

GENERAL ASSEMBLY OF NORTH CAROLINA
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Short Title: Medicaid Funding Act.

(Public)

Sponsors:

Referred to:

May 20, 2020

A BILL TO BE ENTITLED

AN ACT APPROPRIATING FUNDS FOR THE DOROTHEA DIX CAMPUS RELOCATION PROJECT AND FOR NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST); APPROPRIATING CORONAVIRUS RELIEF FUNDS FOR BEHAVIORAL HEALTH AND CRISIS SERVICES, EARLY CHILDHOOD INITIATIVES, AND COVID-19 TESTING, CONTACT TRACING, AND TRENDS TRACKING AND ANALYSIS; APPROPRIATING FUNDS FOR THE OPERATION OF THE NORTH CAROLINA MEDICAID PROGRAM AND THE IMPLEMENTATION OF MEDICAID TRANSFORMATION; AND MAKING MEDICAID TRANSFORMATION-RELATED CHANGES.

The General Assembly of North Carolina enacts:

PART I. DOROTHEA DIX CAMPUS RELOCATION PROJECT

SECTION 1.(a) There is transferred from the General Fund to the State Capital and Infrastructure Fund the sum of fifteen million dollars (\$15,000,000) in nonrecurring funds for the 2020-2021 fiscal year.

SECTION 1.(b) There is appropriated from the State Capital and Infrastructure Fund to the Office of State Budget and Management the sum of fifteen million dollars (\$15,000,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated for the Dorothea Dix campus relocation project with the Department of Health and Human Services.

SECTION 1.(c) The Department of Administration, in collaboration with the Department of Health and Human Services, shall select land located in Wake County suitable for the Dorothea Dix campus relocation project. The funds appropriated in this Part shall be used for planning expenses associated with the relocation project.

SECTION 1.(d) This Part becomes effective July 1, 2020.

PART II. FUNDS FOR THE NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST) SYSTEM

SECTION 2.1.(a) The State Controller shall transfer the sum of twenty-six million four hundred thousand dollars (\$26,400,000) in nonrecurring funds for the 2020-2021 fiscal year from funds available in the Medicaid Transformation Reserve in the General Fund to the Department of Health and Human Services, Division of Central Management and Support, to be



1 used for operations and maintenance expenses for the North Carolina Families Accessing
2 Services Through Technology (NC FAST) system and investment in infrastructure
3 modernization, document management, and other critical NC FAST projects.

4 **SECTION 2.1.(b)** There is appropriated from the General Fund to the Department
5 of Health and Human Services, Division of Central Management and Support, the sum of six
6 million one hundred fifty-four thousand four hundred eighty dollars (\$6,154,480) in nonrecurring
7 funds for the 2020-2021 fiscal year for updates and changes to the child welfare case management
8 component of NC FAST, including child welfare program changes in accordance with the federal
9 Family First Prevention Services Act, updates for the Comprehensive Child Welfare Information
10 System (CCWIS), funding for the Independent Verification and Validation (IV&V) contract, and
11 risk assessment tool changes under Rylan's Law, S.L. 2017-41.

12 **SECTION 2.1.(c)** The Department of Health and Human Services, Division of
13 Central Management and Support, shall report any change in approved federal funding or federal
14 match rates within 30 days after the change to the Joint Legislative Oversight Committee on
15 Health and Human Services, the Joint Legislative Oversight Committee on Information
16 Technology, and the Fiscal Research Division.

17 **SECTION 2.1.(d)** This section becomes effective July 1, 2020.

18 **PART III. USE OF CORONAVIRUS RELIEF FUND**

19 **FUNDS FOR BEHAVIORAL HEALTH AND CRISIS SERVICES IN RESPONSE TO** 20 **THE COVID-19 PANDEMIC**

21 **SECTION 3.(a)** The State Controller shall transfer the sum of fifty million dollars
22 (\$50,000,000) in nonrecurring funds for the 2020-2021 fiscal year from the Coronavirus Relief
23 Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in
24 Section 2.2 of that same act (Coronavirus Relief Fund).

25 **SECTION 3.(b)** There is appropriated from the Coronavirus Relief Fund to the
26 Office of State Budget and Management (OSBM) the sum of fifty million dollars (\$50,000,000)
27 in nonrecurring funds for the 2020-2021 fiscal year, to allocate to the Department of Health and
28 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
29 Services (DMH/DD/SAS), for distribution to the local management entities/managed care
30 organizations (LME/MCOs) to fund behavioral health and crisis services in response to the
31 COVID-19 pandemic. The DMH/DD/SAS shall determine how to distribute these funds among
32 the LME/MCOs.
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36 **FUNDS FOR EARLY CHILDHOOD INITIATIVES**

37 **SECTION 3A.(a)** The State Controller shall transfer the sum of twenty million
38 dollars (\$20,000,000) in nonrecurring funds for the 2020-2021 fiscal year from the Coronavirus
39 Relief Reserve established under Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund under
40 the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, P.L. 116-136,
41 established in Section 2.2 of that act.

42 **SECTION 3A.(b)** There is appropriated from the Coronavirus Relief Fund to the
43 Office of State Budget and Management the sum of twenty million dollars (\$20,000,000) in
44 nonrecurring funds for the 2020-2021 fiscal year to be allocated to the Department of Health and
45 Human Services, Division of Child Development and Early Education, for various early
46 childhood initiatives to assist in mitigating the financial impact due to the COVID-19 pandemic.
47

48 **ADDITIONAL CORONAVIRUS RELIEF FUNDS FOR TESTING, CONTACT** 49 **TRACING, AND TRENDS TRACKING AND ANALYSIS.**

50 **SECTION 3B.(a)** The State Controller shall transfer the sum of one hundred million
51 dollars (\$100,000,000) in nonrecurring funds for the 2020-2021 fiscal year from the Coronavirus

1 Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund
2 established in Section 2.2 of that same act (Coronavirus Relief Fund).

3 **SECTION 3B.(b)** Subdivision (35) of Section 3.3 of S.L. 2020-4 reads as rewritten:

4 "(35) Subject to Section 4.10 of this act, ~~\$25,000,000~~ \$125,000,000 to the
5 Department of Health and Human Services to be used to expand public and
6 private initiatives for COVID-19 testing, contact tracing, and trends tracking
7 and analysis through, but not limited to, all of the following ways:

- 8 a. Building capacity for widespread COVID-19 diagnostic testing to
9 enable rapid case-based interventions.
- 10 b. Building capacity for widespread COVID-19 antibody testing to
11 enable rapid deployment when such testing becomes available.
- 12 b1. Periodic COVID-19 testing for surveillance and occupational safety,
13 particularly but not exclusively with respect to long-term care staff
14 working in congregate living settings and historically underserved or
15 at-risk populations.
- 16 c. Expanding contact tracing workforce and infrastructure to routinely
17 identify potentially exposed persons and take appropriate public health
18 actions. This includes hiring temporary staff to augment contact
19 tracing functions performed by local health departments, particularly
20 those serving historically underserved or at-risk populations.
- 21 d. Increasing research and data tools and analysis infrastructure to
22 support better predictive models, surveillance, and response
23 strategies."
24

25 **REQUIREMENTS, LIMITATIONS, AND EFFECTIVE DATE OF PART**

26 **SECTION 3C.(a)** The requirements and limitations set forth in Part I of S.L. 2020-4
27 apply to the funds appropriated in this Part. The OSBM shall include the funds transferred and
28 appropriated in this section in the report required under Section 1.7 of S.L. 2020-4.

29 **SECTION 3C.(d)** This Part becomes effective July 1, 2020.
30

31 **PART IV. DISALLOW TRANSFER OF MEDICAID BUDGET SURPLUS**

32 **SECTION 4.(a)** Notwithstanding Section 11F.2(d) of S.L. 2017-57, Section
33 3.6(b)(1) of S.L. 2019-242, or any other provision of law to the contrary, the Department of
34 Health and Human Services, Division of Health Benefits, shall not transfer any amount of the
35 certified Medicaid budget surplus calculated for the 2019-2020 fiscal year to the Department of
36 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
37 Substance Abuse Services, for allocation to local management entities/managed care
38 organizations (LME/MCOs) to offset any reduction in single-stream funding.

39 **SECTION 4.(b)** This section becomes effective June 30, 2020.
40

41 **PART V. FUNDS FOR OPERATION OF THE MEDICAID PROGRAM**

42 **SECTION 5.1.(a)** Funds received by the Department of Health and Human Services,
43 Division of Health Benefits, during the 2019-2020 fiscal year due to the acceleration of the
44 federal fiscal year 2019-2020 MRI/GAP Plan that (i) represent the portion of the State's annual
45 Medicaid payment, as defined in G.S. 108A-121, attributable to the quarter July 1, 2020, through
46 September 30, 2020, and (ii) have not been expended by June 30, 2020, shall not revert at the
47 end of the fiscal year but shall remain available and shall be used for the Medicaid program for
48 the 2020-2021 fiscal year.

49 **SECTION 5.1.(b)** This section becomes effective June 30, 2020.

50 **SECTION 5.2.** There is appropriated from the General Fund to the Department of
51 Health and Human Services, Division of Health Benefits, the sum of one million four hundred

1 thousand dollars (\$1,400,000) in nonrecurring funds for the 2020-2021 fiscal year to be used for
2 the implementation of an electronic visit verification (EVV) system that will be used for personal
3 care services and home health services under the Medicaid program.

4 **SECTION 5.3.(a)** Of the funds appropriated to the Department of Health and Human
5 Services, Division of Health Benefits, for the 2019-2020 fiscal year that have not been expended
6 by June 30, 2020, and in addition to the funds described in Section 5.1 of this act, the sum of
7 thirty million dollars (\$30,000,000) in nonrecurring funds shall not revert at the end of the fiscal
8 year but shall remain available and shall be used for the Medicaid and NC Health Choice
9 programs rebase in the 2020-2021 fiscal year.

10 **SECTION 5.3.(b)** This section becomes effective June 30, 2020.

11 **SECTION 5.4.** The State Controller shall transfer the sum of eighty-four million
12 dollars (\$84,000,000) in nonrecurring funds for the 2020-2021 fiscal year from funds available
13 in the Medicaid Transformation Reserve in the General Fund to the Department of Health and
14 Human Services, Division of Health Benefits, to be used for the Medicaid and NC Health Choice
15 programs rebase. Funds transferred under this section are appropriated for the purpose set forth
16 in this section.

17 **SECTION 5.5.** Notwithstanding G.S. 143C-4-11, as enacted by Section 14 of this
18 act, the sum of one hundred thirty-six million dollars (\$136,000,000) in nonrecurring funds for
19 the 2020-2021 fiscal year shall be transferred from the Medicaid Contingency Reserve in the
20 General Fund to the Department of Health and Human Services, Division of Health Benefits, to
21 be used for the Medicaid and NC Health Choice programs rebase. Funds transferred under this
22 section are appropriated for the purpose set forth in this section.

23 **SECTION 5.6.** There is appropriated from the General Fund the sum of two hundred
24 thirteen million dollars (\$213,000,000) in nonrecurring funds for the 2020-2021 fiscal year to the
25 Department of Health and Human Services, Division of Health Benefits, to be used for the
26 Medicaid and NC Health Choice programs rebase.

27 **SECTION 5.7.** Except as otherwise provided, this Part becomes effective July 1,
28 2020.

30 **PART VI. MEDICAID ELIGIBILITY REDETERMINATIONS**

31 **SECTION 6.(a)** County departments of social services shall do all of the following:

- 32 (1) Resume Medicaid eligibility redeterminations for beneficiaries whose annual
33 or other periodic renewal of Medicaid eligibility is due on or after September
34 1, 2020.
- 35 (2) Resume requesting post-eligibility verification information for Medicaid
36 applications received on or after September 1, 2020.
- 37 (3) Make a good-faith effort to redetermine Medicaid eligibility for Medicaid
38 beneficiaries who were due for an annual or other periodic renewal of
39 Medicaid eligibility prior to September 1, 2020, but for whom recertification
40 did not occur.
- 41 (4) Make a good-faith effort to request post-eligibility verification information for
42 Medicaid applications received prior to September 1, 2020, for which
43 post-eligibility verifications have not been requested.

44 **SECTION 6.(b)** In complying with the requirements of this section, county
45 departments of social services shall not terminate benefits for a Medicaid beneficiary if doing so
46 would result in the State being ineligible for the increased Medicaid funding under Section 6008
47 of P.L. 116-127. When a county department of social services identifies a case that would be
48 subject to termination of Medicaid eligibility in the absence of the preceding requirement, the
49 case shall be identified in the NC FAST system utilizing a uniform identifier to be established by
50 the Department of Health and Human Services no later than July 31, 2020. Notices of termination
51 for cases with the identifier shall be sent in accordance with G.S. 108A-79 within 90 days after

1 the expiration of the declared nationwide public health emergency as a result of the 2019 novel
2 coronavirus.

3 **SECTION 6.(c)** A county department of social services shall not be financially
4 responsible for the issuance of Medicaid benefits or Medicaid claims payments under
5 G.S. 108A-25.1A for any beneficiary whose Medicaid eligibility was continued as a result of
6 Section 6008(b)(3) of P.L. 116-127.

7 **SECTION 6.(d)** This section shall not be construed to prevent a county department
8 of social services or the Department of Health and Human Services from complying with the
9 requirements of any court order or any settlement agreement entered into as a result of litigation
10 or potential litigation.

11 **SECTION 6.(e)** If a federally recognized Native American tribe within the State has
12 assumed responsibility for the Medicaid program pursuant to G.S. 108A-25(e), then this section
13 applies to the tribe in the same manner as it applies to county departments of social services.
14

15 **PART VII. MEDICAID TRANSFORMATION NECESSITIES**

16 **DELAY IMPLEMENTATION OF MEDICAID TRANSFORMATION**

17 **SECTION 7.(a)** Subdivision (4) of Section 3 of S.L. 2015-245, as amended by
18 Section 4 of S.L. 2018-49, reads as rewritten:

19 "~~(4) Eighteen months after the date that CMS approves the 1115 demonstration~~
20 ~~waiver request submitted as required by this act on June 1, 2016, as amended.~~
21 No later than July 1, 2021. – Capitated contracts shall begin. DHHS may phase
22 recipient enrollment on a regional basis, provided that initial recipient
23 enrollment shall be complete no later than five months after the date capitated
24 contracts ~~are required to begin.~~"
25

26 **SECTION 7.(b)** The Department of Health and Human Services (DHHS) shall
27 amend the statewide and regional standard benefit plan prepaid health plan capitated contracts
28 awarded as of June 1, 2020, so that the contract covers four contract year terms, instead of three,
29 with the option to extend the contract for up to one successive contract year or a shorter period
30 as required by DHHS.

31 **SECTION 7.(c)** If any prepaid health plan declines in writing to DHHS the contract
32 amendment required under subsection (b) of this section, then that contract amendment shall not
33 be required and the contract terms shall remain as in effect on June 1, 2020, until and unless
34 amended by a future agreement.
35

36 **USE OF MEDICAID TRANSFORMATION FUND FOR MEDICAID** 37 **TRANSFORMATION NEEDS**

38 **SECTION 8.(a)** The State Controller shall transfer the sum of sixty-nine million four
39 hundred twenty thousand dollars (\$69,420,000) for the 2020-2021 fiscal year from funds
40 available in the Medicaid Transformation Reserve in the General Fund to the Medicaid
41 Transformation Fund established under Section 12H.29 of S.L. 2015-241.

42 **SECTION 8.(b)** Subject to the fulfillment of conditions specified in subsection (c)
43 of this section, the sum of sixty-nine million four hundred twenty thousand dollars (\$69,420,000)
44 in nonrecurring funds for the 2020-2021 fiscal year from the Medicaid Transformation Fund may
45 be transferred to the Department of Health and Human Services, Division of Health Benefits
46 (DHB), for the sole purpose of providing the State share for qualifying needs directly related to
47 Medicaid transformation, as required by S.L. 2015-241, as amended. Funds may be transferred
48 to DHB as qualifying needs arise during the 2020-2021 fiscal year and need not be transferred in
49 one lump sum. To the extent that any funds are transferred under this subsection, the funds are
50 appropriated for the purpose set forth in this subsection.

1 For the purposes of this section, the term "qualifying need" shall be limited to
2 information technology, time-limited staffing, and contracts related to the following Medicaid
3 transformation needs:

- 4 (1) Program design.
- 5 (2) Beneficiary experience.
- 6 (3) NC FAST upgrades related to Medicaid transformation.
- 7 (4) Data management tools.
- 8 (5) Program integrity.
- 9 (6) Technical and operational integration.
- 10 (7) Provider experience.

11 **SECTION 8.(c)** A request by the Department of Health and Human Services,
12 Division of Health Benefits (DHB), for the transfer of funds pursuant to this section shall be
13 made to the Office of State Budget and Management (OSBM) and shall include the amount
14 requested and the specific qualifying need for which the funds are to be used. None of the funds
15 identified in this section shall be transferred to DHB until OSBM verifies all of the following
16 information:

- 17 (1) The amount requested is to be used for a qualifying need in the 2020-2021
18 fiscal year.
- 19 (2) The amount requested provides a State share that will not result in total
20 requirements that exceed two hundred seventy million dollars (\$270,000,000)
21 for the 2020-2021 fiscal year.

22 **SECTION 8.(d)** Any federal funds received in any fiscal year by the Department of
23 Health and Human Services, Division of Health Benefits (DHB), that represent a return of State
24 share already expended on a qualifying need related to the funds received by DHB under this
25 section shall be deposited into the Medicaid Transformation Fund.

26 **SECTION 8.(e)** This section becomes effective July 1, 2020.

27 28 **REPEAL OF PAST DIRECTIVE TO ELIMINATE GME TO ALIGN WITH MEDICAID** 29 **TRANSFORMATION**

30 **SECTION 9.** Section 12H.12(b) of S.L. 2014-100 and Section 12H.23 of S.L.
31 2015-241, as amended by Section 88 of S.L. 2015-264, are repealed.

32 33 **MEDICAID TRANSFORMATION HOTLINE OPTION**

34 **SECTION 10.** The Department of Health and Human Services shall ensure that the
35 existing DHHS Customer Service hotline is responsive to questions posed by a Medicaid
36 beneficiary or provider or by the general public that are related to the rollout of Medicaid
37 transformation.

38 39 **DURABLE MEDICAL EQUIPMENT RATE FLOOR**

40 **SECTION 11.** For the first three years of the initial standard benefit plan prepaid
41 health plan capitated contracts required under Article 4 of Chapter 108D of the General Statutes,
42 the rate floor for durable medical equipment under managed care shall be set at one hundred
43 percent (100%) of the Medicaid fee-for-service rates for durable medical equipment.

44 45 **TRIBAL OPTION/MEDICAID TRANSFORMATION**

46 **SECTION 12.(a)** The Department of Health and Human Services may contract with
47 an Indian managed care entity (IMCE) or an Indian health care provider (IHCP), as defined under
48 42 C.F.R. § 438.14(a), to assist in the provision of health care or health care-related services to
49 Medicaid and NC Health Choice beneficiaries who are members of federally recognized tribes
50 or who are eligible to enroll in an IMCE. Contracts may include health care or health care-related
51 services as agreed upon with the IMCE or IHCP, as approved by the Secretary of the Department

1 of Health and Human Services and as allowed by the Centers for Medicare and Medicaid Services
2 (CMS), including, but not limited to, the following services:

- 3 (1) Primary care case management as a primary care case managed system or
4 entity, as described in 42 C.F.R. § 438.2.
- 5 (2) Utilization management and referrals.
- 6 (3) The management or provision of home- and community-based services under
7 a 1915(c) waiver.
- 8 (4) The management or provision of specialized services covered by a behavioral
9 health and intellectual/developmental disabilities (BH/IDD) tailored plan in
10 accordance with G.S. 108D-60(8).

11 Coverage provided by the IMCE or IHCP may be more permissive, but no more
12 restrictive, than Medicaid or NC Health Choice medical coverage policy adopted or amended by
13 the Department of Health and Human Services; however, the coverage shall be in compliance
14 with federal regulations and policies related to the receipt of federal funding for these health care
15 or health care-related services.

16 **SECTION 12.(b)** G.S. 108D-40(a) reads as rewritten:

17 "(a) Capitated PHP contracts shall cover all Medicaid and NC Health Choice program aid
18 categories except for the following categories:

19 ...

20 (5a) Eligible recipients who are enrolled in a DHHS-contracted Indian managed
21 care entity, as defined in 42 C.F.R. § 438.14(a).

22"

23 **SECTION 12.(c)** G.S. 122C-115(e) reads as rewritten:

24 "(e) Beginning on the date that capitated contracts under Article 4 of Chapter 108D of the
25 General Statutes begin, LME/MCOs shall cease managing Medicaid services for all Medicaid
26 recipients other than recipients described in G.S. 108D-40(a)(1), (4), (5), (5a), (6), (7), (10), (11),
27 (12), and (13). Until BH IDD tailored plans become operational, all of the following shall occur:

- 28 (1) LME/MCOs shall continue to manage the Medicaid services that are covered
29 by the LME/MCOs under the combined 1915(b) and (c) waivers for Medicaid
30 recipients described in G.S. 108D-40(a)(1), (4), (5), (5a), (6), (7), (10), (11),
31 (12), and (13).
- 32 (2) The Division of Health Benefits shall negotiate actuarially sound capitation
33 rates directly with the LME/MCOs based on the change in composition of the
34 population being served by the LME/MCOs.
- 35 (3) Capitation payments under contracts between the Division of Health Benefits
36 and the LME/MCOs shall be made directly to the LME/MCO by the Division
37 of Health Benefits."

38 **SECTION 12.(d)** The Department of Health and Human Services is authorized to
39 seek approval from CMS and submit any necessary State Plan Amendments and waivers, or any
40 amendments thereto, to implement the provisions of this section.

41 42 **REVISE AND RENAME THE SUPPLEMENTAL PAYMENT PROGRAM FOR** 43 **ELIGIBLE MEDICAL PROFESSIONAL PROVIDERS**

44 **SECTION 13.(a)** The Department of Health and Human Services shall revise the
45 supplemental payment program for eligible medical professional providers described in the
46 Medicaid State Plan, Attachment 4.19-B, Section 5, Pages 2 and 3, as required by this section.
47 This payment program shall be called the Average Commercial Rate Supplemental and Directed
48 Payment Program. Effective July 1, 2021, the following two changes to the program shall be
49 implemented:

- 1 (1) The program shall no longer utilize a limit on the number of eligible medical
2 professional providers that may be reimbursed through the program and
3 instead shall utilize a limit on the total payments made under the program.
- 4 (2) Payments under the program shall consist of two components: (i)
5 supplemental payments that increase reimbursement to the average
6 commercial rate under the State Plan and (ii) directed payments that increase
7 reimbursement to the average commercial rate under the managed care
8 system.

9 **SECTION 13.(b)** The limitation on total payments made under the Average
10 Commercial Rate Supplemental and Directed Payment Program for eligible medical professional
11 providers shall apply to the combined amount of payments made as supplemental payments under
12 the State Plan and payments made as directed payments under the managed care system and shall
13 be based on the amount of supplemental payments for services provided during the 2018-2019
14 fiscal year. For services provided on or after July 1, 2021, the total annual supplemental and
15 directed payments made under the Average Commercial Rate Supplemental and Directed
16 Payment Program shall not exceed one hundred percent (100%) of the gross supplemental
17 payments for services provided by eligible medical providers during the 2018-2019 fiscal year,
18 increased at the start of each State fiscal year by an inflation factor determined by the Department
19 of Health and Human Services, Division of Health Benefits.

20 **SECTION 13.(c)** Consistent with the existing supplemental payment program for
21 eligible medical professional providers, the Department of Health and Human Services shall limit
22 the total amount of supplemental and directed payments that may be received by the eligible
23 providers affiliated with the East Carolina University Brody School of Medicine and the
24 University of North Carolina at Chapel Hill Health Care System. Average commercial rate
25 supplemental payments and directed payments shall not be made for services provided in Wake
26 County.

27 **SECTION 13.(d)** The Department of Health and Human Services is not authorized
28 to make any modifications to the supplemental payment program for eligible medical
29 professional providers, except as authorized by this section.

30 **SECTION 13.(e)** Effective July 1, 2021, Section 12H.13(e) of S.L. 2013-360 and
31 Sections 12H.13(b) and 12H.13A of S.L. 2014-100 are repealed.

32 **MEDICAID CONTINGENCY RESERVE CODIFICATION**

33 **SECTION 14.** Article 4 of Chapter 143C of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 143C-4-11. Medicaid Contingency Reserve.**

36 (a) Medicaid Contingency Reserve. – The Medicaid Contingency Reserve is established
37 as a reserve to be used only for budget shortfalls in the Medicaid or NC Health Choice program.

38 (b) Funds from the Medicaid Contingency Reserve may be allocated or expended only if
39 all of the following criteria are met:

- 40 (1) There is an act of appropriation by the General Assembly.
- 41 (2) After the State Controller has verified that all Medicaid and NC Health Choice
42 program receipts are being used appropriately, the Director of the Budget has
43 found that additional funds are needed to cover a shortfall in the Medicaid or
44 NC Health Choice budget for the State fiscal year.
- 45 (3) The Director of the Budget has reported immediately to the Fiscal Research
46 Division on the amount of the shortfall found in accordance with subdivision
47 (2) of this subsection. This report shall include an analysis of the causes of the
48 shortfall, such as (i) unanticipated enrollment and mix of enrollment, (ii)
49 unanticipated growth or utilization within particular service areas, (iii) errors
50 in the data or analysis used to project the Medicaid or NC Health Choice
51 program.

1 budget, (iv) the failure of the program to achieve budgeted savings, (v) other
2 factors and market trends that have impacted the price of or spending for
3 services, (vi) variations in receipts from prior years or from assumptions used
4 to prepare the Medicaid and NC Health Choice budgets for the current fiscal
5 year, or (vii) other factors. The report shall also include data in an electronic
6 format that is adequate for the Fiscal Research Division to confirm the amount
7 of the shortfall and its causes.

8 (c) Nothing in this section shall be construed to limit the authority of the Governor to
9 carry out the Governor's duties under the Constitution."

11 **REVISE AND UPDATE HOSPITAL ASSESSMENTS**

12 **SECTION 15.1.(a)** Effective July 1, 2021, Article 7 of Chapter 108A of the General
13 Statutes is repealed.

14 **SECTION 15.1.(a1)** Notwithstanding any provision of Article 7 of Chapter 108A of
15 the General Statutes to the contrary, the equity assessment, UPL assessment, equity payments,
16 and UPL payments required under that Article for the partial year beginning October 1, 2020,
17 and ending June 30, 2021, shall be carried out in accordance with this subsection. For the annual
18 period beginning October 1, 2020, the equity payment amount and the UPL payment amount
19 required by G.S. 108A-124 shall be calculated to exclude services rendered after June 30, 2021.
20 In order to account for these partial-year payment amounts, the Secretary of the Department of
21 Health and Human Services may adjust the quarterly equity payments and UPL payments
22 required by G.S. 108A-124. In order to account for any partial-year adjustments to the equity
23 payments or UPL payments, the Secretary of the Department of Health and Human Services may
24 make any necessary adjustments to the equity assessment percentage rate, the UPL assessment
25 percentage rate, any quarterly equity assessment, and any UPL assessment required under
26 G.S. 108A-122 and G.S. 108A-123.

27 **SECTION 15.1.(a2)** Subsection (a) of this section does not affect the rights or
28 liabilities of the State, a hospital subject to the equity assessment or the UPL assessment, or
29 another person arising under a statute repealed by subsection (a) of this section or arising under
30 subsection (a1) of this section before the effective date of its repeal.

31 **SECTION 15.1.(b)** Effective July 1, 2021, Chapter 108A of the General Statutes is
32 amended by adding a new Article to read:

33 "Article 7A.

34 "Hospital Assessment Act.

35 "Part 1. General.

36 **"§ 108A-130. Short title and purpose.**

37 This Article shall be known as the "Hospital Assessment Act." This Article does not authorize
38 a political subdivision of the State to license a hospital for revenue or impose a tax or assessment
39 on a hospital.

40 **"§ 108A-131. Definitions.**

41 The following definitions apply in this Article:

42 (1) Base assessment. – The assessment payable under G.S. 108A-142.

43 (2) CMS. – Centers for Medicare and Medicaid Services.

44 (3) Critical access hospital. – As defined in 42 C.F.R. § 400.202.

45 (4) Department. – The Department of Health and Human Services.

46 (5) Prepaid health plan. – As defined in G.S. 108D-1.

47 (6) Public hospital. – A hospital that certifies its public expenditures to the
48 Department pursuant to 42 C.F.R. § 433.51(b) during the fiscal year for which
49 the assessment applies.

50 (7) Secretary. – The Secretary of Health and Human Services.

1 (8) State's annual Medicaid payment. – An annual amount equal to one hundred
2 ten million dollars (\$110,000,000) for the taxable year October 1, 2020,
3 through September 30, 2021, increased each year over the prior year's
4 payment by the percentage specified as the Medicare Market Basket Index
5 less productivity most recently published in the Federal Register.

6 (9) Supplemental assessment. – The assessment payable under G.S. 108A-141.

7 (10) Total hospital costs. – The costs as calculated using the most recent available
8 Hospital Cost Report Information System's cost report data available through
9 CMS or other comparable data, including both inpatient and outpatient
10 components, for all hospitals that are not exempt from the applicable
11 assessment.

12 **"§ 108A-132. Due dates and collections.**

13 (a) Assessments under this Article are due quarterly in the time and manner prescribed
14 by the Secretary and shall be considered delinquent if not paid within seven calendar days of this
15 due date.

16 (b) With respect to any hospital owing a past-due assessment amount under this Article,
17 the Department may withhold the unpaid amount from Medicaid or NC Health Choice payments
18 otherwise due or impose a late payment penalty. The Secretary may waive a penalty for good
19 cause shown.

20 (c) In the event the data necessary to calculate an assessment under this Article is not
21 available to the Secretary in time to impose the quarterly assessments for a payment year, the
22 Secretary may defer the due date for the assessment to a subsequent quarter.

23 **"§ 108A-133. Assessment appeals.**

24 A hospital may appeal a determination of the assessment amount owed through a
25 reconsideration review. The pendency of an appeal does not relieve a hospital from its obligation
26 to pay an assessment amount when due.

27 **"§ 108A-134. Allowable costs; patient billing.**

28 (a) Assessments paid under this Article may be included as allowable costs of a hospital
29 for purposes of any applicable Medicaid reimbursement formula, except that assessments paid
30 under this Article shall be excluded from cost settlement.

31 (b) Assessments imposed under this Article may not be added as a surtax or assessment
32 on a patient's bill.

33 **"§ 108A-135. Rule-making authority.**

34 The Secretary may adopt rules to implement this Article.

35 **"§ 108A-136. Repeal.**

36 If CMS determines that an assessment under this Article is impermissible or revokes approval
37 of an assessment under this Article, then that assessment shall not be imposed and the
38 Department's authority to collect the assessment is repealed.

39 "Part 2. Supplemental and Base Assessments.

40 **"§ 108A-140. Applicability.**

41 (a) The assessments imposed under this Part apply to all licensed North Carolina
42 hospitals, except as provided in this section.

43 (b) The following hospitals are exempt from both the supplemental assessment and the
44 base assessment:

45 (1) Critical access hospitals.

46 (2) Freestanding psychiatric hospitals.

47 (3) Freestanding rehabilitation hospitals.

48 (4) Long-term care hospitals.

49 (5) State-owned and State-operated hospitals.

50 (6) The primary affiliated teaching hospital for each University of North Carolina
51 medical school.

1 (c) Public hospitals are exempt from the supplemental assessment.

2 **"§ 108A-141. Supplemental assessment.**

3 (a) The supplemental assessment shall be a percentage, established by the General
4 Assembly, of total hospital costs.

5 (b) The Department shall propose the rate of the supplemental assessment to be imposed
6 under this section when the Department prepares its budget request for each upcoming fiscal
7 year. The Governor shall submit the Department's proposed supplemental assessment rate to the
8 General Assembly each fiscal year.

9 (c) The Department shall base the proposed supplemental assessment rate on all of the
10 following factors:

11 (1) The percentage change in aggregate payments to hospitals subject to the
12 supplemental assessment for Medicaid and NC Health Choice enrollees,
13 excluding hospital access payments made under 42 C.F.R. § 438.6, as
14 demonstrated in data from prepaid health plans and the State, as determined
15 by the Department.

16 (2) Any changes in the federal medical assistance percentage rate applicable to
17 the Medicaid or NC Health Choice programs for the applicable year.

18 (d) The rate for the supplemental assessment for each taxable year shall be the percentage
19 rate set by law by the General Assembly.

20 **"§ 108A-142. Base assessment.**

21 (a) The base assessment shall be a percentage, established by the General Assembly, of
22 total hospital costs.

23 (b) The Department shall propose the rate of the base assessment to be imposed under
24 this section when the Department prepares its budget request for each upcoming fiscal year. The
25 Governor shall submit the Department's proposed base assessment rate to the General Assembly
26 each fiscal year.

27 (c) The Department shall base the proposed base assessment rate on all of the following
28 factors:

29 (1) The change in the State's annual Medicaid payment for the applicable year.

30 (2) The percentage change in aggregate payments to hospitals subject to the base
31 assessment for Medicaid and NC Health Choice enrollees, excluding hospital
32 access payments made under 42 C.F.R. § 438.6, as demonstrated in data from
33 prepaid health plans and the State, as determined by the Department.

34 (3) Any changes in the federal medical assistance percentage rate applicable to
35 the Medicaid or NC Health Choice programs for the applicable year.

36 (4) Any changes as determined by the Department in (i) reimbursement under the
37 Medicaid State Plan, (ii) managed care payments authorized under 42 C.F.R.
38 § 438.6 for which the nonfederal share is not funded by General Fund
39 appropriations, and (iii) reimbursement under the NC Health Choice program.

40 (d) The rate for the base assessment for each taxable year shall be the percentage rate set
41 by law by the General Assembly.

42 **"§ 108A-143. Payment from other hospitals.**

43 (a) If a hospital that is exempt from both the base and supplemental assessments under
44 this Part (i) makes an intergovernmental transfer to the Department to be used to draw down
45 matching federal funds and (ii) has acquired, merged, leased, or managed another hospital on or
46 after March 25, 2011, then the exempt hospital shall transfer to the State an additional amount.
47 The additional amount shall be a percentage of the amount of funds that (i) would be transferred
48 to the State through such an intergovernmental transfer and (ii) are to be used to match additional
49 federal funds that the exempt hospital is able to receive because of the acquired, merged, leased,
50 or managed hospital.

1 (b) Beginning October 1, 2021, the percentage described in subsection (a) of this section
2 shall be calculated by dividing the amount of the State's annual Medicaid payment by the total
3 amount collected under the base assessment under G.S. 108A-142.

4 (c) For the partial year beginning July 1, 2021, and ending September 30, 2021, the
5 percentage described in subsection (a) of this section shall be calculated by dividing one fourth
6 of the amount of the State's annual Medicaid payment by the amount collected under the base
7 assessment under G.S. 108A-142.

8 **"§ 108A-144. Use of funds.**

9 The proceeds of the assessments imposed under this Part, and all corresponding matching
10 federal funds, must be used to make the State's annual Medicaid payment to the State, to fund
11 payments to hospitals made directly by the Department, to fund a portion of capitation payments
12 to prepaid health plans attributable to hospital care, and to fund the nonfederal share of graduate
13 medical education payments."

14 **SECTION 15.1.(b1)** Notwithstanding any provision of G.S. 108A-131, as enacted
15 by subsection (b) of this section, to the contrary, for the taxable year October 1, 2020, through
16 September 30, 2021, total hospital costs, as defined in G.S. 108A-131(10), shall be calculated
17 based on the Hospital Cost Report Information System's 2017 cost report data available through
18 the Centers for Medicare and Medicaid Services.

19 **SECTION 15.1.(c)** The percentage rate to be used in calculating the supplemental
20 assessment under G.S. 108A-141, as enacted in subsection (b) of this section, is two and fourteen
21 hundredths percent (2.14%) for the taxable year October 1, 2020, through September 30, 2021.
22 The supplemental assessment shall be imposed only for months beginning on or after July 1,
23 2021. The supplemental assessment imposed during the period July 1, 2021, through September
24 30, 2021, shall equal one-fourth of the amount of supplemental assessment that would have been
25 imposed for the full taxable year.

26 **SECTION 15.1.(d)** The percentage rate to be used in calculating the base assessment
27 under G.S. 108A-142, as enacted in subsection (b) of this section, is one and ninety-four
28 hundredths percent (1.94%) for the taxable year October 1, 2020, through September 30, 2021.
29 The base assessment shall be imposed only for months beginning on or after July 1, 2021. The
30 base assessment imposed during the period July 1, 2021, through September 30, 2021, shall equal
31 one-fourth of the amount of base assessment that would have been imposed for the full taxable
32 year.

33 **SECTION 15.2.** Notwithstanding G.S. 143C-4-11, as enacted by Section 14 of this
34 act, the State Controller shall transfer funds from the Medicaid Contingency Reserve to the
35 Department of Health and Human Services, Division of Health Benefits (DHB), only upon
36 request by DHB as needed to cover any shortfall in receipts from the supplemental or base
37 assessment under G.S. 108A-141 and G.S. 108A-142, enacted by subsection (b) of Section 15.1
38 of this act, and only if the following two conditions are met:

- 39 (1) The Office of State Budget and Management (OSBM) has certified that there
40 will be a shortfall in receipts from the supplemental or base assessment.
- 41 (2) OSBM has certified that the amount requested by DHB does not exceed the
42 shortfall in receipts certified by OSBM under subdivision (1) of this section.

43 Upon making the request to the State Controller for the transfer of funds pursuant to
44 this section, DHB shall notify the Fiscal Research Division and the Joint Legislative Oversight
45 Committee on Medicaid and NC Health Choice of the request and the amount of the request. To
46 the extent any funds are transferred under this section, the funds are hereby appropriated for the
47 purpose set forth in this section. The authority set forth in this section expires June 30, 2022.

48 **SECTION 15.3.** The Department of Health and Human Services, Division of Health
49 Benefits, shall establish a new fund code entitled "Hospital Assessment Fund" in Budget Code
50 24445. When setting the supplemental assessment and base assessment rates for the 2021-2022
51 taxable year in accordance with G.S. 108A-141(d) and G.S. 108A-142(d), funds in the Hospital

1 Assessment Fund shall be used to support a decrease in the supplemental assessment or base
 2 assessment rates submitted by the Governor under G.S. 108A-141(b) and G.S. 108A-142(b) that
 3 corresponds with the amount in the Hospital Assessment Fund.

4
 5 **GROSS PREMIUMS TAX/PREPAID HEALTH PLANS**

6 **SECTION 16.(a)** The title of Article 8B of Chapter 105 of the General Statutes reads
 7 as rewritten:

8 "Article 8B.

9 "Taxes Upon Insurance ~~Companies~~ Companies and Prepaid Health Plans."

10 **SECTION 16.(b)** G.S. 105-228.3 reads as rewritten:

11 **"§ 105-228.3. Definitions.**

12 The following definitions apply in this Article:

- 13 (1) Article 65 corporation. – A corporation subject to Article 65 of Chapter 58 of
 14 the General Statutes, regulating hospital, medical, and dental service
 15 corporations.
- 16 (2) Capitation payment. – Amounts paid by the Department of Health and Human
 17 Services to prepaid health plans under capitated contracts for the delivery of
 18 Medicaid and NC Health Choice services in accordance with Article 4 of
 19 Chapter 108D of the General Statutes.
- 20 ~~(1a)~~(3) Captive insurance company. – Defined in G.S. 58-10-340.
- 21 ~~(1b)~~(4) Foreign captive insurance company. – A captive insurance company as
 22 defined in G.S. 58-10-340(9), except that such company is not formed or
 23 licensed under the laws of this State but is formed and licensed under the laws
 24 of any jurisdiction within the United States other than this State.
- 25 ~~(2)~~(5) Insurer. – An insurer as defined in G.S. 58-1-5 or a group of employers who
 26 have pooled their liabilities pursuant to G.S. 97-93 of the Workers'
 27 Compensation Act.
- 28 (6) Prepaid health plan. – As defined in G.S. 108D-1.
- 29 ~~(3)~~(7) Self-insurer. – An employer that carries its own risk pursuant to G.S. 97-93 of
 30 the Workers' Compensation Act."

31 **SECTION 16.(c)** G.S. 105-228.5 reads as rewritten:

32 **"§ 105-228.5. Taxes measured by gross premiums.**

33 (a) Tax Levied. – A tax is levied in this section on insurers, Article 65 corporations, health
 34 maintenance organizations, prepaid health plans, and self-insurers. An insurer, health
 35 maintenance organization, prepaid health plan, or Article 65 corporation that is subject to the tax
 36 levied by this section is not subject to franchise or income taxes imposed by Articles 3 and 4,
 37 respectively, of this Chapter.

38 (b) Tax Base. –

- 39 (1) Insurers. – The tax imposed by this section on an insurer or a health
 40 maintenance organization shall be measured by gross premiums from business
 41 done in this State during the preceding calendar year.
- 42 (2) Repealed by Session Laws 2006-196, effective for taxable years beginning on
 43 or after January 1, 2008.
- 44 (3) Article 65 Corporations. – The tax imposed by this section on an Article 65
 45 corporation shall be measured by gross collections from membership dues,
 46 exclusive of receipts from cost plus plans, received by the corporation during
 47 the preceding calendar year.
- 48 (4) Self-insurers. – The tax imposed by this section on a self-insurer shall be
 49 measured by the gross premiums that would be charged against the same or
 50 most similar industry or business, taken from the manual insurance rate then
 51 in force in this State, applied to the self-insurer's payroll for the previous

1 calendar year as determined under Article 36 of Chapter 58 of the General
2 Statutes modified by the self-insurer's approved experience modifier.

3 (5) Prepaid health plans. – The tax imposed by this section on a prepaid health
4 plan shall be measured by gross capitation payments received by the prepaid
5 health plan from the Department of Health and Human Services for services
6 provided to enrollees in the State Medicaid program or NC Health Choice
7 program in the preceding calendar year.

8 (b1) Calculation of Tax Base. – In determining the amount of gross premiums from
9 business in this State, all gross premiums received in this State, credited to policies written or
10 procured in this State, or derived from business written in this State shall be deemed to be for
11 contracts covering persons, property, or risks resident or located in this State unless one of the
12 following applies:

- 13 (1) The premiums are properly reported and properly allocated as being received
14 from business done in some other nation, territory, state, or states.
15 (2) The premiums are from policies written in federal areas for persons in military
16 service who pay premiums by assignment of service pay.

17 Gross premiums from business done in this State in the case of life insurance contracts,
18 including supplemental contracts providing for disability benefits, accidental death benefits, or
19 other special benefits that are not annuities, means all premiums collected in the calendar year,
20 other than for contracts of reinsurance, for policies the premiums on which are paid by or credited
21 to persons, firms, or corporations resident in this State, or in the case of group policies, for
22 contracts of insurance covering persons resident within this State. The only deductions allowed
23 shall be for premiums refunded on policies rescinded for fraud or other breach of contract and
24 premiums that were paid in advance on life insurance contracts and subsequently refunded to the
25 insured, premium payer, beneficiary or estate. Gross premiums shall be deemed to have been
26 collected for the amounts as provided in the policy contracts for the time in force during the year,
27 whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or
28 by any other means except waiver of premiums by companies under a contract for waiver of
29 premium in case of disability.

30 Gross premiums from business done in this State in the case of prepaid health plans means
31 all capitation payments received by a prepaid health plan from the Department of Health and
32 Human Services for the delivery of services to enrollees in the State Medicaid program or NC
33 Health Choice program in the calendar year. Capitation payments refunded by a prepaid health
34 plan to the State are the only allowable deductions.

35 Gross premiums from business done in this State for all other health care plans and contracts
36 of insurance, including contracts of insurance required to be carried by the Workers'
37 Compensation Act, means all premiums written during the calendar year, or the equivalent
38 thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering
39 property or risks in this State, other than for contracts of reinsurance, whether the premiums are
40 designated as premiums, deposits, premium deposits, policy fees, membership fees, or
41 assessments. Gross premiums shall be deemed to have been written for the amounts as provided
42 in the policy contracts, new and renewal, becoming effective during the year irrespective of the
43 time or method of making payment or settlement for the premiums, and with no deduction for
44 dividends whether returned in cash or allowed in payment or reduction of premiums or for
45 additional insurance, and without any other deduction except for return of premiums, deposits,
46 fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies.

47 (c) Exclusions. – Every insurer, in computing the premium tax, shall exclude all of the
48 following from the gross amount of premiums, and the gross amount of excluded premiums is
49 exempt from the tax imposed by this section:

- 50 (1) All premiums received on or after July 1, 1973, from policies or contracts
51 issued in connection with the funding of a pension, annuity, or profit-sharing

- 1 plan qualified or exempt under section 401, 403, 404, 408, 457 or 501 of the
2 Code as defined in G.S. 105-228.90.
- 3 (2) Premiums or considerations received from annuities, as defined in
4 G.S. 58-7-15.
- 5 (3) Funds or considerations received in connection with funding agreements, as
6 defined in G.S. 58-7-16.
- 7 (4) The following premiums, to the extent federal law prohibits their taxation
8 under this Article:
- 9 a. Federal Employees Health Benefits Plan premiums.
- 10 b. ~~Medicaid or Medicare~~ premiums.
- 11 c. Medicaid or NC Health Choice premiums, other than capitation
12 payments, paid by or on behalf of a Medicaid or NC Health Choice
13 beneficiary.
- 14 (d) Tax Rates; Disposition. –
- 15 (1) Workers' Compensation. – The tax rate to be applied to gross premiums, or
16 the equivalent thereof in the case of self-insurers, on contracts applicable to
17 liabilities under the Workers' Compensation Act is two and five-tenths percent
18 (2.5%). The net proceeds shall be credited to the General Fund.
- 19 (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums on
20 all other taxable contracts issued by insurers or health maintenance
21 organizations and to be applied to gross premiums and gross collections from
22 membership dues, exclusive of receipts from cost plus plans, received by
23 Article 65 corporations is one and nine-tenths percent (1.9%). The net
24 proceeds shall be credited to the General Fund.
- 25 (2a) Prepaid Health Plans. – The tax rate to be applied to gross premiums from
26 capitation payments received by prepaid health plans is one and nine-tenths
27 percent (1.9%). The net proceeds shall be credited to the General Fund.
- 28 (3) Additional Rate on Property Coverage Contracts. – An additional tax at the
29 rate of seventy-four hundredths percent (0.74%) applies to gross premiums on
30 insurance contracts for property coverage. The tax is imposed on ten percent
31 (10%) of the gross premiums from insurance contracts for automobile
32 physical damage coverage and on one hundred percent (100%) of the gross
33 premiums from all other contracts for property coverage. Twenty percent
34 (20%) of the net proceeds of this additional tax must be credited to the
35 Volunteer Fire Department Fund established in Article 87 of Chapter 58 of
36 the General Statutes. Twenty percent (20%) of the net proceeds must be
37 credited to the Department of Insurance for disbursement pursuant to
38 G.S. 58-84-25. Up to twenty percent (20%), as determined in accordance with
39 G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The
40 remaining net proceeds must be credited to the General Fund. The additional
41 tax imposed on property coverage contracts under this subdivision is a special
42 purpose assessment based on gross premiums and not a gross premiums tax.
43 The following definitions apply in this subdivision:
- 44 a. Automobile physical damage. – The following lines of business
45 identified by the NAIC: private passenger automobile physical
46 damage and commercial automobile physical damage.
- 47 b. Property coverage. – The following lines of business identified by the
48 NAIC: fire, farm owners multiple peril, homeowners multiple peril,
49 nonliability portion of commercial multiple peril, ocean marine, inland
50 marine, earthquake, private passenger automobile physical damage,
51 commercial automobile physical damage, aircraft, and boiler and

1 machinery. The term also includes insurance contracts for wind
2 damage.

3 c. NAIC. – National Association of Insurance Commissioners.

4 ...

5 (e) Report and Payment. – Each taxpayer doing business in this State shall, within the
6 first 15 days of March, file with the Secretary of Revenue a full and accurate report of the total
7 gross premiums as defined in this section, the payroll and other information required by the
8 Secretary in the case of a self-insurer, or the total gross collections from membership dues
9 exclusive of receipts from cost plus plans collected in this State during the preceding calendar
10 year. The taxes imposed by this section shall be remitted to the Secretary with the report.

11 (f) Installment Payments Required. – Taxpayers that are subject to the tax imposed by
12 this section and have a premium tax liability of ten thousand dollars (\$10,000) or more for
13 business done in North Carolina during the immediately preceding year shall remit three equal
14 quarterly installments with each installment equal to at least thirty-three and one-third percent
15 (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The
16 quarterly installment payments shall be made on or before April 15, June 15, and October 15 of
17 each taxable year. The ~~company-taxpayer~~ shall remit the balance by the following March 15 in
18 the same manner provided in this section for annual returns.

19 The Secretary may permit an insurance company or prepaid health plan to pay less than the
20 required estimated payment when the insurer or prepaid health plan reasonably believes that the
21 total estimated payments made for the current year will exceed the total anticipated tax liability
22 for the year.

23 An underpayment or an overpayment of an installment payment required by this subsection
24 accrues interest in accordance with G.S. 105-241.21. An overpayment of tax shall be credited to
25 the ~~company-taxpayer~~ and applied against the taxes imposed upon the ~~company-taxpayer~~ under
26 this Article.

27 (g) Exemptions. – This section does not apply to farmers' mutual assessment fire
28 insurance companies or to fraternal orders or societies that do not operate for a profit and do not
29 issue policies on any person except members. This section does not apply to a captive insurance
30 company taxed under G.S. 105-228.4A."

31 **SECTION 16.(d)** G.S. 58-6-25 reads as rewritten:

32 **"§ 58-6-25. Insurance regulatory charge.**

33 ...

34 (e) Definitions. – The following definitions apply in this section:

35 ...

36 (2) Insurance company. – A company or prepaid health plan, as defined in
37 G.S. 58-93-5, that pays the gross premiums tax levied in G.S. 105-228.5 and
38 G.S. 105-228.8.

39"

40 **SECTION 16.(e)** G.S. 105-259 reads as rewritten:

41 **"§ 105-259. Secrecy required of officials; penalty for violation.**

42 ...

43 (b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
44 access to tax information in the course of service to or employment by the State may not disclose
45 the information to any other person except as provided in this subsection. Standards used or to
46 be used for the selection of returns for examination and data used or to be used for determining
47 the standards may not be disclosed for any purpose. All other tax information may be disclosed
48 only if the disclosure is made for one of the following purposes:

49 ...

50 (49) To exchange information concerning a tax imposed by Article 8B of this
51 Chapter with the North Carolina Department of Insurance or the North

1 Carolina Department of Health and Human Services when the information is
2 needed to fulfill a duty imposed on the ~~Department~~Department of Revenue.

3"

4 **SECTION 16.(f)** This section is effective 30 days after it becomes law and applies
5 to capitation payments received by prepaid health plans on or after that date.

6 **HOSPITAL UNCOMPENSATED CARE FUND**

7 **SECTION 17.** Article 9 of Chapter 143 of the General Statutes is amended by adding
8 a new section to read:

9 **"§ 143C-9-9. Hospital Uncompensated Care Fund.**

10 (a) Creation. – The Hospital Uncompensated Care Fund is established as a nonreverting
11 special fund in the Department of Health and Human Services.

12 (b) Source of Funds. – The Hospital Uncompensated Care Fund shall consist of federal
13 disproportionate share adjustment receipts arising from certified public expenditures.

14 (c) Utilization of Funds. – The Department of Health and Human Services is authorized
15 to utilize funds in the Hospital Uncompensated Care Fund to make the following payments,
16 provided the entity receiving the payment has been determined to be an eligible entity in
17 accordance with subsection (d) of this section:

18 (1) Payments to institutions for mental diseases, as defined in 42 C.F.R. §
19 435.1010.

20 (2) Payments to hospitals to reimburse inpatient services uncompensated care
21 costs or outpatient services uncompensated care costs, or both.

22 (d) Eligibility and Fund Allocations. – The Department of Health and Human Services
23 shall adopt rules for determining eligibility for, and allocations of, Hospital Uncompensated Care
24 Fund payments."
25

26 **MEDICAID NONTAX REVENUE**

27 **SECTION 18.** It is the intent of the General Assembly to enact legislation before the
28 start of the 2021-2022 fiscal year to reflect changes to nontax revenue in the North Carolina
29 Medicaid program in a managed care environment.

30 **PART VIII. MISCELLANEOUS**

31 **SECTION 19.1.** The provisions of the State Budget Act, Chapter 143C of the
32 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
33 this act by reference.

34 **SECTION 19.2.** Departmental receipts, as defined in G.S. 143C-1-1, are
35 appropriated for the 2020-2021 fiscal year up to the amounts needed to implement the provisions
36 in this act for the 2020-2021 fiscal year.

37 **SECTION 19.3.** Except where expressly repealed or amended by this act, the
38 provisions of any other legislation enacted during the 2019 Regular Session expressly
39 appropriating funds to an agency, a department, or an institution covered under this act, shall
40 remain in effect.

41 **PART IX. EFFECTIVE DATE**

42 **SECTION 20.** Except as otherwise provided, this act is effective when it becomes
43 law.
44
45
46