A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR HOSPITAL ASSESSMENTS TO BE USED TO OBTAIN MATCHING FEDERAL MEDICAID FUNDS TO REDUCE THE LOSSES HOSPITALS SUSTAIN WHEN TREATING MEDICAID AND UNINSURED PATIENTS, TO REDUCE THE INEQUITY IN MEDICAID PAYMENTS BETWEEN PUBLIC AND NONPUBLIC HOSPITALS, AND TO PROVIDE FORTY-THREE MILLION DOLLARS IN ADDITIONAL FUNDING FOR THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. (a) The Secretary of Health and Human Services shall implement a hospital assessment program for eligible hospitals to improve funding for payments for hospital services provided to Medicaid and uninsured patients.

SECTION 1. (b) The hospital assessment program shall consist of two different assessments, Equity Assessments and Upper Payment Limit (UPL) Assessments. Each assessment shall be levied as a percent of total hospital costs calculated using the most recent available Hospital Cost Report Information Systems (HCRIS) cost report data or comparable data. Equity Assessments shall consist of both inpatient and outpatient components and shall be calculated to produce annually the nonfederal share of the aggregate payment amount required under Section 1(d)(1) of this act plus an additional amount for the State's Medicaid program. UPL Assessments shall consist solely of an inpatient component and shall be calculated to produce annually the nonfederal share of the aggregate Medicaid payments for which provision is made in Section 1(d)(2) of this act plus an additional amount for the State's Medicaid program. The total annual amount for the State's Medicaid program under this section shall be forty-three million dollars ($43,000,000) annually, allocated between the Equity Assessment and the UPL Assessment based on the amount of gross payments received by hospitals under Sections 1(d)(1) and 1(d)(2) of this act respectively. Each assessment shall comply with applicable federal regulations. Assessments shall be calculated annually and paid quarterly, and shall be prorated for any partial year.

SECTION 1. (c) The assessments shall be levied on all licensed North Carolina hospitals except State-owned and State-operated hospitals, the primary affiliated teaching hospital for each University of North Carolina medical school, critical access hospitals as defined in 42 C.F.R. § 400.202 (Critical Access Hospitals), long-term care hospitals, freestanding psychiatric hospitals, and freestanding rehabilitation hospitals, all of which shall be exempt from all assessments. Hospitals that certify their public expenditures to the Department for the respective assessment year pursuant to 42 C.F.R. § 433.51(b) (Public Hospitals) are subject to UPL Assessments but exempt from Equity Assessments. Assessments
shall be levied quarterly and shall be accompanied by notice to each hospital being assessed
that includes the applicable assessment rates, the hospital costs on which the hospital's
assessments are based, and the elements of the calculation of the hospital's Upper Payment
Limit, which is the maximum ceiling imposed by federal regulation on hospital Medicaid
payments under 42 C.F.R. § 447.272 for inpatient services. A hospital may appeal an
assessment determination through a reconsideration review, however, the pendency of an
appeal shall not relieve a hospital from its obligation to pay any assessment amount when due.
The Department shall set the due date for each assessment. Payment of an assessment amount
shall be considered delinquent if not paid within seven days of the due date. With respect to any
past-due unpaid assessment, the Department may withhold the unpaid amount from Medicaid
payments otherwise due or impose a reasonable penalty. The Department may waive a penalty
for good cause shown. All assessment proceeds and corresponding matching federal funds
shall be used solely for the purpose of making the payments to hospitals and transfers to the
General Fund described in Section 1(d) of this act.

SECTION 1.(d) Within seven days of the due date for each quarterly assessment
installment, the Secretary shall make the following payments to hospitals and shall transfer to
the State Controller the quarterly share of the forty-three million dollars ($43,000,000)
described in Section 1(b) of this act:

(1) A quarterly Medicaid Equity Payment shall be made to each hospital that has
paid its Equity Assessment for the respective quarter. The amount of the
Medicaid Equity Payment shall be the sum of the participating hospital's
Medicaid inpatient and outpatient deficits after calculating all other
Medicaid payments, excluding disproportionate share hospital payments and
the Upper Payment Limit Payment described below.

(2) A quarterly Upper Payment Limit Payment shall be made to each of the
following hospitals: (i) hospitals that paid their Upper Payment Limit
Assessment for the respective quarter, (ii) the primary affiliated teaching
hospital for the East Carolina University Brody School of Medicine, and (iii)
Critical Access Hospitals. The aggregate Upper Payment Limit Payment
made to Public Hospitals shall be the sum of the Upper Payment Limit Gaps
for all Public Hospitals. The Aggregate Upper Payment Limit Payment for
the remaining hospitals eligible for Upper Payment Limit Payments (the
Non-Public Hospitals) shall be the sum of the Upper Payment Limit Gaps
for all Non-Public Hospitals. Upper Payment Limit Gap means the
difference between the Upper Payment Limit attributable to hospital
inpatient services and the reasonable costs of inpatient hospital services as
defined in Section (f)(2)(A) on page 11 of Attachment 4.19-A of the State
Medicaid Plan as approved on December 15, 2005 (Medicaid Inpatient
Costs). Upper Payment Limit Payments shall be paid to the individual
hospitals in the ratio of each hospital's Medicaid Inpatient Costs to the total
Medicaid Inpatient Costs for the respective group.

(3) Notwithstanding any other provision in this act to the contrary, if for any
payment year the data necessary to calculate the assessments or the
Medicaid Equity Payment or the Upper Payment Limit Payments is not
available to the Division in time to levy a quarterly assessment as
contemplated in this Article, then the due dates for assessments and
payments under this Article shall be deferred to a subsequent quarter.

If all or any part of a payment required hereunder is not made to one or more
hospitals when due, the Secretary shall promptly refund to each such hospital the corresponding
assessment proceeds collected in proportion to the amount of assessment paid by that hospital.
SECTION 1. (e) Assessments shall be implemented promptly after approval by the Centers for Medicare & Medicaid Services (CMS) of a State Plan amendment that incorporates the payment provisions of this Article. The Department shall file with CMS a State Plan amendment consistent with the provisions of this Article no later than March 31, 2011. Upon CMS approval, the Secretary may levy the initial assessment retroactive to the first day of the quarter in which the State Plan amendment was filed, provided that the corresponding payments to hospitals described in Section 1(d) of this act are made for that quarter. If CMS approves only one component of the Equity Assessment (either inpatient or outpatient), the Secretary may adjust the Equity Assessment rate on the approved component to produce the required aggregate payment amounts under Section 1(d) of this act. This Article shall terminate and be of no further force or effect in the event that CMS determines at any time that the assessment or payment methodologies described in this Article are impermissible or if CMS revokes approval of any portion of the State Plan amendment authorizing the payments required by this section.

SECTION 1. (f) Assessments paid under this act may be included as allowable costs of a hospital for purposes of any applicable Medicaid reimbursement formula but shall not be added as a surtax or assessment on a patient's bill. Nothing in this section authorizes a political subdivision of the State to license a hospital for revenue or impose a tax or assessment on a hospital.

SECTION 2. This act is effective when it becomes law.