

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-121
SENATE BILL 927

AN ACT TO AMEND THE GENERAL STATUTES GOVERNING SERVICES FOR
THE BLIND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-4 reads as rewritten:

"§ 111-4. Register of State's blind.

(a) ~~It shall be the duty of the~~ The Department of Health and Human Services ~~to shall~~ cause to be maintained a complete register of the blind in the State ~~of North Carolina, which that~~ shall describe the ~~condition, condition and~~ cause of blindness, ~~capacity for education and industrial training-blindness of each, with such each and any~~ other facts ~~as that~~ may seem to the Department of Health and Human Services to be of value.

(b) When, upon examination by a physician or optometrist, any person is found to be blind, the examiner shall report the results of the examination to the Department of Health and Human Services within 30 days after the examination is conducted."

Section 2. G.S. 111-5 is repealed.

Section 3. G.S. 111-6 reads as rewritten:

"§ 111-6. Training schools and workshops; training outside State; sale of products; direct relief; matching of federal funds.

The Department of Health and Human Services may establish one or more training schools and workshops for employment of suitable blind and visually impaired persons ~~persons, and shall be empowered to equip and maintain the same, these schools and workshops, to pay to employees suitable wages, and to devise means for the sale and distribution of the products thereof, of these schools and workshops, and may cooperate with shops already established.~~ The Department of Health and Human Services may also pay for lodging, tuition, support and all necessary expenses for blind and visually impaired persons during their training or ~~instructions-instruction~~ instruction in any suitable occupation, whether it be in industrial, commercial, ~~or professional-professional,~~ or any other establishments, schools or institutions, or through private instruction ~~wherever when~~ in the judgment of the Department such of Health and Human Services this instruction or training can be obtained, when in its judgment obtained and the training or instruction in question will contribute to the efficiency or self-support of such the blind and visually impaired persons. When special educational opportunities cannot be had within the State, they may be arranged for, at the discretion of the ~~Department,~~ Department of Health and Human Services, outside of the State. The Department of

Health and Human Services may also, whenever it thinks proper, also aid individual blind and visually impaired persons or groups of blind and visually impaired persons to become self-supporting by furnishing material or equipment to them, and may also assist them and by assisting them in the sale and distribution of their products. Any portion of the funds appropriated to the Department of Health and Human Services under the provisions of this Chapter providing for the rehabilitation of the blind and visually impaired and the prevention of blindness may, when the Commission for the Blind deems wise, be given in direct money payments to the needy blind in accordance with the provisions of G.S. 111-13 to 111-26, and whenever through G.S. 111-26. Whenever possible such funds may be matched by funds provided by the federal Social Security Act, Act, 42 U.S.C. § 301, et seq., as amended."

Section 4. G.S. 111-6.1 reads as rewritten:

"§ 111-6.1. Rehabilitation center for the adult blind. blind and visually impaired.

In addition to other powers and duties granted it by law, the The Department of Health and Human Services is hereby authorized and directed to shall establish and operate a rehabilitation center for the blind and visually impaired for the purpose of assisting them in their mental, emotional, physical, and economic adjustments to blindness through the application of proper tests, measurements, and intensive training in order that they may develop manual dexterity, obstacle and direction awareness, acceptable work habits, and maximum skills in industrial and commercial processes. evaluating and providing instruction in specialized independent living, prevocational, and vocational skills to blind and visually impaired persons to prepare them for obtaining and maintaining employment.

The Commission shall make all rules and regulations necessary for this purpose and the Department is hereby authorized to of Health and Human Services may enter into any agreement or contract; to purchase or lease property, both real and personal, to accept grants and gifts of whatever nature, and to do all other things necessary to carry out the intent and purposes of such a this rehabilitation center.

The Department of Health and Human Services is hereby authorized to may receive grants-in-aid from the federal government for carrying out the provisions of this section, as well as for other related rehabilitation programs for the North Carolina blind, under the provisions of the act of Congress known as the Barden Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190). Visually handicapped blind and visually impaired persons under the provisions of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq., as amended. Blind and visually impaired persons as defined in G.S. 111-11, who are physically present in North Carolina may enjoy the benefits of this section or any other related rehabilitation benefits under the Barden Rehabilitation Act. Rehabilitation Act of 1973, as amended."

Section 5. G.S. 111-7 reads as rewritten:

"§ 111-7. ~~Promotion visits.~~ In-home services.

The Department of Health and Human Services may ameliorate the condition of the blind by promotion visits among them and teaching them in their homes as the Department of Health and Human Services may deem advisable. foster maximum independence of blind and visually impaired persons through the provision of in-home

independent living, development of community-based support groups, and related services as it deems advisable."

Section 6. G.S. 111-8 reads as rewritten:

"§ 111-8. Investigations; eye examination and treatment.

It shall be the duty of this [the] The Department of Health and Human Services to shall continue to make inquiries concerning the cause of blindness, to learn what proportion of these cases are preventable-preventable, and to inaugurate and cooperate in any such-measure for the State of North Carolina as may seem wise. it deems advisable. The Department of Health and Human Services may arrange for the examination of the eyes of the individual-blind and partially blind-visually impaired persons and may secure and pay for medical and surgical treatment for such-these persons whenever in the judgment of a qualified ophthalmologist or optometrist the eyes of such-this person may be benefited thereby-by the treatment."

Section 7. G.S. 111-8.1 is repealed.

Section 8. G.S. 111-11 reads as rewritten:

"§ 111-11. Definition of visually handicapped person. Definitions.

For purpose of this Chapter, visually handicapped persons are those persons who are totally blind or the purposes of this Chapter, the following definitions apply:

- (1) 'Blind person' means a person who meets any of the following criteria:
 - a. Is totally blind.
 - b. Has central visual acuity that does not exceed 20/200 in the better eye with correcting lenses.
 - c. Has a visual field that subtends an angle no greater than 20 degrees at its widest diameter.
- (2) 'Visually impaired person' means a person whose vision with glasses is so defective-limited as to prevent the performance of ordinary activity for which eyesight is essential."

Section 9. Chapter 111 of the General Statutes is amended by adding a new section to read:

"§ 111-11.1. Jurisdiction of certain Divisions within the Department of Health and Human Services.

For the purpose of providing rehabilitative services to people who are visually impaired, the Division of Services for the Blind and the Division of Vocational Rehabilitation Services shall develop and enter into an agreement specifying which agency can most appropriately meet the specific needs of this client population. If the Divisions cannot reach an agreement, the Secretary of Health and Human Services shall determine which Division can most appropriately meet the specific needs of this client population."

Section 10. G.S. 111-12.6 reads as rewritten:

"§ 111-12.6. Disposition of funds deposited with or transferred to State Treasurer.

All funds required under this Article to be deposited with or which have been heretofore-transferred to the State Treasurer by the Bureau of Employment of the Department of Health and Human Services, and all future net earnings and accumulations of said-the Bureau or its successor, other than the one hundred thousand

dollars (\$100,000) reserve fund ~~herein provided for,~~ provided for in G.S. 111-12.5, from whatever source ~~or sources~~ shall be periodically, but not less frequently than annually, paid over to and retained by the State Treasurer as a separate fund or account. The funds deposited with the State Treasurer shall be invested and the income from the corpus shall inure to the sole benefit of the Department of Health and Human Services. The income and corpus shall be expended for services to and for the benefit of ~~visually handicapped~~ blind and visually impaired persons in North Carolina upon recommendation of the Commission for the Blind, by and with the approval of the Governor as the Director of the Budget."

Section 11. The catch line to Article 2 of Chapter 111 of the General Statutes reads as rewritten:

"ARTICLE 2.

Aid to the ~~Needy~~-Blind."

Section 12. G.S. 111-14 reads as rewritten:

"§ 111-14. **Application for benefits under Article; investigation and award by county commissioners.**

Any person claiming ~~benefit~~ benefits under this ~~Article,~~ Article shall file with the commissioners of the county in which he or she is residing an application in writing, in duplicate, upon forms prescribed by the Department of Health and Human ~~Services,~~ Services. ~~This~~ application shall be accompanied by a certificate signed by a reputable physician licensed to practice medicine in the State of ~~North Carolina~~ and who is actively engaged in the treatment of diseases of the human ~~eye,~~ eye or by an optometrist, whichever the individual may select, ~~to the effect stating that the applicant is blind or that his or her vision with glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.~~ blind. ~~Such~~ This application may be made on the behalf of any ~~such~~ blind person by the Department of Health and Human ~~Services,~~ Services or by any other person. The board of county commissioners shall cause an investigation to be made by a qualified ~~person, or persons,~~ person designated as ~~their agents~~ its agent for this purpose and shall pass upon the ~~said~~ application without delay, determine the eligibility of the applicant, and allow or disallow the relief sought. In passing upon the application, ~~they~~ the board of county commissioners may take into consideration the facts set forth in the ~~said application,~~ application and any other facts that are deemed necessary, and may at any ~~time,~~ time ~~within their discretion,~~ require an additional examination of the applicant's eyes by an ophthalmologist designated by the Department of Health and Human Services. When satisfied with the merits of the application, the board of county commissioners shall allow the ~~same~~ application and grant to the applicant ~~such any proper relief as may be suitable and proper,~~ according to the rules ~~and standards~~ established by the Commission for the ~~Blind, not inconsistent with this Article and in accordance with the further provisions hereof.~~ Blind."

Section 13. G.S. 111-15(1) is repealed.

Section 14. G.S. 111-16 reads as rewritten:

"§ 111-16. **Application for aid; notice of award; review.**

Promptly after an application for aid is made to the board of county commissioners under this ~~Article~~ Article, the Department of Health and Human Services shall be notified ~~thereof of the application by mail, mail by said the county commissioners, and one commissioners.~~ One of the duplicate applications for aid made before the board of county commissioners shall be transmitted with said this notice.

As soon as any award has been made or any application declined by the board of county commissioners, ~~or any application declined,~~ prompt notice thereof in writing in writing of the award or the declined application shall be forwarded by mail to the Department of Health and Human Services and to the applicant, in which shall be fully stated applicant. This notice shall fully state the particulars of the award or the facts of denial. An applicant may appeal an award or denial pursuant to Article 3 of Chapter 150B of the General Statutes.

~~Within a reasonable time, in accordance with rules and regulations adopted by the Commission for the Blind, after action by the board of county commissioners, the applicant, if dissatisfied therewith, may appeal directly to the Commission for the Blind. Notice of such appeal must be given in writing to the board of county commissioners, and within 30 days after the receipt of such notice the board of county commissioners shall transmit to the Department of Health and Human Services copies of all proceedings and documents, including the award or denial, which may be necessary for the hearing of the said appeal, together with the grounds upon which the action was based.~~

~~As soon as may be practicable after the receipt of the said notice of appeal, the Commission for the Blind shall notify the applicant of the time and place where the hearing of such appeal will be had. The members of the Commission for the Blind shall hear the said appeal under such rules and regulations not inconsistent with this Article as it may establish, and shall provide for granting an individual whose claim for aid is denied an opportunity for fair hearing before said Commission for the Blind, and their decision shall be final. Any notice required to be given herein may be given by mail or by personally delivering in writing such notice to the clerk of the board of county commissioners or the executive director of the Department of Health and Human Services, except that notice of the time and place where the hearings of such appeals will be had shall be given by mail or by personal delivery of such notice in writing direct to the applicant.~~

~~In all cases where an appeal shall have been taken by the applicant, the Commission for the Blind shall carefully examine such award or decision, as the case may be, and shall in their discretion, approve, increase, allow or disallow any award so made. Immediately thereafter they shall notify the board of county commissioners and the applicant of such action; and if the award made by the board of county commissioners is changed, notice thereof shall be given by mail to the applicant and the board of county commissioners, giving the extent and manner in which any award has been changed.~~

~~If, in the absence of any appeal by the applicant, the North Carolina Department of Health and Human Services shall make any determination increasing or decreasing the award allowing or disallowing the same, not inconsistent with the rules and regulations promulgated by the Commission for the Blind, the applicant or board of county~~

commissioners shall have the right, within 10 days from notice thereof, to have such order reviewed by the Commission for the Blind. The procedure in such cases shall be as provided in the section on appeals to the Commission by the applicant."

Section 15. G.S. 111-18.1(b) reads as rewritten:

"(b) In the event of the death of a recipient of a cash payment service, as defined by regulation of the N. C. Commission for the Blind, which service that was rendered as a part of a program of public assistance for the blind or visually ~~handicapped, impaired,~~ any check ~~or checks~~ issued for the payment of ~~such that~~ service made payable to ~~such that~~ recipient, but not endorsed prior to ~~his the~~ recipient's death, shall be returned to the issuing agency and made void. The issuing agency shall then issue a check payable to the provider of ~~such the~~ service for the sum remaining due for this service, not to exceed the amount of ~~said the~~ returned and voided ~~check or checks.~~ check."

Section 16. G.S. 111-27 reads as rewritten:

"§ 111-27. Department of Health and Human Services to promote employment of needy-blind persons; vending stands on public property.

For the purpose of assisting blind persons to become self-supporting, the Department of Health and Human Services ~~is hereby authorized to may~~ carry on activities to promote the employment of ~~needy~~-blind persons, including the licensing and establishment of ~~such blind~~ persons as operators of vending stands in public buildings. The ~~said~~ Department of Health and Human Services may cooperate with the federal government in the furtherance of the ~~provisions of the act of Congress known as the Randolph Sheppard Bill (H.R. 4688) Randolph-Sheppard Vending Stand Act, 20 U.S.C. § 107-107f, as amended, providing for the licensing of blind persons to operate vending stands in federal buildings, or any other acts act of Congress which that~~ may be hereafter enacted.

The board of county commissioners of each county and the commissioners or officials in charge of various State and municipal buildings ~~are hereby authorized and empowered to may~~ permit the operation of vending stands by ~~needy~~-blind persons on the premises of any State, county or municipal property under their respective ~~jurisdictions: Provided, that such jurisdictions. These operators shall be first licensed by the Department of Health and Human Services: Provided further, that Services.~~ jurisdictions. These operators shall be first licensed by the Department of Health and Human Services. Additionally, no vending stands may be operated unless, in the opinion of the commissions or officials having control and custody of such the property, such the vending stands may be properly and satisfactorily operated on such the premises without undue interference with the use and needs thereof of the premises or property for public purposes."

Section 17. G.S. 111-27.1 reads as rewritten:

"§ 111-27.1. Department of Health and Human Services authorized to conduct certain business operations.

For the purpose of assisting blind and visually impaired persons to become self-supporting the Department of Health and Human Services ~~is hereby authorized to may~~ carry on activities to promote the rehabilitation and employment of the ~~blind, blind and visually impaired,~~ including employment in or the operation of various business enterprises suitable for the blind ~~to be employed in or to operate. and visually impaired.~~

The Executive Budget Act ~~shall apply~~ applies to the operation of ~~such~~ these enterprises as to all appropriations made by the State to aid in the organization and the establishment of ~~such~~ these businesses. Purchases and sales of merchandise or equipment, the payment of rents and wages to blind and visually impaired persons operating ~~such~~ these businesses, and other expenses ~~thereof, of these businesses~~ from funds derived from local subscriptions and from the day-by-day operations ~~shall not be~~ are not subject to the provisions of law regulating purchases and contracts, or to the deposit and disbursement ~~thereof applicable~~ that apply to State funds but shall be supervised by the Department of Health and Human Services. All of the business operations under this law, ~~however, shall be~~ law are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

~~After September 30, 1983, Randolph-Sheppard vendors will no longer be~~ are not State employees. Blind licensees operating vending facilities under contract with the ~~North Carolina~~ Department of Health and Human Services, Division of Services for the Blind, are independent contractors."

Section 18. G.S. 111-28 reads as rewritten:

"§ 111-28. Department of Health and Human Services authorized to receive federal, etc., grants for benefit of needy blind; blind and visually impaired; use of information concerning blind persons.

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may receive grants-in-aid from the federal government or any State or federal agency for the purpose of rendering other services to the ~~needy blind~~ blind, visually impaired, and those in danger of becoming blind; and all such blind. All of these grants ~~so made and received~~ shall be paid into the State treasury and credited to the account of the Department of Health and Human Services, to be used in carrying out the provisions of this law.

The Commission for the Blind ~~is hereby further authorized and empowered to make such~~ may adopt rules and regulations as may be required by the federal government or State or federal agency as a condition for receiving ~~such~~ these federal funds, not inconsistent with the laws of this State.

~~Whenever the words "Social Security Board" appear in G.S. 111-6, 111-13 to 111-26 the same shall be interpreted to include any agency of the federal government which may be substituted therefor by law.~~

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may enter into reciprocal agreements with public welfare agencies in other states ~~relative to the provision of~~ regarding assistance and services to residents, nonresidents, or transients, and cooperate with other agencies of the State and federal governments in the provisions of ~~such~~ assistance and services and in the study of the problems involved.

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files, and communications of the Department.

It ~~shall be~~ is unlawful, except for purposes directly connected with the administration of aid to the ~~needy blind~~ and visually impaired and in accordance with

the rules and regulations of the Department of Health and Human Services, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or name of, or any information concerning, persons applying for or receiving aid to the ~~needy blind, blind and visually impaired,~~ directly or indirectly derived from the records, papers, files, or communications of the Department of Health and Human Services ~~or Services,~~ the board of county ~~commissioners~~ commissioners, or the county social services department, or acquired in the course of the performance of official duties.

~~Notwithstanding the above, the~~ The Department of Health and Human Services is ~~authorized to may~~ release to the ~~North Carolina Department~~ Division of Motor Vehicles in the Department of Transportation and to the North Carolina Department of Revenue the name and medical records of any person listed in the register of the blind in this State maintained under the provisions of G.S. 111-4. All information and documents released to the ~~Department~~ Division of Motor Vehicles and the Department of Revenue shall be treated by ~~those departments~~ them as confidential for their use only and shall not be released by them to any person for commercial or political purposes or for any purpose not directly connected with the administration of Chapters 20 and 105 of the ~~General Statutes of this State.~~ Statutes. The Department of Health and Human Services may also release to the North Carolina Library for the Blind and Physically Handicapped of the Department of Cultural Resources, the name and address of any person listed in the register of the blind in this State maintained under the provisions of G.S. 111-4. All information released to the North Carolina Library for the Blind and Physically Handicapped shall be treated as confidential for its use only and shall not be released to any person for commercial or political purposes or for any purpose not directly connected with providing information concerning services offered by the North Carolina Library for the Blind and Physically Handicapped."

Section 19. G.S. 111-28.1 reads as rewritten:

"§ 111-28.1. Department of Health and Human Services authorized to cooperate with federal government in rehabilitation of ~~blind.~~ blind and visually impaired.

The Department of Health and Human Services is ~~hereby authorized and empowered to make may~~ adopt the necessary rules and regulations to cooperate with the federal government in the furtherance of the ~~provisions of the act of Congress known as the Barden Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190) Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq., as amended,~~ providing for the rehabilitation of the ~~blind.~~ blind and visually impaired."

Section 20. G.S. 111-41 reads as rewritten:

"§ 111-41. Preference to ~~visually handicapped~~ blind persons in operation of vending facilities; responsibility of Department of Health and Human Services.

In order to promote the employment and the self-sufficiency of ~~visually handicapped~~ blind persons in North Carolina, State agencies shall upon the request of the Department of Health and Human Services give preference to ~~visually handicapped~~ blind persons in the operation of vending facilities on State property. The Department of Health and

Human Services shall encourage and assist the operation of vending facilities by ~~visually handicapped-blind~~ persons."

Section 21. G.S. 111-42(e) is repealed.

Section 22. G.S. 111-43 reads as rewritten:

"§ 111-43. Installation of coin-operated vending machines.

In locations where the Department of Health and Human Services determines that a vending facility may not be operated or should not continue to operate due to insufficient revenues to support a blind vendor or due to the lack of qualified blind applicants, the Department shall have the first opportunity to secure, by negotiation of a contract with one or more licensed commercial vendors, coin-operated vending machines for the location. Profits from coin-operated vending machines secured by the Department of Health and Human Services shall be used by the Department for the support of programs that enable blind and visually impaired people to live more independently, including medical, rehabilitation, independent living, and educational services offered by the Division of Services for the Blind."

Section 23. G.S. 111-44 reads as rewritten:

"§ 111-44. Location and services provided by State agency.

If the Department of Health and Human Services ~~shall determine~~ determines that a location is suitable for the operation of a vending facility by a ~~visually handicapped blind~~ person, the State agency with authority over the location shall provide proper space, plumbing, lighting, and electrical outlets for the vending facility in the original planning and construction, or in the alteration and renovation of the present location. The State agency shall provide necessary utilities, janitorial ~~services~~ service, and garbage disposal for the operation of the vending facility. Space and services for the vending facilities ~~and service therefor~~ shall be provided without charge."

Section 24. G.S. 111-45 reads as rewritten:

"§ 111-45. Duty of State agency to inform ~~Department.~~ the Department of Health and Human Services.

It shall be the duty of the State agencies to inform the Department of Health and Human Services of existing and prospective locations for vending facilities and coin-operated vending machines and to ~~prescribe regulations (upon adopt rules, upon request of the Department)~~ Department, to promote the successful operation of the vending facilities of the ~~visually handicapped-blind.~~"

Section 25. G.S. 111-46 reads as rewritten:

"§ 111-46. Vending facilities operated by those other than ~~visually handicapped blind~~ persons.

Where vending facilities on State property are operated by those other than ~~the visually handicapped-blind~~ persons on the date of enactment of this Article, the contract of these vending facilities shall not be renewed or extended unless the Secretary of the Department of Health and Human Services is notified ~~thereof~~ of the proposed renewal or extension and ~~he~~ the Secretary determines within 30 days of ~~such~~ this notification that the vending facilities are not, or cannot become, suited for operation by the ~~visually handicapped-blind.~~ However, if the Secretary of the Department of Health and Human Services within 30 days of the date of ~~such~~ this notification fails to provide for

the operation of the vending facilities by the ~~visually handicapped, blind,~~ the existing contract may be renewed or extended."

Section 26. G.S. 111-49(b) reads as rewritten:

"(b) 'Blind vendor' means a blind ~~person, as specified in G.S. 105-249(b),~~ person who has been licensed by the Division of Services for the Blind to operate a vending stand in a public building."

Section 27. G.S. 111-50 reads as rewritten:

"§ 111-50. Operations of highway vending.

(a) In locations on North Carolina highways where the Department of Health and Human Services determines that automatic vending is suitable, the Department shall authorize the Division of Services for the Blind to contract with blind vendors in the operation of highway vending facilities. The contracts shall be reviewed and renegotiated by the Division every two years and shall be reviewed by the Transfer and Promotion Committee. The Commission for the Blind shall adopt rules necessary to govern the operations. The highway vending program shall be a part of the Business Enterprises Program operated under the Randolph-Sheppard Act, 20 U.S.C. § 107a.

~~(b) Profits returned to the Division shall be based upon operator net income and determined as follows:~~

- ~~(1) The Division shall charge seventeen percent (17%) set aside on operator net income up to two and one half times the average operator income for the previous State fiscal year.~~
- ~~(2) The Division shall charge fifty percent (50%) set aside on operator net income between two and one half and three and one half times the average operator income for the previous State fiscal year.~~
- ~~(3) The Division shall charge sixty five percent (65%) set aside on all operator net income over three and one half times the average operator income for the previous State fiscal year.~~

(c) The Commission for the Blind may adopt rules to establish applicable set-aside rates for the Business Enterprises Program. The Commission shall only develop rules authorized by this subsection with the active participation of the Elected Committee of Vendors."

Section 28. G.S. 135-16.1 reads as rewritten:

"§ 135-16.1. Blind or visually ~~handicapped~~ impaired employees.

(a) On July 1, 1971, all blind or visually ~~handicapped~~ impaired employees employed by the Department of Health and Human Services shall be enrolled as members of the Teachers' and State Employees' Retirement System. All such employees shall be given full credit for all service theretofore as employees of the Department of Health and Human Services. All retired employees drawing or receiving benefits from and under the private retirement plan purportedly created on December 6, 1966, by the Bureau of Employment for the Blind Division pursuant to a trust agreement purportedly entered into with a private banking institution as trustee shall continue to be paid by the Teachers' and State Employees' Retirement System benefits in the same amount which they purportedly were entitled to under the private retirement plan and trust agreement, except that such retired persons shall be eligible for such annual cost-of-living increases

as may be provided for retirement members of the Teachers' and State Employees' Retirement System under the provisions of this Article.

(b) Upon the enrollment of the employees in the Teachers' and State Employees' Retirement System, the purported private retirement plan and trust agreement hereinabove referred to shall be dissolved and terminated.

(c) Notwithstanding the foregoing, blind persons licensed by the State and operating vending facilities under contract with the Department of Health and Human Services, Division of Services for the Blind and its successors, hereinafter referred to as licensed vendors, so licensed on and after October 1, 1983, shall not be members of the Retirement System. All licensed vendors in service or who are members of the Retirement System before October 1, 1983, shall make an irrevocable election to do one of the following:

- (1) Continue contributing membership service as if an employee under the same conditions and requirements as are otherwise provided, and have the rights of a member to all benefits and a retirement allowance;
- (2) Receive a return of accumulated contributions with cessation of contributing membership service, under G.S. 135-5(f), and in any event with regular interest regardless of membership service; or
- (3) Terminate contributing membership service and be entitled alternatively to the benefits and allowances provided under G.S. 135-3(8) or 135-5(a)."

Section 29. G.S. 143B-157(3b) reads as rewritten:

"(3b) The Commission shall advise the Department regarding preparation of applications, the State Plan, ~~the strategic plan,~~ amendments to ~~these plans,~~ this plan, the State needs assessments, and the evaluations required by the federal rehabilitation program; and in partnership with the Department develop, agree to, and review State goals and priorities;".

Section 30. G.S. 143B-157(3e) reads as rewritten:

"(3e) The Commission shall coordinate with other councils within the State, including the statewide Independent Living Council established under section 705 of the federal Rehabilitation Act, ~~294-29~~ U.S.C. § 720, et seq., the advisory panel established under section ~~613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the ~~State Planning~~ Council on Developmental Disabilities described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, ~~and the State Mental Health Planning Council established pursuant to section 1916(e) of the Public Health Service Act, 42 U.S.C. § 300x-4(e);~~ 300x-4(e), and the Commission on Workforce Development;".

Section 31. G.S. 143B-158 reads as rewritten:

"§ 143B-158. Commission for the ~~Blind~~ — ~~members; selection; quorum; compensation.~~ Blind.

(a) ~~The Commission for the Blind of the Department of Health and Human Services shall consist of 11-13 members appointed by the Governor, as follows:~~

- ~~(1) One representative of the Statewide Independent Living Council.~~
- ~~(2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).~~
- ~~(3) One representative of the State's Client Assistance Program.~~
- ~~(4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.~~
- ~~(5) One representative of community rehabilitation program services providers.~~
- ~~(6) One current or former applicant for, or recipient of, vocational rehabilitation services.~~
- ~~(7) One representative of a disability advocacy group representing individuals who are blind.~~
- ~~(8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.~~
- ~~(9) One representative of business, industry, and labor.~~
- ~~(10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.~~
- ~~(11) One representative of the Department of Public Instruction.~~
- ~~(12) One representative of the Commission on Workforce Development.~~
- ~~(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.~~

~~No physician, no optometrist, no optician, no oculist, nor any other person who receives services or funds regulated by the Commission shall be qualified to serve on the Commission for the Blind. Any person who is presently a member of the Commission and is disqualified by reason of the preceding sentence shall be deemed to have resigned his position on the Commission. The Governor shall appoint a successor for the balance of the unexpired term. At all times at least six members of the Commission shall be persons who are visually handicapped to the minimum extent of being legally blind. The members of the Commission shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.~~

~~(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from~~

representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) A majority of Commission members shall be persons who are blind, as defined in G.S. 111-11. A majority of Commission members shall be persons who are not employed by the Division of Services for the Blind.

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), and (4) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), and (8) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), and (12) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services."

Section 32. G.S. 143B-163 reads as rewritten:

"§ 143B-163. Consumer and Advocacy Advisory Committee for the Blind – creation, powers and duties.

(a) There is hereby created the Consumer and Advocacy Advisory Committee for the Blind of the Department of Health and Human Services. This Committee shall make a continuing study of the entire range of problems and needs of the blind and visually impaired population of this State and make specific recommendations to the Secretary of Health and Human Services as to how these may be solved or alleviated through legislative action. The Committee shall examine national trends and programs of other states, as well as programs and priorities in North Carolina. Because of the cost of treating persons who lose their vision, the Committee's role shall also include studying

and making recommendations to the Secretary of Health and Human Services concerning methods of preventing blindness and restoring vision.

(b) The Consumer and Advocacy Advisory Committee for the Blind shall advise all State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities, including the secretary, director and members of said boards, commissions, agencies, divisions, departments, schools, et cetera, on the needs of the citizens of the State of North Carolina who are now or will become visually ~~handicapped or~~ impaired.

(c) The Consumer and Advocacy Advisory Committee for the Blind shall also advise every State board, commission, agency, division, department, school, corporation, or other State-administered associations or entity concerning sight conservation programs that it supervises, administers or controls.

(d) All State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities including the secretary, director and members of said State boards, agencies, departments, et cetera, which supervise, administer or control any program for or affecting the citizens of the State of North Carolina who are now or will become visually ~~handicapped or~~ impaired shall inform the Consumer and Advocacy Advisory Committee for the Blind of any proposed change in policy, program, budget, rule, or regulation which will affect the citizens of North Carolina who are now or will become visually ~~handicapped or~~ impaired. Said board, commission, et cetera, shall allow the Consumer and Advocacy Advisory Committee for the Blind, prior to passage, unless such change is made pursuant to G.S. 150B-21.1, an opportunity to object to the change and present information and proposals on behalf of the citizens of North Carolina who are now or will become visually ~~handicapped or~~ impaired. This subsection shall also apply to all sight conservation programs of the State of North Carolina.

(e) Nothing in this statute shall prohibit a board, commission, agency, division, department, et cetera, from implementing any change after allowing the Consumer and Advocacy Advisory Committee for the Blind an opportunity to object and propose alternatives. Shifts in budget items within a program or administrative changes in a program required in the day-to-day operation of an agency, department, or school, et cetera, shall be allowed without prior consultation with said Committee."

Section 33. G.S. 168-1 reads as rewritten:

"§ 168-1. Purpose and definition.

The State shall encourage and enable handicapped persons to participate fully in the social and economic life of the State and to engage in remunerative employment. The definition of "handicapped persons" shall include those individuals with physical, mental and visual disabilities. For the purposes of this Article the definition of 'visually handicapped' ~~impaired~~ in G.S. 111-11 shall apply."

Section 34. G.S. 168-5 reads as rewritten:

"§ 168-5. Traffic and other rights of persons using certain canes.

The driver of a vehicle approaching a visually ~~handicapped~~ impaired pedestrian who is carrying a cane predominantly white or silver in color (with or without a red tip) or

using a guide dog shall take all necessary precautions to avoid injury to such pedestrian."

Section 35. The Commission for the Blind shall not exercise the authority granted under G.S. 111-50(c), as enacted by Section 27 of this act, until after such time as the Rehabilitation Services Administration of the United States Department of Education has designated the Commission as part of the State Licensing Agency for the Business Enterprises Program. Until such time as the Commission for the Blind adopts permanent rules to establish set-aside rates for the Business Enterprise Program pursuant to G.S. 111-50(c), as enacted by Section 27 of this act, profits returned to the Division of Services for the Blind shall be based upon operator net income and determined as follows:

- (1) The Division shall charge seventeen percent (17%) set-aside on operator net income up to two and one-half times the average operator income for the previous State fiscal year.
- (2) The Division shall charge fifty percent (50%) set-aside on operator net income over two and one-half times the average operator income for the previous State fiscal year.

Section 36. In order to establish a schedule of staggered terms of three years for the Commission for the Blind and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-158, as amended by Section 31 of this act, the following provisions apply:

- (1) Mary L. O'Daniel shall serve in the position established by G.S. 143B-158(a)(1) through June 30, 2001.
- (2) J. Oattley Lee shall serve through June 30, 2001. The individual next appointed shall fill the position established by G.S. 143B-158(a)(2) for a term that shall expire on June 30, 2004.
- (3) Paul H. Starling shall serve through June 30, 2004. The individual next appointed shall fill the position established by G.S. 143B-158(a)(3) for a term that shall expire on June 30, 2007.
- (4) John T. Miller III shall serve through June 30, 2001. The individual next appointed shall fill the position established by G.S. 143B-158(a)(4) for a term that shall expire on June 30, 2004.
- (5) S. Annette Clinard shall serve in the position established by G.S. 143B-158(a)(5) through June 30, 2002.
- (6) Allen G. Moore shall serve in the position established by G.S. 143B-158(a)(6) through June 30, 2002.
- (7) Catherleen Thomas shall serve in the position established by G.S. 143B-158(a)(7) through June 30, 2002.
- (8) Norma F. Krajczar shall serve through June 30, 2004. Notwithstanding G.S. 143B-158(e), the individual next appointed shall fill the position established by G.S. 143B-158(a)(8) for a term of four years that shall expire on June 30, 2008.
- (9) George Murphy shall serve in the position established by G.S. 143B-158(a)(9) through June 30, 2001. Notwithstanding G.S. 143B-158(e),

the term of the individual next appointed to fill this position shall be for two years and shall expire on June 30, 2003.

- (10) Ronald L. Huber shall serve through June 30, 2003. The individual next appointed shall fill the position established by G.S. 143B-158(a)(10) for a term that shall expire on June 30, 2006.
- (11) The term of the member of the Commission initially appointed to fill the position established by G.S. 143B-158(a)(11) shall expire on June 30, 2003.
- (12) The term of the member of the Commission initially appointed to fill the position established by G.S. 143B-158(a)(12) shall expire on June 30, 2003.

Section 37. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:43 a.m. this 14th day of July, 2000