

Regular Session, 2013

HOUSE BILL NO. 532

BY REPRESENTATIVES KLECKLEY, ADAMS, ARMES, BARROW, BERTHELOT, BILLIOT, WESLEY BISHOP, BROSSETT, BROWN, BURRELL, CARMODY, CARTER, CHANEY, COX, CROMER, DIXON, DOVE, GUILLORY, HARRISON, HOFFMANN, HUNTER, KATRINA JACKSON, JAMES, JEFFERSON, LEGER, LORUSSO, MONTOUCET, MORENO, ORTEGO, PYLANT, REYNOLDS, SMITH, ST. GERMAIN, THIBAUT, THIERRY, ALFRED WILLIAMS, AND PATRICK WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING: (Constitutional Amendment) Provides for a hospital stabilization formula and assessment and creates the Hospital Stabilization Fund and provides for uses of the fund

1 A JOINT RESOLUTION  
2 Proposing to add Article VII, Section 10.13 of the Constitution of Louisiana, to provide  
3 relative to health care funding; to provide for a hospital stabilization formula; to  
4 provide for a hospital assessment; to create the Hospital Stabilization Fund as a  
5 treasury fund; to provide for deposit, use, and investment of the fund; to provide for  
6 submission of the proposed amendment to the electors; and to provide for related  
7 matters.

8 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
9 elected to each house concurring, that there shall be submitted to the electors of the state of  
10 Louisiana, for their approval or rejection in the manner provided by law, a proposal to add  
11 Article VII, Section 10.13 of the Constitution of Louisiana, to read as follows:

12 §10.13. Hospital stabilization formula and assessment; Hospital Stabilization Fund  
13 (A) Hospital Stabilization Formula. (1) The legislature may annually adopt  
14 a Hospital Stabilization Formula, hereafter referred to in this Section as "the  
15 formula", by concurrent resolution by a favorable vote of a majority of the elected  
16 members of each house. Such resolution shall be referred to the standing committees

1 of the legislature that hear the general appropriation bill. The formula shall, to the  
2 maximum extent possible, enhance the economic viability of Louisiana hospitals and  
3 reduce shifting the cost of caring for Louisiana's needy residents to the state's insured  
4 residents.

5 (2)(a) The first formula established pursuant to Subparagraph (1) of this  
6 Paragraph, which shall require a favorable vote of two-thirds of the elected members  
7 of each house for adoption, shall define and establish as the base reimbursement  
8 level under the Louisiana medical assistance program provided for in Title XIX of  
9 the Social Security Act, hereafter referred to as the "Medicaid Program", to hospitals  
10 for inpatient and outpatient services in Fiscal Year 2012-2013. The formula shall  
11 also provide for the preservation and protection of rural hospitals as provided for by  
12 law. Each formula established thereafter may apply a rate of inflation, which shall  
13 not be a negative rate, to the base reimbursement level from the previous formula  
14 adopted by the legislature.

15 (b) Each formula shall also include and establish assessments to be paid by  
16 hospitals and the basis on which such assessments shall be calculated, provided the  
17 amount of the assessments does not exceed the nonfederal share of the  
18 reimbursement enhancements.

19 (c) Each formula shall also establish reimbursement enhancements under  
20 the Medicaid Program, or its successor, achieving the maximum reimbursement by  
21 federal law and resulting in distributing such reimbursement enhancements  
22 exclusively among hospitals for hospital services. Reimbursement enhancements  
23 may also be distributed for uninsured services delivered.

24 (d) Each formula shall also include any additional provisions necessary to  
25 the implementation of the formula. Neither the assessments nor the reimbursement  
26 enhancements established in the formula adopted by the legislature shall be  
27 implemented until each has been approved by the federal authority which  
28 administers the Medicaid Program.

1           (3) The base reimbursement level resulting from the formula shall not be  
2           paid from the Hospital Stabilization Fund.

3           (4) No additional assessment shall be collected and any assessment shall be  
4           terminated for the remainder of the fiscal year from the date on which any of the  
5           following occur:

6           (a) The legislature fails to adopt a formula for the subsequent fiscal year.

7           (b) The Department of Health and Hospitals, or its successor or contractors,  
8           reduces or does not pay reimbursement enhancements established in the current  
9           formula as adopted by the legislature.

10          (c) The appropriations provided for in Subparagraph (B)(2) of this Section  
11          are reduced.

12          (5) The treasurer shall return any monies collected after the date of  
13          termination of an assessment to the hospital from which it was collected.

14          (B) Appropriation. (1) The legislature shall annually appropriate an amount  
15          necessary to fund the base reimbursement level for hospitals established in the most  
16          recent formula adopted by the legislature.

17          (2) The legislature shall annually appropriate the balance of the Hospital  
18          Stabilization Fund solely to fund the reimbursement enhancements as provided in the  
19          most recent formula adopted by the legislature.

20          (3) Notwithstanding Article VII, Section 10(F) of this constitution, neither  
21          the governor nor the legislature may reduce the appropriation funding the base  
22          reimbursement level or the reimbursement enhancements to satisfy a budget deficit,  
23          except the governor may reduce the appropriation to the base reimbursement level  
24          if the following occur:

25          (a) Such reduction does not exceed the average reduction of those made to  
26          the appropriations and reimbursement for other providers under the Medicaid  
27          Program, or its successor; and

28          (b)(i) If the legislature is in session, the reduction is consented to in writing  
29          by two-thirds of the elected members of each house in a manner provided by law; or

1           (ii) If the legislature is not in session, the reduction is approved by two-thirds  
2           of the members of the Joint Legislative Committee on the Budget, or its successor.

3           (C) Hospital Stabilization Fund. There is hereby established as a special  
4           fund in the state treasury the Hospital Stabilization Fund, hereafter referred to as "the  
5           fund". After compliance with the requirements of Article VII, Section 9(B) of this  
6           constitution relative to the Bond Security and Redemption Fund, the treasurer shall  
7           deposit all proceeds from the assessment collected pursuant to the Hospital  
8           Stabilization Formula provided for in this Section. The monies in the fund shall be  
9           invested in the same manner as monies in the state general fund, and all interest  
10           earned on the investment of the fund shall be deposited in and credited to the fund.  
11           Appropriations from the fund shall be restricted to funding the reimbursement  
12           enhancements established in the Hospital Stabilization Formula adopted by the  
13           legislature for the fiscal year in which the assessment is collected.

14           Section 2. Be it further resolved that this proposed amendment shall be submitted  
15           to the electors of the state of Louisiana at the statewide election to be held on November 4,  
16           2014, or the first statewide election occurring after the adoption of this Joint Resolution.

17           Section 3. Be it further resolved that on the official ballot to be used at the election,  
18           there shall be printed a proposition, upon which the electors of the state shall be permitted  
19           to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as  
20           follows:

21                     Do you support an amendment to create the Hospital Stabilization Fund to  
22                     stabilize and protect Medicaid reimbursements for health care services by  
23                     depositing assessments paid by hospitals, as authorized by the legislature,  
24                     into a fund to support Louisiana hospital reimbursement? (Adds Article VII,  
25                     Section 10.13)

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Kleckley

HB No. 532

**Abstract:** Provides for the legislature to establish a formula for funding hospitals by establishing reimbursement increases for hospitals; by establishing an assessment on hospitals; by creating the Hospital Stabilization Fund to deposit assessments; and using the monies in the fund for reimbursement enhancements.

Proposed constitutional amendment provides for an annual Hospital Stabilization Formula by concurrent resolution by a favorable vote of 2/3 of the elected members of each house in the first resolution. The resolution requires a favorable vote of a majority of the elected members of each house in subsequent years. Further, the resolution shall be referred to the standing committees of the legislature that hear the general appropriation bill. The formula provided for in the resolution includes:

- (1) A base reimbursement level that is the payment levels under the Medicaid Program to hospitals for inpatient and outpatient services in FY 2012-2013 in the first year and each subsequent formula may apply a rate of inflation to the base reimbursement level rate from the previous fiscal year.
- (2) Assessments to be paid by La. hospitals, provided the amount of the assessment does not exceed the nonfederal share of the reimbursement enhancement.
- (3) Reimbursement enhancements for those hospitals subject to an assessment provided for in the formula.
- (4) Any additional provisions necessary to the implementation of the formula. Neither the assessments nor the reimbursement enhancements established in the formula adopted by the legislature shall be implemented until each has been approved by the federal authority which administers the Medicaid Program.

Proposed constitutional amendment provides that the base reimbursement level shall not be paid from the Hospital Stabilization Fund.

Proposed constitutional amendment provides that no additional assessment shall be collected and any assessment shall be terminated for the remainder of the fiscal year from the date on which any of the following occur:

- (1) The legislature fails to adopt a formula for the subsequent fiscal year.
- (2) The Department of Health and Hospitals reduces or does not pay reimbursement enhancements established in the current formula.
- (3) The appropriations provided for in proposed constitutional amendment are reduced.

Proposed constitutional amendment provides that the treasurer shall return any monies collected after the date of termination of an assessment to the hospital from which it was collected.

Proposed constitutional amendment provides for annual appropriation of an amount necessary to fund the base reimbursement level for hospitals and appropriate the balance of

the Hospital Stabilization Fund created in the proposed constitutional amendment for reimbursement enhancements.

Proposed constitutional amendment provides for reductions to the appropriations if the following occur:

- (1) The reduction does not exceed the average reduction of those made to the appropriations and reimbursement for other providers under the Medicaid Program.
- (2) If the legislature is in session, the reduction is consented to in writing by two-thirds of the elected members of each house in a manner provided by law, or if the legislature is not in session, the reduction is approved by two-thirds of the members of the Joint Legislative Committee on the Budget.

Proposed constitutional amendment creates the Hospital Stabilization Fund and provides appropriations only for funding the reimbursement enhancement established in the Hospital Stabilization Formula for the fiscal year in which the assessment is collected.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 4, 2014, or the first statewide election occurring after the adoption of this Joint Resolution.

(Adds Const. Art. VII, §10.13)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Appropriations to the original bill.

1. Changed the vote necessary for approval of the resolution establishing the formula from two-thirds of elected members to a majority, except the resolution for the first formula which shall require a favorable vote of 2/3 of the elected members of each house.
2. Required the resolution providing for the formula be referred to the standing committees of the legislature that receive the general appropriation bill.
3. Added that the formula provide for the preservation and protection of rural hospitals as provided for by law.
4. Clarified that rate enhancements established in the formula will be distributed among hospitals for hospital services and deletes the provision that the rate enhancements will be distributed in proportion to the Medicaid services delivered.

#### House Floor Amendments to the reengrossed bill.

1. Clarified that the rate referenced in the proposed constitutional amendment is a reimbursement.
2. Changed the provisions regarding the rate of inflation used in the formula.
3. Provided that neither the assessments nor the reimbursement enhancements established in the formula shall be implemented until each has been approved by the federal authority which administers the Medicaid Program.
4. Changed the provisions required for a reduction in reimbursement level.

5. Changed the provisions regarding the collection and termination of the assessment.
6. Changed the provision regarding the submission of the proposed amendment to the electors.