GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 727
HOUSE BILL 480

AN ACT TO CREATE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES AND TO PROVIDE FOR ITS ORGANIZATION, TO CONSOLIDATE ENVIRONMENTAL PROGRAMS, TO ABOLISH THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND TRANSFER THE DIVISIONS, AGENCIES, POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, TO PROVIDE FOR FURTHER STUDY OF ENVIRONMENTAL AGENCY CONSOLIDATION AND REORGANIZATION, TO AMEND VARIOUS RELATED LAWS, AND TO MAKE TECHNICAL AND CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 143B of the General Statutes is amended by deleting the existing title and substituting "**Department of Environment, Health, and Natural Resources**".

Sec. 2. G.S. 143B-275 through G.S. 143B-281 are repealed.

Sec. 3. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding the following new sections:

"**§ 143B-279.1. Department of Environment, Health, and Natural Resources–creation.**

(a) There is hereby created and constituted a department to be known as the Department of Environment, Health, and Natural Resources, with the organization, powers, and duties defined in this Article and other applicable provisions of law.

(b) The provisions of Article 1 of this Chapter not inconsistent with this Article shall apply to the Department of Environment, Health, and Natural Resources.

"**§ 143B-279.2. Department of Environment, Health, and Natural Resources–duties.**

It shall be the duty of the Department:

(1) To provide for the protection of the environment;

(2) To provide for the protection and enhancement of the public health; and

(3) To provide for the management of the State's natural resources.

"**§ 143B-279.3. Department of Environment, Health, and Natural Resources–structure.**

(a) All functions, powers, duties, and obligations heretofore vested in the following commissions, boards, councils, committees, and subunits of the following

departments are hereby transferred to and vested in the Department of Environment, Health, and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

(1) Governor's Waste Management Board, Department of Human Resources.
(2) Radiation Protection Section, Division of Facility Services, Department of Human Resources.
(3) Radiation Protection Commission, Department of Human Resources.
(4) Division of Health Services, Department of Human Resources.
(5) State Center for Health Statistics, Department of Human Resources.
(6) Commission for Health Services, Department of Human Resources.
(7) Water Treatment Facility Operators Board of Certification, Department of Human Resources.
(8) Council on Sickle Cell Syndrome, Department of Human Resources.
(9) Perinatal Health Care Programs Advisory Council, Department of Human Resources.
(10) Governor's Council on Physical Fitness and Health, Department of Human Resources.
(11) Commission of Anatomy, Department of Human Resources.
(12) Coastal Management Division, Department of Natural Resources and Community Development.
(13) Coastal Resources Commission, Department of Natural Resources and Community Development.
(14) Environmental Management Division, Department of Natural Resources and Community Development.
(15) Environmental Management Commission, Department of Natural Resources and Community Development.
(16) Air Quality Council, Department of Natural Resources and Community Development.
(17) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
(18) Forest Resources Division, Department of Natural Resources and Community Development.
(19) Forestry Council, Department of Natural Resources and Community Development.
(20) Land Resources Division, Department of Natural Resources and Community Development.
(21) North Carolina Mining Commission, Department of Natural Resources and Community Development.
(22) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
(23) Marine Fisheries Division, Department of Natural Resources and Community Development.
(24) Marine Fisheries Commission, Department of Natural Resources and Community Development.

(25) Parks and Recreation Division, Department of Natural Resources and Community Development.

(26) Parks and Recreation Council, Department of Natural Resources and Community Development.

(27) Board of Trustees of the Recreation and Natural Trust Fund, Department of Natural Resources and Community Development.

(28) North Carolina Trails Committee, Department of Natural Resources and Community Development.

(29) Soil and Water Conservation Division, Department of Natural Resources and Community Development.

(30) Sedimentation Control Commission, Department of Natural Resources and Community Development.

(31) State Soil and Water Conservation Commission, Department of Natural Resources and Community Development.

(32) Water Resources Division, Department of Natural Resources and Community Development.

(33) North Carolina Zoological Park, Department of Natural Resources and Community Development.

(34) North Carolina Zoological Park Council, Department of Natural Resources and Community Development.

(35) Albemarle-Pamlico Study.

(b) (1) There is hereby created a division within the environmental area of the Department of Environment, Health, and Natural Resources to be named the Radiation Protection Division. All functions, powers, duties, and obligations of the Radiation Protection Section of the Division of Facility Services of the Department of Human Resources are transferred in their entirety to the Radiation Protection Division of the Department of Environment, Health, and Natural Resources.

(2) There is hereby created a division within the environmental area of the Department of Environment, Health, and Natural Resources to be named the Solid Waste Management Division. All functions, powers, duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Human Resources are transferred in their entirety to the Solid Waste Management Division of the Department of Environment, Health, and Natural Resources.

(c) The Department of Environment, Health, and Natural Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State.

"**§ 143B-279.4. The Department of Environment, Health, and Natural Resources–Secretary; Deputy Secretaries.**

(a) The Secretary of the Department of Environment, Health, and Natural Resources shall be the head of the Department.

(b) The Secretary may appoint two Deputy Secretaries.

"**§ 143B-279.5. Biennial State of the Environment Report.**

The Secretary of the Department of Environment, Health, and Natural Resources shall report on the state of the environment to the General Assembly and the Environmental Review Commission no later than 1 January of each odd-numbered year beginning 1 January 1991. The report shall include:

(1) An identification and analysis of current environmental protection issues and problems within or affecting the State and its people;

(2) Trends in the quality and use of North Carolina's air and water resources;

(3) An inventory of areas of the State where air or water pollution is in evidence or may occur during the upcoming biennium;

(4) Current efforts and resources allocated by the Department to correct identified pollution problems and an estimate, if necessary, of additional resources needed to study, identify, and implement solutions to solve potential problems;

(5) Departmental goals and strategies to protect the natural resources of the State;

(6) Any information requested by the General Assembly or the Environmental Review Commission;

(7) Suggested legislation, if necessary; and

(8) Any other information on the state of the environment the Secretary considers appropriate.

Other State agencies involved in protecting the State's natural resources and environment shall cooperate with the Department of Environment, Health, and Natural Resources in preparing this report."

Sec. 4. Part 3 of Article 7 of Chapter 143B of the General Statutes is amended by adding the following new section:

"**§ 143B-279.6. Wildlife Resources Commission–transfer; independence preserved; appointment of Executive Director and employees.**

The Wildlife Resources Commission, as established by Chapters 75A, 113, and 143 of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environment, Health, and Natural Resources by a Type II transfer as defined in G.S. 143A-6. The Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Environment, Health, and Natural Resources and, other provisions of this Chapter notwithstanding, shall be subject to the direction and supervision of the Secretary only with respect to the management functions of coordinating and reporting. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the Wildlife Resources Commission shall be appointed by the Commission and the employees of the Commission shall be employed as now provided in G.S. 143-246."

Sec. 5. G.S. 143B-138 reads as rewritten:

"**§ 143B-138. Department of Human Resources – ~~functions.~~ functions and organization.**

~~(a) The functions of the Department of Human Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to general and mental health and health rehabilitation and further including those prescribed powers, duties, and functions enumerated in Article 13 of Chapter 143A of the General Statutes of this State.~~

(b) ~~All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 13 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Human Resources, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:~~

~~(1) The State Board of Health,~~
~~(2) The Salt Marsh Mosquito Advisory Commission,~~
~~(3) The Office of Chief Medical Examiner,~~
~~(4) The State Department of Social Services,~~
~~(5) The State Board of Social Services,~~
~~(6) The Advisory Committee for Medical Assistance,~~
~~(7) The State Department of Mental Health,~~
~~(8) The State Board of Mental Health,~~
~~(9) The Medical Advisory Council to the State Board of Mental Health,~~
~~(10) The Mental Health Council,~~
~~(11) The Advisory Council on Alcoholism to the North Carolina Board of Mental Health,~~
~~(12) The State Advisory Council to the North Carolina Medical Care Commission,~~
~~(13) The North Carolina State Commission for the Blind,~~
~~(14) The Blind Advisory Committee, Professional Advisory Committee,~~
~~(15) The Vocational Rehabilitation Division,~~
~~(16) The Eugenics Board of North Carolina,~~
~~(17) The Governor Morehead School,~~
~~(18) The North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf,~~
~~(19) The North Carolina Orthopedic Hospital,~~
~~(20) The North Carolina Cerebral Palsy Hospital,~~
~~(21) The North Carolina Sanatoriums for the Treatment of Tuberculosis,~~
~~(22) The Interstate Compact on Mental Health,~~
~~(23) The Council on Mental Retardation and Developmental Disabilities,~~
~~(24) The North Carolina Cancer Study Commission,~~
~~(25) The Interstate Compact on Juveniles,~~
~~(26) The North Carolina Board of Anatomy,~~
~~(27) The Governor's Coordinating Council on Aging,~~
~~(28) The Confederate Women's Home,~~
~~(29) The Medical Care Commission,~~
~~(30) The Governor's Committee on Employment of the Handicapped, and~~

~~(31) The Human Resources Division.~~

All functions, powers, duties, and obligations heretofore vested in commissions, boards, councils, committees, or subunits of the Department of Human Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in the Department of Human Resources. These shall include, but are not limited to, the following:

(1) Division of Aging.
(2) Respite Care Program.
(3) Governor's Advisory Council on Aging.
(4) Division of Services for the Blind.
(5) Commission for the Blind.
(6) Professional Advisory Committee.
(7) Consumer and Advocacy Advisory Committee for the Blind.
(8) Division of Medical Assistance.
(9) Division of Mental Health, Mental Retardation, and Substance Abuse Services.
(10) Commission for Mental Health, Mental Retardation, and Substance Abuse Services.
(11) Division of Social Services.
(12) Social Services Commission.
(13) Division of Facility Services.
(14) Medical Care Commission.
(15) Child Day-Care Commission.
(16) Emergency Medical Services Advisory Council.
(17) Division of Vocational Rehabilitation.
(18) Division of Youth Services.
(19) Division of Schools for the Deaf and the Blind.
(20) Board of Directors of the Governor Morehead School.
(21) Board of Directors for the North Carolina Schools for the Deaf.
(22) North Carolina Council for the Hearing Impaired.
(23) Council on Developmental Disabilities.
(24) North Carolina Council on the Holocaust.

(c) All functions, powers, duties, and obligations heretofore vested in the Economic Opportunity Division of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Human Resources by a Type I transfer as defined in G.S. 143A-6.

(d) The Department of Human Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Sec. 6. G.S. 143B-430 reads as rewritten:

"**§ 143B-430. Secretary of Commerce – powers and duties.**

(a) The head of the Department of Commerce is the Secretary of Commerce. The Secretary of Commerce shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and conferred on him by the Constitution and laws of this State. The Secretary of Commerce shall be responsible for

effectively and efficiently organizing the Department of Commerce to promote the policy of the State of North Carolina as outlined in G.S. 143B-428 and to promote statewide economic development in accord with that policy. Except as otherwise specifically provided in this Article and in Article 1 of this Chapter, the functions, powers, duties and obligations of every agency or subunit in the Department of Commerce shall be prescribed by the Secretary of Commerce.

(b) The Secretary of Commerce shall have the power and duty to accept and administer federal funds provided to the State through the Job Training Partnership Act, Pub. L. No. 97-300, 96 Stat. 1322, 29 U.S.C. § 1501 **et seq.**, as amended."

Sec. 7. G.S. 143B-432 reads as rewritten:

"**§ 143B-432. Transfers to Department of Commerce.**

(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6.

(b) All functions, powers, duties, and obligations heretofore vested in the following commissions, boards, councils, committees, or subunits of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Commerce by a Type I transfer as defined in G.S. 143A-6:

(1) Community Assistance Division.
(2) Community Development Council.
(3) Employment and Training Division.
(4) Job Training Coordinating Council."

Sec. 8. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(a) (1) The North Carolina Alcoholic Beverage Control Commission,
(2) The North Carolina Utilities Commission,
(3) The Employment Security Commission,
(4) The North Carolina Industrial Commission,
(5) State Banking Commission,
(6) Savings and Loan Association Division,
(7) The State Savings Institutions Commission,
(8) Credit Union Commission,
(9) The North Carolina Milk Commission,
(10) The North Carolina Mutual Burial Association Commission,
(11) North Carolina Cemetery Commission,
(12) The North Carolina Rural Electrification Authority,
(13) Repealed by Session Laws 1985, c. 757, s. 179(d), effective July 15, 1985.
(14) North Carolina Science and Technology Research Center,

(15) The North Carolina State Ports Authority,
(16) North Carolina National Park, Parkway and Forests Development Council,
(17) Economic Development Board,
(18) Labor Force Development Council,
(19) Energy Policy Council,
(20) Energy Division,
(21) Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes,
(22) The North Carolina Technological Development ~~Authority,~~ Authority.

(b) Those agencies which are transferred to the Department of Commerce, including the:
(1) Community Assistance Division,
(2) Community Development Council,
(3) Employment and Training Division, and
(4) Job Training Coordinating Council; and ~~such~~

(c) Such divisions as may be established pursuant to Article 1 of this Chapter."

Sec. 9. G.S. 20-128(c) reads as rewritten:

"(c) No motor vehicle registered in this State which was manufactured after model year 1967 shall be operated in this State unless it is equipped with such emission-control devices to reduce air pollution as were installed at the time of manufacture, provided the foregoing requirement shall not apply where such devices have been removed for the purpose of converting the motor vehicle to operate on natural or liquefied petroleum gas or other modifications have been made in order to reduce air pollution, further provided that such modifications shall have first been approved by the Department of ~~Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources."

Sec. 10. G.S. 20-183.3(a) reads as rewritten:

"(a) Before an approval certificate may be issued for a motor vehicle, the vehicle must be inspected by a safety equipment inspection station, and if required by Chapter 20 of the General Statutes of North Carolina, must be found to possess in safe operating condition the following articles and equipment:
(1) Brakes,
(2) Lights,
(3) Horn,
(4) Steering mechanism,
(5) Windshield wiper,
(6) Directional signals,
(7) Tires,
(8) Rearview mirror or mirrors.

No inspection certificate shall be issued by a safety equipment inspection station for a motor vehicle manufactured after model year 1967 unless the vehicle is equipped with such emission control devices to reduce air pollution as were installed at the time of manufacture which are readily visible, provided the foregoing requirements shall not

apply where such devices have been removed for the purpose of converting the motor vehicle to operate on natural or liquified petroleum gas or other modifications have been made in order to reduce air pollution, further provided that such modifications shall have first been approved by the Department of ~~Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources.

In addition to the items listed above, safety inspection equipment stations shall inspect the exhaust systems of all vehicles inspected and report the condition of each exhaust system to the owners or to the persons offering the vehicles for inspection.

The inspection requirements herein provided for shall not exceed the standards provided in the current General Statutes for such equipment."

Sec. 11. G.S. 74-51 reads as rewritten:

"**§ 74-51. Permits – Application, granting, conditions.**

Any operator desiring to engage in mining shall make written application to the Department for a permit. Such application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such other information as may be deemed necessary by the Department in order adequately to enforce this Article.

The application shall be accompanied by a reclamation plan which meets the requirements of G.S. 74-53. No permit shall be issued until such plan has been approved by the Department.

The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and its contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation which the operator has failed to complete.

Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation.

Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit. Such hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. Such public hearing shall be held within 60 days of the filing of the application.

The Department may deny such permit upon finding:

(1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;

(2) That the operation will have unduly adverse effects on wildlife or fresh water, estuarine, or marine fisheries;

(3) That the operation will violate standards of air quality, surface water quality, or groundwater quality which have been promulgated by the Department ~~of Natural Resources and Community Development~~;

(4) That the operation will constitute a substantial physical hazard to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property;

(5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;

(6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or

(7) That the operator has not corrected all violations which he may have committed under any prior permit and which resulted in,

a. Revocation of his permit,

b. Forfeiture of part or all of his bond or other security,

c. Conviction of a misdemeanor under G.S. 74-64, or

d. Any other court order issued under G.S. 74-64.

In the absence of any such findings, a permit shall be granted.

Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with such further reasonable and appropriate requirements and safeguards as may be deemed necessary by the Department to assure that the operation will comply fully with the requirements and objectives of this Article. Such conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds such screening to be feasible and desirable. Violation of any such conditions shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit.

Any operator wishing any modification of the terms and conditions of his permit or of the approved reclamation plan shall submit a request for modification in accordance with the provisions of G.S. 74-52.

If the Department denies an application for a permit, it shall notify the operator in writing, stating the reasons for its denial and any modifications in the application which would make it acceptable. The operator may thereupon modify his application or file an appeal, as provided in G.S. 74-61, but no such appeal shall be taken more than 60 days after notice of disapproval has been mailed to him at the address shown on his application.

Upon approval of an application, the Department shall set the amount of the performance bond or other security which is to be required pursuant to G.S. 74-54. The

operator shall have 60 days following the mailing of such notification in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit.

When one operator succeeds to the interest of another in any uncompleted mining operation, by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon him by this Article with reference to such operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security."

Sec. 12. G.S. 74-78(a) reads as rewritten:

"(a) A person desiring to engage in exploration activities for discovery of uranium shall make written application to the Department for an exploration permit. An application shall be upon a form furnished by the Department and shall fully state the information called for. In addition, the applicant may be required to furnish any other information the Department deems necessary in order to enforce this Article.

The application shall be accompanied by a signed agreement, in form specified by the Department, that in the event a bond or other security forfeiture is ordered pursuant to G.S. 74-81, the Department and its representatives and contractors may make any necessary entries on the land and take any necessary action to carry out abandonment procedures not completed by the permit holder.

The Department shall also notify the Radiation Protection Commission ~~of the Department of Human Resources~~ of the application and request its views and comments on the application.

The applicant shall make a reasonable effort, satisfactory to the Department, to notify all owners of record of land adjoining the proposed site and the chief administrative officer of the county or municipality in which the proposed site is located that he intends to explore for uranium on the site."

Sec. 13. G.S. 76-40(e) reads as rewritten:

"(e) The provisions of this section, in the coastal waters of this State, shall be enforced by the Department of Natural Resources and Community Development. In the inland waters of the State, the provisions of this section shall be enforced by the Wildlife Resources Commission. The Department of Natural Resources and Community Development and the Wildlife Resources Commission shall cooperate ~~with the Department of Water and Air Resources~~ in the enforcement of this section."

Sec. 14. G.S. 87-88(j) reads as rewritten:

"(j) Use of Well for Recharge or Disposal. – No well shall be used for recharge, injection or disposal purposes without prior permission from the Environmental Management Commission ~~after consultation with and recommendation by the Department of Human Resources~~."

Sec. 15. G.S. 87-91(b) reads as rewritten:

"(b) Such notice shall be served on the person by sending the same to such person by registered or certified mail to his last known post-office address or by personal service by an agent or employee of the Department of ~~Natural Resources and~~

~~Community Development~~ Environment, Health, and Natural Resources, and may be accompanied by an order of the Environmental Management Commission requiring described remedial action, which if taken within the time specified in such order, will effect compliance with the requirements of this Article and the rules ~~and regulations~~ issued hereunder. Such order shall become final unless a request for a hearing as hereinafter provided is made within 30 days from the date of service of such order. In addition to, or in lieu of such order, the Environmental Management Commission may appoint a time and place for such person to be heard. Notice by the Environmental Management Commission or Department may be given to any person upon whom a summons may be served in accordance with the provisions of law governing civil actions in the superior courts of this State. The Environmental Management Commission may prescribe the form and content of any particular notice."

Sec. 16. G.S. 87-95 reads as rewritten:

"**§ 87-95. Injunctive relief.**

Upon violation of any of the provisions of or any order issued pursuant to this Article, or duly adopted ~~regulation~~ rule of the Commission implementing the provisions of this Article, the Secretary of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources may, either before or after the institution of proceedings for the collection of the penalty imposed by this Article for such violations, request the Attorney General to institute a civil action in the superior court in the name of the State upon the relation of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article for any violation of same."

Sec. 17. G.S. 87-96 reads as rewritten:

"**§ 87-96. Conflict with other laws.**

~~The provisions of any law, or regulation of the State or any municipality establishing standards affording greater protection to the public welfare, safety, health and groundwater resources shall prevail within the jurisdiction of such agency or municipality over the provisions of this Article and regulations adopted hereunder.~~ The provisions of any law, rule, or local ordinance which establish standards affording greater protection to groundwater resources or public health, safety, or welfare shall prevail, within the jurisdiction to which they apply, over the provisions of this Article and rules adopted pursuant to this Article.

~~This Article or any rules or regulations adopted pursuant thereto, shall not be in conflict with any laws, rules, or regulations of the Commission for Health Services pertaining to public health, wells and groundwater supplies. All laws, rules, and regulations presently in effect that are administered by the Department of Human Resources shall remain in effect.~~ Rules relating to public health, wells, or groundwater adopted by the Commission for Health Services shall prevail over this Article or rules adopted pursuant to this Article. This Article shall not be construed to repeal any law or rule in effect as of the effective date of this Article."

Sec. 18. G.S. 90A-25(c) reads as rewritten:

"(c) Certificates in an appropriate grade will be issued to operators who, on July 1, 1969, hold certificates of competency issued under the voluntary certification program now being administered through the ~~Division of Sanitary Engineering of the Department of Human Resources~~ Department of Environment, Health, and Natural Resources with the cooperation of the North Carolina Water Works Operators Association, the North Carolina Section of the American Water Works Association, and the North Carolina League of Municipalities."

Sec. 19. Section 2 of Chapter 372 of the 1989 Session Laws is rewritten to read:

"Sec. 2. G.S. 90A-37 reads as rewritten:

'§ 90A-37. Classification of wastewater treatment ~~facilities.~~ facilities and sanitary sewage systems.

The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall classify all wastewater treatment facilities under the jurisdiction of the ~~North Carolina~~ Environmental Management Commission, as provided in G.S. 143-215.1, sanitary sewage systems under the jurisdiction of the Commission for Health Services, and those operated by institutions and agencies of the State of North Carolina. In making the classification, the Wastewater Treatment Plant Operators Certification Commission shall give due regard, among other factors, to the size of the ~~facility,~~ facility or system, the nature of the wastes to be treated or removed from the wastewater, the treatment process to be employed, and the degrees of skill, knowledge and experience that the operator of the wastewater treatment facility or person who installs or operates sanitary sewage systems must have to install or supervise the operation of the facility or system so as to adequately protect the public health and maintain the water quality standards in the receiving waters as assigned by the ~~North Carolina~~ Environmental Management Commission.'"

Sec. 20. Section 3 of Chapter 372 of the 1989 Session Laws is rewritten to read:

"Sec. 3. G.S. 90A-38 reads as rewritten:

'§ 90A-38. Grades of certificates.

(a) The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall establish grades of certification for wastewater treatment plant operators and persons who install or operate sanitary sewage systems corresponding to the classification of wastewater treatment ~~facilities.~~ facilities and sanitary sewage systems. The grades of certification shall be ranked so that a person holding a certification in the highest grade is thereby affirmed competent to operate wastewater treatment facilities or sanitary sewage systems in the highest classification and any treatment facility or system in a lower classification; a person holding a certification in the next highest grade is affirmed as competent to operate wastewater treatment facilities or systems in the next-to-the-highest classification and any lower

classification; and in a like manner through the range of grades of certification and classification of wastewater treatment ~~facilities.~~ facilities and sanitary sewage systems.

(b) No certificate shall be required under this Article to install or operate a conventional septic tank system. For purposes of this section, 'conventional septic tank system' means a subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field without a pump or other appurtenances.'"

Sec. 21. Section 4 of Chapter 372 of the 1989 Session Laws is rewritten to read:

"Sec. 4. G.S. 90A-39 reads as rewritten:

'§ 90A-39. ~~Operator qualifications~~ Qualifications and examination.

The Wastewater Treatment Plant Operators Certification Commission, with the advice and assistance of the Secretary of Environment, Health, and Natural Resources, shall establish minimum requirements of education, experience and knowledge for each grade of certification for wastewater treatment plant operators, and persons who install or operate sanitary sewage systems and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate to the end that prompt and fair consideration be given every application and the wastewater treatment facilities and sanitary sewage systems within the State may be adequately supervised by certified operators.'"

Sec. 22. Section 8 of Chapter 372 of the 1989 Session Laws is rewritten to read:

"Sec. 8. G.S. 90A-43 reads as rewritten:

'§ 90A-43. Promotion of training and other powers.

The Wastewater Treatment Plant Operators Certification Commission and the Secretary of Environment, Health, and Natural Resources are authorized to take all necessary and appropriate steps in order to effectively and fairly achieve the purposes of this Article, including, but not limited to, the providing of training for operators of wastewater treatment facilities or persons who install or operate sanitary sewage systems, and cooperating with educational institutions and private and public ~~asssociations,~~ associations, persons, or corporations in the promotion of training for wastewater treatment and sanitary sewage personnel.'"

Sec. 23. G.S. 90A-55(a) reads as rewritten:

"(a) Board Membership. – The Board shall consist of nine members: the Secretary of ~~Human Resources,~~ Environment, Health, and Natural Resources or his duly authorized ~~representative;~~ representative, one public-spirited citizen, one environmental sanitation educator from an accredited college or university, one local health director, a representative of the ~~Environmental Health Section, North Carolina Division of Health Services;~~ Environmental Health Division of the Department of Environment, Health, and Natural Resources, and four practicing sanitarians who qualify by education and experience for registration under this Article, three of whom will represent the Western, Piedmont, and Eastern Regions of the State as described more specifically in the rules ~~and regulations~~ adopted by the Board."

Sec. 24. G.S. 95-149 reads as rewritten:

"**§ 95-149. Authority to enter into contracts with other State agencies and subdivisions of government.**

The Commissioner is authorized and empowered to enter into contracts with the Department of ~~Public Health~~ Environment, Health, and Natural Resources or any other State officer or State agency or State instrumentality, or any municipality, county, or other political subdivision of the State, for the enforcement, administration, and any other application of the provisions of this Article."

Sec. 25. G.S. 100-13 reads as rewritten:

"**§ 100-13. Fees for use of improvements; fees for other privileges; leases; ~~rules and regulations.~~ rules.**

The Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources is further authorized ~~and empowered~~ to charge and collect fees for the use of such improvements as have already been constructed, or may hereafter be constructed, on the park, and for other privileges connected with the full use of the park by the public; to lease sites for camps, houses, hotels, and places of amusement and business; and to make and enforce such necessary rules ~~and regulations~~ as may best tend to protect, preserve and increase the value and attractiveness of the park."

Sec. 26. G.S. 100-14 reads as rewritten:

"**§ 100-14. Use of fees and other collections.**

All fees and other money collected and received by the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources in connection with its proper administration of ~~Mount Mitchell State Park~~ the North Carolina State Parks System shall be used by said Department ~~of Natural Resources and Community Development~~ for the administration, protection, improvement, and maintenance of ~~said park.~~ the State Parks System."

Sec. 27. G.S. 100-15 reads as rewritten:

"**§ 100-15. Annual reports.**

The Department ~~of Natural Resources and Community Development~~ shall make an annual report to the Governor of all money received and expended by it in the administration of ~~Mount Mitchell State Park,~~ the North Carolina State Parks System, and of such other items as may be called for by him or by the General Assembly."

Sec. 28. G.S. 105-275(6) reads as rewritten:

"(6) Special nuclear materials held for or in the process of manufacture, processing, or delivery by the manufacturer or processor thereof, regardless whether the manufacturer or processor owns the special nuclear materials. The terms 'manufacture' and 'processing' do not include the use of special nuclear materials as fuel. The term 'special nuclear materials' includes (i) uranium 233, uranium enriched in the isotope 233 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing, but not including source material. 'Source material' means any material except special nuclear material which contains by weight one twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however, that to qualify for this exemption no such nuclear materials shall be discharged into any river, creek or stream in North Carolina. The classification and exclusion provided for

herein shall be denied to any manufacturer, fabricator or processor who permits burial of such material in North Carolina or who permits the discharge of such nuclear materials into the air or into any river, creek or stream in North Carolina if such discharge would contravene in any way the applicable health and safety standards established and enforced by the Department of ~~Human Resources, the North Carolina Department of Natural Resources and Community Development,~~ Environment, Health, and Natural Resources or the ~~Federal Atomic Energy~~ Nuclear Regulatory Commission. The most stringent of these standards shall govern."

Sec. 29. G.S. 105-275(8) as amended by Section 4 of Chapter 148 of the 1989 Session Laws reads as rewritten:

"(8) a. Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:

1. Has been or will be constructed or installed;
2. Complies with or that plans therefor which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;
3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and
4. Has or, when completed, will have as its primary rather than incidental purpose the reduction of

water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.

b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of ~~Human Resources~~ Environment, Health, and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of ~~Human Resources~~ Environment, Health, and Natural Resources has found that the described property has been or will be constructed or installed, complies or will comply with the ~~regulations~~ rules of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.

c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion."

Sec. 30. G.S. 105A-2(1)m. reads as rewritten:

"m. The Division of Forest Resources of the Department of ~~Natural Resources and Community Development;~~ Environment, Health, and Natural Resources;".

Sec. 31. G.S. 110-92 reads as rewritten:

"**§ 110-92. Duties of State and local agencies.**

When requested by an operator of a day-care facility or by the Secretary of Human Resources, it shall be the duty of local and district health departments to visit and inspect a day-care facility to determine whether the facility complies with the health and sanitation standards required by this Article and with the minimum health and sanitation standards adopted as rules the Commission for Health Services as authorized by G.S. 110-91(1), and to submit written reports on such visits or inspections to the ~~Department on forms approved and provided by the Department~~ Department of Human Resources on forms approved and provided by the Department of Environment, Health, and Natural Resources.

When requested by an operator of a day-care facility or by the Secretary, it shall be the duty of the local and district health departments, and any building inspector, fire prevention inspector, or fireman employed by local government, or any fireman having jurisdiction, or other officials or personnel of local government to visit and inspect a day-care facility for the purposes specified in this Article, including plans for evacuation of the premises and protection of children in case of fire, and to report on

such visits or inspections in writing to the Secretary of Human Resources on forms provided by the Department so that such reports may serve as the basis for action or decisions by the Secretary or Department as authorized by this Article."

Sec. 32. G.S. 113, Article 1 is amended, in its title, by deleting "**Natural Resources and Community Development**" and substituting "**Environment, Health, and Natural Resources**".

Sec. 33. G.S. 113-8 reads as rewritten:

"**§ 113-8. Powers and duties of the ~~Department of Natural Resources and Community Development~~ Department.**

The Department ~~of Natural Resources and Community Development~~ shall make investigations of the natural resources of the State, and take such measures as it may deem best suited to promote the conservation and development of such resources.

It shall have charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; it shall also have the care of State forests and parks, and other recreational areas now owned or to be acquired by the State, including the lakes referred to in G.S. 146-7.

It shall make such examination, survey and mapping of the geology, mineralogy and topography of the State, including their industrial and economic utilization, as it may consider necessary; make investigations of water supplies and water powers, prepare and maintain a general inventory of the water resources of the State, and take such measures as it may consider necessary to promote their development.

It shall have the duty of enforcing all laws relating to the conservation of marine and estuarine resources.

The Department ~~of Natural Resources and Community Development~~ may take such other measures as it may deem advisable to obtain and make public a more complete knowledge of the State and its resources, and it is authorized to cooperate with other departments and agencies of the State in obtaining and making public such information.

The Department ~~of Natural Resources and Community Development~~ may acquire such real and personal property as may be found desirable and necessary for the performance of the duties and functions of the Department and pay for same out of any funds appropriated for the Department or available unappropriated revenues of the Department, when such acquisition is approved by the Governor and Council of State. The title to any real estate acquired shall be in the name of the State of North Carolina for the use and benefit of the Department."

Sec. 34. G.S. 113-14.1(b) reads as rewritten:

"(b) The following powers are hereby granted to the Secretary ~~of Natural Resources and Community Development~~ and may be delegated to the administrative head of an existing or new division of the Department as herein authorized:

(1) to (3) Repealed by Session Laws 1977, c. 198, s. 18.

(4) Study the development of the seacoast areas and implement policies which will promote the development of the coastal area, with particular emphasis upon the development of the scenic and recreational resources of the seacoast;

(5) Advise and confer with various interested individuals, organizations and State, federal and local agencies which are interested in development of the seacoast area and use its facilities and efforts in planning, developing and carrying out overall programs for the development of the area as a whole;

(6) Act as liaison between agencies of the State, local government, and agencies of the federal government concerned with development of the seacoast region;

(7) Repealed by Session Laws 1973, c. 1262, s. 28;

(8) Make such reports to the Governor as he may request;

(9) File such recommendations or suggestions as it may deem proper with other agencies of the State, local or federal governments."

Sec. 35. G.S. 113-14.3 reads as rewritten:

"**§ 113-14.3. Publications.**

The Department ~~of Natural Resources and Community Development~~ shall publish, from time to time, reports and statements, with illustrations, maps, and other descriptions, which shall adequately set forth the natural and material resources of the State for the purpose of furnishing information to educate the people about the natural and material resources of the State."

Sec. 36. G.S. 113-16 reads as rewritten:

"**§ 113-16. Cooperation with agencies of the federal government.**

The Department ~~of Natural Resources and Community Development~~ is authorized to arrange for and accept such aid and cooperation from the several United States government bureaus and other sources as may assist in completing topographic surveys and in carrying out the other objects of the Department.

The Department ~~of Natural Resources and Community Development~~ is further authorized and directed to cooperate with the Federal Power Commission in carrying out the rules ~~and regulations promulgated~~ adopted by that Commission; and to act in behalf of the State in carrying out any ~~regulations that may be passed~~ rules that may be adopted relating to water powers in this State other than those related to making and regulating rates. The provisions of this section are extended to apply to cooperation with authorized agencies of other states."

Sec. 37. G.S. 113-17 reads as rewritten:

"**§ 113-17. Agreements, negotiations and conferences with federal government.**

The Department ~~of Natural Resources and Community Development~~ is delegated as the State agency to represent North Carolina in any agreements, negotiations, or conferences with authorized agencies of adjoining or other states, or agencies of the federal government, relating to the joint administration or control over the surface or underground waters passing or flowing from one state to another~~: Provided, that in all matters relating to pollution of said waters the Department and the Department of Human Resources, acting jointly, are hereby designated as the official agency~~ under the provisions of this section."

Sec. 38. G.S. 113-18 reads as rewritten:

"**§ 113-18. Department authorized to receive funds from Federal Power Commission.**

All sums payable to the State of North Carolina by the Treasurer of the United States of America under the provisions of section 17 and other sections of the Federal Water Power Act shall be paid to the account of the ~~State~~ Department ~~of Natural Resources and Community Development~~ as the authorized agent of the State for receipt of said payments. Such sums shall be used by the Department ~~of Natural Resources and Community Development~~ in prosecuting investigations for the utilization and development of the water resources of the State."

Sec. 39. G.S. 113-19 reads as rewritten:

"**§ 113-19. Cooperation with other State departments.**

The Department ~~of Natural Resources and Community Development~~ is authorized to cooperate with the North Carolina Utilities Commission in investigating the waterpowers in the State, and to furnish the Utilities Commission such information as is possible regarding the location of the waterpower sites, developed waterpowers, and such other information as may be desired in regard to waterpower in the State; the Department ~~of Natural Resources and Community Development~~ shall also cooperate as far as possible with the Department of Labor, the State Department of Agriculture, and other departments and institutions of the State in collecting information in regard to the resources of the State and in preparing the same for publication in such manner as may best advance the welfare and improvement of the State."

Sec. 40. G.S. 113-20 reads as rewritten:

"**§ 113-20. Cooperation with counties and municipal corporations.**

The Department ~~of Natural Resources and Community Development~~ is authorized to cooperate with the counties of the State in any surveys to ascertain the natural resources of the county; and with the governing bodies of cities and towns, with boards of trade and other like civic organizations, in examining and locating water supplies and in advising and recommending plans for other municipal improvements and enterprises. Such cooperation is to be conducted upon such terms as the Department ~~of Natural Resources and Community Development~~ may direct."

Sec. 41. G.S. 113-21 reads as rewritten:

"**§ 113-21. Cooperation of counties with State in making water resource survey.**

The board of county commissioners of any county of North Carolina is authorized and empowered, in their discretion, to cooperate with the Department ~~of Natural Resources and Community Development~~ or other association, organization, or corporation in making surveys of any of the natural resources of their county, and to appropriate and pay out of the funds under their control such proportional part of the cost of such survey as they may deem proper and just."

Sec. 42. G.S. 113-22 reads as rewritten:

"**§ 113-22. Control of State forests.**

The Department ~~of Natural Resources and Community Development~~ and Secretary ~~of Natural Resources and Community Development~~ shall have charge of all State forests, and measures for forest fire prevention."

Sec. 43. G.S. 113-23 reads as rewritten:

"**§ 113-23. Control of Mount Mitchell Park and other ~~State parks.~~ parks in the North Carolina State Parks System.**

The Department ~~of Natural Resources and Community Development~~ shall have the control and management of Mount Mitchell Park and of any other parks which have been or may be acquired by the State as ~~State parks.~~ part of the North Carolina State Parks System."

Sec. 44. G.S. 113-26.1 reads as rewritten:

"**§ 113-26.1. Bureau of Mines; mineral museum.**

The Governor and the Council of State are hereby authorized, in their discretion and at such times as the development of the mineral resources and the expansion of mining operations in the State justify and make reasonably necessary, to create and establish as a part of the Department ~~of Natural Resources and Community Development~~ a Bureau of Mines, or a mineral museum in cooperation with the National Park Service, to be located in the western part of the State, with a view to rendering such aid and assistance to mining developments in this State as may be helpful in this expanding industry, and to allocate from the Contingency and Emergency Fund such funds as may reasonably be necessary for the establishment and operation of such Bureau of Mines or mineral museum.

The Department ~~of Natural Resources and Community Development~~ may adopt rules governing the operation of a Bureau of Mines or mineral museum established under this section."

Sec. 45. G.S. 113-28 reads as rewritten:

"**§ 113-28. Reimbursement of government for expense of emergency conservation work.**

When and if, upon the sale of State lands or its products, the Secretary ~~of Natural Resources and Community Development~~ determines that the State has derived a direct profit as a result of work on the land sold, or on land the products of which are sold, done or to be done, under a project carried on pursuant to an act of Congress entitled, 'An act for the relief of unemployment through the performance of useful public work, and for other purposes' approved March 31, 1933, one half of such profit from such sale of land, or one half the proceeds of the sale of such products, or such lesser amount as may be sufficient, shall be applied to or toward reimbursing the United States government for moneys expended by it under such act, for the work so done, to the extent and at the rate of one dollar ($1.00) per man per day, for the time spent in such work, but not exceeding in the aggregate three dollars ($3.00) per acre. The Secretary ~~of Natural Resources and Community Development~~ shall fix and determine the amount of such profit or proceeds. Such one-half part of such proceeds or profits, as the case may be, shall be retained by the Department ~~of Natural Resources and Community Development~~, or paid over to it by any other authorized agency making the sale, to be so retained by such Department until the account of the United States government, with respect to such sale, becomes liquidated. Upon completion of the sale, the Department ~~of Natural Resources and Community Development~~ is hereby authorized to settle with the proper federal authority an account fixing the amount due the United States government and to pay over to it the amount so fixed. The unexpended remainder, if

any, of such one-half part of such profit or proceeds shall then be paid over or applied by said Department ~~of Natural Resources and Community Development~~ as now authorized and directed by law. This section shall not be construed to authorize the sale of State lands or products, but applies only to a sale now or hereafter authorized by other provisions of law. This section is enacted to procure a continuance of the emergency conservation work within the State, under such act of Congress."

Sec. 46. G.S. 113-28.1 reads as rewritten:

"**§ 113-28.1. Designated employees commissioned special peace officers by Governor.**

Upon application by the Secretary of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources, the Governor is hereby authorized and empowered to commission as special peace officers such of the employees of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources as the Secretary may designate for the purpose of enforcing the laws~~,~~ and rules ~~and regulations~~ enacted or adopted for the protection, preservation and government of State parks, lakes, reservations and other lands or waters under the control or supervision of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources."

Sec. 47. G.S. 113-28.2 reads as rewritten:

"**§ 113-28.2. Powers of arrest.**

Any employee of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources commissioned as a special peace officer shall have the right to arrest with warrant any person violating any law~~,~~ or rule ~~or regulation~~ on or relating to the State parks, lakes, reservations and other lands or waters under the control or supervision of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources, and shall have the power to pursue and arrest without warrant any person violating in his presence any law~~,~~ or rule ~~or regulation~~ on or relating to said parks, lakes, reservations and other lands or waters under the control or supervision of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources."

Sec. 48. G.S. 113-28.23 reads as rewritten:

"**§ 113-28.23. Designation of administering agency powers and responsibilities.**

(a) For purposes of this Article, 'Department' means the Department of Commerce and 'Secretary' means the Secretary of Commerce.

(b) The Department of ~~Natural Resources and Community Development~~ Commerce ~~(hereinafter 'Department')~~ is directed to carry out the purposes and provisions of this Article. In carrying out this directive, the Secretary of the Department ~~(hereinafter 'Secretary'~~) shall promulgate rules consistent with the purposes and provisions of this Article."

Sec. 49. G.S. 113-29 reads as rewritten:

"**§ 113-29. Policy and plan to be inaugurated by Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.**

(a) In this Article, unless the context requires otherwise, the expression 'Department' means the Department of Environment, Health, and Natural Resources: 'Secretary' means the Secretary of Environment, Health, and Natural Resources.

(b) The Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources shall inaugurate the following policy and plan looking to the cooperation with private and public forest owners in this State insofar as funds may be available through legislative appropriation, gifts of money or land, or such cooperation with landowners and public agencies as may be available:

(1) The extension of the forest fire prevention organization to all counties in the State needing such protection.

(2) To cooperate with federal and other public agencies in the restoration of forest growth on land unwisely cleared and subsequently neglected.

(3) To furnish trained and experienced experts in forest management, to inspect private forestlands and to advise with forest landowners with a view to the general observance of recognized and practical rules of growing, cutting and marketing timber. The services of such trained experts of the Department must naturally be restricted to those landowners who agree to carry out so far as possible the recommendations of said Department.

(4) To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.

(5) To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department ~~of Natural Resources and Community Development~~ as State demonstration forests for experiment and demonstration in forest management."

Sec. 50. G.S. 113-29.1 reads as rewritten:

"**§ 113-29.1. Growing of timber on unused State lands authorized.**

The Department of Administration may allocate to the Department ~~of Natural Resources and Community Development~~, for management as a State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any other lands title to which is vested in the State or in any State agency or institution, where such lands are not being otherwise used and are not suitable for cultivation. Lands under the supervision of the Wildlife Resources Commission and designated and in use as wildlife management areas, refuges, or fishing access areas and lands used as research stations shall not be subject to the provisions of this section. The Department ~~of Natural Resources and Community Development~~ shall plant timber-producing trees on all lands allocated to it for that purpose by the Department of Administration. The Secretary ~~of Natural Resources and Community Development~~ may contract with the appropriate prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such prison authorities and the Secretary ~~of Natural Resources and Community Development~~, of prison labor for use in the planting, cutting, and removal

of timber from State forests which are under the management of the Department ~~of Natural Resources and Community Development~~."

Sec. 51. G.S. 113-30 reads as rewritten:

"**§ 113-30. Use of lands acquired by counties through tax foreclosures as demonstration forests.**

The boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department ~~of Natural Resources and Community Development~~ title to such tax-delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the Secretary ~~of Natural Resources and Community Development~~ may be suitable for the purposes named in G.S. 113-29, subdivision (5)."

Sec. 52. G.S. 113-31 reads as rewritten:

"**§ 113-31. Procedure for acquisition of delinquent tax lands from counties.**

In the carrying out of the provisions of G.S. 113-30, the several boards of county commissioners shall furnish forthwith on written request of the Department ~~of Natural Resources and Community Development~~ a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list the Secretary ~~of the Department of Natural Resources and Community Development~~ shall have the lands examined and if any one or more of these properties is in his judgment suitable for the purposes set forth in G.S. 113-30, request shall be made to the county commissioners for the acquisition of such land by the Department at a price not to exceed the actual amount of taxes due without penalties. On receipt of this request the county commissioners shall make permanent transfer of such tract or tracts of land to the Department through fee-simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the Department as above outlined."

Sec. 53. G.S. 113-32 reads as rewritten:

"**§ 113-32. Purchase of lands for use as demonstration forests.**

Where no suitable tax-delinquent lands are available and in the judgment of the Department ~~of Natural Resources and Community Development~~ the establishment of a demonstration forest is advisable, the Department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in G.S. 113-29 to 113-33 shall allow the Department ~~of Natural Resources and Community Development~~ to acquire land under the right of eminent domain."

Sec. 54. G.S. 113-34 reads as rewritten:

"**§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases by United States; leases for recreational purposes; rules governing public use.**

(a) The Governor of the State is authorized upon recommendation of the Department ~~of Natural Resources and Community Development~~ to accept gifts of land to the State, the same to be held, protected, and administered by said Department ~~of Natural Resources and Community Development~~ as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as

refuges for game. Such gifts must be absolute except in such cases as where the mineral interest on the land has previously been sold. The ~~State~~ Department ~~of Natural Resources and Community Development~~ shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park, and protection purposes, using for such purposes any special appropriations or funds available. The ~~State~~ Department ~~of Natural Resources and Community Development~~ shall also have the power to acquire by condemnation under the provisions of Chapter 40, such areas of land in different sections of the State as may in the opinion of the Department ~~of Natural Resources and Community Development~~ be necessary for the purpose of establishing and/or developing State forests, State parks and other areas and developments essential to the effective operation of the State forestry and State park activities with which the Department ~~of Natural Resources and Community Development~~ has been or may be entrusted. Such condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina, and any property so acquired shall be administered, developed and used for experiment and demonstration in forest management, for public recreation and for such other purposes authorized or required by law: Provided, that before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where such property may be situate, and until such approval is obtained, the rights and powers conferred by this section shall not be exercised. The Attorney General of the State is directed to see that all deeds to the State for land mentioned in this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department ~~of Natural Resources and Community Development~~ is further authorized and empowered to accept as gifts to the State of North Carolina such forest and submarginal farmland acquired by said federal government as may be suitable for the purpose of creating and maintaining State-controlled forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for such areas and administer them with such funds as may be secured from their administration in the best interest of longtime public use, supplemented by such necessary appropriations as may be made by the General Assembly. The Department ~~of Natural Resources and Community Development~~ is further empowered to segregate State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of such forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department ~~of Natural Resources and Community Development~~, with the approval of the Governor and Council of State, is further authorized and empowered to enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the ~~State~~ Department ~~of Natural Resources and Community Development~~ may construct, operate and maintain on said lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for

(1) The erection, maintenance and use of docks, piers and such other structures as may be permitted in or on said waters under its own ~~regulations~~ rules;

(2) Fishing privileges in said waters, provided that such privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.

(d) The Department ~~of Natural Resources and Community Development~~ may make reasonable rules for the operation and use of boats or other craft on the surface of the said waters but shall not be authorized to charge or collect fees for such operation or use.

(e) The Department may make reasonable rules for the regulation of the use by the public of said lands and waters and of public service facilities and conveniences constructed thereon, and said rules shall have the force and effect of law and any violation of such rules shall constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or imprisonment of not more than 30 days.

(f) The authority herein granted is in addition to other authority now held and exercised by the Department ~~of Natural Resources and Community Development~~."

Sec. 55. G.S. 113-35 reads as rewritten:

"**§ 113-35. State timber may be sold by Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources; forest nurseries; control over parks, etc.; operation of public service facilities; concessions to private concerns.**

(a) Timber and other products of such State forestlands may be sold, cut and removed under rules of the Department ~~of Natural Resources and Community Development~~. The Department shall have authority to establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules of the Department ~~of Natural Resources and Community Development~~. When the Secretary ~~of Natural Resources and Community Development~~ determines that a surplus of seedlings or seed exists, this surplus may be sold, and such sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules for the regulation of the use by the public of such and all State forests, State parks, State lakes, game refuges and public shooting grounds under its charge, which rules, after having been posted in conspicuous places on and adjacent to such properties of the State and at the courthouse of the county or counties in which such properties are situated shall have the force and effect of law and any violation of such rules shall constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment for not exceeding 30 days.

(b) The Department may construct and operate within the State forests, State parks, State lakes and any other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of same; it may also charge and collect reasonable fees for:

(1) The erection, maintenance and use of docks, piers and such other structures as may be permitted in or on State lakes under its own ~~regulations;~~ rules;

(2) Hunting privileges on State forests and fishing privileges in State forests, State parks and State lakes, provided that such privileges shall be extended only to holders of bona fide North Carolina hunting and fishing licenses, and provided further that all State game and fish laws are complied with.

(c) The Department ~~of Natural Resources and Community Development~~ may make reasonable rules for the operation and use of boats or other craft on the surface of the said waters but shall not be authorized to charge or collect fees for such operation or use.

(d) The Department may also grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department ~~of Natural Resources and Community Development~~ shall deem to be in the public interest. The department may make reasonable rules for the ~~regulations [regulation]~~ regulation of the use by the public of the public service facilities and conveniences herein authorized, which rules shall have the force and effect of law, and any violation of such rules shall constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars ($50.00) or by imprisonment for not exceeding 30 days."

Sec. 56. G.S. 113-35.1 reads as rewritten:

"**§ 113-35.1. Uniforms for seasonal park employees.**

The Department ~~of Natural Resources and Community Development~~ shall design and adopt a distinguishing uniform vest for seasonal park employees. This vest shall be designed in one size to fit all seasonal employees. The Department shall furnish each seasonal employee with a uniform vest. The seasonal employee shall be required to wear the vest during working hours and shall be required to return the vest at the end of the season or upon termination of employment."

Sec. 57. G.S. 113-36 reads as rewritten:

"**§ 113-36. Applications of proceeds from sale of products.**

(a) Application of Proceeds Generally. – Except as provided in subsection (b) of this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department ~~of Natural Resources and Community Development~~; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Secretary~~, Department of Natural Resources and Community Development~~.

(b) Tree Cone and Seed Purchase Fund. – A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be

placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Secretary~~, Department of Natural Resources and Community Development~~. The percentage of the sales placed in the fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the secretary shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the department must purchase. Money in this fund shall not be allowed to accumulate in excess of the amount needed to purchase a four-year supply of tree cones and seed, and shall be used for no purpose other than the purchase of tree cones and seeds."

Sec. 58. G.S. 113-40 reads as rewritten:

"**§ 113-40. Donations of property for forestry or park purposes; agreements with federal government or agencies for acquisition.**

The Department ~~of Natural Resources and Community Development~~ is hereby authorized and empowered to accept gifts, donations or contributions of land suitable for forestry or park purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the Department are desirable for State forests or State parks."

Sec. 59. G.S. 113-44.5(b) reads as rewritten:

"(b) The purpose of this Article is to direct the Secretary ~~of the Department of Natural Resources and Community Development~~ to conduct continuing studies and investigations and make recommendations to future sessions of the General Assembly. These investigations and recommendations should be:

(1) Designed to assure the continuous growing and harvesting of forest tree species and to protect the soil, air, and water resources, including but not limited to streams, lakes, and estuaries;

(2) Designed to coordinate activities among State agencies that are concerned with the forest environment;

(3) Designed to develop programs to deal with emerging forestry problems, including but not limited to forest taxation, forest incentives, and forest practices;

(4) Designed to keep the General Assembly fully informed concerning forestry and its related problems and needs; and

(5) Designed to develop needed legislation to further the purposes of this Article."

Sec. 60. G.S. 113-51 reads as rewritten:

"**§ 113-51. Powers of Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.**

(a) The ~~State~~ Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(b) In this Article, unless the context requires otherwise:

(1) 'Department' means the Department of Environment, Health, and Natural Resources.

(2) 'Secretary' means the Secretary of Environment, Health, and Natural Resources."

Sec. 61. G.S. 113-52 reads as rewritten:

"**§ 113-52. Forest rangers.**

The Secretary ~~of Natural Resources and Community Development~~ may appoint one county forest ranger and one or more deputy forest rangers in each county of the State in which, after careful investigation, the amount of forestland and the risks from forest fires shall, in his judgment, warrant the establishment of a forest fire organization."

Sec. 62. G.S. 113-54 reads as rewritten:

"**§ 113-54. Duties of forest rangers; payment of expenses by State and counties.**

Forest rangers shall have charge of measures for controlling forest fires, protection of forests from pests and diseases, and the development and improvement of the forests for maximum production of forest products; shall post along highways and in other conspicuous places copies of the forest fire laws and warnings against fires, which shall be supplied by the Secretary ~~of Natural Resources and Community Development~~; shall patrol and man lookout towers and other points during dry and dangerous seasons under the direction of the Secretary ~~of Natural Resources and Community Development~~, and shall perform such other acts and duties as shall be considered necessary by the Secretary ~~of Natural Resources and Community Development~~ in the protection, development and improvement of the forested area of each of the counties within the State. No county may be held liable for any part of the expenses thus incurred unless specifically authorized by the board of county commissioners under prior written agreement with the Secretary ~~of Natural Resources and Community Development~~; appropriations for meeting the county's share of such expenses so authorized by the board of county commissioners shall be provided annually in the county budget. For each county in which financial participation by the county is authorized, the Secretary ~~of Natural Resources and Community Development~~ shall keep or cause to be kept an itemized account of all expenses thus incurred and shall send such accounts periodically to the board of county commissioners of said county; upon approval by the board of the correctness of such accounts, the county commissioners shall issue or cause to be issued a warrant on the county treasury for the payment of the county's share of such expenditures, said payment to be made within one month after receipt of such statement from the Secretary ~~of Natural Resources and Community Development~~. Appropriations made by a county for the purposes set out in Articles 4, 4A, 4C and 6A of this Chapter in the cooperative forest protection, development and improvement work are not to replace State and federal funds which may be available to the Secretary ~~of Natural Resources and Community Development~~ for the work in said county, but are to serve as a supplement thereto. The funds appropriated to the Department ~~of Natural Resources and Community Development~~ in the biennial budget appropriation act for the purposes set out in Articles 4, 4A, 4C and 6A of this Chapter shall not be expended in a county unless that county shall contribute at least twenty-five percent (25%) of the total cost of the forestry program."

Sec. 63. G.S. 113-55(a) reads as rewritten:

"(a) Forest rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the Secretary ~~of the Department of Natural Resources and Community Development~~ or his designate may establish a fire patrol in any district, and in case of fire in or threatening any forest or woodland, the forest ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to assist or to allow the use of equipment and such other property required shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00). No action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy forest ranger."

Sec. 64. G.S. 113-55.1 reads as rewritten:

"**§ 113-55.1. Powers of forest law-enforcement officers.**

The Secretary ~~of the Department of Natural Resources and Community Development~~ is authorized to appoint as many forest law-enforcement officers as he deems necessary to carry out the forest law-enforcement responsibilities of the Department ~~of Natural Resources and Community Development~~. Forest law-enforcement officers shall have all the powers and the duties of a forest ranger enumerated in G.S. 113-54 and 113-55. Forest law-enforcement officers shall, in addition to their other duties, have the powers of peace officers to enforce the forest laws. Any forest law-enforcement officer may arrest, without warrant, any person or persons committing any crime in his presence or whom such officer has probable cause for believing has committed a crime in his presence and bring such person or persons forthwith before a district court or other officer having jurisdiction. Forest law-enforcement officers shall also have authority to obtain and serve warrants including warrants for violation of any duly promulgated ~~regulation~~ rule of the Department ~~of Natural Resources and Community Development~~."

Sec. 65. G.S. 113-56 reads as rewritten:

"**§ 113-56. Compensation of forest rangers.**

Forest rangers shall receive compensation from the Department ~~of Natural Resources and Community Development~~ at a reasonable rate to be fixed by said Department ~~of Natural Resources and Community Development~~ for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the Secretary ~~of Natural Resources and Community Development~~ every month, and approved by him. Forest rangers shall render to the Secretary ~~of Natural Resources and Community Development~~ a statement of the services rendered by the men employed by them or their deputy rangers, as provided in this Article, within one month of the date of service, which bill shall show

in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the Secretary ~~of Natural Resources and Community Development~~. If said bill be duly approved by the Secretary ~~of Natural Resources and Community Development~~, it shall be paid by direction of the Department ~~of Natural Resources and Community Development~~ out of any funds provided for that purpose."

Sec. 66. G.S. 113-56.1 reads as rewritten:

"**§ 113-56.1. Overtime compensation for forest fire fighting.**

The Department ~~of Natural Resources and Community Development~~ shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the Forest Resources Division involved in fighting forest fires."

Sec. 67. G.S. 113-58 reads as rewritten:

"**§ 113-58. Misdemeanor to destroy posted forestry notice.**

Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the Secretary ~~of Natural Resources and Community Development~~, under the provisions of this Article, or any other act which may be passed for the purpose of protecting and developing the forests in this State, shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned not exceeding 30 days."

Sec. 68. G.S. 113-59 reads as rewritten:

"**§ 113-59. Cooperation between counties and State in forest protection and development.**

The board of county commissioners of any county is hereby authorized and empowered to cooperate with the Department ~~of Natural Resources and Community Development~~ in the protection, reforestation, and promotion of forest management of their own forests within their respective counties, and to appropriate and pay out of the funds under their control such amount as is provided in G.S. 113-54."

Sec. 69. G.S. 113-60 reads as rewritten:

"**§ 113-60. Instructions on forest preservation and development.**

(a) It shall be the duty of all district, county, township rangers, and all deputy rangers provided for in this Chapter to distribute in all of the public schools and high schools of the county in which they are serving as such fire rangers all such tracts, books, periodicals and other literature that may, from time to time, be sent out to such rangers by the State and federal forestry agencies touching or dealing with forest preservation, development, and forest management.

(b) It shall be the duty of the various rangers herein mentioned under the direction of the Secretary ~~of Natural Resources and Community Development~~, and the duty of the teachers of the various schools, both public and high schools, to keep posted at some conspicuous place in the various classrooms of the school buildings such appropriate bulletins and posters as may be sent out from the forestry agencies herein named for that purpose and keep the same constantly before their pupils; and said teachers and rangers shall prepare lectures or talks to be made to the pupils of the

various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the State, the development and scientific management of the forests of the State, and shall be prepared to give practical instruction to their pupils from time to time and as often as they shall find it possible so to do."

Sec. 70. G.S. 113-60.1 reads as rewritten:

"**§ 113-60.1. Authority of Governor to close forests and woodlands to hunting, fishing and trapping.**

During periods of protracted drought or when other hazardous fire conditions threaten forest and water resources and appear to require extraordinary precautions, the Governor of the State, upon the joint recommendation of the Secretary ~~of Natural Resources and Community Development~~ and the Executive Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

(1) Close any or all of the woodlands and inland waters of the State to hunting, fishing and trapping for the period of the emergency.

(2) Forbid for the period of the emergency the building of campfires and the burning of brush, grass or other debris within 500 feet of any woodland in any county, counties, or parts thereof.

(3) Close for the period of the emergency any or all of the woodlands of the State to such other persons and activities as he deems proper under the circumstances, except to the owners or tenants of such property and their agents and employees, or persons holding written permission from any owner or his recognized agent to enter thereon for any lawful purpose other than hunting, fishing or trapping."

Sec. 71. G.S. 113-60.2 reads as rewritten:

"**§ 113-60.2. Publication of proclamation; annulment thereof.**

Such proclamation shall become effective 24 hours after certified time of issue, and shall be published in such newspapers and posted in such places and in such manner as the Governor may direct. It shall be annulled in the same manner by another proclamation by the Governor when he is satisfied, upon joint recommendation of the Secretary ~~of Natural Resources and Community Development~~ and the Executive Director of the North Carolina Wildlife Resources Commission, that the period of the emergency has passed."

Sec. 72. G.S. 113-60.4 reads as rewritten:

"**§ 113-60.4. Purpose and intent.**

(a) The purpose of this Article is to place within the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources, the authority and responsibility for investigating insect infestations and disease infections which affect stands of forest trees, the devising of control measures for interested landowners and others, and taking measures to control, suppress, or eradicate outbreaks of forest insect pests and tree diseases.

(b) In this Article, unless the context requires otherwise, the expression 'Department' means the Department of Environment, Health, and Natural Resources: 'Secretary' means the Secretary of Environment, Health, and Natural Resources."

Sec. 73. G.S. 113-60.5 reads as rewritten:

"**§ 113-60.5. Authority of the ~~Department of Natural Resources and Community Development.~~ Department.**

The authority and responsibility for carrying out the purpose, intent and provisions of this Article are hereby delegated to the Department ~~of Natural Resources and Community Development~~. The administration of the provisions of this Article shall be under the general supervision of the Secretary ~~of Natural Resources and Community Development~~. The provisions of this Article shall not abrogate or change any power or authority as may be vested in the North Carolina Department of Agriculture under existing statutes."

Sec. 74. G.S. 113-60.6(4) reads as rewritten:

"(4) 'Infection' means attack by any disease affecting forest trees which is declared by the Secretary ~~of Natural Resources and Community Development~~ to be dangerously injurious thereto."

Sec. 75. G.S. 113-60.6(5) reads as rewritten:

"(5) 'Infestation' means attack by means of any insect, which is by the Secretary ~~of Natural Resources and Community Development~~ declared to be dangerously injurious to forest trees."

Sec. 76. G.S. 113-60.7 reads as rewritten:

"**§ 113-60.7. Action against insects and diseases.**

Whenever the Secretary ~~of Natural Resources and Community Development~~, or his agent, determines that there exists an infestation of forest insect pests or an infection of forest tree diseases, injurious or potentially injurious to the timber or forest trees within the State of North Carolina, and that said infestation or infection is of such a character as to be a menace to the timber or forest growth of the State, the Secretary ~~of Natural Resources and Community Development~~ shall declare the existence of a zone of infestation or infection and shall declare and fix boundaries so as to definitely describe and identify said zone of infestation or infection, and the Secretary ~~of Natural Resources and Community Development~~ or his agent shall give notice in writing by mail or otherwise to each forest landowner within the designated control zone advising him of the nature of the infestation or infection, the recommended control measures, and offer him technical advice on methods of carrying out controls."

Sec. 77. G.S. 113-60.8 reads as rewritten:

"**§ 113-60.8. Authority of Secretary ~~of Natural Resources and Community Development~~ and his agents to go upon private land within control zones.**

The Secretary ~~of Natural Resources and Community Development~~ or his agents shall have the power to go upon the land within any zone of infestation or infection and take measures to control, suppress or eradicate the insect, infestation or disease infection. If any person refuses to allow the Secretary ~~of Natural Resources and Community Development~~ or his agents to go upon his land, or if any person refuses to adopt adequate means to control or eradicate the insect, infestation or disease infection, the Secretary ~~of Natural Resources and Community Development~~ may apply to the superior court of the county in which the land is located for an injunction or other appropriate remedy to restrain the landowner from interfering with the Secretary ~~of~~

~~Natural Resources and Community Development~~ or his agents in entering the control zone and adopting measures to control, suppress or eradicate the insect infestation or disease infection, provided the cost of court or control thereof shall not be a liability against the forest landowner nor constitute a lien upon the real property of such infested area."

Sec. 78. G.S. 113-60.9 reads as rewritten:

"**§ 113-60.9. Cooperative agreements.**

In order to more effectively carry out the purposes of this Article, the Department ~~of Natural Resources and Community Development~~ is hereby authorized to enter into cooperative agreement with the federal government and other public and private agencies, and with the owners of forestland."

Sec. 79. G.S. 113-60.10 reads as rewritten:

"**§ 113-60.10. Annulment of control zone.**

Whenever the Secretary ~~of Natural Resources and Community Development~~ determines that the forest insect or disease control work within a designated control zone is no longer necessary or feasible, then the Secretary ~~of Natural Resources and Community Development~~ shall declare the zone of infestation or infection no longer pertinent to the purposes of this Article and such zone will then no longer be recognized."

Sec. 80. G.S. 113-61 reads as rewritten:

"**§ 113-61. Private limited dividend corporations may be formed.**

(a) In this Article, unless the context requires otherwise, the expression 'Department' means the Department of Environment, Health, and Natural Resources: 'Secretary' means the Secretary of Environment, Health, and Natural Resources.

(b) Three or more persons, who associate themselves by an agreement in writing for the purpose, may become a private limited dividend corporation to finance and carry out projects for the protection and development of forests and for such other related purposes as the Secretary ~~of Natural Resources and Community Development~~ shall approve, subject to all the duties, restrictions and liabilities, and possessing all the rights, powers, and privileges, of corporations organized under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article."

Sec. 81. G.S. 113-62 reads as rewritten:

"**§ 113-62. Manner of organizing.**

A corporation formed under this Article shall be organized and incorporated in the manner provided for organization of corporations under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article. The certificate of organization of any such corporation shall contain a statement that it is organized under the provisions of this Article and that it consents to be and shall be at all times subject to the rules~~, regulations~~ and supervision of the Secretary ~~of Natural Resources and Community Development~~, and shall set forth as or among its purposes the protection and development of forests and the purchase, acquisition, sale, conveyance and other dealing in the same and the products therefrom,

subject to the rules ~~and regulations~~ from time to time imposed by the Secretary ~~of Natural Resources and Community Development~~."

Sec. 82. G.S. 113-63 reads as rewritten:

"**§ 113-63. Directors.**

There shall not be less than three directors, one of whom shall always be a person designated by the Secretary ~~of Natural Resources and Community Development~~, which one need not be a stockholder."

Sec. 83. G.S. 113-64 reads as rewritten:

"**§ 113-64. Duties of supervision by Secretary of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.**

Corporations formed under this Article shall be regulated by the Secretary ~~of Natural Resources and Community Development~~ in the manner provided in this Article. Traveling and other expenses incurred by him in the discharge of the duties imposed upon him by this Article shall be charged to, and paid by, the particular corporation or corporations on account of which such expenses are incurred. His general expenses incurred in the discharge of such duties which cannot be fairly charged to any particular corporation or corporations shall be charged to, and paid by, all the corporations then organized and existing under this Article pro rata according to their respective stock capitalizations. The Secretary ~~of Natural Resources and Community Development~~ shall:

(1) Adopt rules to implement this Article and to protect and develop forests subject to its jurisdiction.

(2) Order all corporations organized under this Article to do such acts as may be necessary to comply with the provisions of law and the rules ~~and regulations~~ adopted by the Secretary ~~of Natural Resources and Community Development~~, or to refrain from doing any acts in violation thereof.

(3) Keep informed as to the general condition of all such corporations, their capitalization and the manner in which their property is permitted, operated or managed with respect to their compliance with all provisions of law and orders of the Secretary ~~of Natural Resources and Community Development~~.

(4) Require every such corporation to file with the Secretary ~~of Natural Resources and Community Development~~ annual reports and, if the Secretary ~~of Natural Resources and Community Development~~ shall consider it advisable, other periodic and special reports, setting forth such information as to its affairs as the Secretary ~~of Natural Resources and Community Development~~ may require."

Sec. 84. G.S. 113-65 reads as rewritten:

"**§ 113-65. Powers of Secretary.**

The Secretary ~~of Natural Resources and Community Development~~ may:

(1) Examine at any time all books, contracts, records, documents and papers of any such corporation.

(2) In his discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such corporation, and prescribe by order accounts in which particular outlays and receipts are to be entered, charged or credited. The Secretary ~~of Natural Resources and Community Development~~ shall not, however, have authority to require any revaluation of the real property or other fixed assets of such corporations, but he shall allow proper charges for the depletion of timber due to cutting or destruction.

(3) Enforce the provisions of this Article, a rule implementing this Article, or an order issued under this Article by filing a petition for a writ of mandamus or application for an injunction in the superior court of the county in which the respondent corporation has its principal place of business. The final judgment in any such proceeding shall either dismiss the proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief."

Sec. 85. G.S. 113-66 reads as rewritten:

"**§ 113-66. Provision for appeal by corporations to Governor.**

If any corporation organized under this Article is dissatisfied with or aggrieved at any ~~regulation,~~ rule or order imposed upon it by the Secretary ~~of Natural Resources and Community Development~~, or any valuation or appraisal of any of its property made by the Secretary ~~of Natural Resources and Community Development~~, or any failure of or refusal by the Secretary ~~of Natural Resources and Community Development~~ to approve of or consent to any action which it can take only with such approval or consent, it may appeal to the Governor by filing with him a claim of appeal upon which the decision of the Governor shall be final. Such determination, if other than a dismissal of the appeal, shall be set forth by the Governor in a written mandate to the Secretary ~~of Natural Resources and Community Development~~, who shall abide thereby and take such actions as the same may direct."

Sec. 86. G.S. 113-68 reads as rewritten:

"**§ 113-68. Issuance of securities restricted.**

No such corporation shall issue stock, bonds or other securities except for money, timberlands, or interests therein, located in the State of North Carolina or other property, actually received, or services rendered, for its use and its lawful purposes. Timberlands, or interests therein, and other property or services so accepted therefor, shall be upon a valuation approved by the Secretary ~~of Natural Resources and Community Development~~."

Sec. 87. G.S. 113-70 reads as rewritten:

"**§ 113-70. Earnings above dividend requirements payable to State.**

Any earnings of such corporation in excess of the amounts necessary to pay dividends to stockholders at the rate set forth in G.S. 113-67 shall be paid over to the State of North Carolina prior to the dissolution of such corporation. Net income or net losses (determined in such manner as the Secretary ~~of Natural Resources and~~

~~Community Development~~ shall consider properly to show such income or losses) from the sale of the capital assets of such corporation, whether such sale be upon dissolution or otherwise, shall be considered in determining the earnings of such corporation for the purposes of this section. In determining such earnings unrealized appreciation or depreciation of real estate or other fixed assets shall not be considered."

Sec. 88. G.S. 113-71 reads as rewritten:

"**§ 113-71. Dissolution of corporation.**

Any such corporation may be dissolved at any time in the manner provided by and under the provisions of the general corporation laws of the State of North Carolina, except that the court shall dismiss any petition for dissolution of any such corporation filed within 20 years of the date of its organization unless the same is accompanied by a certificate of the Secretary ~~of Natural Resources and Community Development~~ consenting to such dissolution."

Sec. 89. G.S. 113-72 reads as rewritten:

"**§ 113-72. Cutting and sale of timber.**

Any such corporation may cut and sell the timber on its land or permit the cutting thereof, but all such cuttings shall be in accordance with the ~~regulations~~ rules, restrictions and limitations imposed by the Secretary ~~of Natural Resources and Community Development~~, who shall impose such ~~regulations~~ rules, restrictions and limitations with respect thereto as may reasonably conform to the accepted custom and usage of good forestry and forest economy, taking into consideration the situation, nature and condition of the tract so cut or to be cut, and the financial needs of such corporation from time to time."

Sec. 90. G.S. 113-73 reads as rewritten:

"**§ 113-73. Corporation may not sell or convey without consent of Secretary, or pay higher interest rate than 6%.**

No such corporation shall:

(1) Sell, assign or convey any real property owned by it or any right, title or interest therein, except upon notice to the Secretary ~~of Natural Resources and Community Development~~ of the terms of such sale, transfer or assignment, and unless the Secretary ~~of Natural Resources and Community Development~~ shall consent thereto, and if the Secretary ~~of Natural Resources and Community Development~~ shall require it, unless the purchaser thereof shall agree that such real estate shall remain subject to the ~~regulations~~ rules and supervision of the Secretary ~~of Natural Resources and Community Development~~ for such period as the latter may require;

(2) Pay interest returns on its mortgage indebtedness at a higher rate than six per centum (6%) per annum without the consent of the Secretary ~~of Natural Resources and Community Development~~;

(3) Mortgage any real property without first having obtained the consent of the Secretary ~~of Natural Resources and Community Development~~."

Sec. 91. G.S. 113-74 reads as rewritten:

"**§ 113-74. Power to borrow money limited.**

Any such corporation formed under this Article may, subject to the approval of the Secretary ~~of Natural Resources and Community Development~~, borrow funds and secure their payment thereof by note or notes and mortgage or by the issue of bonds under a trust indenture. The notes or bonds so issued and secured and the mortgage or trust indenture relating thereto may contain such clauses and provisions as shall be approved by the Secretary ~~of Natural Resources and Community Development~~, including the right to enter into possession in case of default; but the operations of the mortgagee or receiver entering in such event or of the purchaser of the property upon foreclosure shall be subject to the ~~regulations~~ rules of the Secretary ~~of Natural Resources and Community Development~~ for such period as the mortgage or trust indenture may specify."

Sec. 92. G.S. 113-75 reads as rewritten:

"**§ 113-75. Secretary to approve development of forests.**

No project for the protection and development of forests proposed by any such corporation shall be undertaken without the approval of the Secretary ~~of Natural Resources and Community Development~~, and such approval shall not be given unless:

(1) The Secretary ~~of Natural Resources and Community Development~~ shall have received a statement duly executed and acknowledged on behalf of the corporation proposing such project, in such adequate detail as the Secretary ~~of Natural Resources and Community Development~~ shall require of the activities to be included in the project, such statement to set forth the proposals as to
   a. Fire prevention and protection,
   b. Protection against insects and tree diseases,
   c. Protection against damage by livestock and game,
   d. Means, methods and rate of, and restrictions upon, cutting and other utilization of the forests, and
   e. Planting and spacing of trees.

(2) There shall be submitted to the Secretary ~~of Natural Resources and Community Development~~ a financial plan satisfactory to him setting forth in detail the amount of money needed to carry out the entire project, and how such sums are to be allocated, with adequate assurances to the Secretary ~~of Natural Resources and Community Development~~ as to where such funds are to be secured.

(3) The Secretary ~~of Natural Resources and Community Development~~ shall be satisfied that the project gives reasonable assurance of the operation of the forests involved on a sustained-yield basis except insofar as the Secretary ~~of Natural Resources and Community Development~~ shall consider the same impracticable.

(4) The corporation proposing such project shall agree that the project shall at all times be subject to the supervision and inspection of the Secretary ~~of Natural Resources and Community Development~~, and that it will at all times comply with such rules ~~and regulations~~ concerning the project as the Secretary ~~of Natural Resources and Community Development~~ shall from time to time impose."

Sec. 93. G.S. 113-76 reads as rewritten:

"**§ 113-76. Application of corporate income.**

The gross annual income of any such corporation, whether received from sales of timber, timber operations, stumpage permits or other sources, shall be applied as follows: first, to the payment of all fixed charges, and all operating and maintenance charges and expenses including taxes, assessments, insurance, amortization charges in amounts approved by the Secretary ~~of Natural Resources and Community Development~~ to amortize mortgage or other indebtedness and reserves essential to operation; second, to surplus, and/or to the payment of dividends not exceeding the maximum fixed by this Article; third, the balance, if any, in reduction of debts."

Sec. 94. G.S. 113-77 reads as rewritten:

"**§ 113-77. Reorganization of corporations.**

Reorganization of corporations organized under this Article shall be subject to the supervision of the Secretary ~~of Natural Resources and Community Development~~ and no such reorganization shall be had without the authorization of the Secretary ~~of Natural Resources and Community Development~~."

Sec. 95. G.S. 113-81.1 reads as rewritten:

"**§ 113-81.1. Authority to render scientific forestry services.**

(a) In this Article, unless the context requires otherwise:

(1) 'Department' means the Department of Environment, Health, and Natural Resources.

(2) 'Secretary' means the Secretary of Environment, Health, and Natural Resources.

(b) The Department ~~of Natural Resources and Community Development~~ is hereby authorized to designate, upon request, forest trees of forest landowners and forest operators for sale or removal, by blazing or otherwise, and to measure or estimate the volume of same under the terms and conditions hereinafter provided. The Department is also authorized to cooperate with landowners of the State and with counties, municipalities and State agencies by making available forestry services consisting of specialized equipment and operators, or by renting such equipment, and to perform such labor and services as may be necessary to carry out approved forestry practices, including site preparation, forest planting, prescribed burning, and other appropriate forestry practices. For such services or rentals, a reasonable fee representing the Secretary's ~~of Natural Resources and Community Development's~~ estimate of not less than the costs of such services or rentals shall be charged, provided however, when the Secretary ~~of Natural Resources and Community Development~~ deems it in the public interest, said services may be provided without charge, for the purpose of encouraging the use of approved scientific forestry practice on the private or other forestlands within the State, or for the purpose of providing practical demonstrations of said practices. Receipts from these activities and rentals shall be credited to the budget of the Department ~~of Natural Resources and Community Development~~ for the furtherance of these activities."

Sec. 96. G.S. 113-81.2 reads as rewritten:

"**§ 113-81.2. Services under direction of Secretary ~~of Natural Resources and Community Development~~; compensation; when services without charge.**

(a) The administration of the provisions of this Article shall be under the direction of the Secretary ~~of Natural Resources and Community Development~~. The Secretary ~~of Natural Resources and Community Development~~, or his authorized agent, upon receipt of a request from a forest landowner or operator for technical forestry assistance or service, may designate forest trees for removal for lumber, veneer, poles, piling, pulpwood, cordwood, ties, or other forest products by blazing, spotting with paint or otherwise designating in an approved manner; he may measure or estimate the commercial volume contained in the trees designated; he may furnish the landowner or operator with a statement of the volume of the trees so designated and estimated; he may assist in finding a suitable market for the products so designated, and he may offer general forestry advice concerning the management of the forest.

(b) For such designating, measuring or estimating services the Secretary ~~of Natural Resources and Community Development~~ may make a charge, on behalf of the Department ~~of Natural Resources and Community Development~~, in an amount not to exceed five percent (5%) of the sale price or fair market value of the stumpage so designated and measured or estimated. Upon receipt from the Secretary ~~of Natural Resources and Community Development~~ of a statement of such charges, the landowner or operator or his agent shall make payment to the Secretary ~~of Natural Resources and Community Development~~ within 30 days.

(c) In those cases where the Secretary ~~of Natural Resources and Community Development~~ deems it desirable to so designate and measure or estimate trees without charge, such services shall be given for the purpose of encouraging the use of approved scientific forestry principles on the private or other forestlands within the State, and to establish practical demonstrations of said principles."

Sec. 97. G.S. 113-81.3 reads as rewritten:

"**§ 113-81.3. Deposit of receipts with State treasury.**

All moneys paid to the Secretary ~~of Natural Resources and Community Development~~ for services rendered under the provisions of this Article shall be deposited into the State treasury to the credit of the Department ~~of Natural Resources and Community Development~~."

Sec. 98. G.S. 113-151.1 reads as rewritten:

"**§ 113-151.1. License agents.**

(a) The Secretary shall commission such persons as in his discretion he deems necessary to be license agents for the Department ~~of Natural Resources and Community Development~~; provided, that at least one such license agent shall be appointed in each county which contains or borders on coastal fishing waters. Such agents together with the Department ~~of Natural Resources and Community Development~~ shall have the authority and duty to sell all licenses provided for by this Article.

(b) License agents shall be compensated by retaining fifty cents (50¢) from each license sold. If more than one license is listed on a consolidated license form, the license agent shall be compensated as if a single license were sold and he shall retain fifty cents (50¢)."

Sec. 99. G.S. 113-202(a)(6) reads as rewritten:

"(6) The area leased must not include an area which the ~~Department of Human Resources~~ State Health Director has recommended be closed to shellfish harvest by reason of pollution."

Sec. 100. G.S. 113-203(d) reads as rewritten:

"(d) It is lawful to transplant to private beds in North Carolina oysters taken from public beds designated by the Marine Fisheries Commission as natural seed oyster areas. Such areas shall be designated as natural seed oyster areas in the following manner:

(1) A petition shall be filed with the Secretary by the board of county commissioners of the county in which such area is located requesting the designation of and describing the area proposed as a natural seed oyster area. Upon the receipt of the petition, the Secretary shall, within six weeks of the receipt by him of such petition, cause an investigation of the area proposed to be designated as a natural seed oyster area. Such investigation shall be made by qualified biologists of the Department ~~of Natural Resources and Community Development~~. The Secretary shall then make a recommendation to the Marine Fisheries Commission as to whether the area described in the petition should be designated as a natural seed oyster area and such area shall be so designated by the Marine Fisheries Commission only after the Secretary so recommends as being in the best interests of the State.

(2) The Secretary shall issue permits to all qualified individuals who are residents of North Carolina without regard to county of residence to transplant seed oysters from said designated natural seed oyster areas, setting out the quantity which may be taken, the times which the taking is permissible and other reasonable restrictions imposed to aid him in his duty of regulating such transplanting operations. Any transplanting operation which does not substantially comply with the restrictions of the permit issued is unlawful."

Sec. 101. G.S. 113-204 reads as rewritten:

"**§ 113-204. Propagation of shellfish.**

The Department ~~of Natural Resources and Community Development~~ is authorized to close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish. The Department ~~of Natural Resources and Community Development~~ is authorized to expend State funds planting such areas and to manage them in ways beneficial to the overall productivity of the shellfish industry in North Carolina. The Department ~~of Natural Resources and Community Development~~ in its discretion in accordance with desirable conservation objectives may make shellfish produced by it available to commercial fishermen generally, to those in possession of private shellfish beds, or to selected individuals cooperating with the Department ~~of Natural Resources and Community Development~~ in

demonstration projects concerned with the cultivation, harvesting, or processing of shellfish."

Sec. 102. G.S. 113-206(d) reads as rewritten:

"(d) In the interest of conservation of the marine and estuarine resources of North Carolina, the Department ~~of Natural Resources and Community Development~~ may institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of North Carolina registered with the Secretary. In such proceeding, the burden of showing title or right of fishery, by the preponderance of the evidence, shall be upon the claiming title or right holder. In the event the claiming title or right holder prevails, the trier of fact shall fix the monetary worth of the claim. The Department ~~of Natural Resources and Community Development~~ may elect to condemn the claim upon payment of the established owners or right holders their pro rata shares of the amount so fixed. The Department ~~of Natural Resources and Community Development~~ may make such payments from such funds as may be available to it. An appeal lies to the appellate division by either party both as to the validity of the claim and as to the fairness of the amount fixed. The Department ~~of Natural Resource and Community Development~~ in such actions may be represented by the Attorney General. In determining the availability of funds to the Department ~~of Natural Resources and Community Development~~ to underwrite the costs of litigation or make condemnation payments, the use which the Department ~~of Natural Resources and Community Development~~ proposes to make of the area in question may be considered; such payments are to be deemed necessary expenses in the course of operations attending such use or of developing or attempting to develop the area in the proposed manner."

Sec. 103. G.S. 113-207 reads as rewritten:

"**§ 113-207. Clamming on posted oyster rocks forbidden; penalty.**

(a) The Department ~~of Natural Resources and Community Development~~ shall post to the extent that funds are available oyster rocks or appropriate landing sites to forbid the taking of clams upon such rocks by use of rakes or tongs or any other device which will disturb or damage the oysters thereon. Within the meaning of this section, oyster rocks shall be defined as those rocks producing oysters upon which the tide rises and falls.

(b) It shall be unlawful for any person to take clams on oyster rocks posted by the Department ~~of Natural Resources and Community Development~~ by use of rakes, tongs, or any other device which will disturb or damage the oysters growing thereon. This section will not apply to the taking of clams by signing. A violation of this section shall constitute a misdemeanor, punishable by imprisonment not to exceed 30 days, or by a fine of one hundred dollars ($100.00), or by both such fine and imprisonment."

Sec. 104. G.S. 113-223 reads as rewritten:

"**§ 113-223. Reciprocal agreements by Department ~~of Natural Resources and Community Development~~ generally.**

Subject to the specific provisions of G.S. 113-153 and G.S. 113-161 relating to reciprocal provisions as to landing and selling catch and as to licenses, the Department ~~of Natural Resources and Community Development~~ is empowered to make reciprocal agreements with other jurisdictions respecting any of the matters governed in this

Subchapter. Pursuant to such agreements the Department ~~of Natural Resources and Community Development~~ may modify provisions of this Subchapter in order to effectuate the purposes of such agreements, in the overall best interests of the conservation of marine and estuarine resources."

Sec. 105. G.S. 113-224 reads as rewritten:

"**§ 113-224. Cooperative agreements by Department ~~of Natural Resources and Community Development~~.**

The Department ~~of Natural Resources and Community Development~~ is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department ~~of Natural Resources and Community Development~~ may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources."

***** Sec. 106. G.S. 113-226 reads as rewritten:

"**§ 113-226. Administrative authority of Department ~~of Natural Resources and Community Development~~; administration of funds; delegation of powers.**

(a) In the overall best interests of the conservation of marine and estuarine resources, the Department ~~of Natural Resources and Community Development~~ may lease or purchase lands, equipment, and other property; accept gifts and grants on behalf of the State; establish boating and fishing access areas; establish fisheries, fishery processing or storage plants, planted seafood beds, fish farms, and other enterprises related to the conservation of marine and estuarine resources as research or demonstration projects either alone or in cooperation with some individual or agency; sell the catch or processed fish or other marine and estuarine resources resulting from research fishing operations or demonstration projects; provide matching funds for entering into projects with some other governmental agency or with some scientific, educational, or charitable foundation or institution; condemn lands in accordance with the provisions of Chapter 40A of the General Statutes and other governing provisions of law; and sell, lease, or give away property acquired by it. Provided, that any private person selected to receive gifts or benefits by the Department be selected:

(1) With regard to the overall public interest that may result, and

(2) From a defined class upon such a rational basis open to all within the class as to prevent constitutional infirmity with respect to requirements of equal protection of the laws or prohibitions against granting exclusive privileges or emoluments.

(b) All money credited to, held by, or to be received by the Department in respect of the conservation of marine and estuarine resources must be deposited with the Department. In administering such funds and recommending expenditures, the Department must give attention to the sources of the revenues received so as to encourage disbursements to be made on an equitable basis; nevertheless, except as provided in this section, separate funds may not be established and particular projects and programs deemed to be of sufficient importance in the conservation of marine and

estuarine resources may receive proportional shares of Department expenditures that are greater than the proportional shares of license and other revenues produced by such projects or programs for the Department.

(c) If as a precondition of receiving funds under any cooperative program there must be a separation of license revenues received from certain classes of licensees and utilization of such revenues for limited purposes, the Department is directed to make such arrangements for separate accounting or for separate funding as may be necessary to insure the use of the revenues for the required purposes and eligibility for the cooperative funds. In such instance, if required, such revenues may be retained by the Department until expended upon the limited purposes in question. This subsection applies whether the cooperative program is with a public or private agency and whether the Department acts alone on behalf of the State or in conjunction with the Wildlife Resources Commission or some other State agency.

(d) Repealed by Session Laws 1973, c. 1262, s. 28."

Sec. 107. G.S. 113-229 reads as rewritten:

"**§ 113-229. Permits to dredge or fill in or about estuarine waters or state-owned lakes.**

(a) Except as hereinafter provided before any excavation or filling project is begun in any estuarine waters, tidelands, marshlands, or state-owned lakes, the party or parties desiring to do such shall first obtain a permit from the Department ~~of Natural Resources and Community Development~~. Granting of the State permit shall not relieve any party from the necessity of obtaining a permit from the United States Army Corps of Engineers for work in navigable waters, if the same is required. The ~~North Carolina~~ Department ~~of Natural Resources and Community Development~~ shall continue to coordinate projects pertaining to navigation with the United States Army Corps of Engineers.

(b) All applications for such permits shall include a plat of the areas in which the proposed work will take place, indicating the location, width, depth and length of any proposed channel, the disposal area, and a copy of the deed or other instrument under which the applicant claims title to the property adjoining the waters in question, (or any land covered by waters), tidelands, or marshlands, or if the applicant is not the owner, then a copy of the deed or other instrument under which the owner claims title plus written permission from the owner to carry out the project on his land.

(c) In lieu of a deed or other instrument referred to in subsection (b) of this section, the agency authorized to issue such permits may accept some other reasonable evidence of ownership of the property in question or other lawful authority to make use of the property.

(c1) The Coastal Resources Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall consider:

(1) The size of the development;
(2) The impact of the development on areas of environmental concern;
(3) How often the class of development is carried out;
(4) The need for on-site oversight of the development; and

(5) The need for public review and comment on individual development projects.

General permits may be issued by the Commission as rules under the provisions of G.S. 113A-107. Individual development carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of this section. The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues. The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit.

(d) An applicant for a permit, other than an emergency permit, shall send a copy of his application to the owner of each tract of riparian property that adjoins that of the applicant. The copy shall be served by certified mail or, if the owner's address is unknown and cannot be ascertained with due diligence or if a diligent but unsuccessful effort has been made to serve the copy by certified mail, by publication in accordance with the rules of the Commission. An owner may file written objections to the permit with the Department for 30 days after he is served with a copy of the application. In the case of a special emergency dredge or fill permit the applicant must certify that he took all reasonable steps to notify adjacent riparian owners of the application for a special emergency dredge and fill permit prior to submission of the application. Upon receipt of this certification, the Secretary shall issue or deny the permit within the time period specified in (e) of this section, upon the express understanding from the applicant that he will be entirely liable and hold the State harmless for all damage to adjacent riparian landowners directly and proximately caused by the dredging or filling for which approval may be given.

(e) Applications for permits except special emergency permit applications shall be circulated by the Department ~~of Natural Resources and Community Development~~ among all State agencies and, in the discretion of the Secretary, appropriate federal agencies having jurisdiction over the subject matter which might be affected by the project so that such agencies will have an opportunity to raise any objections they might have. The Department may deny an application for a dredge or fill permit upon finding: (1) that there will be significant adverse effect of the proposed dredging and filling on the use of the water by the public; or (2) that there will be significant adverse effect on the value and enjoyment of the property of any riparian owners; or (3) that there will be significant adverse effect on public health, safety, and welfare; or (4) that there will be significant adverse effect on the conservation of public and private water supplies; or (5) that there will be significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In the absence of such findings, a permit shall be granted. Such permit may be conditioned upon the applicant amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in this subsection. Permits may allow for projects granted a permit the right to maintain such project for a period of up to 10 years. The right to maintain such project shall be granted subject to such conditions as may be reasonably necessary to protect the public interest. The Coastal Resources Commission shall coordinate the issuance of permits under this section and G.S. 113A-118 to avoid duplication and to

create a single, expedited permitting process. The Coastal Resources Commission may adopt rules interpreting and applying the provisions of this section and rules specifying the procedures for obtaining a permit under this section. Maintenance work as defined in this subsection shall be limited to such activities as are required to maintain the project dimensions as found in the permit granted. The Department shall act on an application for permit within 75 days after the completed application is filed, provided the Department may extend such deadline by not more than an additional 75 days if necessary properly to consider the application, except for applications for a special emergency permit, in which case the Department shall act within two working days after an application is filed, and failure to so act shall automatically approve the application.

(e1) The Secretary ~~of the Department of Natural Resources and Community Development~~ is empowered to issue special emergency dredge or fill permits upon application. Emergency permits may be issued only when life or structural property is in imminent danger as a result of rapid recent erosion or sudden failure of a man-made structure. The Coastal Resources Commission may elaborate by rule upon what conditions the Secretary may issue a special emergency dredge or fill permit. The Secretary may condition the emergency permit upon any reasonable conditions, consistent with the emergency situation, he feels are necessary to reasonably protect the public interest. Where an application for a special emergency permit includes work beyond which the Secretary, in his discretion, feels necessary to reduce imminent dangers to life or property he shall issue the emergency permit only for that part of the proposed work necessary to reasonably reduce the imminent danger. All further work must be applied for by application for an ordinary dredge or fill permit. The Secretary shall deny an application for a special dredge or fill permit upon a finding that the detriment to the public which would occur on issuance of the permit measured by the five factors in G.S. 113-229(e) clearly outweighs the detriment to the applicant if such permit application should be denied.

(f) A permit applicant who is dissatisfied with a decision on his application may file a petition for a contested case hearing under G.S. 150B-23 within 20 days after the decision is made. Any other person who is dissatisfied with a decision to deny or grant a permit may file a petition for a contested case hearing only if the Coastal Resources Commission determines, in accordance with G.S. 113A-121.1(c), that a hearing is appropriate. A permit is suspended from the time a person seeks administrative review of the decision concerning the permit until the Commission determines that the person seeking the review cannot commence a contested case or the Commission makes a final decision in a contested case, as appropriate, and no action may be taken during that time that would be unlawful in the absence of the permit.

(g) G.S. 113A-122 applies to an appeal of a permit decision under subsection (f).

(h) Repealed by Session Laws 1987, c. 827, s. 105.

(i) All materials excavated pursuant to such permit, regardless of where placed, shall be encased or entrapped in such a manner as to minimize their moving back into the affected water.

(j) None of the provisions of this section shall relieve any riparian owner of the requirements imposed by the applicable laws and regulations of the United States.

(k) Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment of not more than 90 days, or both. Each day's continued operation after notice by the Department to cease shall constitute a separate offense. A notice to cease shall be served personally or by certified mail.

(l) The Secretary may, either before or after the institution of proceedings under subsection (k) of this section, institute a civil action in the superior court in the name of the State upon the relation of the Secretary, for damages, and injunctive relief, and for such other and further relief in the premises as said court may deem proper, to prevent or recover for any damage to any lands or property which the State holds in the public trust, and to restrain any violation of this section or of any provision of a dredging or filling permit issued under this section. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this section for any violation of the same.

(m) This section shall apply to all persons, firms, or corporations, their employees, agents, or contractors proposing excavation or filling work in the estuarine waters, tidelands, marshlands and state-owned lakes within the State, and the work to be performed by the State government or local governments. Provided, however, the provisions of this section shall not apply to the activities and functions of the ~~North Carolina~~ Department ~~of Human Resources~~ and local health departments that are engaged in mosquito control for the protection of the health and welfare of the people of the coastal area of North Carolina as provided under G.S. ~~130-206~~ 130A-346 through ~~130-209~~ G.S. 130A-349. Provided, further, this section shall not impair the riparian right of ingress and egress to navigable waters.

(n) Within the meaning of this section:

(1) 'State-owned lakes' include man-made as well as natural lakes.

(2) 'Estuarine waters' means all the waters of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Department ~~of Natural Resources and Community Development~~ and the Wildlife Resources Commission, within the meaning of G.S. 113-129.

(3) 'Marshland' means any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tidewaters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides. Salt marshland or other marsh shall be those areas upon which grow some, but not necessarily all, of the following salt marsh and marsh plant species: Smooth or salt water Cordgrass (Spartina alterniflora), Black Needlerush (Juncus roemerianus), Glasswort (Salicornia spp.), Salt Grass (Distichlis spicata), Sea Lavender

(Limonium spp.), Bulrush (Scirpus spp.), Saw Grass (Cladium jamaicense), Cattail (Typha spp.), Salt-Meadow Grass (Spartina patens), and Salt Reed-Grass (Spartina cynosuroides)."

Sec. 108. G.S. 113-230 reads as rewritten:

"**§ 113-230. Orders to control activities in coastal wetlands.**

(a) The Secretary ~~of Natural Resources and Community Development~~, with the approval of the Coastal Resources Commission, may from time to time, for the purpose of promoting the public safety, health, and welfare, and protecting public and private property, wildlife and marine fisheries, adopt, amend, modify, or repeal orders regulating, restricting, or prohibiting dredging, filling, removing or otherwise altering coastal wetlands. In this section, the term 'coastal wetlands' shall mean any marsh as defined in G.S. 113-229(n)(3), as amended, and such contiguous land as the Secretary reasonably deems necessary to affect by any such order in carrying out the purposes of this section.

(b) The Secretary shall, before adopting, amending, modifying or repealing any such order, hold a public hearing thereon in the county in which the coastal wetlands to be affected are located, giving notice thereof to interested State agencies and each owner or claimed owner of such wetlands by certified or registered mail at least 21 days prior thereto.

(c) Upon adoption of any such order or any order amending, modifying or repealing the same, the Secretary shall cause a copy thereof, together with a plan of the lands affected and a list of the owners or claimed owners of such lands, to be recorded in the register of deeds office in the county where the land is located, and shall mail a copy of such order and plan to each owner or claimed owner of such lands affected thereby.

(d) Any person, firm or corporation that violates any order issued under the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than six months, or both in the discretion of the court.

(e) The superior court shall have jurisdiction in equity to restrain violations of such orders.

(f) Any person having a recorded interest in or registered claim to land affected by any such order may, within 90 days after receiving notice thereof, petition the superior court to determine whether the petitioner is the owner of the land in question, and in case he is adjudged the owner of the subject land, whether such order so restricts the use of his property as to deprive him of the practical uses thereof and is therefore an unreasonable exercise of the police power because the order constitutes the equivalent of a taking without compensation. If the court finds the order to be an unreasonable exercise of the police power, as aforesaid, the court shall enter a finding that such order shall not apply to the land of the petitioner; provided, however, that such finding shall not affect any other land than that of the petitioner. The Secretary shall cause a copy of such finding to be recorded forthwith in the register of deeds office in the county where the land is located. The method provided in this subsection for the determination of the

issue of whether any such order constitutes a taking without compensation shall be exclusive, and such issue shall not be determined in any other proceeding.

(g) After a finding has been entered that such order shall not apply to certain land as provided in the preceding subsection, the Department of Administration, upon the request of the Coastal Resources Commission, shall take the fee or any lesser interest in such land in the name of the State by eminent domain under the provisions of Chapter 146 of the General Statutes and hold the same for the purposes set forth in this section.

(h) This section shall not repeal the powers, duties and responsibilities of the Department ~~of Natural Resources and Community Development~~ under the provisions of G.S. 113-229."

Sec. 109. G.S. 113-251 reads as rewritten:

"**§ 113-251. Definition of terms.**

(a) As used in this Article, the word 'Commission' refers to the Atlantic States Marine Fisheries Commission and the word 'commissioner' refers to a member of that Commission.

(b) The reference in Article III of the Compact set out in G.S. 113-252 to the chairman of the committee on commercial fisheries shall be deemed to refer to the chairman of the Marine Fisheries Commission.

(c) The reference in Article III of the Compact set out in G.S. 113-252 to the Commissioner of Commercial Fisheries shall be deemed to refer to the Secretary ~~of Natural Resources and Community Development~~.

(d) The reference in Article III of the Compact set out in G.S. 113-252 to the Board of the North Carolina Department of Conservation and Development shall be deemed to refer to the Secretary ~~of Natural Resources and Community Development~~."

Sec. 110. G.S. 113-254 reads as rewritten:

"**§ 113-254. North Carolina members of Commission.**

In pursuance of Article III of said Compact there shall be three members (hereinafter called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter called Commission) from the State of North Carolina. The first commissioner from the State of North Carolina shall be the Fisheries Director of the Division of Marine Fisheries of the Department ~~of Natural Resources and Community Development~~, ex officio, and the term of such ex officio commissioner shall terminate at the time he ceases to hold such office, and his successor as commissioner shall be his successor as Fisheries Director of the Division of Marine Fisheries ~~of the Department of Natural Resources and Community Development~~. The second commissioner from the State of North Carolina shall be a legislator and member of the Commission on Interstate Cooperation of the State of North Carolina, ex officio, designated by said Commission on Interstate Cooperation, and the term of any such ex officio commissioner shall terminate at the time he ceases to hold said legislative office or said office as Commissioner on Interstate Cooperation, and his successor as commissioner shall be named in like manner. The Governor (by and with the advice and consent of the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The term of said Commissioner shall be three years and he shall hold office until his successor shall be appointed and qualified.

Vacancies occurring in the office of such Commissioner from any reason or cause shall be filled by appointment by the Governor (by and with the advice and consent of the Senate) for the unexpired term. The Fisheries Director of the Division of Marine Fisheries appointed pursuant to Article III as ex officio commissioner may delegate, from time to time, to any deputy or other subordinate of the Fisheries Director, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceedings of the Commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said Compact shall then have gone into effect in accordance with Article II of the Compact; otherwise they shall begin upon the date upon which said Compact shall become effective in accordance with said Article II.

Any commissioner may be removed from office by the Governor upon charges and after a hearing."

Sec. 111. G.S. 113-259(b) reads as rewritten:

"(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the ~~State~~ State, which official is the ~~Fisheries~~ Director of the Division of Marine Fisheries of the Department ~~of Natural Resources and Community Development, or the designee of such official.~~ or his designee."

Sec. 112. G.S. 113-268(e) reads as rewritten:

"(e) The Department may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action for injunctive relief to restrain a violation or threatened violation of subsections (a), (b), or (c) of this section pursuant to G.S. 113-131. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Secretary ~~of Natural Resources and Community Development~~. The court, in issuing any final order in any action brought pursuant to this subsection may, in its discretion, award costs of litigation including reasonable attorney and expert-witness fees to any party."

Sec. 113. G.S. 113-291.4(i) reads as rewritten:

"(i) Upon notification by the ~~North Carolina Division of Health Services~~ State Health Director of the presence of a contagious animal disease in a local fox population, the Commission is authorized to establish such population control measures as are appropriate until notified by public health authorities that the problem is deemed to have passed."

Sec. 114. G.S. 113-291.6(f) reads as rewritten:

"(f) Nothing in this section prohibits the use of steel- or metal-jaw traps by county or State public health officials or their agents to control the spread of disease when the use of these traps has been declared necessary by the ~~Department of Human Resources~~ State Health Director."

Sec. 115. G.S. 113-315.9 reads as rewritten:

"**§ 113-315.9. Bond of financial officer; audit.**

(a) Before collecting and receiving such assessments, such treasurer or financial officer shall give bond to the agency to run in favor of the agency in the amount of the

estimated total of such assessments as will be collected, and from time to time the agency may alter the amount of such bond which, at all times, must be equal to the total financial assets of the agency, such bond to have as surety thereon a surety company licensed to do business in the State of North Carolina, and to be in the form and amount approved by the agency and to be filed with the chairman or executive head of such agency.

(b) The chairman or executive head of such agency shall cause an annual certified audit to be made of the financial records of the agency. Such audit shall include, among other things, total annual compensation of each employee of the agency and detailed expenses incurred and reimbursed for each employee of the agency. The chairman or executive head of such agency shall cause a copy of the certified audit to be submitted to the Department ~~of Natural Resources and Community Development~~ within 60 days of the end of the agency's fiscal year and shall cause a copy of the audit, or a summary thereof, to be published at least once in one or more newspapers having general circulation in the area where the assessments are made within 60 days of the end of the agency's fiscal year. If the chairman or executive head of the agency shall fail to carry out the provisions of this paragraph, he shall be guilty of a misdemeanor."

Sec. 116. G.S. 113-315.18 reads as rewritten:

"**§ 113-315.18. Fishermen's Economic Development Program.**

The Secretary ~~of Natural Resources and Community Development~~ is hereby authorized to provide through his Department ~~of Natural Resources and Community Development~~ and the extension services of the University of North Carolina those services intended to promote the economic development of the fishermen, including but not limited to:

(1) Instituting business management services to promote better business management practices throughout the fishing and seafood industry, and to promote the better use of credit and other business management techniques.

(2) Providing counseling services to the fishermen at all levels and assisting them in meeting the federal and State environmental, safety and health requirements.

(3) Improving waterways, harbors, inlets, and generally the water transportation system of North Carolina so as to more efficiently and safely accommodate commercial and sport fishing craft, and to provide access to and from fishing grounds."

Sec. 117. G.S. 113-316 reads as rewritten:

"**§ 113-316. General statement of purpose and effect of revisions of Subchapter IV made in 1965 and 1979.**

To clarify the conservation laws of the State and the authority and jurisdiction of the Department ~~of Natural Resources and Community Development~~ and the North Carolina Wildlife Resources Commission: commercial fishing waters are renamed coastal fishing waters and the Department is given jurisdiction over and responsibility for the marine and estuarine resources in coastal fishing waters; the laws pertaining to commercial fishing operations and marine fishing and fisheries regulated by the

Department are consolidated and revised generally and broadened to reflect the jurisdictional change respecting coastal fisheries; laws relating to the conservation of wildlife resources administered by the Wildlife Resources Commission are consolidated and revised; and the enforcement authority of marine fisheries inspectors and wildlife protectors is clarified, including the authority of wildlife protectors over boating and other activities other than conservation within the jurisdiction of the Wildlife Resources Commission."

Sec. 118. G.S. 113-378 reads as rewritten:

"**§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

Any person, firm or corporation before making any drilling exploration in this State for oil or natural gas shall register with the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources or such other State agency as may hereafter be established to control the conservation of oil or gas in this State. To provide for such registration, the drilling operator must furnish the name and address of such person, firm or corporation, and the location of the proposed drilling operations, and file with the aforesaid Department ~~of Natural Resources and Community Development~~ a bond in the amount of five thousand dollars ($5,000) running to the State of North Carolina, conditioned that any well opened by the drilling operator upon abandonment shall be plugged in accordance with the rules of said Department ~~of Natural Resources and Community Development~~."

Sec. 119. G.S. 113-379 reads as rewritten:

"**§ 113-379. Filing log of drilling and development of each well.**

Upon the completion or shutting down of any abandoned well, the drilling operator shall file with the Department ~~of Natural Resources and Community Development~~ or other State agency, or with any division thereof hereinafter created for the regulation of drilling for oil or natural gas, a complete log of the drilling and development of each well."

Sec. 120. G.S. 113-391 reads as rewritten:

"**§ 113-391. Jurisdiction and authority ~~of Department of Natural Resources and Community Development~~; rules and orders.**

(a) The Department shall have jurisdiction and authority of and over all persons and property necessary to administer and enforce effectively the provisions of this law and all other laws relating to the conservation of oil and gas.

(b) The Department shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste over which it has jurisdiction exists or is imminent. In the exercise of such power the Department shall have the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, refineries, and means of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this law.

(c) The Department may make rules and orders as may be necessary from time to time in the proper administration and enforcement of this law, including rules or orders for the following purposes:

(1) To require the drilling, operation, casing and plugging of wells to be done in such manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into an oil or gas stratum from a separate stratum; to prevent the pollution of freshwater supplies by oil, gas or salt water, or to protect the quality of the water, air, soil or any other environmental resource against injury or damage or impairment; and to require reasonable bond condition for the performance of the duty to plug each dry or abandoned well.

(2) To require directional surveys upon application of any owner who has reason to believe that a well or wells of others has or have been drilled into the lands owned by him or held by him under lease. In the event such surveys are required, the costs thereof shall be borne by the owners making the request.

(3) To require the making of reports showing the location of oil and gas wells, and the filing of logs and drilling records.

(4) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(5) To require the operation of wells with efficient gas-oil ratios, and to fix such ratios.

(6) To prevent 'blow-outs,' 'caving' and 'seepage' in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(7) To prevent fires.

(8) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures and all storage and transportation equipment and facilities.

(9) To regulate the 'shooting,' perforating, and chemical treatment of wells.

(10) To regulate secondary recovery methods, including the introduction of gas, air, water or other substances into producing formations.

(11) To limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as herein defined.

(12) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil or gas.

(13) To regulate the spacing of wells and to establish drilling units.

(14) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage.

(15) To prevent where necessary the use of gas for the manufacture of carbon black.

(16) To regulate and, if necessary in its judgment for the protection of unique environmental values, to prohibit the location of wells in the

interest of protecting the quality of the water, air, soil or any other environmental resource against injury, or damage or impairment."

Sec. 121. G.S. 113-415 reads as rewritten:

"**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise affect the authority and responsibility vested in the ~~North Carolina~~ Environmental Management Commission by Article 7 of Chapter 87, pertaining to the location, construction, repair, operation and abandonment of wells, or the authority or responsibility vested in the Department ~~of Human Resources~~ and the Commission for Health Services by Article ~~13, Chapter 130,~~ 10 of Chapter 130A of the General Statutes pertaining to public water-supply requirements."

Sec. 122. G.S. 113A-33 reads as rewritten:

"**§ 113A-33. Definitions.**

As used in this Article, unless the context requires otherwise:

(1) 'Department' means the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.

(2) 'Free-flowing,' as applied to any river or section of a river, means existing or flowing in natural condition without substantial impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the North Carolina natural and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, that this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the system.

(3) 'River' means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(4) 'Road' means public or private highway, hard-surface road, dirt road, or railroad.

(5) 'Scenic easement' means a perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it.

(6) 'Secretary' means the Secretary of the Department of Environment, Health, and Natural Resources."

Sec. 123. G.S. 113A-36(a) reads as rewritten:

"(a) The Department ~~of Natural Resources and Community Development~~ is the agency of the State of North Carolina with the duties and responsibilities to administer and control the North Carolina natural and scenic rivers system."

Sec. 124. G.S. 113A-42 reads as rewritten:

"**§ 113A-42. Violations.**

(a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of this Article or rule or order of the Secretary ~~of Natural Resources and Community Development~~ may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy.

(b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this Article or ~~regulation~~ rule or order of the Secretary ~~of Natural Resources and Community Development~~ is guilty of a misdemeanor and may be punished by a fine of not more than fifty dollars ($50.00) for each violation, and each day such person shall fail to comply, where feasible, after having been officially notified by the Department shall constitute a separate offense subject to the foregoing penalty."

Sec. 125. G.S. 113A-77 reads as rewritten:

"**§ 113A-77. Expenditures authorized.**

The Department ~~of Natural Resources and Community Development~~ is authorized to spend any federal, State, local or private funds available for this purpose to the Department for acquisition and development of the Appalachian Trail System."

Sec. 126. G.S. 113A-103 reads as rewritten:

"**§ 113A-103. Definitions.**

As used in this Article:

(1) 'Advisory Council' means the Coastal Resources Advisory Council created by G.S. 113A-105.

(2) 'Coastal area' means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the 'coastal area,' as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal-area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. The said coastal-area counties and cities shall thereafter transmit nominations to the Governor of members of the Coastal Resources Commission as provided in G.S.113A-104(d).

(3) 'Coastal sound' means Albemarle, Bogue, Core, Croatan, Currituck, Pamlico and Roanoke Sounds. For purposes of this Article, the inland limits of a sound on a tributary river shall be defined as the limits of seawater encroachment on said tributary river under normal conditions. 'Normal conditions' shall be understood to include regularly occurring conditions of low stream flow and high tide, but shall not include unusual conditions such as those associated with hurricane and other storm tides. Unless otherwise determined by the Commission, the limits of seawater encroachment shall be considered to be the confluence of a sound's tributary river with the river or creek entering it nearest to the farthest inland movement of oceanic salt water under normal conditions. For purposes of this Article, the aforementioned points of confluence with tributary rivers shall include the following:

a. On the Chowan River, its confluence with the Meherrin River;

b. On the Roanoke River, its confluence with the northeast branch of the Cashie River;

c. On the Tar River, its confluence with Tranters Creek;

d. On the Neuse River, its confluence with Swift Creek;

e. On the Trent River, its confluence with Ready Branch.

Provided, however, that no county shall be considered to be within the coastal area which: (i) is adjacent to, adjoining or bounded by any of the above points of confluence and lies entirely west of said point of confluence; or (ii) is not bounded by the Atlantic Ocean and lies entirely west of the westernmost of the above points of confluence.

(4) 'Commission' means the Coastal Resources Commission created by G.S. 113A-104.

<u>(4a) 'Department' means the Department of Environment, Health, and Natural Resources.</u>

(5) a. 'Development' means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.

b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing right-of-way;
2. Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspecting, repairing, maintaining, or upgrading any existing substations, sewers, mains, pipes, cables, utility tunnels, lines, towers, poles, tracks, and the like on any of its existing railroad or utility property or rights-of-way, or the extension of any of the above distribution-related facilities to serve development approved pursuant to G.S. 113A-121 or 113A-122;
3. Work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities (including environmental aspects of such siting), and work on facilities used directly in connection with the above facilities;
4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;
5. Maintenance or repairs (excluding replacement) necessary to repair damage to structures caused by the elements or to prevent damage to imminently threatened structures by the creation of protective sand dunes.
6. The construction of any accessory building customarily incident to an existing structure if the work does not involve filling, excavation, or the alteration of any sand dune or beach;
7. Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to ratification of this Article and which development was initiated prior to the ratification of this Article;
8. Completion of installation of any utilities or roads or related facilities not otherwise in violation of law, within

a subdivision that was duly approved and recorded prior to the ratification of this Article and which installation was initiated prior to the ratification of this Article;

9. Construction or installation of any development, not otherwise in violation of law, for which an application for a building or zoning permit was pending prior to the ratification of this Article and for which a loan commitment (evidenced by a notarized document signed by both parties) had been made prior to the ratification of this Article; provided, said building or zoning application is granted by July 1, 1974;

10. It is the intention of the General Assembly that if the provisions of any of the foregoing subparagraphs 1 to 10 of this paragraph are held invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal protection of the laws, within the meaning of Article I, Secs. 19 and 32 of the North Carolina Constitution, the remainder of this Article shall be given effect without the invalid provision or provisions.

c. The Commission shall define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article, in addition to the exclusions set forth in paragraph b of this subdivision. In developing such rules the Commission shall consider, with regard to the class or classes of units to be exempted:

1. The size of the improved or scope of the maintenance work;

2. The location of the improvement or work in proximity to dunes, waters, marshlands, areas of high seismic activity, areas of unstable soils or geologic formations, and areas enumerated in G.S. 113A-113(b)(3); and

3. Whether or nor dredging or filling is involved in the maintenance or improvement.

(6) 'Key facilities' include the site location and the location of major improvement and major access features of key facilities, and mean:

a. Public facilities, as determined by the Commission, on nonfederal lands which tend to induce development and urbanization of more than local impact, including but not limited to:

1. Any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;

2. Major interchanges between the interstate highway system and frontage-access streets or highways; major interchanges between other limited-access highways and frontage-access streets or highways;
3. Major frontage-access streets and highways, both of State concern; and
4. Major recreational lands and facilities;

b. Major facilities on nonfederal lands for the development, generation, and transmission of energy.

(7) 'Lead regional organizations' means the regional planning agencies created by and representative of the local governments of a multi-county region, and designated as lead regional organizations by the Governor.

(8) 'Local government' means the governing body of any county or city which contains within its boundaries any lands or waters subject to this Article.

(9) 'Person' means any individual, citizen, partnership, corporation, association, organization, business trust, estate, trust, public or municipal corporation, or agency of the State or local government unit, or any other legal entity however designated.

(10) Repealed by Session Laws 1987, c. 827, s. 133.

(11) 'Secretary' means the Secretary of Environment, Health, and Natural Resources, except where otherwise specified in this Article."

Sec. 127. G.S. 113A-105 reads as rewritten:

"**§ 113A-105. Coastal Resources Advisory Council.**

(a) Creation. – There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) The Coastal Resources Advisory Council shall consist of not more than 47 members appointed or designated as follows:

(1) Two individuals designated by the Secretary ~~of Natural Resources and Community Development~~ from among the employees of his Department;

(1a) The Secretary of the Department of Commerce or his designee;

(2) The Secretary of the Department of Administration or his designee;

(3) The Secretary of the Department of Transportation and Highway Safety or his designee, and one additional member selected by him from his Department;

(4) The ~~Secretary of the Department of Human Resources or his designee;~~ State Health Director;

(5) The Commissioner of Agriculture or his designee;

(6) The Secretary of the Department of Cultural Resources or his designee;

(7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;

(8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;

(9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;

(10) Three members selected by the Commission who are marine scientists or technologists;

(11) One member who is a local health director selected by the Commission upon the recommendation of the ~~Secretary of Human Resources~~ Secretary.

(c) Functions and Duties. – The Advisory Council shall assist the ~~Secretaries of Administration and of Natural Resources and Community Development~~ Secretary and the Secretary of Administration in an advisory capacity:

(1) On matters which may be submitted to it by either of them or by the Commission, including technical questions relating to the development of ~~rules and regulations,~~ rules, and

(2) On such other matters arising under this Article as the Council considers appropriate.

(d) Multiple Offices. – Membership on the Coastal Resources Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation. – The members of the Advisory Council who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

Sec. 128. G.S. 113A-113(b) as amended by Section 1 of Chapter 217 of the 1989 Session Laws reads as rewritten:

"(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

(1) Coastal wetlands as defined in G.S. 113-229(n)(3) and contiguous areas necessary to protect those wetlands;

(2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of ~~Natural Resources and Community Development;~~ Environment, Health, and Natural Resources;

(3) Renewable resource areas where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could jeopardize future water, food or fiber requirements of more than local concern, which may include:

a. Watersheds or aquifers that are present sources of public water supply, as identified by the Department ~~of Human Resources~~ or the Environmental Management Commission, or that are classified for water-supply use pursuant to G.S. 143-214.1;

b. Capacity use areas that have been declared by the Environmental Management Commission pursuant to G.S. 143-215.13(c) and areas wherein said Environmental Management Commission (pursuant to G.S. 143-215.3(d) or G.S. 143-215.3(a)(8)) has determined that a generalized condition of water depletion or water or air pollution exists;

c. Prime forestry land (sites capable of producing 85 cubic feet per acre-year, or more, of marketable timber), as identified by the ~~Department of Natural Resources and Community Development.~~ Department.

(4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems, which may include:

a. Existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas; existing sites that have been acquired for any of the same, as identified by the ~~Secretary of Natural Resources and Community Development;~~ Secretary; and proposed sites for any of the same, as identified by the ~~Secretary of Natural Resources and Community Development,~~ Secretary, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction;

b. Present sections of the natural and scenic rivers system;

c. Stream segments that have been classified for scientific or research uses by the Environmental Management Commission, or that are proposed to be so classified in a proceeding that is pending before said Environmental Management Commission pursuant to G.S. 143-214.1 at the time of the designation of the area of environmental concern;

d. Existing wildlife refuges, preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition (as hereinafter defined)

or for inclusion in a cooperative agreement by the governmental agency having jurisdiction;

e. Complex natural areas surrounded by modified landscapes that do not drastically alter the landscape, such as virgin forest stands within a commercially managed forest, or bogs in an urban complex;

f. Areas that sustain remnant species or aberrations in the landscape produced by natural forces, such as rare and endangered botanical or animal species;

g. Areas containing unique geological formations, as identified by the State Geologist; and

h. Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or areas that are or may be designated by the Secretary of the Interior as registered natural landmarks or as national historic landmarks;

(5) Areas such as waterways and lands under or flowed by tidal waters or navigable waters, to which the public may have rights of access or public trust rights, and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Sec. 5 of the North Carolina Constitution;

(6) Natural-hazard areas where uncontrolled or incompatible development could unreasonably endanger life or property, and other areas especially vulnerable to erosion, flooding, or other adverse effects of sand, wind and water, which may include:

a. Sand dunes along the Outer Banks;

b. Ocean and estuarine beaches and the shoreline of estuarine and public trust waters;

c. Floodways and floodplains;

d. Areas where geologic and soil conditions are such that there is a substantial possibility of excessive erosion or seismic activity, as identified by the State Geologist;

e. Areas with a significant potential for air inversions, as identified by the Environmental Management Commission.

(7) Areas which are or may be impacted by key facilities.

(8) Outstanding Resource Waters as designated by the Environmental Management Commission and such contiguous land as the Coastal Resources Commission reasonably deems necessary for the purpose of maintaining the exceptional water quality and outstanding resource values identified in the designation.

(9) Primary Nursery Areas as designated by the Marine Fisheries Commission and such contiguous land as the Coastal Resources Commission reasonably deems necessary to protect the resource values identified in the designation including, but not limited to, those values contributing to the continued productivity of estuarine and marine fisheries and thereby promoting the public health, safety and welfare."

Sec. 129. G.S. 113A-116 reads as rewritten:

"**§ 113A-116. Local government letter of intent.**

Within two years after July 1, 1974, each county and city within the coastal area shall submit to the Commission a written statement of its intent to act, or not to act, as a permit-letting agency under G.S. 113A-121. If any city or county states its intent not to act as a permit-letting agency or fails to submit a statement of intent within the required period, the Secretary ~~of Natural Resources and Community Development~~ shall issue permits therein under G.S. 113A-121; provided that a county may submit a letter of intent to issue permits in any city within said county that disclaims its intent to issue permits or fails to submit a letter of intent. Provided, however, should any city or county fail to become a permit-letting agency for any reason, but shall later express its desire to do so, it shall be permitted by the Coastal Resources Commission to qualify as such an agency by following the procedure herein set forth for qualification in the first instance."

Sec. 130. G.S. 113A-117(a) reads as rewritten:

"(a) The Secretary ~~of Natural Resources and Community Development~~ shall develop and present to the Commission for consideration and to all cities and counties and lead regional organizations within the coastal area for comment a set of criteria for local implementation and enforcement programs. In the preparation of such criteria, the Secretary shall emphasize the necessity for the expeditious processing of permit applications. Said criteria may contain recommendations and guidelines as to the procedures to be followed in developing local implementation and enforcement programs, the scope and coverage of said programs, minimum standards to be prescribed in said programs, staffing of permit-letting agencies, permit-letting procedures, and priorities of regional or statewide concern. Within 20 months after July 1, 1974, the Commission shall adopt and transmit said criteria (with any revisions) to each coastal-area county and city that has filed an applicable letter of intent, for its guidance."

Sec. 131. G.S. 113A-118 reads as rewritten:

"**§ 113A-118. Permit required.**

(a) After the date designated by the Secretary ~~of Natural Resources and Community Development~~ pursuant to G.S. 113A-125, every person before undertaking any development in any area of environmental concern shall obtain (in addition to any other required State or local permit) a permit pursuant to the provisions of this Part.

(b) Under the expedited procedure provided for by G.S. 113A-121, the permit shall be obtained from the appropriate city or county for any minor development; provided, that if the city or county has not developed an approved implementation and

enforcement program, the permit shall be obtained from the Secretary ~~of Natural Resources and Community Development~~.

(c) Permits shall be obtained from the Commission or its duly authorized agent.

(d) Within the meaning of this Part:

(1) A 'major development' is any development which requires permission, licensing, approval, certification or authorization in any form from the Environmental Management Commission, ~~the Department of Human Resources,~~ the ~~State~~ Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources, the ~~State~~ Department of Administration, the North Carolina Mining Commission, the North Carolina Pesticides Board, the North Carolina Sedimentation Control Board, or any federal agency or authority; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

(2) A 'minor development' is any development other than a 'major development.'

(e) If, within the meaning of G.S. 113A-103(5)b3, the siting of any utility facility for the development, generation or transmission of energy is subject to regulation under this Article rather than by the State Utilities Commission or by other law, permits for such facilities shall be obtained from the Coastal Resources Commission rather than from the appropriate city or county.

(f) The Secretary ~~of the Department of Natural Resources and Community Development~~ may issue special emergency permits under this Article. These permits may only be issued in those extraordinary situations in which life or structural property is in imminent danger as a result of storms, sudden failure of man-made structures, or similar occurrence. These permits may carry any conditions necessary to protect the public interest, consistent with the emergency situation and the impact of the proposed development. If an application for an emergency permit includes work beyond that necessary to reduce imminent dangers to life or property, the emergency permit shall be limited to that development reasonably necessary to reduce the imminent danger; all further development shall be considered under ordinary permit procedures. This emergency permit authority of the Secretary shall extend to all development in areas of environmental concern, whether major or minor development, and the mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the extent feasible, these emergency permits shall be coordinated with any emergency permits required under G.S. 113-229(e1)."

Sec. 132. G.S. 113A-119(a) reads as rewritten:

"(a) Any person required to obtain a permit under this Part shall file with the Secretary ~~of Natural Resources and Community Development~~ and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application a check

or money order payable to the Department or the city or county, as the case may be, constituting a reasonable fee (not to exceed twenty-five dollars ($25.00) for a minor development permit and not to exceed one hundred dollars ($100.00) for a major development permit) set by the Commission to cover the administrative costs in processing the said application."

Sec. 133. G.S. 113A-121(b) reads as rewritten:

"(b) In cities and counties that have developed approved implementation and enforcement programs, applications for permits for minor developments shall be considered and determined by the designated local official of the city or county as the case may be. In cities and counties that have not developed approved implementation and enforcement programs, such applications shall be considered and determined by the Secretary ~~of Natural Resources and Community Development~~. Minor development projects proposed to be undertaken by a local government within its own permit-letting jurisdiction shall be considered and determined by the Secretary ~~of Natural Resources and Community Development~~."

Sec. 134. G.S. 113A-123(b) reads as rewritten:

"(b) Any person having a recorded interest or interest by operation of law in or registered claim to land within an area of environmental concern affected by any final decision or order of the Commission under this Part may, within 90 days after receiving notice thereof, petition the superior court to determine whether the petitioner is the owner of the land in question, or an interest, therein, and in case he is adjudged the owner of the subject land, or an interest therein, the court shall determine whether such order so restricts the use of his property as to deprive him of the practical uses thereof, being not otherwise authorized by law, and is therefore an unreasonable exercise of the police power because the order constitutes the equivalent of taking without compensation. The burden of proof shall be on petitioner as to ownership and the burden of proof shall be on the Commission to prove that the order is not an unreasonable exercise of the police power, as aforesaid. Either party shall be entitled to a jury trial on all issues of fact, and the court shall enter a judgment in accordance with the issues, as to whether the Commission order shall apply to the land of the petitioner. The Secretary ~~of Natural Resources and Community Development~~ shall cause a copy of such finding to be recorded forthwith in the register of deeds office in the county where the land is located. The method provided in this subsection for the determination of the issue of whether such order constitutes a taking without compensation shall be exclusive and such issue shall not be determined in any other proceeding. Any action authorized by this subsection shall be calendared for trial at the next civil session of superior court after the summons and complaint have been served for 30 days, regardless of whether issues were joined more than 10 days before the session. It is the duty of the presiding judge to expedite the trial of these actions and to give them a preemptory setting over all others, civil or criminal. From any decision of the superior court either party may appeal to the court of appeals as a matter of right."

Sec. 135. G.S. 113A-124 reads as rewritten:

"**§ 113A-124. Additional powers and duties.**

(a) The Secretary ~~of Natural Resources and Community Development~~ shall have the following additional powers and duties under this Article:

(1) To conduct or cause to be conducted, investigations of proposed developments in areas of environmental concern in order to obtain sufficient evidence to enable a balanced judgment to be rendered concerning the issuance of permits to build such developments.

(2) To cooperate with the Secretary of the Department of Administration in drafting State guidelines for the coastal area.

(3) To keep a list of interested persons who wish to be notified of proposed developments and proposed rules designating areas of environmental concern and to so notify these persons of such proposed developments by regular mail. A reasonable registration fee to defray the cost of handling and mailing notices may be charged to any person who so registers with the Commission.

(4) To propose rules to implement this Article for consideration by the Commission.

(5) To delegate such of his powers as he may deem appropriate to one or more qualified employees of the Department ~~of Natural Resources and Community Development~~ or to any local government, provided that the provisions of any such delegation of power shall be set forth in departmental rules.

(6) To delegate the power to conduct a hearing, on his behalf, to any member of the Commission or to any qualified employee of the Department ~~of Natural Resources and Community Development~~. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the record of the hearing to the Secretary for decision or action.

(b) In order to carry out the provisions of this Article the secretaries of Administration and of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources may employ such clerical, technical and professional personnel, and consultants with such qualifications as the Commission may prescribe, in accordance with the State personnel rules and budgetary laws, and are hereby authorized to pay such personnel from any funds made available to them through grants, appropriations, or any other sources. In addition, the said secretaries may contract with any local governmental unit or lead regional organization to carry out the planning provisions of this Article.

(c) The Commission shall have the following additional powers and duties under this Article:

(1) To recommend to the Secretary ~~of Natural Resources and Community Development~~ the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.

(2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.

(3) To hold such public hearings as the Commission deems appropriate.

(4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department ~~of Natural Resources and Community Development~~. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.

(5) Repealed by Session Laws 1987, c. 827, s. 141.

(d) The Attorney General shall act as attorney for the Commission and shall initiate actions in the name of, and at the request of, the Commission, and shall represent the Commission in the hearing of any appeal from or other review of any order of the Commission."

Sec. 136. G.S. 113A-134.2 reads as rewritten:

"**§ 113A-134.2. Creation of program; administration; purpose.**

(a) There is created the Coastal and Estuarine Water Beach Access Program, to be administered by the Coastal Resources Commission and the ~~Department of Natural Resources and Community Development,~~ Department, for the purpose of acquiring, improving and maintaining property along the Atlantic Ocean and estuarine waters, as provided in this Article.

(b) The Coastal Resources Commission and the Department ~~of Natural Resources and Community Development~~ shall use the definition of 'estuarine water' used under this Article ~~7 of this Chapter~~ to administer this program."

Sec. 137. G.S. 113A-134.3 reads as rewritten:

"**§ 113A-134.3. Standards for beach access program.**

The Coastal Resources Commission, with the support of the ~~Department of Natural Resources and Community Development,~~ Department, shall establish and carry out a program to assure the acquisition, improvement and maintenance of a system of public access to ocean and estuarine water beaches. This beach access program shall include standards to be adopted by the Commission for the acquisition of property and the use and maintenance of said property. The standards shall be written to assure that land acquisition funds shall only be used to purchase interests in property that will be of benefit to the general public. Priority shall be given to acquisition of lands which, due to adverse effects of coastal and estuarine water natural hazards, such as past and potential erosion, flooding and storm damage, are unsuitable for the placement of permanent structures, including lands for which a permit for improvements has been denied under rules adopted pursuant to State law. The program shall be designed to provide and maintain reasonable public access and necessary parking, within the limitations of the resources available, to all areas of the North Carolina coast and estuarine waters where access is compatible with the natural resources involved and where reasonable access is not already available as of June 30, 1981. To the maximum extent possible, this program shall be coordinated with State and local coastal and estuarine water

management and recreational programs and carried out in cooperation with local governments. Prior to the purchase of any interests in property, the Secretary ~~of Natural Resources and Community Development~~ or his designee shall make a written finding of the public purpose to be served by the acquisition. Once property is purchased, the Department ~~of Natural Resources and Community Development~~ may allow property, without charge, to be controlled and operated by the county or municipality in which the property is located, subject to an agreement requiring that the local government use and maintain the property for its intended public purpose. These funds may be used to meet matching requirements for federal or other funds. The Department ~~of Natural Resources and Community Development~~ shall make every effort to obtain funds from sources other than the general fund for these purposes. Funds may be used to acquire or develop land for pedestrian access including parking or to make grants to local governments to accomplish the purposes of this Article. All acquisitions or dispositions of property made pursuant to this Article shall be in accordance with the provisions of Chapter 146 of the General Statutes. All grants to local governments pursuant to this Article for land acquisitions shall be made on the condition that the local government agrees to transfer title to any real property acquired with the grant funds to the State if the local government uses the property for a purpose other than beach access."

Sec. 138. G.S. 113A-168 reads as rewritten:

"**§ 113A-168. Removal, etc., of unlawful advertising.**

Any outdoor advertising erected or established after May 26, 1975, in violation of the provisions of this Article shall be unlawful and shall constitute a nuisance. The Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources shall give 30 days' notice by certified mail to the owner of the nonconforming outdoor advertising structure, if such owner is known or can by reasonable diligence be ascertained, to move the outdoor advertising structure or to make it conform to the provisions of this Article and rules ~~and regulations~~ promulgated by the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources hereunder. The Department ~~of Natural Resources and Community Development~~ or its agents shall have the right to remove or contract to have removed the nonconforming outdoor advertising at the expense of the said owner if the said owner fails to act within 30 days after receipt of such notice. The Department ~~of Natural Resources and Community Development~~ or its agents or contractor and his employees may enter upon private property for the purpose of removing outdoor advertising prohibited by this Article or its implementing rules without civil or criminal liability."

Sec. 139. G.S. 120-70.42 reads as rewritten:

"**§ 120-70.42. Membership; cochairmen; vacancies; quorum.**

The Environmental Review Commission shall consist of five Senators appointed by the President of the ~~Senate and~~ Senate, the Chairman of the Senate Committee on Environment and Natural Resources, five Representatives appointed by the Speaker of the House of ~~Representatives~~ Representatives, and the Chair of the House of Representatives Committee on Basic Resources who shall serve at the pleasure of their appointing officer. The President of the Senate shall designate one Senator to serve as

cochairman and the Speaker of the House of Representatives shall designate one Representative to serve as cochairman. Any vacancy which occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment. A quorum of the Environmental Review Commission shall consist of ~~six~~ seven members."

Sec. 140. G.S. 120-123(23) reads as rewritten:

"(23) The Governor's Waste Management Board, as established by ~~G.S. 143B-216.12.~~ G.S. 143B-285.12."

Sec. 141. G.S. 130A-2 reads as rewritten:

"**§ 130A-2. Definitions.**

The following definitions shall apply throughout this Chapter unless otherwise specified:

(1) 'Commission' means the Commission for Health Services.

(2) 'Department' means the Department ~~for Human Resources~~ of Environment, Health, and Natural Resources.

(3) 'Imminent hazard' means a situation which is likely to cause an immediate threat to life or a serious risk of irreparable damage to the environment if no immediate action is taken.

(4) 'Local board of health' means a district board of health or a county board of health.

(5) 'Local health department' means a district health department or a county health department.

(6) 'Local health director' means the administrative head of a local health department appointed pursuant to this Chapter.

(7) 'Person' means an individual, corporation, company, association, partnership, unit of local government or other legal entity.

(8) 'Secretary' means the Secretary of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources.

(9) 'Unit of local government' means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government.

(10) 'Vital records' means birth, death, fetal death, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter."

Sec. 142. G.S. 130A-231 reads as rewritten:

"**§ 130A-231. Agreements between ~~Department of Human Resources and Department of Natural Resources and Community Development~~ the State Health Director and the Division of Marine Fisheries.**

Nothing in this Part is intended to limit the authority of the Division of Marine Fisheries of the Department ~~of Natural Resources and Community Development~~ to regulate aspects of the harvesting, processing and handling of scallops, shellfish and crustacea relating to conservation of the fisheries resources of the State. The ~~Department of Human Resources~~ State Health Director and the ~~Department of Natural Resources and Community Development~~ Division of Marine Fisheries are authorized to

enter into agreements respecting the duties and responsibilities of each agency as to the harvesting, processing and handling of scallops, shellfish and crustacea."

Sec. 143. G.S. 130A-235 reads as rewritten:

"**§ 130A-235. Regulation of sanitation in institutions.**

For protection of the public health, the Commission shall adopt rules to establish sanitation requirements for all institutions and facilities at which individuals are provided room or board and for which a license to operate is required to be obtained or a certificate for payment is obtained from the ~~Department.~~ Department of Human Resources. The rules shall also apply to facilities that provide room and board to individuals but are exempt from licensure under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation requirements for these institutions and facilities. The Department of Human Resources shall issue a license to operate or a certificate for payment to such an institution or facility only upon compliance with all applicable sanitation rules of the Commission, and the Department of Human Resources may suspend or revoke a license or a certificate for payment for violation of these rules. In adopting rules pursuant to this section, the Commission shall define categories of standards to which such institutions and facilities shall be subject and shall establish criteria for the placement of any such institution or facility into one of the categories. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10)."

Sec. 144. G.S. 130A-291 reads as rewritten:

"**§ 130A-291. Solid Waste Unit in Department ~~of Human Resources~~.**

(a) For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department ~~of Human Resources~~ shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal, and statewide management of solid waste and the greatest possible recycling and recovery of resources, and the Department shall employ and retain such qualified personnel as may be necessary to effect such purposes. It is the purpose and intent of the State to be and remain cognizant not only of its responsibility to authorize and establish the statewide solid waste management program, but also of its responsibility to monitor and supervise, through the Department ~~of Human Resources~~, the activities and operations of units of local government implementing a permitted solid waste management facility serving a specified geographic area in accordance with a solid waste management plan.

(b) In furtherance of said purpose and intent, it is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that solid waste management facilities permitted hereunder and serving a specified geographic area shall be used by public or private owners or occupants of all lands, buildings, and premises within said area, and a unit of local government may, by ordinance, require that all solid waste generated within said area and placed in the waste stream for disposal, shall be delivered to the permitted solid waste management facility or facilities serving such geographic area. Actions taken pursuant to this Article shall be deemed to be acts of the sovereign power of the State of North Carolina, and to the extent

reasonably necessary to achieve the purposes of this section, a unit of local government may displace competition with public service for solid waste management and disposal. It is further determined and declared that no person, firm, corporation, association or entity within said geographic area shall engage in any activities which would be competitive with this purpose or with ordinances, rules ~~or regulations~~ adopted pursuant to the authority granted herein."

Sec. 145. G.S. 130A-310.3 reads as rewritten:

"**§ 130A-310.3. Remedial action programs for inactive hazardous substance or waste disposal sites.**

(a) The Secretary may issue a written declaration, based upon findings of fact, that an inactive hazardous substance or waste disposal site endangers the public health or the environment. After issuing such a declaration, and at any time during which the declaration is in effect, the Secretary shall be responsible for:

(1) Monitoring the inactive hazardous substance or waste disposal site;

(2) Developing a plan for public notice and for community and local government participation in any inactive hazardous substance or waste disposal site remedial action program to be undertaken;

(3) Approving an inactive hazardous substance or waste disposal site remedial action program for the site;

(4) Coordinating the inactive hazardous substance or waste disposal site remedial action program for the site; and

(5) Ensuring that the hazardous substance or waste disposal site remedial action program is completed.

(b) Where possible, the Secretary shall work cooperatively with any owner, operator, responsible party, or any appropriate agency of the State or federal government to develop and implement the inactive hazardous substance or waste disposal site remedial action program. The Secretary shall not take action under this section to the extent that ~~the Secretary of Natural Resources and Community Development, or~~ the Environmental Management Commission, ~~or~~ the Commissioner of Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or 21A of Chapter 143 of the General Statutes.

(c) Whenever the Secretary has issued such a declaration, and at any time during which the declaration is in effect, the Secretary may, in addition to any other powers he may have, order any responsible party:

(1) To develop an inactive hazardous substance or waste disposal site remedial action program for the site subject to approval by the Department, and

(2) To implement the program within reasonable time limits specified in the order.

Written notice of such an order shall be provided to all persons subject to the order personally or by certified mail. If given by certified mail, notice shall be deemed to have been given on the date appearing in the return of the receipt. If giving of notice cannot be accomplished either personally or by certified mail, notice shall be given as provided in G.S. 1A-1, Rule 4(j).

(d) In any inactive hazardous substance or waste disposal site remedial action program implemented hereunder, the Secretary shall ascertain the most nearly applicable cleanup standard as would be applied under CERCLA/SARA, and shall seek federal approval of any such program to insure concurrent compliance with federal standards. State standards may exceed and be more comprehensive than such federal standards. The Secretary shall ~~consult with the Secretary of Natural Resources and Community Development to~~ assure concurrent compliance with applicable standards set by the Environmental Management Commission."

Sec. 146. G.S. 130A-325 reads as rewritten:

"**§ 130A-325. Prohibited acts.**

The following acts are prohibited:

(1) Failure by a supplier of water to comply with this Article, an order issued under this Article, or the drinking water rules;

(2) Failure by a supplier of water to comply with the requirements of G.S. 130A-324 or the dissemination by a supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with the drinking water rules;

(3) Refusal by a supplier of water to allow the Department or local health department to inspect a public water system as provided for in G.S. 130A-17;

(4) The willful defiling by any person of any water supply of a public water system or the willful damaging of any pipe or other part of a public water system;

(5) The discharge by any person of sewage or other waste above the intake of a public water system, unless the sewage or waste has been passed through a system of purification approved by the Department ~~and the Department of Natural Resources and Community Development~~; and

(6) The failure by a person to maintain a system approved by the Department for collecting and disposing of all accumulations of human excrement located on the watershed of a public water system."

Sec. 147. G.S. 130A-335(b) reads as rewritten:

"(b) Any public or community sanitary sewage system and any sanitary sewage system which is designed to discharge effluent to the land surface or surface waters shall be approved by the Department ~~of Natural Resources and Community Development~~ under rules adopted by the Environmental Management Commission. All other sanitary sewage systems shall be approved by the Department ~~of Human Resources~~ under rules adopted by the Commission for Health Services."

Sec. 148. G.S. 130A-423(d) reads as rewritten:

"(d) **(For effective date see note)** If any action is brought against a vaccine manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act and subsection (c) of this section, the plaintiff in the action may recover damages only to the extent permitted by subdivisions (1) through (3) of subsection (a) of G.S. 130A-427. The aggregate amount awarded in any such action may not exceed the limitation established by subsection (b) of G.S. 130A-427. Regardless of whether such an action

is brought against a vaccine manufacturer, a claimant who has filed an election pursuant to Section 2121 of the Public Health Service Act, as enacted into federal law by Public Law 99-660, permitting such a claimant to file a civil action for damages for a vaccine-related injury or death, or who is otherwise permitted by federal law to file an action against a vaccine manufacturer, may file a petition pursuant to G.S. 130A-425 to obtain services from the Department and the Department of Human Resources pursuant to subdivision (5) of subsection (a) of G.S. 130A-427 and, if no action has been brought against a vaccine manufacturer, to obtain other relief available pursuant to G.S. 130A-427."

Sec. 149. G.S. 130A-423(e) reads as rewritten:

"(e) **(For effective date see note)** In order to prevent recovery of duplicate damages, or the imposition of duplicate liability, in the event that an individual seeks an award pursuant to G.S. 130A-427 and also files suit against the manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act and subsection (c) of this section, the following provisions shall apply:

(1) If, at the time an award is made pursuant to G.S. 130A-427, an individual has already recovered damages from a manufacturer pursuant to a judgment or settlement, the award shall consist only of a commitment to provide services pursuant to subdivision (5) of subsection (a) of G.S. 130A-427.

(2) If, at any time after an award is made to a claimant pursuant to G.S. 130A-427, an individual recovers damages for the same vaccine-related injury from a manufacturer pursuant to a judgment or settlement, the individual who recovers the damages shall reimburse the State for all amounts previously recovered from the State in the prior proceeding. Before a defendant in any action for a vaccine-related injury pays any amount to a plaintiff to discharge a judgment or settlement, he shall request from the Secretary and the Secretary of Human Resources a statement itemizing any reimbursement owed by the plaintiff pursuant to this subdivision, and, if ~~the~~ any reimbursement is owed by the ~~plaintiff,~~ plaintiff to either department, the defendant shall pay the reimbursable amounts, as determined by ~~the~~ each Secretary, directly to ~~the Department of Human Resources.~~ the department to which such reimbursement is owed. This payment shall discharge the plaintiff's obligations to the State under this subdivision and any obligation the defendant may have to the plaintiff with respect to these amounts.

(3) If:

a. An award has been made to a claimant for an element of damages pursuant to G.S. 130A-427; and

b. An individual has recovered for the same element of damages pursuant to a judgment in, or settlement of, an action for the same vaccine-related injury brought against a manufacturer, and

that amount has not been remitted to the State pursuant to subdivision (2) of this subsection; and

c. The State seeks to recover the amounts it paid in an action it brings against the manufacturer pursuant to G.S. 130A-430; any judgment obtained by the State under G.S. 130A-430 shall be reduced by the amount necessary to prevent the double recovery of any element of damages from the manufacturer. Nothing in this subdivision limits the State's right to obtain reimbursement from a claimant under subdivision (2) of this subsection with respect to any double payment that might be received by the claimant."

Sec. 150. G.S. 130A-425 reads as rewritten:

"**§ 130A-425. Filing of claims.**

(a) Notwithstanding any other provision of State law, no action for compensation for a vaccine-related injury may be filed against any person unless that person was named as a respondent in a claim filed pursuant to this section and unless the claim was filed within the applicable time period set forth in G.S. 130A-429.

(b) In all claims filed pursuant to this Article, the claimant or the person in whose behalf the claim is made shall file with the Commission a verified petition in duplicate, setting forth the following information:

(1) The name and address of the claimant;

(2) The name and address of each respondent;

(3) The amount of compensation in money and services sought to be recovered;

(4) The time and place where the injury occurred;

(5) A brief statement of the facts and circumstances surrounding the injury and giving rise to the claim; and

(6) Supporting documentation and a statement of the claim that the claimant or the person in whose behalf the claim is made suffered a vaccine-related injury and has not previously collected an award or settlement of a civil action for damages for this injury. This supporting documentation shall include all available medical records pertaining to the alleged injury, including autopsy reports, if any, and if the injured person was under two years of age at the time of injury, all prenatal, obstetrical, and pediatric records of care preceding the injury, and an identification of any unavailable records known to the claimant or the person in whose behalf the claim is made.

(c) Upon receipt of this verified petition in duplicate, the Commission shall enter the case upon its hearing docket and shall determine the matter in the county where the injury occurred unless the parties agree or the Commission directs that the case may be heard in some other county. All parties shall be given reasonable notice of the date when and the place where the claim will be heard. Immediately upon receipt of the claim, the Commission shall serve a copy of the verified petition on each respondent by registered or certified mail. The Commission shall also send a copy of the verified

petition to the ~~Secretary of Human Resources,~~ Secretary, who shall be a party to all proceedings involving the claim, and to the Attorney General who shall represent the State's interest in all the proceedings involving the claim.

(d) The Commission shall adopt rules necessary to govern the proceedings required by this Article. The Rules of Civil Procedure as contained in G.S. 1A-1 **et seq.** and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 apply to claims filed with the Industrial Commission under this Article. The Commission shall keep a record of all proceedings conducted under this Article, and has the right to subpoena any persons and records it considers necessary in making its determinations. The Commission may require all persons called as witnesses to testify under oath or affirmation, and any member of the Commission may administer oaths. If any persons refuse to comply with any subpoena issued pursuant to this Article or to testify with respect to any matter relevant to proceedings conducted under this Article, the Superior Court of Wake County, on application of the Commission, may issue an order requiring the person to comply with the subpoena and to testify. Any failure to obey any such order may be punished by the court as for contempt."

Sec. 151. G.S. 130A-427 reads as rewritten:

"**§ 130A-427. Commission awards for vaccine-related injuries; duties of Secretary ~~of Human Resources~~.**

(a) Upon determining that a claimant has sustained a vaccine-related injury, the Commission shall make an award providing compensation or services for any or all of the following:

(1) Actual and projected reasonable expenses of medical care, developmental evaluation, special education, vocational training, physical, emotional or behavioral therapy, and residential and custodial care and service expenses, that cannot be provided by the Department and the Department of Human Resources pursuant to subdivision (5) of this subsection;

(2) Loss of earnings and projected earnings, determined in accordance with generally accepted actuarial principles;

(3) Noneconomic, general damages arising from pain, suffering, and emotional distress;

(4) Reasonable attorneys fees;

(5) Needs that the Secretary and the Secretary of Human Resources determines on a case-by-case basis shall be met by medical, health, developmental evaluation, special education, vocational training, physical, emotional, or behavioral therapy, residential and custodial care, and other essential and necessary services, to be provided the injured party by the programs and services administered by the Department and the Department of Human Resources. The Secretary and the Secretary of Human Resources shall develop an itemized list of the service needs of the injured party upon review and evaluation of the injured party's medical record and shall present it to the Commission prior to the Commission's determination. In the event

that the Commission's award includes the provision of any of these services, the Secretary and the Secretary of Human Resources shall develop a comprehensive, coordinated plan for the delivery of these services to the injured party. Notwithstanding any other provision of State law, the Secretary and the Secretary of Human Resources shall waive all eligibility criteria in determining eligibility for services provided by the Department and the Department of Human Resources under the plan of care developed pursuant to this subdivision. If the award includes any such services, these services shall be provided by the Department and the Department of Human Resources free of any cost to the injured party.

(b) The money compensation component of the award may not be made pursuant to this section in excess of an aggregate amount of the present day value amount of three hundred thousand dollars ($300,000) with respect to all injuries claimed to have resulted from the administration of a covered vaccine to a single individual. The value of all services to be provided by the Department and the Department of Human Resources, as part of this award is in addition to the total amount of money compensation, and is not included in the limitation prescribed by this subsection on the amount of money compensation that may be awarded. No damages may be awarded pursuant to subdivision (a)(3) on behalf of any person to whom the covered vaccine was not administered."

Sec. 152. G.S. 130A-430 reads as rewritten:

"**§ 130A-430. Right of State to bring action against health care provider and of manufacturer.**

(a) If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the health care provider who administered the vaccine on the ground that the health care provider was negligent in administering the vaccine. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department and the Department of Human Resources under G.S. 130A-427.

(b) Manufacturer. If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the manufacturer who made the vaccine on the ground that the vaccine was a defective product. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department and the Department of Human Resources under G.S. 130A-427, the reasonable costs of prosecuting the action, including, but not limited to, attorneys fees, fees charged by witnesses, and costs of exhibits. For purposes of this subsection, a defective product is a covered vaccine that was manufactured, transported, or stored in a negligent manner, or was distributed after its expiration date, or that otherwise violated the applicable requirements of any license,

approval, or permit, or any applicable standards or requirements issued under Section 351 of the Public Health Service Act, as amended, or the federal Food, Drug, and Cosmetic Act, as these standards or requirements were interpreted or applied by the federal agency charged with their enforcement. The negligence or other action in violation of applicable federal standards or requirements shall be demonstrated by the State, by a preponderance of the evidence, to be the proximate cause of the injury for which an award was rendered pursuant to G.S. 130A-427, in order to allow recovery by the State against the manufacturer pursuant to this subsection."

Sec. 153. G.S. 130A-433 reads as rewritten:

"**§ 130A-433. Contracts for purchase of vaccines; distribution; fee; rules.**

Notwithstanding any law to the contrary, the Secretary ~~of Human Resources~~ may enter into contracts with the manufacturers and suppliers of covered vaccines and with other public entities either within or without the State for the purchase of covered vaccines and may provide for the distribution or sale of the covered vaccines to health care providers. Local health departments shall distribute the covered vaccines at the request of the Department ~~of Human Resources~~. The Secretary may charge a fee for providing a covered vaccine to a health care provider. The fee shall be set at an amount that covers the cost of the vaccine to the Department, plus the cost to the Department of storing and distributing the vaccine. The Secretary shall adopt rules to implement this Article.

A health care provider who receives vaccine from the State may charge no more than the cost of the vaccine and a reasonable fee for the administration of the vaccine. Vaccines provided by the State to local health departments for administration shall be administered at no cost to the patient."

Sec. 154. G.S. 130A-434 reads as rewritten:

"**§ 130A-434. Child Vaccine Injury Compensation Fund established; payments from Fund; transfer of appropriations and receipts.**

(a) There is established the Child Vaccine Injury Compensation Fund within the Department ~~of Human Resources~~ to finance the North Carolina Childhood Vaccine-Related Injury Compensation Program created by this article. The money compensation components of all awards made pursuant to Article 17 of Chapter 130A of the General Statutes shall be paid by the Department ~~of Human Resources~~ from the Fund.

(b) Should the Department ~~of Human Resources~~ find that the sum of appropriations and receipts is insufficient to meet financial obligations incurred ~~by the Department~~ in the administration of this article, ~~the Department may transfer~~ appropriations and receipts <u>in the Department and in the Department of Human Resources</u> which would otherwise revert to the General Fund <u>may be transferred to the Child Vaccine Injury Compensation Fund</u> in order to meet such obligations. The Department ~~of Human Resources~~ may also budget anticipated receipts as needed to implement this article."

Sec. 155. G.S. 130A-440(c) reads as rewritten:

"(c) The health assessment shall be conducted by a physician licensed to practice medicine, a physician's assistant as defined in G.S. 90-18.1(a), a certified nurse practitioner, or a public health nurse meeting the ~~North Carolina Division of Health~~

~~Services'~~ Department's Standards for Early Periodic Screening, Diagnosis, and Treatment Screening."

Sec. 156. G.S. 130A-441 reads as rewritten:

"**§ 130A-441. Reporting.**

(a) Health assessment results shall be submitted to the school principal by the medical provider on forms developed by the Department ~~of Human Resources~~ and the Department of Public Instruction.

~~(a)~~(b) Each school having a kindergarten shall maintain on file the health assessment results. The files shall be open to inspection by the ~~Department of Human Resources, the Department of Public Instruction~~ Department, the Department of Public Instruction, or their authorized representatives and persons inspecting the files shall maintain the confidentiality of the files. Upon transfer of a child to another kindergarten, a copy of the health assessment results shall be provided upon request and without charge to the new kindergarten.

(b)(c) Within 90 days after the commencement of a new school year, the principal shall file a health assessment status report with the Department of Public Instruction on forms developed by the Department ~~of Human Resources~~ and the Department of Public Instruction. The report shall document the number of children in compliance and not in compliance with G.S. 130A-440(a)."

Sec. 157. G.S. 143-138(b) as amended by Section 2 of Chapter 681 of the 1989 Session Laws reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; ~~regulations~~ rules governing construction and precautions to be taken during construction; ~~regulations~~ rules as to permissible materials, loads, and stresses; ~~regulations of~~ rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; ~~regulations~~ rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules ~~and regulations~~ pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e).

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building ~~regulations~~ rules applicable to farm buildings located outside the ~~building regulation~~ building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

(1) Any ~~boiler regulations~~ rules governing boilers adopted by the Board of Boiler ~~Rules,~~ and Pressure Vessels Rules,

(2) Any ~~elevator regulations~~ rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any ~~regulations~~ rules relating to sanitation adopted by the ~~Department of Human Resources~~ Commission for Health Services or the Department of Environment, Health, and Natural Resources which the Building Code Council believes pertinent.

In addition, the Code may include references to such other ~~regulations~~ rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No ~~regulations~~ rule issued by ~~other agencies~~ any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain ~~regulations~~ rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements."

Sec. 158. G.S. 143-138(g) as amended by Section 18 of Chapter 681 of the 1989 Session Laws is amended by inserting, after the line beginning "Commissioner of

Insurance", a new line to read "Department of Environment, Health, and Natural Resources 1".

Sec. 159. G.S. 143-214.6(b) as enacted by Section 2 of Chapter 426 of the 1989 Session Laws reads as rewritten:

"(b) Membership. – The Council shall consist of not more than 20 members appointed or designated as follows:

(1) The Secretary or his designee;

(2) The Secretary of Transportation or his designee;

~~(3) The Secretary of Human Resources or his designee;~~

(4) The Commissioner of Agriculture or his designee;

(5) One member each from two different lead regional organizations to be appointed by the Commission from nominations submitted by lead regional organizations;

(6) Three representatives of county government, one to be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, one to be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one to be appointed by the Commission, from three lists of three nominees each submitted by the North Carolina Association of County Commissioners;

(7) Three representatives of municipal government, one to be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, one to be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one to be appointed by the Commission, from three lists of three nominees each submitted by the North Carolina League of Municipalities;

(8) One member appointed by the Commission who has technical or professional expertise in the area of land use planning;

(9) One member who is a local health director appointed by the Commission upon recommendation of the ~~Secretary of Human Resources;~~ Secretary;

(10) Two members appointed by the Commission who shall be actively involved with or have had extensive experience in the field of land development upon the recommendation of the North Carolina Home Builders Association;

(11) One member appointed by the Commission who has technical or professional expertise in the area of water resources;

(12) One soil and water conservation district supervisor appointed by the Secretary;

(13) Two members appointed by the Commission who represent the interests of the environmental and conservation community."

Sec. 160. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities until or unless such person shall have applied for and shall have received from the Commission a permit therefor and shall have complied with such conditions, if any, as are prescribed by such permit:

(1) Make any outlets into the waters of the State;

(2) Construct or operate any sewer system, treatment works, or disposal system within the State;

(3) Alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the State;

(4) Increase the quantity of waste discharged through any outlet or processed in any treatment works or disposal system to any extent which would result in any violation of the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters to the extent of violating any of the standards applicable to such water;

(5) Change the nature of the waste discharged through any disposal system in any way which would exceed the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters in relation to any of the standards applicable to such waters;

(6) Cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Commission under the provisions of this Article;

(7) Cause or permit any wastes for which pretreatment is required by pretreatment standards to be discharged, directly or indirectly, from a pretreatment facility to any disposal system or to alter, extend or change the construction or method of operation or increase the quantity or change the nature of the waste discharged from or processed in such facility;

(8) Enter into a contract for the construction and installation of any outlet, sewer system, treatment works, pretreatment facility or disposal system or for the alteration or extension of any such facilities;

(9) Dispose of sludge resulting from the operation of a treatment works, including the removal of in-place sewage sludge from one location and its deposit at another location, consistent with the requirement of the Resource Conservation and Recovery Act and regulations promulgated pursuant thereto;

(10) Cause or permit any pollutant to enter into a defined managed area of the State's waters for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

In the event that both effluent standards or limitations and classifications and water quality standards are applicable to any point source or sources and to the waters to which they discharge, the more stringent among the standards established by the Commission shall be applicable and controlling.

In connection with the above, no such permit shall be granted for the disposal of waste in waters classified as sources of public water supply where the ~~Department of Human Resources~~ head of the agency which administers the public water supply program pursuant to Article 10 of Chapter 130A of the General Statutes, after review of the plans and specifications for the proposed disposal facility, determines and advises the Commission that such disposal is sufficiently close to the intake works or proposed intake works of a public water supply as to have an adverse effect on the public health.

In any case where the Commission denies a permit, it shall state in writing the reason for such denial and shall also state the Commission's estimate of the changes in the applicant's proposed activities or plans which will be required in order that the applicant may obtain a permit."

Sec. 161. G.S. 143-215.1(b1) as enacted by Section 2 of Chapter 453 of the 1989 Session Laws reads as rewritten:

"(b1) The Commission shall adopt rules which exempt the filter backwash facilities of swimming pools and spas from the:

(1) Application and notice requirements of this section;
(2) Reporting requirements of G.S. 143-215.65;
(3) Monitoring requirements of G.S. 143-215.66; and
(4) Requirements of subsection (a) of this section that the Department ~~of Human Resources~~ review and approval of each individual facility."

Sec. 162. G.S. 143-215.7 reads as rewritten:

"**§ 143-215.7. Effect on laws applicable to public water supplies and the sanitary disposal of sewage.**

This Article shall not be construed as amending, repealing, or in any manner abridging or interfering with ~~those sections of the General Statutes of North Carolina relative to the control of public water supplies, as now administered by the Department of Human Resources~~ the provisions of Article 10 of Chapter 130A of the General Statutes relating to the control of public water supplies; nor shall the provisions of this Article be construed as being applicable to or in anywise affecting the authority of the Department ~~of Human Resources~~ to control the sanitary disposal of sewage as provided in Article 11 of Chapter 130A of the General Statutes, or as affecting the powers, duties and authority of city, county, county-city and district health departments usually referred to as local health departments or as affecting the charter powers, or other lawful authority of municipal corporations, to pass ordinances in regard to sewage disposal."

Sec. 163. G.S. 143-215.26 reads as rewritten:

"**§ 143-215.26. Construction of dams.**

(a) No person shall begin the construction of any dam until at least 10 days after filing with the Department a statement concerning its height, impoundment capacity, purpose, location and other information required by the Department. Persons proposing construction described in G.S. 143-215.25, subparagraphs (2)e and f will comply with

malaria control requirements of the Department ~~of Human Resources~~. If on the basis of this information the Department is of the opinion that the proposed dam is not exempt from the provisions of this Part, it shall so notify the applicant, and construction shall not be commenced until a full application is filed by the applicant and approved as provided by G.S. 143-215.29. The Department may also require of applicants so notified the filing of such additional information as it deems necessary, including, but not limited to, streamflow and rainfall data, maps, plans and specifications. Every applicant for approval of a dam subject to the provisions of this Part shall also file with the Department the certificate of an engineer or contractor legally qualified in the State of North Carolina that he is responsible for the design of the dam, and that said design is safe and adequate. Should the applicant have a professional engineering staff the certificate of a registered professional engineer member of that staff legally qualified in the State of North Carolina will constitute compliance.

(b) When an application has been completed pursuant to the preceding subsection, the Department shall refer copies of the completed application papers to the ~~Department of Human Resources~~ State Health Director, the Wildlife Resources Commission, the Board of Transportation, and such other State and local agencies as it deems appropriate for review and comment."

Sec. 164. G.S. 143-215.86(c) as amended by Section 3 of Chapter 656 of the 1989 Session Laws reads as rewritten:

"(c) Trucks. – The Secretary of ~~the Department of~~ Transportation may, after consultation with the Secretary of ~~Natural Resources and Community Development,~~ Environment, Health, and Natural Resources, purchase and equip a sufficient number of trucks designed to carry out the provisions of subsection (b) of this section. These trucks shall be maintained by the Department of Transportation and shall be strategically located at various locations throughout the State so as to furnish a ready response when word of an oil or other hazardous substances discharge has been received. The Secretary of ~~the Department of Natural Resources and Community Development~~ Health, Environment, and Natural Resources or his designee will, after consultation, decide where the trucks are to be located."

Sec. 165. G.S. 143-215.86(d) reads as rewritten:

"(d) Rules. – The Secretary of ~~the Department of~~ Transportation and the Secretary of ~~the Department of Natural Resources and Community Development~~ Environment, Health, and Natural Resources or their designees shall adopt rules for the placement of these trucks and shall determine the manner and way in which they are to be used. The Secretary of ~~the Department of Natural Resources and Community Development~~ Environment, Health, and Natural Resources shall reimburse the Department of Transportation for expenses incurred by the Department of Transportation during cleanups as provided in G.S. 143-215.88."

Sec. 166. G.S. 143-252 reads as rewritten:

"**§ 143-252. Article subject to Chapter 113.**

Nothing in this Article shall be construed to affect the jurisdictional division between the North Carolina Wildlife Resources Commission and the Department of ~~Natural and Economic Resources~~ Environment, Health, and Natural Resources

contained in Subchapter IV of Chapter 113 of the General Statutes, or in any way to alter or abridge the powers and duties of the two agencies conferred in that Subchapter."

Sec. 167. G.S. 143-253 reads as rewritten:

"**§ 143-253. Jurisdictional questions.**

In the event of any questions arising between the Department of ~~Natural and Economic Resources~~ Environment, Health, and Natural Resources and the North Carolina Wildlife Resources Commission as to any duty or responsibility or authority imposed upon either of said bodies by law, or in case of any conflicting rules ~~or regulations~~ or administrative practices adopted by said bodies, such questions or matters shall be determined by the Governor ~~of the State~~ and his determination shall be binding on each of said bodies."

Sec. 168. G.S. 143-320 reads as rewritten:

"**§ 143-320. Definitions.**

As used in this Article, unless the context otherwise requires:

~~'Council' means the Community Development Council.~~

(1) 'Department' means the Department of ~~Natural Resources and Community Development.~~ Environment, Health, and Natural Resources.

(2) 'Secretary' means the Secretary of ~~Natural Resources and Community Development.~~ Environment, Health, and Natural Resources.

(3) 'Recreation' means those interests that are diversionary in character and that aid in promoting entertainment, pleasure, relaxation, instruction, and other physical, mental, and cultural developments and experiences of a leisure nature, and includes all governmental, private nonprofit and commercial recreation forms of the recreation field and includes parks, conservation, recreation travel, the use of natural resources, wilderness and high density recreation types and the variety of recreation interests in areas and programs which are incorporated in this range."

Sec. 169. Section 8 of Chapter 523 of the 1989 Session Laws is rewritten to read:

"Sec. 8. G.S. 143-345.6 is amended by adding a new subsection to read:

'(d1) The Department of Environment, Health, and Natural Resources shall make comparative salary studies periodically of all registers of deeds offices and at the conclusion of each study the Secretary of the Department of Natural Resources and Community Development shall present his written findings and shall make recommendations to the board of county commissioners and register of deeds of each county.'"

Sec. 170. G.S. 143-436(b) reads as rewritten:

"(b) The Pesticide Board shall consist of seven members, to be appointed by the Governor, as follows:

(1) One member each representing the North Carolina Department of ~~Agriculture, the North Carolina Department of Human Resources, and a State conservation agency.~~ Agriculture and two members

representing the North Carolina Department of Environment, Health, and Natural Resources, one of whom shall be the State Health Director or his designee and one of whom shall represent an environmental protection agency. The persons so selected may be either members of a policy board or departmental officials or employees.

(2) A representative of the agricultural chemical industry.

(3) A person directly engaged in agricultural production.

(4) Two at-large members, from fields of endeavor other than those enumerated in subdivisions (2) and (3) of this subsection, one of whom shall be a nongovernmental conservationist."

Sec. 171. G.S. 143-439(b) reads as rewritten:

"(b) The Pesticide Advisory Committee shall consist ~~of 19 members to be appointed by the Board as follows:~~ of: three practicing farmers; one conservationist (at large); one ecologist (at large); one representative of the pesticide industry; one representative of agribusiness (at large); one local health director; three members of the North Carolina State University School of Agriculture and Life Sciences, at least one of which shall be from the area of wildlife or biology; one member ~~each~~ representing the North Carolina Department of ~~Agriculture,~~ Agriculture; ~~the North Carolina Department of Human Resources, and the North Carolina Department of Natural Resources and Community Development;~~ one member representing the Department of Environment, Health, and Natural Resources; the State Health Director; one representative of a public utility or railroad company which uses ~~pesticides,~~ pesticides; one representative ~~or~~ of the Board of Transportation; one member of the North Carolina Agricultural Aviation Association; one member of the general public (at large); one member actively engaged in forest pest management; and one member representing the Solid ~~and Hazardous~~ Waste Management ~~Branch, Environmental Health Section,~~ Division ~~of Health Services, Department of Human Resources.~~ of the Department of Environment, Health, and Natural Resources. Each State agency represented on the Committee shall be appointed by the head of the agency. Other members of the Committee shall be appointed by the Board."

Sec. 172. G.S. 143B-137 reads as rewritten:

"**§ 143B-137. Department of Human Resources – duties.**

It shall be the duty of the Department to provide the necessary management, development of policy, and establishment and enforcement of standards for the provision of services in the fields of ~~general and~~ mental health and rehabilitation with the basic goal being to assist all citizens – as individuals, families, and communities – to achieve and maintain an adequate level of health, social and economic well-being, and dignity. Whenever possible the department shall emphasize preventive measures to avoid or to reduce the need for costly emergency treatments that often result from lack of forethought. Therefore, it shall be the policy of this department to establish priorities to eliminate those excessive expenses incurred by the State for lack of adequate funding or careful planning of preventive measures."

Sec. 173. G.S. 143B-139.2 reads as rewritten:

"**§ 143B-139.2. Department of Human Resources – head – requests for grants-in-aid from non-State agencies.**

It is the intent of this General Assembly that non-State ~~health and welfare~~ human resources agencies submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for recommendations to the Governor and the Advisory Budget Commission and the General Assembly, and that agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, provide a postaudit of their operations that has been done by a certified public accountant."

Sec. 174. G.S. 143B-140 is repealed.

Sec. 175. Part 3 of Article 3 of Chapter 143B of the General Statutes (G.S. 143B-142 through G.S. 143B-146) is recodified as Article 1A of Chapter 130A of the General Statutes (G.S. 130A-29 through G.S. 130A-33).

Sec. 176. G.S. 130A-29 reads as rewritten:

"**§ ~~143B-142~~ 130A-29. Commission for Health Services – creation, powers and duties.**

(a) The Commission for Health Services of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources is created with the authority and duty to adopt rules to protect and promote the public health.

(b) The Commission for Health Services is authorized to adopt rules necessary to implement the public health programs administered by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources as provided in Chapter 130A of the General Statutes.

(c) The Commission for Health Services shall adopt rules:

(1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.

(2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o);

(3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522;

(4) Establishing requirements for the sanitation of local confinement facilities as provided in G.S. 153-53.4; and

(5) Governing environmental impact statements and information required in applications to determine eligibility for water supply systems under the provisions of the Clean Water Bond Act.

(d) The Commission is authorized to create:

(1) Metropolitan water districts as provided in G.S. 162A-33;

(2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of the General Statutes; and

(3) Mosquito control districts as provided in Part 2 of Article 12 of Chapter 130A of the General Statutes.

(e) Rules adopted by the Commission for Health Services shall be enforced by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources."

Sec. 177. G.S. 130A-30 reads as rewritten:

"§ ~~143B-143~~ 130A-30. **Commission for Health Services – members; selection; quorum; compensation.**

(a) The Commission for Health Services of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources shall consist of 12 members, four of whom shall be elected by the North Carolina Medical Society and eight of whom shall be appointed by the Governor.

(b) One of the members appointed by the Governor shall be a licensed pharmacist, one a registered engineer experienced in sanitary engineering or a soil scientist, one a licensed veterinarian, one a licensed optometrist, one a licensed dentist, and one a registered nurse. The initial members of the Commission shall be the members of the State Board of Health who shall serve for a period equal to the remainder of their current terms on the State Board of Health, three of whose appointments expire May 1, 1973, and two of whose appointments expire May 1, 1975. At the end of the respective terms of office of initial members of the Commission, their successors shall be appointed for terms of four 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.

(c) The North Carolina Medical Society shall have the right to remove any member elected by it for misfeasance, malfeasance, or nonfeasance, and the Governor shall have the right to remove any member appointed by him for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. ~~143B-13 of the Executive Organization Act of 1973.~~ 143B-13. Vacancies on said Commission among the membership elected by the North Carolina Medical Society shall be filled by the executive committee of the Medical Society until the next meeting of the Medical Society, when the Medical Society shall fill the vacancy for the unexpired term. Vacancies on said Commission among the membership appointed by the Governor shall be filled by the Governor for the unexpired term.

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

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

Sec. 178. G.S. 130A-33 reads as rewritten:

"§ ~~143B~~üand **special meetings.**

Each year there shall be four regular meetings of the Commission for Health Services, one of which shall be held during the annual meeting and conjointly with a general session of the North Carolina Medical Society at which time and place the annual report shall be submitted by the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources or his designee. The other three meetings shall be at such times and places as the chairman of the Commission shall designate. Special meetings of the Commission may be called by the chairman, or by a majority of the members of the Commission."

Sec. 179. Part 18 of Article 3 of Chapter 143B of the General Statutes (G.S. 143B-188 through G.S. 143B-190) is recodified as Part 3A of Article 5 of Chapter 130A of the General Statutes (G.S. 130A-131 through G.S. 130A-131.2).

Sec. 180. G.S. 130A-131.2 reads as rewritten:

"**§ ~~143B-190~~ 130A-131.2. Council role.**

The Council shall advise the Department of Environment, Health, and Natural Resources and the Commission for Health Services on the needs of persons with sickle cell syndrome, and shall make recommendations to meet these needs. Such recommendations shall include but not be limited to recommendations for legislative action and for rules regarding the services of the Sickle Cell Program. The Council shall develop procedures to facilitate its operation. All clerical and other services required by the Council shall be furnished by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources within budget limitations."

Sec. 181. G.S. 143B-202 and G.S. 143B-203 are repealed.

Sec. 182. (a) Part 20 of Article 3 of Chapter 143B of the General Statutes (G.S. 143B-204 through G.S. 143B-206) is recodified as Part 1 of Article 1B of Chapter 130A of the General Statutes (G.S. 130A-33.30 through G.S. 130A-33.32).

(b) A new Article 1B is added to Chapter 130A of the General Statutes to consist of G.S. 130A-33.30 through G.S. 130A-33.32 as Part 1 and G.S. 130A-33.40 through 130A-33.41 as Part 2. The heading for Article 1B of Chapter 130A shall read:

"ARTICLE 1B.

Commissions and Councils."

Sec. 183. G.S. 130A-33.30 reads as rewritten:

"**§ ~~143B-204~~ 130A-33.30. Commission of Anatomy – creation; powers and duties.**

There is hereby created the Commission of Anatomy of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources with the power and duty to adopt rules ~~and regulations~~ for the distribution of dead human bodies and parts thereof for the purpose of promoting the study of anatomy in the State of North Carolina. The Commission is authorized to receive dead bodies pursuant to G.S. 90-216.6 and to be a donee of a body or parts thereof pursuant to Article 15A of Chapter 90 of the General Statutes known as the Uniform Anatomical Gift Act and to distribute such bodies or parts thereof pursuant to the rules ~~and regulations~~ adopted by the Commission."

Sec. 184. G.S. 130A-33.31 reads as rewritten:

"**§ ~~143B-205~~ 130A-33.31. Commission of Anatomy – members; selection; term; chairman; quorum; meetings.**

(a) The Commission of Anatomy shall consist of five members, one from the membership of the State Board of Mortuary Science, and one each from The University of North Carolina School of Medicine, East Carolina University School of Medicine, Duke University School of Medicine, and Bowman Gray School of Medicine. The dean of each school shall make recommendations and the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources shall appoint from such recommendations a member to the Commission. The president of the State Board of Mortuary Science shall appoint one member from that Board to the Commission. The members shall serve terms of four years except two of the original members shall serve a term of one

year, one shall serve a term of two years, one shall serve a term of three years, and one shall serve a term of four years. The Secretary shall determine the terms of the original members.

(b) 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.

(c) The Secretary shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance.

(d) The Commission shall elect a chairman annually from its own membership.

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

(f) The Commission shall meet at any time and place within the State at the call of the chairman or upon the written request of three members.

(g) All clerical and other services required by the Commission shall be supplied by the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources."

Sec. 185. G.S. 130A-33.32 reads as rewritten:

"**§ ~~143B-206~~ 130A-33.32. Commission of Anatomy – reference to former Board of Anatomy in testamentary disposition.**

A testamentary disposition of a body or part thereof to the former Board of Anatomy shall be deemed in all respects to be a disposition to the Commission of Anatomy."

Sec. 186. Part 26 of Article 3 of Chapter 143B of the General Statutes (G.S. 143B-216.8 through G.S. 143B-216.9) is recodified as Part 2 of Article 1B of Chapter 130A of the General Statutes (G.S. 130A-33.40 through G.S. 130A-33.41).

Sec. 187. G.S. 130A-33.40 reads as rewritten:

"**§ ~~143B-216.8~~ 130A-33.40. Governor's Council on Physical Fitness and Health – creation; powers; duties.**

There is hereby created the Governor's Council on Physical Fitness and Health in the Department of ~~Human Resources~~ Environment, Health, and Natural Resources. The Council shall have the following functions and duties:

(1) To promote interest in the area of physical fitness; to consider the need for new State programs in the field of physical fitness; to enlist the active support of individual citizens, professional and civic groups, amateur and professional athletes, voluntary organizations, State and local government agencies, private industry and business, and community recreation programs in efforts to improve the physical fitness and thereby the health of the citizens of North Carolina;

(2) To examine current programs of physical fitness available to the people of North Carolina, and to make recommendations to the Governor for coordination of programs to prevent duplication of such services; to support programs of physical fitness in the public school systems; to develop cooperative programs with medical, dental, and other groups; to maintain a liaison with government, private and other agencies concerning physical fitness programs; to stimulate research in the area of physical fitness; to sponsor physical fitness workshops,

clinics, conferences, and other related activities pertaining to physical fitness throughout the State;

(3) To serve as an agency for recognizing outstanding developments, contributions, and achievements in physical fitness in North Carolina; and

(4) The Council shall make an annual report to the Governor and to the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources, including therein suggestions and recommendations for the furtherance of the physical fitness of the people of North Carolina."

Sec. 188. G.S. 130A-33.41 reads as rewritten:

"§ ~~143B-216.9~~ **130A-33.41. The Governor's Council on Physical Fitness and Health – members; selection; quorum; compensation.**

The Governor's Council on Physical Fitness in the Department of ~~Human Resources~~ Environment, Health, and Natural Resources shall consist of 10 members, including a chairman.

(1) The composition of the Council shall be as follows: one member of the Senate appointed by the President of the Senate, and one member of the House of Representatives appointed by the Speaker of the House of Representatives, and eight persons from the health care professions, the fields of business and industry, physical education, recreation, sports and the general public. The eight nonlegislative members of the Council shall be appointed by the Governor to serve at his pleasure.

(2) The eight initial nonlegislative members of the Council shall be appointed thusly: two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years. At the end of the respective terms of office of these initial members, all succeeding appointments of nonlegislative members shall be for terms of four years; nonlegislative members shall serve no more than two consecutive four-year terms; all unexpired terms due to resignation, death, disability, removal or refusal to serve shall be filled by a qualified person appointed by the Governor for the balance of the unexpired term.

(3) Legislative members of the Council shall serve two-year terms beginning and ending on July 1 of odd-numbered years, and shall serve no more than two consecutive terms.

(4) Members of the Governor's Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 or 138-6, or travel and subsistence expenses under G.S. 120-3.1, as appropriate.

(5) The Council shall meet no more than quarterly.

(6) A majority of the Governor's Council shall constitute a quorum for the transaction of business."

Sec. 189. Part 27 of Article 3 of Chapter 143B of the General Statutes (G.S. 143B-216.10 through G.S. 143B-216.15) is recodified as Part 4A of Article 7 of Chapter 143B of the General Statutes (G.S. 143B-285.10 through G.S. 143B-285.15).

Sec. 190. G.S. 143B-285.10 reads as rewritten:

"**§ 143B-~~216.10~~ 285.10. Declaration of findings.**

(a) The General Assembly of North Carolina hereby finds and declares that the safe management of hazardous wastes and low-level radioactive wastes, and particularly the timely establishment of adequate facilities for the disposal and management of hazardous wastes and low-level radioactive wastes is one of the most urgent problems facing North Carolina. The safe management and disposal of these wastes are essential to continued economic growth and to protection of the public health and safety. When improperly handled, these wastes pose a threat to the water, land, and air resources of the State, as well as to the health and safety of its citizens. Consequently, cooperation and coordination among the private sector, the general public and State and local agencies to assure the prevention of unnecessary waste and the establishment of adequate treatment and disposal facilities are essential. The General Assembly further finds that cooperation and coordination among the private sector, the general public and State regulatory agencies will be advanced by the creation of a Governor's Waste Management Board.

(b) It is the intent of the General Assembly by enactment of the Waste Management Act of 1981 to prescribe a uniform system for the management of hazardous waste and low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste and low-level radioactive waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations or otherwise. To this end, all provisions of special, local or private acts or resolutions are repealed which:

(1) Prohibit the transportation, treatment, storage, or disposal of hazardous or low-level radioactive waste within any county, city, or other political subdivision;

(2) Prohibit the siting of a hazardous waste facility or a low-level radioactive waste facility within any county, city, or other political subdivision;

(3) Place any restriction or condition not placed by this ~~Part or by General Statutes Chapter 130, Article 13B or Chapter 104E~~ Part, Article 9 of Chapter 130A of the General Statutes, or Chapters 130B, 104E, or 104G of the General Statutes upon the transportation, treatment, storage or disposal of hazardous or low-level radioactive waste, or upon the siting of a hazardous waste facility or low-level radioactive waste facility within any county, city, or other political subdivision; or

(4) In any manner are in conflict or inconsistent with the provisions of this ~~Part or General Statutes Chapter 130, Article 13B or Chapter 104E.~~ Part, Article 9 of Chapter 130A of the General Statutes, or Chapters 130B, 104E, or 104G of the General Statutes. No special, local or

private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend or repeal any portion of the Waste Management Act of 1981 unless it expressly provides for such by specific references to the appropriate section of this Part. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities are invalidated which (i) prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility ~~or a hazardous waste landfill facility~~ approved ~~by the Governor~~ pursuant to G.S. ~~130-166.17B;~~ 130A-293; or (ii) prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility ~~or a low-level radioactive waste landfill facility approved by the Governor~~ approved pursuant to G.S. 104E-6.2.

(c) The General Assembly of North Carolina hereby finds and declares that prevention, recycling, detoxification, and reduction of hazardous wastes should be encouraged and promoted. These are alternatives which ultimately remove such wastes' hazards to human health and the environment. When these alternatives are not technologically feasible, retrievable above-ground storage is sometimes preferable to other means of disposal of some types of waste until appropriate methods for recycling or detoxification of the stored wastes are found. ~~Landfilling~~ Land disposal shall be used only when it is clearly appropriate. Hazardous waste ~~landfill~~ disposal facilities and polychlorinated biphenyl ~~landfill~~ disposal facilities shall be detoxified as soon as technology which is economically feasible is available and sufficient money is available without additional appropriation."

Sec. 191. G.S. 143-285.12(a) reads as rewritten:

"(a) There is hereby created the Governor's Waste Management Board to be located in the Department of ~~Human Resources~~ Environment, Health, and Natural Resources. The composition of the Board shall be as follows:

(1) ~~Five~~ Four members from State government: the Secretary or Commissioner of ~~Human Resources, Natural Resources and Community Development~~ Environment, Health, and Natural Resources, Commerce, Agriculture, and Crime Control and Public Safety. At the request of such Secretary or Commissioner, the Governor may appoint another official from the same department to serve in his stead.

(2) Nine members appointed by the Governor from the following categories: one from county government, one from municipal government, two from private industry, two from the field of higher education, research or technology, one who shall be a physician licensed to practice medicine, and two from the public at large interested in environmental matters.

(3) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives, and

one upon the recommendation of the President of the Senate in accordance with G.S. 120-121."

Sec. 192. G.S. 143B-285.14 reads as rewritten:

"**§ 143B-~~216.14~~ 285.14. Functions and powers of Department of ~~Human Resources~~ Environment, Health, and Natural Resources.**

(a) The Department of ~~Human Resources~~ Environment, Health, and Natural Resources is authorized:

(1) To enter upon any lands and structures upon lands to make surveys, borings, soundings and examinations as may be necessary to determine the suitability of a site for a hazardous waste facility, hazardous waste ~~landfill~~ disposal facility, low-level radioactive waste facility or low-level radioactive ~~landfill~~ disposal facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided however that the Department shall make reimbursement for any damage to such land or structures caused by such activities;

(2) To provide necessary clerical, technical, and administrative assistance to the Board, and to employ the necessary personnel for the accomplishment of the purposes of this Part.

(3) To enforce any rules adopted by the Board pursuant to this Part in the manner provided for by G.S. 130A-22(a) and 104E-24.

(b) The provisions of subdivision (1) of subsection (a) of this section shall also apply to the North Carolina Hazardous Waste Management Commission and the North Carolina Low-Level Radioactive Waste Management Authority."

Sec. 193. G.S. 143B-290 reads as rewritten:

"**§ 143B-290. North Carolina Mining Commission – creation; powers and duties.**

There is hereby created the North Carolina Mining Commission of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources with the power and duty to promulgate rules ~~and regulations~~ for the enhancement of the mining resources of the State.

(1) The North Carolina Mining Commission shall have the following powers and duties:

a. To act as the advisory body to the Interstate Mining Compact pursuant to G.S. 74-38(a);

b. To adopt and modify rules ~~and regulations~~ to implement Chapter 74, Article 6, pursuant to G.S. 74-44(b);

c. To hear permit appeals, conduct a full and complete hearing on such controversies and affirm, modify, or overrule permit decisions made by the Department pursuant to G.S. 74-61; and

d. To promulgate rules ~~and regulations~~ necessary to administer the Mining Act of 1971, pursuant to G.S. 74-63;

e. To promulgate rules ~~and regulations~~ necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983, pursuant to G.S. 74-86.

(2) The Commission is authorized ~~and empowered~~ to make such ~~rules and regulations,~~ rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3) The Commission shall make such rules ~~and regulations,~~ consistent with the provisions of this Chapter. All rules ~~and regulations~~ adopted by the Commission shall be enforced by the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources."

Sec. 194. G.S. 143B-294 reads as rewritten:

"**§ 143B-294. Soil and Water Conservation Commission – creation; powers and duties.**

There is hereby created the Soil and Water Conservation Commission of the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources with the power and duty to adopt rules ~~and regulations~~ to be followed in the development and implementation of a soil and water conservation program.

(1) The Soil and Water Conservation Commission has the following powers and duties:

a. To approve petitions for soil conservation districts;

b. To approve application for watershed plans; and

c. Such other duties as specified in Chapter 139.

(2) The Commission shall adopt rules ~~and regulations~~ consistent with the provisions of this Chapter. All rules ~~and regulations~~ not inconsistent with the provisions of this Chapter heretofore adopted by the Soil and Water Conservation Committee shall remain in full force and effect unless and until repealed or superseded by action of the Soil and Water Conservation Commission. All rules ~~and regulations~~ adopted by the Commission shall be enforced by the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources."

Sec. 195. G.S. 143B-300 reads as rewritten:

"**§ 143B-300. Wastewater Treatment Plant Operators Certification Commission – creation; powers and duties.**

(a) There is hereby created the Wastewater Treatment Plant Operators Certification Commission ~~of~~ to be located in the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources. ~~with the power and duty to~~ The Commission shall adopt rules ~~and regulations~~ with respect to the

certification of wastewater treatment plant operators as provided by Article 3 of Chapter 90A of the General Statutes of North Carolina.

(b) The Commission ~~is authorized and empowered to~~ shall adopt such ~~rules and regulations,~~ rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for programs concerned with the certification of wastewater treatment plant operators which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid."

Sec. 196. G.S. 143B-301 reads as rewritten:

"**§ 143B-301. Wastewater Treatment Plant Operators Certification Commission – members; selection; removal; compensation; quorum; services.**

(a) The Wastewater Treatment Plant Operators Certification Commission ~~of the Department of Natural Resources and Community Development~~ shall consist of seven members appointed by the Secretary of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources with the approval of the Environmental Management Commission with the following qualifications:

(1) Two members shall be currently employed as wastewater treatment plant operators, wastewater plant superintendents, water and sewer superintendents, or equivalent positions with a North Carolina municipality;

(2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;

(3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;

(4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;

(5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment; and

(6) One member who is employed by the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources and works in the field of water pollution control, who shall serve as ~~chairman of the Certification~~ Chairman of the Commission.

(b) The initial members of the Commission shall be the members of the Wastewater Treatment Plant Operators Board of Certification who shall serve for a period equal to the remainder of their current terms on the Wastewater Treatment Plant Operators Board of Certification. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms of three years and until their successors are appointed and qualify.

(c) The chairman of the Wastewater Treatment Plant Operators Certification Commission shall serve at the pleasure of the Secretary of ~~Natural Resources and Community Development.~~ Environment, Health, and Natural Resources.

(d) 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.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. ~~143B-13 of the Executive Organization Act of 1973.~~ 143B-13.

(f) 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 and G.S. ~~143B-15 of the Executive Organization Act of 1973.~~ 143B-15.

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

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of the ~~Department.~~ Department of Environment, Health, and Natural Resources."

Sec. 197. Section 10 of Chapter 372 of the 1989 Session Laws is rewritten to read:

"Sec. 10. G.S. 143B-301 reads as rewritten:

'§ 143B-301. Wastewater Treatment Plant Operators Certification Commission – members; selection; removal; compensation; quorum; services.

(a) The Wastewater Treatment Plant Operators Certification Commission shall consist of ~~seven~~ nine members appointed by the Secretary of Environment, Health, and Natural Resources with the approval of the Environmental Management Commission with the following qualifications:

(1) Two members shall be currently employed as wastewater treatment plant operators, wastewater plant superintendents, water and sewer superintendents, or equivalent positions with a North Carolina municipality;

(2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;

(3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;

(4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;

(5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment;

(6) One member who is employed by the Department of Environment, Health, and Natural Resources and works in the field of water

pollution control, who shall serve as Chairman of the ~~Commission.~~ Commission; and

(7) Two members shall be currently employed as sanitary sewage system operators, wastewater collection system superintendents, water and sewer department directors, or equivalent positions with a North Carolina municipality.

(b) The initial members of the Commission shall be the members of the Wastewater Treatment Plant Operators Board of Certification who shall serve for a period equal to the remainder of their current terms on the Wastewater Treatment Plant Operators Board of Certification. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms of three years and until their successors are appointed and qualify.

(c) The chairman of the Wastewater Treatment Plant Operators Certification Commission shall serve at the pleasure of the Secretary of Environment, Health, and Natural Resources.

(d) 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.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

(f) 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 and G.S. 143B-15.

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

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Environment, Health, and Natural Resources.'"

Sec. 198. G.S. 143B-390(a) reads as rewritten:

"(a) The Council shall consist of 28 members appointed as follows:

(1) Eighteen members shall be appointed by the Governor from the public and private academic and scientific institutions in the State and from the various industries and professions in the State concerned with the exploration and use of the ocean and marine resources. These members shall serve four-year terms. The terms shall be staggered so that nine terms begin July 1 of each odd-numbered year.

(2) Three at-large members shall be appointed by the Governor. These members shall serve four-year terms. The terms shall be staggered so that one term begins July 1, 1987, and two terms begin July 1, 1989.

(3) Three members shall be the chairpersons of the North Carolina Marine Resources Centers' local advisory committees. These members shall serve during their tenures as chairmen.

(4) One member representing the Department of Commerce in the area of ports and waterways shall be appointed by and serve at the pleasure of the Secretary of the Department of Commerce.

(5) Two members representing the Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources in the area of coastal resources and environmental protection shall be appointed by and serve at the pleasure of the Secretary of ~~the Department of Natural Resources and Community Development.~~ Environment, Health, and Natural Resources.

(6) ~~One member representing the Department of Human Resources in the area of health services shall be appointed by and serve at the pleasure of the Secretary of the Department of Human Resources.~~ The State Health Director or his designee."

Sec. 199. Part 11 of Article 7 of Chapter 143B of the General Statutes (G.S. 143B-305 through G.S. 143B-307) is recodified as Part 2A of Article 10 of Chapter 143B of the General Statutes (G.S. 143B-437.1 through G.S. 143B-437.3).

Sec. 200. G.S. 143B-437.1 reads as rewritten:

"**§ 143B-~~305.~~ 437.1. Community Development Council – creation; powers and duties.**

There is hereby created the Community Development Council ~~of the Department of Natural Resources and Community Development.~~ to be located in the Department of Commerce. The Community Development Council shall have the following functions and duties:

(1) To advise the Secretary of ~~Natural Resources and Community Development~~ Commerce with respect to promoting and assisting in the orderly development of North Carolina counties and communities.

(2) To advise the Secretary of ~~Natural Resources and Community Development~~ Commerce with respect to the type and effectiveness of planning and management services provided to local government.

(3), (4) Repealed by Session Laws 1977, c. 198, s. 13.

(5) The Council shall consider and advise the Secretary of ~~Natural Resources and Community Development~~ Commerce upon any matter the Secretary may refer to it."

Sec. 201. G.S. 143B-437.2 reads as rewritten:

"**§ 143B-~~306.~~ 437.2. Community Development Council – members; chairman; selection; removal; compensation; quorum; services.**

(a) The Community Development Council ~~of the Department of Natural Resources and Community Development~~ shall consist of 11 members appointed by the Governor. The composition of the Council shall be as follows: one member who shall be a local government official, one member who shall be the Executive Secretary of the League of Municipalities, one member who shall be the Executive Secretary of the County Commissioners Association, one member who shall represent industry, one member who shall represent labor, and six members at large.

(b) The Governor shall designate one member of the Council to serve as ~~chairman~~ Chairman at the pleasure of the Governor.

(c) The initial members of the Council other than those members serving in an ex officio capacity shall be appointed to serve for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the Council shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Council shall be supplied by the Secretary of ~~Natural Resources and Community Development.~~ Commerce."

Sec. 202. Part 27 of Article 7 of Chapter 143B of the General Statutes (G.S. 143B-344.11 through G.S. 143B-344.15) is recodified as Part 3A of Article 10 of Chapter 143B of the General Statutes (G.S. 143B-438.1 through G.S. 143B-438.5).

Sec. 203. G.S. 143B-438.4 reads as rewritten:

"**§ 143B-~~344.14.~~ 438.4. Coordinating Council.**

(a) The State Job Training Coordinating Council is established within the Department of ~~Natural Resources and Community Development~~ Commerce.

(b) Operating funds and staff for the Council shall be supported with funds from the Job Training Partnership Act.

(c) Adequate office space shall be provided by the Department of ~~Natural Resources and Community Development~~ Commerce.

(d) The initial staffing level of the Council and the level of funding support required shall be determined by the Secretary of ~~Natural Resources and Community Development~~ Commerce. However, the initial staffing level shall not exceed 10 personnel as may be necessary to carry out its functions under this Part and the Job Training Partnership Act.

(e) Duties and responsibilities of the Council include but shall not be limited to the following:

(1) Overseeing the meeting of the State's goals for employment and training.

(2) Continuously reviewing the plans and programs of agencies operating federally funded programs related to employment and training and of other agencies providing employment and training-related services in the State that may be funded with State funds.

(3) Conducting studies, preparing reports and analyses, including an annual published report to the Governor and General Assembly, and providing such advisory services as may be authorized or directed by the Governor.

(4) Recommending the allocation of Job Training Partnership Act funds not subject to the seventy-eight percent (78%) that flows directly to service delivery areas.

(5) Recommending program goals to insure job training for unskilled youth and adults is a matter of the highest priority and encouraging Service Delivery Areas (SDA's) to reflect these goals in their SDA plans.

(6) Developing a long term tracking system to measure the effectiveness of the Job Training Partnership Act with respect to permanent job placements. Such a tracking system shall not be less than one year and shall be implemented by July 1, 1986.

(7) Insuring compliance with the provisions of Sections 122(b)(7)A and B and 122(b)(8) of the Job Training Partnership Act no later than May 30 of every year, requiring the following:

a. Identification of employment and training and vocational education needs throughout the State;

b. Assessing the extent to which existing programs are meeting these needs.

c. Repealed by Session Laws 1985, c. 791, s. 26.1(b), effective July 1, 1985.

(8) Annually measuring the increase in employment and earnings and the reductions in welfare dependency by SDA resulting from participating in the Job Training Partnership Act program and reporting those findings to the Governor and General Assembly.

(9) Annually reporting to the Governor and General Assembly on funds expended by each SDA for job training services and the reason service providers were chosen.

(10) Providing management guidance and review of all State administered employment and training programs and encouraging compliance by the SDA's with the goals and purposes outlined by the General Assembly, the Governor, and the State Council.

(11) Insuring that service delivery area plans are submitted to the General Assembly within 30 days after received by the Council as prescribed in Section 105(a)(1)A and B of Public Law 97-300.

(12) Obtaining other information from recipients of Job Training Partnership Act funds, as requested by the Governor and General Assembly.

(f) The State Job Training Coordinating Council:

(1) Shall be appointed by the Governor in a manner consistent with Section 122 of Public Law 97-300.

(2) Shall meet at the call of the chairman. A majority of the Council shall constitute a quorum for the transaction of business. Members shall receive per diem and necessary travel and subsistence expenses in

accordance with the provisions of G.S. 138-5, 138-6 or 120-3.1, as the case may be.

(3) The Council shall have a standing Committee to be known as the Job Training Interagency Committee. The members of the committee shall be the ~~Secretaries of Natural Resources and Community Development and~~ Secretary of Commerce, the President of the Department of Community Colleges, the Commissioner of Labor, and the Superintendent of Public Instruction or their designees. This committee shall jointly develop and implement a plan to integrate the Job Training Partnership Act program and participants into the economic development efforts of the State. Such a plan shall make maximum use of customized training and on-the-job training efforts of existing, new, or expanding businesses. This plan shall be developed and implemented no later than February 1, 1986. A copy of the plan shall be submitted to the President of the North Carolina Senate and the Speaker of the North Carolina House of Representatives no later than December 15, 1985. In addition, the Joint Legislative Commission on Governmental Operations shall review the plan prior to implementation and offer suggested changes.

(4) The Council may create such committees as may be necessary to the proper conduct of its business. The Governor may establish such additional advisory bodies, in accordance with existing law, related to employment and training as may be necessary and appropriate to the conduct of federally-supported employment and training-related programs."

Sec. 204. G.S. 153A-225(b) reads as rewritten:

"(b) If a prisoner in a local confinement facility dies, the medical examiner and the coroner shall be notified immediately. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources. The report shall be made on forms ~~provided by the [State Board of Health, and the Board of Health] shall develop and distribute these forms~~ developed and distributed by the Department of Environment, Health, and Natural Resources."

Sec. 205. G.S. 153A-226(b) reads as rewritten:

"(b) The ~~[Commission for Health Services]~~ Commission for Health Services shall prepare a score sheet to be used by sanitarians of local or district health departments in inspecting local confinement facilities. The sanitarians shall inspect local confinement facilities as often as may be required by the Commission for Health Services. If an inspector of the Department finds conditions that reflect hazards or deficiencies in the sanitation or food service of a local confinement facility, he shall immediately notify the local or district health department. The health department shall promptly cause a sanitarian to inspect the facility. After making his inspection, the sanitarian shall forward a copy of his report to the Department of Human Resources and to the unit operating the facility, on forms prepared by the ~~[Department].~~ Department of

Environment, Health, and Natural Resources. The report shall indicate whether the facility and its kitchen or other place for preparing food is approved or disapproved for public health purposes. If the facility is disapproved, the situation shall be rectified according to the procedures of G.S. 153A-223."

Sec. 206. G.S. 159G-3 reads as rewritten:

"**§ 159G-3. Definitions.**

As used in this Chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

(1) 'Administrative Account' means the Administrative Account in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under the provisions of this Chapter to cover administrative costs of the program.

(2) 'Applicant' means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter.

(3) 'Clean Water Revolving Loan and Grant Fund' means the fund established in the Office of State Budget and Management to carry out the provisions of this Chapter, with various accounts therein as herein provided.

(4) 'Construction costs' means the actual costs of planning, designing and constructing any project for which a revolving loan or grant is made under this Chapter including planning; environmental assessment; wastewater system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. Construction costs may include excess or reserve capacity costs, attributable to no more than 20-year projected domestic growth, plus ten percent (10%) unspecified industrial growth. In addition, construction costs shall include any fees payable to the Environmental Management Commission or the ~~Division of Health Services~~ Division of Environmental Health for review of applications and grant of permits, and fees for inspections under G.S. ~~159G-314 [159G-14].~~ 159G-14. Construction costs may also include the costs for purchase or acquisition of real property.

(5) 'Grant' means a sum of money given by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, without any obligation on the part of such unit to repay such sum.

(6) 'Commission for Health Services' means the Commission for Health Services of the Department of ~~Human Resources.~~ Environment, Health, and Natural Resources.

(6a) 'Debt instrument' means an instrument in the nature of a promissory note executed by a local government unit under the provisions of this Chapter, to evidence a debt to the State and obligation to repay the principal, plus interest, under stated terms.

(7) ~~'Division of Health Services' means the Division of Health Services of the Department of Human Resources.~~ 'Division of Environmental Health' means the Division of Environmental Health of the Department of Environment, Health, and Natural Resources.

(8) 'Environmental Management Commission' means the Environmental Management Commission of the ~~Department of Natural Resources and Community Development created by Article 7, Part 4 of Chapter 143B of the General Statutes.~~ Department of Environment, Health, and Natural Resources.

(9) 'Local Government Commission' means the Local Government Commission of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the General Statutes.

(10) 'Local government unit' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority or joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.

(11) 'Office of State Budget and Management' means the Office of State Budget and Management established by law.

(12) 'Receiving agency' means the ~~Division of Health Services~~ Division of Environmental Health with respect to receipt of applications for revolving loans and grants for water supply systems, and the Environmental Management Commission and the Division of Environmental Management with respect to receipt of applications for revolving loans and grants for wastewater systems.

(13) 'Revolving construction loan' means a sum of money loaned by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, with an obligation on the part of such unit to repay such sum, the proceeds of such repayment to be deposited in the Water Pollution Control Revolving Fund.

(14) 'Revolving emergency loan' means a sum of money loaned by the State to a local government unit upon a certification, as provided in this Chapter, of a serious public health hazard, with an obligation on the part of such unit to repay such sum.

(15) 'Revolving loan' includes a revolving construction loan and an emergency loan.

(15a) 'State' means the State of North Carolina.

(15b) 'State Treasurer' means the Treasurer of the State elected pursuant to Article III, Section 7 of the Constitution or his designated representative.

(16) 'Wastewater Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under this Chapter for revolving loans and grants for wastewater treatment work and wastewater collection system projects.

(17) 'Wastewater collection system' means a unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit.

(18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.

(19) 'Water Supply Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under this Chapter for revolving loans and grants for water supply system projects.

(20) 'Water supply system' means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Sec. 207. G.S. 159G-6 reads as rewritten:

"**§ 159G-6. Distribution of funds.**

(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit

during any fiscal year shall be three million dollars ($3,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be five hundred thousand dollars ($500,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Office of State Budget and Management to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. – The sums allocated in G.S. ~~159G-304 [G.S. 159G-4]~~ 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Office of the State Budget and Management shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

(1) General Wastewater Revolving Loan and Grant Account. – The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.

(2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the county in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subsection (a)(2) of this section.

(3) Emergency Wastewater Revolving Loan Account. – The funds in the Emergency Wastewater Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community.

(c) Water Supply Accounts. – The sums allocated in G.S. ~~159G-304 [G.S. 159G-4]~~ 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to local government units as provided below. The Office of State Budget and Management shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the ~~Division of Health Services.~~ Division of Environmental Health.

(1) General Water Supply Revolving Loan and Grant Account. – The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.

(2) High-Unit Cost Water Supply Account. – The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. ~~159G-306(b)(2) [G.S. 159G-6(b)(2)]~~ 159G-6(b)(2) for high-unit cost wastewater projects.

(3) Emergency Water Supply Revolving Loan Account. – The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the ~~Division of Health Services~~ Division of Environmental Health certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

(d) Administrative Account. – The Office of State Budget and Management, from time to time, may allocate funds from the Administrative Account to meet the expenses of the Office of State Budget and Management, Local Government Commission, ~~Division of Health Services~~ Division of Environmental Health and Environmental Management Commission incurred in the administration of this Chapter in excess of normal operating expenses.

Each agency entitled to receive administrative expense funds from the Administrative Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the ~~Division of Health Services,~~ Division of Environmental Health, the Local Government Commission and the Environmental Management Commission shall deliver their estimates to the Office of State Budget and Management at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Office of State Budget and Management shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the ~~Division of Health Services,~~ Division of Environmental Health, the Local Government Commission and of the Environmental Management Commission and its own estimate, if any, to the Advisory Budget Commission at least 30 days prior to the beginning of the fiscal year for which the funds are required. Any administrative expense funds shall be disbursed by the Office of State Budget and Management to the appropriate agency. If the administrative expense funds disbursed to any agency shall prove insufficient, it may apply at any time during the fiscal year for additional funds in the manner above provided.

(e) Notwithstanding any other provision of this Chapter, funds in the Water Pollution Control Revolving Fund shall not be available as grants except to the extent permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations thereunder."

Sec. 208. G.S. 159G-8 reads as rewritten:

"**§ 159G-8. Application; environmental assessment; notice; hearing.**

(a) Application. – All applications for revolving loans and grants for water supply systems shall be filed with the ~~Division of Health Services~~ Division of Environmental Health and all applications for revolving loans and grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. Every applicant shall also file with the Office of State Budget and Management such information concerning the application as the Office of State Budget and Management may require by rules ~~or regulations~~ adopted pursuant to this Chapter. Any application may be filed in as many categories as it is eligible for consideration under this Chapter. Applications for revolving construction loans or grants for wastewater treatment works and wastewater collection systems, except applications for emergency wastewater loans, shall first be submitted for a loan or grant from the Water Pollution Control Revolving Fund established by G.S. ~~159G-305(c) [G.S. 159G-5(c)].~~ 159G-5(c). If the application is denied, the application shall then be considered for a revolving loan or a grant from the General Wastewater Revolving Loan and Grant account established under ~~159G-306(b)(1) [G.S. 159G-6(b)(1)].~~ G.S. 159-6(b)(1).

The Office of State Budget and Management, the ~~Division of Health Services~~ Division of Environmental Health and the Environmental Management Commission may develop jointly and adopt a standard form of application under this Chapter. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for revolving construction loans or grants under G.S. ~~159G-305(c) [G.S. 159G-5(c)]~~ 159G-5(c) and G.S. ~~159G-306(b)(1) [G.S. 159G-6(b)(1)].~~ 159G-6(b)(1). The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this Chapter.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency.

(b) Environmental Assessment. – Every applicant shall file with its application an assessment setting forth the impact that the project for which funds are sought will have upon the environment of the area within which the project is proposed to be located. The assessment shall set forth the impact of the project upon water resources, other natural resources, land use pattern, and such other factors as the Commission for Health Services or the Environmental Management Commission shall require by duly adopted ~~rules and regulations.~~ rules. Any environmental assessment required as part of an application for grants under the Federal Water Pollution Control Act shall satisfy the requirement of this provision. If, after reviewing the environmental assessment, the ~~Division of Health Services~~ Division of Environmental Health or the Environmental Management Commission concludes that an environmental impact statement is

required, then the application shall receive no further consideration until a final environmental impact statement has been completed and approved as provided in Article 1 of Chapter 113A of the General Statutes.

(c) Hearing. – A public hearing may be held by the receiving agency at any time on any application filed pursuant to G.S. ~~159G-305(c) [G.S. 159G-5(c)], 159G-306(b) [G.S. 159G-6(b)] or 159G-306(c) [G.S. 159G-6(c)]~~ 159G-5(c), 159G-6(b), or 159G-6(c) in accordance with the provisions of this subsection. A public hearing may be held by the receiving agency upon written request from any citizen or taxpayer who is a resident of the county or counties in which the project is proposed to be located if it appears that the public interest will be served by this hearing. The written request shall set forth each objection to the proposed project or other reason for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency may consider all written objections to the proposed project and other statements along with the application, including any significant adverse effects that the proposed project may have on the environment, and shall determine if the public interest will be served by a hearing. The determination by the receiving agency shall be conclusive; but all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application, whether or not the request is granted."

Sec. 209. G.S. 159G-14 reads as rewritten:

"**§ 159G-14. Inspection.**

Inspection of a project for which a revolving loan or grant has been made under this Chapter may be performed by qualified personnel of the ~~Division of Health Services~~ Division of Environmental Health or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the ~~Division of Health Services~~ Division of Environmental Health or the Environmental Management Commission; but no person shall be approved to perform inspections who is an officer or employee of the unit of government to which the revolving loan or grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the revolving loan or grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term 'construction cost' as used in this Chapter."

Sec. 210. G.S. 159G-17 reads as rewritten:

"**§ 159G-17. Annual reports to Joint Legislative Commission on Governmental Operations.**

(a) The Office of State Budget and Management, the ~~Division of Health Services~~ Division of Environmental Health and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of revolving loans and grants authorized by this Chapter.

(b) Office of State Budget and Management. – The portion of the report prepared by the Office of State Budget and Management shall set forth for the preceding fiscal year itemized and total allocations from the Administrative Account for administrative expenses; itemized and total allocations from the Wastewater Accounts of revolving

loans and grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Accounts of revolving loans and grants authorized by the ~~Division of Health Services.~~ Division of Environmental Health. The Office of State Budget and Management shall also prepare a summary report of all allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal year; the total funds received and allocations made; and unallocated funds on hand in each account as of the end of the preceding fiscal year.

(c) Environmental Management Commission and ~~Division of Health Services.~~ Division of Environmental Health. – The portions of the report prepared by the Environmental Management Commission and the ~~Division of Health Services~~ Division of Environmental Health shall include:

(1) Identification of each revolving loan and grant made by the receiving agency during the preceding fiscal year; the total amount of the revolving loan and grant commitments; the sums actually paid during the preceding fiscal year to each revolving loan and grant made and to each revolving loan and grant previously committed but unpaid; and the total revolving loan and grant funds paid during the preceding fiscal year.

(2) Itemization of expenditures of any administrative expense funds allocated from the Administrative Account during the preceding fiscal year.

(3) Summarization for all preceding years of the total number of revolving loans and grants made; the total funds committed to such revolving loans and grants; the total sum actually paid to such revolving loans and grants and the total expenditure of administrative expense funds allocated from the Administrative Account.

(4) Assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this Chapter and with relation to the total water pollution control and water supply problem.

(d) The report shall be signed by each of the chief executive officers of the State agencies preparing the report."

Sec. 211. G.S. 161-14.3(a) as enacted by Section 1 of Chapter 633 of the 1989 Session Laws reads as rewritten:

"(a) The board of county commissioners may by resolution establish one or more satellite offices of the register of deeds at locations in the county other than the seat of government. Before a satellite office is established, the register of deeds shall certify to the board of county commissioners that the recording and indexing procedures to be used in the satellite office comply in all respects with the law and have been approved by the ~~North Carolina Department of Natural Resources and Community Development, Land Records Management Program, Land Resources Division.~~ Land Resources Division of the Department of Environment, Health, and Natural Resources. The register of deeds also will certify that all instruments presented for registration and other

documents presented for recording will be registered or recorded in the order in which they are presented, regardless of the location where they are presented."

Sec. 212. G.S. 162A-23(b) reads as rewritten:

"(b) Responsibility for carrying out the role of State government in regional water supply planning shall be assigned to the Department of ~~Human Resources and the Department of Water and Air Resources [Department of Natural Resources and Community Development].~~ Environment, Health, and Natural Resources. ~~Promotion and coordination of regional water supply systems shall be a shared function of the Department of Water and Air Resources [Department of Natural Resources and Community Development] and the Department of Human Resources, with primary responsibility with regard to sources of raw water supply and transbasin or transwatershed diversions of water being allocated to the Department of Water and Air Resources [Department of Natural Resources and Community Development], and with primary responsibility with regard to other aspects of regional water supply systems being allocated to the Department of Human Resources.~~"

Sec. 213. G.S. 162A-24(a) reads as rewritten:

"(a) There is established under the control and direction of the Department of Administration a Regional Water Supply Planning Revolving Fund, to consist of any moneys that may be appropriated for use through the fund by the General Assembly or that may be made available to it from any other source. The Department may make advances from the fund to any county, municipality, sanitary district, or to counties and municipalities acting collectively or jointly as a regional water authority, for the purpose of meeting the cost of advance planning and engineering work necessary or desirable for the development of a comprehensive plan for a regional water supply system as defined in this Article. Such advances shall be subject to repayment by the recipient to the Department from the proceeds of bonds or other obligations for the regional water supply system, or from other funds available to the recipient including grants, except when, in the judgment of the Department of ~~Human Resources and of the Department of Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources, a proposed plan for development and construction of a countywide or other regional water system is not feasible because of design and construction factors or because available sources of raw water supply are inadequate or because construction of a proposed system is not economically feasible, (but not if the applicant decides not to proceed with construction that has been planned and which the Department of ~~Human Resources and the Department of Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources have declared to be feasible)."

Sec. 214. G.S. 162A-24(b) reads as rewritten:

"(b) The Department of Administration shall not make any advance pursuant to this section without first referring the application and proposal to the Department of ~~Human Resources, the State agency responsible for public water supplies,~~ Environment, Health, and Natural Resources for determination as to whether the following conditions ~~set forth below~~ have been ~~met.~~ met: ~~In making such determinations, the Department of~~

~~Human Resources shall obtain and be guided by the recommendations of the Department of Water and Air Resources [Department of Natural Resources and Community Development] on matters for which that Department has responsibility by law:~~

(1) The proposed area is suitable for development of a regional water supply system from the standpoint of present and projected populations, industrial growth potential, and present and future sources of raw water.

(2) The applicant proposes to undertake long-range comprehensive planning to meet present and projected needs for high quality water service through the construction of a regional water supply system as defined in this Article. The determination by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources that the proposed system would be a 'regional system,' as defined by this Article, shall be conclusive.

(3) The applicant proposes to coordinate planning of the regional water supply with land-use planning in the area, in order that both planning efforts will be compatible.

(4) The applicant proposes to employ an engineer licensed to practice in the State of North Carolina to prepare a comprehensive regional water supply plan, which plan will provide detailed information on source or sources of water to meet projected domestic and industrial water demands; proposed system, including raw water intake(s), treatment plant, storage facilities, distribution system, and other waterworks appurtenances; proposed interconnections with existing systems, and provisions for interconnections with other county, municipal and regional systems; phased development of systems to achieve ultimate objectives if economic feasibility is in question; projected water service areas; proposed equipment; estimates of cost and projected revenues; and methods of financing."

Sec. 215. G.S. 162A-25 reads as rewritten:

"**§ 162A-25. Construction of Article.**

This Article shall be construed as providing supplemental authority in addition to the powers of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources under ~~General Statutes Chapter 130,~~ Chapter 130A and Articles 21 and 38 of Chapter 143 of the General Statutes, the powers of the North Carolina Utilities Commission under ~~General Statutes Chapter 62,~~ Chapter 62 of the General Statutes, ~~and the powers of the Department of Water and Air Resources [Department of Natural Resources and Community Development] under Articles 21 and 38 of General Statutes Chapter 143,~~ and any other provisions of law concerning local and regional water supplies."

Sec. 216. G.S. 162A-29(a) reads as rewritten:

"(a) There is established under the control and direction of the Department of Administration a Regional Sewage Disposal Planning Revolving Fund, to consist of any

moneys that may be appropriated for use through the fund by the General Assembly or that may be made available to it from any other source. The Department may make advances from the fund to any county, municipality, or sanitary district, or to counties and municipalities acting collectively or jointly as a regional sewer authority, for the purpose of meeting the cost of advance planning and engineering work necessary or desirable for the development of a comprehensive plan for a regional sewage disposal system as defined in this Article. Such advances shall be subject to repayment by the recipient to the Department from the proceeds of bonds or other obligations for the regional sewage disposal system, or from other funds available to the recipient including grants, except when, in the judgment of the Department of ~~Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources, a proposed plan for development and construction of a countywide or other regional sewage disposal system is not feasible because of design and construction factors, or because of the effect that the sewage disposal system discharge will have upon water quality standards, or because construction of a proposed system is not economically feasible, (but not if the applicant decides not to proceed with construction that has been planned and which the Department of ~~Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources has declared to be feasible)."

Sec. 217. G.S. 162A-29(b) reads as rewritten:

"(b) The Department of Administration shall not make any advance pursuant to this section without first referring the application and proposal to the ~~State Department of Water and Air Resources [Department of Natural Resources and Community Development],~~ Department of Environment, Health, and Natural Resources ~~the State agency responsible for water pollution control,~~ for determination as to whether the following conditions ~~set forth below~~ have been met:

(1) The proposed area is suitable for development of a regional sewage disposal system from the standpoint of present and projected populations, industrial growth potential, and present and future sources of sewage.

(2) The applicant proposes to undertake long-range comprehensive planning to meet present and projected needs for high quality sewage disposal through the construction of a regional sewage disposal system as defined in this Article. The determination by the Department of ~~Water and Air Resources [Department of Natural Resources and Community Development]~~ Environment, Health, and Natural Resources, that the proposed system would be a 'regional system,' as defined by this Article, shall be conclusive.

(3) The applicant proposes to coordinate planning of the regional sewage disposal system with land-use planning in the area, in order that both planning efforts will be compatible.

(4) The applicant proposes to employ an engineer licensed to practice in the State of North Carolina to prepare a comprehensive regional

sewage disposal plan, which plan will provide detailed information on the source or sources of sewage; the proposed system, including all facilities and appurtenances thereto for the collection, transmission, treatment, purification and disposal of sewage; any proposed interconnection with existing systems, and provisions for interconnections with other county, municipal and regional systems; the phased development of systems to achieve ultimate objectives if economic feasiblility is in question; projected sewage disposal service areas; proposed equipment; estimates of cost and projected revenues; and methods of financing."

Sec. 218. The phrase "Natural Resources and Community Development" is deleted and replaced by the phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the following sections of the General Statutes:

(1) G.S. 7A-343.1. Distribution of copies of the appellate division reports.
(2) G.S. 14-131. Trespass on land under option by the federal government.
(3) G.S. 14-137. Willfully or negligently setting fire to woods and fields.
(4) G.S. 15A-1343. Conditions of probation.
(5) G.S. 20-81. Official license plates.
(6) G.S. 47-30. Plats and subdivisions; mapping requirements.
(7) G.S. 53A-2. Incorporation authorized; information to be set forth; purposes; powers generally.
(8) G.S. 58-27.30. State Fire Commission created; membership.
(9) G.S. 66-58. Sale of merchandise by governmental units.
(10) G.S. 68-43. Authority of Secretary of Natural Resources and Community Development to remove or confine ponies on Ocracoke Island and Shackelford Banks.
(11) G.S. 69-25.5. Methods of providing fire protection.
(12) G.S. 74-38. Commission to file copies of bylaws with Department of Natural Resources and Community Development.
(13) G.S. 74-49. Definitions.
(14) G.S. 74-53. Reclamation plan.
(15) G.S. 74-76. Definitions.
(16) G.S. 75A-5.1. Commercial fishing boats; renewal of number.
(17) G.S. 75A-17. Enforcement of Chapter.
(18) G.S. 76-40. Navigable waters; certain practices regulated.
(19) G.S. 77-13. Obstructing streams a misdemeanor.
(20) G.S. 77-14. Obstructions in streams and drainage ditches.
(21) G.S. 87-85. Definitions.
(22) G.S. 87-94. Civil penalties.
(23) G.S. 90A-37. Classification of wastewater treatment facilities.
(24) G.S. 90A-38. Grades of certificates.

(25) G.S. 90A-39. Operator qualifications and examination.
(26) G.S. 90A-43. Promotion of training and other powers.
(27) G.S. 100-2. Approval of memorials before acceptance by State; regulation of existing memorials, etc.; "work of art" defined; highway markers.
(28) G.S. 100-11. Duties.
(29) G.S. 100-12. Roads, trails, and fences authorized; protection of property.
(33) G.S. 102-1.1. Name and description in relation to 1983 North American Datum.
(34) G.S. 102-8. Administrative agency.
(35) G.S. 102-10. Prior work.
(36) G.S. 102-15. Improvement of land records.
(37) G.S. 102-17. County projects eligible for assistance.
(38) G.S. 104G-22. Inter-Agency Committee.
(39) G.S. 105-122. Franchise or privilege tax on domestic and foreign corporations.
(40) G.S. 105-130.10. Amortization of air-cleaning devices, waste treatment facilities and recycling facilities.
(41) G.S. 105-130.34. Credit for certain real property donations.
(42) G.S. 105-147. Deductions.
(43) G.S. 105-151.12. Credit for certain real property donations.
(44) G.S. 105-277.7. Use-Value Advisory Board.
(45) G.S. 106-202.14. Creation of Board; membership; terms; chairman; quorum; board actions; compensation.
(46) G.S. 106-202.17. Creation of committee; membership; terms; chairman; meetings; committee action; quorum; compensation.
(47) G.S. 113-1. Meaning of terms.
(48) G.S. 113-28.4. Oaths required.
(49) G.S. 113-44.4. Definitions.
(50) G.S. 113-44.9. Definitions.
(51) G.S. 113-60.14. Compact Administrator; North Carolina members of advisory committee.
(52) G.S. 113-60.15. Agreements with noncompact states.
(53) G.S. 113-60.22. Definition.
(54) G.S. 113-60.32. Definitions.
(55) G.S. 113-60.33. Standby duty.
(56) G.S. 113-77.6. (Expires June 30, 1989) Definitions.
(57) G.S. 113-128. Definitions relating to agencies and their powers.
(58) G.S. 113-129.2. Coastal Reserve Program.
(59) G.S. 113-389. Definitions.
(60) G.S. 113A-52. Definitions.
(61) G.S. 113A-74. Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.

(62) G.S. 113A-75. Assistance under this Article with the National Trails System Act (PL 90-543).
(63) G.S. 113A-85. Definitions.
(64) G.S. 113A-104. Coastal Resources Commission.
(65) G.S. 113A-107. State guidelines for the coastal area.
(66) G.S. 113A-112. Planning grants.
(67) G.S. 113A-153. North Carolina Land Policy Council.
(68) G.S. 113A-164.3. Definitions.
(69) G.S. 113A-166. Rules.
(70) G.S. 113A-167. Existing billboards.
(71) G.S. 113A-169. Condemnation procedure.
(72) G.S. 113A-170. Violation a misdemeanor; injunctive relief.
(73) G.S. 113A-177. Statement of purpose.
(74) G.S. 113A-178. Definitions.
(75) G.S. 113A-183. Forest Development Fund.
(76) G.S. 113A-193. Duties of Secretaries.
(77) G.S. 113A-194. Assessment rates.
(78) G.S. 113A-208. Regulation of mountain ridge construction by counties and cities.
(79) G.S. 113A-212. Assistance to counties and cities under ridge law.
(80) G.S. 113B-3. Composition of Council; appointments; terms of members; qualifications.
(81) G.S. 120-150. Creation; appointment of members.
(82) G.S. 120-161. Facilities and staff.
(83) G.S. 121-4. Powers and duties of the Department of Cultural Resources.
(84) G.S. 122E-4. North Carolina Housing Partnership created; compensation; organization.
(85) G.S. 126-5. Employees subject to Chapter; exemptions.
(86) G.S. 130A-294. Solid waste management program.
(87) G.S. 130B-22. Inter-Agency Committee on Hazardous Waste.
(88) G.S. 136-21. Drainage of highway; application to court; summons; commissioners.
(89) G.S. 136-44.12. Construction and maintenance of roads in areas administered by the Division of State Parks.
(90) G.S. 136-102.3. Filing record of results of test drilling or boring with Secretary of Administration and Secretary of Natural Resources and Community Development.
(91) G.S. 139-5. Creation of soil and water conservation districts.
(92) G.S. 139-7. District board of supervisors – appointive members; organization of board; certain powers and duties.
(93) G.S. 139-8. Powers of districts and supervisors.
(94) G.S. 139-13. Discontinuance of districts.

(95) G.S. 139-46. Recreational and related aspects of watershed improvement programs.
(96) G.S. 143-116.8. Motor vehicle laws applicable to State Parks and forests road system.
(97) G.S. 143-166.2. Definitions.
(98) G.S. 143-166.7. Applicability of Article.
(99) G.S. 143-166.13. Persons entitled to benefits under Article.
(100) G.S. 143-169. Limitations on publications.
(101) G.S. 143-177.3. Sources of funds.
(102) G.S. 143-211. Declaration of public policy.
(103) G.S. 143-212. Definitions applicable to Article.
(104) G.S. 143-215.3A. Use of application and permit fees.
(105) G.S 143-215.3B. Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund.
(106) G.S. 143-215.16. Permits for water use within capacity use areas – duration, transfer, reporting, measurement, present use, fees and penalties.
(107) G.S. 143-215.18. Map or description of boundaries of capacity use areas.
(108) G.S. 143-215.40. Resolutions and ordinances assuring local cooperation.
(109) G.S. 143-215.70. Secretary of Natural Resources and Community Development authorized to accept applications.
(110) G.S. 143-215.74F. Program authorized.
(111) G.S. 143-215.77. Definitions.
(111a) G.S. 143-215.94U. Oil spill contingency plan. (as enacted by Section 5 of Chapter 656 of the 1989 Session Laws.)
(112) G.S. 143-240. Creation of Wildlife Resources Commission; districts; qualifications of members.
(113) G.S. 143-243. Organization of the Commission; election of officers; Robert's Rules of Order.
(114) G.S. 143-286.1. Nutbush Conservation Area.
(115) G.S. 143-289. Contributions from certain counties and municipalities authorized; other grants or donations.
(116) G.S. 143-323. Functions of Department of Natural Resources and Community Development.
(116a) G.S. 143-345.6. Land records management program.
(117) G.S. 143-350. Definitions.
(118) G.S. 143-355. Transfer of certain powers, duties, functions and responsibilities of the Department of Conservation and Development and of the Director of said Department.
(119) G.S. 143-370. Commission created; membership.
(120) G.S. 143A-11. Principal departments.

(121) G.S. 143B-2. Interim applicability of the Executive Organization Act of 1973.
(122) G.S. 143B-6. Principal departments.
(123) G.S. 143B-86. America's Four Hundredth Anniversary Committee – members; selection; quorum; compensation.
(124) G.S. 143B-115. John Motley Morehead Memorial Commission – members; selection; quorum; compensation.
(125) G.S. 143B-130. Roanoke Voyages and Elizabeth II Commission – powers and duties.
(126) G.S. 143B-131. Roanoke Voyages and Elizabeth II Commission – members; terms; vacancies; expenses; officers.
(127) G.S. 143B-181. Governor's Advisory Council on Aging – members; selection; quorum; compensation.
(128) G.S. 143B-282. Environmental Management Commission – creation; powers and duties.
(129) G.S. 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.
(130) G.S. 143B-289.2. Definitions.
(131) G.S. 143B-289.3. Marine Fisheries Commission – creation; purpose and transfer of function.
(132) G.S. 143B-289.4. Marine Fisheries Commission – powers and duties.
(133) G.S. 143B-289.5. Marine Fisheries Commission – members; selection; removal; compensation; quorum; services.
(134) G.S. 143B-289.11. Jurisdictional questions.
(135) G.S. 143B-289.12. Rules of Department continued.
(136) G.S. 143B-295. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.
(137) G.S. 143B-298. Sedimentation Control Commission – creation; powers and duties.
(138) G.S. 143B-299. Sedimentation Control Commission – members; selection; compensation; meetings.
(139) G.S. 143B-308. Forestry Council – creation; powers and duties.
(140) G.S. 143B-309. Forestry Council – members; chairman; selection; removal; compensation; quorum; services.
(141) G.S. 143B-311. Parks and Recreation Council – creation; powers and duties.
(142) G.S. 143B-312. Parks and Recreation Council – members; chairman; selection; removal; compensation; quorum; services.
(143) G.S. 143B-317. Air Quality Council – creation; powers and duties.
(144) G.S. 143B-318. Air Quality Council – members; chairman; selection; removal; compensation; quorum; services.

(145) G.S. 143B-333. North Carolina Trails Committee – creation; powers and duties.
(146) G.S. 143B-334. North Carolina Trails Committee – members; selection; removal; compensation.
(147) G.S. 143B-335. North Carolina Zoological Park Council – creation; powers and duties.
(148) G.S. 143B-336. North Carolina Zoological Park Council – members; selection; removal; chairman; compensation; quorum; services.
(149) G.S. 143B-407. North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.
(150) G.S. 143B-411.1. North Carolina Advisory Council on the Eastern Band of the Cherokee – creation; membership; terms of office.
(151) G.S. 143B-417. North Carolina Internship Council – creation; powers and duties.
(152) G.S. 143B-426.22. Governor's Management Council.
(153) G.S. 143B-437. Investigation of impact of proposed new and expanding industry.
(154) G.S. 146-8. Disposition of mineral deposits in State lands under water.
(155) G.S. 146-30. Application of net proceeds.
(156) G.S. 148-26. State policy on employment of prisoners.
(157) G.S. 156-59. Board of viewers appointed by clerk.
(158) G.S. 156-74. Adjudication upon final report.
(159) G.S. 156-76. Compensation of board of viewers.
(160) G.S. 156-83. Superintendent of construction.
(161) G.S. 159C-7. Approval of project.
(162) G.S. 159D-7. Approval of project.
(163) G.S. 161-22.2. Parcel identifier number indexes.

Sec. 219. The phrase "Human Resources" is deleted and replaced by the phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the following sections of the General Statutes:

(1) G.S. 20-4.01. Definitions.
(2) G.S. 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.
(3) G.S. 48-29. Change of name; report to State Registrar; new birth certificate to be made.
(4) G.S. 48-36. Adoption of persons who are 18 or more years of age; change of name; clerk's certificate and record; notation on birth certificate; new birth certificate.
(5) G.S. 51-11. Who may execute certificate; form.
(6) G.S. 75-6. Violation a misdemeanor; punishment.

(6a) G.S. 90-233. Practice of dental hygiene.
(7) G.S. 90A-21. Water Treatment Facility Operators Board of Certification.
(8) G.S. 90A-22. Classification of water treatment facilities; notification of users.
(9) G.S. 90A-23. Grades of certificates.
(10) G.S. 90A-24. Operator qualifications and examination.
(11) G.S. 90A-28. Promotion of training and other powers.
(12) G.S. 90A-30. Penalties; remedies; contested cases.
(13) G.S. 95-126. Short title and legislative purpose.
(14) G.S. 95-131. Development and promulgation of standards; adoption of federal standards and regulations.
(15) G.S. 97-61.1. First examination of and report on employee having asbestosis or silicosis.
(16) G.S. 104E-5. Definitions.
(17) G.S. 104E-7. Radiation Protection Commission – Creation and powers.
(18) G.S. 104E-8. Radiation Protection Commission – Members; selections; removal; compensation; quorum; services.
(19) G.S. 104E-9. Powers and functions of Department of Human Resources.
(20) G.S. 104E-10.1. Additional requirements for low-level radioactive waste facilities.
(21) G.S. 104E-13. Administrative procedures and judicial review.
(22) G.S. 104E-15. Transportation of radioactive materials.
(23) G.S. 104E-17. Payments to State and local agencies.
(24) G.S. 104E-24. Administrative penalties.
(25) G.S. 104F-4. Advisory Committee.
(26) G.S. 104G-11. Technology, license application, and environmental impact statement.
(27) G.S. 105-122. Franchise or privilege tax on domestic and foreign corporations.
(28) G.S. 105-130.10. Amortization of air-cleaning devices, waste treatment facilities and recycling facilities.
(29) G.S. 105-147. Deductions. (As amended by Section 3 of Chapter 37 of the 1989 Session Laws and as amended by Section 3 of Chapter 148 of the 1989 Session Laws; provided that this section shall not apply to G.S. 105-147(25a) as enacted by Section 6 of Chapter 533 of the 1989 Session Laws.)
(30) G.S. 106-65.23. Structural Pest Control Division of Department of Agriculture recreated; Director; Structural Pest Control Committee created; appointment; terms; quorum.
(31) G.S. 106-168.5. Duties of Commissioner upon receipt of application; inspection committee.

(32) G.S. 106-266.6. Definitions.
(33) G.S. 115C-522. Provision of equipment for buildings.
(34) G.S. 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.
(35) G.S. 130B-2. Definitions.
(36) G.S. 143-300.8. Defense of local sanitarians.
(37) G.S. 148-10. Department of Human Resources to supervise sanitary and health conditions of prisoners.
(38) G.S. 159C-7. Approval of project.
(39) G.S. 159D-7. Approval of project.
(40) G.S. 162A-33. Procedure for creation; resolutions and petitions for creation; notice to and action by Commission for Health Services; notice and public hearing; resolutions creating districts; actions to set aside proceeding.
(41) G.S. 162A-35. Procedure for inclusion of additional political subdivision or unincorporated area; notice and hearing; elections; actions questioning validity of elections.
(42) G.S. 166A-6.1. Emergency planning; charge.

Sec. 220. Chapter 91 of the 1989 Session Laws is amended by deleting the phrase "Department of Human Resources" wherever it occurs and substituting the phrase "Department of Environment, Health, and Natural Resources".

Sec. 221. Chapter 574 of the 1989 Session Laws is amended by deleting the phrase "Department of Natural Resources and Community Development" wherever it occurs and substituting the phrase "Department of Environment, Health, and Natural Resources".

Sec. 222. Section 3 of Chapter 603 of the 1989 Session Laws reads as rewritten:

"Sec. 3. ~~The Department of Human Resources and the Department of Natural Resources and Community Development shall work cooperatively in the implementation of this act. The Department of Natural Resources and Community Development or its successor~~ The Department of Environment, Health, and Natural Resources shall report semi-annually beginning 1 October 1989 to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission as to progress in the implementation of this act."

Sec. 223. (a) References in the Session Laws to any department, division, or other agency which is transferred by this act shall be deemed to refer to the successor department, division, or other agency. Every Session Law which refers to any department, division, or other agency to which this act applies or which relates to any power, duty, function, or obligation of any such department, division or agency and which continues in effect after this act becomes effective shall be construed so as to be consistent with this act.

(b) The Revisor of Statutes is authorized to correct any reference or citation in the General Statutes to any portion of the General Statutes which is recodified,

transferred, subdivided, or amended by this act by deleting incorrect references and substituting correct references.

(c) The Revisor of Statutes is authorized to delete any reference to the Department of Natural Resources and Community Development, the Secretary of Natural Resources and Community Development, the Department of Human Resources, the Secretary of Human Resources, or their predecessors in any portion of the General Statutes to which conforming amendments are not made by this act and to substitute, as appropriate and consistent with this act, any of the following phrases: Department of Environment, Health, and Natural Resources; Secretary of Environment, Health, and Natural Resources; Department of Human Resources; Secretary of Human Resources; Department of Commerce; or Secretary of Commerce.

Sec. 224. All statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of any agency which is transferred pursuant to this act shall be transferred in their entirety. Any transfer affecting any agency to which this act applies which is not authorized by this act, including any transfer under subdivision (10) of Section 5 of Article III of the Constitution of North Carolina, is hereby specifically disapproved and is void.

Sec. 225. (a) The Environmental Review Commission may continue the study of environmental agency consolidation and reorganization. The study of environmental agency consolidation shall include, but is not limited to:

(1) Monitoring the implementation of this act;
(2) Evaluation of the organization, programs, and operation of the Department of Environment, Health, and Natural Resources;
(3) Evaluation of the organization, functions, powers, and duties of the components of the Department of Environment, Health, and Natural Resources, including boards, commissions, councils, and regional offices; and
(4) Recodification of the General Statutes relating to the environment and environmental agencies.

(b) Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation made by the Environmental Review Commission may be introduced and considered during any session of the General Assembly.

Sec. 226. The provisions of G.S. 150B-(c)(2), as amended by Section 2 of Chapter 538 of the 1989 Session Laws, shall apply to any agency which is a part of the Department of Human Resources on 30 June 1989, even though such agency is subsequently transferred to the Department of Environment, Health, and Natural Resources or to any other department.

Sec. 227. Every act of any department, agency, or officer to which this act applies which occurred prior to the date this act is ratified and which is otherwise valid continues to be valid and effective notwithstanding any change in name or transfer of such department, agency, or officer.

Sec. 228. This act shall not be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act. Each department and

agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated to that department or agency.

Sec. 229. This act shall become effective 1 July 1989.

In the General Assembly read three times and ratified this the 3rd day of August, 1989.