

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



CATHY BETTS  
DIRECTOR  
KA LUNA HO'OKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 12, 2023

TO: The Honorable Senator Joy A. San Buenaventura, Chair  
Senate Committee on Health & Human Services

FROM: Cathy Betts, Director

SUBJECT: [HB 1369 HD1](#) - RELATING TO NURSING FACILITIES.

Hearing: March 13, 2023, 1:00 p.m.  
Conference Room 225 & Via Videoconferencing, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill as it is similar to administration measures. DHS respectfully requests an effective date to be upon approval.

**PURPOSE:** This bill repeals the sunset dates of Act 156, SLH 2012, and Act 124, SLH 2014, to make the nursing sustainability program permanent and permanently exempt the program from the central service and administrative expenses assessments. Repeals the nursing facility tax. Appropriates funds from the nursing facility sustainability program special fund. Effective 6/30/3000. (HD1)

The HD1 amended the measure by:

- (1) Clarifying that DHS may modify, add to, or exclude facilities exempt from the Nursing Facility Sustainability Fee Assessment if necessary for Centers for Medicaid and Medicaid Services approval and if the modification is otherwise consistent with the Nursing Facility Sustainability Program requirements;
- (2) Clarifying that DHS may impose the Nursing Facility Sustainability Fee on a monthly basis and the timeframe in which the fee must be paid;
- (3) Changing the appropriation to an unspecified amount;

- (4) Defecting the effective date; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

DHS strongly supports this bill which will make the Nursing Facilities Sustainability Program permanent and continue the exemptions from special fund fees for the Nursing Facility Sustainability Program Special Fund. The State – government and providers - have successfully implemented the Nursing Facility Sustainability Program and the associated special fund for over ten years. The Special Fund receives moneys from the Nursing Facility Sustainability Fee, which is then used to match federal Medicaid funds. The total combined funds are used to increase reimbursements and pay for performance payments for quality improvement activities to the nursing facilities through capitation payments, with a greater benefit to those providing proportionately more services to Medicaid recipients. These additional moneys increase the sustainability of nursing facilities in Hawaii to continue as a critical part of the safety net and to incentivize quality using pay for performance.

Continuing to exempt the Nursing Facility Sustainability Fund from the central services expenses (section 36-27, Hawaii Revised Statutes (HRS)) and the administrative expenses (section 36-30, HRS) fees will maximize funds available to support the Nursing Facility Sustainability Program. DHS has worked closely with the Healthcare Association of Hawaii on this measure and appreciates its advocacy to ensure that exemptions from the special fund expenses are permanent.

Thank you for the opportunity to provide comments on this measure.

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

Ka 'Oihana 'Auhau

P.O. BOX 259

HONOLULU, HAWAII 96809

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**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No.1369, H.D.1, Relating to Nursing Facilities

**BEFORE THE:**

Senate Committee on Health and Human Services

**DATE:** Monday, March 13, 2023

**TIME:** 1:00 p.m.

**LOCATION:** State Capitol, Room 225

Chair San Buenaventura, Vice-Chair Aquino, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1369, H.D.1, for your consideration.

H.B. 1369, H.D.1, repeals chapter 346E, Hawaii Revised Statutes (HRS), relating to the Nursing Facility Tax, and repeals section 237-24.7, HRS, which exempts taxes on nursing facility income imposed by chapter 346E, HRS, and passed on and collected by operators of nursing facilities, from the general excise tax. The measure has a defective effective date of June 30, 3000.

The Department is able to administer section 2 of this measure, relating to the repeal of the general excise tax exemption, by July 1, 2023.

Thank you for the opportunity to provide comments on this measure.



**Testimony to the Senate Committee on Health and Human Services  
Monday, March 13, 2023; 1:00 p.m.  
State Capitol, Conference Room 225  
Via Videoconference**

**RE: HOUSE BILL NO. 1369, HOUSE DRAFT 1, RELATING TO NURSING FACILITIES.**

Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 1369, House Draft 1, RELATING TO NURSING FACILITIES.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would:

- (1) Appropriate an unspecified amount from the Nursing Facility Sustainability Fund (Fund), for fiscal year 2023-2024, and the same amount for fiscal year 2024-2025, to make supplemental payments and increase capitation rates to health plans for the benefit of State long-term care facilities;
- (2) Permanently exempt the Fund from the central service expenses assessment and the administrative expenses assessment;
- (3) Repeal the Nursing Facility Tax;
- (4) Clarify that the Department of Human Services (DHS) may modify, add to, or exclude facilities from the Nursing Facility Sustainability Fee Assessment if necessary for Centers for Medicaid and Medicare Services approval, and if the modification is otherwise consistent with the Nursing Facility Sustainability Program;

**Testimony on House Bill No. 1369, House Draft 1**  
**Monday, March 13, 2023; 1:00 p.m.**  
**Page 2**

- (5) Clarify that DHS may impose the Nursing Facility Sustainability Fee on a monthly basis and the timeframe in which the fee must be paid; and
- (6) Take effect on June 30, 3000.

Recognizing that Medicaid payments to nursing facilities were far below the actual costs of care, the Legislature enacted Act 156, SLH 2012, to establish the Program and increase Medicaid payments to nursing facilities. The Program achieves this by assessing a fee on nursing facilities, using the revenue to obtain matching federal Medicaid funds, and returning a majority of the combined amount directly to nursing facilities.

**We urge your favorable consideration of this bill.**

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or [eabe@hawaiiipca.net](mailto:eabe@hawaiiipca.net).



**March 13, 2023 at 1:00 pm**  
**Conference Room 225**

**Senate Committee on Health and Human Services**

To: Chair Joy A. San Buenaventura  
Vice Chair Henry J.C. Aquino

From: Paige Heckathorn Choy  
Associate Vice President, Government Affairs  
Healthcare Association of Hawaii

Re: **Strong Support**  
**HB 1369 HD 1, Relating to Nursing Facilities**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to provide testimony in **strong support** of this bill. The nursing facility sustainability program is a key tool for the state to help ensure access to critical services for Medicaid enrollees. Most importantly, this **benefit is achieved without the use of any state general funds**. This is because the program levies a fee on participating providers. The funds generated through that fee are then used to draw down federal Medicaid dollars and are distributed back to the providers to help them cover the gap between what Medicaid reimburses and what Medicare reimburses. Although neither program covers the full cost of providing care, it is essential in helping to shore up the financial sustainability of the nursing facility system in the state.

The sustainability program was first established in 2012 when, recognizing that Medicaid payments were below the actual costs of care for nursing facilities, the legislature authorized this program. While the program was reauthorized annually for several years, the legislature passed a two-year authorization of the program in 2017. This was evidence of how successful the program has been, especially in bringing together public and private entities to help increase access to care for Medicaid recipients. The nursing facility sustainability program has proven successful for providers, beneficiaries, and the state, which is why this particular legislation would make the program permanent.

**We are requesting two amendments to this measure. These amendments are critical to ensuring that we can maximize the federal Medicaid funds being drawn down by the state and used to support healthcare services and the MedQUEST division.**

**This language is included in the Senate companion bill, SB 314 SD2, in sections 3 and 4.**

1. The first amendment would exempt this program from the central services fund and would read:

"(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) Convention center enterprise special fund under section 201B-8;
- (5) Special funds established by section 206E-6;
- (6) Aloha Tower fund created by section 206J-17;
- (7) Funds of the employees' retirement system created by section 88-109;
- (8) Hawaii hurricane relief fund established under chapter 431P;
- (9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (10) Universal service fund established under section 269-42;
- (11) Emergency and budget reserve fund under section 328L-3;
- (12) Public schools special fees and charges fund under section 302A-1130;

- (13) Sport fish special fund under section 187A-9.5;
- (14) Neurotrauma special fund under section 321H-4;
- (15) Glass advance disposal fee established by section 342G-82;
- (16) Center for nursing special fund under section 304A-2163;
- (17) Passenger facility charge special fund established by section 261-5.5;
- (18) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (19) Land conservation fund established by section 173A-5;
- (20) Court interpreting services revolving fund under section 607-1.5;
- (21) Trauma system special fund under section 321-22.5;
- (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;
- (28) Deposit beverage container deposit special fund under section 342G-104;
- (29) Hospital sustainability program special fund under section 346G-4;
- (30) Nursing facility sustainability program special fund established under section 346F-4;



(31) Hawaii 3R's school improvement fund under section 302A-1502.4;

(32) After-school plus program revolving fund under section 302A-1149.5;

(33) Civil monetary penalty special fund under section 321-30.2; and

[+] (34) [+] Stadium development special fund under section 109-3.5,

shall deduct five per cent of all receipts of all other 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. The second amendment would exempt this program from the administrative expenses fund:**

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

"(a) Each special fund, 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) Special funds established by section 206E-6;

(5) Aloha Tower fund created by section 206J-17;

(6) Funds of the employees' retirement system created by section 88-109;

- (7) Hawaii hurricane relief fund established under chapter 431P;
- (8) Convention center enterprise special fund established under section 201B-8;
- (9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (10) Universal service fund established under section 269-42;
- (11) Emergency and budget reserve fund under section 328L-3;
- (12) Public schools special fees and charges fund under section 302A-1130;
- (13) Sport fish special fund under section 187A-9.5;
- (14) Neurotrauma special fund under section 321H-4;
- (15) Center for nursing special fund under section 304A-2163;
- (16) Passenger facility charge special fund established by section 261-5.5;
- (17) Court interpreting services revolving fund under section 607-1.5;
- (18) Trauma system special fund under section 321-22.5;
- (19) Hawaii cancer research special fund;
- (20) Community health centers special fund;
- (21) Emergency medical services special fund;
- (22) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (23) Shared services technology special fund under section 27-43;
- (24) Nursing facility sustainability program special fund established ~~[pursuant to]~~ under section 346F-4;
- (25) Automated victim information and notification system special fund established under section 353-136;
- (26) Hospital sustainability program special fund under section 346G-4;

(27) Civil monetary penalty special fund under section 321-30.2; and

[+] (28) [+] Stadium development special fund under section 109-3.5,

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."

Thank you for the opportunity to provide supportive testimony for this critical program, which will help the state protect access to care for hundreds of thousands of Hawaii residents. We will continue our partnership with the MedQUEST office on this measure and appreciate your consideration of this important measure.



## THE QUEEN'S HEALTH SYSTEM

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To: The Honorable Joy San Buenaventura, Chair  
The Honorable Henry Aquino, Vice Chair  
Members, Senate Committee on Health & Human Services

From: Jace Mikulanec, Director, Government Relations, The Queen's Health System

Date: March 13, 2023

Re: Testimony in Support of HB1369 HD1: Relating to Nursing Facilities

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The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to testify in **support** for HB1369 HD1, which makes the Nursing Facility Sustainability Program permanent and appropriates funds out of the Nursing Facility Sustainability Program Special Fund. The Nursing Facility Sustainability Program assists nursing facilities in Hawai'i by mitigating losses that are incurred when taking care of underserved populations. These facilities play a crucial role in the continuum of care for our community.

For hospitals like The Queen's Medical Center-Punchbowl (QMC-PB), which experiences a waitlist of over 30 patients a day waiting to be transferred to sub- or post-acute care settings, nursing facilities are integral to the continuing care of patients. Patients on our waitlists are no longer in need of acute care, but due to the limited community based resources and low Medicaid reimbursement, our hospitals are unable to place patients ready for discharge. Other patients needing an acute level of care may not be able to access a hospital bed if census is full and waitlisted patients occupy acute care beds. We ask for your support of this measure and the continuation of the Nursing Facility Sustainability Program.

Mahalo for your time and attention to this important program.

*The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

Testimony of  
Jonathan Ching  
Government Relations Director

Before:  
Senate Committee on Health and Human Services  
The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair

March 13, 2023  
1:00 p.m.  
Conference Room 225 & Via Videoconference

**Re: HB 1369, HD1, Relating to Nursing Facilities.**

Chair San Buenaventura, Vice Chair Aquino, and committee members, thank you for this opportunity to provide testimony on HB 1369, HD1, which makes permanent and amends the state's Nursing Facility Sustainability Program.

**Kaiser Permanente Hawai'i STRONGLY SUPPORTS HB 1369, HD1.**

Kaiser Permanente Hawai'i is one of the nation's largest not-for-profit health plans, serving 12.6 million members nationwide, and more than 269,000 members in Hawai'i. In Hawai'i, more than 4,200 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and advance practice providers work in our integrated health system to provide our members coordinated care and coverage. Kaiser Permanente Hawai'i has more than 20+ medical facilities, including our award-winning Moanalua Medical Center. We continue to provide high-quality coordinated care for our members and deliver on our commitment to improve the health of our members and the 1.4 million people living in the communities we serve.

Expanding the state's Nursing Facility Sustainability Program in perpetuity will allow hospitals in the state to continue to provide critical health care services despite Medicaid uncompensated care losses.

The Nursing Sustainability Program and the Nursing Facility Sustainability Program Special Fund were established via Act 156, Session Laws of Hawaii 2012. The program created a fund to pool monies from participating nursing facilities through the assessment of a provider tax, which in turn was used as a basis to obtain federal Medicaid matching funds. The aggregate state and federal funds would then be distributed to the participate nursing facilities as supplemental payments to reduce any Medicaid uncompensated care losses. The program has proven successful for providers, beneficiaries, and the state, given that it uses no state general funds.

Nursing facilities are essential to acute care hospitals like Kaiser Permanente's Moanalua Medical Center as hospitals statewide often have waitlists of patients waiting to be transferred to post and sub-acute care settings. The Nursing Sustainability Program has been integral to help offset financial losses to the industry; losses which could lead to the erosion of a safety net for our growing kupuna population.

Kaiser Permanente Hawai'i supports HB 1369, HD1 because it will continue to assist providing access to health care for Medicaid recipients in Hawai'i.

Mahalo for the opportunity to testify on this important measure.

Monday, March 13, 2023 at 1:00 PM  
Via Video Conference; Conference Room 225

**Senate Committee on Health and Human Services**

To: Senator Joy San Buenaventura, Chair  
Senator Henry Aquino, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

Re: **Testimony in Support of HB 1369, HD1  
Relating to The Nursing Facility Sustainability Program**

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My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

**HPH writes in support of HB 1369, HD1** which makes permanent and amends the Nursing Facility Sustainability Program.

Recognizing that Medicaid payments to nursing facilities remain below the actual costs of delivering care, the Legislature created the Nursing Facility Sustainability Program in 2012, which improves Medicaid payments to nursing facilities. The Nursing Facility Sustainability Program assists nursing facilities in the State by mitigating losses that are incurred when taking care of underserved populations, and ensures access for seniors needing long-term care. No general funds support the Program. Nursing facilities play a critical role in the continuum of care certain patients need upon being discharged from an acute care hospital.

Our hospital system experiences a significant waitlist of patients to be transferred to sub- or post-acute care settings. Nursing facilities fill that gap. These patients no longer need acute care but because of limited community-based resources and low Medicaid reimbursement, our hospitals are unable to discharge patients to nursing facilities. This situation in turn creates a waitlist for patients requiring admission to the hospitals for acute care.

Making the Nursing Facility Sustainability Program permanent through this measure will help to preserve and enhance access to health care for Medicaid recipients in Hawai'i.

Thank you for the opportunity to testify.