

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 929

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April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER CHANGES TO
THE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-567.58(c), as enacted by Section 1 of Chapter 292 of the
1991 Session Laws, reads as rewritten:

"(c) The arbitral tribunal shall decide **ex aequo et bono** (on the basis of
fundamental fairness), or as **amiable compositeur** (as an 'amicable ~~compounder~~;
compounder'), only if the parties have expressly authorized it to do so."

Sec. 2. G.S. 7A-38(h), as enacted by Section 1 of Chapter 207 of the 1991
Session Laws, reads as rewritten:

"(h) Sanctions. Upon failure of a party or attorney to attend a court ordered
mediated settlement conference to the extent required by this section and rules
promulgated by the Supreme Court, a resident or presiding judge may impose any
lawful sanction, including but not limited to the payment of ~~attorneys~~attorneys' fees,
mediator fees, and expenses incurred in attending the conference, contempt, or any
other sanction authorized by G.S. 1A-1, Rule 37(b)."

Sec. 3. G.S. 7A-451.1 reads as rewritten:

"§ 7A-451.1. Counsel fees for outpatient involuntary commitment proceedings.

1 The State shall pay counsel fees for persons appointed pursuant to ~~G.S. 122-58.7A:1-~~
2 G.S. 122C-267(d)."

3 Sec. 4. 7A-455(d) reads as rewritten:

4 "(d) In all cases in which the entry of a judgment is authorized under G.S. 7A-
5 450.1 through G.S. 7A-450.4 or under this section, the attorney, guardian **ad litem**,
6 public defender, or appellate defender who rendered the services or incurred the
7 expenses for which the judgment is to be entered shall obtain the social security
8 number, if any, of each person against whom judgment is to be entered. This number,
9 or a certificate that the person has no social security number, shall be included in each
10 fee application submitted by an assigned attorney, guardian **ad litem**, public defender,
11 or appellate defender, and no order for payment entered upon an application which does
12 not include the required social security number or certification shall be valid to
13 authorize payment to the applicant from the Indigent Persons' Attorney Fee Fund. Each
14 judgment docketed against any person under this section or under ~~G.S. 450.3~~ G.S. 7A-
15 450.3 shall include the social security number, if any, of the judgment debtor."

16 Sec. 5. G.S. 20-37.6(e), as amended by Section 4 of Chapter 530 of the 1991
17 Session Laws, reads as rewritten:

18 "(e) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:

- 19 (1) To park or leave standing any vehicle in a space designated with a sign
20 pursuant to subsection (d) of this section for handicapped persons or
21 visually impaired persons when the vehicle does not display the
22 distinguishing license plate, placard, or identification card as provided
23 in this section or a disabled veteran registration plate issued pursuant
24 to ~~G.S. 20-81.4;~~ G.S. 20-81.4;
- 25 (2) For any person not qualifying for the rights and privileges extended to
26 handicapped or visually impaired persons under this section to exercise
27 or attempt to exercise such rights or privileges by the unauthorized use
28 of a distinguishing license plate, placard, or identification card issued
29 pursuant to the provisions of this section;
- 30 (3) To park or leave standing any vehicle so as to obstruct a curb ramp or
31 curb cut for handicapped persons as provided for by the North
32 Carolina Building Code or as designated in G.S. 136-44.14;
- 33 (4) For those responsible for designating parking spaces for the
34 handicapped to erect or otherwise use signs not conforming to G.S. 20-
35 37.6(d) for this purpose.

36 This section is enforceable in all public vehicular areas specified in G.S. 20-
37 4.01(32)."

38 Sec. 6. G.S. 20-117.1(a), as amended by Section 1 of Chapter 113 of the
39 1991 Session Laws, reads as rewritten:

40 "(a) Rear-Vision Mirrors. – Every bus, truck, and truck tractor with a GVWR of
41 10,001 pounds or more shall be equipped with two rear-vision mirrors, one at each side,
42 firmly attached to the outside of the motor vehicle, and located as to reflect to the driver
43 a view of the highway to the rear and along both sides of the vehicle. Only one outside
44 mirror shall be required, on the driver's side, on trucks which are so constructed that the

1 driver also has a view to the rear by means of an interior mirror. In driveaway-towaway
2 operations, a driven vehicle shall have at least one mirror furnishing a clear view to the
3 rear, and if the interior mirror does not provide the clear view, an additional mirror shall
4 be attached to the left side of the driven vehicle to provide the clear view to the rear."

5 Sec. 7. G.S. 20-183.2(a), as amended by Section 1 of Chapter 394 of the
6 1991 Session Laws, reads as rewritten:

7 "(a) Every motor vehicle, trailer, semitrailer, and pole trailer not including trailers
8 of a gross weight of less than 4,000 pounds and house trailers, registered or required to
9 be registered in North Carolina when operated on the streets and highways of this State
10 must display a current approved State or federal inspection certificate as required by the
11 Federal Motor Carrier Safety Regulations at such place on the vehicle as may be
12 designated by the Commissioner, indicating that it has been inspected in accordance
13 with this Part. Gasoline-powered vehicles over 26,001 pounds shall be subject to
14 emission control device and exhaust emission testing required under G.S. 20-128.2.
15 Such motor vehicle shall thereafter be inspected and display a current inspection
16 certificate as is required by subsection (b) hereof."

17 Sec. 8. All of the matter set out in G.S. 47D-6 and G.S. 47D-9, as enacted by
18 Section 1 of Chapter 261 of the 1991 Session Laws, is new law.

19 Sec. 9. G.S. 47D-8(a), as enacted by Section 1 of Chapter 261 of the 1991
20 Session Laws, reads as rewritten:

21 "(a) The notice of settlement shall be effective as provided in ~~G.S. 47D-7(a)~~ G.S.
22 47D-7 from the time of, and for three business days following the day of, filing of the
23 notice of settlement pursuant to this Chapter. If the deed or mortgage delivered
24 pursuant to a settlement for which the notice was filed has not been properly registered
25 in the county where the real property is situated within the three business day period, the
26 notice of settlement shall become absolutely void, and the priority of the grantee or
27 mortgagee under the deed or mortgage registered subsequent to said three business day
28 period shall date from the time of registration of the deed or mortgage, and not from the
29 time of the filing of the notice of settlement."

30 Sec. 10. G.S. 58-50-125(e), as enacted by Section 1 of Chapter 630 of the
31 1991 Session Laws, reads as rewritten:

32 "(e) No small employer carrier is required to offer coverage or accept applications
33 under subsection (d) of this section:

- 34 (1) From a group already covered under a health benefit plan except for
35 coverage that is to begin after the group's anniversary date, but this
36 subsection shall not be construed to prohibit a group from seeking
37 coverage or a small employer carrier from issuing coverage to a group
38 before its anniversary date; or
- 39 (2) If the Commissioner determines that acceptance of an application or
40 applications would result in the carrier being declared an impaired
41 insurer; or
- 42 (3) To groups of fewer ~~that~~ than five eligible employees where the small
43 employer carrier does not use preexisting-conditions provisions in all
44 health benefit plans it issues to any small employers.

1 If a small employer carrier who does not use preexisting conditions chooses to market to
2 groups of less than five, then it shall immediately notify the Commissioner and the
3 Board, and it shall do so consistently and equally to all such small employer groups."

4 Sec. 11. G.S. 58-64-35(a)(2), as rewritten by Section 6 of Chapter 196 of the
5 1991 Session Laws, reads as rewritten:

6 "(2) ~~that~~—The remaining seventy-five percent (75%) of escrowed monies
7 can be released when:

- 8 a. (i) the provider has presold a minimum of seventy-five percent
9 (75%) of the independent living units, having received a
10 minimum ten percent (10%) deposit on the presold units, or has
11 maintained an independent living unit occupancy minimum of
12 seventy-five percent (75%) for at least 60 days; (ii) construction
13 or purchase of the independent living unit has been completed
14 and an occupancy permit, if applicable, has been issued by the
15 local government having authority to issue such permits; and
16 (iii) the living unit becomes available for occupancy by the new
17 resident; or
18 b. the provider submits a plan of reorganization that is accepted
19 and approved by the Commissioner."

20 Sec. 12. G.S. 58-64-35(c), as enacted by Section 6 of Chapter 196 of the
21 1991 Session Laws, reads as rewritten:

22 "(c) Release of any escrowed funds that may be due to the subscriber or resident
23 shall occur upon: five working days ~~days~~' notice of death, nonacceptance by the facility,
24 or voluntary cancellation. If voluntary cancellation occurs after construction has begun,
25 the refund may be delayed until a new subscriber is obtained for that specific unit,
26 provided it does not exceed a period of two years."

27 Sec. 12.1. G.S. 70-48(5), as enacted by Section 2 of Chapter 461 of the 1991
28 Session Laws, reads as rewritten:

29 "(5) 'State Archaeologist' means the head of the ~~Office of State Archaeology,~~
30 Archaeology Branch, Archaeology and Historic Preservation Section,
31 Division of Archives and History, Department of Cultural Resources."

32 Sec. 12.2. G.S. 70-50, as enacted by Section 2 of Chapter 461 of the 1991
33 Session Laws, reads as rewritten:

34 "**§ 70-50. Site Steward Program.**

35 The Department of Cultural Resources may create and maintain a volunteer program
36 for purposes of monitoring the condition of archaeological resources listed in the
37 Record. This program shall be known as the Site Steward Program and will be
38 administered through the ~~Office of State Archaeology~~Department in cooperation with
39 local and statewide archaeological societies and groups."

40 Sec. 12.3. The second paragraph of G.S. 20-279.21(b)(4), as amended by
41 Chapter 646 of the 1991 Session Laws, reads as rewritten:

42 "In any event, the limit of underinsured motorist coverage applicable
43 to any claim is determined to be the difference between the amount
44 paid to the claimant under the exhausted liability policy or policies and

1 the limit of underinsured motorist coverage applicable to the motor
2 vehicle involved in the accident. Furthermore, if a claimant is an
3 insured under the underinsured motorist coverage on separate or
4 additional policies, the limit of underinsured motorist coverage
5 applicable to the claimant is the difference between the amount paid to
6 the claimant under the exhausted liability policy or policies and the
7 total limits of the claimant's underinsured motorist coverages as
8 determined by combining the highest limit available under each policy;
9 ~~instances where more than one policy may apply, the benefit of all limits of~~
10 ~~liability of underinsured motorist covered under all such policies;~~ provided
11 that this sentence shall apply only to insurance on nonfleet private
12 passenger motor vehicles as described in G.S. 58-40-15(9) and (10).
13 The underinsured motorist limits applicable to any one motor vehicle
14 under a policy shall not be combined with or added to the limits
15 applicable to any other motor vehicle under that policy."

16 Sec. 12.4. G.S. 90-357(a)(4)e., as enacted by House Bill 881, 1991 Session,
17 reads as rewritten:

18 "e. Is a member of a recognized denomination or faith group that
19 recognizes the applicant's status as a rabbi, priest, minister, or
20 religious leader; ~~leader,~~ as defined in the Federal Internal
21 Revenue Code ~~Code~~;"

22 Sec. 13. G.S. 87-21(e), as amended by Section 1 of Chapter 355 of the 1991
23 Session Laws, reads as rewritten:

24 "(e) Posting License; License Number on Contracts, etc. – The current license
25 issued in accordance with the provisions of this Article shall be posted in the business
26 location of the licensee, and its number shall appear on all proposals or contracts and
27 requests for permits issued by municipalities. The initial qualified licensee on a license
28 is the permanent possessor of the license number under which that license is issued,
29 except that a licensee, or the licensee's legal agent, personal representative, heirs or
30 assigns, may designate in writing to the Board a qualified licensee to whom the Board
31 shall assign the license number upon the payment of a ten ~~dollars~~ dollar (\$10.00)
32 assignment fee. Upon such assignment, the qualified licensee becomes the permanent
33 possessor of the assigned license number. Notwithstanding the foregoing, the license
34 number may be assigned only to a qualified licensee who has been employed by the
35 initial licensee's plumbing and heating company for at least 10 years or is a lineal
36 relative, sibling, first cousin, nephew, niece, daughter-in-law, son-in-law, brother-in-
37 law, or sister-in-law of the initial licensee. Each successive licensee to whom a license
38 number is assigned under this subsection may assign the license number in the same
39 manner as provided in this subsection."

40 Sec. 14. G.S. 90-270.15(a), as amended by Section 1 of Chapter 239 of the
41 1991 Session Laws, reads as rewritten:

42 "(a) Any applicant for licensure and any person licensed under this Article shall
43 have behaved in conformity with the ethical and professional standards specified in this
44 section and in the rules and regulations of the Board. The Board may deny, suspend,

1 revoke, discipline, place on probation, limit, or require remediation or rehabilitation, all
2 as provided for in subsection (f) below, upon proof that the applicant or the person to
3 whom the ~~licenses~~ license was issued:

- 4 (1) Has been convicted of a felony or entered a plea of guilty or **nolo**
5 **contendere** to any felony charge;
- 6 (2) Has been convicted of or entered a plea of guilty or **nolo contendere**
7 to any misdemeanor involving moral turpitude, misrepresentation or
8 fraud in dealing with the public, or conduct otherwise relevant to
9 fitness to practice psychology, or a misdemeanor charge reflecting the
10 inability to practice psychology with due regard to the health and
11 safety of clients or patients;
- 12 (3) Has engaged in fraud or deceit in securing or attempting to secure a
13 license under this Article or the renewal thereof or has willfully
14 concealed from the Board material information in connection with
15 application for or renewal of a license under this Article;
- 16 (4) Repealed by Session Laws 1991, c. 239, s. 1.
- 17 (4a) Has demonstrated an inability to practice psychology with reasonable
18 skill and safety by reason of illness, inebriation, misuse of drugs,
19 narcotics, alcohol, chemicals, or any other substance affecting mental
20 or physical functioning, or as a result of any mental or physical
21 condition;
- 22 (5) Has practiced any fraud, deceit, or misrepresentation upon the public,
23 the Board, or upon any individual in connection with the practice of
24 psychology, the offer of psychological services, the filing of Medicare,
25 Medicaid, or other claims to any third party payor, or in any manner
26 otherwise relevant to fitness for the practice of psychology;
- 27 (6) Has made fraudulent, misleading, or intentionally or materially false
28 statements pertaining to education, licensure, professional credentials,
29 or related to qualifications or fitness for the practice of psychology to
30 the public, any individual, the Board, or any other organization;
- 31 (7) Has had a license or certification for the practice of psychology in any
32 other state, or territory of the United States, or any other country,
33 suspended or revoked, or has been disciplined by any other state or
34 territorial licensing or certification board for conduct which would
35 subject him to discipline under this Article;
- 36 (8) Has been guilty of immoral, dishonorable, unprofessional, or unethical
37 conduct as defined in this subsection, in subsection (a1) below, or in
38 the then-current code of ethics of the American Psychological
39 Association, except as the provisions of such code of ethics may be
40 inconsistent and in conflict with the provisions of this Article, in which
41 case, the provisions of this Article control;
- 42 (9) Has violated any provision of this Article or of the duly adopted rules
43 and regulations of the Board; or
- 44 (10) Repealed by Session Laws 1991 c. 239, s. 1.

1 (10a) Has aided or abetted the unlawful practice of psychology by any
2 person not licensed by the Board."

3 Sec. 15. G.S. 90-270.15(a1), as amended by Section 1 of Chapter 239 of the
4 1991 Session Laws, reads as rewritten:

5 "(a1) The Board may deny licensure, and discipline or require remediation and
6 rehabilitation, or any combination thereof, as specified in subsections (a) above and (e)
7 below, upon proof of immoral, dishonorable, unprofessional, or unethical conduct.
8 Immoral, dishonorable, unprofessional, or unethical ~~conduct~~, conduct has occurred
9 whenever any person who has applied for or has been issued a license under this Article
10 has engaged in any of the following acts or offenses:

- 11 (1) Practiced psychology in such a manner as to endanger the welfare of
12 clients or patients;
- 13 (2) Harassed or abused, sexually or otherwise, a client, patient, student,
14 supervisee, or trainee;
- 15 (3) Exercised undue influence in such a manner as to exploit the client,
16 patient, student, supervisee, or trainee for the financial or other
17 personal advantage or gratification of the psychologist or a third party;
- 18 (4) Refused to appear before the Board after having been ordered to do so
19 in writing by the Chair;
- 20 (5) Failed to cooperate with or to respond promptly, completely, and
21 honestly to the Board, to credentials committees, or to ethics
22 committees of professional psychological associations, hospitals, or
23 other health care organizations or educational institutions when those
24 organizations or entities have jurisdiction; or failed to cooperate with
25 institutional review boards or professional standards review
26 organizations, when those organizations or entities have ~~jurisdiction~~.
27 jurisdiction;
- 28 (6) Failed to maintain a clear and accurate case record which documents
29 the following for each patient or client:
 - 30 a. Presenting problems, diagnosis, or purpose of the evaluation,
31 counseling, treatment, or other services provided;
 - 32 b. Fees, dates of services, and itemized charges;
 - 33 c. Summary content of each session of evaluation, counseling,
34 treatment, or other services, except that summary content need
35 not include specific information that may cause significant
36 harm to any person if the information were released;
 - 37 d. Test results or other findings, including basic test data; and
 - 38 e. Copies of all reports prepared;
- 39 (7) Failed to competently use, administer, score, or interpret psychological
40 assessment techniques, including interviewing and observation, or
41 provided findings or recommendations which do not accurately reflect
42 the assessment data, or exceed what can reasonably be inferred,
43 predicted, or determined from test, interview, or observational data;

- 1 (8) Failed to provide competent diagnosis, counseling, treatment,
2 consultation, or supervision, in keeping with standards of usual and
3 customary practice in this State;
- 4 (9) In the absence of established standards, failed to take all reasonable
5 steps to ensure the competence of services;
- 6 (10) Failed to cooperate with other psychologists or other professionals to
7 the potential or actual detriment of clients, patients, or other recipients
8 of service, or behaved in ways which substantially impede or impair
9 other psychologists' or other professionals' abilities to perform
10 professional duties; or
- 11 (11) Practiced psychology or conducted research outside the boundaries of
12 demonstrated competence or the limitations of education, training, or
13 supervised experience."

14 Sec. 16. G.S. 90-270.15(g), as amended by Section 1 of Chapter 239 of the
15 1991 Session Laws, reads as rewritten:

16 "(g) When considering the issue of whether or not an applicant or licensee is
17 physically or mentally capable of practicing psychology with reasonable skill and safety
18 to patients or clients, then, upon a showing of probable cause to the Board that the
19 applicant or licensee is not capable of practicing psychology with reasonable skill and
20 safety to patients or clients, the Board may petition a court of competent jurisdiction to
21 order the applicant or licensee in question to submit to a psychological examination by a
22 psychologist to determine psychological status or a physical examination by a physician
23 to determine physical condition, or both. Such psychologist or physician, shall be
24 designated by the court. The expenses of such examinations shall be borne by the
25 Board. Where the applicant or licensee raises the issue of mental or physical
26 competence or appeals a decision regarding mental or physical competence, the
27 applicant or licensee shall be permitted to obtain an evaluation at the ~~applicant~~
28 applicant's or licensee's expenses. If the Board suspects the objectivity or adequacy of
29 the examination, the Board may compel an examination by its designated practitioners
30 at its own expense."

31 Sec. 17. G.S. 95-138(a), as amended by Section 1 of Chapter 329 of the 1991
32 Session Laws, reads as rewritten:

33 "(a) Any employer who willfully or repeatedly violates the requirements of this
34 Article, any standard, rule or order promulgated pursuant to this Article, or regulations
35 prescribed pursuant to this Article, may upon the recommendation of the Director to the
36 Commissioner be assessed by the Commissioner a civil penalty of not more than
37 seventy thousand dollars (\$70,000) and not less than five thousand dollars (\$5,000) for
38 each willful violation. Any employer who has received a citation for a serious violation
39 of the requirements of this Article or any standard, rule, or order promulgated under this
40 Article or of any regulation prescribed pursuant to this Article, shall be assessed by the
41 Commissioner a civil penalty of up to seven thousand dollars (\$7,000) for each such
42 violation. If the violation is adjudged not to be of a serious nature, then the employer
43 may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each such
44 violation. Any employer who fails to correct a violation for which a citation has been

1 issued under this Article within the period allowed for its correction (which period shall
2 not begin to run until the date of the final order of the Board in the case of any appeal
3 proceedings in this Article initiated by the employer in good faith and not solely for the
4 delay or avoidance of penalties), may be assessed a civil penalty of not more than seven
5 thousand dollars (\$7,000). Such assessment shall be made to apply to each day during
6 which such failure or violation continues. Any employer who violates any of the
7 posting requirements, as prescribed under the provision of this Article, shall be assessed
8 a civil penalty of not more than seven thousand dollars (\$7,000) for such violation. The
9 Commissioner upon recommendation of the Director, or the Board in case of an appeal,
10 shall have authority to assess all civil penalties provided by this Article, giving due
11 consideration to the appropriateness of the penalty with respect to the size of the
12 business of the employer being charged, the gravity of the violation, the good faith of
13 the employer and the record of previous violations."

14 Sec. 18. G.S. 105-102.6(c), as enacted by Section 2 of Chapter 539 of the
15 1991 Session Laws, reads as rewritten:

16 "(c) Minimum Recycled Content Percentage. The recycled content percentage of
17 every person engaged in the business of publishing or printing publications printed on
18 newsprint consumed by a producer shall equal or exceed the following minimum
19 recycled content ~~percentages~~ percentages:

20 During 1991 and 1992, twelve percent (12%).

21 During 1993, fifteen percent (15%).

22 During 1994, twenty percent (20%).

23 During 1995, twenty-five percent (25%).

24 During 1996, thirty percent (30%).

25 During 1997, thirty-five percent (35%).

26 After 1997, forty percent (40%)."

27 Sec. 19. G.S. 105-445, as amended by Sections 16, 18, and 20 of Chapter
28 538 of the 1991 Session Laws, reads as rewritten:

29 **"§ 105-445. Application of proceeds of gasoline tax.**

30 Of the revenue collected under this Article, seventy-five percent (75%) shall be
31 credited to the Highway Fund and the remaining twenty-five percent (25%) shall be
32 credited to the Highway Trust Fund. A proportionate share of a refund allowed under
33 this Article shall be charged to ~~the~~ the Highway Fund and the Highway Trust Fund. The
34 Secretary shall credit revenue or charge refunds to the appropriate Funds on a monthly
35 basis."

36 Sec. 20. G.S. 113A-226(a), as enacted by Section 1 of Chapter 132 of the
37 1991 Session Laws, reads as rewritten:

38 "(a) Any person who violates this Article or any rule adopted pursuant to this
39 Article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less
40 than fifty dollars (\$50.00) ~~or~~ nor more than one thousand dollars (\$1,000), or
41 imprisoned for not less than 10 days nor more than 180 days, or both, for each offense."

42 Sec. 21. G.S. 115D-71, as amended by Section 3 of Chapter 184 of the 1991
43 Session Laws, reads as rewritten:

44 **"§ 115D-71. Persons eligible to attend the Center; subjects taught.**

1 Persons eligible ~~for~~ to attend the Center shall be at least 16 years of age and legal
2 residents of the State of North Carolina, as set forth in G.S. 116-143.1: Provided, that
3 out-of-state students, not to exceed ten percent (10%) of the total enrollment, may be
4 enrolled when vacancies exist, upon payment of tuition. The amount of tuition shall be
5 determined by the board of trustees. The money thus collected shall be deposited in the
6 State treasury. The Center shall (i) assist individual citizens of North Carolina in
7 becoming contributing members of a well-qualified work force and (ii) assist in
8 identification of problems confronting the textile industry and in solving these problems
9 through education, training, and technology transfer in partnership with the North
10 Carolina Community College System."

11 Sec. 21.1. Article 6A.1 of Chapter 120 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 120-30.9I. Alternate submission authority.**

14 Notwithstanding any other provision of this Article, in the event that the person or
15 party responsible under G.S. 120-30.9E, 120-30.9F, or 120-30.9G for submitting any
16 local act of the General Assembly shall delay, obstruct, or refuse to make a submittal to
17 the Attorney General of the United States, the Attorney General of North Carolina may
18 submit that local act. Any person or party responsible under this Article for making
19 such a submission shall promptly provide any information and materials the Attorney
20 General of North Carolina might request to facilitate making the submission and making
21 any supplements to the submission."

22 Sec. 22. G.S. 130-295.02, as enacted by Chapter 450 of the 1991 Session
23 Laws, is recodified as G.S. 130A-295.03.

24 Sec. 23. G.S. 131E-2, as enacted by Section 1 of Chapter 143 of the 1991
25 Session Laws, reads as rewritten:

26 **"§ 131E-2. Contested case hearing petition time limit.**

27 Except as otherwise provided in this Chapter, a petition for a contested case that is
28 authorized by this Chapter shall be filed in the Office of Administrative Hearings within
29 30 days after the Department mails written notice of an agency decision to the person
30 filing the petition. This section shall not be construed to create any right to file a
31 petition for a contested case that is not otherwise granted in this Chapter."

32 Sec. 24. G.S. 131E-103(b), as amended by Section 2 of Chapter 143 of the
33 1991 Session Laws, reads as rewritten:

34 "(b) The provisions of Chapter 150B of the General Statutes, the Administrative
35 Procedure Act, shall govern all administrative action and judicial review in cases where
36 the Department has taken the action described in subsection (a). A petition for a
37 contested case shall be filed within 20 days after the Department mails the licensee a
38 notice of its decision to deny a renewal application, or to recall, suspend, or revoke an
39 existing license."

40 Sec. 25. G.S. 131E-109(c), as amended by Section 3 of Chapter 143 of the
41 1991 Session Laws, reads as rewritten:

42 "(c) The Secretary or a designee may suspend the admission of any new patients
43 or residents at any nursing home or domiciliary home where the conditions of the
44 nursing home or domiciliary home are detrimental to the health or safety of the patient

1 or resident. This suspension shall remain in effect until the Secretary is satisfied that
2 conditions or circumstances merit the removal of the suspension. This subsection shall
3 be in addition to authority to suspend or revoke the license of the home. Any facility
4 wishing to contest a suspension of admissions shall be entitled to an administrative
5 hearing as provided in the Administrative Procedure Act, Chapter 150B of the General
6 Statutes. The petition for a contested case shall be filed in the Office of Administrative
7 Hearings within 20 days after the Department mails a written notice of suspension of
8 admissions to the facility."

9 Sec. 26. G.S. 131E-111(b), as amended by Section 1 of Chapter 185 of the
10 1991 Session Laws, reads as rewritten:

11 "(b) A nurse aide who wishes to contest a finding of resident neglect, resident
12 abuse, or misappropriation of resident property made against the aide, is entitled to an
13 administrative hearing as provided by the Administrative Procedure Act, Chapter 150B
14 of the General Statutes. A petition for a contested case shall be filed within 30 days
15 after the nurse aide receives written notice by certified mail of the Department's intent to
16 place findings against the aide in the nurse aide registry."

17 Sec. 27. (a) G.S. 143-215.108(c), as designated by Section 5 of Chapter 552
18 of the 1991 Session Laws, shall instead be G.S. 143-215.108(d) as designated by
19 Section 1 of Chapter 629 of the 1991 Session Laws.

20 (b) G.S. 143-215.108(d), as enacted by Section 5 of Chapter 552 of the 1991
21 Session Laws, is recodified as G.S. 143-215.108(d1).

22 (c) G.S. 143-215.108(f), as designated by Section 5 of Chapter 552 of the
23 1991 Session Laws, shall instead be G.S. 143-215.108(g) as designated by Section 1 of
24 Chapter 629.

25 Sec. 28. G.S. 143B-153(3), as amended by Section 1 of Chapter 462 of the
26 1991 Session Laws, reads as rewritten:

27 "(3) The Social Services Commission shall have the power and duty to
28 establish and adopt standards:

- 29 a. For the inspection and licensing of maternity homes as provided
30 by G.S. 131D-1;
- 31 b. For the inspection and licensing of domiciliary homes for aged
32 or disabled persons as provided by G.S. 131D-2(b) and for
33 personnel requirements of staff employed in domiciliary homes.
34 Any proposed personnel requirements that would impose
35 additional costs on owners of domiciliary homes shall be
36 reviewed by the Joint Legislative Commission on
37 Governmental Operations before they are ~~adopted~~ adopted;
- 38 c. For the inspection and licensing of child-care institutions as
39 provided by G.S. 131D-10.5;
- 40 d. For the inspection and operation of jails or local confinement
41 facilities as provided by G.S. 153A-220 and Article 2 of
42 Chapter 131D of the General Statutes of the State of North
43 Carolina;
- 44 e. Repealed by Session Laws 1981, c. 562, s. 7.

1 f. For the regulation and licensing of charitable organizations,
2 professional fund-raising counsel and professional solicitors as
3 provided by Chapter 131D of the General Statutes of the State
4 of North Carolina."

5 Sec. 29. G.S. 159-27.1, as enacted by Section 3 of Chapter 508 of the 1991
6 Session Laws, is recodified as G.S. 159-27.1.

7 Sec. 30. G.S. 160A-35(b), as enacted by Section 1 of Chapter 25 of the 1991
8 Session Laws, is recodified as G.S. 160A-35.1, with a catch line to read: "Limitation on
9 change in financial participation prior to annexation." G.S. 160A-35(a) is redesignated
10 as G.S. 160A-35.

11 Sec. 31. G.S. 160A-47(b), as enacted by Section 1 of Chapter 25 of the 1991
12 Session Laws, is recodified as G.S. 160A-47.1, with a catch line to read: "Limitation on
13 change in financial participation prior to annexation." G.S. 160A-47(a) is redesignated
14 as G.S. 160A-47.

15 Sec. 32. G.S. 163-140(b)(4)a. and b. as rewritten by Section 2 of Chapter
16 641, Session Laws of 1991, reads as rewritten:

17 "a. To vote for all candidates of one party (a straight ticket), make a
18 cross (X) mark in the circle of the party for whose candidates
19 you wish to vote.
20 ~~for whom you wish to vote.~~

21 b. You may vote a split ticket by not marking a cross (X) mark in
22 the party circle, but by making a cross (X) mark in the square
23 opposite the name of each candidate for whom you wish to
24 vote."

25 Sec. 32.1. G.S. 163-140(b)(5)a. and b. as rewritten by Section 3 of Chapter
26 641, Session Laws of 1991, reads as rewritten:

27 "a. To vote for all candidates of one party (a straight ticket), make a
28 cross (X) mark in the circle of the party for whose candidates
29 you wish to vote.
30 ~~for whom you wish to vote~~

31 b. You may vote a split ticket by not marking a cross (X) mark in
32 the party circle, but by making a cross (X) mark in the square
33 opposite the name of each candidate for whom you wish to
34 vote."

35 Sec. 33. (a) The description of District 8 in G.S. 163-201 as rewritten by
36 Chapter 601, Session Laws of 1991, is amended by deleting "Radford # 5" and
37 substituting "Raeford # 5".

38 (b) G.S. 163-201(c)(6), as enacted by Chapter 601, Session Laws of 1991, reads
39 as rewritten:

40 "(6) ~~Any listing in any district of Mecklenburg Precinct XMC2 Noncontiguous~~
41 ~~shall be disregarded, as that precinct does not exist~~In Mecklenburg
42 County, Precinct XMC2 Noncontiguous is Tract 55.01, Block 303C,
43 and is districted with Precinct MC1 notwithstanding any description
44 above;".

1 Sec. 34. The first line of Section 1 of Chapter 59 of the 1991 Session Laws is
2 amended by adding the phrase "Part C of Article 6 of" before the phrase "Chapter
3 131E".

4 Sec. 35. Section 2 of Chapter 142 of the 1991 Session Laws reads as
5 rewritten:

6 "Sec. 2. This act becomes effective October 1, 1991, and applies to ~~require~~required
7 reevaluations for children who have not reached the second semester of the third grade
8 by this date."

9 Sec. 36. Section 1 of Chapter 204 of the 1991 Session Laws is amended by
10 inserting the word "and" at the end of subdivision (6).

11 Sec. 37. Effective on the effective date of Section 3 of Chapter 672, Session
12 Laws of 1991, Subsection (a) of Section 222 of Chapter 689 of the 1991 Session Laws,
13 The Appropriations and Budget Revenue Act of 1991 reads as rewritten:

14 "(a) Before any other transfers are made pursuant to ~~G.S. 20-81.3(e) or 20-81.3(g),~~
15 G.S. 20-79.7, the Secretary of Transportation shall allocate from the 'Personalized
16 'Special Registration Plate Fund' \$150,000 for the 1991-92 fiscal year and \$150,000 for
17 the 1992-93 fiscal year for personnel to staff Visitor and Welcome Centers as follows:

- 18 (1) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
19 year to the Albemarle Regional Planning and Development Office in
20 the Town of Hertford for the Visitor and Welcome Center on U.S.
21 Highway 17 in Camden County;
- 22 (2) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
23 year to the Southeastern Welcome Center, Inc., for the Visitor and
24 Welcome Center on U.S. Highway 17 South in Brunswick County;
- 25 (3) \$25,000 for the 1991-92 fiscal year and \$25,000 for the 1992-93 fiscal
26 year to Smoky Mountain Hosts of North Carolina, Inc., for the Visitor
27 and Welcome Center on U.S. Highway 441 in Macon County; and
- 28 (4) \$25,000 for the 1991-92 fiscal year and \$25,000 for the 1992-93 fiscal
29 year to the North Carolina High Country Host, Inc., for personnel to
30 staff the Visitor and Welcome Center in the Town of Boone, Watauga
31 County."

32 Sec. 37.1. In order to account for revenues raised by Chapter 623, Session
33 Laws of 1991, there is appropriated from the nonreverting account for Water Pollution
34 Control Operators Certification established in G.S. 90A-42 to the Department of
35 Environment, Health, and Natural Resources the sum of \$400,000 for the 1991-92 fiscal
36 year and the sum of \$400,000 for the 1992-93 fiscal year for administering the Water
37 Pollution Control System Operators Certification Program; provided, however, if the
38 revenues raised from Chapter 623 of the 1991 Session Laws are less than \$400,000 for
39 the 1991-92 fiscal year or are less than \$400,000 for the 1992-93 fiscal year, then the
40 appropriation is reduced accordingly.

41 Sec. 37.2. As the same law was enacted by Section 2 of Chapter 656, Session
42 Laws of 1991, Section 179 of Chapter 689 of the 1991 Session Laws, The
43 Appropriations and Budget Revenue Act of 1991 is repealed.

1 Sec. 37.3. Article 1 of Chapter 130A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 130A-14. Department may assist private nonprofit foundations.**

4 (a) The Secretary may allow employees of the Department to assist any private
5 nonprofit foundation that works directly with services or programs of the Department
6 and whose sole purpose is to support the services and programs of the Department, and
7 may provide other appropriate services to any such foundation. No employee of the
8 Department may work with a foundation for more than 20 hours in any one month.
9 Chapter 150B of the General Statutes does not apply to any assistance of services
10 provided to a private nonprofit foundation pursuant to this section.

11 (b) The board of directors of any private nonprofit foundation that receives
12 assistance or services pursuant to this section shall secure and pay for the services of the
13 Department of State Auditor or shall employ a certified public accountant to conduct an
14 annual audit of the financial accounts of the foundation. The board of directors of the
15 foundation shall transmit a copy of the annual financial audit report to the Secretary."

16 Sec. 37.4. To conform to the repeal of G.S. 20-50.2 by Chapter 624, Session
17 Laws of 1991, effective January 1, 1993, G.S. 105-314 is repealed.

18 Sec. 37.5. G.S. 36A-53(b) is rewritten to read:

19 "~~(b) In the case of a will executed before December 31, 1978, or a trust created before~~
20 ~~such date, if~~ If a federal estate tax deduction is not allowable at the time of a decedent's
21 death because of the failure of an interest in property which passes from the decedent
22 under a will or trust to a person, or for a use, described in section 2055(a) of the Internal
23 Revenue Code of 1954, 1986, to meet the requirements of subsections 2055(e)(2)(A) or
24 (B) of the Internal Revenue Code of 1954, 1986, then in order that such deduction shall
25 nevertheless be allowable under section 2055(e)(3) of the Internal Revenue Code of
26 1954, 1986, any judge of the superior court may, on application of any trustee, executor,
27 administrator or any interested party and either (i) with the written consent of the
28 charitable beneficiaries, the noncharitable beneficiaries not under any legal disability,
29 and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries
30 under legal disability, or (ii) upon a finding that the interest of such beneficiaries is
31 substantially preserved, order an amendment to the trust so that the remainder interest is
32 in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust
33 (as those terms are described in section 664 of the Internal Revenue Code of 1954 1986)
34 or a pooled income fund (as that term is described in section 642(c)(5) of the Internal
35 Revenue Code of 1954 1986), or so that any other interest of a charitable beneficiary is in
36 the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair
37 market value of the property (to be determined yearly), in accordance with the
38 provisions of section 2055(e)(2)(B) of the Internal Revenue Code of 1954, 1986. In
39 every such proceeding, the Attorney General, as representative of the public interest,
40 shall be notified, and given an opportunity to be heard."

41 Sec. 38. Section 2 of Chapter 317 of the 1991 Session Laws is amended by
42 deleting the phrase "is rewritten to read:" and substituting the phrase "reads as
43 rewritten:".

1 Sec. 39. Section 3 of Chapter 317 of the 1991 Session Laws is amended by
2 deleting the phrase "is rewritten to read:" and substituting the phrase "reads as
3 rewritten:".

4 Sec. 40. Section 3 of Chapter 403 of the 1991 Session Laws is amended by
5 deleting "~~(g)~~" and substituting "(g)".

6 Sec. 41. Subdivision (2) of Section 5 of Chapter 404 of the 1991 Session
7 Laws reads as rewritten:

8 "(2) The selection and assignment of personnel filling certified positions
9 shall be made by a ~~simply~~-simple majority vote of the Interim and
10 Merged Boards. Any involuntary reassignment across previous
11 administrative unit boundaries of persons filling certified positions by
12 the Permanent Board shall be made only by a two-thirds affirmative
13 vote during the first five years following the effective date of merger."

14 Sec. 42. Section 2 of Chapter 419 of the 1991 Session Laws is amended by
15 deleting the underlining beneath the word "insurance".

16 Sec. 43. Section 2(2) of Chapter 434 of the 1969 Session Laws, as amended
17 by Chapter 498 of the 1983 Session Laws, as amended by Chapter 497 of the 1991
18 Session Laws, is further amended by inserting the word "the" between the words
19 "maintain in" and "Local".

20 Sec. 44. The first sentence of Section 2 of Chapter 503 of the 1991 Session
21 Laws is amended by inserting the word "following" between the words "the" and
22 "provisions".

23 Sec. 45. Section 6 of Chapter 506 of the 1991 Session Laws is amended by
24 deleting the phrase "reads as written:" and substituting the phrase "reads as rewritten:".

25 Sec. 46. Section 4.2 of the Charter of the City of Foscoe, as enacted by
26 Section 1 of Chapter 553 of the 1991 Session Laws, is amended by deleting the word
27 "or" and substituting the word "on" between the words "par" and "face".

28 Sec. 47. (a) Section 2 of Chapter 615 of the 1991 Session Laws is rewritten to
29 read:

30 "Sec. 2. Section 1 of Chapter 119 of the 1991 Session Laws is amended by deleting '
31 Sec. 23.10.' and by substituting 'Sec. 23.11.'".

32 (b) Effective July 9, 1991, Section 3 of Chapter 615, Session Laws of 1991 is
33 repealed.

34 Sec. 47.1. Section 201.1(a) of Chapter 689 of the 1991 Session Laws reads as
35 rewritten:

36 "(a) The State Board of Education shall allocate funds appropriated for small
37 school system supplemental funding (i) to each county school administrative unit with
38 an average daily membership of less than 3,000 students and (ii) to each county school
39 administrative unit with an average daily membership of from 3,000 to 4,000 students if
40 the county in which the local school administrative unit is located has a county adjusted
41 property tax base per student that is below the State adjusted property tax base per
42 ~~student.~~student and if the total average daily membership of all local school
43 administrative units located within the county is from 3,000 to 4,000 students. The
44 allocation formula shall:

- 1 (1) Round all fractions of positions to the next whole position;
- 2 (2) Provide four additional regular classroom teachers;
- 3 (3) Provide additional program enhancement teachers adequate to offer
- 4 the standard course of study;
- 5 (4) Change the duty-free period allocation to one teacher assistant per 400
- 6 average daily membership;
- 7 (5) Provide a base for the consolidated funds allotment of at least
- 8 \$150,000, excluding textbooks; and
- 9 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

10 If funds appropriated for each fiscal year for small school system supplemental funding
11 are not adequate to fund fully the program, the State Board of Education shall reduce
12 the amount allocated to each county school administrative unit on a pro rata basis. This
13 formula is solely a basis for distribution of supplemental funding for certain county
14 school administrative units and is not intended to reflect any measure of the adequacy of
15 the educational program or funding for public schools. The formula is also not intended
16 to reflect any commitment by the General Assembly to appropriate any additional
17 supplemental funds for such county administrative units."

18 Sec. 47.2. Section 201.1(c)(1) of Chapter 689 of the 1991 Session Laws
19 reads as rewritten:

20 "(1) 'Average daily membership' means ~~the final average daily membership~~
21 ~~in the most recent year for which county current expense~~
22 ~~appropriations and adjusted property tax valuations are available.~~
23 average daily membership as defined in the North Carolina Public
24 Schools Allotment Policy Manual, adopted by the State Board of
25 Education."

26 Sec. 47.3. Section 201.2(d)(1) of Chapter 689 of the 1991 Session Laws
27 reads as rewritten:

28 "(1) 'Average daily membership' means ~~the final average daily membership~~
29 ~~in the most recent year for which county current expense~~
30 ~~appropriations and adjusted property tax valuations are available.~~
31 average daily membership as defined in the North Carolina Public
32 Schools Allotment Policy Manual, adopted by the State Board of
33 Education."

34 Sec. 48. The Charter of the City of Durham, being Chapter 671 of the 1975
35 Session Laws, as amended by Chapter 694 of the 1981 Session Laws, as amended by
36 Chapter 617 of the 1991 Session Laws, is amended by deleting the word "the" before
37 the phrase "Chapter 143" in the second sentence of Section 17(3).

38 Sec. 49. Section 2 of Chapter 636 of the 1991 Session Laws is amended by
39 deleting the phrases "subdivision (4)" and "subdivision (5)" and substituting "Section 4"
40 and "Section 5" respectively.

41 Sec. 50. Transfer Legal Position and Legal Support Staff Position to
42 Department of Insurance.

43 The following positions are transferred to the Department of Insurance from
44 the Department of Justice; one agency legal specialist position (#0126) and one

1 paralegal II position (#0133). The equipment, supplies, records, and other property to
2 support these positions are also transferred to the Department of Insurance from the
3 Department of Justice.

4 Sec. 51. Sec. 189.1(c) of Chapter 689 of the 1991 Session Laws, The
5 Appropriations and Budget Revenue Act of 1991, is repealed.

6 Sec. 52. This act is effective upon ratification.