

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 761
HOUSE BILL 929

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 ~~pompounder~~'), 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.

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

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

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

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

- "(e) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:
- (1) To park or leave standing any vehicle in a space designated with a sign pursuant to subsection (d) of this section for handicapped persons or visually impaired persons when the vehicle does not display the distinguishing license plate, placard, or identification card as provided in this section or a disabled veteran registration plate issued pursuant to ~~G.S. 20-81.4~~; G.S. 20-81.4;
 - (2) For any person not qualifying for the rights and privileges extended to handicapped or visually impaired persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate, placard, or identification card issued pursuant to the provisions of this section;
 - (3) To park or leave standing any vehicle so as to obstruct a curb ramp or curb cut for handicapped persons as provided for by the North Carolina Building Code or as designated in G.S. 136-44.14;
 - (4) For those responsible for designating parking spaces for the handicapped to erect or otherwise use signs not conforming to G.S. 20-37.6(d) for this purpose.

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

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

"(a) Rear-Vision Mirrors. – Every bus, truck, and truck tractor with a GVWR of 10,001 pounds or more shall be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and located as to reflect to the driver a view of the highway to the rear and along both sides of the vehicle. Only one outside mirror shall be required, on the driver's side, on trucks which are so constructed that the driver also has a view to the rear by means of an interior mirror. In driveaway-towaway operations, a driven vehicle shall have at least one mirror furnishing a clear view to the rear, and if the interior mirror does not provide the clear view, an additional mirror shall be attached to the left side of the driven vehicle to provide the clear view to the rear."

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

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

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

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

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

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

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

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

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

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

- "(2) ~~that~~ The remaining seventy-five percent (75%) of escrowed monies can be released when:
- a. (i) the provider has presold a minimum of seventy-five percent (75%) of the independent living units, having received a minimum ten percent (10%) deposit on the presold units, or has maintained an independent living unit occupancy minimum of seventy-five percent (75%) for at least 60 days; (ii) construction or purchase of the independent living unit has been completed and an occupancy permit, if applicable, has been issued by the local government having authority to issue such permits; and

- (iii) the living unit becomes available for occupancy by the new resident; or
- b. the provider submits a plan of reorganization that is accepted and approved by the Commissioner."

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

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

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

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

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

"§ 70-50. Site Steward Program.

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

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

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

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

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

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

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

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

"(a) Any applicant for licensure and any person licensed under this Article shall have behaved in conformity with the ethical and professional standards specified in this section and in the rules and regulations of the Board. The Board may deny, suspend, revoke, discipline, place on probation, limit, or require remediation or rehabilitation, all as provided for in subsection (f) below, upon proof that the applicant or the person to whom the ~~licenses~~ license was issued:

- (1) Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge;
- (2) Has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice psychology, or a misdemeanor charge reflecting the inability to practice psychology with due regard to the health and safety of clients or patients;
- (3) Has engaged in fraud or deceit in securing or attempting to secure a license under this Article or the renewal thereof or has willfully concealed from the Board material information in connection with application for or renewal of a license under this Article;
- (4) Repealed by Session Laws 1991, c. 239, s. 1.

- (4a) Has demonstrated an inability to practice psychology with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition;
- (5) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or upon any individual in connection with the practice of psychology, the offer of psychological services, the filing of Medicare, Medicaid, or other claims to any third party payor, or in any manner otherwise relevant to fitness for the practice of psychology;
- (6) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, professional credentials, or related to qualifications or fitness for the practice of psychology to the public, any individual, the Board, or any other organization;
- (7) Has had a license or certification for the practice of psychology in any other state, or territory of the United States, or any other country, suspended or revoked, or has been disciplined by any other state or territorial licensing or certification board for conduct which would subject him to discipline under this Article;
- (8) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection, in subsection (a1) below, or in the then-current code of ethics of the American Psychological Association, except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of this Article, in which case, the provisions of this Article control;
- (9) Has violated any provision of this Article or of the duly adopted rules and regulations of the Board; or
- (10) Repealed by Session Laws 1991 c. 239, s. 1.
- (10a) Has aided or abetted the unlawful practice of psychology by any person not licensed by the Board."

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

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

- (1) Practiced psychology in such a manner as to endanger the welfare of clients or patients;
- (2) Harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee;

- (3) Exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the psychologist or a third party;
- (4) Refused to appear before the Board after having been ordered to do so in writing by the Chair;
- (5) Failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional psychological associations, hospitals, or other health care organizations or educational institutions when those organizations or entities have jurisdiction; or failed to cooperate with institutional review boards or professional standards review organizations, when those organizations or entities have ~~jurisdiction~~ jurisdiction;
- (6) Failed to maintain a clear and accurate case record which documents the following for each patient or client:
 - a. Presenting problems, diagnosis, or purpose of the evaluation, counseling, treatment, or other services provided;
 - b. Fees, dates of services, and itemized charges;
 - c. Summary content of each session of evaluation, counseling, treatment, or other services, except that summary content need not include specific information that may cause significant harm to any person if the information were released;
 - d. Test results or other findings, including basic test data; and
 - e. Copies of all reports prepared;
- (7) Failed to competently use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, or provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data;
- (8) Failed to provide competent diagnosis, counseling, treatment, consultation, or supervision, in keeping with standards of usual and customary practice in this State;
- (9) In the absence of established standards, failed to take all reasonable steps to ensure the competence of services;
- (10) Failed to cooperate with other psychologists or other professionals to the potential or actual detriment of clients, patients, or other recipients of service, or behaved in ways which substantially impede or impair other psychologists' or other professionals' abilities to perform professional duties; or
- (11) Practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience."

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

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

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

"(a) Any employer who willfully or repeatedly violates the requirements of this Article, any standard, rule or order promulgated pursuant to this Article, or regulations prescribed pursuant to this Article, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than seventy thousand dollars (\$70,000) and not less than five thousand dollars (\$5,000) for each willful violation. Any employer who has received a citation for a serious violation of the requirements of this Article or any standard, rule, or order promulgated under this Article or of any regulation prescribed pursuant to this Article, shall be assessed by the Commissioner a civil penalty of up to seven thousand dollars (\$7,000) for each such violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each such violation. Any employer who fails to correct a violation for which a citation has been issued under this Article within the period allowed for its correction (which period shall not begin to run until the date of the final order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than seven thousand dollars (\$7,000). Such assessment shall be made to apply to each day during which such failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision of this Article, shall be assessed a civil penalty of not more than seven thousand dollars (\$7,000) for such violation. The Commissioner upon recommendation of the Director, or the Board in case of an appeal, shall have authority to assess all civil penalties provided by this Article, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer and the record of previous violations."

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

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

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

During 1993, fifteen percent (15%).

During 1994, twenty percent (20%).

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

During 1996, thirty percent (30%).

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

After 1997, forty percent (40%)."

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

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

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

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

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

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

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

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

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

"§ 120-30.9I. Alternate submission authority.

Notwithstanding any other provision of this Article, in the event that the person or party responsible under G.S. 120-30.9E, 120-30.9F, or 120-30.9G for submitting any

local act of the General Assembly shall delay, obstruct, or refuse to make a submittal to the Attorney General of the United States, the Attorney General of North Carolina may submit that local act. Any person or party responsible under this Article for making such a submission shall promptly provide any information and materials the Attorney General of North Carolina might request to facilitate making the submission and making any supplements to the submission."

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

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

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

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

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

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

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

"(c) The Secretary or a designee may suspend the admission of any new patients or residents at any nursing home or domiciliary home where the conditions of the nursing home or domiciliary home are detrimental to the health or safety of the patient or resident. This suspension shall remain in effect until the Secretary is satisfied that conditions or circumstances merit the removal of the suspension. This subsection shall be in addition to authority to suspend or revoke the license of the home. Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. The petition for a contested case shall be filed in the Office of Administrative Hearings within 20 days after the Department mails a written notice of suspension of admissions to the facility."

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

"(b) A nurse aide who wishes to contest a finding of resident neglect, resident abuse, or misappropriation of resident property made against the aide, is entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after

the nurse aide receives written notice by certified mail of the Department's intent to place findings against the aide in the nurse aide registry."

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

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

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

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

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

- a. For the inspection and licensing of maternity homes as provided by G.S. 131D-1;
- b. For the inspection and licensing of domiciliary homes for aged or disabled persons as provided by G.S. 131D-2(b) and for personnel requirements of staff employed in domiciliary homes. Any proposed personnel requirements that would impose additional costs on owners of domiciliary homes shall be reviewed by the Joint Legislative Commission on Governmental Operations before they are ~~adopted~~-adopted;
- c. For the inspection and licensing of child-care institutions as provided by G.S. 131D-10.5;
- d. For the inspection and operation of jails or local confinement facilities as provided by G.S. 153A-220 and Article 2 of Chapter 131D of the General Statutes of the State of North Carolina;
- e. Repealed by Session Laws 1981, c. 562, s. 7.
- f. For the regulation and licensing of charitable organizations, professional fund-raising counsel and professional solicitors as provided by Chapter 131D of the General Statutes of the State of North Carolina."

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

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

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

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

- "a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
~~for whom you wish to vote.~~
- b. You may vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote."

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

- "a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
~~for whom you wish to vote~~
- b. You may vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The board of directors of any private nonprofit foundation that receives assistance or services pursuant to this section shall secure and pay for the services of the Department of State Auditor or shall employ a certified public accountant to conduct an

annual audit of the financial accounts of the foundation. The board of directors of the foundation shall transmit a copy of the annual financial audit report to the Secretary."

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

Sec. 37.5. G.S. 36A-53(b) as amended by Chapter 747, Session Laws of 1991, is amended by deleting "1954" and substituting "1986."

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

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

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

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

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

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

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

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

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

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

Sec. 47.1. Effective July 1, 1991, Section 201.1(a) of Chapter 689 of the 1991 Session Laws reads as rewritten:

"(a) The State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,000 students and (ii) to each county school administrative unit with an average daily membership of from 3,000 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per

~~student~~ student and if the total average daily membership of all local school administrative units located within the county is from 3,000 to 4,000 students. The allocation formula shall:

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

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

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

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

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

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

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

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

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

The following positions are transferred to the Department of Insurance from the Department of Justice; one agency legal specialist position (#0126) and one paralegal II position (#0133). The equipment, supplies, records, and other property to support these positions are also transferred to the Department of Insurance from the Department of Justice.

Sec. 50.1. The Department of Revenue shall include in its report to the Information Technology Commission required under Section 190.2(9) of Chapter 689 of the 1991 Session Laws, The Appropriations and Budget Revenue Act of 1991, any mechanical, electrical, telecommunications, partition, and interior and furnishings revisions to the new revenue building prior to its completion that the Department recommends as necessary for the collection of State revenues at optimum levels.

The Commission shall make a recommendation to the Office of State Budget and Management on whether funds should be expended to support the revisions recommended by the Department. The Commission's recommendation shall be based on a finding of whether the revisions are necessary to enable the Department to carry out its statutory duty to collect State revenues in the most efficient and effective manner possible.

Upon receipt of a recommendation from the Commission that funds are necessary to support the revisions, the Office of State Budget and Management may transfer not more than \$1,600,000 for the 1991-92 fiscal year to carry out the revisions. In making the transfer, the Office of State Budget and Management may use only those funds from the Reserve for Repairs and Renovations in the Office of State Budget and Management. Before any funds may be expended for this purpose, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the proposed revisions and expenditures.

Sec. 50.2. Effective July 1, 1991, subsection (f) of Section 91 of Chapter 689 of the 1991 Session Laws, The Appropriations and Budget Revenue Act of 1991, is amended by rewriting the position to be transferred from the Office of the Secretary of Human Resources as Position Number "0712", Position Title "Agency Legal Specialist III", Salary Grade "77", and by redesignating the position number for the position being transferred from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to "0225".

Sec. 50.3. (a) As used in this section, the terms "commercial", "hazardous waste facility", and "unit of local government "have the same meaning as in G.S. 130A-290.

(b) The Governor's Waste Management Board shall examine the burdens placed on units of local government that result from the proposed siting of a commercial hazardous waste management facility. The Board shall determine the nature and extent of such burdens on units of local government that volunteer to host a facility and on units of local government that oppose the siting of a facility. The Board shall assess the resources available to units of local governments to address such burdens and the off-setting benefits associated with a siting proposal. The Board shall determine what

additional resources are needed by units of local government that either favor or oppose the siting of a commercial hazardous waste facility and shall develop recommendations as to what financial assistance and other resources the State should make available to such units of local government. In making its study, the Board shall consider the experience of units of local government in which hazardous waste facilities have been proposed to be sited in the past, and shall consider the needs of units of local government of representative sizes and locations within the State. The Board shall report its findings and recommendations to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations on or before 1 March 1992.

Sec. 50.4. Effective July 1, 1991, Section 238.2(b) of Chapter 689 of the 1991 Session Laws, The Appropriations and Budget Revenue Act of 1991, is amended by inserting immediately after the phrase "subsection (a)" the three places it occurs the phrase ", subdivisions (1) through (8)".

Sec. 50.5. Section 2 of Chapter 176 of the 1991 Session Laws reads as rewritten:

"Sec. 2. This act becomes effective ~~August 1, 1991.~~ January 1, 1992."

Sec. 50.6. (a) Pursuant to the provisions of G.S. 14-250, for the 1991-93 fiscal biennium, the General Assembly authorizes the use of private license tags on State-owned motor vehicles only for the State Highway Patrol and for the following:

Department	Exemption Category	Number
Motor Vehicles	License and Theft	97
Justice	SBI Agents	277
Correction	Probation/Parole Surveillance Officers (intensive probation)	25
Crime Control and Public Safety	ALE Officers	92

(b) The 92 ALE vehicles authorized by this section to use private license tags shall be distributed as follows:

- (1) 54 among Agent I officers;
- (2) 20 among Agent II officers;
- (3) 1 to the Deputy Director;
- (4) 12 to the District Offices/Extra Vehicles; and
- (5) 5 to the Director, to be distributed at his discretion.

(c) Except as provided in this section, all State-owned motor vehicles shall bear permanent registration plates issued under G.S. 20-84.

(d) This section is effective July 1, 1991.

Sec. 50.7 Section 240 of Chapter 689 of the 1991 Session Laws, The Appropriations and Budget Revenue Act of 1991, is amended by deleting the number "\$10,246,368" and substituting "\$10,764, 288".

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

Sec. 51.1. (a) Notwithstanding the provisions of Sections 3 and 28 of Chapter 689 of the 1991 Session Laws, the Office of State Budget and Management shall

transfer six million six hundred thousand dollars (\$6,600,000), from the funds appropriated to the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for the 1991-92 fiscal year, to the Clean Water Revolving Loan and Grant Fund created in G.S. 159G-5.

(b) Notwithstanding the provisions of G.S. 105-116, the Secretary of Revenue shall reduce the amount to be transferred to municipalities on or before December 15, 1991, pursuant to G.S. 105-116(d), by an amount equal to five million dollars (\$5,000,000). The Secretary of Revenue shall allocate this reduction on a pro rata basis among the municipalities entitled to receive a quarterly installment pursuant to G.S. 105-116(d) on or before December 15, 1991.

(c) Notwithstanding the provisions of G.S. 105-113.82, the Secretary of Revenue shall reduce the amount to be distributed to counties and cities for the 1991-92 fiscal year pursuant to G.S. 105-113.82 by an amount equal to one million six hundred thousand dollars (\$1,600,000). The Secretary of Revenue shall allocate this reduction on a pro rata basis among the counties and cities entitled to receive a distribution pursuant to G.S. 105-113.82 for the 1991-92 fiscal year.

(d) The General Assembly finds that the purpose of the allocation provided in this section is to meet the funding needs of local governments for water supply and wastewater treatment facilities, as requested by local governmental units. It is the intent of the General Assembly that the funds appropriated to the Reserve for Reimbursements to Local Governments and Shared Tax Revenues shall not be further reduced during the 1991-92 fiscal year except as provided in this section.

Sec. 51.2. Section 4.2 of Chapter 754, Session Laws of 1991, The Studies Act of 1991, reads as rewritten:

~~"Sec. 4.2. The Study Commission is authorized to study all aspects of the State Personnel System including, but not limited to, the impact of State and local governmental employees' retirement benefits increases, the impact of the exemption from State taxes of State, local, federal, and private retirement benefits, and public employees' day care and medical and dental benefits. The Study Commission may study all aspects of the State Personnel System, including the following:~~

- (1) The impact of State and local governmental employees' retirement benefits increases;
- (2) The impact of the exemption from State taxes of State, local, federal, and private retirement benefits;
- (3) Public employees' day care and medical and dental benefits; and
- (4) Decentralization and related needs of the Office of State Personnel, with a particular focus on the Equal Employment Opportunity function, monitoring of State departments, and training of supervisors and administrators relative to their responsibilities under decentralization."

Sec. 52. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives