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SYNOPSIS:

Currently, privately operated hospitals in this state provide funding for the Medicaid Agency through a provider privilege tax. This tax will end on September 30, 2028.

This bill would remove the sunset clause and make the hospital provider privilege tax permanent.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the hospital provider privilege tax; to amend Sections 40-26B-71, 40-26B-73, 40-26B-77.1, 40-26B-79, 40-26B-80, 40-26B-81, 40-26B-82, 40-26B-84, and 40-26B-88, Code of Alabama 1975, as last amended by Act 2025-371, 2025 Regular Session; to make the hospital provider privilege tax permanent.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-26B-71, 40-26B-73, 40-26B-77.1, 40-26B-79, 40-26B-80, 40-26B-81, 40-26B-82, 40-26B-84, and 40-26B-88, Code of Alabama 1975, as last amended by Act 2025-371, 2025 Regular Session, are amended as follows:

"§40-26B-71



29 (a) ~~For state fiscal years 2026, 2027, and 2028, an~~An  
30 assessment is imposed on each privately operated hospital in  
31 the amount of 6.00 percent of net patient revenue. For state  
32 fiscal year 2026, the determination of net patient revenue  
33 shall be based on the cost report for~~in~~ fiscal year 2023,  
34 ~~which shall be reviewed~~ and hospital cost reports shall be  
35 reviewed and updated annually, subject to limitations in this  
36 article on the use of funds in the Hospital Assessment  
37 Account. The assessment is a cost of doing business as a  
38 privately operated hospital in the State of Alabama. Annually,  
39 the Medicaid Agency shall make a determination of whether  
40 changes in federal law or regulation have adversely affected  
41 hospital Medicaid reimbursement during the most recently  
42 completed fiscal year, or a reduction in payment rates has  
43 occurred. If the agency determines that adverse impact to  
44 hospital Medicaid reimbursement has occurred, or will occur,  
45 the agency shall report its findings to the Chair of the House  
46 Ways and Means General Fund Committee who shall propose an  
47 amendment to this article during any legislative session prior  
48 to the start of the upcoming fiscal year from the year the  
49 report was made, to address the adverse impact. The assessment  
50 imposed on each private hospital under this section shall be  
51 reduced pro rata, if the total disproportionate share  
52 allotment for all hospitals is reduced before or during the  
53 ~~2028~~current fiscal year, as a result of any action by the  
54 Medicaid Agency or the Centers for Medicare and Medicaid  
55 Services, and only to the extent that the Hospital Assessment  
56 Account is more than necessary to fund some or all hospital



57 payments under this article.

58 (b) (1) ~~For state fiscal years 2026, 2027, and 2028,~~  
59 ~~net~~Net patient revenue shall be determined using the data from  
60 each private hospital's ~~fiscal year ending 2023, 2024, or 2025~~  
61 Medicare Cost Report contained in the Centers for Medicare and  
62 Medicaid Services' Healthcare Cost Report Information System,  
63 which shall be reviewed and the hospital cost reports updated  
64 annually subject to limitations in this article on the use of  
65 funds in the Hospital Assessment Account. The Medicare Cost  
66 Report for 2023, 2024, and 2025 for each private hospital,  
67 ~~which shall be reviewed and updated annually,~~ shall be used  
68 for fiscal years 2026, 2027, and 2028, respectively, and this  
69 schedule shall be carried forward in like manner for future  
70 years. If the Medicare Cost Report is not available in the  
71 Centers for Medicare and Medicaid Services' Healthcare Cost  
72 Report Information System, the hospital shall submit a copy to  
73 the department to determine the hospital's net patient revenue  
74 for the most recent fiscal year.

75 (2) If a privately operated hospital commenced  
76 operations after the due date for a ~~2023~~ Medicare Cost Report  
77 as provided in subsection (b) (1), the hospital shall submit  
78 its most recent Medicare Cost Report to the department in  
79 order to allow the department to determine the hospital's net  
80 patient revenue.

81 (c) This article does not authorize a unit of county or  
82 local government to license for revenue or impose a tax or  
83 assessment upon hospitals or a tax or assessment measured by  
84 the income or earnings of a hospital."



85 "§40-26B-73

86 (a) (1) There is created within the Health Care Trust  
87 Fund referenced in Article 3 of Chapter 6 of Title 22 a  
88 designated account known as the Hospital Assessment Account.

89 (2) The hospital assessments imposed under this article  
90 shall be deposited into the Hospital Assessment Account.

91 (b) Monies in the Hospital Assessment Account shall  
92 consist of:

93 (1) All monies collected or received by the department  
94 from privately operated hospital assessments imposed under  
95 this article;

96 (2) Any interest or penalties levied in conjunction  
97 with the administration of this article; and

98 (3) Any appropriations, transfers, donations, gifts, or  
99 monies from other sources, as applicable.

100 (c) The Hospital Assessment Account shall be separate  
101 and distinct from the State General Fund and shall be  
102 supplementary to the Health Care Trust Fund.

103 (d) Monies in the Hospital Assessment Account shall not  
104 be used to replace other general revenues appropriated and  
105 funded by the Legislature or other revenues used to support  
106 Medicaid.

107 (e) The Hospital Assessment Account shall be exempt  
108 from budgetary cuts, reductions, or eliminations caused by a  
109 deficiency of State General Fund revenues to the extent  
110 permissible under Section 213 of the Constitution of Alabama  
111 of 2022.

112 (f) (1) Except as necessary to reimburse any funds



113 borrowed to supplement funds in the Hospital Assessment  
114 Account, the monies in the Hospital Assessment Account shall  
115 be used only as follows:

116 a. To make public, private, and state inpatient and  
117 outpatient hospital payments.

118 b. To reimburse monies collected by the department from  
119 hospitals through error or mistake or under this article.

120 (2)a. The Hospital Assessment Account shall retain  
121 account balances remaining each fiscal year.

122 b. On September 30, 2014, and each year thereafter, any  
123 positive balance remaining in the Hospital Assessment Account  
124 which was not used by the Medicaid Agency to obtain federal  
125 matching funds and paid out for hospital payments, shall be  
126 factored into the calculation of any new assessment rate by  
127 reducing the amount of hospital assessment funds that must be  
128 generated during the next fiscal year. The Medicaid Agency may  
129 carry over a balance of unspent assessment funds not  
130 considered in the previous sentence and not to exceed  
131 one-third of the total current year's assessment, ~~through~~  
132 ~~fiscal year 2028~~ to account for future variations in hospital  
133 expenses and federal match rates in the upcoming fiscal year.  
134 If there is no ~~new~~ assessment ~~beginning October 1, 2028~~, the  
135 funds remaining shall be refunded to the hospital that paid  
136 the assessment or made an intergovernmental transfer in  
137 proportion to the amount remaining.

138 (3) A privately operated hospital shall not be  
139 guaranteed that its inpatient and outpatient hospital payments  
140 will equal or exceed the amount of its hospital assessment."



141           "§40-26B-77.1

142           (a) ~~Beginning on October 1, 2016, and ending on~~  
143 ~~September 30, 2028, publicly~~Publicly owned and state-owned  
144 hospitals shall ~~begin making~~make intergovernmental transfers  
145 to the Alabama Medicaid Agency. Total IGTs for the total  
146 intergovernmental transfers shall equal the amount of state  
147 funds necessary for the agency to obtain only those federal  
148 matching funds necessary to pay publicly owned and state-owned  
149 hospitals for hospital payments.

150           (b) These intergovernmental transfers shall be made in  
151 compliance with 42 U.S.C. § 1396b(w).

152           (c) If a publicly or state-owned hospital commences  
153 operations after October 1, 2013, the hospital shall commence  
154 making intergovernmental transfers to the Alabama Medicaid  
155 Agency in the first full month of operation of the hospital  
156 after October 1, 2013."

157           "§40-26B-79

158           The agency shall pay hospitals, as a base amount~~for~~  
159 ~~fiscal years 2026, 2027, and 2028~~, the greater of a hospital's  
160 current per diem as published for fiscal year 2022 or 68  
161 percent of total inpatient payments made by the agency during  
162 state fiscal year 2019, divided by the total patient days paid  
163 in state fiscal year 2019, multiplied by patient days paid  
164 during the current fiscal year~~fiscal years 2026, 2027, and~~  
165 ~~2028~~. A hospital may request to have their per diem reviewed  
166 and revised at the sole discretion of the Medicaid Agency.  
167 This payment to be paid using the agency's published check  
168 write table is in addition to any hospital access payments the



169 agency may elect to pay hospitals as inpatient payments other  
170 than per diems and access payments, if the agency does not  
171 make payments pursuant to Article 9 of Chapter 6 of Title 22  
172 in fiscal year 2019, or fiscal years 2026, ~~2027, and 2028~~ and  
173 thereafter, only if the Hospital Services and Reimbursement  
174 Panel approves the change in hospital payments."

175 "§40-26B-80

176 If the Alabama Medicaid Agency implements OPSS, the  
177 total amount budgeted (total base rate) for OPSS shall not be  
178 less than the total outpatient UPL.

179 The agency shall pay hospitals as a base amount ~~for~~  
180 ~~fiscal years 2026, 2027, and 2028~~ for outpatient services,  
181 based upon an outpatient fee schedule in existence on  
182 September 30, 2018. Medicaid may update the outpatient fee  
183 schedule with approval of the Hospital Services and  
184 Reimbursement Panel. Hospital outpatient base payments shall  
185 be in addition to any hospital access payments or other  
186 payments described in this article."

187 "§40-26B-81

188 (a) The agency shall consider the published inpatient  
189 and outpatient rates as defined in Sections 40-26B-79 and  
190 40-26B-80 as the minimum payment allowed.

191 (b) The aggregate hospital access payment amount is an  
192 amount equal to the upper payment limit, less total hospital  
193 base payments determined under this article. All publicly,  
194 state-owned, and privately operated hospitals shall be  
195 eligible for inpatient and outpatient hospital access payments  
196 ~~for fiscal years 2026, 2027, and 2028,~~ as set forth in this



197 article.

198 (1) In addition to any other funds paid to hospitals  
199 for inpatient hospital services to Medicaid patients, each  
200 eligible hospital shall receive inpatient hospital access  
201 payments each state fiscal year. Publicly and state-owned  
202 hospitals shall receive total payments, including hospital  
203 base payments, that, in the aggregate, equal the upper payment  
204 limit for publicly and state-owned hospitals, until the  
205 Hospital Assessment Account is exhausted. Privately operated  
206 hospitals shall receive total payments, including hospital  
207 base payments that, in the aggregate, equal the upper payment  
208 limit for privately operated hospitals, until the Hospital  
209 Assessment Account is exhausted. Any intergovernmental  
210 transfers and hospital provider taxes shall be used only as  
211 monies paid to hospitals.

212 (2) Inpatient hospital access payments shall be made on  
213 a quarterly basis.

214 (3) In addition to any other funds paid to hospitals  
215 for outpatient hospital services to Medicaid patients, each  
216 eligible hospital shall receive outpatient hospital access  
217 payments each state fiscal year. Publicly and state-owned  
218 hospitals shall receive payments, including hospital base  
219 payments, that, in the aggregate, equal the upper payment  
220 limit for publicly and state-owned hospitals, until the  
221 Hospital Assessment Account is exhausted. Privately operated  
222 hospitals shall receive payments, including hospital base  
223 payments, that, in the aggregate, equal the upper payment  
224 limit for privately operated hospitals, until the Hospital



225 Assessment Account is exhausted.

226 (4) Outpatient hospital access payments shall be made  
227 on a quarterly basis.

228 (c) A hospital access payment shall not be used to  
229 offset any other payment by the Medicaid Agency for hospital  
230 inpatient or outpatient services to Medicaid beneficiaries,  
231 including, without limitation, any fee-for-service, per diem,  
232 private or public hospital inpatient adjustment, or hospital  
233 cost settlement payment.

234 (d) The specific hospital payments for publicly,  
235 state-owned, and privately operated hospitals shall be  
236 described in the state plan amendment to be submitted to and  
237 approved by the Centers for Medicare and Medicaid Services."

238 "§40-26B-82

239 (a) The assessment imposed under this article shall not  
240 take effect or shall cease to be imposed and any monies  
241 remaining in the Hospital Assessment Account in the Alabama  
242 Medicaid Program Trust Fund shall be refunded to hospitals in  
243 proportion to the amounts paid by them if any of the following  
244 occur:

245 (1) Expenditures for hospital inpatient and outpatient  
246 services paid for by the Alabama Medicaid Program ~~for fiscal~~  
247 ~~years 2026, 2027, and 2028~~ for the current fiscal year are  
248 less than the amount paid during fiscal year 2017 or  
249 reimbursement rates under this article ~~for fiscal years 2026,~~  
250 ~~2027, and 2028~~ are less than the rates approved by CMS in  
251 Sections 40-26B-79 and 40-26B-80.

252 (2) The Alabama Medicaid Agency makes changes in rules



253 that reduce hospital inpatient payment rates, outpatient  
254 payment rates, or adjustment payments, including any cost  
255 settlement protocol, ~~which were in effect on September 30,~~  
256 ~~2025.~~

257 (3) The inpatient or outpatient hospital access  
258 payments required under this article are changed or the  
259 assessments imposed or certified public expenditures or  
260 intergovernmental transfers recognized under this article are  
261 not eligible for federal matching funds under Title XIX of the  
262 Social Security Act, 42 U.S.C. § 1396 et seq., or 42 U.S.C. §  
263 1397aa et seq.

264 (4) The Alabama Medicaid Agency contracts with an  
265 alternate care provider in a Medicaid region under any terms  
266 other than the following:

267 a. The agency may contract with an alternate care  
268 provider only if, in the judgment of the agency, care of  
269 Medicaid enrollees would be better, more efficient, and less  
270 costly than under the then existing care delivery system. The  
271 agency may contract with more than one alternate care provider  
272 in a Medicaid region.

273 b. If the agency were to contract with an alternate  
274 care provider under the terms of this subdivision, that  
275 provider would have to pay reimbursements for hospital  
276 inpatient or outpatient care at rates at least equal to the  
277 most recent published rates pursuant to Sections 40-26B-79 and  
278 40-26B-80.

279 c. If more than a year had elapsed since the agency  
280 directly paid reimbursements to hospitals, the minimum



281 reimbursement rates paid by the alternate care provider would  
282 have to be changed to reflect any percentage increase in the  
283 national medical consumer price index minus 100 basis points.

284 (b) (1) The assessment imposed under this article shall  
285 not take effect or shall cease to be imposed if the assessment  
286 is determined to be an impermissible tax under Title XIX of  
287 the Social Security Act, 42 U.S.C. § 1396 et seq.

288 (2) Monies in the Hospital Assessment Account in the  
289 Alabama Medicaid Program Trust Fund derived from assessments  
290 imposed before the determination described in subdivision (1)  
291 shall be disbursed under this article to the extent federal  
292 matching is not reduced due to the impermissibility of the  
293 assessments, and any remaining monies shall be refunded to  
294 hospitals in proportion to the amounts paid by them."

295 "§40-26B-84

296 This article shall be of no effect if federal financial  
297 participation under Title XIX of the Social Security Act is  
298 not available to the Medicaid Agency at the approved federal  
299 medical assistance percentage, established under Section 1905  
300 of the Social Security Act, now appearing as [42 U.S.C. §](#)  
301 ~~1369d, for the state fiscal years 2026, 2027, and 2028.~~"

302 Section 2. Section 40-26B-88, Code of Alabama 1975,  
303 relating to the termination of the Hospital Provider Privilege  
304 Tax, is repealed.

305 Section 3. This act shall become effective on October  
306 1, 2026.