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# A BILL FOR AN ACT

RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM.

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

1           SECTION 1. Section 36-27, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

8           (1) Special out-of-school time instructional program fund  
9           under section 302A-1310;

10          (2) School cafeteria special funds of the department of  
11          education;

12          (3) Special funds of the University of Hawaii;

13          (4) State educational facilities improvement special fund;

14          (5) Convention center enterprise special fund under  
15          section 201B-8;

16          (6) Special funds established by section 206E-6;

17          (7) Housing loan program revenue bond special fund;



- 1 (8) Housing project bond special fund;
- 2 (9) Aloha Tower fund created by section 206J-17;
- 3 (10) Funds of the employees' retirement system created by
- 4 section 88-109;
- 5 (11) Hawaii hurricane relief fund established under chapter
- 6 431P;
- 7 (12) Hawaii health systems corporation special funds and
- 8 the subaccounts of its regional system boards;
- 9 (13) Tourism special fund established under section 201B-
- 10 11;
- 11 (14) Universal service fund established under section 269-
- 12 42;
- 13 (15) Emergency and budget reserve fund under section 328L-
- 14 3;
- 15 (16) Public schools special fees and charges fund under
- 16 section 302A-1130;
- 17 (17) Sport fish special fund under section 187A-9.5;
- 18 (18) Glass advance disposal fee established by section
- 19 342G-82;
- 20 (19) Center for nursing special fund under section 304A-
- 21 2163;



- 1 (20) Passenger facility charge special fund established by
- 2 section 261-5.5;
- 3 (21) Court interpreting services revolving fund under
- 4 section 607-1.5;
- 5 (22) Hawaii cancer research special fund;
- 6 (23) Community health centers special fund;
- 7 (24) Emergency medical services special fund;
- 8 (25) Rental motor vehicle customer facility charge special
- 9 fund established under section 261-5.6;
- 10 (26) Shared services technology special fund under section
- 11 27-43;
- 12 (27) Automated victim information and notification system
- 13 special fund established under section 353-136;
- 14 (28) Deposit beverage container deposit special fund under
- 15 section 342G-104; and
- 16 (29) Hospital sustainability program special fund under Act
- 17 217, Session Laws of Hawaii 2012, as amended by Act
- 18 141, Session Laws of Hawaii 2013;
- 19 ~~[(30)] Nursing facility sustainability program special fund~~
- 20 ~~under Act 156, Session Laws of Hawaii 2012;~~



1       ~~[(31)]~~ (30) Hawaii 3R's school improvement fund~~[+]~~ under  
2                   section 302A-1502.4; and  
3       ~~[(32)]~~ (31) After-school plus program revolving fund under  
4                   section 302A-1149.5,  
5 shall deduct five per cent of all receipts of all special funds,  
6 which deduction shall be transferred to the general fund of the  
7 State and become general realizations of the State. All  
8 officers of the State and other persons having power to allocate  
9 or disburse any special funds shall cooperate with the director  
10 in effecting these transfers. To determine the proper revenue  
11 base upon which the central service assessment is to be  
12 calculated, the director shall adopt rules pursuant to chapter  
13 91 for the purpose of suspending or limiting the application of  
14 the central service assessment of any fund. No later than  
15 twenty days prior to the convening of each regular session of  
16 the legislature, the director shall report all central service  
17 assessments made during the preceding fiscal year."

18           SECTION 2. Section 36-30, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20           "(a) Each special fund, except the:



- 1           (1)   Transportation use special fund established by section
- 2                    261D-1;
- 3           (2)   Special out-of-school time instructional program fund
- 4                    under section 302A-1310;
- 5           (3)   School cafeteria special funds of the department of
- 6                    education;
- 7           (4)   Special funds of the University of Hawaii;
- 8           (5)   State educational facilities improvement special fund;
- 9           (6)   Special funds established by section 206E-6;
- 10          (7)   Aloha Tower fund created by section 206J-17;
- 11          (8)   Funds of the employees' retirement system created by
- 12                    section 88-109;
- 13          (9)   Hawaii hurricane relief fund established under section
- 14                    431P-2;
- 15          (10)  Convention center enterprise special fund established
- 16                    under section 201B-8;
- 17          (11)  Hawaii health systems corporation special funds and
- 18                    the subaccounts of its regional system boards;
- 19          (12)  Tourism special fund established under section 201B-
- 20                    11;



- 1 (13) Universal service fund established under section 269-  
2 42;
- 3 (14) Emergency and budget reserve fund under section 328L-  
4 3;
- 5 (15) Public schools special fees and charges fund under  
6 section 302A-1130;
- 7 (16) Sport fish special fund under section 187A-9.5;
- 8 (17) Center for nursing special fund under section 304A-  
9 2163;
- 10 (18) Passenger facility charge special fund established by  
11 section 261-5.5;
- 12 (19) Court interpreting services revolving fund under  
13 section 607-1.5;
- 14 (20) Hawaii cancer research special fund;
- 15 (21) Community health centers special fund;
- 16 (22) Emergency medical services special fund;
- 17 (23) Rental motor vehicle customer facility charge special  
18 fund established under section 261-5.6;
- 19 (24) Shared services technology special fund under section  
20 27-43;



1     ~~[(25) Nursing facility sustainability program special fund~~  
2             ~~established pursuant to Act 156, Session Laws of~~  
3             ~~Hawaii 2012;~~  
4     ~~(26)]~~ (25) Automated victim information and notification  
5             system special fund established under section 353-136;  
6             and  
7     ~~[(27)]~~ (26) Hospital sustainability program special fund  
8             under Act 217, Session Laws of Hawaii 2012, as amended  
9             by Act 141, Session Laws of Hawaii 2013,  
10    shall be responsible for its pro rata share of the  
11    administrative expenses incurred by the department responsible  
12    for the operations supported by the special fund concerned."

13             SECTION 3. Act 156, Session Laws of Hawaii 2012, as  
14    amended by section 2 of Act 142, Session Laws of Hawaii 2013, as  
15    amended by section 1 of Act 124, Session Laws of Hawaii 2014, is  
16    amended by amending section 2 as follows:

17             1. By amending subsection (c) of §    -4, Hawaii Revised  
18    Statutes, to read:

19             "(c) Revenue from the nursing facility sustainability fee  
20    shall be used exclusively as follows:



1 (1) No less than eighty-eight per cent of the revenue from  
2 the nursing facility sustainability fee shall be used  
3 to match federal medicaid funds, with the combined  
4 total to be used to enhance capitated rates to  
5 medicaid managed care health plans for the purpose of  
6 increasing medicaid payments to private nursing  
7 facilities;

8 (2) Twelve per cent of the revenue from the nursing  
9 facility sustainability fee may be used by the  
10 department for other departmental purposes; and

11 (3) All moneys remaining in the special fund on December  
12 30, [~~2015,~~] 2016, shall be distributed to nursing  
13 facilities within thirty days in the same proportions  
14 as received from the nursing facilities."

15 2. By amending § -10, Hawaii Revised Statutes, to read:

16 "**§ -10 Enhanced rates to medicaid managed care health**  
17 **plans.** In accordance with title 42 Code of Federal Regulations  
18 section 438, the department shall use revenues from the nursing  
19 facility sustainability fee and federal matching funds to  
20 enhance the capitated rates paid to medicaid managed care health



1 plans for the state fiscal [~~year~~] years 2014-2015 and 2015-2016,  
2 consistent with the following objectives:

3 (1) The rate enhancement shall be used exclusively for  
4 increasing reimbursements to private nursing  
5 facilities to support the availability of services and  
6 to ensure access to care to the medicaid managed care  
7 health plan enrollees;

8 (2) The rate enhancement shall be made part of the monthly  
9 capitated rates by the department to medicaid managed  
10 care health plans, which shall provide documentation  
11 to the department and the nursing facility trade  
12 associations located in Hawaii certifying that the  
13 revenues received under paragraph (1) are used in  
14 accordance with this section;

15 (3) The rate enhancement shall be actuarially sound and  
16 approved by the federal government for federal fund  
17 participation; and

18 (4) The department shall modify the fee-for-service  
19 reimbursement rates of the nursing facilities to  
20 recognize the medicaid portion of the nursing facility  
21 sustainability fee as an additional cost of serving

1           medicaid patients, and to provide a uniform percentage  
2           increase in pre-existing facility-specific rates."

3           3. By amending subsection (a) of §     -13, Hawaii Revised  
4 Statutes, to read:

5           "(a) Collection of the nursing facility sustainability fee  
6 under section     -5 shall be discontinued if:

- 7           (1) The waiver in section     -7 or the enhanced capitation  
8           rates in section     -10 have not been approved by the  
9           Centers for Medicare and Medicaid Services;
- 10          (2) The department reduces funding for nursing facility  
11          services below the state appropriation in effect on  
12          June 30, [~~2014~~] 2015;
- 13          (3) The department or any other state agency uses the  
14          money in the special fund for any use other than the  
15          uses permitted pursuant to this chapter; or
- 16          (4) Federal financial participation to match the nursing  
17          facility sustainability fee becomes unavailable under  
18          federal law. In such case, the department shall  
19          terminate the collection of the fee beginning on the  
20          effective date of the federal statutory, regulatory,  
21          or interpretive change."



1 SECTION 4. Act 156, Session Laws of Hawaii 2012, as  
2 amended by section 3 of Act 142, Session Laws of Hawaii 2013, as  
3 amended by section 2 of Act 124, Session Laws of Hawaii 2014, is  
4 amended by amending section 5 to read as follows:

5 "SECTION 5. This Act shall take effect on July 1, 2012,  
6 and shall be repealed on June 30, [~~2015~~] 2016; provided that  
7 section -4, Hawaii Revised Statutes, established by section 2  
8 of this Act, and section 3 of this Act, shall be repealed on  
9 December 31, [~~2015~~] 2016; and provided further that the  
10 amendment to section 36-30(a), Hawaii Revised Statutes, in  
11 section 3 of this Act shall not be repealed when section 36-30,  
12 Hawaii Revised Statutes, is reenacted on June 30, 2015, pursuant  
13 to section 34 of Act 79, Session Laws of Hawaii 2009."

14 SECTION 5. Act 124, Session Laws of Hawaii 2014, is  
15 amended by amending section 7 to read as follows:

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

- 18 (1) Section 5 shall take effect on July 1, 2014;  
19 (2) The amendments made to sections 36-27(a) and 36-30(a),  
20 Hawaii Revised Statutes, in sections 3 and 4 of this  
21 Act shall not be repealed when sections 36-27 and 36-



1 30, Hawaii Revised Statutes, are reenacted on June 30,  
2 2015, pursuant to section 34 of Act 79, Session Laws  
3 of Hawaii 2009; and

4 (3) [~~The amendments made in sections~~] Sections 3 and 4  
5 shall be repealed on December 31, [~~2015, and sections~~  
6 ~~36-27 and 36-30, Hawaii Revised Statutes, shall be~~  
7 ~~reenacted in the form provided in section 34 of Act~~  
8 ~~79, Session Laws of Hawaii 2009.~~] 2016."

9 SECTION 6. There is appropriated out of the nursing  
10 facility sustainability program special fund the sum of  
11 \$14,000,000 or so much thereof as may be necessary for fiscal  
12 year 2015-2016 for uses consistent with the nursing facility  
13 sustainability program special fund.

14 The sum appropriated shall be expended by the department of  
15 human services for the purposes of this Act.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2050;  
19 provided that:

20 (1) Sections 1 and 2 of this Act shall take effect on  
21 December 31, 2016; and



1           (2) Sections 3 and 4 of this Act shall take effect on June  
2           29, 2015.



**Report Title:**

Nursing Facility Sustainability Program; Appropriation

**Description:**

Continues the Nursing Facility Sustainability Program for one additional year. Appropriates funds out of the Nursing Facility Sustainability Program Special Fund for Fiscal Year 2015-2016.  
(HB582 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

