
A BILL FOR AN ACT

RELATING TO NURSING FACILITIES.

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

1 SECTION 1. The legislature finds that the nursing facility
2 sustainability program was established in 2012 and has served a
3 critical role in strengthening the long-term care system in the
4 State. In the eleven years since its inception, the nursing
5 facility sustainability program has helped long-term care
6 facilities treat the most vulnerable patients in the State,
7 especially low-income individuals who require these services.
8 The program has been carried out in a public-private partnership
9 to ensure that patients in the State can access quality,
10 affordable care.

11 The legislature further finds that, even with this program,
12 nursing facilities in the State face major challenges. These
13 challenges are due in part to the health and financial pressures
14 related to the ongoing coronavirus disease 2019 pandemic.
15 Medicaid is jointly financed by the federal and state
16 governments by statutory formula whereby the federal government
17 pays between fifty per cent and seventy-four per cent, with



1 assistance levels determined by each state's per capita income.
2 States with the lowest per capita income relative to the
3 national average receive higher federal matching rates. Under
4 federal rules, the state share must be public funds that are not
5 federal funds. The legislature finds that public funding to
6 help financially sustain Hawaii's nursing facilities should
7 continue to be assessed through the nursing facility
8 sustainability program's provider fee, which is currently
9 scheduled to repeal in 2024.

10 The legislature further finds that provider fees exist in
11 forty-nine states and the District of Columbia as a means of
12 drawing down federal funds to sustain their medicaid programs,
13 increase the number of health care providers, and expand
14 medicaid enrollment. Provider fees, which are collected from
15 specific categories of health care providers, may be imposed on
16 different classes of health care services, including inpatient
17 and outpatient hospital and nursing facility services.

18 The legislature finds that a provider fee on nursing
19 facilities in the State has resulted in a substantial increase
20 in medicaid payments without putting additional constraints on
21 the State's budget. The additional federal funds obtained via



1 the nursing facility sustainability program has also maintained
2 access to care for medicaid recipients. This has allowed
3 nursing facilities in the State to continue to serve under- or
4 uninsured patients in a timely, effective manner, and helped to
5 ensure the overall sustainability of the health care system in
6 the State.

7 Therefore, the purpose of this Act is to:

- 8 (1) Preserve access to health care for medicaid recipients
9 by continuing and strengthening the nursing facility
10 sustainability program by:
- 11 (A) Making it permanent;
 - 12 (B) Making the nursing facility sustainability
13 program fund's exemption from the central service
14 expenses assessment and the administrative
15 expenses assessment under sections 36-27(a) and
16 36-30(a), Hawaii Revised Statutes, permanent; and
 - 17 (C) Appropriating moneys out of the nursing facility
18 sustainability special fund for the purposes of
19 the program; and
- 20 (2) Repeal chapter 346E, Hawaii Revised Statutes, relating
21 to the nursing facility tax.



1 SECTION 2. 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) Convention center enterprise special fund under
14 section 201B-8;
- 15 (5) Special funds established by section 206E-6;
- 16 (6) Aloha Tower fund created by section 206J-17;
- 17 (7) Funds of the employees' retirement system created by
18 section 88-109;
- 19 (8) Hawaii hurricane relief fund established under chapter
20 431P;



- 1 (9) Hawaii health systems corporation special funds and
2 the subaccounts of its regional system boards;
- 3 (10) Universal service fund established under section
4 269-42;
- 5 (11) Emergency and budget reserve fund under section
6 328L-3;
- 7 (12) Public schools special fees and charges fund under
8 section 302A-1130;
- 9 (13) Sport fish special fund under section 187A-9.5;
- 10 (14) Neurotrauma special fund under section 321H-4;
- 11 (15) Glass advance disposal fee established by section
12 342G-82;
- 13 (16) Center for nursing special fund under section
14 304A-2163;
- 15 (17) Passenger facility charge special fund established by
16 section 261-5.5;
- 17 (18) Solicitation of funds for charitable purposes special
18 fund established by section 467B-15;
- 19 (19) Land conservation fund established by section 173A-5;
- 20 (20) Court interpreting services revolving fund under
21 section 607-1.5;



- 1 (21) Trauma system special fund under section 321-22.5;
- 2 (22) Hawaii cancer research special fund;
- 3 (23) Community health centers special fund;
- 4 (24) Emergency medical services special fund;
- 5 (25) Rental motor vehicle customer facility charge special
6 fund established under section 261-5.6;
- 7 (26) Shared services technology special fund under section
8 27-43;
- 9 (27) Automated victim information and notification system
10 special fund established under section 353-136;
- 11 (28) Deposit beverage container deposit special fund under
12 section 342G-104;
- 13 (29) Hospital sustainability program special fund under
14 section 346G-4;
- 15 (30) Nursing facility sustainability program special fund
16 established under section 346F-4;
- 17 (31) Hawaii 3R's school improvement fund under section
18 302A-1502.4;
- 19 (32) After-school plus program revolving fund under section
20 302A-1149.5;



1 (33) Civil monetary penalty special fund under section
2 321-30.2; and
3 [+] (34) [+] Stadium development special fund under section
4 109-3.5,
5 shall deduct five per cent of all receipts of all other special
6 funds, which deduction shall be transferred to the general fund
7 of the 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 3. 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) Special out-of-school time instructional program fund
2 under section 302A-1310;
- 3 (2) School cafeteria special funds of the department of
4 education;
- 5 (3) Special funds of the University of Hawaii;
- 6 (4) Special funds established by section 206E-6;
- 7 (5) Aloha Tower fund created by section 206J-17;
- 8 (6) Funds of the employees' retirement system created by
9 section 88-109;
- 10 (7) Hawaii hurricane relief fund established under chapter
11 431P;
- 12 (8) Convention center enterprise special fund established
13 under section 201B-8;
- 14 (9) Hawaii health systems corporation special funds and
15 the subaccounts of its regional system boards;
- 16 (10) Universal service fund established under section
17 269-42;
- 18 (11) Emergency and budget reserve fund under section
19 328L-3;
- 20 (12) Public schools special fees and charges fund under
21 section 302A-1130;



- 1 (13) Sport fish special fund under section 187A-9.5;
- 2 (14) Neurotrauma special fund under section 321H-4;
- 3 (15) Center for nursing special fund under section
4 304A-2163;
- 5 (16) Passenger facility charge special fund established by
6 section 261-5.5;
- 7 (17) Court interpreting services revolving fund under
8 section 607-1.5;
- 9 (18) Trauma system special fund under section 321-22.5;
- 10 (19) Hawaii cancer research special fund;
- 11 (20) Community health centers special fund;
- 12 (21) Emergency medical services special fund;
- 13 (22) Rental motor vehicle customer facility charge special
14 fund established under section 261-5.6;
- 15 (23) Shared services technology special fund under section
16 27-43;
- 17 (24) Nursing facility sustainability program special fund
18 established [~~pursuant to~~] under section 346F-4;
- 19 (25) Automated victim information and notification system
20 special fund established under section 353-136;



1 (26) Hospital sustainability program special fund under
2 section 346G-4;

3 (27) Civil monetary penalty special fund under section
4 321-30.2; and

5 [+] (28) [+] Stadium development special fund under section
6 109-3.5,

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

10 SECTION 4. Section 237-24.7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237-24.7 Additional amounts not taxable.** In addition to
13 the amounts not taxable under section 237-24, this chapter shall
14 not apply to:

15 (1) Amounts received by the operator of a hotel from the
16 owner of the hotel or from a time share association,
17 and amounts received by the suboperator of a hotel
18 from the owner of the hotel, from a time share
19 association, or from the operator of the hotel, in
20 amounts equal to and which are disbursed by the
21 operator or suboperator for employee wages, salaries,



1 payroll taxes, insurance premiums, and benefits,
2 including retirement, vacation, sick pay, and health
3 benefits. As used in this paragraph:

4 "Employee" means employees directly engaged in
5 the day-to-day operation of the hotel and employed by
6 the operator or suboperator.

7 "Hotel" means an operation as defined in section
8 445-90 or a time share plan as defined in section
9 514E-1.

10 "Operator" means any person who, pursuant to a
11 written contract with the owner of a hotel or time
12 share association, operates or manages the hotel for
13 the owner or time share association.

14 "Owner" means the fee owner or lessee under a
15 recorded lease of a hotel.

16 "Suboperator" means any person who, pursuant to a
17 written contract with the operator, operates or
18 manages the hotel as a subcontractor of the operator.

19 "Time share association" means an "association"
20 as that term is defined in section 514E-1;



1 (2) Amounts received by the operator of a county
2 transportation system operated under an operating
3 contract with a political subdivision, where the
4 political subdivision is the owner of the county
5 transportation system. As used in this paragraph:

6 "County transportation system" means a mass
7 transit system of motorized buses providing regularly
8 scheduled transportation within a county.

9 "Operating contract" or "contract" means a
10 contract to operate and manage a political
11 subdivision's county transportation system, which
12 provides that:

13 (A) The political subdivision shall exercise
14 substantial control over all aspects of the
15 operator's operation;

16 (B) The political subdivision controls the
17 development of transit policy, service
18 planning, routes, and fares; and

19 (C) The operator develops in advance a draft
20 budget in the same format as prescribed for
21 agencies of the political subdivision. The



1 budget must be subject to the same
2 constraints and controls regarding the
3 lawful expenditure of public funds as any
4 public sector agency, and deviations from
5 the budget must be subject to approval by
6 the appropriate political subdivision
7 officials involved in the budgetary process.

8 "Operator" means any person who, pursuant to an
9 operating contract with a political subdivision,
10 operates or manages a county transportation system.

11 "Owner" means a political subdivision that owns
12 or is the lessee of all the properties and facilities
13 of the county transportation system (including buses,
14 real estate, parking garages, fuel pumps, maintenance
15 equipment, office supplies, etc.), and that owns all
16 revenues derived therefrom;

- 17 (3) Surcharge taxes on rental motor vehicles imposed by
18 chapter 251 and passed on and collected by persons
19 holding certificates of registration under that
20 chapter;



1 (4) Amounts received by the operator of orchard properties
2 from the owner of the orchard property in amounts
3 equal to and which are disbursed by the operator for
4 employee wages, salaries, payroll taxes, insurance
5 premiums, and benefits, including retirement,
6 vacation, sick pay, and health benefits. As used in
7 this paragraph:

8 "Employee" means an employee directly engaged in
9 the day-to-day operations of the orchard properties
10 and employed by the operator.

11 "Operator" means a producer who, pursuant to a
12 written contract with the owner of the orchard
13 property, operates or manages the orchard property for
14 the owner where the property contains an area
15 sufficient to make the undertaking economically
16 feasible.

17 "Orchard property" means any real property that
18 is used to raise trees with a production life cycle of
19 fifteen years or more producing fruits or nuts having
20 a normal period of development from the initial



1 planting to the first commercially saleable harvest of
2 not less than three years.

3 "Owner" means a fee owner or lessee under a
4 recorded lease of orchard property;

5 ~~[(5) Taxes on nursing facility income imposed by chapter~~
6 ~~346E and passed on and collected by operators of~~
7 ~~nursing facilities;~~

8 ~~(6)]~~ (5) Amounts received under property and casualty
9 insurance policies for damage or loss of inventory
10 used in the conduct of a trade or business located
11 within the State or a portion thereof that is declared
12 a natural disaster area by the governor pursuant to
13 section 209-2;

14 ~~[(7)]~~ (6) Amounts received as compensation by community
15 organizations, school booster clubs, and nonprofit
16 organizations under a contract with the chief election
17 officer for the provision and compensation of precinct
18 officials and other election-related personnel,
19 services, and activities, pursuant to section 11-5;

20 ~~[(8)]~~ (7) Interest received by a person domiciled outside
21 the State from a trust company (as defined in section



1 412:8-101) acting as payment agent or trustee on
2 behalf of the issuer or payees of an interest bearing
3 instrument or obligation, if the interest would not
4 have been subject to tax under this chapter if paid
5 directly to the person domiciled outside the State
6 without the use of a paying agent or trustee; provided
7 that if the interest would otherwise be taxable under
8 this chapter if paid directly to the person domiciled
9 outside the State, it shall not be exempt solely
10 because of the use of a Hawaii trust company as a
11 paying agent or trustee;

12 [~~9~~] (8) Amounts received by a management company from
13 related entities engaged in the business of selling
14 interstate or foreign common carrier
15 telecommunications services in amounts equal to and
16 which are disbursed by the management company for
17 employee wages, salaries, payroll taxes, insurance
18 premiums, and benefits, including retirement,
19 vacation, sick pay, and health benefits. As used in
20 this paragraph:



1 "Employee" means employees directly engaged in
2 the day-to-day operation of related entities engaged
3 in the business of selling interstate or foreign
4 common carrier telecommunications services and
5 employed by the management company.

6 "Management company" means any person who,
7 pursuant to a written contract with a related entity
8 engaged in the business of selling interstate or
9 foreign common carrier telecommunications services,
10 provides managerial or operational services to that
11 entity.

12 "Related entities" means:

- 13 (A) An affiliated group of corporations within
14 the meaning of section 1504 (with respect to
15 affiliated group defined) of the federal
16 Internal Revenue Code of 1986, as amended;
- 17 (B) A controlled group of corporations within
18 the meaning of section 1563 (with respect to
19 definitions and special rules) of the
20 federal Internal Revenue Code of 1986, as
21 amended;



1 (C) Those entities connected through ownership
2 of at least eighty per cent of the total
3 value and at least eighty per cent of the
4 total voting power of each such entity (or
5 combination thereof), including
6 partnerships, associations, trusts, S
7 corporations, nonprofit corporations,
8 limited liability partnerships, or limited
9 liability companies; and

10 (D) Any group or combination of the entities
11 described in paragraph (C) constituting a
12 unitary business for income tax purposes;
13 whether or not the entity is located within or without
14 the State or licensed under this chapter; and

15 [~~(10)~~] (9) Amounts received as grants under section
16 206M-15."

17 SECTION 5. Section 346D-4.5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) There may be established a monthly needs allowance
20 for individuals living in:



- 1 (1) Adult residential care home type I and type II
- 2 facilities;
- 3 (2) Licensed developmental disabilities domiciliary homes
- 4 as defined in section 321-15.9;
- 5 (3) Community care foster family homes as defined in
- 6 section 321-481;
- 7 (4) Certified adult foster homes as defined in section
- 8 321-11.2;
- 9 (5) Domiciliary care as defined in section 346-1;
- 10 (6) A nursing facility [~~as defined in section 346E-1~~]; or
- 11 (7) A community-based residence as part of the residential
- 12 alternatives community care program."

13 SECTION 6. Section 346F-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§346F-2[+] Findings and declaration of necessity. It
16 is the intent of the legislature to establish a special fund
17 within the state treasury to receive revenue from the imposition
18 of a nursing facility sustainability fee to be administered by
19 the department, which shall use the revenue from the fee and
20 associated federal medicaid matching funds exclusively to make



1 payments to nursing facilities and for other purposes as set
2 forth in this chapter."

3 SECTION 7. Section 346F-4, Hawaii Revised Statutes, is
4 amended by amending subsections (b) through (d) to read as
5 follows:

6 "(b) Moneys in the special fund shall consist of:

7 (1) All revenues collected or received by the department
8 from the nursing facility sustainability fee as
9 required by this chapter;

10 [~~2~~] ~~All federal medicaid funds received by the department~~
11 ~~as a result of matching expenditures made with the~~
12 ~~nursing facility sustainability fees;~~

13 [~~3~~] (2) Any interest or penalties levied in conjunction
14 with the administration of this chapter; and

15 [~~4~~] (3) Any designated appropriations, federal funds,
16 donations, gifts, or moneys from any other sources.

17 (c) Revenue from the nursing facility sustainability fee
18 shall be used exclusively as follows:

19 (1) No less than eighty-eight per cent of the revenue from
20 the nursing facility sustainability fee shall be used
21 for one or more of the following:



1 (A) To match federal medicaid funds, with the
2 combined total to be used to enhance capitated
3 rates to medicaid managed care health plans for
4 the purpose of increasing medicaid payments to
5 private nursing facilities to support the
6 availability of services and ensure access to
7 care for the medicaid managed care health plan
8 enrollees; or

9 (B) To match federal medicaid funds, with the
10 combined total to enhance capitated rates for the
11 purpose of paying quality incentives; and

12 (2) Twelve per cent of the revenue from the nursing
13 facility sustainability fee may be used by the
14 department for other departmental purposes[, and

15 ~~(3) All moneys remaining in the special fund on June 30,~~
16 ~~2024, shall be distributed to nursing facilities~~
17 ~~within thirty days in the same proportions as received~~
18 ~~from the nursing facilities].~~

19 (d) The department shall utilize federal funds derived
20 from state long-term care facility certified expenditures to
21 make [supplemental] payments to state long-term care facilities



1 to the extent permitted by federal law. The department may
2 receive intergovernmental transfers from the state long-term
3 care facilities to support [~~direct supplemental~~] payments and
4 increased capitation rates to health plans for the benefit of
5 the state long-term care facilities. During any period in which
6 the nursing facility sustainability fee is in effect, certified
7 expenditures of state long-term care facilities shall not be
8 used to make or support [~~direct~~] payments to private nursing
9 facilities."

10 SECTION 8. Section 346F-5, Hawaii Revised Statutes, is
11 amended by amending subsections (b) through (d) to read as
12 follows:

13 "(b) The nursing [+]facility[+] sustainability fee shall
14 be based on the [~~net patient service revenue~~] total resident
15 days of all nursing facilities that are subject to the
16 sustainability fee, as determined by the department.

17 (c) The nursing facility sustainability fee shall not
18 exceed [~~5.5~~] six per cent of overall net patient service revenue
19 and shall be calculated and paid on a per resident day basis,
20 unless the facility qualifies for an exemption identified in
21 subsection (d) (1). The facilities described in subsection



1 (d) (2) shall pay a reduced daily fee compared to other
2 facilities participating in the program.

3 (d) In accordance with the redistribution method set forth
4 in title 42 Code of Federal Regulations section 433.68(e)(1) and
5 (2), the department shall seek a waiver of the broad-based and
6 uniformity provider fee requirements under federal law from
7 which to exclude certain nursing facilities and to permit
8 certain high volume medicaid nursing facilities or facilities
9 with a high number of total annual patient days to pay the
10 sustainability fee at a lesser amount per resident day, as
11 follows:

12 (1) The department shall exempt the following nursing
13 facility providers from the nursing facility
14 sustainability fee subject to federal approval under
15 title 42 Code of Federal Regulations section
16 433.68(e)(2):

17 (A) Nursing facilities with twenty-eight or fewer
18 licensed beds;

19 (B) Nursing facilities owned, operated by, or
20 affiliated with the Hawaii health systems
21 corporation; and



- 1 (C) Continuing care retirement communities.
- 2 (2) The department shall reduce the fee for [~~high volume~~
3 ~~medicaid nursing facilities or facilities with high~~
4 ~~patient volumes~~] facilities with high medicaid
5 resident days in order to meet the redistributive
6 tests of title 42 Code of Federal Regulations section
7 433.68(e)(2).
- 8 (3) The department, [~~with agreement by~~] upon good faith
9 consultation and negotiation with the nursing facility
10 trade [~~associations~~] association located in Hawaii,
11 may modify, add to, or [~~reduce the categories of~~]
12 exclude the facilities exempt from or subject to the
13 assessment if necessary to obtain and maintain
14 approval of the waiver by the Centers for Medicare and
15 Medicaid Services, if the modification is consistent
16 with the purposes of this chapter."

17 SECTION 9. Section 346F-6, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) The department shall collect and each nursing
20 facility shall pay [~~in twelve equal installments~~], if so
21 required and on a monthly basis, the nursing facility



1 sustainability fee [~~in section 346F-5 on a monthly basis,~~
2 ~~subject to the terms of this section. The fee shall be due~~
3 ~~within sixty days after the end of each month, with the initial~~
4 ~~payment due on the later of July 31, 2012, or forty five days~~
5 ~~after the required federal approvals for the assessment and any~~
6 ~~increase in health plan capitation payments have been secured~~
7 ~~from the Centers for Medicare and Medicaid Services.] no later
8 than the sixtieth day after the end of each calendar month;
9 provided that, if required federal approvals have not been
10 secured by the end of a calendar month, the fees for that month
11 shall be paid within ten days after the notification to the
12 nursing facilities that the required approvals have been
13 received."~~

14 SECTION 10. Section 346F-9, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) If a nursing facility fails to pay the full amount of
17 the nursing facility sustainability fee when due, there shall be
18 added to the fee, unless waived by the department for reasonable
19 cause, a penalty equal to two per cent of the fee that was not
20 paid when due. Any subsequent payments shall be credited first
21 to unpaid fee amounts [~~rather than to penalty or interest~~



1 ~~amounts,~~] beginning with the most delinquent installment[~~-~~]
2 rather than to penalty or interest amounts."

3 SECTION 11. Section 346F-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§346F-10 Enhanced rates to medicaid managed care health**
6 **plans.** (a) In accordance with title 42 Code of Federal
7 Regulations part 438, the department shall use revenues from the
8 nursing facility sustainability fee and federal matching funds
9 to enhance the capitated rates paid to medicaid managed care
10 health plans [~~for the period of July 1 through December 31,~~
11 ~~2021, and calendar years 2022 and 2023,~~] consistent with the
12 following objectives:

13 [~~(1) The rate enhancement shall be used exclusively for~~
14 ~~increasing reimbursements to private nursing~~
15 ~~facilities to support the availability of services and~~
16 ~~to ensure access to care to the medicaid managed care~~
17 ~~health plan enrollees,~~]

18 (1) The department shall use moneys from the nursing
19 facility sustainability program solely to fulfill the
20 requirements of section 346F-4(c);



- 1 (2) The rate enhancement shall be [~~made part of the~~
2 ~~monthly capitated rates~~] paid by the department to
3 medicaid managed care health plans, which shall
4 provide documentation to the department and the
5 nursing facility trade association located in Hawaii
6 certifying that the revenues received under paragraph
7 [~~(1)~~] (3) are used in accordance with this section;
- 8 (3) The rate enhancement shall be used exclusively to
9 increase reimbursements to private nursing facilities
10 to support the availability of services and to ensure
11 access to care for medicaid managed care health plan
12 enrollees;
- 13 [~~(3)~~] (4) The rate enhancement shall be actuarially sound
14 and approved by the federal government for federal
15 fund participation;
- 16 [~~(4)~~] (5) The department shall modify the fee-for-service
17 reimbursement rates of the nursing facilities to
18 recognize the medicaid portion of the nursing facility
19 sustainability fee as an additional cost of serving
20 medicaid patients, and to provide a uniform percentage
21 increase in preexisting facility-specific rates; [~~and~~]



1 ~~[(+5)]~~ (6) Payments made by the medicaid managed care health
2 plans shall be made within thirty calendar days upon
3 receipt of ~~[monthly capitation rates]~~ payment from the
4 department ~~[-]~~; and

5 (7) Each managed health care plan shall expend one hundred
6 per cent of any increased payments it receives under
7 this section to carry out the goals of the nursing
8 facility sustainability program.

9 (b) If federal approval pursuant to section 346F-7 is not
10 received until after the end of any month for which the nursing
11 facility sustainability fee is applicable, the department shall
12 make the initial monthly payments within five days after receipt
13 of the nursing facility sustainability fee for the respective
14 month.

15 (c) To the extent the nursing facility sustainability
16 program is not effective for the entire year, the nursing
17 facility sustainability fee, the state medicaid expenses and
18 administrative fee, and the corresponding payments to fulfill
19 the requirements of section 346F-4(c) shall be based on the
20 proportion of the fiscal year the program is in effect."



1 SECTION 12. Section 346F-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§346F-13 Termination.** (a) Collection of the nursing
4 facility sustainability fee under section 346F-5 shall be
5 discontinued if:

- 6 (1) The waiver in section 346F-7 or the enhanced
7 capitation rates in section 346F-10 have not been
8 approved by the Centers for Medicare and Medicaid
9 Services;
- 10 (2) The department reduces [~~funding for nursing facility~~
11 ~~services below the state appropriation in effect on~~
12 ~~June 30, 2021;~~] reimbursement rates for private
13 nursing facility services to medicaid patients with
14 the intention of using the sustainability funds to
15 supplant the planned or permanent reduction in rates;
- 16 (3) The department or any other state agency uses the
17 money in the special fund for any use other than the
18 uses permitted pursuant to this chapter; or
- 19 (4) Federal financial participation to match the nursing
20 facility sustainability fee becomes unavailable under
21 federal law. In such case, the department shall



1 terminate the collection of the fee beginning on the
2 effective date of the federal statutory, regulatory,
3 or interpretive change.

4 (b) If [~~collection of~~] the nursing facility sustainability
5 fee is discontinued [~~as provided in this section~~], any
6 [~~remaining~~] money remaining in the nursing facility
7 sustainability program special fund shall be [~~returned~~]
8 distributed to the nursing facilities [~~from which the fee was~~
9 ~~collected~~] within [~~thirty days~~] six months of the date of
10 discontinuation in the same proportions as received from the
11 nursing facilities."

12 SECTION 13. Chapter 346E, Hawaii Revised Statutes, is
13 repealed.

14 SECTION 14. Act 156, Session Laws of Hawaii 2012, as
15 amended by section 3 of Act 142, Session Laws of Hawaii 2013, as
16 amended by section 2 of Act 124, Session Laws of Hawaii 2014, as
17 amended by section 2 of Act 69, Session Laws of Hawaii 2015, as
18 amended by section 2 of Act 59, Session Laws of Hawaii 2016, as
19 amended by section 5 of Act 60, Session Laws of Hawaii 2017, as
20 amended by section 6 of Act 163, Session Laws of Hawaii 2019, as



1 amended by section 7 of Act 24, Session Laws of Hawaii 2021, is
2 amended by amending section 5 to read as follows:

3 "SECTION 5. This Act shall take effect on July 1, 2012[~~7~~
4 ~~and shall be repealed on December 31, 2023; provided that~~
5 ~~section 4, Hawaii Revised Statutes, established by section 2~~
6 ~~of this Act, and the amendment made to section 36-30(a), Hawaii~~
7 ~~Revised Statutes, in section 3 of this Act, shall be repealed on~~
8 ~~June 30, 2024]."~~

9 SECTION 15. Act 124, Session Laws of Hawaii 2014, as
10 amended by section 3 of Act 69, Session Laws of Hawaii 2015, as
11 amended by section 3 of Act 59, Session Laws of Hawaii 2016, as
12 amended by section 6 of Act 60, Session Laws of Hawaii 2017, as
13 amended by section 7 of Act 163, Session Laws of Hawaii 2019, as
14 amended by section 8 of Act 24, Session Laws of Hawaii 2021, is
15 amended by amending section 7 to read as follows:

16 "SECTION 7. This Act shall take effect on June 29, 2014[~~7~~
17 ~~provided that~~]

18 ~~(1) Section 5 shall take effect on July 1, 2014; and~~
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 be repealed on June 30, 2024]."~~



1 SECTION 16. There is appropriated out of the nursing
2 facility sustainability program special fund the sum of
3 \$24,000,000 or so much thereof as may be necessary for fiscal
4 year 2023-2024 and the same sum or so much thereof as may be
5 necessary for fiscal year 2024-2025 for purposes consistent with
6 section 346F-4, Hawaii Revised Statutes.

7 The sums appropriated shall be expended by the department
8 of human services for the purposes of this Act.

9 SECTION 17. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 18. This Act shall take effect on December 31,
12 2050.

13



Report Title:

Department of Human Services; Nursing Facility Sustainability Program; Special Fund; Nursing Facility Tax; Repeal; Appropriation

Description:

Makes permanent and amends the Nursing Facility Sustainability Program. Makes certain assessment exemptions permanent as to the Nursing Facility Sustainability Program Special Fund. Repeals chapter 346E, Hawaii Revised Statutes, relating to the Nursing Facility Tax. Appropriates funds from the Nursing Facility Sustainability Program Special Fund. Effective 12/31/2050. (SD1)

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

