

SB145 ENGROSSED



1 SB145
2 KHIM3UU-2
3 By Senator Albritton
4 RFD: Finance and Taxation General Fund
5 First Read: 14-Jan-26



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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

(a) ~~For state fiscal years 2026, 2027, and 2028, an~~An assessment is imposed on each privately operated hospital in the amount of 6.00 percent of net patient revenue. For state fiscal year 2026, the determination of net patient revenue shall be based on the cost report for~~in~~ fiscal year 2023, which shall be reviewed and hospital cost reports shall be reviewed and updated annually, subject to limitations in this article on the use of funds in the Hospital Assessment



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

50 (b) (1) ~~For state fiscal years 2026, 2027, and 2028,~~
51 ~~net~~Net patient revenue shall be determined using the data from
52 each private hospital's ~~fiscal year ending 2023, 2024, or 2025~~
53 Medicare Cost Report contained in the Centers for Medicare and
54 Medicaid Services' Healthcare Cost Report Information System,
55 which shall be reviewed and the hospital cost reports updated
56 annually subject to limitations in this article on the use of



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57 funds in the Hospital Assessment Account. The Medicare Cost
58 Report for 2023, 2024, and 2025 for each private hospital,
59 ~~which shall be reviewed and updated annually,~~ shall be used
60 for fiscal years 2026, 2027, and 2028, respectively, and this
61 schedule shall be carried forward in like manner for future
62 years. If the Medicare Cost Report is not available in the
63 Centers for Medicare and Medicaid Services' Healthcare Cost
64 Report Information System, the hospital shall submit a copy to
65 the department to determine the hospital's net patient revenue
66 for the most recent fiscal year.

67 (2) If a privately operated hospital commenced
68 operations after the due date for a ~~2023~~ Medicare Cost Report
69 as provided in subsection (b) (1), the hospital shall submit
70 its most recent Medicare Cost Report to the department in
71 order to allow the department to determine the hospital's net
72 patient revenue.

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

77 "§40-26B-73

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

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

83 (b) Monies in the Hospital Assessment Account shall
84 consist of:



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85 (1) All monies collected or received by the department
86 from privately operated hospital assessments imposed under
87 this article;

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

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

92 (c) The Hospital Assessment Account shall be separate
93 and distinct from the State General Fund and shall be
94 supplementary to the Health Care Trust Fund.

95 (d) Monies in the Hospital Assessment Account shall not
96 be used to replace other general revenues appropriated and
97 funded by the Legislature or other revenues used to support
98 Medicaid.

99 (e) The Hospital Assessment Account shall be exempt
100 from budgetary cuts, reductions, or eliminations caused by a
101 deficiency of State General Fund revenues to the extent
102 permissible under Section 213 of the Constitution of Alabama
103 of 2022.

104 (f) (1) Except as necessary to reimburse any funds
105 borrowed to supplement funds in the Hospital Assessment
106 Account, the monies in the Hospital Assessment Account shall
107 be used only as follows:

108 a. To make public, private, and state inpatient and
109 outpatient hospital payments.

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

112 (2)a. The Hospital Assessment Account shall retain



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113 account balances remaining each fiscal year.

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

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

133 "§40-26B-77.1

134 (a) ~~Beginning on October 1, 2016, and ending on~~
135 ~~September 30, 2028, publicly~~Publicly owned and state-owned
136 hospitals shall ~~begin making~~make intergovernmental transfers
137 to the Alabama Medicaid Agency. Total IGTs for the total
138 intergovernmental transfers shall equal the amount of state
139 funds necessary for the agency to obtain only those federal
140 matching funds necessary to pay publicly owned and state-owned



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141 hospitals for hospital payments.

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

144 (c) If a publicly or state-owned hospital commences
145 operations after October 1, 2013, the hospital shall commence
146 making intergovernmental transfers to the Alabama Medicaid
147 Agency in the first full month of operation of the hospital
148 after October 1, 2013."

149 "§40-26B-79

150 The agency shall pay hospitals, as a base amount ~~for~~
151 ~~fiscal years 2026, 2027, and 2028~~, the greater of a hospital's
152 current per diem as published for fiscal year 2022 or 68
153 percent of total inpatient payments made by the agency during
154 state fiscal year 2019, divided by the total patient days paid
155 in state fiscal year 2019, multiplied by patient days paid
156 during the current fiscal year ~~fiscal years 2026, 2027, and~~
157 ~~2028~~. A hospital may request to have their per diem reviewed
158 and revised at the sole discretion of the Medicaid Agency.
159 This payment to be paid using the agency's published check
160 write table is in addition to any hospital access payments the
161 agency may elect to pay hospitals as inpatient payments other
162 than per diems and access payments, if the agency does not
163 make payments pursuant to Article 9 of Chapter 6 of Title 22
164 in fiscal year 2019, or fiscal years 2026, 2027, and 2028 and
165 thereafter, only if the Hospital Services and Reimbursement
166 Panel approves the change in hospital payments."

167 "§40-26B-80

168 If the Alabama Medicaid Agency implements OPSS, the



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169 total amount budgeted (total base rate) for OPSS shall not be
170 less than the total outpatient UPL.

171 The agency shall pay hospitals as a base amount ~~for~~
172 ~~fiscal years 2026, 2027, and 2028~~ for outpatient services,
173 based upon an outpatient fee schedule in existence on
174 September 30, 2018. Medicaid may update the outpatient fee
175 schedule with approval of the Hospital Services and
176 Reimbursement Panel. Hospital outpatient base payments shall
177 be in addition to any hospital access payments or other
178 payments described in this article."

179 "§40-26B-81

180 (a) The agency shall consider the published inpatient
181 and outpatient rates as defined in Sections 40-26B-79 and
182 40-26B-80 as the minimum payment allowed.

183 (b) The aggregate hospital access payment amount is an
184 amount equal to the upper payment limit, less total hospital
185 base payments determined under this article. All publicly,
186 state-owned, and privately operated hospitals shall be
187 eligible for inpatient and outpatient hospital access payments
188 ~~for fiscal years 2026, 2027, and 2028,~~ as set forth in this
189 article.

190 (1) In addition to any other funds paid to hospitals
191 for inpatient hospital services to Medicaid patients, each
192 eligible hospital shall receive inpatient hospital access
193 payments each state fiscal year. Publicly and state-owned
194 hospitals shall receive total payments, including hospital
195 base payments, that, in the aggregate, equal the upper payment
196 limit for publicly and state-owned hospitals, until the



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197 Hospital Assessment Account is exhausted. Privately operated
198 hospitals shall receive total payments, including hospital
199 base payments that, in the aggregate, equal the upper payment
200 limit for privately operated hospitals, until the Hospital
201 Assessment Account is exhausted. Any intergovernmental
202 transfers and hospital provider taxes shall be used only as
203 monies paid to hospitals.

204 (2) Inpatient hospital access payments shall be made on
205 a quarterly basis.

206 (3) In addition to any other funds paid to hospitals
207 for outpatient hospital services to Medicaid patients, each
208 eligible hospital shall receive outpatient hospital access
209 payments each state fiscal year. Publicly and state-owned
210 hospitals shall receive payments, including hospital base
211 payments, that, in the aggregate, equal the upper payment
212 limit for publicly and state-owned hospitals, until the
213 Hospital Assessment Account is exhausted. Privately operated
214 hospitals shall receive payments, including hospital base
215 payments, that, in the aggregate, equal the upper payment
216 limit for privately operated hospitals, until the Hospital
217 Assessment Account is exhausted.

218 (4) Outpatient hospital access payments shall be made
219 on a quarterly basis.

220 (c) A hospital access payment shall not be used to
221 offset any other payment by the Medicaid Agency for hospital
222 inpatient or outpatient services to Medicaid beneficiaries,
223 including, without limitation, any fee-for-service, per diem,
224 private or public hospital inpatient adjustment, or hospital



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225 cost settlement payment.

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

230 "§40-26B-82

231 (a) The assessment imposed under this article shall not
232 take effect or shall cease to be imposed and any monies
233 remaining in the Hospital Assessment Account in the Alabama
234 Medicaid Program Trust Fund shall be refunded to hospitals in
235 proportion to the amounts paid by them if any of the following
236 occur:

237 (1) Expenditures for hospital inpatient and outpatient
238 services paid for by the Alabama Medicaid Program ~~for fiscal~~
239 ~~years 2026, 2027, and 2028~~ for the current fiscal year are
240 less than the amount paid during fiscal year 2017 or
241 reimbursement rates under this article ~~for fiscal years 2026,~~
242 ~~2027, and 2028~~ are less than the rates approved by CMS in
243 Sections 40-26B-79 and 40-26B-80.

244 (2) The Alabama Medicaid Agency makes changes in rules
245 that reduce hospital inpatient payment rates, outpatient
246 payment rates, or adjustment payments, including any cost
247 settlement protocol, ~~which were in effect on September 30,~~
248 ~~2025.~~

249 (3) The inpatient or outpatient hospital access
250 payments required under this article are changed or the
251 assessments imposed or certified public expenditures or
252 intergovernmental transfers recognized under this article are



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253 not eligible for federal matching funds under Title XIX of the
254 Social Security Act, 42 U.S.C. § 1396 et seq., or 42 U.S.C. §
255 1397aa et seq.

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

259 a. The agency may contract with an alternate care
260 provider only if, in the judgment of the agency, care of
261 Medicaid enrollees would be better, more efficient, and less
262 costly than under the then existing care delivery system. The
263 agency may contract with more than one alternate care provider
264 in a Medicaid region.

265 b. If the agency were to contract with an alternate
266 care provider under the terms of this subdivision, that
267 provider would have to pay reimbursements for hospital
268 inpatient or outpatient care at rates at least equal to the
269 most recent published rates pursuant to Sections 40-26B-79 and
270 40-26B-80.

271 c. If more than a year had elapsed since the agency
272 directly paid reimbursements to hospitals, the minimum
273 reimbursement rates paid by the alternate care provider would
274 have to be changed to reflect any percentage increase in the
275 national medical consumer price index minus 100 basis points.

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

280 (2) Monies in the Hospital Assessment Account in the



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281 Alabama Medicaid Program Trust Fund derived from assessments
282 imposed before the determination described in subdivision (1)
283 shall be disbursed under this article to the extent federal
284 matching is not reduced due to the impermissibility of the
285 assessments, and any remaining monies shall be refunded to
286 hospitals in proportion to the amounts paid by them."

287 "§40-26B-84

288 This article shall be of no effect if federal financial
289 participation under Title XIX of the Social Security Act is
290 not available to the Medicaid Agency at the approved federal
291 medical assistance percentage, established under Section 1905
292 of the Social Security Act, now appearing as 42 U.S.C. §
293 1369d, ~~for the state fiscal years 2026, 2027, and 2028.~~"

294 Section 2. Section 40-26B-88, Code of Alabama 1975,
295 relating to the termination of the Hospital Provider Privilege
296 Tax, is repealed.

297 Section 3. This act shall become effective on October
298 1, 2026.



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299
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301 Senate

302 Read for the first time and referred14-Jan-26
303 to the Senate committee on Finance
304 and Taxation General Fund
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306 Read for the second time and placed10-Mar-26
307 on the calendar:
308 0 amendments
309
310 Read for the third time and passed11-Mar-26
311 as amended
312 Yeas 35
313 Nays 0
314 Abstains 0
315
316

Patrick Harris,
Secretary.

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