013 the DHS retained \$1,384,248 of the sustainability fees and when combined with federal matching funds, resulted in the DHS being able to provide the nursing facilities approximately \$2.9 million in increased reimbursement. For fiscal year 2013-2014, it is estimated that the DHS will retain approximately \$1.37 million in sustainability fees to improve services for Medicaid program recipients and increase reimbursement to the nursing facilities by \$2.8 million.

Thank you for the opportunity to testify on this bill.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Human Services
Tuesday, March 18, 2014 at 1:30 P.M.
Conference Room 016, State Capitol**

**RE: HOUSE BILL 2294 HD1 RELATING TO THE NURSING FACILITY
SUSTAINABILITY PROGRAM**

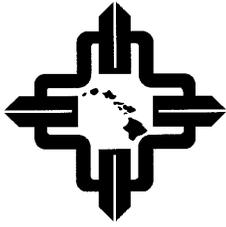
Chair Chun Oakland, Vice Chair Green, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** HB 2294 HD1 Relating to the Nursing Facility Sustainability Program.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This bill helps the state and Hawaii hospitals utilize this program to leverage much needed federal dollars for nursing facilities. A sustainable hospital network and health care industry is vital to the health of our employees, business and our overall quality of life.

Thank you for the opportunity to testify.



HAWAII HEALTH SYSTEMS

C O R P O R A T I O N

Quality Healthcare For All

**Senate Committee on Human Services
Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice Chair**

Tuesday, March 18, 2014

1:30 p.m.

Conference Room 016

Hawaii State Capitol

Testimony Strongly Supporting House Bill 2294, HD1, Relating to Nursing Facility Sustainability Program by extending the sunset date of the Act to June 30, 2015, updating the referral dates in the statute, and appropriating funds from the Nursing Facility Sustainability Program Special Fund for fiscal year 2014-2015. Effective July 1, 2030.

Alice M. Hall

Acting President and Chief Executive Officer

Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony in strong support of HB 2294 that continues the Nursing Facility Sustainability Program.

Given that health care provider reimbursements are declining at both the federal and state level, it is imperative that health care providers find innovative ways to generate revenues to offset the decline in reimbursements. We believe that the concept of a provider fee on health care items or services provided by nursing facilities is a good financing mechanism that leverages federal funds to increase the reimbursements to nursing facilities from the QUEST and QUEST Expanded Access (QEXA) programs.

As is common in other states that have implemented sustainability fee programs, the public hospitals of the Hawaii Health Systems Corporation are being exempted from the nursing facility sustainability fee. This is being done to maximize both the amount of federal funds that the private nursing facilities will receive through the nursing facility sustainability fee program and the amount of federal matching funds the public hospitals can receive under the State of Hawaii's Section 1115 waiver. Since the sustainability fee program was put into place, the public hospitals have been able to fully utilize their certified public expenditures to the maximum extent possible for their exclusive benefit as a means of continuing financing for their operating deficits. In this way, the greatest amount of federal funds has been realized and the private nursing facilities and the

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public hospitals as a whole are receiving greater reimbursements than before the sustainability program was implemented.

Thank you for the opportunity to testify before this committee. We respectively recommend the Committee's support of this measure.

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March 18, 2014

To: Chair Suzanne Chun Oakland and Members
Senate Committee Human Services
From: Bob Ogawa, President
Re: HB 2294, HD1 Relating to the Nursing Facility
Sustainability Program

As you are aware, the section of HB 2294 exempting the Nursing Facility Sustainability Program Special Fund from the central services fees assessed under section 36-27, HRS was deleted in House Finance.

We respectfully ask that you restore the exemption and pass this measure in the form of SB 2057, which your committee approved earlier. This is essential to the fundamental premises and goals of the Sustainability Program.

It is vital to note that the central services fees exclusion language was in the Administration Package measures on this program. So, they do not see the assessment as necessary. In fact, as you know, the Department of Human Services (DHS) already receives a 12% share of the revenues collected and derived from the Program. ***ALL*** monies received are used ***ONLY*** to increase the sustainability of nursing facilities and, through the DHS share, to benefit Medicaid program recipients in other areas. It has been and is a win-win all around. Without the exemption, \$500,000 would be taken away for no reason or purpose.

Between the Hawaii Long Term Care Association (HLTCA) and the Healthcare Association of Hawaii, we represent all the skilled nursing beds in Hawaii. The Program itself originated from the nursing home industry as a self-imposed "tax." In partnership with DHS, we have added tens of millions of dollars to the Medicaid system – *and have been implementing this program at no added expense to the taxpayers*

Part of HLTCA's mission statement says: *How we provide for Hawaii's kupuna, chronically ill and convalescent disabled is a measure of the respect and compassion we have for them . . . a reflection of our dignity as a society.*

It would not reflect well to allow a 5% assessment that the Administration itself has proposed be waived, thus taking those monies away from care for our kupuna and other programs for Medicaid recipients, for no purpose whatsoever other than to add to the general fund. To the general fund, it is less than a pittance. To those who minister to the neediest and most vulnerable in our community, it is substantial. Thank you for your kokua on this!



Tuesday– March 18, 2014 – 1:30pm
Conference Room 016

The Senate Committee on Human Services

To: Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice Chair

From: George Greene
President & CEO
Healthcare Association of Hawaii

Re: **Testimony in Strong Support**
HB 2294, HD 1 — Relating to the Nursing Facility Sustainability Program

The Healthcare Association of Hawaii (HAH) is a 116-member organization that includes all of the acute care hospitals in Hawaii, the majority of long term care facilities, all the Medicare-certified home health agencies, all hospice programs, as well as other healthcare organizations including durable medical equipment, air and ground ambulance, blood bank and respiratory therapy. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing nearly 20,000 people statewide.

Thank you for this opportunity to testify in strong support of HB 2294, HD1, which makes adjustments to the Hospital Sustainability Program and extends its sunset date to June 30, 2015.

Recognizing that Medicaid payments to hospitals were far below the actual costs of care, the Legislature created the Hospital Sustainability Program by enacting Act 217, SLH 2012, which increases Medicaid payments to hospitals. The program achieves this by assessing a fee on hospitals, using the revenue to obtain matching federal Medicaid funds, and returning a majority of the combined amount directly to hospitals.

Specifically, non-government hospitals are assessed an annual fee based on their patient revenues. Payment is based on the amount of a hospital's uncompensated care, which consists of nonpayment by uninsured patients and underpayment by Medicaid. Although the fees and payments are different for every hospital, the overall goal of the program is being achieved. Medicaid payments to many facilities are now closer to the actual costs of care, thereby reducing their losses and improving their financial stability. As such, the Hospital Sustainability Program ensures that Medicaid patients will continue to have access to the hospital care that they need.

In reviewing HB 2294, HD1, HAH noted differences between HB 2294, HD1, and SB 2057, SD2. HAH prefers SB 2057, SD2, which reflects the programmatic agreement between the Department of Human Services (the DHS) and HAH. As such, HAH requests the following two amendments:

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1. Amendment One – Adding a section with the following language:

“SECTION ____ . Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;

- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section

353-136; ~~and~~

~~[(28)]~~ Deposit beverage container deposit special fund under section 342G-104~~[,]~~; and

(29) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

2. Amendment Two – Adding a section with the following language:

“SECTION ____ . Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under section 431P-2;
- (10) Convention center enterprise special fund established under section 201B-8;
- (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (12) Tourism special fund established under section 201B-11;
- (13) Universal service fund established under section 269-42;
- (14) Emergency and budget reserve fund under section 328L-3;
- (15) Public schools special fees and charges fund under section 302A-1130;
- (16) Sport fish special fund under section 187A-9.5;
- (17) Center for nursing special fund under section 304A-2163;
- (18) Passenger facility charge special fund established by section 261-5.5;

- (19) Court interpreting services revolving fund under section 607-1.5;
- (20) Hawaii cancer research special fund;
- (21) Community health centers special fund;
- (22) Emergency medical services special fund;
- (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (24) Shared services technology special fund under section 27-43;
- (25) Nursing facility sustainability program special fund, under Act 156, Session Laws of Hawaii 2012;
- (26) Automated victim information and notification system special fund established under section 353-136; and
- (27) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

HAH would like to thank Governor Abercrombie and the DHS for their collaboration with HAH and the healthcare community in ensuring the Hospital Sustainability Program's continued success. This program is critical to ensuring that private hospitals can continue to provide quality healthcare for Medicaid patients in the state.

Thank you for the opportunity to testify in strong support of HB 2294, HD1.