

1 increase being implemented by the North Carolina Rate Bureau over the objections of
2 the Commissioner of Insurance, resulting in an average aggregate increase of almost
3 150% in the last five years; and

4 Whereas, workers' compensation cost North Carolina's employers twice as
5 much as it did a mere three years ago, up from \$500,000,000 in 1990 to \$1,000,000,000
6 in 1993; and

7 Whereas, an increasing and unacceptable number of North Carolina
8 employers, particularly small businesses, are unable to obtain workers' compensation
9 coverage through normal, voluntary insurance markets, resulting in those employers
10 having to attempt to self-fund their liability or to obtain insurance through the assigned
11 risk plan and to pay a significant rate surcharge for their coverage; and

12 Whereas, the cost of coverage under the Workers' Compensation Act in North
13 Carolina is rapidly becoming a substantial detriment to the ability of our State to attract
14 new employers and for our State's employers to expand their employment, even forcing
15 some employers to close or move to another state; and

16 Whereas, the time has come for the General Assembly to restore the Workers'
17 Compensation Act so that it provides the balance and stability it enjoyed for more than
18 50 years; Now, therefore,

19 The General Assembly of North Carolina enacts:

20 Section 1. G.S. 97-2(6) reads as rewritten:

21 "(6) Injury. – 'Injury and personal injury' ~~shall~~ mean only injury by accident
22 arising out of and in the course of the employment, and shall not
23 include a disease in any form, except where it results naturally and
24 unavoidably from the accident. With respect to back injuries,
25 however, where injury to the back arises out of and in the course of the
26 employment and is the direct result of a specific traumatic incident of
27 the work assigned, 'injury by accident' shall be construed to include
28 any disabling physical injury to the back arising out of and causally
29 related to such incident. Injury shall include breakage or damage to
30 eyeglasses, hearing aids, dentures, or other prosthetic devices which
31 function as part of the body; provided, however, that eyeglasses and
32 hearing aids will not be replaced, repaired, or otherwise compensated
33 for unless injury to them is incidental to a compensable injury. Injury
34 or disease means only a work-related injury or disease that is the
35 predominant cause of the disability and includes a consequence of a
36 compensable injury when the compensable injury is the predominant
37 cause of the consequential condition. Injury means an injury that
38 combines with a preexisting disease or condition to cause or prolong
39 disability or a need for treatment to the extent the injury is and remains
40 the predominant cause of the disability or need for the treatment.
41 Injury does not include a worsened condition if the predominant cause
42 of the worsened condition is an injury not occurring within the course
43 and scope of employment. Injury, personal injury, or disease does not
44 mean mental injury that is unaccompanied by physical injury."

1 Sec. 2. G.S. 97-2(9) is repealed.

2 Sec. 3. G.S. 97-2(19) reads as rewritten:

3 "(19) Medical Compensation. — ~~The term 'medical'~~ 'Medical compensation'
4 means medical, surgical, hospital, nursing, and rehabilitative
5 services, and medicines, sick travel, and other treatment, including
6 medical and surgical supplies, ~~as may reasonably be required to effect~~
7 ~~a cure or give relief and for such additional time as, in the judgment of~~
8 ~~the Commission, will tend to lessen the period of disability;~~ and any
9 original artificial members as may reasonably be necessary at the
10 end of the healing period."

11 Sec. 4. G.S. 97-2 is amended by adding the following new subdivisions:

12 "(20) Medically Stationary. — 'Medically stationary' means further
13 recovery from or lasting improvement to an injury can no longer be
14 reasonably anticipated after a certain date based upon reasonable
15 medical probability as determined by an authorized health care
16 provider. A finding of medically stationary is not precluded even
17 though future medical maintenance may be required that will not
18 significantly improve the condition or there exists a possibility of
19 improvement or deterioration resulting from the passage of time.

20 (21) Objective Findings. — 'Objective findings' means diagnostic
21 evidence that is substantiated by clinical findings, including
22 diagnostic evidence regarding range of motion, atrophy, muscle
23 strength, and muscle spasm.

24 (22) Impairment. — 'Impairment' means an anatomical or functional
25 abnormality existing after the date the employee becomes
26 medically stationary as determined by a medically or scientifically
27 demonstrable finding and based upon the third edition or the most
28 recent subsequent edition of the American Medical Association's
29 Guide to the Evaluation of Permanent Impairment or comparable
30 publications of the American Medical Association.

31 (23) Permanent Partial Disability. — 'Permanent partial disability' means
32 a condition whereby an employee, due to an injury, suffers a
33 permanent physical impairment.

34 (24) Temporary Total Disability. — 'Temporary total disability' means
35 the inability of the employee, due to an injury, to perform his duties
36 prior to the injury becoming medically stationary.

37 (25) Permanent Total Disability. — 'Permanent total disability' means
38 that the employee is physically unable to earn any wages in the
39 same or other employment within North Carolina or nearby
40 surrounding areas as a result of an injury. Permanent total disability
41 includes the loss of both hands, both arms, both feet, both legs,
42 both eyes, or of any two thereof, absent conclusive proof to the
43 contrary.

1 (26) Attending Physician. – 'Attending physician' means a doctor or
2 physician who is primarily responsible for the treatment pursuant to
3 this Article of an employee with an injury and who is:

4 a. A physician licensed to practice medicine or surgery by the
5 State; or

6 b. A chiropractor licensed by the State.

7 (27) Palliative Care. – 'Palliative care' means care rendered to
8 temporarily reduce or moderate the intensity of an otherwise
9 medically stationary condition, as distinguished from care that is
10 rendered to diagnose, heal, permanently alleviate, or eliminate an
11 undesirable medical condition."

12 Sec. 5. Chapter 97 of the General Statutes is amended by adding a new
13 section to read:

14 **"§ 97-9.1. Burden of proof.**

15 The employee has the burden of proving that an injury arose out of and in the course
16 and scope of employment and the burden of proving that the injury is established by
17 medical evidence supported by objective findings. The employee claiming permanent
18 total disability shall have the burden of proving a physical inability to earn any wages in
19 the same or other employment."

20 Sec. 6. G.S. 97-10.1 reads as rewritten:

21 **"§ 97-10.1. Other rights and remedies against employer excluded.**

22 ¶ (a) Except as provided in subsection (b) of this section, if the employee and the
23 employer are subject to and have complied with the provisions of this Article, then the
24 rights and remedies herein granted to the employee, ~~his~~ and the employee's dependents,
25 next of kin, or personal representative shall exclude all other rights and remedies of the
26 employee, ~~his~~ and the employee's dependents, next of kin, or personal representative as
27 against the employer at common law or otherwise on account of or arising out of such
28 injury or death.

29 (b) The only exception to the exclusive remedy provided in subsection (a) of this
30 section is for an injury that results from an intentional tort by the employer. For the
31 purposes of this Article, an intentional tort occurs only when an employer intentionally
32 engages in misconduct knowing it is substantially certain to cause serious injury or
33 death to employees and an employee is injured or killed by that misconduct. Whether an
34 act constitutes an intentional tort is a question of law and whether an employer acted
35 with requisite intent is a question of fact for the jury.

36 (c) Subject to subsection (d) of this section, this Article shall not prohibit any
37 person from filing a claim as provided in this Article and simultaneously commencing a
38 civil action seeking to recover damages from an employer for the injury or death.

39 (d) If any benefits payable under the provisions of G.S. 97-30, 97-31, or 97-38
40 are accepted by an employee or an employee's dependents, next of kin, or personal
41 representative, then the employee and employee's dependents, next of kin, or other
42 personal representative shall forfeit any other rights or remedies against the employer,
43 including, but not limited to, any statutory and common law claims against the
44 employer, whether derivative or independent, relating in any way to the injury or death.

1 Further, if an employee or an employee's dependents, next of kin, or personal
 2 representative files a civil action seeking to recover for such injury or death from an
 3 employer and fails to accept benefits payable under the provisions of this Article before
 4 the time when the jury is impaneled or evidence is first presented at the trial of the civil
 5 action, whichever occurs first, then the employee and employee's dependents, next of
 6 kin, or personal representative have elected to proceed outside this Article and shall
 7 forfeit any other rights and remedies against the employer including all rights and
 8 remedies available under this Article, related to the injury or death. However, the
 9 provisions set forth in this subsection shall not affect compensation and benefits
 10 previously accepted by an employee that were paid pursuant to the provisions of G.S.
 11 97-25 and G.S. 97-59, and any sums accepted by an employee or an employee's
 12 dependents, next of kin, or personal representative shall be offset against any amount
 13 for which the employer subsequently may be found liable for the injury, disease, or
 14 death in the civil action. Accordingly, evidence of payments made by an employer
 15 pursuant to G.S. 97-25 and G.S. 97-59 shall be admissible in the trial of any civil action,
 16 but shall be limited only to interpretations of this Article and benefits actually accepted
 17 by an employee.

18 (e) For purposes of this Article, the personal liability of an employee whose
 19 actions proximately cause the injury or death to another employee shall be determined
 20 according to the same standards as applied to the employer when the employee's actions
 21 arise out of and in the course and scope of the employment."

22 Sec. 7. G.S. 97-12 reads as rewritten:

23 **"§ 97-12. Use of intoxicant or controlled substance; willful neglect; willful**
 24 **disobedience of statutory duty, safety regulation or rule.**

25 No compensation shall be payable if the injury or death to the employee was
 26 proximately caused by:

- 27 (1) ~~His~~The employee's intoxication, provided the intoxicant was not
 28 supplied by the employer or his agent in a supervisory capacity to
 29 the employee; or
- 30 (2) ~~His~~The employee's being under the influence of any controlled
 31 substance listed in the North Carolina Controlled Substances Act,
 32 G.S. 90-86, **et seq.**, where such controlled substance was not by
 33 prescription by a practitioner; or
- 34 (3) ~~His~~The employee's willful intention to injure or kill himself or
 35 another. When the injury or death is caused by the willful failure
 36 of the employer to comply with any statutory requirement or any
 37 lawful order of the Commission, compensation shall be increased
 38 ten percent (10%). When the injury or death is caused by the
 39 willful failure of the employee to use a safety appliance or perform
 40 a statutory duty or by the willful breach of any reasonable rule or
 41 regulation adopted by the employer ~~and approved by the Commission~~
 42 and brought to the knowledge of the employee prior to the injury
 43 compensation shall be reduced ten percent (10%).

1 The burden of proof shall be upon ~~him who claims~~ the party claiming an exemption
2 or forfeiture under this section."

3 Sec. 8. G.S. 97-17 reads as rewritten:

4 **"§ 97-17. Settlements allowed in accordance with Article.**

5 (a) Nothing herein contained. This Article shall not be construed so as to prevent
6 settlements made by and between the employee and employer so long as the amount of
7 compensation and the time and manner of payment are in accordance with the
8 provisions of this Article. A copy of such settlement agreement shall be filed by employer
9 with and approved by the Industrial Commission. Provided, however, that no party to any
10 agreement for compensation approved by the Industrial Commission shall thereafter be heard to
11 deny the truth of the matters therein set forth, unless it shall be made to appear to the
12 satisfaction of the Commission that there has been error due to fraud, misrepresentation, undue
13 influence or mutual mistake, in which event the Industrial Commission may set aside such
14 agreement. Any settlement shall constitute a final determination of liability for the
15 injury and shall be binding on all parties.

16 (b) Parties mutually seeking to settle a claim under this Article shall file with the
17 deputy assigned to the claim a Notice of Intent to Settle, together with the agreed terms
18 of settlement. The Commission may approve or reject the settlement, and unless the
19 settlement is approved or rejected within 60 days following submission of a Notice of
20 Intent to Settle, the settlement shall be deemed approved.

21 (c) Within 180 days from the date of the first payment of compensation, the
22 employer may serve upon the employee an offer of settlement. If within 10 days after
23 the service of the offer of settlement, the employee serves written notice that the offer is
24 accepted, the employee shall file with the deputy a Notice of Intent to Settle as provided
25 for in subsection (b) of this section. An offer of settlement not accepted within 10 days
26 after its service shall be deemed withdrawn. Evidence of the offer shall not be
27 admissible in a subsequent proceeding on the issue of compensability. The fact that an
28 offer of settlement is made but not accepted does not preclude a subsequent settlement."

29 Sec. 9. G.S. 97-18 reads as rewritten:

30 **"§ 97-18. Prompt payment of compensation required; installments; notice to**
31 **Commission; penalties.**

32 (a) Compensation under this Article shall be paid periodically, promptly and
33 directly to the person entitled thereto unless otherwise specifically provided.

34 (b) The first installment of compensation payable ~~under the terms of an agreement~~
35 by the employer shall become due on the fourteenth day after the employer has written
36 or actual knowledge of the injury or death, on which date all compensation then due
37 shall be paid. paid, or the employer shall notify the Commission and advise the
38 employee in writing of its refusal to pay and advise the employee of the employee's
39 right to request a hearing pursuant to G.S. 97-83. Thereafter compensation Compensation
40 shall be paid in installments weekly except where the Commission determines that
41 payment in installments should be made monthly or at some other period.

42 (b1) In any claim for compensation in which the employer is uncertain whether the
43 claim is compensable under this Article, or is uncertain of the extent of its liability
44 under this Article, the employer may initiate compensation payments without prejudice

1 and without admitting liability. Such payments may continue until such time as the
2 employer decides to contest the claim or 180 days from the due date of the first payment
3 of compensation, whichever shall first occur. The initiation of payment by the
4 employer does not affect the right of the employer to continue to investigate or deny the
5 compensability of the injury during this period. If, during this 180-day period during
6 which compensation has been paid, the employer decides to contest the claim, the
7 employer shall suspend payment of benefits and shall promptly notify the employee on
8 a form prescribed by the Commission, stating the grounds upon which the employee's
9 right to compensation or the extent of liability is contested. The employer shall furnish
10 a copy to the Commission. If the employer does not contest the compensability of the
11 injury in 180 days or less from the due date of the first payment of compensation, the
12 employer waives the right to contest compensability. However, an employer may
13 contest the claim after the 180-day period when the employer can show that evidence
14 was discovered after that period that could not have been reasonably discovered earlier.

15 (c) The first installment of compensation payable under the terms of an award by
16 the Commission, or under the terms of a judgment of the court upon an appeal from
17 such an award, shall become due 14 days from the date of such an award or from the
18 date of such a judgment of the court, on which date all compensation then due shall be
19 paid. Thereafter compensation shall be paid in installments weekly, except where the
20 Commission determines that payment in installments shall be made monthly or in some
21 other manner. A payment becomes due within the meaning of this subsection the day
22 following expiration of time for appeal of an award or judgment or after notice waiving
23 right of appeal by all parties has been received by the Commission, whichever is sooner.
24 Except that if the applicable time for appeal is longer than 14 days, then payment must
25 be made within five days after it becomes due as herein defined.

26 (d) ~~Upon making the first payment, and upon suspension of payment for any~~
27 ~~cause, the employer shall immediately notify the Commission, in accordance with the~~
28 ~~form prescribed by the Commission, that payment of compensation has begun or has~~
29 ~~been suspended, as the case may be.—The employer's grounds for contesting the~~
30 ~~employee's claim as specified in the notice under subsection (b1) of this section are the~~
31 ~~only bases for the employer's defense on the issue of compensability in a subsequent~~
32 ~~proceeding, unless the defense is based on newly discovered evidence that could not~~
33 ~~reasonably have been discovered earlier.~~

34 (e) ~~If any installment of compensation payable in accordance with the terms of~~
35 ~~an agreement approved by the Commission is not paid within 14–30 days after it~~
36 ~~becomes due, as provided in subsection (b) of this section, or if any installment of~~
37 ~~compensation payable in accordance with the terms of an award by the Commission is~~
38 ~~not paid within 14 days after it becomes due, as provided in subsection (c) of this~~
39 ~~section, there shall be added to such unpaid installment an amount equal to ten per~~
40 ~~centum (10%) thereof, which shall be paid at the same time as, but in addition to, such~~
41 ~~installment, unless such nonpayment is excused by the Commission after a showing by~~
42 ~~the employer that owing to conditions over which he had no control such installment~~
43 ~~could not be paid within the period prescribed for the payment.~~

1 (f) Within 16 days after final payment of compensation has been made, the
2 employer shall send to the Commission a notice, in accordance with a form prescribed
3 by the Commission, stating that such final payment has been made, the total amount of
4 compensation paid, the name of the employee and of any other person to whom
5 compensation has been paid, the date of the injury or death, and the date to which
6 compensation has been paid. If the employer fails to so notify the Commission within
7 such time, the Commission shall assess against such employer a civil penalty in the
8 amount of twenty-five dollars (\$25.00).

9 (g) If any bill for services rendered under G.S. 97-25 by any provider of health
10 care is not paid within 60 days after it has been approved by the Commission and
11 returned to the responsible party, there shall be added to such unpaid bill an amount
12 equal to ten per centum (10%) thereof, which shall be paid at the same time as, but in
13 addition to, such medical bill, unless such late payment is excused by the Commission."

14 Sec. 10. Chapter 97 of the General Statutes is amended by adding a new
15 section to read:

16 "**§ 97-18.1. Termination or modification of compensation benefits.**

17 (a) If the employer seeks to terminate or modify compensation benefits because
18 the employee has returned to work or because the employer has reason to believe the
19 employee has become medically stationary or has recovered sufficiently to return to
20 work, the employer shall notify the employee in writing of the employer's intent to
21 terminate or modify benefits. This notice shall inform the employee of the employee's
22 right to administrative review of the matter. The employer may suspend compensation
23 14 days following its notice to the employee. The employee, within 30 days of being
24 notified, may request an administrative review with the Commission disputing the
25 employer's decision to suspend compensation.

26 (b) After the request for administrative review is filed, the Commission shall
27 promptly conduct a review of documentation submitted by the employer, together with
28 any information submitted by the employee. The Commission shall issue a decision
29 within 14 days following the employee's request for administrative review.

30 (c) Where the medical condition of the employee is in dispute, the Commission
31 shall consider all medical evidence and shall make its determination based on the
32 greater weight of the information submitted. Where, however, either party has
33 requested an examination by an independent medical examiner pursuant to G.S. 97-27,
34 that examiner's opinion of the employee's recovery and ability to return to work is
35 conclusive absent clear and convincing proof to the contrary.

36 (d) If the Commission upholds the employer's decision to terminate or modify
37 compensation benefits, the employee may request a hearing pursuant to G.S. 97-83. The
38 employer shall not be required to continue payment of compensation following the
39 Commission's determination upholding the employer's decision. If neither party
40 requests a hearing within seven days of the administrative decision, that decision shall
41 constitute a final determination."

42 Sec. 11. G.S. 97-25 reads as rewritten:

43 "**§ 97-25. Medical treatment and supplies.**

1 (a) ~~Medical~~ Subject to subsection (e) of this section, G.S. 97-25.1, 97-25.2, and
2 97-25.3, medical compensation shall be provided by the employer. ~~In case of a~~
3 ~~controversy arising between the employer and employee relative to the continuance of medical,~~
4 ~~surgical, hospital, or other treatment, the Industrial Commission may order such further~~
5 ~~treatments as may in the discretion of the Commission be necessary. The Commission may at~~
6 ~~any time upon the request of an employee order a change of treatment and designate other~~
7 ~~treatment suggested by the injured employee subject to the approval of the Commission, and in~~
8 ~~such a case the expense thereof shall be borne by the employer upon the same terms and~~
9 ~~conditions as hereinbefore provided in this section for medical and surgical treatment and~~
10 ~~attendance.~~ The obligation of an employer to provide medical compensation is limited
11 by and subject to the provisions regarding the modification of an award for change of
12 condition as set forth in G.S. 97-47.

13 (b) In all cases of injury or disease, the employer or insurer has the right to select
14 the attending physician. Upon written request to the insurer or to the employer's
15 authorized representative if the employer is self-insured, the employee may procure
16 written permission to have the employee's own physician attend the employee. If such
17 permission is neither granted nor refused within 20 days, the employer or insurance
18 carrier shall be deemed to have waived any objection. Objection shall be in writing and
19 shall be deposited in the mail or hand-delivered to the employee within 20 days. Any
20 unauthorized medical expense is not the responsibility of the employer.

21 (c) The refusal of the employee to accept any medical, hospital, surgical or other
22 treatment or rehabilitative procedure when ordered by the Industrial Commission shall
23 bar said employee from further compensation until such refusal ceases, and no
24 compensation shall at any time be paid for the period of suspension unless in the
25 opinion of the Industrial Commission the circumstances justified the refusal, in which
26 case, the Industrial Commission may order a change in the medical or hospital service.

27 ~~If in an emergency on account of the employer's failure to provide the medical or~~
28 ~~other care as herein specified a physician other than provided by the employer is called~~
29 ~~to treat the injured employee, the reasonable cost of such service shall be paid by the~~
30 ~~employer if so ordered by the Industrial Commission.~~

31 ~~Provided, however, if he so desires, an injured employee may select a physician of~~
32 ~~his own choosing to attend, prescribe and assume the care and charge of his case,~~
33 ~~subject to the approval of the Industrial Commission.~~

34 (d) The employee, upon reasonable grounds, may petition the Industrial
35 Commission for a change of physicians to be provided by the employer. The employee
36 shall give notice to the employer or insurer of this request for a change of physicians to
37 afford the employer the opportunity to fulfill its obligations under this section. The
38 employer shall not be obligated to pay for the services obtained when notice was not
39 given in accordance with this subsection.

40 (e) When the attending physician is a chiropractor, compensation for chiropractic
41 treatment shall be provided by the employer for a period of 90 days from the initial
42 treatment or for 30 office visits, whichever occurs first. A request for additional
43 chiropractic treatment shall be submitted to the insurer at least 10 working days prior to
44 delivery of the services and shall include documentation of the need for the services
45 requested. When chiropractic treatment is expected to extend beyond 90 days from the

1 date of the initial treatment, the request for additional services shall include a treatment
2 plan, including a time schedule of measurable objectives, a projected termination date of
3 treatment, and an estimated total cost of service. The Commission shall adopt rules
4 governing the response to a request for additional chiropractic services and the review
5 of a decision thereon."

6 Sec. 12. Chapter 97 of the General Statutes is amended by adding the
7 following new sections:

8 **"§ 97-25.1. Palliative care.**

9 (a) After the employee has become medically stationary, palliative care is not
10 compensable, except when:

11 (1) Provided to an employee who has been determined to have
12 permanent total disability;

13 (2) Necessary to monitor administration of prescription medication
14 required to maintain the employee in a medically stationary
15 condition; or

16 (3) Necessary to monitor the status of a prosthetic device.

17 If the employee's attending physician determines that palliative care that would
18 otherwise not be compensable under this section is appropriate to enable the employee
19 to continue current employment, the attending physician shall request approval from the
20 insurer or self-insured employer for such treatment. The request for palliative services
21 shall include a treatment plan, including a time schedule or measuring objectives, a
22 projected termination date of treatment, and an estimated total cost of services. If
23 approval for palliative care is not granted, the attending physician may request approval
24 from the Commission for such treatment. The Commission shall appoint an
25 independent medical examiner pursuant to G.S. 97-27 to review the request for
26 treatment.

27 (b) The employer shall not be required to pay for palliative care that is not
28 authorized pursuant to this section.

29 **"§ 97-25.2. Managed care.**

30 Any insurer may satisfy the requirements of G.S. 97-25 by entering into a preferred
31 provider arrangement. Notwithstanding any other provision of this Article, if an insurer
32 enters into a preferred provider arrangement for medical services that are compensable
33 under this Article, those employees who are subject to the preferred provider
34 arrangement shall receive medical care in the manner prescribed by the arrangement.
35 However, immediate emergency medical treatment from a medical provider who is not
36 a member of the managed-care organization shall be compensable. An employee shall
37 exhaust the dispute resolution procedure of a managed-care organization prior to
38 seeking compensation from the Commission on an issue related to the managed care or
39 the choice of a physician.

40 **"§ 97-25.3. Preauthorization.**

41 (a) An employee shall notify the insurer within five working days before hospital
42 in-patient confinement or surgery, except in case of an emergency, in accordance with
43 procedures prescribed by the Commission. When hospitalization or surgery is
44 recommended, the insurer shall make a hospital confinement and surgery review and

1 shall have reasonable opportunity to obtain an independent medical exam. A copy of
2 the review shall be provided to the employee, attending physician, and hospital in
3 writing. Hospital and physician charges incurred without preauthorization and after
4 notice has been given to the hospital and physician pursuant to this section shall be
5 reduced by fifty percent (50%). The employee shall not be liable for payment of the
6 balance. A hospital that refuses to treat an employee for other than an emergency
7 medical condition because preauthorization has not been obtained shall be immune from
8 liability in any civil action.

9 (b) No health care provider may refer the employee to a diagnostic facility, pain
10 program, work-hardening program, therapy center, or other facility without
11 authorization from the insurer pursuant to this section except in cases of immediate
12 medical emergency.

13 (c) The Commission shall adopt rules pursuant to Chapter 150B of the General
14 Statutes specifying additional types of medical care requiring express preauthorization
15 by the insurer. The Commission shall adopt rules establishing a procedure for expedited
16 resolution of any dispute over the denial of preauthorization by the insurer.

17 (d) When a health care provider of medical services or treatment makes referrals
18 for medical services or treatment compensable under this Article to a health care
19 provider or entity in which the health care provider making the referral has an
20 investment interest, the referring provider shall, at the time of the referral, disclose that
21 investment interest to the employee, the Commission, the employer, and the employer's
22 insurer. The referring provider also shall file an annual disclosure statement with the
23 Commission as provided by rules adopted by the Commission.

24 (e) Except in cases of medical emergency, the insurer shall not be liable for
25 medical costs related to hospital in-patient confinement or surgery, chiropractic care, or
26 physical or occupational therapy unless:

27 (1) The insurer or employer waives the right to request a second
28 opinion from a physician approved by the insurer or the
29 Commission no later than 14 days after the date of notification that
30 any of these medical treatments is recommended; or

31 (2) The employee obtains a second opinion from a physician approved
32 by the insurer or the Commission, and the second physician
33 concurs with the attending physician's recommendation.

34 (f) The insurer or Commission may require an employee to submit to medical
35 examinations to resolve any question about the appropriateness of medical treatment
36 received or recommended. The Commission shall require a physical examination only
37 after the insurer has attempted and failed to receive the permission of the employee.

38 (g) The insurer shall pay for any physical examination required under subsections
39 (e) and (f) of this section.

40 (h) An employee who, without good cause, fails or refuses to appear at the time
41 scheduled for a physical examination under subsections (e) or (f) of this section shall
42 have the employee's rights suspended as provided in G.S. 97-27(a).

43 (i) A health care provider shall not pursue a private claim against an employee
44 for all or part of the costs of medical treatment provided to the employee by the provider

1 unless the claim is finally adjudicated not to be compensable under this Article or unless
2 the employee fails to comply with this section."

3 Sec. 13. G.S. 97-26 reads as rewritten:

4 **"§ 97-26. Liability—Fees allowed for medical treatment measured by average cost in**
5 **community; treatment; malpractice of physician.**

6 ~~The pecuniary liability of the employer for medical, surgical, hospital service,~~
7 ~~nursing services, medicines, sick travel or other treatment required when ordered by the~~
8 ~~Commission, shall be limited to such charges as prevail in the same community for~~
9 ~~similar treatment of injured persons of a like standard of living when such treatment is~~
10 ~~paid for by the injured person, and the~~

11 (a) The Commission shall adopt a schedule of maximum fees for all services,
12 procedures, and tasks. This schedule shall govern reimbursement of maximum fees to
13 all health care providers under G.S. 97-25 and shall be in accordance with the
14 following:

15 (1) Maximum allowable fees shall be based on, and be equal to,
16 maximum fees payable under the State of North Carolina Teachers'
17 and State Employees' Comprehensive Major Medical Plan for
18 similar services, procedures, and tasks where such medical care is
19 provided and shall incorporate changes.

20 (2) The fee schedule shall identify and define medical services,
21 procedures, and tasks in accordance with the codes contained in the
22 American Medical Association's Physicians' Current Procedural
23 Terminology (CPT), as modified, or in standard codes and
24 definitions produced by other recognized professional associations
25 for which CPT codes do not exist. The use of modifier codes shall
26 be strictly limited, the additional fee allowed for each modification
27 shall be provided in the fee schedule, and documentation indicating
28 the need for such modifiers shall be required. Services, procedures,
29 and tasks shall be billed using the most inclusive codes available;
30 and differing elements of a service, procedure, or task shall not be
31 billed individually when a single code is available describing the
32 complete service, procedure, or task.

33 (3) Each surgical procedure shall provide for appropriate subsequent
34 care, including examinations, changes of dressings, and similar
35 services associated with post-surgery recovery, but the cost of such
36 care shall not be billed during the recovery period.

37 (b) Unless the employer or insurer and a health care provider agree to a lesser
38 fee, the fees charged for treatment and care under this Article shall be the provider's
39 usual and customary fee for the treatment or service, or the fee for that treatment or
40 service under the Commission's schedule, whichever is less.

41 (c) Health care providers shall submit charges to the employer within 30 days of
42 treatment or within 30 days after the end of the month during which multiple treatments
43 were provided. If the employer disputes a part of a provider's bill, it shall pay the
44 uncontested portion of the bill and shall resolve disputes regarding the balance of

1 medical charges in accordance with this section. Health care providers shall not charge
2 for diagnostic tests previously conducted by other providers, unless a change in patient
3 condition has occurred or the quality of the prior test is doubted. The Commission shall
4 adopt rules establishing reasonable requirements for reports and records to be made
5 available to other health care providers to prevent unnecessary duplication of tests and
6 examinations.

7 (d) The Commission shall promulgate rules pursuant to Chapter 150B of the
8 General Statutes governing treatment. Neither the employer, its insurer, nor the
9 employee shall be responsible for reimbursing a health care provider for treatment of
10 the injured employee that exceeds in frequency treatment plans adopted by the
11 Commission.

12 (e) The employer shall not be liable in damages for malpractice by a physician or
13 surgeon furnished by him pursuant to the provisions of this section, but the
14 consequences of any such malpractice shall be deemed part of the injury resulting from
15 the accident, and shall be compensated for as such.

16 (f) Unless the hospital agrees to a lesser fee, the Commission's schedule of
17 maximum fees shall govern reimbursement to all hospitals for services, treatment, and
18 care under this Article."

19 Sec. 14. G.S. 97-27 reads as rewritten:

20 "**§ 97-27. Medical examination; facts not privileged; refusal to be examined**
21 **suspends compensation; autopsy.**

22 (a) After an injury, and so long as he claims compensation, the employee, if so
23 requested by his employer or ordered by the Industrial Commission, shall, subject to the
24 provisions of subsection ~~(b)~~, ~~(b)~~ and subsection (c) of this section, submit himself to
25 examination, at reasonable times and places, by a duly qualified physician or surgeon
26 designated and paid by the employer or the Industrial Commission. The employee shall
27 have the right to have present at such examination any duly qualified physician or
28 surgeon provided and paid by him. Notwithstanding the provisions of G.S. 8-53, no fact
29 communicated to or otherwise learned by any physician or surgeon or hospital or
30 hospital employee who may have attended or examined the employee, or who may have
31 been present at any examination, shall be privileged in any workers' compensation case
32 with respect to a claim pending for hearing before the Industrial Commission. If the
33 employee refuses to submit himself to or in any way obstructs such examination
34 requested by and provided for by the employer, his right to compensation and his right
35 to take or prosecute any proceedings under this Article shall be suspended until such
36 refusal or objection ceases, and no compensation shall at any time be payable for the
37 period of obstruction, unless in the opinion of the Industrial Commission the
38 circumstances justify the refusal or obstruction. The employer, or the Industrial
39 Commission, shall have the right in any case of death to require an autopsy at the
40 expense of the party requesting the same.

41 (b) ~~In those cases arising under this Article in which there is a question as to the~~
42 ~~percentage of permanent disability suffered by an employee, if any employee, required~~
43 ~~to submit to a physical examination under the provisions of subsection (a) is dissatisfied~~
44 ~~with such examination or the report thereof, he shall be entitled to have another~~

1 ~~examination by a duly qualified physician or surgeon licensed and practicing in North~~
2 ~~Carolina or by a duly qualified physician or surgeon licensed to practice in South~~
3 ~~Carolina, Georgia, Virginia and Tennessee provided said nonresident physician or~~
4 ~~surgeon shall have been approved by the North Carolina Industrial Commission and his~~
5 ~~name placed on the Commission's list of approved nonresident physicians and surgeons,~~
6 ~~designated by him and paid by the employer or the Industrial Commission in the same~~
7 ~~manner as physicians designated by the employer or the Industrial Commission are~~
8 ~~paid. Provided, however, that all travel expenses incurred in obtaining said examination~~
9 ~~shall be paid by said employee. The employer shall have the right to have present at~~
10 ~~such examination a duly qualified physician or surgeon provided and paid by him.~~
11 dispute as to the extent, nature, or cause of disability or death, or a dispute as to whether
12 the employee is medically stationary, the attending physician who has provided the
13 primary care shall make a determination on medical issues as provided in this section.
14 If either party disputes the attending physician's findings, the parties may select an
15 independent medical examiner by mutual agreement. If the parties are unable to
16 mutually agree on the selection of an independent medical examiner, the Commission
17 shall assign a panel of three independent medical examiners.

18 (c) When the injured employee becomes medically stationary, the attending
19 physician shall determine a medical impairment rating based on the most recent edition
20 of the American Medical Association Guide to the Evaluation of Permanent
21 Impairment. For purposes of determining levels of medical impairment, the physician
22 shall not render a medical impairment rating based on chronic pain unless there is an
23 anatomic or physiologic correlation to the pain. Anatomic or physiologic correlation
24 shall be based on objective findings. If either party disputes the attending physician's
25 findings of medical impairment, the parties may select an independent medical
26 examiner by mutual agreement. If the parties are unable to mutually agree on the
27 selection of an independent medical examiner, the Commission shall assign a panel of
28 three independent medical examiners.

29 (d) When a panel of independent medical examiners has been assigned to a case
30 under subsection (b) or subsection (c) of this section, the parties shall be notified
31 immediately. The employee shall select one independent medical examiner from the
32 panel within five days after notification. The employer may, no later than three days
33 after notification of the employee's selection, reject the employee's selection of the
34 independent medical examiner, in which case the employee's first choice of an
35 independent medical examiner is removed from the panel, and the employee shall select
36 one of the two remaining independent medical examiners. The findings of the
37 independent medical examiner under subsection (b) or subsection (c) of this section
38 shall be final, absent a showing of clear and convincing evidence to the contrary. No
39 hearing to contest the findings of the independent medical examiner shall be conducted
40 until the findings of the independent medical examiner have been filed with the
41 Commission.

42 (e) No fact communicated to or otherwise learned by any physician or surgeon
43 who may have attended or examined the employee, or who may have been present at

1 any examination, shall be privileged, either in hearings provided for by this Article or
2 any action at law.

3 (f) The Commission shall certify independent medical examiners to assist the
4 Commission. The Commission shall, in certifying, recertifying, or decertifying an
5 independent medical examiner, consider the qualifications, training, impartiality, and
6 commitment of the health care provider to providing quality medical care at a
7 reasonable cost. The Commission shall require, at a minimum, that independent
8 medical examiners:

9 (1) Have specialized workers' compensation training or experience
10 with the procedures of North Carolina Workers' Compensation Act;

11 (2) Be licensed to practice medicine or surgery under Article 1 of
12 Chapter 90 of the General Statutes; and

13 (3) Be board certified."

14 Sec. 15. G.S. 97-29 reads as rewritten:

15 "**§ 97-29. Compensation rates for total ~~incapacity~~-disability.**

16 (a) Except as hereinafter otherwise provided, where the ~~incapacity for work~~
17 resulting from the injury is total, ~~employee~~ sustains a temporary total disability, the
18 employer shall pay or cause to be paid, as hereinafter provided, to the injured employee
19 during ~~such total~~ the continuance of disability until the employee becomes medically
20 stationary, a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%)
21 of his average weekly wages, but not more than the amount established annually to be
22 effective October 1 as provided herein, nor less than thirty dollars (\$30.00) per week.

23 Temporary total disability benefits shall continue until any one of the following first
24 occurs:

25 (1) The employee becomes medically stationary;

26 (2) The employee returns to regular or modified employment;

27 (3) The attending physician gives the employee a written release to
28 return to regular employment; or

29 (4) The attending physician gives the employee a written release to
30 return to modified employment, this employment is offered to the
31 employee in writing, and the employee fails to begin the
32 employment.

33 If the employee returns to work pursuant to the provisions of this subsection, the
34 employer shall continue to provide medical care. In no case shall the period covered by
35 such compensation be greater than 300 weeks from the date of injury. In no case may
36 the period covered by the compensation provided by this subsection and G.S. 97-30
37 exceed an aggregate total of 300 weeks.

38 (b) Where the injured employee sustains a permanent total disability, the
39 employer shall pay, or cause to be paid to the injured employee during the permanent
40 total disability, a weekly compensation equal to sixty-six and two-thirds percent (66
41 2/3%) of the employee's average weekly wages, but not more than the amount
42 established annually, to be effective October 1 as provided herein, nor less than thirty
43 dollars (\$30.00) per week.

1 ~~In~~ Except as provided in G.S. 97-42.2, in cases of ~~total and permanent total~~ disability,
2 compensation, including medical compensation, shall be paid for by the employer
3 during the lifetime of the injured employee. If death results from the injury then the
4 employer shall pay compensation in accordance with the provisions of G.S. 97-38.

5 (c) The weekly compensation payment for members of the North Carolina
6 national guard and the North Carolina State guard shall be the maximum amount
7 established annually in accordance with the last paragraph of this section per week as
8 fixed herein. The weekly compensation payment for deputy sheriffs, or those acting in
9 the capacity of deputy sheriffs, who serve upon a fee basis, shall be thirty dollars
10 (\$30.00) a week as fixed herein.

11 An officer or member of the State Highway Patrol shall not be awarded any weekly
12 compensation under the provisions of this section for the first two years of any
13 incapacity resulting from an injury by accident arising out of and in the course of the
14 performance by him of his official duties if, during such incapacity, he continues to be
15 an officer or member of the State Highway Patrol, but he shall be awarded any other
16 benefits to which he may be entitled under the provisions of this Article.

17 (d) Notwithstanding any other provision of this Article, on July 1 of each year, a
18 maximum weekly benefit amount shall be computed. The amount of this maximum
19 weekly benefit shall be derived by obtaining the average weekly insured wage in
20 accordance with G.S. 96-8(22), by multiplying such average weekly insured wage by
21 1.10, and by rounding such figure to its nearest multiple of two dollars (\$2.00), and this
22 said maximum weekly benefit shall be applicable to all injuries and claims arising on
23 and after January 1 following such computation. Such maximum weekly benefit shall
24 apply to all provisions of this Chapter and shall be adjusted July 1 and effective January
25 1 of each year as herein provided."

26 Sec. 16. G.S. 97-30 reads as rewritten:

27 "**§ 97-30. Partial ~~incapacity~~-disability.**

28 Except as otherwise provided in G.S. 97-31 where the ~~incapacity-disability~~ for work
29 resulting from the injury is partial, the employer shall pay or cause to be paid, as
30 hereinafter provided, to the injured employee during such disability, a weekly
31 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference
32 between his average weekly wages before the injury and the average weekly wages
33 which he is able to earn thereafter, but not more than the amount established annually to
34 be effective October 1 as provided in G.S. 97-29 a week, and in no case shall the period
35 covered by such compensation be greater than 300 weeks from the date of injury. In
36 case the partial disability begins after a period of total disability, the latter period shall
37 be deducted from the maximum period herein allowed for partial disability. An officer
38 or member of the State Highway Patrol shall not be awarded any weekly compensation
39 under the provisions of this section for the first two years of any incapacity resulting
40 from an injury by accident arising out of and in the course of the performance by him of
41 his official duties if, during such incapacity, he continues to be an officer or member of
42 the State Highway Patrol, but he shall be awarded any other benefits to which he may
43 be entitled under the provisions of this Article. In no case shall the period covered by
44 such compensation be greater than 300 weeks from the date of injury. In no case may

1 the period covered by the compensation provided by this section and G.S. 97-29(a)
2 exceed an aggregate total of 300 weeks."

3 Sec. 17. G.S. 97-31 reads as rewritten:

4 **"§ 97-31. Schedule of injuries; rate and period of compensation.**

5 (a) In cases included by the following schedule the compensation in each case
6 shall be paid for disability during the healing period and in addition the disability shall
7 be deemed to continue for the period specified, and shall be in lieu of all other
8 compensation, including disfigurement, to wit:

- 9 (1) For the loss of a thumb, sixty-six and two-thirds percent (66 2/3%)
10 of the average weekly wages during 75 weeks.
- 11 (2) For the loss of a first finger, commonly called the index finger,
12 sixty-six and two-thirds percent (66 2/3%) of the average weekly
13 wages during 45 weeks.
- 14 (3) For the loss of a second finger, sixty-six and two-thirds percent (66
15 2/3%) of the average weekly wages during 40 weeks.
- 16 (4) For the loss of a third finger, sixty-six and two-thirds percent (66
17 2/3%) of the average weekly wages during 25 weeks.
- 18 (5) For the loss of a fourth finger, commonly called the little finger,
19 sixty-six and two-thirds percent (66 2/3%) of the average weekly
20 wages during 20 weeks.
- 21 (6) The loss of the first phalange of the thumb or any finger shall be
22 considered to be equal to the loss of one half of such thumb or
23 finger, and the compensation shall be for one half of the periods of
24 time above specified.
- 25 (7) The loss of more than one phalange shall be considered the loss of
26 the entire finger or thumb: Provided, however, that in no case shall
27 the amount received for more than one finger exceed the amount
28 provided in this schedule for the loss of a hand.
- 29 (8) For the loss of a great toe, sixty-six and two-thirds percent (66
30 2/3%) of the average weekly wages during 35 weeks.
- 31 (9) For the loss of one of the toes other than a great toe, sixty-six and
32 two-thirds percent (66 2/3%) of the average weekly wages during
33 10 weeks.
- 34 (10) The loss of the first phalange of any toe shall be considered to be
35 equal to the loss of one half of such toe, and the compensation shall
36 be for one half of the periods of time above specified.
- 37 (11) The loss of more than one phalange shall be considered as the loss
38 of the entire toe.
- 39 (12) For the loss of a hand, sixty-six and two-thirds percent (66 2/3%)
40 of the average weekly wages during 200 weeks.
- 41 (13) For the loss of an arm, sixty-six and two-thirds percent (66 2/3%)
42 of the average weekly wages during 240 weeks.
- 43 (14) For the loss of a foot, sixty-six and two-thirds percent (66 2/3%) of
44 the average weekly wages during 144 weeks.

- 1 (15) For the loss of a leg, sixty-six and two-thirds percent (66 2/3%) of
2 the average weekly wages during 200 weeks.
- 3 (16) For the loss of an eye, sixty-six and two-thirds percent (66 2/3%) of
4 the average weekly wages during 120 weeks.
- 5 (17) The loss of both hands, or both arms, or both feet, or both legs, or
6 both eyes, or any two thereof, shall constitute total and permanent
7 disability, to be compensated according to the provisions of G.S.
8 97-29. The employee shall have a vested right in a minimum
9 amount of compensation for the total number of weeks of benefits
10 provided under this section for each member involved. ~~When an~~
11 ~~employee dies from any cause other than the injury for which he is~~
12 ~~entitled to compensation, payment of the minimum amount of~~
13 ~~compensation shall be payable as provided in G.S. 97-37.~~
- 14 (18) For the complete loss of hearing in one ear, sixty-six and two-thirds
15 percent (66 2/3%) of the average weekly wages during 70 weeks;
16 for the complete loss of hearing in both ears, sixty-six and two-
17 thirds percent (66 2/3%) of the average weekly wages during 150
18 weeks.
- 19 (19) Total loss of use of a member or loss of vision of an eye shall be
20 considered as equivalent to the loss of such member or eye. The
21 compensation for partial loss of or for partial loss of use of a
22 member or for partial loss of vision of an eye or for partial loss of
23 hearing shall be such proportion of the periods of payment above
24 provided for total loss as such partial loss bears to total loss, except
25 that in cases where there is eighty-five per centum (85%), or more,
26 loss of vision in any eye, this shall be deemed 'industrial blindness'
27 and compensated as for total loss of vision of such eye.
- 28 (20) The weekly compensation payments referred to in this section shall
29 all be subject to the same limitations as to maximum and minimum
30 as set out in G.S. 97-29.
- 31 (21) In case of serious facial or head disfigurement, the Industrial
32 Commission shall award proper and equitable compensation not to
33 exceed twenty thousand dollars (\$20,000). In case of enucleation
34 where an artificial eye cannot be fitted and used, the Industrial
35 Commission may award compensation as for serious facial
36 disfigurement.
- 37 (22) In case of serious bodily disfigurement for which no compensation
38 is payable under any other subdivision of this section, but
39 excluding the disfigurement resulting from permanent loss or
40 permanent partial loss of use of any member of the body for which
41 compensation is fixed in the schedule contained in this section, the
42 Industrial Commission may award proper and equitable
43 compensation not to exceed ten thousand dollars (\$10,000).

1 (23) For the total loss of use of the back, sixty-six and two-thirds
2 percent (66 2/3%) of the average weekly wages during 300 weeks.
3 The compensation for partial loss of use of the back shall be such
4 proportion of the periods of payment herein provided for total loss
5 as such partial loss bears to total loss, except that in cases where
6 there is seventy-five per centum (75%) or more loss of use of the
7 back, in which event the injured employee shall be deemed to have
8 suffered 'total industrial disability' and compensated as for total
9 loss of use of the back.

10 (24) In case of the loss of or permanent injury to any important external
11 or internal organ or part of the body for which no compensation is
12 payable under any other subdivision of this section, the Industrial
13 Commission may award proper and equitable compensation not to
14 exceed twenty thousand dollars (\$20,000).

15 (b) The period covered by the benefits provided by G.S. 97-29(a), G.S. 97-30,
16 and G.S. 97-31(a) may not exceed an aggregate total of 350 weeks. This aggregate total
17 limitation shall not apply if the percentage of permanent physical impairment is greater
18 than or equal to eighty percent (80%)."

19 Sec. 18. Chapter 97 of the General Statutes is amended by adding a new
20 section to read:

21 "**§ 97-42.2. Coordination of benefits.**

22 Social Security Act retirement benefits or benefits received from a pension plan to
23 the extent the pension plan is funded by the employer shall be credited against the
24 amount of an award when either weekly or lump-sum payments are made to the
25 employee as a result of liability under this Article. The employee shall provide the
26 employer or insurer with proper authorization to secure the amount to which the
27 employee is entitled under the Social Security Act."

28 Sec. 19. G.S. 97-44 reads as rewritten:

29 "**§ 97-44. Lump sums.**

30 ~~Whenever any weekly payment has been continued for not less than six weeks, the~~
31 ~~liability therefor may, in unusual cases, where the Industrial Commission deems it to be~~
32 ~~to the best interest of the employee or his dependents, or where it will prevent undue~~
33 ~~hardships on the employer or his insurance carrier, without prejudicing the interests of~~
34 ~~the employee or his dependents, be redeemed, in whole or in part, by the payment by~~
35 ~~the employer of a lump sum which shall be fixed by the Commission, but in no case to~~
36 ~~exceed the uncommuted value of the future installments which may be due under this~~
37 ~~Article.~~

38 (a) A settlement may not provide for payment of any benefits in a lump-sum
39 except as provided in subsection (b) of this section.

40 (b) The employee may elect to commute the remainder of medical compensation
41 and benefits received under G.S. 97-31 to which the employee is entitled if the
42 employee has returned to work for at least three months and is earning at least eighty
43 percent (80%) of the employee's preinjury average weekly wage. If the employee elects
44 to commute these benefits, the employee shall not receive any additional income

1 benefits for the compensable injury. The Commission, however, in its discretion, may
2 at any time in the case of a minor who has received permanently disabling injuries
3 either partial or total provide that he be compensated, in whole or in part, by the
4 payment of a lump sum, the amount of which shall be fixed by the Commission, but in
5 no case to exceed the uncommuted value of the future installments which may be due
6 under this Article."

7 Sec. 20. G.S. 97-47 reads as rewritten:

8 **"§ 97-47. Change of condition; modification of award.**

9 ~~Upon~~ Subject to G.S. 97-18.1, upon its own motion or upon the application of any
10 party in interest on the grounds of a change in condition, the Industrial Commission
11 may review any award, and on such review may make an award ending, diminishing, or
12 increasing the medical compensation or compensation previously awarded, subject to
13 the maximum or minimum provided in this Article, and shall immediately send to the
14 parties a copy of the award. ~~No such review shall affect such award as regards any moneys~~
15 ~~paid but no~~ No such review shall be made after two years from the date of the last
16 payment of medical compensation or compensation pursuant to an award under this
17 Article, except that in cases in which only medical or other treatment bills are paid, no
18 such review shall be made after 12 months from the date of the last payment of bills for
19 medical or other treatment, paid pursuant to this Article. Medical compensation or
20 compensation that has been paid pursuant to the provisions of this Article prior to
21 review shall not be affected by review or modification of an award under this section.
22 Payment of medical compensation for palliative care under G.S. 97-25.1 shall not toll
23 the time allowed for reviewing an award based upon a change of condition."

24 Sec. 21. G.S. 97-54 reads as rewritten:

25 **"§ 97-54. 'Disablement' defined.**

26 The term 'disablement' as used in this Article as applied to cases of asbestosis and
27 silicosis means the event of becoming actually incapacitated because of asbestosis or
28 silicosis to earn, in the same or any other employment, the wages which the employee
29 was receiving at the time of his last injurious exposure to asbestosis or ~~silicosis; but in all~~
30 ~~other cases of occupational disease 'disablement' shall be equivalent to 'disability' as defined in~~
31 ~~G.S. 97-2(9)-silicosis."~~

32 Sec. 22. G.S. 97-55 is repealed.

33 Sec. 23. G.S. 97-79 reads as rewritten:

34 **"§ 97-79. Offices and supplies; deputies with power to subpoena witnesses and to**
35 **take testimony; meetings; hearings.**

36 (a) The Commission shall be provided with adequate offices in which the records
37 shall be kept and its official business transacted during regular business hours; it shall
38 also be provided with necessary office furniture, stationery, and other supplies.

39 (b) The Commission may appoint deputies who shall have the same power to
40 issue subpoenas, administer oaths, conduct hearings, hold persons, firms or corporations
41 in contempt as provided in Chapter 5A of the General Statutes, take evidence, and enter
42 orders, opinions, and awards based thereon as is possessed by the members of the
43 Commission, and such deputy or deputies shall be subject to the State Personnel

1 System. Deputies shall be attorneys licensed to practice in this State and shall have a
2 minimum of three years experience as attorneys.

3 (c) The Commission or any member thereof may hold sessions at any place
4 within the State as may be deemed necessary by the Commission.

5 (d) Hearings before the Commission shall be open to the public and shall be
6 stenographically reported, and the Commission is authorized to contract for the
7 reporting of such hearings. The Commission shall by regulation provide for the
8 preparation of a record of the hearings and other proceedings.

9 (e) The North Carolina Industrial Commission, or any member thereof, or any
10 deputy is authorized by appropriate order, to make additional parties plaintiff or
11 defendant in any proceeding pending before the North Carolina Industrial Commission
12 when it is made to appear that such new party is either a necessary party or a proper
13 party to a final determination of the proceeding.

14 (f) The Commission shall create an ombudsman program to assist unrepresented
15 claimants, employers, and other parties, to enable them to protect their rights under this
16 Article. In addition to other duties assigned by the Commission, the ombudsman shall
17 meet with, or otherwise provide information to injured employees, investigate
18 complaints, and communicate with employer's insurance carriers, and physicians at the
19 request of the claimant. Assistance provided under this subsection shall not include
20 representing the claimant in a compensation hearing."

21 Sec. 24. G.S. 97-82 is repealed.

22 Sec. 25. G.S. 97-80(a) reads as rewritten:

23 "(a) The Commission may make rules, not inconsistent with this Article, for
24 carrying out the provisions of this Article. Processes and procedure under this Article
25 shall be as summary and simple as reasonably may be. The Commission or any member
26 thereof, or any person deputized by it, shall have the power, for the purpose of this
27 Article, to tax costs against the parties, and to subpoena witnesses, administer or cause
28 to have administered oaths, hold persons, firms or corporations in contempt as provided
29 in Chapter 5A of the General Statutes, and to examine or cause to be examined such
30 parts of the books and records of the parties to a proceeding as relate to questions in
31 dispute. The Commission may order parties to participate in mediation, under rules
32 substantially similar to those approved by the Supreme Court for use in the Superior
33 Court division, and to apportion the costs among the parties. Any party to a proceeding
34 under this Article may, upon application to the Commission, which application shall set
35 forth the materiality of the evidence to be given, cause the depositions of witnesses
36 residing within or without the State to be taken, the costs to be taxed as other costs by
37 Commission. Such depositions shall be taken after giving the notice and in the manner
38 prescribed by law for depositions in action at law, except that they shall be directed to
39 the Commission, the commissioner, or the deputy commissioner before whom the
40 proceedings may be pending."

41 Sec. 26. G.S. 143-296 reads as rewritten:

42 "**§ 143-296. Powers of Industrial Commission; deputies.**

43 The members of the Industrial Commission, or a deputy thereof, shall have power to
44 issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders,

1 opinions, and awards based thereon, and punish for contempt. The Industrial
2 Commission is authorized to appoint deputies and clerical assistants to carry out the
3 purpose and intent of this Article, and such deputy or deputies are hereby vested with
4 the same power and authority to hear and determine tort claims against State
5 departments, institutions, and agencies as is by this Article vested in the members of the
6 Industrial Commission. Such deputy or deputies shall also have and are hereby vested
7 with the same power and authority to hear and determine cases arising under the
8 Workers' Compensation Act when assigned to do so by the Industrial Commission. The
9 Commission may order parties to participate in mediation, under rules substantially
10 similar to those approved by the Supreme Court for use in the Superior Court division,
11 and to apportion the costs among the parties."

12 Sec. 27. G.S. 97-83 reads as rewritten:

13 **"§ 97-83. ~~In event of disagreement, Commission is to make award after hearing.~~**

14 If the employer and the injured employee or his dependents ~~fail to reach an~~
15 ~~agreement, in regard to compensation under this Article within 14 days after the~~
16 ~~employee has knowledge of the injury or death, or if they have reached such an~~
17 ~~agreement which has been signed and filed with the Commission, and compensation has~~
18 ~~been paid or is due in accordance therewith, and the parties thereto then disagree as to~~
19 ~~the continuance of any weekly payment under such agreement, fail to reach an~~
20 agreement in regard to benefits under this Article within 14 days after the employer has
21 knowledge of the injury or death, or upon the arising of a dispute under this Article,
22 either party may make application to the Industrial Commission for a hearing in regard
23 to the matters at issue, and for a ruling thereon. The county commissioners of each of
24 the counties shall provide a suitable place for the Industrial Commission to conduct
25 hearings in the county seat of such county so long as the provision of such a suitable
26 place does not interfere with the normal use of county facilities.

27 Immediately after such application has been received the Commission shall set the
28 date of a hearing, which shall be held as soon as practicable, shall notify the parties at
29 issue of the time and place of such hearing. The hearing or hearings shall be held in the
30 city or county where the injury occurred, unless otherwise authorized by the Industrial
31 Commission."

32 Sec. 28. G.S. 97-84 reads as rewritten:

33 **"§ 97-84. ~~Determination of disputes by Commission or deputy.~~**

34 ~~The Commission or any of its members~~ The deputy shall hear the parties at issue and
35 their representatives and witnesses, and shall determine the dispute in a summary
36 manner. The award, together with a statement of the findings of fact, rulings of law, and
37 other matters pertinent to the questions at issue shall be filed with the record of the
38 proceedings, within 180 days of the close of the hearing record unless time is extended
39 for good cause by the Commission, and a copy of the award shall immediately be sent
40 to the parties in dispute. ~~The parties may be heard by a deputy, in which event the hearing~~
41 ~~shall be conducted in the same way and manner prescribed for hearings which are conducted by~~
42 ~~a member of the Industrial Commission, and said deputy shall proceed to a complete~~
43 ~~determination of the matters in dispute, file his written opinion within 180 days of the close of~~
44 ~~the hearing record unless time is extended for good cause by the Commission, and the deputy~~

1 ~~shall cause to be issued an award pursuant to such determination.—~~The decision of the
2 Commission shall be based on the greater weight of credible evidence as contained in
3 the record. For purposes of this section, 'greater weight of credible evidence' means
4 evidence that, when weighted against evidence in opposition, will produce in the mind
5 of the trier of fact a firm conviction as to each essential element of the claim."

6 Sec. 29. G.S. 97-85 reads as rewritten:

7 **"§ 97-85. Review of award.**

8 If application is made to the Commission within 15 days from the date when notice
9 of the award shall have been given, the full Commission shall review the award, and, if
10 good ground be shown therefor, reconsider the evidence, receive further evidence,
11 rehear the parties or their representatives, and, if proper, amend the award: ~~Provided,~~
12 ~~however, when application is made for review of an award, and such an award has been heard~~
13 ~~and determined by a commissioner of the North Carolina Industrial Commission, the~~
14 ~~commissioner who heard and determined the dispute in the first instance, as specified by G.S.~~
15 ~~97-84, shall be disqualified from sitting with the full Commission on the review of such award,~~
16 ~~and the chairman of the Industrial Commission shall designate a deputy commissioner to take~~
17 ~~such commissioner's place in the review of the particular award. The deputy commissioner so~~
18 ~~designated, along with the two other commissioners, shall compose the full Commission upon~~
19 ~~review. Provided further, the chairman of the Industrial Commission shall have the authority to~~
20 ~~designate a deputy commissioner to take the place of a commissioner on the review of any~~
21 ~~case, in which event the deputy commissioner so designated shall have the same authority and~~
22 ~~duty as does the commissioner whose place he occupies on such review.~~award. Unless both
23 parties request oral argument, the review shall be based on the record."

24 Sec. 30. G.S. 97-87 reads as rewritten:

25 **"§ 97-87. Filing ~~agreements approved by Commission or awards; judgment in~~**
26 **~~accordance therewith; discharge or restoration of lien.~~**

27 Any party in interest may file in the superior court of the county in which the injury
28 occurred ~~a certified copy of a memorandum of agreement approved by the Commission, or of~~
29 ~~an order or decision of the Commission, or of an award of the Commission unappealed~~
30 ~~from or of an award of the Commission affirmed upon appeal, whereupon said court~~
31 ~~shall render judgment in accordance therewith, and notify the parties. Such judgment~~
32 ~~shall have the same effect, and all proceedings in relation thereto shall thereafter be the~~
33 ~~same, as though said judgment had been rendered in a suit duly heard and determined~~
34 ~~by said court: Provided, if the judgment debtor shall file a certificate duly issued by the~~
35 ~~Industrial Commission showing compliance with G.S. 97-83 with the clerk of the~~
36 ~~superior court in the county or counties where such judgment is docketed, then such~~
37 ~~clerk shall make upon the judgment roll an entry showing the filing of such certificate~~
38 ~~which shall operate as a discharge of the lien of the said judgment, and no execution~~
39 ~~shall be issued thereon; provided, further, that if at any time there is default in the~~
40 ~~payment of any installment due under the award set forth in said judgment the court~~
41 ~~may, upon application for cause and after 10 days' notice to judgment debtor, order the~~
42 ~~lien of such judgment restored, and execution may be immediately issued thereon for~~
43 ~~past due installments and for future installments as they may become due."~~

44 Sec. 31. Chapter 97 of the General Statutes is amended by adding the
45 following two new sections to read:

1 **"§ 97-88.2. Penalty for misrepresentation.**

2 (a) Any person who willfully makes any false or misleading statement or
3 representation for the purpose of obtaining or assisting another to obtain any benefit or
4 payment under this Article shall be guilty of a Class I felony and, upon conviction, shall
5 be punished by a fine not to exceed ten thousand dollars (\$10,000), imprisonment not to
6 exceed five years, or both. The court may order restitution.

7 (b) The Commission shall refer all cases of suspected fraud and all violations
8 related to workers' compensation claims against insurers or self-funded employers to the
9 Department of Insurance to:

10 (1) Perform investigations and refer possible criminal violations to the
11 appropriate prosecutorial authorities;

12 (2) Conduct administrative violation proceedings; and

13 (3) Assess and collect penalties and restitution.

14 (c) Penalties collected under subsection (a) of this section shall be paid to the
15 Department of Insurance for the costs of performing its duties under subsection (b) of
16 this section.

17 (d) The Commission shall not be liable in a civil action for any action made in
18 good faith under this section, including the identification and referral of a person for
19 investigation and prosecution for an alleged administrative violation or criminal offense.
20 Any person, including, but not limited to, an employer, an insurer, and an employee of
21 an insurer, who in good faith comes forward with information under this section, shall
22 not be liable in a civil action.

23 (e) The Commission shall report annually to the General Assembly on the
24 number and disposition of investigations involving claimants, employers, attorneys,
25 medical providers, and vocational rehabilitation providers.

26 **"§ 97-88.3. Penalty for health care providers.**

27 (a) Any health care provider who willfully or intentionally undertakes the
28 following acts is subject to an administrative penalty not to exceed ten thousand dollars
29 (\$10,000):

30 (1) Submitting charges for health care that was not furnished;

31 (2) Administering improper, unreasonable, or medically unnecessary
32 treatment or services;

33 (3) Failing or refusing to timely file required reports or records;

34 (4) Making unnecessary referrals;

35 (5) Failing to disclose an interest as required by this Article;

36 (6) Violating the Commission's treatment guidelines;

37 (7) Violating any rules adopted by the Commission pursuant to
38 Chapter 150B of the General Statutes;

39 (8) Failing to comply with any provision of this Article.

40 (b) A health care provider who knowingly charges or otherwise holds an
41 employee financially responsible for the cost of any services provided for a
42 compensable injury under this Article is guilty of a misdemeanor.

1 (c) Any person, including, but not limited to, an employer, an insurer, and an
2 employee of an insurer, who in good faith comes forward with information under this
3 section, shall not be liable in a civil action.

4 (d) Information relating to possible violations under this section shall be reported
5 to the Commission which shall refer the same to the appropriate licensing or regulatory
6 board or authority for the health care provider involved.

7 (e) A hospital that relies on a written order of a physician in performing health
8 care services shall not be subject to an administrative penalty in violation of this
9 section."

10 Sec. 32. G.S. 97-89 is repealed.

11 Sec. 33. G.S. 97-90 reads as rewritten:

12 **"§ 97-90. Legal and medical fees to be approved by Commission; misdemeanor to**
13 **receive fees unapproved by Commission, or to solicit employment in**
14 **adjusting claims; agreement for fee or compensation.**

15 (a) Fees for attorneys and physicians and charges of hospitals for medical
16 compensation under this Article shall be subject to the approval of the Commission; but
17 no physician or hospital or other medical facilities shall be entitled to collect fees from
18 an employer or insurance carrier until he has made the reports required by the Industrial
19 Commission in connection with the case. Unless otherwise provided by the rules,
20 schedules, or orders of the Commission, a request for a specific prior approval to charge
21 shall be submitted to the Commission for each such fee or charge.

22 (b) Any person (i) who receives any fee, other consideration, or any gratuity on
23 account of services so rendered, unless such consideration or gratuity is approved by the
24 Commission or such court, or (ii) who makes it a business to solicit employment for a
25 lawyer or for himself in respect of any claim or award for compensation, shall be guilty
26 of a misdemeanor, and upon conviction thereof shall, for each offense, be punished by a
27 fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed
28 one year, or by both such fine and imprisonment.

29 (c) ~~If an attorney has an agreement for fee or compensation under this Article, he~~
30 ~~shall file a copy or memorandum thereof with the hearing officer or Commission prior~~
31 ~~to the conclusion of the hearing. If the agreement is not considered unreasonable, the~~
32 ~~hearing officer or Commission shall approve it at the time of rendering decision. If the~~
33 ~~agreement is found to be unreasonable by the hearing officer or Commission, the~~
34 ~~reasons therefor shall be given and what is considered to be reasonable fee allowed. If~~
35 ~~within five days after receipt of notice of such fee allowance, the attorney shall file~~
36 ~~notice of appeal to the full Commission, the full Commission shall hear the matter and~~
37 ~~determine whether or not the attorney's agreement as to a fee or the fee allowed is~~
38 ~~unreasonable. If the full Commission is of the opinion that such agreement or fee~~
39 ~~allowance is unreasonable and so finds, then the attorney may, by filing written notice~~
40 ~~of appeal within 10 days after receipt of such action by the full Commission, appeal to~~
41 ~~the resident judge of the superior court or the judge holding the courts of the district of~~
42 ~~or in the county in which the cause of action arose or in which the claimant resides; and~~
43 ~~upon such appeal said judge shall consider the matter and determine in his discretion the~~
44 ~~reasonableness of said agreement or fix the fee and direct an order to the Commission~~

~~1 following his determination therein. The Commission shall, within 20 days after receipt
2 of notice of appeal from its action concerning said agreement or allowance, transmit its
3 findings and reasons as to its action concerning such agreement or allowance to the
4 judge of the superior court designated in the notice of appeal. In all other cases where
5 there is no agreement for fee or compensation, the attorney or claimant may, by filing
6 written notice of appeal within five days after receipt of notice of action of the full
7 Commission with respect to attorneys' fees, appeal to the resident judge of the superior
8 court or the judge holding the courts of the district of the county in which the cause
9 arose or in which the claimant resides; and upon such appeal said judge shall consider
10 the matter of such fee and determine in his discretion the attorneys' fees to be allowed in
11 the cause. The Commission shall, within 20 days after notice of appeal has been filed,
12 transmit its findings and reasons as to its action concerning such fee or compensation to
13 the judge of the superior court designated in the notice of appeal; provided that the
14 Commission shall in no event have any jurisdiction over any attorneys' fees in any third-
15 party action.~~

16 The Industrial Commission in determining an allowance of attorney fees shall
17 examine the record to determine the services rendered. Neither the employer nor its
18 carrier shall be liable for any part of the fee to be paid to the claimant's attorney. The
19 fees shall be allowed only on the amount of compensation disputed. The factors to be
20 considered by the Industrial Commission in determining an allowance of attorney fees
21 shall include, but not necessarily be limited to: The nature, scope, and quality of the
22 attorneys' services; the level of skill and competence required of the attorney in
23 rendering the services; the results achieved; the experience and skill level of the
24 attorney; and the contingent nature of the case. In the order making the allowance of
25 attorney fees, the Industrial Commission shall set forth findings sufficient to support the
26 amount approved.

27 The Commission may reduce the attorneys' fee to an amount commensurate with the
28 services performed, or may deny or reduce an attorney's fee upon proof of solicitation of
29 employment.

30 (c1) No attorneys' fee in any case involving benefits under this Article shall be
31 paid until the fee is approved by the Industrial Commission. Any contract for the
32 payment of attorneys' fees other than as provided in this section is void. The motion for
33 approval of an attorney fee allowance shall be submitted within 30 days following a
34 final determination of the last appealable order of the Industrial Commission.

35 (d) Provided, that nothing contained in this section shall prevent the collection of
36 such reasonable fees of physicians and charges for hospitalization as may be recovered
37 in an action, or embraced in settlement of a claim, against a third-party tort-feasor as
38 described in G.S. 97-10.

39 (e) The fees provided for in subsection (a) of this section shall be approved by
40 the Commission no later than June 1 of the year in which the Commission exercises its
41 authority under subsection (a) of this section, but shall not become effective until July 1
42 following such approval.

43 (f) For purposes of this section, 'benefits secured' means benefits obtained as a
44 result of the claimant's attorneys' legal services rendered in connection with the claim

1 for benefits, to the extent that the amount of benefits secured is in excess of any offer of
2 settlement filed pursuant to G.S. 97-17, if that offer of settlement was filed prior to the
3 attorneys' involvement in the claim for benefits."

4 Sec. 34. G.S. 97-91 reads as rewritten:

5 **"§ 97-91. Commission to determine all questions.**

6 All questions arising under this Article ~~if not settled by agreements of the parties~~
7 ~~interested therein, with the approval of the Commission,~~ shall be determined by the
8 Commission, except as otherwise herein provided."

9 Sec. 35. G.S. 97-98 reads as rewritten:

10 **"§ 97-98. Policy must contain agreement promptly to pay benefits; continuance of**
11 **obligation of insurer in event of default.**

12 No policy of insurance against liability arising under this Article shall be issued
13 unless it contains the agreement of the insurer that it will promptly pay to the person
14 entitled to same all benefits conferred by this Article, and all installments of the
15 compensation that may be ~~awarded or agreed upon,~~ awarded, and that the obligation shall
16 not be affected by any default of the insured after the injury or by any default in giving
17 notice required by ~~such the~~ policy or otherwise. ~~Such~~ The agreement shall be construed
18 to be a direct promise by the insurer to the person entitled to compensation enforceable
19 ~~in his name.~~ the name of the person."

20 Sec. 36. G.S. 58-36-1(5) reads as rewritten:

21 "(5) It is the duty of every insurer that writes workers' compensation
22 insurance in this State and is a member of the Bureau, as defined in
23 this section and G.S. 58-36-5 to insure and accept any workers'
24 compensation insurance risk that has been certified to be 'difficult
25 to place' by any fire and casualty insurance agent who is licensed in
26 this State. When any such risk is called to the attention of the
27 Bureau by receipt of an application with an estimated or deposit
28 premium payment and it appears that the risk is in good faith
29 entitled to such coverage, the Bureau will bind coverage for 30
30 days and will designate a member who must issue a standard
31 workers' compensation policy of insurance that contains the usual
32 and customary provisions found in those policies. Coverage will
33 be bound at 12:01 A.M. on the first day following the postmark
34 time and date on the envelope in which the application is mailed
35 including the estimated annual or deposit premium, or the
36 expiration of existing coverage, whichever is later. If there should
37 be no postmark, coverage will be effective 12:01 A.M. on the date
38 of receipt by the Bureau unless a later date is requested. Those
39 applications hand delivered to the Bureau will be effective as of
40 12:01 A.M. of the date following receipt by the Bureau unless a
41 later date is requested. The designated carrier may request of the
42 Bureau certification of the State Department of Labor that the
43 insured is complying with the laws, rules, and regulations of that
44 Department. The certification must be finished within 30 days by

1 the State Department of Labor unless extension of time is granted
2 by agreement between the Bureau and the State Department of
3 Labor. The Bureau will make and adopt such rules as are
4 necessary to carry this section into effect, subject to final approval
5 of the Commissioner. As a prerequisite to the transaction of
6 workers' compensation insurance in this State, every member of the
7 Bureau that writes such insurance must file with the Bureau written
8 authority permitting the Bureau to act in its behalf, as provided in
9 this section, and an agreement to accept risks that are assigned to
10 the member by the Bureau, as provided in this section.

11 Failure or refusal by any assigned employer risk to make full disclosure to the
12 Bureau, servicing carrier, or insurer writing a policy of information regarding the
13 employer's true ownership, change of ownership, operations, or payroll; or any other
14 failure to disclose fully any records pertaining to workers' compensation insurance shall
15 be sufficient grounds for the Bureau to authorize the termination of the policy of that
16 employer."

17 Sec. 37. G.S. 97-93 reads as rewritten:

18 **"§ 97-93. Employers required to carry insurance or prove financial ability to pay**
19 **for benefits; employers required to post notice; self-insured employers**
20 **regulated by Commissioner of Insurance.**

21 (a) Every employer subject to the provisions of this Article relative to the
22 payment of compensation shall either:

23 (1) Insure and keep insured his liability under this Article in any
24 authorized corporation, association, organization, or in any mutual
25 insurance association formed by a group of employers so authorized;
26 or

27 (2) Furnish to the Commissioner of Insurance satisfactory proof of the
28 employer's financial ability, either alone or through membership in a
29 group comprising two or more employers who agree to pool their
30 liabilities under this Article, to directly pay the compensation in the
31 amount and manner and when due as provided for in this Article.

32 (a1) Every employer who is in compliance with the provisions of subsection (a) of
33 this section shall post in a conspicuous place in places of employment a notice stating
34 that employment by this employer is subject to the North Carolina Workers'
35 Compensation Act and stating whether the employer has a policy of insurance against
36 liability or qualifies as a self-insured employer. In the event the employer allows its
37 insurance to lapse or ceases to qualify as a self-insured employer, the employer shall,
38 within five working days of this occurrence, remove any notices indicating otherwise.

39 (b) In the case of subdivision (a)(2) of this section, the Commissioner of
40 Insurance may require the deposit of an acceptable security, indemnity, or bond to
41 secure the payment of compensation liabilities as they are incurred. Any individual
42 employer or group of employers who furnish proof of financial ability under subdivision
43 (a)(2) of this section shall be governed in all respects by this Article and by such rules
44 as may be promulgated by the Commissioner of Insurance.

1 (c) Payment of dividends to the members of any group of employers who agree
2 to pool their liabilities under subdivision (a)(2) of this section shall not be contingent
3 upon the maintenance or continuance of membership in such pools."

4 Sec. 38. The North Carolina Rate Bureau and its member companies are
5 directed to cooperate fully with the Commissioner of Insurance in conducting a
6 thorough and complete study of the methods and costs of assigning "difficult to place"
7 workers' compensation insurance risks under G.S. 58-36-1(5). Such study shall be
8 completed and the Commissioner shall report on the same to the Joint Legislative
9 Commission on Governmental Operations by March 1, 1994, for consideration of any
10 needed legislation in the 1994 Regular Session of the 1993 General Assembly. The
11 report of the Commissioner, and the study preceding the same, shall examine such
12 things as, but not be limited to, the criteria used for assigning a workers' compensation
13 risk, the qualifications of and the compensation paid to insurers which service risks
14 assigned under that statute, safety and loss prevention services provided to risks so
15 assigned, the acquisition expenses paid by the Rate Bureau and its member insurers to
16 insurance agents placing risks through such assignments, and the equities of both
17 member insurers and self-funded employers sharing in any possible losses sustained by
18 that assigned risk plan. The study and report of the Commissioner may, in his
19 discretion, also address the procedures and methodology for insurance rate making
20 under Article 36 of Chapter 58 of the North Carolina General Statutes.

21 Sec. 39. There is appropriated from the General Fund to the Industrial
22 Commission the sum of one hundred thousand dollars (\$100,000) for the 1993-94 fiscal
23 year and the sum of one hundred thousand dollars (\$100,000) for the 1994-95 fiscal
24 year to establish an ombudsman program.

25 Sec. 40. There is appropriated from the General Fund to the Department of
26 Insurance the sum of one hundred thousand dollars (\$100,000) for the 1993-94 fiscal
27 year and one hundred thousand dollars (\$100,000) for the 1994-95 fiscal year for the
28 investigation of suspected workers' compensation fraud and violation of workers'
29 compensation claims.

30 Sec. 41. The provisions of G.S. 97-79(f), as enacted by Section 23 of this act,
31 shall not become effective unless and until the General Assembly appropriates funds for
32 its implementation. Section 38 of this act is effective upon ratification. Section 13 of
33 this act becomes effective October 1, 1993. Sections 39 and 40 of this act become
34 effective July 1, 1993. The remaining sections of this act become effective January 1,
35 1994.