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HOUSE BILL 929

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Short Title: Technical Corrections.

(Public)

Sponsors:

Referred to:

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.**

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

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

2           "(d) In all cases in which the entry of a judgment is authorized under G.S. 7A-  
3 450.1 through G.S. 7A-450.4 or under this section, the attorney, guardian **ad litem**,  
4 public defender, or appellate defender who rendered the services or incurred the  
5 expenses for which the judgment is to be entered shall obtain the social security  
6 number, if any, of each person against whom judgment is to be entered. This number,  
7 or a certificate that the person has no social security number, shall be included in each  
8 fee application submitted by an assigned attorney, guardian **ad litem**, public defender,  
9 or appellate defender, and no order for payment entered upon an application which does  
10 not include the required social security number or certification shall be valid to  
11 authorize payment to the applicant from the Indigent Persons' Attorney Fee Fund. Each  
12 judgment docketed against any person under this section or under ~~G.S. 450.3~~ G.S. 7A-  
13 450.3 shall include the social security number, if any, of the judgment debtor."

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

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

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

34           This section is enforceable in all public vehicular areas specified in G.S. 20-  
35 4.01(32)."

36           Sec. 6. G.S. 20-117.1(a), as amended by Section 1 of Chapter 113 of the  
37 1991 Session Laws, reads as rewritten:

38           "(a) Rear-Vision Mirrors. – Every bus, truck, and truck tractor with a GVWR of  
39 10,001 pounds or more shall be equipped with two rear-vision mirrors, one at each side,  
40 firmly attached to the outside of the motor vehicle, and located as to reflect to the driver  
41 a view of the highway to the rear and along both sides of the vehicle. Only one outside  
42 mirror shall be required, on the driver's side, on trucks which are so constructed that the  
43 driver also has a view to the rear by means of an interior mirror. In driveway-towaway  
44 operations, a driven vehicle shall have at least one mirror furnishing a clear view to the

1 rear, and if the interior mirror does not provide the clear view, an additional mirror shall  
2 be attached to the left side of the driven vehicle to provide the clear view to the rear."

3 Sec. 7. G.S. 20-183.2(a), as amended by Section 1 of Chapter 394 of the  
4 1991 Session Laws, reads as rewritten:

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

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

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

19 "(a) The notice of settlement shall be effective as provided in ~~G.S. 47D-7(a)~~ G.S.  
20 47D-7 from the time of, and for three business days following the day of, filing of the  
21 notice of settlement pursuant to this Chapter. If the deed or mortgage delivered  
22 pursuant to a settlement for which the notice was filed has not been properly registered  
23 in the county where the real property is situated within the three business day period, the  
24 notice of settlement shall become absolutely void, and the priority of the grantee or  
25 mortgagee under the deed or mortgage registered subsequent to said three business day  
26 period shall date from the time of registration of the deed or mortgage, and not from the  
27 time of the filing of the notice of settlement."

28 Sec. 10. G.S. 58-50-125(e), as enacted by Section 1 of Chapter 630 of the  
29 1991 Session Laws, reads as rewritten:

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

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