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## A BILL FOR AN ACT

RELATING TO HEALTH CARE PROVIDER TAXES.

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

1           SECTION 1. In 1991, Congress passed the Medicaid Voluntary  
2 Contribution and Provider-Specific Tax Amendments that allowed  
3 states to implement provider tax programs to assist with  
4 medicaid funding. Approximately forty-three states impose  
5 provider assessments on at least one category of health care  
6 providers.

7           Act 315, Session Laws of Hawaii (SLH) 1993, established a  
8 hospital and nursing facility tax, and made amendments to a  
9 previously established medical services excise tax credit, which  
10 has since been repealed. Additionally, amendments were made to  
11 Act 315, SLH 1993, excluding hospitals from the provider  
12 assessment.

13           At least a portion of these assessments may qualify as  
14 matching funds to draw in federal moneys. Medicaid  
15 reimbursements often do not meet the cost of medical care, and  
16 all sources of medicaid funding should be maximized.

17           The purpose of this Act is to maximize federal medicaid  
18 funding by including hospitals in the provider assessment law



1 and reestablishing the medical services excise tax credit to  
2 offset the impact on taxpayers.

3 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§235- Medical services excise tax credit. (a) Each  
7 resident individual taxpayer who files an individual income tax  
8 return for a taxable year and who is not claimed or is not  
9 otherwise eligible to be claimed as a dependent by another  
10 taxpayer for Hawaii state individual income tax purposes, may  
11 claim a medical services excise tax credit against the resident  
12 taxpayer's individual income tax liability for the taxable year  
13 for which the individual income tax return is being filed;  
14 provided that a resident individual who has no income or income  
15 taxable under this chapter and who is not claimed or is not  
16 otherwise eligible to be claimed as a dependent by a taxpayer  
17 for Hawaii state individual income tax purposes may claim this  
18 credit.

19 (b) The medical services excise tax credit shall be six  
20 per cent of the nursing facilities expenses paid by or for the  
21 resident individual during the taxable year.



1       (c) The tax credits claimed by a resident taxpayer  
2 pursuant to this section shall be deductible from the resident  
3 taxpayer's individual income tax liability, if any, for the tax  
4 year in which they are properly claimed. If the tax credits  
5 claimed by a resident taxpayer exceed the amount of income tax  
6 payment due from the resident taxpayer, the excess of credits  
7 over payments due shall be refunded to the resident taxpayer;  
8 provided that tax credits properly claimed by a resident  
9 individual who has no income tax liability shall be paid to the  
10 resident individual; and provided further that no refunds or  
11 payment on account of the tax credits allowed by this section  
12 shall be made for amounts less than \$1.

13       (d) The director of taxation shall prepare such forms as  
14 may be necessary to claim a credit under this section. The  
15 director may also require the taxpayer to furnish reasonable  
16 information so that the director may ascertain the validity of  
17 the claim for credit made under this section pursuant to chapter  
18 91.

19       (e) All claims for tax credits under this section,  
20 including any amended claims, shall be filed on or before the  
21 end of the twelfth month following the close of the taxable year  
22 for which the credits may be claimed. Failure to comply with



1 the foregoing provision shall constitute a waiver of the right  
2 to claim the credit.

3 (f) For the purposes of this section, "nursing facility  
4 expenses" are amounts actually paid by the taxpayer for services  
5 provided to the taxpayer or to any individual who bears a  
6 relationship to the taxpayer as described in Section 152(a)  
7 (with respect to dependent defined) of the Internal Revenue Code  
8 by a nursing facility licensed under sections 321-9 and 321-11  
9 and any intermediate care facility for mentally retarded persons  
10 under sections 321-9 and 321-11; provided that the nursing  
11 facility expense was subject to the imposition and payment of  
12 the tax imposed by chapter 346E.

13 The amount of nursing facility expenses paid during the  
14 taxable year shall not be reduced by any insurance  
15 reimbursement."

16 SECTION 3. Chapter 346E, Hawaii Revised Statutes, is  
17 amended by amending its title to read as follows:

18 "[~~f~~]CHAPTER 346E[~~+~~]"

19 **HOSPITAL AND NURSING FACILITY TAX**

20 SECTION 4. Chapter 346E, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:



1        "§346E-        Health care revolving fund.    The department  
2 shall collect the hospital and nursing facility tax and pay all  
3 tax revenues into the state general fund for deposit into the  
4 health care revolving fund which is hereby created in the state  
5 treasury. Amounts deposited in the health care revolving fund,  
6 and any interest earned on these amounts, shall be used only for  
7 section 346-14 medicaid purposes. Any federal medicaid matching  
8 funds to expenditures made from the funds deposited in the  
9 health care revolving fund shall not become part of the health  
10 care revolving fund. The funds in the health care revolving  
11 fund shall be expended by the department."

12        SECTION 5. Section 346E-1, Hawaii Revised Statutes, is  
13 amended by adding two new definitions to be appropriately  
14 inserted and to read as follows:

15        "Hospital" means a hospital licensed under section  
16 321-14.5, including state and state/county hospitals.

17        "Hospital income" means the total compensation received for  
18 furnishing inpatient or outpatient hospital services, including  
19 all receipts from "ancillary services" (as defined in 42 C.F.R.  
20 413.53(b)) to the provision of inpatient and outpatient  
21 services, and receipts from items supplied in connection with  
22 these services. Hospital income also includes compensation for



1 patients who are on a waiting list to be transferred to a  
2 nursing facility or in acute care "swing beds." "Hospital  
3 income" shall not include:

4       (1) Compensation received for services covered by Title  
5           XVIII of the federal Social Security Act (including  
6           coinsurance and deductibles received from  
7           beneficiaries of the medicare program and medicare  
8           health maintenance organization or risk sharing  
9           contracts);

10       (2) Income from an affiliated entity that operates as a  
11           prepaid health maintenance organization;

12       (3) Settlements from third party payors for services  
13           delivered or items supplied prior to the effective  
14           date of this Act (such as settlements of cost reports  
15           or decision on rate reconsideration requests);

16       (4) Income from services provided by separately licensed  
17           units (such as distinct part nursing facilities within  
18           hospitals);

19       (5) Income from grants, bequests, donations, endowments,  
20           or investments;



- 1        (6) Income from "nonexempt hospital activities" as defined
- 2        in section 237-23(b) (such as income from leased
- 3        property or from parking lots); or
- 4        (7) Amounts of taxes imposed by chapter 237 or this
- 5        chapter and passed on, collected, and received from
- 6        the consumer as part of hospital income."

7        SECTION 6. Section 346E-2, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9        "**§346E-2 Imposition of tax and rates.** (a) There is  
 10 levied and shall be assessed and collected during each quarter a  
 11 tax in the amount of six per cent of all nursing facility  
 12 income.

13        (b) There is levied and shall be assessed and collected  
 14 during each quarter a tax in the amount of four per cent of all  
 15 hospital income, except for income subject to taxes imposed by  
 16 chapter 237.

17        ~~[(b)]~~ (c) Each nursing facility operator shall pay to the  
 18 State the tax imposed by this section as provided by this  
 19 chapter.

20        ~~[(e)]~~ (d) The tax imposed by this section shall not apply  
 21 to an individual facility determined by the department to be  
 22 financially distressed, pursuant to the rulemaking authority



1 authorized by this chapter; provided that this exemption does  
2 not cause the tax to fail to qualify as permissible under  
3 section 1903(w) of the federal Social Security Act.

4 ~~(d)~~(e) Each operator of a nursing facility shall  
5 identify separately the tax imposed by this section in all  
6 invoices or statements to persons whose payments result in  
7 nursing facility income. Notwithstanding the foregoing, the  
8 amount that a beneficiary of the medicaid program is required to  
9 contribute toward his or her care shall not be changed as a  
10 result of the tax imposed by this section.

11 ~~(e)~~(f) The taxes imposed by this section shall terminate  
12 at the end of the month following the time at which the taxes no  
13 longer qualify as permissible under section 1903(w) of the  
14 federal Social Security Act~~[, but not before July 1, 1997].~~"

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

17 SECTION 8. This Act shall take effect on July 1, 2009, and  
18 section 2 shall apply to taxable years beginning after  
19 December 31, 2009.

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INTRODUCED BY: Marilyn B. Lee

JAN 28 2009





**Report Title:**

Hospital and Nursing Facility Tax; Medical Services Excise Tax Credit

**Description:**

Includes hospitals in health care provider assessments.  
Reestablishes the Medical Services Excise Tax Credit and Health Care Revolving Fund.

