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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. Hospitals in the State face major financial  
2 challenges in providing quality health care for Hawaii  
3 residents. These challenges are largely the result of  
4 inadequate payments from the medicaid program that do not cover  
5 the actual costs of care. Medicaid is jointly financed by the  
6 federal and state governments by statutory formula, the federal  
7 government pays between fifty per cent and seventy-four per cent  
8 of medicaid costs incurred by states for care delivered to their  
9 medicaid beneficiaries. Federal assistance percentages vary by  
10 state, with states that have lower per capita incomes receiving  
11 higher federal matching rates. Under federal rules, the state  
12 share must be public funds that are not federal funds. The  
13 legislature finds that federal funding to help sustain Hawaii's  
14 hospitals financially may be accessed 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 their medicaid programs  
18 due to rising state budget deficits, increasing health care

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

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

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

16 SECTION 2. Section 346G-3, Hawaii Revised Statutes, is  
17 amended by amending the definitions of "net patient service  
18 revenue" and "private hospital" to read as follows:

19 "Net patient service revenue" means gross revenue from  
20 inpatient and outpatient care provided to hospital patients  
21 converted to net patient service revenue utilizing data from  
22 Worksheets G-2 and G-3 of each hospital's medicare cost report

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1 for the fiscal year [2013-2014.] ending three years prior to the  
2 state fiscal year for which net patient service revenue is being  
3 calculated. For example, the net patient service revenue for  
4 fiscal year 2017-2018 shall be based on data from fiscal year  
5 2014-2015. If the hospital is new or did not file a fiscal year  
6 medicare cost report, the department shall obtain the hospital's  
7 net patient service revenue from the most recent period  
8 available.

9 "Private hospital" means those non-public hospitals named  
10 in attachment A of the medicaid section 1115 demonstration  
11 waiver that were in operation in calendar year [~~2015~~] 2016 and  
12 are currently operating or any hospitals not named in attachment  
13 A of the medicaid section 1115 demonstration waiver that became  
14 private hospitals in calendar year [~~2016~~] 2017 or 2018 and are  
15 currently operating."

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

18 "(c) The hospital sustainability fee for inpatient care  
19 services may differ from the fee for outpatient care services  
20 but the fees charged to the hospital shall not in the aggregate  
21 exceed three per cent of the hospital's net patient service  
22 revenue [~~as derived from the hospital's medicare cost report~~

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1 ~~ending during state fiscal year 2013-2014]~~. The inpatient  
2 hospital sustainability fee shall not exceed three per cent of  
3 net inpatient hospital service revenue. The outpatient hospital  
4 sustainability fee shall ~~[be]~~ not exceed three per cent of net  
5 outpatient hospital service revenue. Each fee shall be the same  
6 percentage for all affected hospitals, subject to subsection  
7 (d).

8 (d) The department shall exempt children's hospitals,  
9 federal hospitals, public hospitals, and psychiatric hospitals  
10 from the hospital sustainability fees on inpatient services. In  
11 addition, the department shall exempt from the hospital  
12 sustainability fee on outpatient care services children's  
13 hospitals, public hospitals, rehabilitation hospitals,  
14 psychiatric hospitals, and any hospitals with net outpatient  
15 revenues of less than \$57,000,000 per year based upon ~~[fiscal~~  
16 ~~year 2013-2014]~~ the hospital's medicare cost ~~[reports from the~~  
17 ~~hospital sustainability fee on outpatient care services.]~~ report  
18 for the fiscal year ending three years prior to the state fiscal  
19 year for which the hospital's net patient service revenue is  
20 calculated."

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

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1           "(b) In accordance with title 42 Code of Federal  
2 Regulations section 438, the department shall use revenues from  
3 the hospital sustainability fee and federal matching funds to  
4 enhance the capitated rates paid to medicaid managed care health  
5 plans for the state fiscal [~~year 2016-2017,~~] years 2017-2018 and  
6 2018-2019, consistent with the following objectives:

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

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

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

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1           (4) The rate enhancements shall be retroactive to July 1,  
2                   2012, or the effective date approved by the federal  
3                   government, whichever is later. Retroactive rate  
4                   enhancements shall be paid within thirty days of  
5                   notification by the Centers for Medicare and Medicaid  
6                   Services to the department [~~for~~] of all necessary  
7                   approvals; and

8           (5) Payments made by the medicaid managed care health  
9                   plans shall be made within thirty business days upon  
10                  receipt of monthly capitation rates from the  
11                  department."

12           SECTION 5. Act 217, Session Laws of Hawaii 2012, as  
13           amended by section 2 of Act 141, Session Laws of Hawaii 2013, as  
14           amended by section 2 of Act 123, Session Laws of Hawaii 2014, as  
15           amended by section 2 of Act 70, Session Laws of Hawaii 2015, and  
16           as amended by section 3 of Act 60, Session Laws of Hawaii 2016,  
17           is amended by amending section 5 to read as follows:

18           "SECTION 5. This Act shall take effect on July 1, 2012,  
19           and shall be repealed on June 30, [~~2017,~~] 2019; provided that  
20           section       -4, Hawaii Revised Statutes, in section 2 of this  
21           Act, and the amendment to section 36-30(a), Hawaii Revised

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1 Statutes, in section 3 of this Act, shall be repealed on  
2 December 31, [~~2017-~~] 2019."

3 SECTION 6. Act 123, Session Laws of Hawaii 2014, as  
4 amended by section 3 of Act 70, Session Laws of Hawaii 2015, and  
5 as amended by section 4 of Act 60, Session Laws of Hawaii 2016,  
6 is amended by amending section 7 to read as follows:

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

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

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

13 SECTION 7. There is appropriated out of the hospital  
14 sustainability program special fund the sum of \$65,000,000 or so  
15 much thereof as may be necessary for fiscal year 2017-2018 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2018-2019 for the purposes of the hospital sustainability  
18 program special fund.

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

21 SECTION 8. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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1 SECTION 9. This Act, upon its approval, shall take effect  
2 on June 29, 2017; provided that section 7 of this Act shall take  
3 effect on July 1, 2017.

4 INTRODUCED BY: \_\_\_\_\_



5 BY REQUEST

6 JAN 23 2017  
7

# H.B. NO. 1096

**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.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

PURPOSE: To continue the Hospital Sustainability Program, established by Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013, Act 123, Session Laws of Hawaii 2014, Act 70, Session Laws of Hawaii 2015, and Act 60, Session Laws of Hawaii 2016, by extending the sunset date of the Act to June 30, 2019, updating the referral dates in the statute, appropriating funding out of the Hospital Sustainability Program Special Fund for fiscal years 2017-2018 and 2018-2019, and making technical amendments to ensure that the Special Fund is, through December 31, 2019, exempted from the central service expenses assessment and the administrative expenses assessment under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, respectively.

MEANS: Amend sections 346G-3, 346G-5(c) and (d), and 346G-10(b), Hawaii Revised Statutes, section 5 of Act 217, Session Laws of Hawaii 2012, as last amended by Act 60, Session Laws of Hawaii 2016, and section 7 of Act 123, Session Laws of Hawaii 2014, as last amended by Act 60, Session Laws of Hawaii 2016. Appropriates funds from the Hospital Sustainability Program Special Fund.

JUSTIFICATION: Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013, Act 123, Session Laws of Hawaii 2014, Act 70, Session Laws of Hawaii 2015, and Act 60, Session Laws of Hawaii 2016 established a Hospital Sustainability Program and the Hospital Sustainability Program Special Fund (the Special Fund). The Special Fund receives moneys from the hospital sustainability fee, which is used to receive

federal Medicaid matching funds under the Medicaid Section 1115 Demonstration Waiver and is used to increase reimbursements to the hospitals, with a greater benefit to those providing proportionately more services to Medicaid recipients and the uninsured. These additional moneys will increase the sustainability of hospitals in Hawaii to continue as a critical part of the safety net.

In fiscal year 2012-2013, the hospitals were assessed \$40,103,774 in sustainability fees and received \$77,468,401 in additional reimbursements. In fiscal year 2013-2014, the providers were assessed \$44,490,855 in sustainability fees and received additional reimbursements of \$81,309,367. In fiscal year 2014-2015 the providers were assessed \$46,621,994 in sustainability fees and received \$84,687,653 in additional reimbursements.

Twelve percent of the revenues from the fees collected is used by the Department to increase and improve services for Medicaid program recipients.

The Hospital Sustainability Program will be repealed on June 30, 2017, with funding provisions to be repealed on December 31, 2017.

This bill proposes to extend the Hospital Sustainability Program and the Special Fund for another two years.

Technical Amendments: Act 217, Session Laws of Hawaii 2012, as amended, exempts the Special Fund from assessments for central services expenses and administrative expenses under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, preserving approximately \$3,000,000 each year to support increased reimbursement to private hospitals. Sections 36-27(a)(31) and 36-30(a)(28) will be repealed on December 31,

2017. This will eliminate the Special Fund's exemptions from the assessments and reduce the funds available for hospital reimbursement.

This bill extends the Hospital Sustainability Program for two years past the repeal date of June 30, 2017, and extends the Special Fund for an additional six months thereafter. Therefore, unless the proposed technical amendments are adopted, the exemptions from the central service expenses and administrative expenses assessments will be lost when sections 36-27(a)(31) and 36-30(a)(28), Hawaii Revised Statutes, are repealed on December 31, 2017, and the Special Fund will then be subject to those assessments. The DHS estimates that the Special Fund would be subject to the central service expenses assessment for the period January 1, 2018 through December 31, 2019, in the amount of \$5,000,000, and the administrative expenses assessment for the same period in the amount of \$1,000,000.

Impact on the public: Hawaii residents benefit by having more sustainable hospitals and, thereby, have increased access to necessary medical care. Health care services for low-income, vulnerable residents will be increased and improved.

Impact on the department and other agencies: The Department of Human Services will benefit by receiving some additional funds to support its programs.

GENERAL FUND:	None.
OTHER FUNDS:	\$65,000,000 Hospital Sustainability Program Special Fund.
PPBS PROGRAM DESIGNATION:	HMS 401.

OTHER AFFECTED

AGENCIES: None.

EFFECTIVE DATE: June 29, 2017.