



GOV. MSG. NO. 1169

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

May 29, 2015

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 210  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 29, 2015, the following bill was signed into law:

HB582 HD1 SD2 CD1

RELATING TO THE NURSING FACILITY  
SUSTAINABILITY PROGRAM  
**ACT 069 (15)**

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE  
Governor, State of Hawai'i

RECEIVED  
THE SENATE  
CLERK'S OFFICE  
STATE OF HAWAII

'15 MAY 29 P5:12

RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT

'15 MAY 29 P4:06

*Handwritten vertical text, possibly a signature or initials.*

Approved by the Governor

on MAY 29 2015  
HOUSE OF REPRESENTATIVES

TWENTY-EIGHTH LEGISLATURE, 2015  
STATE OF HAWAII

**ORIGINAL**

**ACT 069**  
**H.B. NO.**

582  
H.D. 1  
S.D. 2  
C.D. 1

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

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

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

9 (1) No less than eighty-eight per cent of the revenue from  
10 the nursing facility sustainability fee shall be used  
11 to match federal medicaid funds, with the combined  
12 total to be used to enhance capitated rates to  
13 medicaid managed care health plans for the purpose of  
14 increasing medicaid payments to private nursing  
15 facilities;



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

4 (3) All moneys remaining in the special fund on December  
5 30, [~~2015,~~] 2016, shall be distributed to nursing  
6 facilities within thirty days in the same proportions  
7 as received from the nursing facilities."

8 2. By amending subsection (c) of § -5, Hawaii Revised  
9 Statutes, to read:

10 "(c) The nursing facility sustainability fee shall not  
11 exceed four per cent of net patient service revenue and shall be  
12 calculated and paid on a per resident day basis~~[-]~~, unless the  
13 facility qualifies for an exemption identified in subsection  
14 (d)(1). The per resident daily fee shall be ~~[the same amount]~~  
15 \$13.46 for each affected facility, except ~~[as prescribed]~~ for  
16 facilities described in subsection (d)(2) [-], which instead  
17 shall pay a per resident daily fee of \$5.85."

18 3. By amending § -10, Hawaii Revised Statutes, to read:

19 "§ -10 **Enhanced rates to medicaid managed care health**  
20 **plans.** In accordance with title 42 Code of Federal Regulations  
21 section 438, the department shall use revenues from the nursing



1 facility sustainability fee and federal matching funds to  
2 enhance the capitated rates paid to medicaid managed care health  
3 plans for the state fiscal year [~~2014-2015~~] 2015-2016,

4 consistent with the following objectives:

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

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

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

20 (4) The department shall modify the fee-for-service  
21 reimbursement rates of the nursing facilities to



1 recognize the medicaid portion of the nursing facility  
2 sustainability fee as an additional cost of serving  
3 medicaid patients, and to provide a uniform percentage  
4 increase in pre-existing facility-specific rates."

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

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

9 (1) The waiver in section -7 or the enhanced capitation  
10 rates in section -10 have not been approved by the  
11 Centers for Medicare and Medicaid Services;

12 (2) The department reduces funding for nursing facility  
13 services below the state appropriation in effect on  
14 June 30, [~~2014~~] 2015;

15 (3) The department or any other state agency uses the  
16 money in the special fund for any use other than the  
17 uses permitted pursuant to this chapter; or

18 (4) Federal financial participation to match the nursing  
19 facility sustainability fee becomes unavailable under  
20 federal law. In such case, the department shall  
21 terminate the collection of the fee beginning on the



1 effective date of the federal statutory, regulatory,  
2 or interpretive change."

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

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

17 SECTION 3. Act 124, Session Laws of Hawaii 2014, is  
18 amended by amending section 7 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;



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 not be repealed when sections 36-27 and 36-  
4 30, Hawaii Revised Statutes, are reenacted on June 30,  
5 2015, pursuant to section 34 of Act 79, Session Laws  
6 of Hawaii 2009; and

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

13 SECTION 4. There is appropriated out of the nursing  
14 facility sustainability program special fund the sum of  
15 \$14,000,000 or so much thereof as may be necessary for fiscal  
16 year 2015-2016 for uses consistent with the nursing facility  
17 sustainability program special fund.

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

20 SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.





1 SECTION 6. This Act shall take effect on July 1, 2015;  
2 provided that sections 1, 2, and 3 of this Act shall take effect  
3 on June 29, 2015.

APPROVED this 29 day of MAY, 2015



GOVERNOR OF THE STATE OF HAWAII

