

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1517

Short Title: Birth Impairment Fund.

(Public)

Sponsors: Representatives Miller; Balmer, Barbee, Beall, Bowie, Chapin, Church, Decker, Esposito, Gardner, Gottovi, Green, Greenwood, Jack Hunt, Judy Hunt, Hurley, Isenhowe, Jeffus, Jordan, Lilley, Loflin, McLawhorn, Morgan, Nye, Oldham, Robinson, Russell, Smith, Wainwright, Warner, Wilmoth, Wood, and Woodard.

Referred to: Rules, Appointments and Calendar.

June 3, 1992

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA BIRTH-RELATED
NEUROLOGICAL IMPAIRMENT PROGRAM AND THE NORTH CAROLINA
BIRTH-RELATED NEUROLOGICAL IMPAIRMENT TRUST FUND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by adding a new
Article 20 to read:

"ARTICLE 20.

**"NORTH CAROLINA BIRTH-RELATED NEUROLOGICAL IMPAIRMENT
PROGRAM.**

"§ 130A-460. Statement of purpose.

In order to provide for the general welfare and to protect the lives and the health of the people of the State, to provide a stable environment, to promote prenatal and obstetrical care so as to reduce infant mortality and morbidity, and to provide funds and services for the care of persons born in North Carolina with birth-related neurological impairments throughout their entire life, a no-fault compensation system for birth-related neurological impairments is appropriate and necessary.

"§ 130A-461. Scope.

This Article applies to all live births occurring in North Carolina on or after the effective date of this Article.

"§ 130A-462. Definitions.

1 The following definitions apply throughout this Article, unless the context clearly
2 implies otherwise:

- 3 (1) 'Applicant' means any person who files an application under this
4 Article claiming to have a birth-related neurological impairment. An
5 application may be filed on behalf of a minor or incompetent by a
6 parent, guardian or guardian **ad litem**. In the case of a decedent, the
7 application may be filed by a decedent's personal representative.
8 (2) 'Birth-related neurological impairment' means an impairment of the
9 brain function of an infant which occurred or could have occurred
10 during pregnancy, before or during a delivery or in the immediate
11 resuscitative period after a delivery, and which results primarily in a
12 nonprogressive inability to control motor function, characterized by
13 spasticity, extrapyramidal signs, or a mixture of the two, and renders
14 the infant chronically impaired. This condition is commonly referred
15 to as cerebral palsy. A birth-related neurological impairment may be
16 accompanied by one or more associated symptoms, including (i)
17 vision, speech, hearing, or learning difficulties, (ii) seizures, or (iii)
18 behavioral and psychological problems. This definition shall not
19 include disability caused by genetic abnormality or by substance
20 abuse.
21 (3) 'Delivery' means live birth in North Carolina.
22 (4) 'Department' means the Department of Environment, Health, and
23 Natural Resources.
24 (5) 'Director' means the Director of the North Carolina Birth-Related
25 Neurological Impairment Program.
26 (6) 'Fund' means the North Carolina Birth-Related Neurological
27 Impairment Trust Fund.
28 (7) 'Impaired person' means an applicant who has established entitlement
29 to benefits under this Article by obtaining a determination of having a
30 birth-related neurological impairment.
31 (8) 'Program' means the North Carolina Birth-Related Neurological
32 Impairment Program.
33 (9) 'Provider' means (i) a health care provider as defined in G.S. 90-21.11
34 who performs or assists in the prenatal care, delivery, or resuscitative
35 care immediately thereafter of the applicant; (ii) a hospital facility as
36 defined in G.S. 131E-6 in which such care is performed; or (iii) a
37 birthing facility licensed under Chapter 131E of the General Statutes in
38 which such care is performed.
39 (10) 'Secretary' means the Secretary of the Department of Environment,
40 Health, and Natural Resources.

41 **§ 130A-463. North Carolina Birth-Related Neurological Impairment Program;**
42 **exclusive remedy; exception.**

43 (a) There is created the North Carolina Birth-Related Neurological Impairment
44 Program. The Department shall establish and administer the Program, and the Secretary

1 shall appoint a Director employed within the Division of Maternal and Child Health,
2 Section of Children and Youth, to carry out its obligations under the Program pursuant
3 to this Article. The Commission for Health Services shall adopt rules to implement the
4 Program, including provisions for a citizens' advisory committee to the Program, the
5 membership of which shall include representatives of persons disabled by chronic
6 inability to control motor function.

7 (b) The rights and remedies granted a person with a birth-related neurological
8 impairment hereunder shall exclude all other rights and remedies of the person, the
9 person's parents, guardian, guardian **ad litem**, personal representative and all others
10 against any provider, as defined in this Article, at common law or otherwise for any
11 damages arising out of such birth-related neurological impairment. If a civil action is
12 filed involving an impairment previously and finally determined by the Department to
13 be a birth-related neurological impairment, it shall be dismissed on the motion of any
14 party to the action. If a civil action is filed involving an impairment alleged by any
15 party to be a birth-related neurological impairment, but no determination has been made
16 by the Department, upon motion of any party, the action shall be stayed pending an
17 application and determination. The action shall be dismissed if the impairment is finally
18 determined to be a birth-related neurological impairment, but the stay shall be lifted and
19 the action proceed if the impairment is finally determined not to be a birth-related
20 neurological impairment.

21 (c) For every injury giving rise to an application under this Article, there shall be
22 an independent investigation by the Department of the provider or providers performing
23 the delivery, and by the North Carolina Board of Medical Examiners of the physician
24 provider or providers performing the delivery. The results of the investigation by the
25 Department, with recommendations, shall be submitted to the Board of Medical
26 Examiners or any other appropriate licensing board. The Board of Medical Examiners
27 shall have the power to restrict, suspend, or revoke a license or other authority to
28 practice medicine in this State, issued by the Board to any person when that person is
29 found by the Board to have committed any act or acts showing: (i) lack of ability or
30 competence to practice medicine with reasonable skill or safety to patients; (ii)
31 unprofessional conduct, including, but not limited to, any departure from, or the failure
32 to conform to, the standards of acceptable and prevailing medical practice among
33 providers with similar training and experience situated in the same or similar
34 communities at the time of the act; or (iii) any other reason for which a person is
35 otherwise subject to disciplinary action. If upon investigation there is reasonable cause
36 for disciplinary action against any provider, as determined in the discretion of the Board
37 of Medical Examiners or any other appropriate licensing board to which the
38 investigation has been referred, disciplinary proceedings shall be commenced. Before
39 the Board of Medical Examiners may revoke, restrict, or suspend a license, charges
40 shall be brought and opportunity for public hearing shall be afforded pursuant to Article
41 1, Chapter 90 of the General Statutes and Chapter 150B of the General Statutes. The
42 Board of Medical Examiners shall receive from the Department copies of all
43 applications and accompanying documentation in order to commence investigations.
44 Any authority conducting an investigation may obtain assistance from one or more

1 impartial physicians in evaluating the clinical aspects of such investigation. Necessary
2 and reasonable funds shall be made available for this investigation from the Fund. A
3 report of the number and type of recommendations made by the Department and a
4 report of final disciplinary actions taken against health care providers under this section
5 shall be made annually by the Secretary and shall be a matter of public record.

6 (d) In addition to the foregoing, an action for a civil penalty may be brought by
7 the Department against any provider (i) where there is clear and convincing evidence of
8 a birth-related neurological impairment, and (ii) which was proximately caused by gross
9 negligence or malicious, willful, or wanton conduct engaged in by the provider with a
10 conscious and intentional disregard of, and indifference to, the rights and safety of
11 others. Such action shall be filed in the General Court of Justice, Superior Court
12 Division. The court may, in its discretion, impose a civil penalty against the defendant
13 for each such act of the defendant.

14 In determining the amount of the civil penalty, the court shall consider all relevant
15 circumstances, including the extent of the harm caused by the conduct of the defendant,
16 the assets, liabilities, and net worth of the defendant, whether corporate or individual,
17 and any corrective action taken by the defendant. Any penalties so assessed shall be
18 paid to the Birth-Related Neurological Impairment Trust Fund. The defendant shall be
19 entitled to a jury trial in such action upon written demand filed in accordance with Rule
20 38 of the North Carolina Rules of Civil Procedure.

21 **"§ 130A-464. Comprehensive, integrated assistance.**

22 The Department shall develop a program for referral to developmental evaluation
23 centers, assistance with applications, clinical assessment of needs and available
24 resources, determination of eligibility, management of care, and compensation. To the
25 extent feasible and consistent with the purposes of this Article, the Department shall
26 integrate the Program with existing assistance programs for disabled or impaired
27 persons in North Carolina.

28 **"§ 130A-465. Referrals.**

29 Referrals will be accepted from all sources, including, but not limited to, the
30 following: (i) local health departments, (ii) departments of social services, (iii)
31 hospitals, (iv) health care providers, (v) preschool and school health programs, (vi)
32 volunteer agencies, (vii) impaired persons and their families, and (viii) early
33 intervention programs. Referrals shall be made to the most accessible developmental
34 evaluation center.

35 **"§ 130A-466. Application assistance.**

36 The Director, by and through a service coordinator individually assigned, shall assist
37 each applicant in the preparation of an application for benefits under the Program on
38 forms provided by the Department. The service coordinator shall also assist in
39 obtaining appropriate information, including identification of providers, time and place
40 where the birth occurred, medical records, evaluations, other clinical information, and
41 information relative to the applicant's medical condition and needs.

42 **"§ 130A-467. Determination of impairment.**

43 The Director shall timely determine whether the applicant has a birth-related
44 neurological impairment. In making such determination, the Director shall consider the

1 evaluations, prognoses, and other documentation in or with the application. The
2 Director may make a determination that the disability of the applicant resulted from a
3 genetic abnormality or substance abuse by the applicant's mother only upon a finding
4 based on clear and convincing evidence. On appeal, the Director shall have the burden
5 of proof on that issue. Upon the request of any applicant or provider, or upon the
6 Director's own initiative, the Director may solicit further evaluations and prognoses by
7 one or more qualified and impartial physicians. The Director shall consider, but is not
8 bound by, such solicited recommendations.

9 **"§ 130A-468. Clinical assessment; needs; resources.**

10 (a) If the Director determines that the applicant has a birth-related neurological
11 impairment, a written clinical assessment shall be made identifying the impairment and
12 associated disabilities or special needs. The assessment shall be interdisciplinary and
13 shall include collection and review of pertinent historical and medical information,
14 evaluation of overall health status, developmental level, family relations, and where
15 possible, the etiology of the impairment. The clinical assessment shall include a
16 comprehensive coordinated care plan for the delivery of services and necessary
17 appliances to the impaired person.

18 (b) A written financial assessment shall also be made of the availability of
19 potential third-party payment sources and of direct services or other benefits, from all
20 sources, including governmental or private insurance. Resources of the applicant or the
21 applicant's family shall not be considered in making the financial assessment. With
22 respect to private insurance covering both the impaired person and members of the
23 impaired person's family, the impaired person will be deemed to have available as a
24 resource only that portion of the insurance benefits allocable to such impaired person as
25 determined by dividing the policy limit by the number of family members covered. The
26 service coordinator shall assist in providing information on possible resources and in
27 securing eligibility for and access to them. The Program shall have a plan for integrated
28 access to benefits through other State programs and agencies. When sources of benefits
29 are exhausted or insufficient to meet the established needs of the impaired person,
30 Program payments shall be disbursed from the Fund pursuant and subject to this Article.

31 (c) Impaired persons who are eligible for Medicaid are not eligible for Fund
32 payments except as provided in G.S. 130A-470(b).

33 **"§ 130A-469. Determination letter.**

34 The determination of whether the applicant has a birth-related neurological
35 impairment, the basis for the determination, and if affirmative, the clinical and financial
36 resource assessments, shall be set forth in writing in a determination letter from the
37 Director to the applicant. Written notice of the determination shall be sent by the
38 Director to the Secretary, the named providers, and the Board of Medical Examiners or
39 other appropriate licensing board.

40 **"§ 130A-470. Case management; payments.**

41 (a) Case management shall be provided throughout the individual's entire life
42 through the developmental evaluation centers and service coordinators. It shall include
43 assistance to assure that impaired persons receive adequate services consistent with the
44 care plan, regular consultation and follow up, and to assure that changing needs are

1 identified and satisfied by the provision of adequate services. Impaired persons shall
2 receive Program support for unmet expenses for necessary (i) case coordination, (ii)
3 developmental evaluation, (iii) special education, (iv) vocational training, (v) physical,
4 emotional, or behavioral therapy, (vi) other devices, including but not limited to
5 prostheses, wheelchairs, crutches, canes, or other mobility aids, vans equipped with
6 lifts, and specialized controls for automobiles, (vii) medical care, (viii) custodial and/or
7 attendant care, and (ix) rehabilitative services. The foregoing unmet expenses must be
8 relative to and necessitated by the impairment. If the death of an applicant directly
9 results from or is directly caused by a birth-related neurological impairment, a benefit
10 for unmet burial expenses in an amount determined by the Director to be reasonable and
11 necessary, shall be paid by the Fund to the heirs at law of the applicant. Medical
12 conditions not associated with the impairment do not qualify for Program support.
13 Subject to this Article, Fund payments shall be disbursed for case management and
14 authorized payments consistent with the care plan, on a supplemental basis after all
15 other sources of payment, benefits, or services for the impaired person are exhausted or
16 not available. In circumstances in which qualifying unmet expenses have been incurred
17 by a newly eligible impaired person or on such person's behalf, retroactive Fund
18 reimbursement is authorized. An impaired person shall be eligible for Program benefits
19 and services regardless of whether the impaired person is located within the State of
20 North Carolina.

21 (b) Fund payments shall not be considered in determinations of assets or income
22 in governmental assistance programs where the level of support is based upon assets or
23 income. Fund payments shall not be considered a third-party benefit entitlement in
24 calculations of eligibility for private third-party payment or for governmental assistance
25 programs. Fund payments on behalf of impaired persons who are eligible for Medicaid
26 may be made only for services and necessary appliances that are not covered by the
27 Medicaid program.

28 (c) Fund payments shall be made throughout the individual's entire life for
29 services or benefits authorized by the Department. Fund payments will be paid directly
30 to providers or suppliers of benefits after receipt of statements. Fund payments shall be
31 at reasonable levels, using Medicaid and other comparable government assistance
32 program payment levels as guidelines. Provided, providers and suppliers shall be
33 reimbursed at no less than their verifiable cost or Medicaid rate, whichever is higher.
34 When the Department authorizes payment for expenses incurred by or on behalf of an
35 impaired person prior to determination of impairment by the Department,
36 reimbursement shall be for the full amount of the expenses incurred, if reasonable.
37 Fund payments to providers and suppliers shall constitute payment in full and any
38 further billing is not permitted.

39 **"§ 130A-471. Appeals.**

40 Determinations pursuant to G.S. 130A-467 through G.S. 130A-470 are subject to
41 administrative and judicial review under Chapter 150B of the General Statutes and
42 applicable Department rules governing agency appeals. Without limiting the rights of
43 any other person, the Secretary, representing the interests of the State in assuring
44 accurate determinations, shall have standing to appeal. If an applicant prevails in any

1 civil action seeking judicial review, the court may, in its discretion, allow that applicant
2 to recover reasonable attorneys' fees incurred in pursuing the appeal, to be taxed as
3 court costs against the Department, and to be reimbursed from the Fund. An applicant
4 shall petition for attorneys' fees within 30 days of final disposition of the applicant's
5 case.

6 **"§ 130A-472. North Carolina Birth-Related Neurological Impairment Trust Fund.**

7 (a) There is authorized and established in the Department the Birth-Related
8 Neurological Impairment Trust Fund to finance payments under, and administrative
9 costs of, the Program. The Secretary shall administer the Fund, subject to review,
10 recommendations, and approval by the Birth-Related Neurological Impairment Trust
11 Fund Council. The Council shall consist of the Secretary, who shall serve as Chairman,
12 the State Treasurer, and the State Controller. The Council shall advise the Secretary
13 regarding administration of the Fund, including the establishment and adjustment of
14 assessments, review and approval of budgets for expenditures and any revised budgets,
15 distribution of Program funds, a retrospective review of all denials of service, and
16 actuarial soundness of the Fund. The Council shall consider any reserve payment from
17 an insurer or carrier to the Fund pursuant to G.S. 130A-474(b) in calculating
18 assessments for providers insured by such insurer or carrier during the period set forth
19 in G.S. 130A-474(b). The Council shall meet not less than quarterly each year. Prior to
20 commencement of the Program, the Secretary shall cause, at the expense of the Fund, an
21 actuarial investigation of long-term projected receipts and disbursements, with the
22 assistance of an independent actuary, and the Program shall not commence until there is
23 a written finding that, given reasonable assumptions, the Program should be expected to
24 operate on an actuarially sound basis.

25 (b) The State Treasurer shall be custodian of the Fund assets and shall invest its
26 assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. The Fund is subject to the
27 oversight of the State Auditor under Article 5A of Chapter 147 of the General Statutes.
28 The Fund is hereby expressly designated and eligible to receive and accrue all interest
29 and other earnings on its assets under G.S. 147-86.11(g).

30 (c) Subject to approval of the Birth-Related Neurological Impairment Trust Fund
31 Council, necessary and reasonable administrative expenses of the Department, the
32 Board of Medical Examiners, and any other appropriate licensing board to which an
33 investigation is referred, for activities directed by this Article, may be charged against
34 the Fund. After the initial two years of operation of the Program such expenses shall
35 not exceed five percent (5%) of the previous year's Fund disbursements. Withdrawals
36 from the Fund are hereby authorized as needed until expended to carry out the intent
37 and purposes of this Article, and recognizing the importance thereof, all Fund principal
38 and income shall be used to support the Program pursuant to this Article.

39 **"§ 130A-473. Fund; assessments.**

40 (a) The Commission for Health Services shall adopt rules to administer the Fund,
41 including rules governing the establishment and management of the initial and annual
42 assessments required by this section. The Fund is eligible to receive sums from private
43 or public foundations, corporations, individuals, and other sources, which if received
44 shall serve to supplement the Fund.

1 (b) There shall be levied by the Birth-Related Neurological Impairment Trust
2 Fund Council against the physician provider performing the delivery and the hospital or
3 birthing facility in which the delivery is performed a total combined assessment on each
4 delivery not to exceed one hundred seventy-seven dollars (\$177.00). The Council shall
5 determine an appropriate apportionment of the total amount of the assessment between
6 the hospital or birthing facility, and the physician providers performing or assisting in
7 performing the obstetrical, anesthesiological, or resuscitative care portion of the
8 delivery, based on the average of three actuarial studies by Fellows of the Casualty
9 Actuarial Society of the comparative costs between physicians and hospitals or birthing
10 facilities for birth-related neurological impairments in the civil liability system.
11 Assessments shall not be required to be paid by a provider on deliveries for which no
12 fee is charged. In the event that the Birth-Related Neurological Impairment Trust Fund
13 Council finds that projected assessment receipts and receipts from all other sources are
14 inadequate relative to projected disbursements for the Fund to be administered on an
15 actuarially sound basis, there shall be levied by the Council an additional interim
16 assessment of up to twenty-five percent (25%) of the maximum assessment, for a period
17 not to exceed one year, and the General Assembly shall be promptly notified by the
18 Council of such a finding and receive recommendations, prepared with the assistance of
19 the Program Director, regarding receipts and disbursements of the Fund and benefits
20 provided through the Program.

21 (c) The Secretary shall collect and enforce collection of all assessments required
22 to be paid under this section. Any person who fails to pay or cause to be paid to the
23 Fund the assessments required under this section within 90 days of the delivery shall, in
24 addition to such unpaid assessments, pay to the Fund interest at the rate established by
25 the Secretary of Revenue under G.S. 105-241(i), and there shall also be added to said
26 unpaid assessments an amount equal to fifty percent (50%) of the amount of such
27 unpaid assessments. The failure of any provider to pay assessments when due under
28 this act shall be grounds for revocation, suspension, or nonrenewal of any State-issued
29 license to any such provider.

30 **"§ 130A-474. Actuarial investigation; valuations; gain/loss analysis; notice if**
31 **assessments prove insufficient; reserves.**

32 (a) At least annually, the Secretary shall undertake, with the assistance of an
33 independent actuary, an actuarial investigation of the requirements of the Fund in
34 determining the amount of the assessment. The investigation shall be based on the
35 Fund's experience in the first and succeeding years of operation, and shall include,
36 without limitation, investigation of the actual and projected assets and liabilities of the
37 Fund. Any determinations and recommendations shall be filed with the Birth-Related
38 Neurological Impairment Trust Fund Council.

39 (b) For a period of five years, so long as the Fund is in effect and operating as
40 authorized under this Article during that time, each professional medical liability
41 insurance carrier and other entity insuring obstetrical risks in this State, under the
42 authority and approval of the Commissioner of Insurance, shall establish reserve
43 accounts for that portion of collected insurance premiums attributable to actuarially
44 anticipated birth-related neurological impairment losses and expenses and hold the same

1 for the five-year period. Such reserves shall be determined without regard to or
2 consideration of the effect of G.S. 130A-463(b) on the rights and remedies of any
3 person arising out of any birth-related neurological impairment. At the end of this
4 period, and annually thereafter, actuarially indicated reserved funds, less funds held for
5 claims alleging birth-related neurological impairments not covered by this act, and
6 earnings approved by the Commissioner of Insurance shall be paid by each insurance
7 carrier and other insuring entity to the Fund. Such carriers and insurers may retain loss
8 adjustment expenses incurred in connection with claims arising out of birth-related
9 neurological impairments. In the event of the insolvency of a carrier or insurer prior to
10 the end of this period, the reserves and earnings required by this section shall be held in
11 trust by the Commissioner as receiver until the end of this period. Insurance carriers
12 and other insuring entities shall supply the Commissioner of Insurance with claims
13 experience information and other relevant data, in the form and manner requested by the
14 Commissioner of Insurance, regarding obstetrical risks and establishment of the
15 reserves required in this section. The Commissioner of Insurance may adopt rules and
16 regulations regarding the establishment, collection, maintenance, and payment of the
17 reserves and earnings required by this section.

18 **"§ 130A-475. Right of State to bring action.**

19 The Secretary, on behalf of the Fund, to the extent of all current Fund payments and
20 expenses and to the estimated present value of all future Fund payments and expenses,
21 shall be subrogated to all rights of recovery of the impaired person against any person or
22 entity not a provider as defined in this Article.

23 **"§ 130A-476. Provider responsibilities.**

24 (a) As a condition precedent to receiving the immunity from civil actions
25 provided by G.S. 130A-463(b), each provider covered under this Article is required to
26 participate in an obstetrical care coverage plan developed by their local health
27 department or community, migrant, or rural health center, and approved by the State
28 Health Director, which assures continuity and quality of care, and provides services to
29 indigent pregnant women. No physician provider shall be required to assume
30 management of the care of any obstetrical patient if the level of care required for that
31 patient is beyond the professional competence of that physician.

32 (b) The Department of Environment, Health, and Natural Resources, Division of
33 Maternal and Child Health, and the Department of Human Resources, Division of
34 Medical Assistance and Office of Rural Health and Resource Development, shall upon
35 request, assist in the development of local obstetrical care coverage plans.

36 **"§ 130A-477. Reports.**

37 (a) The Department through the Secretary, shall evaluate the effectiveness of this
38 Article in achieving its stated purposes and shall provide a report of its findings to the
39 General Assembly no later than January 1, 1995. The report shall include an evaluation
40 of the numerical and geographic redistribution of health care providers performing
41 obstetrics in this State.

42 (b) The Department of Insurance shall use collected information from
43 professional medical liability insurance carriers and other insuring entities to include in

1 its annual report to the General Assembly an evaluation of the effectiveness of this
2 Article on insurance claims experience, rate making, and rates.

3 (c) The Department of Environment, Health, and Natural Resources, Division of
4 Maternal and Child Health, and the Department of Human Resources, Division of
5 Medical Assistance and Office of Rural Health and Resource Development, shall
6 prepare a report on the local obstetrical care coverage plans and the extent of
7 participation by local providers in these plans. This report shall be provided to the
8 General Assembly no later than March 15, 1994."

9 Sec. 2. No funds shall be appropriated to implement the provisions of this
10 act. Any cost of the Program, including actuarial investigations, and any other costs of
11 administration of the Program or Fund prior to July 1, 1993, shall be paid from sums
12 received from private or public foundations, corporations, individuals, and other
13 sources.

14 Sec. 3. The provisions of this act are severable, and if any provision of this
15 act is held invalid by a court of competent jurisdiction, the invalidity shall not affect
16 other provisions of the act which can be given effect without the invalid provision.

17 Sec. 4. This act becomes effective July 1, 1993, except G.S. 130A-463(a),
18 130A-472, 130A-473(a), and 130A-473(b) as it relates to the actuarial investigations
19 and determination of assessments are effective upon ratification, and the Commission
20 for Health Services shall begin to adopt rules required in G.S. 130A-463(a) and G.S.
21 130A-473(a) to implement Article 20 of Chapter 130A of the General Statutes, and the
22 Birth-Related Neurological Impairment Trust Fund Council shall commence the
23 actuarial investigations and determination of assessments required in G.S. 130A-472
24 and G.S. 130A-473(b). These rules and assessments shall not become effective prior to
25 July 1, 1993.