

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 480\*  
Committee Substitute Favorable 3/31/89

Short Title: Environmental Agency Consolidation.

(Public)

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Sponsors:

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Referred to:

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March 7, 1989

A BILL TO BE ENTITLED

1 AN ACT TO CREATE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND  
2 NATURAL RESOURCES AND TO PROVIDE FOR ITS ORGANIZATION, TO  
3 CONSOLIDATE ENVIRONMENTAL PROGRAMS, TO ABOLISH THE  
4 DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY  
5 DEVELOPMENT, TO TRANSFER THE DIVISIONS, AGENCIES, POWERS,  
6 DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF NATURAL  
7 RESOURCES AND COMMUNITY DEVELOPMENT, TO PROVIDE FOR  
8 FURTHER STUDY OF ENVIRONMENTAL AGENCY CONSOLIDATION AND  
9 REORGANIZATION, AND TO MAKE CONFORMING STATUTORY  
10 CHANGES.  
11

12 The General Assembly of North Carolina enacts:

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

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 G.S. 143B-275 through G.S. 143B-281 are repealed.

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

19 "§ 143B-279.1. Department of Environment, Health, and Natural Resources—  
20 creation.

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

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

3 **"§ 143B-279.2. Department of Environment, Health, and Natural Resources–**  
4 **duties.**

5 It shall be the duty of the Department:

- 6 (1) To provide for the protection of the environment;
- 7 (2) To provide for the protection and enhancement of the public health;  
8 and
- 9 (3) To provide for the management of the State's natural resources.

10 **"§ 143B-279.3. Department of Environment, Health, and Natural Resources–**  
11 **structure.**

12 (a) All functions, powers, duties, and obligations heretofore vested in the  
13 following commissions, boards, councils, committees, and subunits of the following  
14 departments are hereby transferred to and vested in the Department of Environment,  
15 Health, and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

- 16 (1) Governor's Waste Management Board, Department of Human  
17 Resources.
- 18 (2) Radiation Protection Section, Division of Facility Services,  
19 Department of Human Resources.
- 20 (3) Radiation Protection Commission, Department of Human Resources.
- 21 (4) Division of Health Services, Department of Human Resources.
- 22 (5) Commission for Health Services, Department of Human Resources.
- 23 (6) Water Treatment Facility Operators Board of Certification,  
24 Department of Human Resources.
- 25 (7) Council on Sickle Cell Syndrome, Department of Human Resources.
- 26 (8) Perinatal Advisory Council, Department of Human Resources.
- 27 (9) Adolescent Pregnancy Advisory Board, Department of Human  
28 Resources.
- 29 (10) Governor's Council on Physical Fitness and Health, Department of  
30 Human Resources.
- 31 (11) Commission of Anatomy, Department of Human Resources.
- 32 (12) Coastal Management Division, Department of Natural Resources and  
33 Community Development.
- 34 (13) Coastal Resources Commission, Department of Natural Resources and  
35 Community Development.
- 36 (14) Environmental Management Division, Department of Natural  
37 Resources and Community Development.
- 38 (15) Environmental Management Commission, Department of Natural  
39 Resources and Community Development.
- 40 (16) Air Quality Council, Department of Natural Resources and  
41 Community Development.
- 42 (17) Wastewater Treatment Plant Operators Certification Commission,  
43 Department of Natural Resources and Community Development.

- 1           (18) Forest Resources Division, Department of Natural Resources and  
2           Community Development.
- 3           (19) Forestry Council, Department of Natural Resources and Community  
4           Development.
- 5           (20) Land Resources Division, Department of Natural Resources and  
6           Community Development.
- 7           (21) North Carolina Mining Commission, Department of Natural Resources  
8           and Community Development.
- 9           (22) Advisory Committee on Land Records, Department of Natural  
10          Resources and Community Development.
- 11          (23) Marine Fisheries Division, Department of Natural Resources and  
12          Community Development.
- 13          (24) Marine Fisheries Commission, Department of Natural Resources and  
14          Community Development.
- 15          (25) Parks and Recreation Division, Department of Natural Resources and  
16          Community Development.
- 17          (26) Parks and Recreation Council, Department of Natural Resources and  
18          Community Development.
- 19          (27) Board of Trustees of the Recreation and Natural Trust Fund,  
20          Department of Natural Resources and Community Development.
- 21          (28) North Carolina Trails Committee, Department of Natural Resources  
22          and Community Development.
- 23          (29) Soil and Water Conservation Division, Department of Natural  
24          Resources and Community Development.
- 25          (30) Sedimentation Control Commission, Department of Natural Resources  
26          and Community Development.
- 27          (31) State Soil and Water Conservation Commission, Department of  
28          Natural Resources and Community Development.
- 29          (32) Water Resources Division, Department of Natural Resources and  
30          Community Development.
- 31          (33) North Carolina Zoological Park, Department of Natural Resources and  
32          Community Development.
- 33          (34) North Carolina Zoological Park Council, Department of Natural  
34          Resources and Community Development.
- 35          (35) Albemarle-Pamlico Study.
- 36          (b)           (1) There is hereby created a division within the environmental  
37                   area of the Department of Environment, Health, and Natural  
38                   Resources to be named the Radiation Protection Division. All  
39                   functions, powers, duties, and obligations of the Radiation Protection  
40                   Section of the Division of Facility Services of the Department of  
41                   Human Resources are transferred in their entirety to the Radiation  
42                   Protection Division of the Department of Environment, Health, and  
43                   Natural Resources.

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

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

12 **"§ 143B-279.4. The Department of Environment, Health, and Natural Resources–**  
13 **Secretary; Deputy Secretaries.**

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

16           (b) The Secretary may appoint two Deputy Secretaries.

17 **"§ 143B-279.5. Biennial State of the Environment Report.**

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

- 22           (1) An identification and analysis of current environmental protection  
23 issues and problems within or affecting the State and its people;  
24           (2) Trends in the quality and use of North Carolina's air and water  
25 resources;  
26           (3) An inventory of areas of the State where air or water pollution is in  
27 evidence or may occur during the upcoming biennium;  
28           (4) Current efforts and resources allocated by the Department to correct  
29 identified pollution problems and an estimate, if necessary, of  
30 additional resources needed to study, identify, and implement solutions  
31 to solve potential problems;  
32           (5) Departmental goals and strategies to protect the natural resources of  
33 the State;  
34           (6) Any information requested by the General Assembly or the  
35 Environmental Review Commission;  
36           (7) Suggested legislation, if necessary; and  
37           (8) Any other information on the state of the environment the Secretary  
38 considers appropriate.

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

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

1 **"§ 143B-279.6. Wildlife Resources Commission—transfer; independence preserved;**  
2 **appointment of Executive Director and employees.**

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

14 Sec. 5. G.S. 143B-430 reads as rewritten:

15 **"§ 143B-430. Secretary of Commerce – powers and duties.**

16 (a) The head of the Department of Commerce is the Secretary of Commerce. The  
17 Secretary of Commerce shall have such powers and duties as are conferred on him by  
18 this Chapter, delegated to him by the Governor, and conferred on him by the  
19 Constitution and laws of this State. The Secretary of Commerce shall be responsible for  
20 effectively and efficiently organizing the Department of Commerce to promote the  
21 policy of the State of North Carolina as outlined in G.S. 143B-428 and to promote  
22 statewide economic development in accord with that policy. Except as otherwise  
23 specifically provided in this Article and in Article 1 of this Chapter, the functions,  
24 powers, duties and obligations of every agency or subunit in the Department of  
25 Commerce shall be prescribed by the Secretary of Commerce.

26 (b) The Secretary of Commerce shall have authority and be charged with the duty  
27 to accept and administer federal funds provided to the State through the Job Training  
28 Partnership Act or succeeding programs."

29 Sec. 6. G.S. 143B-432 reads as rewritten:

30 **"§ 143B-432. Transfers to Department of Commerce.**

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

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

42 (1) Community Assistance Division, Department of Natural Resources  
43 and Community Development.

- 1           (2)    Community Development Council, Department of Natural Resources  
2           and Community Development.
- 3           (3)    Employment and Training Division, Department of Natural Resources  
4           and Community Development.
- 5           (4)    Job Training Coordinating Council, Department of Natural Resources  
6           and Community Development.
- 7           (5)    Rural Service Delivery Area - Private Industry Council, Department  
8           of Natural Resources and Community Development."

9           Sec. 7. G.S. 143B-138 reads as rewritten:

10   **"§ 143B-138. Department of Human Resources – functions.**

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

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

- 22           (1)    The State Board of Health,
- 23           (2)    The Salt Marsh Mosquito Advisory Commission,
- 24           (3)    The Office of Chief Medical Examiner,
- 25           (4)    The State Department of Social Services,
- 26           (5)    The State Board of Social Services,
- 27           (6)    The Advisory Committee for Medical Assistance,
- 28           (7)    The State Department of Mental Health,
- 29           (8)    The State Board of Mental Health,
- 30           (9)    The Medical Advisory Council to the State Board of Mental Health,
- 31           (10)   The Mental Health Council,
- 32           (11)   The Advisory Council on Alcoholism to the North Carolina Board of  
33           Mental Health,
- 34           (12)   The State Advisory Council to the North Carolina Medical Care  
35           Commission,
- 36           (13)   The North Carolina State Commission for the Blind,
- 37           (14)   The Blind Advisory Committee, Professional Advisory Committee,
- 38           (15)   The Vocational Rehabilitation Division,
- 39           (16)   The Eugenics Board of North Carolina,
- 40           (17)   The Governor Morehead School,
- 41           (18)   The North Carolina School for the Deaf, the Eastern North Carolina  
42           School for the Deaf,
- 43           (19)   The North Carolina Orthopedic Hospital,
- 44           (20)   The North Carolina Cerebral Palsy Hospital,

- 1 (21) The North Carolina Sanatoriums for the Treatment of Tuberculosis,  
 2 (22) The Interstate Compact on Mental Health,  
 3 (23) The Council on Mental Retardation and Developmental Disabilities,  
 4 (24) The North Carolina Cancer Study Commission,  
 5 (25) The Interstate Compact on Juveniles,  
 6 (26) The North Carolina Board of Anatomy,  
 7 (27) The Governor's Coordinating Council on Aging,  
 8 (28) The Confederate Women's Home,  
 9 (29) The Medical Care Commission,  
 10 (30) The Governor's Committee on Employment of the Handicapped, and  
 11 (31) The Human Resources Division.

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

16 Sec. 8. G.S. 143B-344.14 reads as rewritten:

17 **"§ 143B-344.14. Coordinating Council.**

18 (a) The State Job Training Coordinating Council is established within the  
 19 Department of ~~Natural Resources and Community Development~~ Commerce.

20 (b) Operating funds and staff for the Council shall be supported with funds from  
 21 the Job Training Partnership Act.

22 (c) Adequate office space shall be provided by the Department of ~~Natural~~  
 23 ~~Resources and Community Development~~ Commerce.

24 (d) The initial staffing level of the Council and the level of funding support  
 25 required shall be determined by the Secretary of ~~Natural Resources and Community~~  
 26 ~~Development~~ Commerce. However, the initial staffing level shall not exceed 10  
 27 personnel as may be necessary to carry out its functions under this ~~Part~~ Article and the  
 28 Job Training Partnership Act.

29 (e) Duties and responsibilities of the Council include but shall not be limited to  
 30 the following:

- 31 (1) Overseeing the meeting of the State's goals for employment and  
 32 training.  
 33 (2) Continuously reviewing the plans and programs of agencies operating  
 34 federally funded programs related to employment and training and of  
 35 other agencies providing employment and training-related services in  
 36 the State that may be funded with State funds.  
 37 (3) Conducting studies, preparing reports and analyses, including an  
 38 annual published report to the Governor and General Assembly, and  
 39 providing such advisory services as may be authorized or directed by  
 40 the Governor.  
 41 (4) Recommending the allocation of Job Training Partnership Act funds  
 42 not subject to the seventy-eight percent (78%) that flows directly to  
 43 service delivery areas.

- 1 (5) Recommending program goals to insure job training for unskilled  
2 youth and adults is a matter of the highest priority and encouraging  
3 Service Delivery Areas (SDA's) to reflect these goals in their SDA  
4 plans.
- 5 (6) Developing a long term tracking system to measure the effectiveness  
6 of the Job Training Partnership Act with respect to permanent job  
7 placements. Such a tracking system shall not be less than one year and  
8 shall be implemented by July 1, 1986.
- 9 (7) Insuring compliance with the provisions of Sections 122(b)(7)A and B  
10 and 122(b)(8) of the Job Training Partnership Act no later than May 30  
11 of every year, requiring the following:
  - 12 a. Identification of employment and training and vocational  
13 education needs throughout the State;
  - 14 b. Assessing the extent to which existing programs are meeting  
15 these needs.
  - 16 c. Repealed by Session Laws 1985, c. 791, s. 26.1(b), effective  
17 July 1, 1985.
- 18 (8) Annually measuring the increase in employment and earnings and the  
19 reductions in welfare dependency by SDA resulting from participating  
20 in the Job Training Partnership Act program and reporting those  
21 findings to the Governor and General Assembly.
- 22 (9) Annually reporting to the Governor and General Assembly on funds  
23 expended by each SDA for job training services and the reason service  
24 providers were chosen.
- 25 (10) Providing management guidance and review of all State administered  
26 employment and training programs and encouraging compliance by  
27 the SDA's with the goals and purposes outlined by the General  
28 Assembly, the Governor, and the State Council.
- 29 (11) Insuring that service delivery area plans are submitted to the General  
30 Assembly within 30 days after received by the Council as prescribed in  
31 Section 105(a)(1)A and B of Public Law 97-300.
- 32 (12) Obtaining other information from recipients of Job Training  
33 Partnership Act funds, as requested by the Governor and General  
34 Assembly.
- 35 (f) The State Job Training Coordinating Council:
  - 36 (1) Shall be appointed by the Governor in a manner consistent with  
37 Section 122 of Public Law 97-300.
  - 38 (2) Shall meet at the call of the chairman. A majority of the Council shall  
39 constitute a quorum for the transaction of business. Members shall  
40 receive per diem and necessary travel and subsistence expenses in  
41 accordance with the provisions of G.S. 138-5, 138-6 or 120-3.1, as the  
42 case may be.
  - 43 (3) The Council shall have a standing Committee to be known as the Job  
44 Training Interagency Committee. The members of the committee shall



1 be the ~~Secretaries of Natural Resources and Community Development~~  
2 ~~and Secretary of Commerce~~, the President of the Department of  
3 Community Colleges, the Commissioner of Labor, and the  
4 Superintendent of Public Instruction or their designees. This  
5 committee shall jointly develop and implement a plan to integrate the  
6 Job Training Partnership Act program and participants into the  
7 economic development efforts of the State. Such a plan shall make  
8 maximum use of customized training and on-the-job training efforts of  
9 existing, new, or expanding businesses. This plan shall be developed  
10 and implemented no later than February 1, 1986. A copy of the plan  
11 shall be submitted to the President of the North Carolina Senate and  
12 the Speaker of the North Carolina House of Representatives no later  
13 than December 15, 1985. In addition, the Joint Legislative  
14 Commission on Governmental Operations shall review the plan prior  
15 to implementation and offer suggested changes.

- 16 (4) The Council may create such committees as may be necessary to the  
17 proper conduct of its business. The Governor may establish such  
18 additional advisory bodies, in accordance with existing law, related to  
19 employment and training as may be necessary and appropriate to the  
20 conduct of federally-supported employment and training-related  
21 programs."

22 Sec. 9. Part 27 of Article 7 of Chapter 143B of the General Statutes (G.S.  
23 143B-344.11 through G.S. 143B-344.15) is recodified as Article 18 of Chapter 95 of the  
24 General Statutes (G.S. 95-221 through G.S. 95-225).

25 Sec. 10. G.S. 20-128(c) reads as rewritten:

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

35 Sec. 11. G.S. 20-183.3(a) reads as rewritten:

36 "(a) Before an approval certificate may be issued for a motor vehicle, the vehicle  
37 must be inspected by a safety equipment inspection station, and if required by Chapter  
38 20 of the General Statutes of North Carolina, must be found to possess in safe operating  
39 condition the following articles and equipment:

- 40 (1) Brakes,  
41 (2) Lights,  
42 (3) Horn,  
43 (4) Steering mechanism,  
44 (5) Windshield wiper,

- 1 (6) Directional signals,
- 2 (7) Tires,
- 3 (8) Rearview mirror or mirrors.

4 No inspection certificate shall be issued by a safety equipment inspection station for  
5 a motor vehicle manufactured after model year 1967 unless the vehicle is equipped with  
6 such emission control devices to reduce air pollution as were installed at the time of  
7 manufacture which are readily visible, provided the foregoing requirements shall not  
8 apply where such devices have been removed for the purpose of converting the motor  
9 vehicle to operate on natural or liquified petroleum gas or other modifications have been  
10 made in order to reduce air pollution, further provided that such modifications shall  
11 have first been approved by the Department of ~~Water and Air Resources~~ [Department of  
12 ~~Natural Resources and Community Development~~ Environment, Health, and Natural  
13 Resources.

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

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

19 Sec. 12. G.S. 74-51 reads as rewritten:

20 "**§ 74-51. Permits – Application, granting, conditions.**

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

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

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

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

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

7 The Department may deny such permit upon finding:

- 8 (1) That any requirement of this Article or any rule promulgated  
9 hereunder will be violated by the proposed operation;
- 10 (2) That the operation will have unduly adverse effects on wildlife or fresh  
11 water, estuarine, or marine fisheries;
- 12 (3) That the operation will violate standards of air quality, surface water  
13 quality, or groundwater quality which have been promulgated by the  
14 ~~Department of Natural Resources and Community Development~~;
- 15 (4) That the operation will constitute a substantial physical hazard to a  
16 neighboring dwelling house, school, church, hospital, commercial or  
17 industrial building, public road or other public property;
- 18 (5) That the operation will have a significantly adverse effect on the  
19 purposes of a publicly owned park, forest or recreation area;
- 20 (6) That previous experience with similar operations indicates a  
21 substantial possibility that the operation will result in substantial  
22 deposits of sediment in stream beds or lakes, landslides, or acid water  
23 pollution; or
- 24 (7) That the operator has not corrected all violations which he may have  
25 committed under any prior permit and which resulted in,
  - 26 a. Revocation of his permit,
  - 27 b. Forfeiture of part or all of his bond or other security,
  - 28 c. Conviction of a misdemeanor under G.S. 74-64, or
  - 29 d. Any other court order issued under G.S. 74-64.

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

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

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

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

7 Upon approval of an application, the Department shall set the amount of the  
8 performance bond or other security which is to be required pursuant to G.S. 74-54. The  
9 operator shall have 60 days following the mailing of such notification in which to  
10 deposit the required bond or security with the Department. The operating permit shall  
11 not be issued until receipt of this deposit.

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

19 Sec. 13. G.S. 74-78(a) reads as rewritten:

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

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

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

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

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

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

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

43 "(b) Such notice shall be served on the person by sending the same to such person  
44 by registered or certified mail to his last known post-office address or by personal

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

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

15 **"§ 87-95. Injunctive relief.**

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

28  
29 Sec. 17. G.S. 87-96 reads as rewritten:

30 **"§ 87-96. Conflict with other laws.**

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

39 ~~This Article or any rules or regulations adopted pursuant thereto, shall not be in~~  
40 ~~conflict with any laws, rules, or regulations of the Commission for Health Services~~  
41 ~~pertaining to public health, wells and groundwater supplies. All laws, rules, and~~  
42 ~~regulations presently in effect that are administered by the Department of Human~~  
43 ~~Resources shall remain in effect. Rules relating to public health, wells, or groundwater~~  
44 adopted by the Commission for Health Services shall prevail over this Article or rules

1 adopted pursuant to this Article. This Article shall not be construed to repeal any law or  
2 rule in effect as of the effective date of this Article."

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

4 "(c) Certificates in an appropriate grade will be issued to operators who, on July 1,  
5 1969, hold certificates of competency issued under the voluntary certification program  
6 now being administered through the ~~Division of Sanitary Engineering of the~~  
7 ~~Department of Human Resources~~ Department of Environment, Health, and Natural  
8 Resources with the cooperation of the North Carolina Water Works Operators  
9 Association, the North Carolina Section of the American Water Works Association, and  
10 the North Carolina League of Municipalities."

11 Sec. 19. G.S. 90A-55(a) reads as rewritten:

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

22 Sec. 20. G.S. 95-149 reads as rewritten:

23 "**§ 95-149. Authority to enter into contracts with other State agencies and**  
24 **subdivisions of government.**

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

30 Sec. 21. G.S. 100-13 reads as rewritten:

31 "**§ 100-13. Fees for use of improvements; fees for other privileges; leases; rules and**  
32 **regulations.**

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

41 Sec. 22. G.S. 100-14 reads as rewritten:

42 "**§ 100-14. Use of fees and other collections.**

43 All fees and other money collected and received by the Department of ~~Natural~~  
44 ~~Resources and Community Development~~ Environment, Health, and Natural Resources

1 in connection with its proper administration of ~~Mount Mitchell State Park~~ the North  
2 Carolina State Parks System shall be used by said Department of ~~Natural Resources and~~  
3 ~~Community Development~~ for the administration, protection, improvement, and  
4 maintenance of ~~said park~~ the State Parks System."

5 Sec. 23. G.S. 100-15 reads as rewritten:

6 "**§ 100-15. Annual reports.**

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

11 Sec. 24. G.S. 105-149(a)(8a) reads as rewritten:

12 "(8a) In the case of hemophiliacs meeting the criteria herein contained, such  
13 persons shall be entitled to an additional exemption of one thousand one hundred dollars  
14 (\$1,100) in addition to all other exemptions provided by law. Eligible hemophiliacs  
15 shall be those who submit to the ~~Division of Health Services of the Department of~~  
16 ~~Human Resources~~ Department of Environment, Health, and Natural Resources a  
17 certificate from a physician or local health department, certifying that their condition is  
18 medically characterized as moderate or severe in the case of deficiencies of Factor VII  
19 or Factor IX, or in the case of deficiencies in Factors I – VIII or Factors X – XIII  
20 certifying that their condition causes physical or financial conditions similar to those  
21 resulting from Factor VIII or Factor IX deficiencies; and who attach a supporting  
22 statement to their North Carolina income tax return, including verification that said  
23 certificate has been obtained and submitted to the ~~Division of Health Services of the~~  
24 ~~Department of Human Resources~~ Department of Environment, Health, and Natural  
25 Resources.

26 An additional exemption of one thousand one hundred dollars (\$1,100) is allowed in  
27 addition to all other exemptions provided by law, for each dependent (as defined in  
28 subdivision (a)(5) above), who is a hemophiliac meeting the criteria set out in the above  
29 paragraph. The ~~Division of Health Services of the Department of Human Resources~~  
30 Department of Environment, Health, and Natural Resources is directed to develop said  
31 certificate and inform physicians and local health departments of its availability."

32 Sec. 25. G.S. 105-149(a)(8c) reads as rewritten:

33 "(8c) In the case of persons suffering from chronic irreversible renal disease, whose  
34 condition requires that they utilize dialysis in connection with the amelioration of that  
35 condition, such persons shall be entitled to an additional exemption of one thousand one  
36 hundred dollars (\$1,100) in addition to all other exemptions provided by law. Persons  
37 eligible for this exemption shall be those who submit to the ~~Division of Health Services~~  
38 ~~of the Department of Human Resources~~ Department of Environment, Health, and  
39 Natural Resources a certificate from a physician or local health department certifying  
40 that their condition is such that dialysis is required, as above provided, and who attach a  
41 supporting statement to their North Carolina income tax return, including verification  
42 that said certificate has been obtained and submitted to the ~~Division of Health Services~~  
43 ~~of the Department of Human Resources~~ Department of Environment, Health, and  
44 Natural Resources.

1 An additional exemption of one thousand one hundred dollars (\$1,100) is allowed in  
2 addition to all other exemptions provided by law, for each dependent (as defined in  
3 subdivision (a) above) who suffers from chronic irreversible renal disease and who  
4 meets the criteria set out in the above paragraph. The ~~Division of Health Services of the~~  
5 ~~Department of Human Resources~~ Department of Environment, Health, and Natural  
6 Resources is directed to develop said certificate and inform physicians and local health  
7 departments of its availability."

8 Sec. 26. G.S. 105-149(a)(8e) reads as rewritten:

9 "(8e) In the case of persons with cystic fibrosis meeting the criteria herein  
10 contained, such persons shall be entitled to an additional exemption of one thousand one  
11 hundred dollars (\$1,100) in addition to all other exemptions provided by law. Eligible  
12 persons with cystic fibrosis shall be those who submit to the ~~Division of Health Services~~  
13 ~~of the Department of Human Resources~~ Department of Environment, Health, and  
14 Natural Resources a certificate from a physician or local health department certifying  
15 that such condition exists.

16 An additional exemption of one thousand one hundred dollars (\$1,100) is allowed in  
17 addition to all other exemptions provided by law for each dependent as defined above,  
18 who has cystic fibrosis and meets the criteria as set out above."

19 Sec. 27. G.S. 105-149(a)(8f) reads as rewritten:

20 "(8f) In the case of an individual who has an open neural tube defect or whose  
21 dependent has an open neural tube defect, an additional exemption of one thousand one  
22 hundred dollars (\$1,100) for that individual or dependent. This exemption is in addition  
23 to all other exemptions allowed by this subsection. To claim this exemption, a taxpayer  
24 must submit to the ~~Division of Health Services of the Department of Human Resources~~  
25 Department of Environment, Health, and Natural Resources a certificate from a  
26 physician or local health department certifying that the individual or dependent for  
27 whom the exemption is claimed has an open neural tube defect. Upon receipt of a valid  
28 certificate, the Division will send the taxpayer a verification form which the taxpayer  
29 must attach to the tax return on which the exemption is claimed. The Division shall  
30 develop the certificate and verification form and shall inform physicians and local  
31 health departments of the availability of the certificate."

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

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



1 of such material in North Carolina or who permits the discharge of such nuclear  
2 materials into the air or into any river, creek or stream in North Carolina if such  
3 discharge would contravene in any way the applicable health and safety standards  
4 established and enforced by the Department of ~~Human Resources, the North Carolina~~  
5 ~~Department of Natural Resources and Community Development, Environment, Health,~~  
6 ~~and Natural Resources~~ or the ~~Federal Atomic Energy Nuclear Regulatory~~ Commission.  
7 The most stringent of these standards shall govern."

8 Sec. 29. G.S. 105-275(8) reads as rewritten:

9 "(8) a. Real and personal property that is used or, if under construction, is  
10 to be used exclusively for air cleaning or waste disposal or to abate,  
11 reduce, or prevent the pollution of air or water (including, but not  
12 limited to, waste lagoons and facilities owned by public or private  
13 utilities built and installed primarily for the purpose of providing sewer  
14 service to areas that are predominantly residential in character or areas  
15 that lie outside territory already having sewer service), if the  
16 ~~[Department of Natural Resources and Community Development]~~  
17 Department of Environment, Health, and Natural Resources furnishes  
18 a certificate to the tax supervisor of the county in which the property is  
19 situated or to be situated stating that the Environmental Management  
20 Commission has found that the described property:

- 21 1. Has been or will be constructed or installed;
- 22 2. Complies with or that plans therefor which have been  
23 submitted to the Environmental Management  
24 Commission indicate that it will comply with the  
25 requirements of the Environmental Management  
26 Commission;
- 27 3. Is being effectively operated or will, when completed, be  
28 required to operate in accordance with the terms and  
29 conditions of the permit, certificate of approval, or other  
30 document of approval issued by the Environmental  
31 Management Commission; and
- 32 4. Has or, when completed, will have as its primary rather  
33 than incidental purpose the reduction of water pollution  
34 resulting from the discharge of sewage and waste or the  
35 reduction of air pollution resulting from the emission of  
36 air contaminants.

37 b. Real or personal property that is used or, if under construction,  
38 is to be used exclusively for recycling or resource recovering of  
39 or from solid waste, if the Department of ~~Human Resources~~  
40 Environment, Health, and Natural Resources furnishes a  
41 certificate to the tax supervisor of the county in which the  
42 property is situated stating the Department of ~~Human Resources~~  
43 Environment, Health, and Natural Resources has found that the  
44 described property has been or will be constructed or installed,

1 complies or will comply with the regulations of the Department  
2 of ~~Human Resources~~Environment, Health, and Natural  
3 Resources, and has, or will have as its primary purpose  
4 recycling or resource recovering of or from solid waste.

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

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

- 14 "m. The Division of Forest Resources of the Department of ~~Natural~~  
15 ~~Resources and Community Development~~Environment, Health,  
16 and Natural Resources."

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

18 **"§ 110-92. Duties of State and local agencies.**

19 When requested by an operator of a day-care facility or by the Secretary of Human  
20 Resources, it shall be the duty of local and district health departments to visit and  
21 inspect a day-care facility to determine whether the facility complies with the health and  
22 sanitation standards required by this Article and with the minimum health and sanitation  
23 standards adopted as rules the Commission for Health Services as authorized by G.S.  
24 110-91(1), and to submit written reports on such visits or inspections to the ~~Department~~  
25 ~~on forms approved and provided by the Department~~Department of Human Resources on  
26 forms approved and provided by the Department of Environment, Health, and Natural  
27 Resources.

28 When requested by an operator of a day-care facility or by the Secretary, it shall be  
29 the duty of the local and district health departments, and any building inspector, fire  
30 prevention inspector, or fireman employed by local government, or any fireman having  
31 jurisdiction, or other officials or personnel of local government to visit and inspect a  
32 day-care facility for the purposes specified in this Article, including plans for  
33 evacuation of the premises and protection of children in case of fire, and to report on  
34 such visits or inspections in writing to the Secretary of Human Resources on forms  
35 provided by the Department so that such reports may serve as the basis for action or  
36 decisions by the Secretary or Department as authorized by this Article."

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

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

41 **"§ 113-8. Powers and duties of the Department of ~~Natural Resources and~~**  
42 **~~Community Development~~Environment, Health, and Natural Resources.**

43 The Department of ~~Natural Resources and Community Development~~Environment,  
44 Health, and Natural Resources shall make investigations of the natural resources of the

1 State, and take such measures as it may deem best suited to promote the conservation  
2 and development of such resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **"§ 113-14.3. Publications.**

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

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

11 **"§ 113-16. Cooperation with agencies of the federal government.**

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

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

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

23 **"§ 113-17. Agreements, negotiations and conferences with federal government.**

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

32 Sec. 38. G.S. 113-18 reads as rewritten: \*♦

33 **"§ 113-18. Department authorized to receive funds from Federal Power**  
34 **Commission.**

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

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

43 **"§ 113-19. Cooperation with other State departments.**

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

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

12       **"§ 113-20. Cooperation with counties and municipal corporations.**

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

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

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

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

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

29       **"§ 113-22. Control of State forests.**

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

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

34       **"§ 113-23. Control of Mount Mitchell Park and other State parks. parks in the**  
35       **North Carolina State Parks System.**

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

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

41       **"§ 113-26.1. Bureau of Mines; mineral museum.**

42       The Governor and the Council of State are hereby authorized, in their discretion and  
43 at such times as the development of the mineral resources and the expansion of mining  
44 operations in the State justify and make reasonably necessary, to create and establish as

1 a part of the Department of ~~Natural Resources and Community Development~~ a Bureau  
2 of Mines, or a mineral museum in cooperation with the National Park Service, to be  
3 located in the western part of the State, with a view to rendering such aid and assistance  
4 to mining developments in this State as may be helpful in this expanding industry, and  
5 to allocate from the Contingency and Emergency Fund such funds as may reasonably be  
6 necessary for the establishment and operation of such Bureau of Mines or mineral  
7 museum.

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

11 Sec. 45. G.S. 113-28 reads as rewritten: \*♦ \*♦

12 **"§ 113-28. Reimbursement of government for expense of emergency conservation**  
13 **work.**

14 When and if, upon the sale of State lands or its products, the Secretary of ~~Natural~~  
15 ~~Resources and Community Development~~ determines that the State has derived a direct  
16 profit as a result of work on the land sold, or on land the products of which are sold,  
17 done or to be done, under a project carried on pursuant to an act of Congress entitled,  
18 'An act for the relief of unemployment through the performance of useful public work,  
19 and for other purposes' approved March 31, 1933, one half of such profit from such sale  
20 of land, or one half the proceeds of the sale of such products, or such lesser amount as  
21 may be sufficient, shall be applied to or toward reimbursing the United States  
22 government for moneys expended by it under such act, for the work so done, to the  
23 extent and at the rate of one dollar (\$1.00) per man per day, for the time spent in such  
24 work, but not exceeding in the aggregate three dollars (\$3.00) per acre. The Secretary  
25 of ~~Natural Resources and Community Development~~ shall fix and determine the amount  
26 of such profit or proceeds. Such one-half part of such proceeds or profits, as the case  
27 may be, shall be retained by the Department of ~~Natural Resources and Community~~  
28 ~~Development~~, or paid over to it by any other authorized agency making the sale, to be  
29 so retained by such Department until the account of the United States government, with  
30 respect to such sale, becomes liquidated. Upon completion of the sale, the Department  
31 of ~~Natural Resources and Community Development~~ is hereby authorized to settle with  
32 the proper federal authority an account fixing the amount due the United States  
33 government and to pay over to it the amount so fixed. The unexpended remainder, if  
34 any, of such one-half part of such profit or proceeds shall then be paid over or applied  
35 by said Department of ~~Natural Resources and Community Development~~ as now  
36 authorized and directed by law. This section shall not be construed to authorize the sale  
37 of State lands or products, but applies only to a sale now or hereafter authorized by  
38 other provisions of law. This section is enacted to procure a continuance of the  
39 emergency conservation work within the State, under such act of Congress."

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

41 **"§ 113-28.1. Designated employees commissioned special peace officers by**  
42 **Governor.**

43 Upon application by the Secretary of ~~Natural Resources and Community~~  
44 ~~Development~~ Environment, Health, and Natural Resources, the Governor is hereby

1 authorized and empowered to commission as special peace officers such of the  
2 employees of the Department of ~~Natural Resources and Community Development~~  
3 Environment, Health, and Natural Resources as the Secretary may designate for the  
4 purpose of enforcing the laws, ~~and rules and regulations~~ enacted or adopted for the  
5 protection, preservation and government of State parks, lakes, reservations and other  
6 lands or waters under the control or supervision of the Department of ~~Natural Resources~~  
7 and Community Development Environment, Health, and Natural Resources."

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

9 **"§ 113-28.2. Powers of arrest.**

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

20 Sec. 48. G.S. 113-28.3 is repealed.

21 Sec. 49. G.S. 113-28.23 reads as rewritten:

22 **"§ 113-28.23. Designation of administering agency powers and responsibilities.**

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

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

30 Sec. 50. G.S. 113-29 reads as rewritten:

31 **"§ 113-29. Policy and plan to be inaugurated by ~~Department of Natural Resources~~**  
32 **and Community Development Environment, Health, and Natural**  
33 **Resources.**

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

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

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

- 1 (2) To cooperate with federal and other public agencies in the restoration  
2 of forest growth on land unwisely cleared and subsequently neglected.
- 3 (3) To furnish trained and experienced experts in forest management, to  
4 inspect private forestlands and to advise with forest landowners with a  
5 view to the general observance of recognized and practical rules of  
6 growing, cutting and marketing timber. The services of such trained  
7 experts of the Department must naturally be restricted to those  
8 landowners who agree to carry out so far as possible the  
9 recommendations of said Department.
- 10 (4) To prepare and distribute printed and other material for the use of  
11 teachers and club leaders and to provide instruction to schools and  
12 clubs and other groups of citizens in order to train the younger  
13 generation in the principles of wise use of our forest resources.
- 14 (5) To acquire small areas of suitable land in the different regions of the  
15 State on which to establish small, model forests which shall be  
16 developed and used by the said Department of ~~Natural Resources and~~  
17 ~~Community Development~~ as State demonstration forests for  
18 experiment and demonstration in forest management."

19 Sec. 51. G.S. 113-29.1 reads as rewritten:

20 **"§ 113-29.1. Growing of timber on unused State lands authorized.**

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

37 Sec. 52. G.S. 113-30 reads as rewritten:

38 **"§ 113-30. Use of lands acquired by counties through tax foreclosures as**  
39 **demonstration forests.**

40 The boards of county commissioners of the various counties of North Carolina are  
41 herewith authorized to turn over to the said Department of ~~Natural Resources and~~  
42 ~~Community Development~~ title to such tax-delinquent lands as may have been acquired  
43 by said counties under tax sale and as in the judgment of the Secretary of ~~Natural~~



1 ~~Resources and Community Development~~ may be suitable for the purposes named in  
2 G.S. 113-29, subdivision (5)."

3 Sec. 53. G.S. 113-31 reads as rewritten:

4 **"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.**

5 In the carrying out of the provisions of G.S. 113-30, the several boards of county  
6 commissioners shall furnish forthwith on written request of the Department of ~~Natural~~  
7 ~~Resources and Community Development~~ a complete list of all properties acquired by  
8 the county under tax sale and which have remained unredeemed for a period of two  
9 years or more. On receipt of this list the Secretary of the ~~Department of Natural~~  
10 ~~Resources and Community Development~~ shall have the lands examined and if any one  
11 or more of these properties is in his judgment suitable for the purposes set forth in G.S.  
12 113-30, request shall be made to the county commissioners for the acquisition of such  
13 land by the Department at a price not to exceed the actual amount of taxes due without  
14 penalties. On receipt of this request the county commissioners shall make permanent  
15 transfer of such tract or tracts of land to the Department through fee-simple deed or  
16 other legal transfer, said deed to be approved by the Attorney General of North  
17 Carolina, and shall then receive payment from the Department as above outlined."

18 Sec. 54. G.S. 113-32 reads as rewritten:

19 **"§ 113-32. Purchase of lands for use as demonstration forests.**

20 Where no suitable tax-delinquent lands are available and in the judgment of the  
21 Department of ~~Natural Resources and Community Development~~ the establishment of a  
22 demonstration forest is advisable, the Department may purchase sufficient land for the  
23 establishment of such a demonstration forest at a fair and agreed-upon price, the deed  
24 for such land to be subject to approval of the Attorney General, but nothing in G.S. 113-  
25 29 to 113-33 shall allow the Department of ~~Natural Resources and Community~~  
26 ~~Development~~ to acquire land under the right of eminent domain."

27 Sec. 55. G.S. 113-34 reads as rewritten:

28 **"§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases**  
29 **by United States; leases for recreational purposes; rules governing public**  
30 **use.**

31 The Governor of the State is authorized upon recommendation of the Department of ~~of~~  
32 ~~Natural Resources and Community Development~~ to accept gifts of land to the State, the  
33 same to be held, protected, and administered by said Department of ~~Natural Resources~~  
34 ~~and Community Development~~ as State forests, and to be used so as to demonstrate the  
35 practical utility of timber culture and water conservation, and as refuges for game. Such  
36 gifts must be absolute except in such cases as where the mineral interest on the land has  
37 previously been sold. The ~~State Department of Natural Resources and Community~~  
38 ~~Development~~ shall have the power to purchase lands in the name of the State, suitable  
39 chiefly for the production of timber, as State forests, for experimental, demonstration,  
40 educational, park, and protection purposes, using for such purposes any special  
41 appropriations or funds available. The ~~State Department of Natural Resources and~~  
42 ~~Community Development~~ shall also have the power to acquire by condemnation under  
43 the provisions of Chapter 40, such areas of land in different sections of the State as may  
44 in the opinion of the Department of ~~Natural Resources and Community Development~~ be

1 necessary for the purpose of establishing and/or developing State forests, State parks  
2 and other areas and developments essential to the effective operation of the State  
3 forestry and State park activities with which the Department of ~~Natural Resources and~~  
4 ~~Community Development~~ has been or may be entrusted. Such condemnation  
5 proceedings shall be instituted and prosecuted in the name of the State of North  
6 Carolina, and any property so acquired shall be administered, developed and used for  
7 experiment and demonstration in forest management, for public recreation and for such  
8 other purposes authorized or required by law: Provided, that before any action or  
9 proceeding under this section can be exercised, the approval of the Governor and  
10 Council of State shall be obtained and filed with the clerk of the superior court in the  
11 county or counties where such property may be situate, and until such approval is  
12 obtained, the rights and powers conferred by this section shall not be exercised. The  
13 Attorney General of the State is directed to see that all deeds to the State for land  
14 mentioned in this section are properly executed before the gift is accepted or payment of  
15 the purchase money is made.

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

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

- 36 (1) The erection, maintenance and use of docks, piers and such other  
37 structures as may be permitted in or on said waters under its own  
38 ~~regulations~~rules;
- 39 (2) Fishing privileges in said waters, provided that such privileges shall be  
40 extended only to holders of bona fide North Carolina fishing licenses,  
41 and provided further that all State fishing laws and rules are complied  
42 with.

43 The Department of ~~Natural Resources and Community Development~~ may make  
44 reasonable rules for the operation and use of boats or other craft on the surface of the

1 said waters but shall not be authorized to charge or collect fees for such operation or  
2 use.

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

8 The authority herein granted is in addition to other authority now held and exercised  
9 by the Department of Natural Resources and Community Development."

10 Sec. 56. G.S. 113-35 reads as rewritten:

11 "**§ 113-35. State timber may be sold by Department of Natural Resources and**  
12 **Community Development Environment, Health, and Natural Resources;**  
13 **forest nurseries; control over parks, etc.; operation of public service**  
14 **facilities; concessions to private concerns.**

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

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

- 39 (1) The erection, maintenance and use of docks, piers and such other  
40 structures as may be permitted in or on State lakes under its own  
41 regulations;
- 42 (2) Hunting privileges on State forests and fishing privileges in State  
43 forests, State parks and State lakes, provided that such privileges shall  
44 be extended only to holders of bona fide North Carolina hunting and

1 fishing licenses, and provided further that all State game and fish laws  
2 are complied with.

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

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

16 Sec. 57. G.S. 113-35.1 reads as rewritten:

17 "**§ 113-35.1. Uniforms for seasonal park employees.**

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

24 Sec. 58. G.S. 113-36(a) reads as rewritten:

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

32 Sec. 59. G.S. 113-36(b) reads as rewritten: \*♦

33 "(b) Tree Cone and Seed Purchase Fund. – A percentage of the money obtained  
34 from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be  
35 placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund  
36 under the control and direction of the Secretary, ~~Department of Natural Resources and~~  
37 ~~Community Development~~. The percentage of the sales placed in the fund shall not  
38 exceed ten percent (10%). At the beginning of each fiscal year, the secretary shall  
39 select the percentage for the upcoming fiscal year depending upon the anticipated costs  
40 of tree cones and seeds which the department must purchase. Money in this fund shall  
41 not be allowed to accumulate in excess of the amount needed to purchase a four-year  
42 supply of tree cones and seed, and shall be used for no purpose other than the purchase  
43 of tree cones and seeds."

44 Sec. 60. G.S. 113-40 reads as rewritten:

1 **"§ 113-40. Donations of property for forestry or park purposes; agreements with**  
 2 **federal government or agencies for acquisition.**

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

8 Sec. 61. G.S. 113-44.5(b) reads as rewritten:

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

- 13 (1) Designed to assure the continuous growing and harvesting of forest  
 14 tree species and to protect the soil, air, and water resources, including  
 15 but not limited to streams, lakes, and estuaries;
- 16 (2) Designed to coordinate activities among State agencies that are  
 17 concerned with the forest environment;
- 18 (3) Designed to develop programs to deal with emerging forestry  
 19 problems, including but not limited to forest taxation, forest incentives,  
 20 and forest practices;
- 21 (4) Designed to keep the General Assembly fully informed concerning  
 22 forestry and its related problems and needs; and
- 23 (5) Designed to develop needed legislation to further the purposes of this  
 24 Article."

25 Sec. 62. G.S. 113-51 reads as rewritten:

26 **"§ 113-51. Powers of Department of Natural Resources and Community**  
 27 **Development Environment, Health, and Natural Resources.**

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

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

37 Sec. 63. G.S. 113-52 reads as rewritten:

38 **"§ 113-52. Forest rangers.**

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

43 Sec. 64. G.S. 113-54 reads as rewritten:

44 **"§ 113-54. Duties of forest rangers; payment of expenses by State and counties.**

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

33 Sec. 65. G.S. 113-55(a) reads as rewritten:

34 "(a) Forest rangers shall prevent and extinguish forest fires and shall have control  
35 and direction of all persons and equipment while engaged in the extinguishing of forest  
36 fires. During a season of drought, the Secretary of the Department of Natural Resources  
37 and Community Development or his designate may establish a fire patrol in any district,  
38 and in case of fire in or threatening any forest or woodland, the forest ranger shall attend  
39 forthwith and use all necessary means to confine and extinguish such fire. The forest  
40 ranger or deputy forest ranger may summon any resident between the ages of 18 and 45  
41 years, inclusive, to assist in extinguishing fires and may require the use of crawler  
42 tractors and other property needed for such purposes; any person so summoned and who  
43 is physically able who refuses or neglects to assist or to allow the use of equipment and  
44 such other property required shall be guilty of a misdemeanor and upon conviction shall

1 be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred  
2 dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy  
3 forest ranger, or person summoned by him for crossing lands, backfiring, burning out or  
4 performing his duties as a forest ranger or deputy forest ranger."

5 Sec. 66. G.S. 113-55.1 reads as rewritten:

6 **"§ 113-55.1. Powers of forest law-enforcement officers.**

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

21 Sec. 67. G.S. 113-56 reads as rewritten:

22 **"§ 113-56. Compensation of forest rangers.**

23 Forest rangers shall receive compensation from the ~~Department of Natural~~  
24 ~~Resources and Community Development~~ at a reasonable rate to be fixed by said  
25 ~~Department of Natural Resources and Community Development~~ for the time actually  
26 engaged in the performance of their duties; and reasonable expenses for equipment,  
27 transportation, or food supplies incurred in the performance of their duties, according to  
28 an itemized statement to be rendered the Secretary of ~~Natural Resources and~~  
29 ~~Community Development~~ every month, and approved by him. Forest rangers shall  
30 render to the Secretary of ~~Natural Resources and Community Development~~ a statement  
31 of the services rendered by the men employed by them or their deputy rangers, as  
32 provided in this Article, within one month of the date of service, which bill shall show  
33 in detail the amount and character of the service performed, the exact duration thereof,  
34 the name of each person employed, and any other information required by the Secretary  
35 of ~~Natural Resources and Community Development~~. If said bill be duly approved by  
36 the Secretary of ~~Natural Resources and Community Development~~, it shall be paid by  
37 direction of the ~~Department of Natural Resources and Community Development~~ out of  
38 any funds provided for that purpose."

39 Sec. 68. G.S. 113-56.1 reads as rewritten:

40 **"§ 113-56.1. Overtime compensation for forest fire fighting.**

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

1           Sec. 69. G.S. 113-58 reads as rewritten:

2   **"§ 113-58. Misdemeanor to destroy posted forestry notice.**

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

10           Sec. 70. G.S. 113-59 reads as rewritten:

11   **"§ 113-59. Cooperation between counties and State in forest protection and**  
12           **development.**

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

18           Sec. 71. G.S. 113-60 reads as rewritten:

19   **"§ 113-60. Instructions on forest preservation and development.**

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

26           It shall be the duty of the various rangers herein mentioned under the direction of the  
27 Secretary ~~of Natural Resources and Community Development~~, and the duty of the  
28 teachers of the various schools, both public and high schools, to keep posted at some  
29 conspicuous place in the various classrooms of the school buildings such appropriate  
30 bulletins and posters as may be sent out from the forestry agencies herein named for that  
31 purpose and keep the same constantly before their pupils; and said teachers and rangers  
32 shall prepare lectures or talks to be made to the pupils of the various schools on the  
33 subject of forest fires, their origin and their destructive effect on the plant life and tree  
34 life of the forests of the State, the development and scientific management of the forests  
35 of the State, and shall be prepared to give practical instruction to their pupils from time  
36 to time and as often as they shall find it possible so to do."

37           Sec. 72. G.S. 113-60.1 reads as rewritten:

38   **"§ 113-60.1. Authority of Governor to close forests and woodlands to hunting,**  
39           **fishing and trapping.**

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



- 1 (1) Close any or all of the woodlands and inland waters of the State to  
2 hunting, fishing and trapping for the period of the emergency.
- 3 (2) Forbid for the period of the emergency the building of campfires and  
4 the burning of brush, grass or other debris within 500 feet of any  
5 woodland in any county, counties, or parts thereof.
- 6 (3) Close for the period of the emergency any or all of the woodlands of  
7 the State to such other persons and activities as he deems proper under  
8 the circumstances, except to the owners or tenants of such property  
9 and their agents and employees, or persons holding written permission  
10 from any owner or his recognized agent to enter thereon for any lawful  
11 purpose other than hunting, fishing or trapping."

12 Sec. 73. G.S. 113-60.2 reads as rewritten:

13 **"§ 113-60.2. Publication of proclamation; annulment thereof.**

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

21 Sec. 74. G.S. 113-60.4 reads as rewritten:

22 **"§ 113-60.4. Purpose and intent.**

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

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

32 Sec. 75. G.S. 113-60.5 reads as rewritten:

33 **"§ 113-60.5. Authority of the Department of Natural Resources and Community**  
34 **Development.**

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

42 Sec. 76. G.S. 113-60.6(4) reads as rewritten:

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

4           Sec. 77. G.S. 113-60.6(5) reads as rewritten:

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

8           Sec. 78. G.S. 113-60.7 reads as rewritten:

9       "**§ 113-60.7. Action against insects and diseases.**

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

22           Sec. 79. G.S. 113-60.8 reads as rewritten:

23       "**§ 113-60.8. Authority of Secretary of ~~Natural Resources and Community  
24 Development~~ and his agents to go upon private land within control zones.**

25       The Secretary of ~~Natural Resources and Community Development~~ or his agents  
26 shall have the power to go upon the land within any zone of infestation or infection and  
27 take measures to control, suppress or eradicate the insect, infestation or disease  
28 infection. If any person refuses to allow the Secretary of ~~Natural Resources and  
29 Community Development~~ or his agents to go upon his land, or if any person refuses to  
30 adopt adequate means to control or eradicate the insect, infestation or disease infection,  
31 the Secretary of ~~Natural Resources and Community Development~~ may apply to the  
32 superior court of the county in which the land is located for an injunction or other  
33 appropriate remedy to restrain the landowner from interfering with the Secretary of  
34 ~~Natural Resources and Community Development~~ or his agents in entering the control  
35 zone and adopting measures to control, suppress or eradicate the insect infestation or  
36 disease infection, provided the cost of court or control thereof shall not be a liability  
37 against the forest landowner nor constitute a lien upon the real property of such infested  
38 area."

39           Sec. 80. G.S. 113-60.9 reads as rewritten:

40       "**§ 113-60.9. Cooperative agreements.**

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

1           Sec. 81. G.S. 113-60.10 reads as rewritten:

2   **"§ 113-60.10. Annulment of control zone.**

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

9           Sec. 82. G.S. 113-61 reads as rewritten:

10   **"§ 113-61. Private limited dividend corporations may be formed.**

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

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

22           Sec. 83. G.S. 113-62 reads as rewritten:

23   **"§ 113-62. Manner of organizing.**

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

34           Sec. 84. G.S. 113-63 reads as rewritten:

35   **"§ 113-63. Directors.**

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

39           Sec. 85. G.S. 113-64 reads as rewritten:

40   **"§ 113-64. Duties of supervision by Secretary of ~~Natural Resources and~~**  
41 **~~Community Development~~ Environment, Health, and Natural Resources.**

42       Corporations formed under this Article shall be regulated by the Secretary of ~~Natural~~  
43 ~~Resources and Community Development~~ in the manner provided in this Article.  
44

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

- 9 (1) Adopt rules to implement this Article and to protect and develop  
10 forests subject to its jurisdiction.
- 11 (2) Order all corporations organized under this Article to do such acts as  
12 may be necessary to comply with the provisions of law and the rules  
13 ~~and regulations~~ adopted by the Secretary of ~~Natural Resources and~~  
14 ~~Community Development~~, or to refrain from doing any acts in  
15 violation thereof.
- 16 (3) Keep informed as to the general condition of all such corporations,  
17 their capitalization and the manner in which their property is  
18 permitted, operated or managed with respect to their compliance with  
19 all provisions of law and orders of the Secretary of ~~Natural Resources~~  
20 ~~and Community Development~~.
- 21 (4) Require every such corporation to file with the Secretary of ~~Natural~~  
22 ~~Resources and Community Development~~ annual reports and, if the  
23 Secretary of ~~Natural Resources and Community Development~~ shall  
24 consider it advisable, other periodic and special reports, setting forth  
25 such information as to its affairs as the Secretary of ~~Natural Resources~~  
26 ~~and Community Development~~ may require."

27 Sec. 86. G.S. 113-65 reads as rewritten:

28 **"§ 113-65. Powers of Secretary.**

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

- 30 (1) Examine at any time all books, contracts, records, documents and  
31 papers of any such corporation.
- 32 (2) In his discretion prescribe uniform methods and forms of keeping  
33 accounts, records and books to be observed by such corporation, and  
34 prescribe by order accounts in which particular outlays and receipts are  
35 to be entered, charged or credited. The Secretary of ~~Natural Resources~~  
36 ~~and Community Development~~ shall not, however, have authority to  
37 require any revaluation of the real property or other fixed assets of  
38 such corporations, but he shall allow proper charges for the depletion  
39 of timber due to cutting or destruction.
- 40 (3) Enforce the provisions of this Article, a rule implementing this Article,  
41 or an order issued under this Article by filing a petition for a writ of  
42 mandamus or application for an injunction in the superior court of the  
43 county in which the respondent corporation has its principal place of  
44 business. The final judgment in any such proceeding shall either

1 dismiss the proceeding or direct that a writ of mandamus or an  
2 injunction, or both, issue as prayed for in the petition or in such  
3 modified or other form as the court may determine will afford  
4 appropriate relief."

5 Sec. 87. G.S. 113-66 reads as rewritten:

6 **"§ 113-66. Provision for appeal by corporations to Governor.**

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

18 Sec. 88. G.S. 113-68 reads as rewritten:

19 **"§ 113-68. Issuance of securities restricted.**

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

26 Sec. 89. G.S. 113-70 reads as rewritten:

27 **"§ 113-70. Earnings above dividend requirements payable to State.**

28 Any earnings of such corporation in excess of the amounts necessary to pay  
29 dividends to stockholders at the rate set forth in G.S. 113-67 shall be paid over to the  
30 State of North Carolina prior to the dissolution of such corporation. Net income or net  
31 losses (determined in such manner as the Secretary of Natural Resources and  
32 ~~Community Development~~ shall consider properly to show such income or losses) from  
33 the sale of the capital assets of such corporation, whether such sale be upon dissolution  
34 or otherwise, shall be considered in determining the earnings of such corporation for the  
35 purposes of this section. In determining such earnings unrealized appreciation or  
36 depreciation of real estate or other fixed assets shall not be considered."

37 Sec. 90. G.S. 113-71 reads as rewritten:

38 **"§ 113-71. Dissolution of corporation.**

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

1           Sec. 91. G.S. 113-72 reads as rewritten:

2   **"§ 113-72. Cutting and sale of timber.**

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

11           Sec. 92. G.S. 113-73 reads as rewritten:

12   **"§ 113-73. Corporation may not sell or convey without consent of Secretary, or pay**  
13       **higher interest rate than 6%.**

14       No such corporation shall:

- 15           (1)   Sell, assign or convey any real property owned by it or any right, title  
16                or interest therein, except upon notice to the Secretary ~~of Natural~~  
17                ~~Resources and Community Development~~ of the terms of such sale,  
18                transfer or assignment, and unless the Secretary ~~of Natural Resources~~  
19                ~~and Community Development~~ shall consent thereto, and if the  
20                Secretary ~~of Natural Resources and Community Development~~ shall  
21                require it, unless the purchaser thereof shall agree that such real estate  
22                shall remain subject to the ~~regulations~~rules and supervision of the  
23                Secretary ~~of Natural Resources and Community Development~~ for such  
24                period as the latter may require;
- 25           (2)   Pay interest returns on its mortgage indebtedness at a higher rate than  
26                six per centum (6%) per annum without the consent of the Secretary ~~of~~  
27                ~~Natural Resources and Community Development~~;
- 28           (3)   Mortgage any real property without first having obtained the consent  
29                of the Secretary ~~of Natural Resources and Community Development~~."

30           Sec. 93. G.S. 113-74 reads as rewritten:

31   **"§ 113-74. Power to borrow money limited.**

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

42           Sec. 94. G.S. 113-75 reads as rewritten:

43   **"§ 113-75. Secretary to approve development of forests.**

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

- 4 (1) The Secretary ~~of Natural Resources and Community Development~~  
 5 shall have received a statement duly executed and acknowledged on  
 6 behalf of the corporation proposing such project, in such adequate  
 7 detail as the Secretary ~~of Natural Resources and Community~~  
 8 ~~Development~~ shall require of the activities to be included in the  
 9 project, such statement to set forth the proposals as to  
 10 a. Fire prevention and protection,  
 11 b. Protection against insects and tree diseases,  
 12 c. Protection against damage by livestock and game,  
 13 d. Means, methods and rate of, and restrictions upon, cutting and  
 14 other utilization of the forests, and  
 15 e. Planting and spacing of trees.
- 16 (2) There shall be submitted to the Secretary ~~of Natural Resources and~~  
 17 ~~Community Development~~ a financial plan satisfactory to him setting  
 18 forth in detail the amount of money needed to carry out the entire  
 19 project, and how such sums are to be allocated, with adequate  
 20 assurances to the Secretary ~~of Natural Resources and Community~~  
 21 ~~Development~~ as to where such funds are to be secured.
- 22 (3) The Secretary ~~of Natural Resources and Community Development~~  
 23 shall be satisfied that the project gives reasonable assurance of the  
 24 operation of the forests involved on a sustained-yield basis except  
 25 insofar as the Secretary ~~of Natural Resources and Community~~  
 26 ~~Development~~ shall consider the same impracticable.
- 27 (4) The corporation proposing such project shall agree that the project  
 28 shall at all times be subject to the supervision and inspection of the  
 29 Secretary ~~of Natural Resources and Community Development~~, and that  
 30 it will at all times comply with such rules ~~and regulations~~ concerning  
 31 the project as the Secretary ~~of Natural Resources and Community~~  
 32 ~~Development~~ shall from time to time impose."

33 Sec. 95. G.S. 113-76 reads as rewritten:

34 **"§ 113-76. Application of corporate income.**

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

43 Sec. 96. G.S. 113-77 reads as rewritten:

44 **"§ 113-77. Reorganization of corporations.**

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

5 Sec. 97. G.S. 113-81.1 reads as rewritten:

6 **"§ 113-81.1. Authority to render scientific forestry services.**

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

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

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

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

31 Sec. 98. G.S. 113-81.2 reads as rewritten:

32 **"§ 113-81.2. Services under direction of Secretary ~~of Natural Resources and~~**  
33 **~~Community Development~~; compensation; when services without charge.**

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



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

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

14 Sec. 99. G.S. 113-81.3 reads as rewritten:

15 **"§ 113-81.3. Deposit of receipts with State treasury.**

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

20 Sec. 100. G.S. 113-151.1 reads as rewritten:

21 **"§113-151.1. License agents.**

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

28 License agents shall be compensated by retaining fifty cents (50¢) from each license  
29 sold. If more than one license is listed on a consolidated license form, the license agent  
30 shall be compensated as if a single license were sold and he shall retain fifty cents  
31 (50¢)."

32 Sec. 101. G.S. 113-202(a)(6) reads as rewritten:

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

36 Sec. 102. G.S. 113-203(d) reads as rewritten:

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

41 A petition shall be filed with the Secretary by the board of county commissioners of  
42 the county in which such area is located requesting the designation of and describing the  
43 area proposed as a natural seed oyster area. Upon the receipt of the petition, the  
44 Secretary shall, within six weeks of the receipt by him of such petition, cause an

1 investigation of the area proposed to be designated as a natural seed oyster area. Such  
2 investigation shall be made by qualified biologists of the Department of Natural  
3 ~~Resources and Community Development~~. The Secretary shall then make a  
4 recommendation to the Marine Fisheries Commission as to whether the area described  
5 in the petition should be designated as a natural seed oyster area and such area shall be  
6 so designated by the Marine Fisheries Commission only after the Secretary so  
7 recommends as being in the best interests of the State.

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

15 Sec. 103. G.S. 113-204 reads as rewritten:

16 **"§ 113-204. Propagation of shellfish.**

17 The Department of ~~Natural Resources and Community Development~~ is authorized to  
18 close areas of public bottoms under coastal fishing waters for such time as may be  
19 necessary in any program of propagation of shellfish. The Department of ~~Natural~~  
20 ~~Resources and Community Development~~ is authorized to expend State funds planting  
21 such areas and to manage them in ways beneficial to the overall productivity of the  
22 shellfish industry in North Carolina. The Department of ~~Natural Resources and~~  
23 ~~Community Development~~ in its discretion in accordance with desirable conservation  
24 objectives may make shellfish produced by it available to commercial fishermen  
25 generally, to those in possession of private shellfish beds, or to selected individuals  
26 cooperating with the Department of ~~Natural Resources and Community Development~~ in  
27 demonstration projects concerned with the cultivation, harvesting, or processing of  
28 shellfish."

29 Sec. 104. G.S. 113-206(d) reads as rewritten:

30 "(d) In the interest of conservation of the marine and estuarine resources of North  
31 Carolina, the Department of ~~Natural Resources and Community Development~~ may  
32 institute an action in the superior court to contest the claim of title or claimed right of  
33 fishery in any navigable waters of North Carolina registered with the Secretary. In such  
34 proceeding, the burden of showing title or right of fishery, by the preponderance of the  
35 evidence, shall be upon the claiming title or right holder. In the event the claiming title  
36 or right holder prevails, the trier of fact shall fix the monetary worth of the claim. The  
37 Department of ~~Natural Resources and Community Development~~ may elect to condemn  
38 the claim upon payment of the established owners or right holders their pro rata shares  
39 of the amount so fixed. The Department of ~~Natural Resources and Community~~  
40 ~~Development~~ may make such payments from such funds as may be available to it. An  
41 appeal lies to the appellate division by either party both as to the validity of the claim  
42 and as to the fairness of the amount fixed. The Department of ~~Natural Resource and~~  
43 ~~Community Development~~ in such actions may be represented by the Attorney General.  
44 In determining the availability of funds to the Department of ~~Natural Resources and~~

1 ~~Community Development~~ to underwrite the costs of litigation or make condemnation  
2 payments, the use which the Department of ~~Natural Resources and Community~~  
3 ~~Development~~ proposes to make of the area in question may be considered; such  
4 payments are to be deemed necessary expenses in the course of operations attending  
5 such use or of developing or attempting to develop the area in the proposed manner."

6 Sec. 105. G.S. 113-207 reads as rewritten:

7 **"§ 113-207. Clamming on posted oyster rocks forbidden; penalty.**

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

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

20 Sec. 106. G.S. 113-223 reads as rewritten:

21 **"§ 113-223. Reciprocal agreements by Department of ~~Natural Resources and~~**  
22 **~~Community Development~~ generally.**

23 Subject to the specific provisions of G.S. 113-153 and G.S. 113-161 relating to  
24 reciprocal provisions as to landing and selling catch and as to licenses, the Department  
25 of ~~Natural Resources and Community Development~~ is empowered to make reciprocal  
26 agreements with other jurisdictions respecting any of the matters governed in this  
27 Subchapter. Pursuant to such agreements the Department of ~~Natural Resources and~~  
28 ~~Community Development~~ may modify provisions of this Subchapter in order to  
29 effectuate the purposes of such agreements, in the overall best interests of the  
30 conservation of marine and estuarine resources."

31 Sec. 107. G.S. 113-224 reads as rewritten:

32 **"§ 113-224. Cooperative agreements by Department of ~~Natural Resources and~~**  
33 **~~Community Development~~.**

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

42 \* Sec. 108. G.S. 113-226 reads as rewritten:

43 **"§ 113-226. Administrative authority of Department of ~~Natural Resources and~~**  
44 **~~Community Development~~; administration of funds; delegation of powers.**

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

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

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

20 (b) All money credited to, held by, or to be received by the Department in respect  
21 of the conservation of marine and estuarine resources must be deposited with the  
22 Department. In administering such funds and recommending expenditures, the  
23 Department must give attention to the sources of the revenues received so as to  
24 encourage disbursements to be made on an equitable basis; nevertheless, except as  
25 provided in this section, separate funds may not be established and particular projects  
26 and programs deemed to be of sufficient importance in the conservation of marine and  
27 estuarine resources may receive proportional shares of Department expenditures that are  
28 greater than the proportional shares of license and other revenues produced by such  
29 projects or programs for the Department.

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

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

41 Sec. 109. G.S. 113-229 reads as rewritten:

42 **"§ 113-229. Permits to dredge or fill in or about estuarine waters or state-owned**  
43 **lakes.**

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

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

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

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

- 24 (1) The size of the development;
- 25 (2) The impact of the development on areas of environmental concern;
- 26 (3) How often the class of development is carried out;
- 27 (4) The need for on-site oversight of the development; and
- 28 (5) The need for public review and comment on individual development  
29 projects.

30 General permits may be issued by the Commission as rules under the provisions of G.S.  
31 113A-107. Individual development carried out under the provisions of general permits  
32 shall not be subject to the mandatory notice provisions of this section. The Commission  
33 may impose reasonable notice provisions and other appropriate conditions and  
34 safeguards on any general permit it issues. The variance, appeals, and enforcement  
35 provisions of this Article shall apply to any individual development projects undertaken  
36 under a general permit.

37 (d) An applicant for a permit, other than an emergency permit, shall send a copy  
38 of his application to the owner of each tract of riparian property that adjoins that of the  
39 applicant. The copy shall be served by certified mail or, if the owner's address is  
40 unknown and cannot be ascertained with due diligence or if a diligent but unsuccessful  
41 effort has been made to serve the copy by certified mail, by publication in accordance  
42 with the rules of the Commission. An owner may file written objections to the permit  
43 with the Department for 30 days after he is served with a copy of the application. In the  
44 case of a special emergency dredge or fill permit the applicant must certify that he took

1 all reasonable steps to notify adjacent riparian owners of the application for a special  
2 emergency dredge and fill permit prior to submission of the application. Upon receipt  
3 of this certification, the Secretary shall issue or deny the permit within the time period  
4 specified in (e) of this section, upon the express understanding from the applicant that  
5 he will be entirely liable and hold the State harmless for all damage to adjacent riparian  
6 landowners directly and proximately caused by the dredging or filling for which  
7 approval may be given.

8 (e) Applications for permits except special emergency permit applications shall  
9 be circulated by the Department of ~~Natural Resources and Community Development~~  
10 among all State agencies and, in the discretion of the Secretary, appropriate federal  
11 agencies having jurisdiction over the subject matter which might be affected by the  
12 project so that such agencies will have an opportunity to raise any objections they might  
13 have. The Department may deny an application for a dredge or fill permit upon finding:  
14 (1) that there will be significant adverse effect of the proposed dredging and filling on  
15 the use of the water by the public; or (2) that there will be significant adverse effect on  
16 the value and enjoyment of the property of any riparian owners; or (3) that there will be  
17 significant adverse effect on public health, safety, and welfare; or (4) that there will be  
18 significant adverse effect on the conservation of public and private water supplies; or  
19 (5) that there will be significant adverse effect on wildlife or fresh water, estuarine or  
20 marine fisheries. In the absence of such findings, a permit shall be granted. Such  
21 permit may be conditioned upon the applicant amending his proposal to take whatever  
22 measures are reasonably necessary to protect the public interest with respect to the  
23 factors enumerated in this subsection. Permits may allow for projects granted a permit  
24 the right to maintain such project for a period of up to 10 years. The right to maintain  
25 such project shall be granted subject to such conditions as may be reasonably necessary  
26 to protect the public interest. The Coastal Resources Commission shall coordinate the  
27 issuance of permits under this section and G.S. 113A-118 to avoid duplication and to  
28 create a single, expedited permitting process. The Coastal Resources Commission may  
29 adopt rules interpreting and applying the provisions of this section and rules specifying  
30 the procedures for obtaining a permit under this section. Maintenance work as defined  
31 in this subsection shall be limited to such activities as are required to maintain the  
32 project dimensions as found in the permit granted. The Department shall act on an  
33 application for permit within 75 days after the completed application is filed, provided  
34 the Department may extend such deadline by not more than an additional 75 days if  
35 necessary properly to consider the application, except for applications for a special  
36 emergency permit, in which case the Department shall act within two working days  
37 after an application is filed, and failure to so act shall automatically approve the  
38 application.

39 (e1) The Secretary of the ~~Department of Natural Resources and Community~~  
40 ~~Development~~ is empowered to issue special emergency dredge or fill permits upon  
41 application. Emergency permits may be issued only when life or structural property is  
42 in imminent danger as a result of rapid recent erosion or sudden failure of a man-made  
43 structure. The Coastal Resources Commission may elaborate by rule upon what  
44 conditions the Secretary may issue a special emergency dredge or fill permit. The

1 Secretary may condition the emergency permit upon any reasonable conditions,  
2 consistent with the emergency situation, he feels are necessary to reasonably protect the  
3 public interest. Where an application for a special emergency permit includes work  
4 beyond which the Secretary, in his discretion, feels necessary to reduce imminent  
5 dangers to life or property he shall issue the emergency permit only for that part of the  
6 proposed work necessary to reasonably reduce the imminent danger. All further work  
7 must be applied for by application for an ordinary dredge or fill permit. The Secretary  
8 shall deny an application for a special dredge or fill permit upon a finding that the  
9 detriment to the public which would occur on issuance of the permit measured by the  
10 five factors in G.S. 113-229(e) clearly outweighs the detriment to the applicant if such  
11 permit application should be denied.

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

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

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

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

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

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

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

43 (m) This section shall apply to all persons, firms, or corporations, their  
44 employees, agents, or contractors proposing excavation or filling work in the estuarine

1 waters, tidelands, marshlands and state-owned lakes within the State, and the work to be  
2 performed by the State government or local governments. Provided, however, the  
3 provisions of this section shall not apply to the activities and functions of the ~~North~~  
4 ~~Carolina~~ ~~Department of Human Resources~~ and local health departments that are  
5 engaged in mosquito control for the protection of the health and welfare of the people of  
6 the coastal area of North Carolina as provided under G.S. ~~130-206-130A-346~~ through  
7 ~~130-209~~ G.S. 130A-349. Provided, further, this section shall not impair the riparian  
8 right of ingress and egress to navigable waters.

9 (n) Within the meaning of this section:

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

11 (2) 'Estuarine waters' means all the waters of the Atlantic Ocean within  
12 the boundary of North Carolina and all the waters of the bays, sounds,  
13 rivers, and tributaries thereto seaward of the dividing line between  
14 coastal fishing waters and inland fishing waters agreed upon by the  
15 ~~Department of Natural Resources and Community Development~~ and  
16 the Wildlife Resources Commission, within the meaning of G.S. 113-  
17 129.

18 (3) 'Marshland' means any salt marsh or other marsh subject to regular or  
19 occasional flooding by tides, including wind tides (whether or not the  
20 tidewaters reach the marshland areas through natural or artificial  
21 watercourses), provided this shall not include hurricane or tropical  
22 storm tides. Salt marshland or other marsh shall be those areas upon  
23 which grow some, but not necessarily all, of the following salt marsh  
24 and marsh plant species: Smooth or salt water Cordgrass (*Spartina*  
25 *alterniflora*), Black Needlerush (*Juncus roemerianus*), Glasswort  
26 (*Salicornia* spp.), Salt Grass (*Distichlis spicata*), Sea Lavender  
27 (*Limonium* spp.), Bulrush (*Scirpus* spp.), Saw Grass (*Cladium*  
28 *jamaicense*), Cattail (*Typha* spp.), Salt-Meadow Grass (*Spartina*  
29 *patens*), and Salt Reed-Grass (*Spartina cynosuroides*)."

30 Sec. 110. G.S. 113-230 reads as rewritten: ♦ \* ♦

31 **"§ 113-230. Orders to control activities in coastal wetlands.**

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

41 (b) The Secretary shall, before adopting, amending, modifying or repealing any  
42 such order, hold a public hearing thereon in the county in which the coastal wetlands to  
43 be affected are located, giving notice thereof to interested State agencies and each



1 owner or claimed owner of such wetlands by certified or registered mail at least 21 days  
2 prior thereto.

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

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

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

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

29 (g) After a finding has been entered that such order shall not apply to certain land  
30 as provided in the preceding subsection, the Department of Administration, upon the  
31 request of the Coastal Resources Commission, shall take the fee or any lesser interest in  
32 such land in the name of the State by eminent domain under the provisions of Chapter  
33 146 of the General Statutes and hold the same for the purposes set forth in this section.

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

37 Sec. 111. G.S. 113-251 reads as rewritten:

38 "**§ 113-251. Definition of terms.**

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

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

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

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

7 Sec. 112. G.S. 113-254 reads as rewritten:

8 **"§ 113-254. North Carolina members of Commission.**

9 In pursuance of Article III of said Compact there shall be three members (hereinafter  
10 called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter  
11 called Commission) from the State of North Carolina. The first commissioner from the  
12 State of North Carolina shall be the Fisheries Director of the Division of Marine  
13 Fisheries of the Department-~~of Natural Resources and Community Development~~, ex  
14 officio, and the term of such ex officio commissioner shall terminate at the time he  
15 ceases to hold such office, and his successor as commissioner shall be his successor as  
16 Fisheries Director of the Division of Marine Fisheries-~~of the Department of Natural~~  
17 ~~Resources and Community Development~~. The second commissioner from the State of  
18 North Carolina shall be a legislator and member of the Commission on Interstate  
19 Cooperation of the State of North Carolina, ex officio, designated by said Commission  
20 on Interstate Cooperation, and the term of any such ex officio commissioner shall  
21 terminate at the time he ceases to hold said legislative office or said office as  
22 Commissioner on Interstate Cooperation, and his successor as commissioner shall be  
23 named in like manner. The Governor (by and with the advice and consent of the  
24 Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of  
25 and interest in the marine fisheries problem. The term of said Commissioner shall be  
26 three years and he shall hold office until his successor shall be appointed and qualified.  
27 Vacancies occurring in the office of such Commissioner from any reason or cause shall  
28 be filled by appointment by the Governor (by and with the advice and consent of the  
29 Senate) for the unexpired term. The Fisheries Director of the Division of Marine  
30 Fisheries appointed pursuant to Article III as ex officio commissioner may delegate,  
31 from time to time, to any deputy or other subordinate of the Fisheries Director, the  
32 power to be present and participate, including voting, as his representative or substitute  
33 at any meeting of or hearing by or other proceedings of the Commission. The terms of  
34 each of the initial three members shall begin at the date of the appointment of the  
35 appointive commissioner, provided the said Compact shall then have gone into effect in  
36 accordance with Article II of the Compact; otherwise they shall begin upon the date  
37 upon which said Compact shall become effective in accordance with said Article II.

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

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

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

1           Sec. 114. G.S. 113-268(e) reads as rewritten:

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

11           Sec. 115. G.S. 113-291.4(i) reads as rewritten:

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

17           Sec. 116. G.S. 113-291.6(f) reads as rewritten:

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

22           Sec. 117. G.S. 113-315.9 reads as rewritten:

23           "**§ 113-315.9. Bond of financial officer; audit.**

24           Before collecting and receiving such assessments, such treasurer or financial officer  
25 shall give bond to the agency to run in favor of the agency in the amount of the  
26 estimated total of such assessments as will be collected, and from time to time the  
27 agency may alter the amount of such bond which, at all times, must be equal to the total  
28 financial assets of the agency, such bond to have as surety thereon a surety company  
29 licensed to do business in the State of North Carolina, and to be in the form and amount  
30 approved by the agency and to be filed with the chairman or executive head of such  
31 agency.

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

43           Sec. 118. G.S. 113-315.18 reads as rewritten:

44           "**§ 113-315.18. Fishermen's Economic Development Program.**

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

- 6 (1) Instituting business management services to promote better business  
7 management practices throughout the fishing and seafood industry,  
8 and to promote the better use of credit and other business management  
9 techniques.
- 10 (2) Providing counseling services to the fishermen at all levels and  
11 assisting them in meeting the federal and State environmental, safety  
12 and health requirements.
- 13 (3) Improving waterways, harbors, inlets, and generally the water  
14 transportation system of North Carolina so as to more efficiently and  
15 safely accommodate commercial and sport fishing craft, and to provide  
16 access to and from fishing grounds."

17 Sec. 119. G.S. 113-316 reads as rewritten:

18 **"§ 113-316. General statement of purpose and effect of revisions of Subchapter IV**  
19 **made in 1965 and 1979.**

20 To clarify the conservation laws of the State and the authority and jurisdiction of the  
21 Department of ~~Natural Resources and Community Development~~ and the North  
22 Carolina Wildlife Resources Commission: commercial fishing waters are renamed  
23 coastal fishing waters and the Department is given jurisdiction over and responsibility  
24 for the marine and estuarine resources in coastal fishing waters; the laws pertaining to  
25 commercial fishing operations and marine fishing and fisheries regulated by the  
26 Department are consolidated and revised generally and broadened to reflect the  
27 jurisdictional change respecting coastal fisheries; laws relating to the conservation of  
28 wildlife resources administered by the Wildlife Resources Commission are consolidated  
29 and revised; and the enforcement authority of marine fisheries inspectors and wildlife  
30 protectors is clarified, including the authority of wildlife protectors over boating and  
31 other activities other than conservation within the jurisdiction of the Wildlife Resources  
32 Commission."

33 Sec. 120. G.S. 113-378 reads as rewritten:

34 **"§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

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

1 operator upon abandonment shall be plugged in accordance with the rules of said  
2 Department of Natural Resources and Community Development."

3 Sec. 121. G.S. 113-379 reads as rewritten:

4 **"§ 113-379. Filing log of drilling and development of each well.**

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

10 Sec. 122. G.S. 113-391 reads as rewritten:

11 **"§ 113-391. Jurisdiction and authority of Department of Natural Resources and  
12 Community Development; rules and orders.**

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

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

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

- 27 (1) To require the drilling, operation, casing and plugging of wells to be  
28 done in such manner as to prevent the escape of oil or gas out of one  
29 stratum to another; to prevent the intrusion of water into an oil or gas  
30 stratum from a separate stratum; to prevent the pollution of freshwater  
31 supplies by oil, gas or salt water, or to protect the quality of the water,  
32 air, soil or any other environmental resource against injury or damage  
33 or impairment; and to require reasonable bond condition for the  
34 performance of the duty to plug each dry or abandoned well.
- 35 (2) To require directional surveys upon application of any owner who has  
36 reason to believe that a well or wells of others has or have been drilled  
37 into the lands owned by him or held by him under lease. In the event  
38 such surveys are required, the costs thereof shall be borne by the  
39 owners making the request.
- 40 (3) To require the making of reports showing the location of oil and gas  
41 wells, and the filing of logs and drilling records.
- 42 (4) To prevent the drowning by water of any stratum or part thereof  
43 capable of producing oil or gas in paying quantities, and to prevent the

- 1 premature and irregular encroachment of water which reduces, or  
 2 tends to reduce, the total ultimate recovery of oil or gas from any pool.
- 3 (5) To require the operation of wells with efficient gas-oil ratios, and to fix  
 4 such ratios.
- 5 (6) To prevent 'blow-outs,' 'caving' and 'seepage' in the sense that  
 6 conditions indicated by such terms are generally understood in the oil  
 7 and gas business.
- 8 (7) To prevent fires.
- 9 (8) To identify the ownership of all oil or gas wells, producing leases,  
 10 refineries, tanks, plants, structures and all storage and transportation  
 11 equipment and facilities.
- 12 (9) To regulate the 'shooting,' perforating, and chemical treatment of  
 13 wells.
- 14 (10) To regulate secondary recovery methods, including the introduction of  
 15 gas, air, water or other substances into producing formations.
- 16 (11) To limit and prorate the production of oil or gas, or both, from any  
 17 pool or field for the prevention of waste as herein defined.
- 18 (12) To require, either generally or in or from particular areas, certificates  
 19 of clearance or tenders in connection with the transportation of oil or  
 20 gas.
- 21 (13) To regulate the spacing of wells and to establish drilling units.
- 22 (14) To prevent, so far as is practicable, reasonably avoidable drainage  
 23 from each developed unit which is not equalized by counter-drainage.
- 24 (15) To prevent where necessary the use of gas for the manufacture of  
 25 carbon black.
- 26 (16) To regulate and, if necessary in its judgment for the protection of  
 27 unique environmental values, to prohibit the location of wells in the  
 28 interest of protecting the quality of the water, air, soil or any other  
 29 environmental resource against injury, or damage or impairment."

30 Sec. 123. G.S. 113-415 reads as rewritten:

31 **"§ 113-415. Conflicting laws.**

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

39 Sec. 124. G.S. 113A-33 reads as rewritten:

40 **"§ 113A-33. Definitions.**

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

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

- 1 (2) 'Free-flowing,' as applied to any river or section of a river, means  
 2 existing or flowing in natural condition without substantial  
 3 impoundment, diversion, straightening, rip-rapping, or other  
 4 modification of the waterway. The existence of low dams, diversion  
 5 works, and other minor structures at the time any river is proposed for  
 6 inclusion in the North Carolina natural and scenic rivers system shall  
 7 not automatically bar its consideration for such inclusion: Provided,  
 8 that this shall not be construed to authorize, intend, or encourage future  
 9 construction of such structures within components of the system.
- 10 (3) 'River' means a flowing body of water or estuary or a section, portion,  
 11 or tributary thereof, including rivers, streams, creeks, runs, kills, rills,  
 12 and small lakes.
- 13 (4) 'Road' means public or private highway, hard-surface road, dirt road,  
 14 or railroad.
- 15 (5) 'Scenic easement' means a perpetual easement in land which (i) is held  
 16 for the benefit of the people of North Carolina, (ii) is specifically  
 17 enforceable by its holder or beneficiary, and (iii) limits or obligates the  
 18 holder of the servient estate, his heirs, and assigns with respect to their  
 19 use and management of the land and activities conducted thereon. The  
 20 object of such limitations and obligations is the maintenance or  
 21 enhancement of the natural beauty of the land in question or of the  
 22 areas affected by it.
- 23 (6) 'Secretary' means the Secretary of the Department of Environment,  
 24 Health, and Natural Resources."

25 Sec. 125. G.S. 113A-36(a) reads as rewritten:

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

29 Sec. 126. G.S. 113A-42 reads as rewritten:

30 **"§ 113A-42. Violations.**

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

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

41 Sec. 127. G.S. 113A-77 reads as rewritten:

42 **"§ 113A-77. Expenditures authorized.**

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

4       Sec. 128. G.S. 113A-103 reads as rewritten:

5       "**§ 113A-103. Definitions.**

6       As used in this Article:

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

9           (2) 'Coastal area' means the counties that (in whole or in part) are adjacent  
10          to, adjoining, intersected by or bounded by the Atlantic Ocean  
11          (extending offshore to the limits of State jurisdiction, as may be  
12          identified by rule of the Commission for purposes of this Article, but  
13          in no event less than three geographical miles offshore) or any coastal  
14          sound. The Governor, in accordance with the standards set forth in  
15          this subdivision and in subdivision (3) of this section, shall designate  
16          the counties that constitute the 'coastal area,' as defined by this section,  
17          and his designation shall be final and conclusive. On or before May 1,  
18          1974, the Governor shall file copies of a list of said coastal-area  
19          counties with the chairmen of the boards of commissioners of each  
20          county in the coastal area, with the mayors of each incorporated city  
21          within the coastal area (as so defined) having a population of 2,000 or  
22          more and of each incorporated city having a population of less than  
23          2,000 whose corporate boundaries are contiguous with the Atlantic  
24          Ocean, and with the Secretary of State. The said coastal-area counties  
25          and cities shall thereafter transmit nominations to the Governor of  
26          members of the Coastal Resources Commission as provided in  
27          G.S.113A-104(d).

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

- 42           a.       On the Chowan River, its confluence with the Meherrin River;  
43           b.       On the Roanoke River, its confluence with the northeast branch  
44           of the Cashie River;



- 1 c. On the Tar River, its confluence with Tranters Creek;  
2 d. On the Neuse River, its confluence with Swift Creek;  
3 e. On the Trent River, its confluence with Ready Branch.

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

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

11 (4a) 'Department' shall mean the North Carolina Department of  
12 Environment, Health, and Natural Resources.

13 (5)

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

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

- 27 1. Work by a highway or road agency for the maintenance  
28 of an existing road, if the work is carried out on land  
29 within the boundaries of the existing right-of-way;
- 30 2. Work by any railroad company or by any utility and  
31 other persons engaged in the distribution and  
32 transmission of petroleum products, water, telephone or  
33 telegraph messages, or electricity for the purpose of  
34 inspecting, repairing, maintaining, or upgrading any  
35 existing substations, sewers, mains, pipes, cables, utility  
36 tunnels, lines, towers, poles, tracks, and the like on any  
37 of its existing railroad or utility property or rights-of-  
38 way, or the extension of any of the above distribution-  
39 related facilities to serve development approved pursuant  
40 to G.S. 113A-121 or 113A-122;
- 41 3. Work by any utility and other persons for the purpose of  
42 construction of facilities for the development,  
43 generation, and transmission of energy to the extent that  
44 such activities are regulated by other law or by present or

- 1 future rules of the State Utilities Commission regulating  
2 the siting of such facilities (including environmental  
3 aspects of such siting), and work on facilities used  
4 directly in connection with the above facilities;
- 5 4. The use of any land for the purposes of planting,  
6 growing, or harvesting plants, crops, trees, or other  
7 agricultural or forestry products, including normal  
8 private road construction, raising livestock or poultry, or  
9 for other agricultural purposes except where excavation  
10 or filling affecting estuarine waters (as defined in G.S.  
11 113-229) or navigable waters is involved;
- 12 5. Maintenance or repairs (excluding replacement)  
13 necessary to repair damage to structures caused by the  
14 elements or to prevent damage to imminently threatened  
15 structures by the creation of protective sand dunes.
- 16 6. The construction of any accessory building customarily  
17 incident to an existing structure if the work does not  
18 involve filling, excavation, or the alteration of any sand  
19 dune or beach;
- 20 7. Completion of any development, not otherwise in  
21 violation of law, for which a valid building or zoning  
22 permit was issued prior to ratification of this Article and  
23 which development was initiated prior to the ratification  
24 of this Article;
- 25 8. Completion of installation of any utilities or roads or  
26 related facilities not otherwise in violation of law, within  
27 a subdivision that was duly approved and recorded prior  
28 to the ratification of this Article and which installation  
29 was initiated prior to the ratification of this Article;
- 30 9. Construction or installation of any development, not  
31 otherwise in violation of law, for which an application  
32 for a building or zoning permit was pending prior to the  
33 ratification of this Article and for which a loan  
34 commitment (evidenced by a notarized document signed  
35 by both parties) had been made prior to the ratification of  
36 this Article; provided, said building or zoning  
37 application is granted by July 1, 1974;
- 38 10. It is the intention of the General Assembly that if the  
39 provisions of any of the foregoing subparagraphs 1 to 10  
40 of this paragraph are held invalid as a grant of an  
41 exclusive or separate emolument or privilege or as a  
42 denial of the equal protection of the laws, within the  
43 meaning of Article I, Secs. 19 and 32 of the North  
44 Carolina Constitution, the remainder of this Article shall

- 1 be given effect without the invalid provision or  
2 provisions.
- 3 c. The Commission shall define by rule (and may revise from time  
4 to time) certain classes of minor maintenance and  
5 improvements which shall be exempted from the permit  
6 requirements of this Article, in addition to the exclusions set  
7 forth in paragraph b of this subdivision. In developing such  
8 rules the Commission shall consider, with regard to the class or  
9 classes of units to be exempted:
- 10 1. The size of the improved or scope of the maintenance  
11 work;
- 12 2. The location of the improvement or work in proximity to  
13 dunes, waters, marshlands, areas of high seismic activity,  
14 areas of unstable soils or geologic formations, and areas  
15 enumerated in G.S. 113A-113(b)(3); and
- 16 3. Whether or nor dredging or filling is involved in the  
17 maintenance or improvement.
- 18 (6) 'Key facilities' include the site location and the location of major  
19 improvement and major access features of key facilities, and mean:
- 20 a. Public facilities, as determined by the Commission, on  
21 nonfederal lands which tend to induce development and  
22 urbanization of more than local impact, including but not  
23 limited to:
- 24 1. Any major airport designed to serve as a terminal for  
25 regularly scheduled air passenger service or one of State  
26 concern;
- 27 2. Major interchanges between the interstate highway  
28 system and frontage-access streets or highways; major  
29 interchanges between other limited-access highways and  
30 frontage-access streets or highways;
- 31 3. Major frontage-access streets and highways, both of  
32 State concern; and
- 33 4. Major recreational lands and facilities;
- 34 b. Major facilities on nonfederal lands for the development,  
35 generation, and transmission of energy.
- 36 (7) 'Lead regional organizations' means the regional planning agencies  
37 created by and representative of the local governments of a multi-  
38 county region, and designated as lead regional organizations by the  
39 Governor.
- 40 (8) 'Local government' means the governing body of any county or city  
41 which contains within its boundaries any lands or waters subject to this  
42 Article.
- 43 (9) 'Person' means any individual, citizen, partnership, corporation,  
44 association, organization, business trust, estate, trust, public or

1 municipal corporation, or agency of the State or local government unit,  
2 or any other legal entity however designated.

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

4 (11) 'Secretary' shall mean the Secretary of the Department of  
5 Environment, Health, and Natural Resources, except where otherwise  
6 specified in this Article."

7 Sec. 129. G.S. 113A-105 reads as rewritten:

8 **"§ 113A-105. Coastal Resources Advisory Council.**

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

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

13 (1) Two individuals designated by the Secretary of ~~Natural Resources and~~  
14 ~~Community Development~~ Environment, Health, and Natural  
15 Resources from among the employees of his Department;

16 (1a) The Secretary of the Department of Commerce or his designee;

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

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

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

23 (5) The Commissioner of Agriculture or his designee;

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

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

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

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

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

35 (11) One member who is a local health director selected by the Commission  
36 upon the recommendation of the Secretary of ~~Human~~  
37 ~~Resources~~ Environment, Health, and Natural Resources.

38 (c) Functions and Duties. – The Advisory Council shall assist the Secretaries of  
39 Administration and of ~~Natural Resources and Community Development~~ Environment,  
40 Health, and Natural Resources in an advisory capacity:

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

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

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

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

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

12 Sec. 130. G.S. 113A-113(b) reads as rewritten:

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

15 (1) Coastal wetlands as defined in G.S. 113-230(a);

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

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

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

32 b. Capacity use areas that have been declared by the  
33 Environmental Management Commission pursuant to G.S. 143-  
34 215.13(c) and areas wherein said Environmental Management  
35 Commission (pursuant to G.S. 143-215.3(d) or 143-215.3(a)(8))  
36 has determined that a generalized condition of water depletion  
37 or water or air pollution exists;

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

42 (4) Fragile or historic areas, and other areas containing environmental or  
43 natural resources of more than local significance, where uncontrolled  
44 or incompatible development could result in major or irreversible

1 damage to important historic, cultural, scientific or scenic values or  
2 natural systems, which may include:

- 3 a. Existing national or State parks or forests, wilderness areas, the  
4 State Nature and Historic Preserve, or public recreation areas;  
5 existing sites that have been acquired for any of the same, as  
6 identified by the Secretary ~~of Natural Resources and~~  
7 ~~Community Development~~; and proposed sites for any of the  
8 same, as identified by the Secretary ~~of Natural Resources and~~  
9 ~~Community Development~~, provided that the proposed site has  
10 been formally designated for acquisition by the governmental  
11 agency having jurisdiction;
- 12 b. Present sections of the natural and scenic rivers system;
- 13 c. Stream segments that have been classified for scientific or  
14 research uses by the Environmental Management Commission,  
15 or that are proposed to be so classified in a proceeding that is  
16 pending before said Environmental Management Commission  
17 pursuant to G.S. 143-214.1 at the time of the designation of the  
18 area of environmental concern;
- 19 d. Existing wildlife refuges, preserves or management areas, and  
20 proposed sites for the same, as identified by the Wildlife  
21 Resources Commission, provided that the proposed site has  
22 been formally designated for acquisition (as hereinafter defined)  
23 or for inclusion in a cooperative agreement by the governmental  
24 agency having jurisdiction;
- 25 e. Complex natural areas surrounded by modified landscapes that  
26 do not drastically alter the landscape, such as virgin forest  
27 stands within a commercially managed forest, or bogs in an  
28 urban complex;
- 29 f. Areas that sustain remnant species or aberrations in the  
30 landscape produced by natural forces, such as rare and  
31 endangered botanical or animal species;
- 32 g. Areas containing unique geological formations, as identified by  
33 the State Geologist; and
- 34 h. Historic places that are listed, or have been approved for listing  
35 by the North Carolina Historical Commission, in the National  
36 Register of Historic Places pursuant to the National Historic  
37 Preservation Act of 1966; historical, archaeological, and other  
38 places and properties owned, managed or assisted by the State  
39 of North Carolina pursuant to Chapter 121; and properties or  
40 areas that are or may be designated by the Secretary of the  
41 Interior as registered natural landmarks or as national historic  
42 landmarks;
- 43 (5) Areas such as waterways and lands under or flowed by tidal waters or  
44 navigable waters, to which the public may have rights of access or

1 public trust rights, and areas which the State of North Carolina may be  
2 authorized to preserve, conserve, or protect under Article XIV, Sec. 5  
3 of the North Carolina Constitution;

- 4 (6) Natural-hazard areas where uncontrolled or incompatible development  
5 could unreasonably endanger life or property, and other areas  
6 especially vulnerable to erosion, flooding, or other adverse effects of  
7 sand, wind and water, which may include:  
8 a. Sand dunes along the Outer Banks;  
9 b. Ocean and estuarine beaches and shoreline;  
10 c. Floodways and floodplains;  
11 d. Areas where geologic and soil conditions are such that there is a  
12 substantial possibility of excessive erosion or seismic activity,  
13 as identified by the State Geologist;  
14 e. Areas with a significant potential for air inversions, as  
15 identified by the Environmental Management Commission.  
16 (7) Areas which are or may be impacted by key facilities."

17 Sec. 131. G.S. 113A-116 reads as rewritten:

18 **"§ 113A-116. Local government letter of intent.**

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

31 Sec. 132. G.S. 113A-117(a) reads as rewritten:

32 **"§ 113A-117. Implementation and enforcement programs.**

33 (a) The Secretary of ~~Natural Resources and Community Development~~ shall  
34 develop and present to the Commission for consideration and to all cities and counties  
35 and lead regional organizations within the coastal area for comment a set of criteria for  
36 local implementation and enforcement programs. In the preparation of such criteria, the  
37 Secretary shall emphasize the necessity for the expeditious processing of permit  
38 applications. Said criteria may contain recommendations and guidelines as to the  
39 procedures to be followed in developing local implementation and enforcement  
40 programs, the scope and coverage of said programs, minimum standards to be  
41 prescribed in said programs, staffing of permit-letting agencies, permit-letting  
42 procedures, and priorities of regional or statewide concern. Within 20 months after July  
43 1, 1974, the Commission shall adopt and transmit said criteria (with any revisions) to

1 each coastal-area county and city that has filed an applicable letter of intent, for its  
2 guidance."

3 Sec. 133. G.S. 113A-118 reads as rewritten:

4 **"§ 113A-118. Permit required.**

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

9 (b) Under the expedited procedure provided for by G.S. 113A-121, the permit  
10 shall be obtained from the appropriate city or county for any minor development;  
11 provided, that if the city or county has not developed an approved implementation and  
12 enforcement program, the permit shall be obtained from the Secretary ~~of Natural~~  
13 ~~Resources and Community Development~~.

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

15 (d) Within the meaning of this Part:

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

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

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

35 (f) The Secretary ~~of the Department of Natural Resources and Community~~  
36 ~~Development~~ may issue special emergency permits under this Article. These permits  
37 may only be issued in those extraordinary situations in which life or structural property  
38 is in imminent danger as a result of storms, sudden failure of man-made structures, or  
39 similar occurrence. These permits may carry any conditions necessary to protect the  
40 public interest, consistent with the emergency situation and the impact of the proposed  
41 development. If an application for an emergency permit includes work beyond that  
42 necessary to reduce imminent dangers to life or property, the emergency permit shall be  
43 limited to that development reasonably necessary to reduce the imminent danger; all  
44 further development shall be considered under ordinary permit procedures. This



1 emergency permit authority of the Secretary shall extend to all development in areas of  
2 environmental concern, whether major or minor development, and the mandatory notice  
3 provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the  
4 extent feasible, these emergency permits shall be coordinated with any emergency  
5 permits required under G.S. 113-229(e1)."

6 Sec. 134. G.S. 113A-119(a) reads as rewritten:

7 "(a) Any person required to obtain a permit under this Part shall file with the  
8 Secretary of Natural Resources and Community Development and (in the case of a  
9 permit sought from a city or county) with the designated local official an application for  
10 a permit in accordance with the form and content designated by the Secretary and  
11 approved by the Commission. The applicant must submit with the application a check  
12 or money order payable to the Department or the city or county, as the case may be,  
13 constituting a reasonable fee (not to exceed twenty-five dollars (\$25.00) for a minor  
14 development permit and not to exceed one hundred dollars (\$100.00) for a major  
15 development permit) set by the Commission to cover the administrative costs in  
16 processing the said application."

17 Sec. 135. G.S. 113A-121(b) reads as rewritten:

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

27 Sec. 136. G.S. 113A-123(b) reads as rewritten:

28 "(b) Any person having a recorded interest or interest by operation of law in or  
29 registered claim to land within an area of environmental concern affected by any final  
30 decision or order of the Commission under this Part may, within 90 days after receiving  
31 notice thereof, petition the superior court to determine whether the petitioner is the  
32 owner of the land in question, or an interest, therein, and in case he is adjudged the  
33 owner of the subject land, or an interest therein, the court shall determine whether such  
34 order so restricts the use of his property as to deprive him of the practical uses thereof,  
35 being not otherwise authorized by law, and is therefore an unreasonable exercise of the  
36 police power because the order constitutes the equivalent of taking without  
37 compensation. The burden of proof shall be on petitioner as to ownership and the  
38 burden of proof shall be on the Commission to prove that the order is not an  
39 unreasonable exercise of the police power, as aforesaid. Either party shall be entitled to  
40 a jury trial on all issues of fact, and the court shall enter a judgment in accordance with  
41 the issues, as to whether the Commission order shall apply to the land of the petitioner.  
42 The Secretary of Natural Resources and Community Development shall cause a copy of  
43 such finding to be recorded forthwith in the register of deeds office in the county where  
44 the land is located. The method provided in this subsection for the determination of the

1 issue of whether such order constitutes a taking without compensation shall be exclusive  
2 and such issue shall not be determined in any other proceeding. Any action authorized  
3 by this subsection shall be calendared for trial at the next civil session of superior court  
4 after the summons and complaint have been served for 30 days, regardless of whether  
5 issues were joined more than 10 days before the session. It is the duty of the presiding  
6 judge to expedite the trial of these actions and to give them a preemptory setting over all  
7 others, civil or criminal. From any decision of the superior court either party may  
8 appeal to the court of appeals as a matter of right."

9 Sec. 137. G.S. 113A-124 reads as rewritten:

10 **"§ 113A-124. Additional powers and duties.**

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

- 13 (1) To conduct or cause to be conducted, investigations of proposed  
14 developments in areas of environmental concern in order to obtain  
15 sufficient evidence to enable a balanced judgment to be rendered  
16 concerning the issuance of permits to build such developments.
- 17 (2) To cooperate with the Secretary of the Department of Administration  
18 in drafting State guidelines for the coastal area.
- 19 (3) To keep a list of interested persons who wish to be notified of  
20 proposed developments and proposed rules designating areas of  
21 environmental concern and to so notify these persons of such proposed  
22 developments by regular mail. A reasonable registration fee to defray  
23 the cost of handling and mailing notices may be charged to any person  
24 who so registers with the Commission.
- 25 (4) To propose rules to implement this Article for consideration by the  
26 Commission.
- 27 (5) To delegate such of his powers as he may deem appropriate to one or  
28 more qualified employees of the Department of ~~Natural Resources and~~  
29 ~~Community Development~~ or to any local government, provided that  
30 the provisions of any such delegation of power shall be set forth in  
31 departmental rules.
- 32 (6) To delegate the power to conduct a hearing, on his behalf, to any  
33 member of the Commission or to any qualified employee of the  
34 Department of ~~Natural Resources and Community Development~~. Any  
35 person to whom a delegation of power is made to conduct a hearing  
36 shall report his recommendations with the record of the hearing to the  
37 Secretary for decision or action.

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

1 any local governmental unit or lead regional organization to carry out the planning  
2 provisions of this Article.

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

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

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

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

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

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

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

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

25 "**§ 113A-168. Removal, etc., of unlawful advertising.**

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

42 Sec. 139. G.S. 120-123(23) reads as rewritten:

43 "(23) The Governor's Waste Management Board, as established by ~~G.S. 143B-~~  
44 ~~216-12.~~ G.S. 143B-344.53."

1           Sec. 140. G.S. Chapter 130 is repealed.

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

3   "**§ 130A-2. Definitions.**

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

- 6           (1) 'Commission' means the Commission for Health Services.  
7           (2) 'Department' means the Department ~~for Human Resources of~~  
8           Environment, Health, and Natural Resources.  
9           (3) 'Imminent hazard' means a situation which is likely to cause an  
10          immediate threat to life or a serious risk of irreparable damage to the  
11          environment if no immediate action is taken.  
12          (4) 'Local board of health' means a district board of health or a county  
13          board of health.  
14          (5) 'Local health department' means a district health department or a  
15          county health department.  
16          (6) 'Local health director' means the administrative head of a local health  
17          department appointed pursuant to this Chapter.  
18          (7) 'Person' means an individual, corporation, company, association,  
19          partnership, unit of local government or other legal entity.  
20          (8) 'Secretary' means the Secretary of the Department of ~~Human~~  
21          Resources Environment, Health, and Natural Resources.  
22          (9) 'Unit of local government' means a county, city, consolidated city-  
23          county, sanitary district or other local political subdivision, authority  
24          or agency of local government.  
25          (10) 'Vital records' means birth, death, fetal death, marriage, annulment and  
26          divorce records registered under the provisions of Article 4 of this  
27          Chapter."

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

29   "**§ 130A-231. Agreements between ~~Department of Human Resources and~~  
30    ~~Department of Natural Resources and Community Development~~the State  
31    Health Director and the Division of Marine Fisheries.**

32       Nothing in this Part is intended to limit the authority of the Division of Marine  
33       Fisheries of the Department of ~~Natural Resources and Community Development~~ to  
34       regulate aspects of the harvesting, processing and handling of scallops, shellfish and  
35       crustacea relating to conservation of the fisheries resources of the State. The  
36       ~~Department of Human Resources~~ State Health Director and the ~~Department of Natural~~  
37       ~~Resources and Community Development~~ Division of Marine Fisheries are authorized to  
38       enter into agreements respecting the duties and responsibilities of each agency as to the  
39       harvesting, processing and handling of scallops, shellfish and crustacea."

40          Sec. 143. G.S. 130A-291 reads as rewritten:

41   "**§ 130A-291. Solid Waste Unit in ~~Department of Human Resources.~~**

42       (a) For the purpose of promoting and preserving an environment that is  
43       conducive to public health and welfare, and preventing the creation of nuisances and the  
44       depletion of our natural resources, the Department of ~~Human Resources~~ shall maintain

1 an appropriate administrative unit to promote sanitary processing, treatment, disposal,  
2 and statewide management of solid waste and the greatest possible recycling and  
3 recovery of resources, and the Department shall employ and retain such qualified  
4 personnel as may be necessary to effect such purposes. It is the purpose and intent of  
5 the State to be and remain cognizant not only of its responsibility to authorize and  
6 establish the statewide solid waste management program, but also of its responsibility to  
7 monitor and supervise, through the Department of ~~Human Resources~~, the activities and  
8 operations of units of local government implementing a permitted solid waste  
9 management facility serving a specified geographic area in accordance with a solid  
10 waste management plan.

11 (b) In furtherance of said purpose and intent, it is hereby determined and declared  
12 that it is necessary for the health and welfare of the inhabitants of the State that solid  
13 waste management facilities permitted hereunder and serving a specified geographic  
14 area shall be used by public or private owners or occupants of all lands, buildings, and  
15 premises within said area, and a unit of local government may, by ordinance, require  
16 that all solid waste generated within said area and placed in the waste stream for  
17 disposal, shall be delivered to the permitted solid waste management facility or facilities  
18 serving such geographic area. Actions taken pursuant to this Article shall be deemed to  
19 be acts of the sovereign power of the State of North Carolina, and to the extent  
20 reasonably necessary to achieve the purposes of this section, a unit of local government  
21 may displace competition with public service for solid waste management and disposal.  
22 It is further determined and declared that no person, firm, corporation, association or  
23 entity within said geographic area shall engage in any activities which would be  
24 competitive with this purpose or with ordinances, rules or regulations adopted pursuant  
25 to the authority granted herein."

26 Sec. 144. G.S. 130A-310.3 reads as rewritten:

27 "**§ 130A-310.3. Remedial action programs for inactive hazardous substance or**  
28 **waste disposal sites.**

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

- 33 (1) Monitoring the inactive hazardous substance or waste disposal site;
- 34 (2) Developing a plan for public notice and for community and local  
35 government participation in any inactive hazardous substance or waste  
36 disposal site remedial action program to be undertaken;
- 37 (3) Approving an inactive hazardous substance or waste disposal site  
38 remedial action program for the site;
- 39 (4) Coordinating the inactive hazardous substance or waste disposal site  
40 remedial action program for the site; and
- 41 (5) Ensuring that the hazardous substance or waste disposal site remedial  
42 action program is completed.

43 (b) Where possible, the Secretary shall work cooperatively with any owner,  
44 operator, responsible party, or any appropriate agency of the State or federal

1 government to develop and implement the inactive hazardous substance or waste  
2 disposal site remedial action program. The Secretary shall not take action under this  
3 section to the extent that ~~the Secretary of Natural Resources and Community~~  
4 ~~Development, or the Environmental Management Commission, or the Commissioner of~~  
5 Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or  
6 21A of Chapter 143 of the General Statutes.

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

- 10 (1) To develop an inactive hazardous substance or waste disposal site  
11 remedial action program for the site subject to approval by the  
12 Department, and
- 13 (2) To implement the program within reasonable time limits specified in  
14 the order.

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

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

28 Sec. 145. G.S. 130A-325 reads as rewritten:

29 **"§ 130A-325. Prohibited acts.**

30 The following acts are prohibited:

- 31 (1) Failure by a supplier of water to comply with this Article, an order  
32 issued under this Article, or the drinking water rules;
- 33 (2) Failure by a supplier of water to comply with the requirements of G.S.  
34 130A-324 or the dissemination by a supplier of any false or misleading  
35 information with respect to remedial actions being undertaken to  
36 achieve compliance with the drinking water rules;
- 37 (3) Refusal by a supplier of water to allow the Department or local health  
38 department to inspect a public water system as provided for in G.S.  
39 130A-17;
- 40 (4) The willful defiling by any person of any water supply of a public  
41 water system or the willful damaging of any pipe or other part of a  
42 public water system;
- 43 (5) The discharge by any person of sewage or other waste above the intake  
44 of a public water system, unless the sewage or waste has been passed

- 1 through a system of purification approved by the Department and the  
 2 Department of Natural Resources and Community Development; and  
 3 (6) The failure by a person to maintain a system approved by the  
 4 Department for collecting and disposing of all accumulations of human  
 5 excrement located on the watershed of a public water system."

6 Sec. 146. G.S. 130A-334 reads as rewritten:

7 **"§ 130A-334. Definitions.**

8 The following definitions shall apply throughout this Article:

- 9 (1) 'Construction' means any work at the site of placement done for the  
 10 purpose of preparing a residence, place of business or place of public  
 11 assembly for initial occupancy, or subsequent additions or  
 12 modifications which increase sewage flow.  
 13 (2) Repealed by Session Laws 1985, c. 462, s. 18, effective June 24, 1985.  
 14 (3) 'Location' means the initial placement for occupancy of a residence,  
 15 place of business or place of public assembly.  
 16 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18, effective June 24,  
 17 1985.  
 18 (6) 'Place of business' means a store, warehouse, manufacturing  
 19 establishment, place of amusement or recreation, service station, office  
 20 building or any other place where people work.  
 21 (7) 'Place of public assembly' means a fairground, auditorium, stadium,  
 22 church, campground, theater or any other place where people  
 23 assemble.  
 24 (8) "~~Public or community sewage system~~" means a single system of  
 25 sewage collection, treatment and disposal owned and operated by a  
 26 sanitary district, a metropolitan sewage district, a water and sewer  
 27 authority, a county or municipality or a public utility.  
 28 (9) 'Relocation' means the displacement of a residence or place of  
 29 business from one site to another.  
 30 (10) 'Residence' means a private home, dwelling unit in a multiple family  
 31 structure, hotel, motel, summer camp, labor work camp, manufactured  
 32 home, institution or any other place where people reside.  
 33 (11) 'Sanitary sewage system' means a complete system of sewage  
 34 collection, treatment and disposal including approved privies, septic  
 35 tank systems, connection to public or community sewage systems,  
 36 sewage reuse or recycle systems, mechanical or biological treatment  
 37 systems, or other such systems.  
 38 Properly managed chemical toilets used only for human waste at mass  
 39 gatherings, construction sites and labor work camps are considered  
 40 sanitary sewage systems.  
 41 (12) 'Septic tank system' means a subsurface sanitary sewage system  
 42 consisting of a settling tank and a subsurface disposal field.  
 43 (13) 'Sewage' means the liquid and solid human body waste and liquid  
 44 waste generated by water-using fixtures and appliances, including

1           those associated with foodhandling. The term does not include  
2           industrial process wastewater or sewage that is combined with  
3           industrial process wastewater."

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

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

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

15          "(d) (For effective date see note) If any action is brought against a vaccine  
16 manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act  
17 and subsection (c) of this section, the plaintiff in the action may recover damages only  
18 to the extent permitted by subdivisions (1) through (3) of subsection (a) of G.S. 130A-  
19 427. The aggregate amount awarded in any such action may not exceed the limitation  
20 established by subsection (b) of G.S. 130A-427. Regardless of whether such an action  
21 is brought against a vaccine manufacturer, a claimant who has filed an election pursuant  
22 to Section 2121 of the Public Health Service Act, as enacted into federal law by Public  
23 Law 99-660, permitting such a claimant to file a civil action for damages for a vaccine-  
24 related injury or death, or who is otherwise permitted by federal law to file an action  
25 against a vaccine manufacturer, may file a petition pursuant to G.S. 130A-425 to obtain  
26 services from the Department and the Department of Human Resources pursuant to  
27 subdivision (5) of subsection (a) of G.S. 130A-427 and, if no action has been brought  
28 against a vaccine manufacturer, to obtain other relief available pursuant to G.S. 130A-  
29 427."

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

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

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

41           (2) If, at any time after an award is made to a claimant pursuant to G.S.  
42 130A-427, an individual recovers damages for the same vaccine-  
43 related injury from a manufacturer pursuant to a judgment or  
44 settlement, the individual who recovers the damages shall reimburse



1 the State for all amounts previously recovered from the State in the  
2 prior proceeding. Before a defendant in any action for a vaccine-  
3 related injury pays any amount to a plaintiff to discharge a judgment or  
4 settlement, he shall request from the Secretary and the Secretary of  
5 Human Resources a statement itemizing any reimbursement owed by  
6 the plaintiff pursuant to this subdivision, and, if ~~the any~~ reimbursement  
7 is owed by the ~~plaintiff, plaintiff to either department,~~ the defendant  
8 shall pay the reimbursable amounts, as determined by ~~the each~~  
9 Secretary, directly to ~~the Department of Human Resources.~~ ~~the~~  
10 ~~department to which such reimbursement is owed.~~ This payment shall  
11 discharge the plaintiff's obligations to the State under this subdivision  
12 and any obligation the defendant may have to the plaintiff with respect  
13 to these amounts.

14 (3) If:

- 15 a. An award has been made to a claimant for an element of  
16 damages pursuant to G.S. 130A-427; and
- 17 b. An individual has recovered for the same element of damages  
18 pursuant to a judgment in, or settlement of, an action for the  
19 same vaccine-related injury brought against a manufacturer, and  
20 that amount has not been remitted to the State pursuant to  
21 subdivision (2) of this subsection; and
- 22 c. The State seeks to recover the amounts it paid in an action it  
23 brings against the manufacturer pursuant to G.S. 130A-430;  
24 any judgment obtained by the State under G.S. 130A-430 shall be  
25 reduced by the amount necessary to prevent the double recovery of any  
26 element of damages from the manufacturer. Nothing in this  
27 subdivision limits the State's right to obtain reimbursement from a  
28 claimant under subdivision (2) of this subsection with respect to any  
29 double payment that might be received by the claimant."

30 Sec. 150. G.S. 130A-425(b) reads as rewritten:

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

- 34 (1) The name and address of the claimant;
- 35 (2) The name and address of each respondent;
- 36 (3) The amount of compensation in money and services sought to be  
37 recovered;
- 38 (4) The time and place where the injury occurred;
- 39 (5) A brief statement of the facts and circumstances surrounding the injury  
40 and giving rise to the claim; and
- 41 (6) Supporting documentation and a statement of the claim that the  
42 claimant or the person in whose behalf the claim is made suffered a  
43 vaccine-related injury and has not previously collected an award or  
44 settlement of a civil action for damages for this injury. This

1 supporting documentation shall include all available medical records  
2 pertaining to the alleged injury, including autopsy reports, if any, and  
3 if the injured person was under two years of age at the time of injury,  
4 all prenatal, obstetrical, and pediatric records of care preceding the  
5 injury, and an identification of any unavailable records known to the  
6 claimant or the person in whose behalf the claim is made.

7 Upon receipt of this verified petition in duplicate, the Commission shall enter the  
8 case upon its hearing docket and shall determine the matter in the county where the  
9 injury occurred unless the parties agree or the Commission directs that the case may be  
10 heard in some other county. All parties shall be given reasonable notice of the date  
11 when and the place where the claim will be heard. Immediately upon receipt of the  
12 claim, the Commission shall serve a copy of the verified petition on each respondent by  
13 registered or certified mail. The Commission shall also send a copy of the verified  
14 petition to the Secretary of Human Resources, who shall be a party to all proceedings  
15 involving the claim, and to the Attorney General who shall represent the State's interest  
16 in all the proceedings involving the claim.

17 The Commission shall adopt rules necessary to govern the proceedings required by  
18 this Article. The Rules of Civil Procedure as contained in G.S. 1A-1 **et seq.** and the  
19 General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-  
20 34 apply to claims filed with the Industrial Commission under this Article. The  
21 Commission shall keep a record of all proceedings conducted under this Article, and has  
22 the right to subpoena any persons and records it considers necessary in making its  
23 determinations. The Commission may require all persons called as witnesses to testify  
24 under oath or affirmation, and any member of the Commission may administer oaths. If  
25 any persons refuse to comply with any subpoena issued pursuant to this Article or to  
26 testify with respect to any matter relevant to proceedings conducted under this Article,  
27 the Superior Court of Wake County, on application of the Commission, may issue an  
28 order requiring the person to comply with the subpoena and to testify. Any failure to  
29 obey any such order may be punished by the court as for contempt."

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

31 **"§ 130A-427. Commission awards for vaccine-related injuries; duties of Secretary**  
32 **of Human Resources.**

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

- 36 (1) Actual and projected reasonable expenses of medical care,  
37 developmental evaluation, special education, vocational training,  
38 physical, emotional or behavioral therapy, and residential and  
39 custodial care and service expenses, that cannot be provided by the  
40 Department and the Department of Human Resources pursuant to  
41 subdivision (5) of this subsection;  
42 (2) Loss of earnings and projected earnings, determined in accordance  
43 with generally accepted actuarial principles;

- 1 (3) Noneconomic, general damages arising from pain, suffering, and  
2 emotional distress;
- 3 (4) Reasonable attorneys fees;
- 4 (5) Needs that the Secretary and the Secretary of Human Resources  
5 determines on a case-by-case basis shall be met by medical, health,  
6 developmental evaluation, special education, vocational training,  
7 physical, emotional, or behavioral therapy, residential and custodial  
8 care, and other essential and necessary services, to be provided the  
9 injured party by the programs and services administered by the  
10 Department and the Department of Human Resources. The Secretary  
11 and the Secretary of Human Resources shall develop an itemized list  
12 of the service needs of the injured party upon review and evaluation of  
13 the injured party's medical record and shall present it to the  
14 Commission prior to the Commission's determination. In the event  
15 that the Commission's award includes the provision of any of these  
16 services, the Secretary and the Secretary of Human Resources shall  
17 develop a comprehensive, coordinated plan for the delivery of these  
18 services to the injured party. Notwithstanding any other provision of  
19 State law, the Secretary and the Secretary of Human Resources shall  
20 waive all eligibility criteria in determining eligibility for services  
21 provided by the Department and the Department of Human Resources  
22 under the plan of care developed pursuant to this subdivision. If the  
23 award includes any such services, these services shall be provided by  
24 the Department and the Department of Human Resources free of any  
25 cost to the injured party.

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

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

37 "**§ 130A-430. Right of State to bring action against health care provider and of**  
38 **manufacturer.**

39 (a) If the Industrial Commission makes an award for a claimant who it  
40 determines has sustained a vaccine-related injury, the State may, within two years of the  
41 date the Commission renders its decision, bring an action against the health care  
42 provider who administered the vaccine on the ground that the health care provider was  
43 negligent in administering the vaccine. Damages in an action brought under this section  
44 are limited to the amount of the award made by the Commission plus the estimated

1 present value of all the services to be provided to the claimant by the Department and  
2 the Department of Human Resources under G.S. 130A-427.

3 (b) Manufacturer. If the Industrial Commission makes an award for a claimant  
4 who it determines has sustained a vaccine-related injury, the State may, within two  
5 years of the date the Commission renders its decision, bring an action against the  
6 manufacturer who made the vaccine on the ground that the vaccine was a defective  
7 product. Damages in an action brought under this section are limited to the amount of  
8 the award made by the Commission plus the estimated present value of all the services  
9 to be provided to the claimant by the Department and the Department of Human  
10 Resources under G.S. 130A-427, the reasonable costs of prosecuting the action,  
11 including, but not limited to, attorneys fees, fees charged by witnesses, and costs of  
12 exhibits. For purposes of this subsection, a defective product is a covered vaccine that  
13 was manufactured, transported, or stored in a negligent manner, or was distributed after  
14 its expiration date, or that otherwise violated the applicable requirements of any license,  
15 approval, or permit, or any applicable standards or requirements issued under Section  
16 351 of the Public Health Service Act, as amended, or the federal Food, Drug, and  
17 Cosmetic Act, as these standards or requirements were interpreted or applied by the  
18 federal agency charged with their enforcement. The negligence or other action in  
19 violation of applicable federal standards or requirements shall be demonstrated by the  
20 State, by a preponderance of the evidence, to be the proximate cause of the injury for  
21 which an award was rendered pursuant to G.S. 130A-427, in order to allow recovery by  
22 the State against the manufacturer pursuant to this subsection."

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

24 **"§ 130A-433. Contracts for purchase of vaccines; distribution; fee; rules.**

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

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

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

40 **"§ 130A-434. Child Vaccine Injury Compensation Fund established; payments**  
41 **from Fund; transfer of appropriations and receipts.**

42 (a) There is established the Child Vaccine Injury Compensation Fund within the  
43 ~~Department of Human Resources~~ to finance the North Carolina Childhood Vaccine-  
44 Related Injury Compensation Program created by this article. The money compensation

1 components of all awards made pursuant to Article 17 of Chapter 130A of the General  
2 Statutes shall be paid by the Department of ~~Human Resources~~ from the Fund.

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

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

12 "(c) The health assessment shall be conducted by a physician licensed to practice  
13 medicine, a physician's assistant as defined in G.S. 90-18.1(a), a certified nurse  
14 practitioner, or a public health nurse meeting the ~~North Carolina Division of Health~~  
15 ~~Services'~~ Department's Standards for Early Periodic Screening, Diagnosis, and  
16 Treatment Screening."

17 Sec. 156. G.S. 130A-441 reads as rewritten:

18 "**§ 130A-441. Reporting.**

19 (a) Health assessment results shall be submitted to the school principal by the  
20 medical provider on forms developed by the Department of ~~Human Resources~~ and the  
21 Department of Public Instruction.

22 (a) (b) Each school having a kindergarten shall maintain on file the health  
23 assessment results. The files shall be open to inspection by the ~~Department of Human~~  
24 ~~Resources, the Department of Public Instruction~~ Department, the Department of Public  
25 Instruction, or their authorized representatives and persons inspecting the files shall  
26 maintain the confidentiality of the files. Upon transfer of a child to another  
27 kindergarten, a copy of the health assessment results shall be provided upon request and  
28 without charge to the new kindergarten.

29 (b) (c) Within 90 days after the commencement of a new school year, the  
30 principal shall file a health assessment status report with the Department of Public  
31 Instruction on forms developed by the Department of ~~Human Resources~~ and the  
32 Department of Public Instruction. The report shall document the number of children in  
33 compliance and not in compliance with G.S. 130A-440(a)."

34 Sec. 157. G.S. 143-215.1(a) reads as rewritten:

35 "(a) Activities for Which Permits Required. – No person shall do any of the  
36 following things or carry out any of the following activities until or unless such person  
37 shall have applied for and shall have received from the Commission a permit therefor  
38 and shall have complied with such conditions, if any, as are prescribed by such permit:

- 39 (1) Make any outlets into the waters of the State;
- 40 (2) Construct or operate any sewer system, treatment works, or disposal  
41 system within the State;
- 42 (3) Alter, extend, or change the construction or method of operation of any  
43 sewer system, treatment works, or disposal system within the State;

- 1 (4) Increase the quantity of waste discharged through any outlet or  
2 processed in any treatment works or disposal system to any extent  
3 which would result in any violation of the effluent standards or  
4 limitations established for any point source or which would adversely  
5 affect the condition of the receiving waters to the extent of violating  
6 any of the standards applicable to such water;
- 7 (5) Change the nature of the waste discharged through any disposal  
8 system in any way which would exceed the effluent standards or  
9 limitations established for any point source or which would adversely  
10 affect the condition of the receiving waters in relation to any of the  
11 standards applicable to such waters;
- 12 (6) Cause or permit any waste, directly or indirectly, to be discharged to or  
13 in any manner intermixed with the waters of the State in violation of  
14 the water quality standards applicable to the assigned classifications or  
15 in violation of any effluent standards or limitations established for any  
16 point source, unless allowed as a condition of any permit, special order  
17 or other appropriate instrument issued or entered into by the  
18 Commission under the provisions of this Article;
- 19 (7) Cause or permit any wastes for which pretreatment is required by  
20 pretreatment standards to be discharged, directly or indirectly, from a  
21 pretreatment facility to any disposal system or to alter, extend or  
22 change the construction or method of operation or increase the  
23 quantity or change the nature of the waste discharged from or  
24 processed in such facility;
- 25 (8) Enter into a contract for the construction and installation of any outlet,  
26 sewer system, treatment works, pretreatment facility or disposal  
27 system or for the alteration or extension of any such facilities;
- 28 (9) Dispose of sludge resulting from the operation of a treatment works,  
29 including the removal of in-place sewage sludge from one location and  
30 its deposit at another location, consistent with the requirement of the  
31 Resource Conservation and Recovery Act and regulations promulgated  
32 pursuant thereto;
- 33 (10) Cause or permit any pollutant to enter into a defined managed area of  
34 the State's waters for the maintenance or production of harvestable  
35 freshwater, estuarine, or marine plants or animals.

36 In the event that both effluent standards or limitations and classifications and water  
37 quality standards are applicable to any point source or sources and to the waters to  
38 which they discharge, the more stringent among the standards established by the  
39 Commission shall be applicable and controlling.

40 In connection with the above, no such permit shall be granted for the disposal of  
41 waste in waters classified as sources of public water supply where the ~~Department of~~  
42 ~~Human Resources~~ head of the division which administers the public water supply  
43 program pursuant to Article 10 of Chapter 130A of the General Statutes, after review of  
44 the plans and specifications for the proposed disposal facility, determines and advises

1 the Commission that such disposal is sufficiently close to the intake works or proposed  
2 intake works of a public water supply as to have an adverse effect on the public health.

3 In any case where the Commission denies a permit, it shall state in writing the  
4 reason for such denial and shall also state the Commission's estimate of the changes in  
5 the applicant's proposed activities or plans which will be required in order that the  
6 applicant may obtain a permit."

7 Sec. 158. G.S. 143-215.7 reads as rewritten:

8 **"§ 143-215.7. Effect on laws applicable to public water supplies and the sanitary**  
9 **disposal of sewage.**

10 This Article shall not be construed as amending, repealing, or in any manner  
11 abridging or interfering with ~~those sections of the General Statutes of North Carolina~~  
12 ~~relative to the control of public water supplies, as now administered by the Department~~  
13 ~~of Human Resources~~ the provisions of Article 10 of Chapter 130A of the General  
14 Statutes relating to the control of public water supplies; nor shall the provisions of this  
15 Article be construed as being applicable to or in anywise affecting the authority of the  
16 Department of ~~Human Resources~~ to control the sanitary disposal of sewage as provided  
17 in Article 11 of Chapter 130A of the General Statutes, or as affecting the powers, duties  
18 and authority of city, county, county-city and district health departments usually  
19 referred to as local health departments or as affecting the charter powers, or other lawful  
20 authority of municipal corporations, to pass ordinances in regard to sewage disposal."

21 Sec. 159. G.S. 143-215.26 reads as rewritten:

22 **"§ 143-215.26. Construction of dams.**

23 (a) No person shall begin the construction of any dam until at least 10 days after  
24 filing with the Department a statement concerning its height, impoundment capacity,  
25 purpose, location and other information required by the Department. Persons proposing  
26 construction described in G.S. 143-215.25, subparagraphs (2)e and f will comply with  
27 malaria control requirements of the Department of ~~Human Resources~~. If on the basis of  
28 this information the Department is of the opinion that the proposed dam is not exempt  
29 from the provisions of this Part, it shall so notify the applicant, and construction shall  
30 not be commenced until a full application is filed by the applicant and approved as  
31 provided by G.S. 143-215.29. The Department may also require of applicants so  
32 notified the filing of such additional information as it deems necessary, including, but  
33 not limited to, streamflow and rainfall data, maps, plans and specifications. Every  
34 applicant for approval of a dam subject to the provisions of this Part shall also file with  
35 the Department the certificate of an engineer or contractor legally qualified in the State  
36 of North Carolina that he is responsible for the design of the dam, and that said design is  
37 safe and adequate. Should the applicant have a professional engineering staff the  
38 certificate of a registered professional engineer member of that staff legally qualified in  
39 the State of North Carolina will constitute compliance.

40 (b) When an application has been completed pursuant to the preceding  
41 subsection, the Department shall refer copies of the completed application papers to the  
42 ~~Department of Human Resources~~ State Health Director, the Wildlife Resources  
43 Commission, the Board of Transportation, and such other State and local agencies as it  
44 deems appropriate for review and comment."

1           Sec. 160. G.S. 143-215.84(c) reads as rewritten:

2           "(c) The Secretary of the Department of Transportation is authorized and  
3 empowered, after consultation with the Secretary [~~of Natural Resources and Community~~  
4 ~~Development~~]-to purchase and equip a sufficient number of trucks designed to carry out  
5 the provisions of subsection (b). These trucks shall be maintained by the Department of  
6 Transportation and shall be strategically located at various locations throughout the  
7 State so as to furnish a ready response when word of an oil or other hazardous  
8 substances discharge has been received. The Secretary [~~of the Department of Natural~~  
9 ~~Resources and Community Development~~]-or his designee will, after consultation, decide  
10 where the trucks are to be located."

11           Sec. 161. G.S. 143-215.84(d) reads as rewritten:

12           "(d) The Secretary of the Department of Transportation and the Secretary [~~of the~~  
13 ~~Department of Natural Resources and Community Development~~]-or their designees  
14 shall adopt rules for the placement of these trucks and shall determine the manner and  
15 way in which they are to be used. The Secretary [~~of the Department of Natural~~  
16 ~~Resources and Community Development~~]-shall reimburse the Department of  
17 Transportation for expenses incurred by the Department of Transportation during  
18 cleanups as provided in G.S. 143-215.88."

19           Sec. 162. G.S. 143-252 reads as rewritten:

20           "**§ 143-252. Article subject to Chapter 113.**

21           Nothing in this Article shall be construed to affect the jurisdictional division  
22 between the North Carolina Wildlife Resources Commission and the Department of  
23 ~~Natural and Economic Resources~~ Environment, Health, and Natural Resources  
24 contained in Subchapter IV of Chapter 113 of the General Statutes, or in any way to  
25 alter or abridge the powers and duties of the two agencies conferred in that Subchapter."

26           Sec. 163. G.S. 143-253 reads as rewritten:

27           "**§ 143-253. Jurisdictional questions.**

28           In the event of any questions arising between the Department of ~~Natural and~~  
29 ~~Economic Resources~~ Environment, Health, and Natural Resources and the North  
30 Carolina Wildlife Resources Commission as to any duty or responsibility or authority  
31 imposed upon either of said bodies by law, or in case of any conflicting rules or  
32 regulations or administrative practices adopted by said bodies, such questions or matters  
33 shall be determined by the Governor of the State and his determination shall be binding  
34 on each of said bodies."

35           Sec. 164. G.S. 143-345.6(a) reads as rewritten:

36           "**§ 143-345.6. Land records management program.**

37           (a) The Department of ~~Natural Resources and Community Development~~  
38 Environment, Health, and Natural Resources shall administer a land records  
39 management program for the purposes (i) of advising registers of deeds, local tax  
40 officials, and local planning officials about sound management practices, and (ii) of  
41 establishing greater uniformity in local land records systems. The management program  
42 shall consist of the activities provided for in subsections (b) through (e) of this section,  
43 and other related activities essential to the effective conduct of the management  
44 program.



1 (b) The Department of ~~Natural Resources and Community~~  
2 ~~Development~~Environment, Health, and Natural Resources, in cooperation with the  
3 Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1,  
4 shall establish minimum standards and provide advice and technical assistance to local  
5 governments in implementing and maintaining minimum standards with regard to the  
6 following aspects of land records management:

7 (1) Uniform indexing of land records;

8 (2) Uniform recording and indexing procedures for maps, plats and  
9 condominiums; and

10 (3) Security and reproduction of land records.

11 (c) The Department of ~~Natural Resources and Community Development~~  
12 Environment, Health, and Natural Resources shall conduct a program for the  
13 preparation of county base maps pursuant to standards prepared by that Department.

14 (c1) The Department of ~~Natural Resources and Community Development~~  
15 Environment, Health, and Natural Resources shall, in cooperation with the Secretary of  
16 Revenue, conduct a program for the preparation of county cadastral maps pursuant to  
17 standards prepared by the Department of ~~Natural Resources~~Environment, Health, and  
18 Natural Resources.

19 (d) Upon the joint request of any board of county commissioners and the register  
20 of deeds and subject to available resources of personnel and funds, the Secretary shall  
21 make a management study of the office of register of deeds, using assistance from the  
22 Office of State Personnel. At the conclusion of the study, the Secretary shall make  
23 nonbinding recommendations to the board, the register of deeds, and to the General  
24 Assembly.

25 (e) The Department of ~~Natural Resources and Community~~  
26 ~~Development~~Environment, Health, and Natural Resources, in cooperation with the  
27 Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1,  
28 shall undertake research and provide advice and technical assistance to local  
29 governments on the following aspects of land records management:

30 (1) Centralized recording systems;

31 (2) Filming, filing, and recording techniques and equipment;

32 (3) Computerized land records systems; and

33 (4) Storage and retrieval of land records.

34 (f) An advisory committee on land records is created to assist the Secretary in  
35 administering the land records management program. The Governor shall appoint 12  
36 members to the committee; one member shall be appointed from each of the  
37 organizations listed below from persons nominated by the organization:

38 (1) The North Carolina Association of Assessing Officers;

39 (2) The North Carolina Section of the American Society of  
40 Photogrammetry;

41 (3) The North Carolina Chapter of the American Institute of Planners;

42 (4) The North Carolina Section of the American Society of Civil  
43 Engineers;

44 (5) The North Carolina Tax Collectors' Association;

- 1 (6) The North Carolina Association of Registers of Deeds;
- 2 (7) The North Carolina Bar Association;
- 3 (8) The North Carolina Society of Land Surveyors; and
- 4 (9) The North Carolina Association of County Commissioners.

5 In addition, three members from the public at large shall be appointed. The members of  
6 the committee shall be appointed for four-year terms, except that the initial terms for  
7 members listed in positions (1) through (4) above and for two of the members-at-large  
8 shall be two years; thereafter all appointments shall be for four years. The Governor  
9 shall appoint the chairman, and the committee shall meet at the call of the chairman.  
10 The Governor in making the appointments shall try to achieve geographical and  
11 population balance on the advisory committee; one third of the appointments shall be  
12 persons from the most populous counties in the State containing approximately one  
13 third of the State's population, one third from the least populous counties containing  
14 approximately one third of the State's population, and one third shall be from the  
15 remaining moderately populous counties containing approximately one third of the  
16 State's population. Each organization shall nominate one nominee each from the more  
17 populous, moderately populous, and less populous counties of the State. The members  
18 of the committee shall receive per diem and subsistence and travel allowances as  
19 provided in G.S. 138-5."

20 Sec. 165. G.S. 143-439(b) reads as rewritten:

21 "(b) The Pesticide Advisory Committee shall consist of ~~19 members to be~~  
22 ~~appointed by the Board as follows:~~ of: three practicing farmers; one conservationist (at  
23 large); one ecologist (at large); one representative of the pesticide industry; one  
24 representative of agribusiness (at large); one local health director; three members of the  
25 North Carolina State University School of Agriculture and Life Sciences, at least one of  
26 which shall be from the area of wildlife or biology; one member ~~each~~ representing the  
27 North Carolina Department of ~~Agriculture, Agriculture, the North Carolina Department~~  
28 ~~of Human Resources, and the North Carolina Department of Natural Resources and~~  
29 ~~Community Development;~~ one member representing the Department of Environment,  
30 Health, and Natural Resources; the State Health Director; one representative of a public  
31 utility or railroad company which uses pesticides, pesticides; one representative or  
32 of the Board of Transportation; one member of the North Carolina Agricultural Aviation  
33 Association; one member of the general public (at large); one member actively engaged  
34 in forest pest management; and one member representing the Solid and Hazardous  
35 Waste Management Branch, Environmental Health Section, Division of Health  
36 Services, Department of Human Resources, of the Department of Environment, Health,  
37 and Natural Resources. Each State agency represented on the Committee shall be  
38 appointed by the head of the agency. Other members of the Committee shall be  
39 appointed by the Board."

40 Sec. 166. G.S. 143B-140 reads as rewritten:

41 "**§ 143B-140. Department of Human Resources – organization.**

42 The Department of Human Resources shall be organized initially to include the  
43 Board of Human Resources, ~~the Commission for Health Services,~~ the Commission for  
44 Mental Health and Mental Retardation Services, the Eugenics Commission, the

1 Commission for the Blind, the Professional Advisory Committee, the Blind Advisory  
2 Committee, the Social Services Commission, the Commission for Medical Facility  
3 Services and Licensure, the Council for Institutional Boards, the Council on  
4 Developmental Disabilities, the Governor's Coordinating Council on Aging, the  
5 Governor's Council on Employment of the Handicapped, the Governor's Advocacy  
6 Council on Children and Youth, the Mental Health Council, ~~the Board of Directors of~~  
7 ~~the North Carolina Sanatoriums for the Treatment of Tuberculosis, the Board of~~  
8 ~~Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North~~  
9 ~~Carolina, the Board of Directors of the North Carolina Orthopedic Hospital, the Board~~  
10 of Directors of the Governor Morehead School, the Board of Directors of the North  
11 Carolina Schools for the Deaf, the Board of Directors for the Confederate Women's  
12 Home, ~~the Division of Health Services, the Division of Mental Health, Mental~~  
13 ~~Retardation, and Substance Abuse Services, the Division of Social Services, the~~  
14 Division of Vocational Rehabilitation Services, the Division of Blind Services, the  
15 Division of Facility Services and Licensure, the Division of Institutional Services, the  
16 Division of Aging, and such other divisions as may be established under the provisions  
17 of this Chapter."

18 Sec. 167. Part 3 of Article 3 of Chapter 143B of the General Statutes is  
19 recodified as Part 28 of Article 7 of that Chapter and reads as rewritten:

20 "~~PART 3~~ Part 28. Commission for Health Services.

21 "**§ 143B-142344.20. Commission for Health Services – creation, powers and duties.**

22 (a) The Commission for Health Services of the Department of ~~Human Resources~~  
23 Environment, Health, and Natural Resources is created with the authority and duty to  
24 adopt rules to protect and promote the public health.

25 (b) The Commission for Health Services is authorized to adopt rules necessary to  
26 implement the public health programs administered by the Department of ~~Human~~  
27 ~~Resources~~ Environment, Health, and Natural Resources as provided in Chapter 130A of  
28 the General Statutes.

29 (c) The Commission for Health Services shall adopt rules:

- 30 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
- 31 (2) Establishing standards for approving sewage-treatment devices and  
32 holding tanks for marine toilets as provided in G.S. 75A-6(o);
- 33 (3) Establishing specifications for sanitary privies for schools where  
34 water-carried sewage facilities are unavailable as provided in G.S.  
35 115C-522;
- 36 (4) Establishing requirements for the sanitation of local confinement  
37 facilities as provided in G.S. 153-53.4; and
- 38 (5) Governing environmental impact statements and information required  
39 in applications to determine eligibility for water supply systems under  
40 the provisions of the Clean Water Bond Act.

41 (d) The Commission is authorized to create:

- 42 (1) Metropolitan water districts as provided in G.S. 162A-33;
- 43 (2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of  
44 the General Statutes; and

1 (3) Mosquito control districts as provided in Part 2 of Article 12 of  
2 Chapter 130A of the General Statutes.

3 (e) Rules adopted by the Commission for Health Services shall be enforced by  
4 the Department of ~~Human Resources~~ Environment, Health, and Natural Resources.

5 "**§ 143B-~~143~~344.21. Commission for Health Services – members; selection;  
6 quorum; compensation.**

7 The Commission for Health Services of the Department of ~~Human Resources~~  
8 Environment, Health, and Natural Resources shall consist of 12 members, four of whom  
9 shall be elected by the North Carolina Medical Society and eight of whom shall be  
10 appointed by the Governor.

11 One of the members appointed by the Governor shall be a licensed pharmacist, one a  
12 registered engineer experienced in sanitary engineering or a soil scientist, one a licensed  
13 veterinarian, one a licensed optometrist, one a licensed dentist, and one a registered  
14 nurse. The initial members of the Commission shall be the members of the State Board  
15 of Health who shall serve for a period equal to the remainder of their current terms on  
16 the State Board of Health, three of whose appointments expire May 1, 1973, and two of  
17 whose appointments expire May 1, 1975. At the end of the respective terms of office of  
18 initial members of the Commission, their successors shall be appointed for terms of four  
19 years and until their successors are appointed and qualify. Any appointment to fill a  
20 vacancy on the Commission created by the resignation, dismissal, death, or disability of  
21 a member shall be for the balance of the unexpired term.

22 The North Carolina Medical Society shall have the right to remove any member  
23 elected by it for misfeasance, malfeasance, or nonfeasance, and the Governor shall have  
24 the right to remove any member appointed by him for misfeasance, malfeasance, or  
25 nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive  
26 Organization Act of 1973. Vacancies on said Commission among the membership  
27 elected by the North Carolina Medical Society shall be filled by the executive  
28 committee of the Medical Society until the next meeting of the Medical Society, when  
29 the Medical Society shall fill the vacancy for the unexpired term. Vacancies on said  
30 Commission among the membership appointed by the Governor shall be filled by the  
31 Governor for the unexpired term.

32 A majority of the members of the Commission shall constitute a quorum for the  
33 transaction of business.

34 The members of the Commission shall receive per diem and necessary traveling and  
35 subsistence expenses in accordance with the provisions of G.S. 138-5.

36 "**§ 143B-~~144~~344.22. Commission for Health Services – officers.**

37 The Commission for Health Services shall have a chairman and a vice-chairman.  
38 The chairman shall be designated by the Governor from among the members of the  
39 Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by  
40 and from the members of the Commission and shall serve for a term of two years or  
41 until the expiration of his regularly appointed term.

42 "**§ 143B-~~145~~344.23. Commission for Health Services – election meetings.**

43 The meeting of the Commission for Health Services for the election of vice-  
44 chairman shall be at the first regular meeting after the joint session of the Commission

1 for Health Services and the North Carolina Medical Society at the annual meeting of the  
2 North Carolina Medical Society each odd-numbered year.

3 "**§ 143B-~~146~~344.24. Commission for Health Services – regular and special**  
4 **meetings.**

5 Each year there shall be four regular meetings of the Commission for Health  
6 Services, one of which shall be held during the annual meeting and conjointly with a  
7 general session of the North Carolina Medical Society at which time and place the  
8 annual report shall be submitted by the Secretary of ~~Human Resources~~ Environment,  
9 Health, and Natural Resources or his designee. The other three meetings shall be at  
10 such times and places as the chairman of the Commission shall designate. Special  
11 meetings of the Commission may be called by the chairman, or by a majority of the  
12 members of the Commission."

13 Sec. 168. Part 18 of Article 3 of Chapter 143B of the General Statutes is  
14 recodified as Part 29 of Article 7 of that Chapter and reads as rewritten:

15 "**PART ~~18~~29. COUNCIL ON SICKLE CELL SYNDROME.**

16 "**§ 143B-~~188~~344.30. Council on Sickle Cell Syndrome; appointment; expenses;**  
17 **terms.**

18 A Council on Sickle Cell Syndrome is created. The Council shall consist of a  
19 chairperson and 14 other members appointed by the Governor. Members shall serve  
20 without compensation except for reimbursement for travel and expenses in pursuit of  
21 Council business. Except as provided in this subsection, Council members shall serve a  
22 term of three years. To achieve a staggered term structure, five members shall be  
23 appointed for a term of one year, five members for a term of two years, and five  
24 members for a term of three years.

25 "**§ 143B-~~189~~344.31. Council membership.**

26 In making appointments, consideration shall be given to persons representing the  
27 following areas:

- 28 (1) Members of community agencies interested in sickle cell syndrome;
- 29 (2) State and local officials concerned with public health, social services  
30 and rehabilitation;
- 31 (3) Teachers and members of State and local school boards;
- 32 (4) Physicians in medical centers and physicians in community practice  
33 who are interested in sickle cell syndrome;
- 34 (5) Persons or relatives of persons with sickle cell disease.

35 "**§ 143B-~~190~~344.32. Council role.**

36 The Council shall advise the Department of Environment, Health, and Natural  
37 Resources and the Commission for Health Services on the needs of persons with sickle  
38 cell syndrome, and shall make recommendations to meet these needs. Such  
39 recommendations shall include but not be limited to recommendations for legislative  
40 action and for rules regarding the services of the Sickle Cell Program. The Council  
41 shall develop procedures to facilitate its operation. All clerical and other services  
42 required by the Council shall be furnished by the Department of ~~Human Resources~~  
43 Environment, Health, and Natural Resources within budget limitations."

1           Sec. 169. Part 20 of Article 3 of Chapter 143B of the General Statutes is  
2 recodified as Part 30 of Article 7 of that Chapter and reads as rewritten:

3                           **"PART 2030. COMMISSION OF ANATOMY.**

4       **"§ 143B-204344.40. Commission of Anatomy – creation; powers and duties.**

5           There is hereby created the Commission of Anatomy of the Department of ~~Human~~  
6 ~~Resources–~~Environment, Health, and Natural Resources with the power and duty to  
7 adopt rules and regulations for the distribution of dead human bodies and parts thereof  
8 for the purpose of promoting the study of anatomy in the State of North Carolina. The  
9 Commission is authorized to receive dead bodies pursuant to G.S. 90-216.6 and to be a  
10 donee of a body or parts thereof pursuant to Article 15A of Chapter 90 of the General  
11 Statutes known as the Uniform Anatomical Gift Act and to distribute such bodies or  
12 parts thereof pursuant to the rules and regulations adopted by the Commission.

13       **"§ 143B-205344.41. Commission of Anatomy – members; selection; term;  
14                           chairman; quorum; meetings.**

15           The Commission of Anatomy shall consist of five members, one from the  
16 membership of the State Board of Mortuary Science, and one each from The University  
17 of North Carolina School of Medicine, East Carolina University School of Medicine,  
18 Duke University School of Medicine, and Bowman Gray School of Medicine. The dean  
19 of each school shall make recommendations and the Secretary of ~~Human Resources~~  
20 Environment, Health, and Natural Resources shall appoint from such recommendations  
21 a member to the Commission. The president of the State Board of Mortuary Science  
22 shall appoint one member from that Board to the Commission. The members shall  
23 serve terms of four years except two of the original members shall serve a term of one  
24 year, one shall serve a term of two years, one shall serve a term of three years, and one  
25 shall serve a term of four years. The Secretary shall determine the terms of the original  
26 members.

27           Any appointment to fill a vacancy on the Commission created by the resignation,  
28 dismissal, death, or disability of a member shall be for the balance of the unexpired  
29 term.

30           The Secretary shall have the power to remove any member of the Commission from  
31 office for misfeasance, malfeasance or nonfeasance.

32           The Commission shall elect a chairman annually from its own membership.

33           A majority of the Commission shall constitute a quorum for the transaction of  
34 business.

35           The Commission shall meet at any time and place within the State at the call of the  
36 chairman or upon the written request of three members.

37           All clerical and other services required by the Commission shall be supplied by the  
38 Secretary of ~~Human Resources~~Environment, Health, and Natural Resources.

39       **"§ 143B-206344.42. Commission of Anatomy – reference to former Board of  
40                           Anatomy in testamentary disposition.**

41           A testamentary disposition of a body or part thereof to the former Board of Anatomy  
42 shall be deemed in all respects to be a disposition to the Commission of Anatomy."

43           Sec. 170. Part 26 of Article 3 of Chapter 143B of the General Statutes is  
44 recodified as Part 31 of Article 7 of that Chapter and reads as rewritten:

1 "Part ~~2631~~. Governor's Council on Physical Fitness and Health.

2 "**§ 143B-~~216.8344~~.47. Governor's Council on Physical Fitness and Health –**  
3 **creation; powers; duties.**

4 There is hereby created the Governor's Council on Physical Fitness and Health in the  
5 Department of ~~Human Resources~~Environment, Health, and Natural Resources. The  
6 Council shall have the following functions and duties:

7 (1) To promote interest in the area of physical fitness; to consider the need  
8 for new State programs in the field of physical fitness; to enlist the  
9 active support of individual citizens, professional and civic groups,  
10 amateur and professional athletes, voluntary organizations, State and  
11 local government agencies, private industry and business, and  
12 community recreation programs in efforts to improve the physical  
13 fitness and thereby the health of the citizens of North Carolina;

14 (2) To examine current programs of physical fitness available to the  
15 people of North Carolina, and to make recommendations to the  
16 Governor for coordination of programs to prevent duplication of such  
17 services; to support programs of physical fitness in the public school  
18 systems; to develop cooperative programs with medical, dental, and  
19 other groups; to maintain a liaison with government, private and other  
20 agencies concerning physical fitness programs; to stimulate research in  
21 the area of physical fitness; to sponsor physical fitness workshops,  
22 clinics, conferences, and other related activities pertaining to physical  
23 fitness throughout the State;

24 (3) To serve as an agency for recognizing outstanding developments,  
25 contributions, and achievements in physical fitness in North Carolina;  
26 and

27 (4) The Council shall make an annual report to the Governor and to the  
28 Secretary of ~~Human Resources~~Environment, Health, and Natural  
29 Resources, including therein suggestions and recommendations for the  
30 furtherance of the physical fitness of the people of North Carolina.

31 "**§ 143B-~~216.9344~~.48. The Governor's Council on Physical Fitness and Health –**  
32 **members; selection; quorum; compensation.**

33 The Governor's Council on Physical Fitness in the Department of ~~Human Resources~~  
34 Environment, Health, and Natural Resources shall consist of 10 members, including a  
35 chairman.

36 (1) The composition of the Council shall be as follows: one member of the  
37 Senate appointed by the President of the Senate, and one member of  
38 the House of Representatives appointed by the Speaker of the House of  
39 Representatives, and eight persons from the health care professions,  
40 the fields of business and industry, physical education, recreation,  
41 sports and the general public. The eight nonlegislative members of the  
42 Council shall be appointed by the Governor to serve at his pleasure.

43 (2) The eight initial nonlegislative members of the Council shall be  
44 appointed thusly: two for a term of one year, two for a term of two

1 years, two for a term of three years, two for a term of four years. At  
2 the end of the respective terms of office of these initial members, all  
3 succeeding appointments of nonlegislative members shall be for terms  
4 of four years; nonlegislative members shall serve no more than two  
5 consecutive four-year terms; all unexpired terms due to resignation,  
6 death, disability, removal or refusal to serve shall be filled by a  
7 qualified person appointed by the Governor for the balance of the  
8 unexpired term.

9 (3) Legislative members of the Council shall serve two-year terms  
10 beginning and ending on July 1 of odd-numbered years, and shall  
11 serve no more than two consecutive terms.

12 (4) Members of the Governor's Council shall receive per diem and  
13 necessary travel and subsistence expenses in accordance with G.S.  
14 138-5 or 138-6, or travel and subsistence expenses under G.S. 120-3.1,  
15 as appropriate.

16 (5) The Council shall meet no more than quarterly.

17 (6) A majority of the Governor's Council shall constitute a quorum for the  
18 transaction of business."

19 Sec. 171. Part 27 of Article 3 of Chapter 143B of the General Statutes is  
20 recodified as Part 32 of Article 7 of that Chapter and reads as rewritten:

21 **"PART 2732. GOVERNOR'S WASTE MANAGEMENT BOARD.**

22 **"§ 143B-216.10344.51. Declaration of findings.**

23 (a) The General Assembly of North Carolina hereby finds and declares that the  
24 safe management of hazardous wastes and low-level radioactive wastes, and particularly  
25 the timely establishment of adequate facilities for the disposal and management of  
26 hazardous wastes and low-level radioactive wastes is one of the most urgent problems  
27 facing North Carolina. The safe management and disposal of these wastes are essential  
28 to continued economic growth and to protection of the public health and safety. When  
29 improperly handled, these wastes pose a threat to the water, land, and air resources of  
30 the State, as well as to the health and safety of its citizens. Consequently, cooperation  
31 and coordination among the private sector, the general public and State and local  
32 agencies to assure the prevention of unnecessary waste and the establishment of  
33 adequate treatment and disposal facilities are essential. The General Assembly further  
34 finds that cooperation and coordination among the private sector, the general public and  
35 State regulatory agencies will be advanced by the creation of a Governor's Waste  
36 Management Board.

37 (b) It is the intent of the General Assembly by enactment of the Waste  
38 Management Act of 1981 to prescribe a uniform system for the management of  
39 hazardous waste and low-level radioactive waste and to place limitations upon the  
40 exercise by all units of local government in North Carolina of the power to regulate the  
41 management of hazardous waste and low-level radioactive waste by means of special,  
42 local, or private acts or resolutions, ordinances, property restrictions, zoning regulations  
43 or otherwise. To this end, all provisions of special, local or private acts or resolutions  
44 are repealed which:



- 1 (1) Prohibit the transportation, treatment, storage, or disposal of hazardous  
2 or low-level radioactive waste within any county, city, or other  
3 political subdivision;
- 4 (2) Prohibit the siting of a hazardous waste facility or a low-level  
5 radioactive waste facility within any county, city, or other political  
6 subdivision;
- 7 (3) Place any restriction or condition not placed by this Part or by General  
8 Statutes Chapter 130, Article 13B or Chapter 104E upon the  
9 transportation, treatment, storage or disposal of hazardous or low-level  
10 radioactive waste, or upon the siting of a hazardous waste facility or  
11 low-level radioactive waste facility within any county, city, or other  
12 political subdivision; or
- 13 (4) In any manner are in conflict or inconsistent with the provisions of this  
14 Part or General Statutes Chapter 130, Article 13B or Chapter 104E.  
15 No special, local or private acts or resolutions enacted or taking effect  
16 hereafter may be construed to modify, amend or repeal any portion of  
17 the Waste Management Act of 1981 unless it expressly provides for  
18 such by specific references to the appropriate section of this Part.  
19 Further to this end, all provisions of local ordinances, including those  
20 regulating land use, adopted by counties, municipalities, or other local  
21 authorities are invalidated which (i) prohibit or have the effect of  
22 prohibiting the establishment or operation of a hazardous waste facility  
23 or a hazardous waste landfill facility approved by the Governor  
24 pursuant to G.S. 130-166.17B; or (ii) prohibit or have the effect of  
25 prohibiting the establishment or operation of a low-level radioactive  
26 waste facility or a low-level radioactive waste landfill facility  
27 approved by the Governor pursuant to G.S. 104E-6.2.

28 (c) The General Assembly of North Carolina hereby finds and declares that  
29 prevention, recycling, detoxification, and reduction of hazardous wastes should be  
30 encouraged and promoted. These are alternatives which ultimately remove such wastes'  
31 hazards to human health and the environment. When these alternatives are not  
32 technologically feasible, retrievable above-ground storage is sometimes preferable to  
33 other means of disposal of some types of waste until appropriate methods for recycling  
34 or detoxification of the stored wastes are found. Landfilling shall be used only when it  
35 is clearly appropriate. Hazardous waste landfill facilities and polychlorinated biphenyl  
36 landfill facilities shall be detoxified as soon as technology which is economically  
37 feasible is available and sufficient money is available without additional appropriation.

38 "~~§ 143B-216.11~~344.52. **Definitions.**

39 Unless the context otherwise requires, the following definitions shall apply to this  
40 Part:

- 41 (1) 'Board' means the Governor's Waste Management Board.  
42 (2) 'Hazardous waste' has the same meaning as in G.S. 130A-290(4).  
43 (3) 'Hazardous waste facility' means a facility as defined in G.S. 130A-  
44 290(5).

- 1 (4) 'Hazardous waste landfill facility' means a facility as defined in G.S.  
2 130A-290(7).  
3 (5) 'Hazardous waste management' has the same meaning as defined in  
4 G.S. 130A-290(8).  
5 (6) 'Low-level radioactive waste' has the same meaning as in G.S. 104E-  
6 5(9a).  
7 (7) 'Low-level radioactive waste facility' means a facility as defined in  
8 G.S. 104E-5(9b).  
9 (8) 'Low-level radioactive waste landfill facility' means a facility as  
10 defined in G.S. 104E-5(9c).  
11 (9) 'Low-level radioactive waste management' means the systematic  
12 control of the collection, source separation, storage, transportation,  
13 processing, treatment, recovery and disposal of low-level radioactive  
14 waste.

15 **"§ 143B-~~216.12344~~.53. Creation; membership; terms; chairperson; vacancies;  
16 removal; compensation; quorum.**

17 (a) There is hereby created the Governor's Waste Management Board to be  
18 located in the Department of ~~Human Resources~~Environment, Health, and Natural  
19 Resources. The composition of the Board shall be as follows:

- 20 (1) ~~Five~~Four members from State government: the Secretary or  
21 Commissioner of ~~Human Resources, Natural Resources and~~  
22 ~~Community Development~~Environment, Health, and Natural  
23 Resources, Commerce, Agriculture, and Crime Control and Public  
24 Safety. At the request of such Secretary or Commissioner, the  
25 Governor may appoint another official from the same department to  
26 serve in his stead.  
27 (2) Nine members appointed by the Governor from the following  
28 categories: one from county government, one from municipal  
29 government, two from private industry, two from the field of higher  
30 education, research or technology, one who shall be a physician  
31 licensed to practice medicine, and two from the public at large  
32 interested in environmental matters.  
33 (3) Two members appointed by the General Assembly, one upon the  
34 recommendation of the Speaker of the House of Representatives, and  
35 one upon the recommendation of the President of the Senate in  
36 accordance with G.S. 120-121.

37 (b) The members appointed by the Governor shall serve three-year terms until  
38 they are reappointed or replaced, except that two of the original members shall serve  
39 terms of one year, three of the original members shall serve terms of two years and three  
40 of the original members shall serve terms of three years. The initial members appointed  
41 by the General Assembly shall serve for terms expiring June 30, 1983; thereafter, their  
42 successors shall serve for two-year terms beginning July 1 of odd-numbered years.

43 (c) The initial members appointed by the Governor shall be appointed as soon as  
44 possible after passage of this Part and shall serve terms as set forth in subsection (b).

1 (d) The chairperson of the Board shall be appointed by and serve at the pleasure  
2 of the Governor.

3 (e) Any appointment to fill a vacancy on the Board created by resignation,  
4 dismissal, death, disability or any other cause shall be for the balance of the unexpired  
5 term. Vacancies in appointments made by the General Assembly shall be filled in  
6 accordance with G.S. 120-122.

7 (f) Any member of the Board, except legislative appointees, may be removed by  
8 the Governor for misfeasance, malfeasance, or nonfeasance. Members appointed by the  
9 General Assembly may be removed for these reasons only by the General Assembly.

10 (g) Members of the Board who are State employees shall receive travel expenses  
11 as set forth in G.S. 138-6. The other Board members shall receive per diem and travel  
12 expenses as set forth in G.S. 138-5.

13 (h) A majority of the board shall constitute a quorum for the transaction of  
14 business.

15 **"§ 143B-216.13344.54. Functions and powers of Board.**

16 The Board shall perform the functions and be empowered as follows:

- 17 (1) The Board shall periodically evaluate and assess the volume,  
18 distribution, location, and physical and chemical characteristics of  
19 hazardous waste and low-level radioactive waste generated or disposed  
20 of in the State.
- 21 (2) The Board shall periodically review the State's comprehensive waste  
22 management system and make recommendations to the Governor,  
23 cognizant State agencies, and the General Assembly on ways to  
24 improve waste management; reduce the amount of waste generated;  
25 maximize resource recovery, reuse, and conservation; and minimize  
26 the amount of hazardous waste and low-level radioactive waste which  
27 must be disposed of.
- 28 (3) The Board shall study and make recommendations on policy issues  
29 including but not limited to liability and financial responsibilities  
30 within the waste management area. On or before January 1, 1983, the  
31 Board shall prepare and present to the Governor and General  
32 Assembly a report concerning the desirability of establishing by statute  
33 a standard of strict liability for persons involved in storage,  
34 transportation, treatment, or disposal of hazardous or low-level  
35 radioactive waste in North Carolina.
- 36 (4) The Board shall promote research and development and disseminate  
37 information on state-of-the-art means of handling and disposing of  
38 hazardous waste and low-level radioactive waste. The Board is  
39 authorized to establish a waste information exchange for the State.
- 40 (5) The Board shall promote public education and public involvement in  
41 the decision making process for the siting and permitting of proposed  
42 waste management facilities.
- 43 (6) The Board shall periodically evaluate and assess the type and number  
44 of hazardous waste facilities, hazardous waste landfill facilities, low-

1 level radioactive waste facilities and low-level radioactive waste  
2 landfill facilities in existence, under construction or planned in the  
3 State and multi-State region and promote the development of  
4 additional facilities particularly retrievable aboveground storage  
5 facilities if existing or planned facilities are deemed inadequate or  
6 unavailable.

- 7 (7) The Board shall prepare and file jointly with the Governor and the  
8 General Assembly an annual report describing the Board's activities  
9 and setting forth its recommendations for administrative or regulatory  
10 action required to improve the State's comprehensive waste  
11 management system or remedy noted defects in the system. A special  
12 report shall be filed in January of 1983 which shall include an  
13 evaluation on the possible need to organize State agencies more  
14 efficiently to improve overall performance of waste management  
15 functions. The report should give consideration to the advantages and  
16 disadvantages of consolidating or centralizing administration of  
17 programs that are now in separate agencies.

18 The Board shall provide a report to the General Assembly by February 1, 1985, to  
19 include:

- 20 a. An analysis of the size, type and number of hazardous waste  
21 facilities needed in North Carolina and a plan to meet these  
22 needs;
- 23 b. An analysis of the system of collection of hazardous waste in  
24 North Carolina, recommendations as to how that system might  
25 be improved and a plan to implement these recommendations;  
26 and
- 27 c. An analysis of the cost incurred by local government because of  
28 the presence of a hazardous waste facility, a hazardous waste  
29 landfill facility or a comprehensive hazardous waste treatment  
30 facility.
- 31 (8) The Board shall each year recommend to the Governor a recipient for  
32 a 'Governor's Award of Excellence' which the Governor shall award  
33 for outstanding achievement by an industry or company in the area of  
34 hazardous waste or low-level radioactive waste management.
- 35 (9) The Board shall promote and participate in discussion with other states  
36 concerning development of regional hazardous waste and low-level  
37 radioactive waste management agreements.
- 38 (10) The Board shall assist localities in which facilities are proposed in  
39 collecting and receiving information relating to the suitability of the  
40 proposed site. At the request of a local government in which facilities  
41 are proposed, the Board shall direct the appropriate agencies of State  
42 government to develop such relevant data as that locality shall  
43 reasonably request.
- 44 (11) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1082, s. 14.1.

- 1 (12) The Board shall, in accordance with the procedures set forth in G.S.  
 2 160A-211.1 and 153A-152.1, review upon appeal specific privilege  
 3 license tax rates which localities may apply to waste management  
 4 facilities in their jurisdiction.
- 5 (13) The Board may insure its members against personal liability for any  
 6 actions they might take pursuant to the exercise of the functions and  
 7 powers of the Board.
- 8 (14) The Board may adopt, modify, or revoke any rules necessary to carry  
 9 out the functions and powers as set forth in this Part.
- 10 (15) The Board shall have any and all powers necessary or incidental to the  
 11 exercise of the functions and powers enumerated herein.
- 12 (16) The Board shall study the development of retrievable, aboveground  
 13 storage facilities for hazardous wastes.
- 14 (17) The Board shall certify comprehensive hazardous waste treatment  
 15 facilities which meet the criteria prescribed in G.S. 130A-290(1).

16 "**§ 143B-216.14344.55. Functions and powers of Department of ~~Human~~**  
 17 **ResourcesEnvironment, Health, and Natural Resources.**

18 The Department of ~~Human Resources~~Environment, Health, and Natural Resources  
 19 is authorized:

- 20 (1) To enter upon any lands and structures upon lands to make surveys,  
 21 borings, soundings and examinations as may be necessary to determine  
 22 the suitability of a site for a hazardous waste facility, hazardous waste  
 23 landfill facility, low-level radioactive waste facility or low-level  
 24 radioactive landfill facility. The Department shall give 30 days' notice  
 25 of the intended entry authorized by this section in the manner  
 26 prescribed for service of process by G.S. 1A-1, Rule 4. Entry under  
 27 this section shall not be deemed a trespass or taking; provided however  
 28 that the Department shall make reimbursement for any damage to such  
 29 land or structures caused by such activities;
- 30 (2) To provide necessary clerical, technical, and administrative assistance  
 31 to the Board, and to employ the necessary personnel for the  
 32 accomplishment of the purposes of this Part.
- 33 (3) To enforce any rules adopted by the Board pursuant to this Part in the  
 34 manner provided for by G.S. 130A-22(a) and 104E-24.

35 "**§ 143B-216.15344.56. Reporting procedures.**

36 The Governor's Waste Management Board shall report directly to the Governor  
 37 except as otherwise expressly provided."

38 Sec. 172. G.S. 143B-290 reads as rewritten:

39 "**§ 143B-290. North Carolina Mining Commission – creation; powers and duties.**

40 There is hereby created the North Carolina Mining Commission of the Department  
 41 of ~~Natural Resources and Community Development~~Environment, Health, and Natural  
 42 Resources with the power and duty to promulgate rules and regulations for the  
 43 enhancement of the mining resources of the State.

- 1 (1) The North Carolina Mining Commission shall have the following  
2 powers and duties:  
3 a. To act as the advisory body to the Interstate Mining Compact  
4 pursuant to G.S. 74-38(a);  
5 b. To adopt and modify rules and regulations to implement  
6 Chapter 74, Article 6, pursuant to G.S. 74-44(b);  
7 c. To hear permit appeals, conduct a full and complete hearing on  
8 such controversies and affirm, modify, or overrule permit  
9 decisions made by the Department pursuant to G.S. 74-61; and  
10 d. To promulgate rules and regulations necessary to administer the  
11 Mining Act of 1971, pursuant to G.S. 74-63;  
12 e. To promulgate rules and regulations necessary to administer the  
13 Control of Exploration for Uranium in North Carolina Act of  
14 1983, pursuant to G.S. 74-86.
- 15 (2) The Commission is authorized and empowered to make such rules and  
16 regulations, not inconsistent with the laws of this State, as may be  
17 required by the federal government for grants-in-aid for mining  
18 resource purposes which may be made available to the State by the  
19 federal government. This section is to be liberally construed in order  
20 that the State and its citizens may benefit from such grants-in-aid.
- 21 (3) The Commission shall make such rules ~~and regulations~~, consistent  
22 with the provisions of this Chapter. All rules ~~and regulations~~ adopted  
23 by the Commission shall be enforced by the Department of ~~Natural~~  
24 ~~Resources and Community Development~~ Environment, Health, and  
25 Natural Resources."

26 Sec. 173. G.S. 143B-294 reads as rewritten:

27 **"§ 143B-294. Soil and Water Conservation Commission – creation; powers and**  
28 **duties.**

29 There is hereby created the Soil and Water Conservation Commission of the  
30 Department of ~~Natural Resources and Community Development~~ Environment, Health,  
31 and Natural Resources with the power and duty to adopt rules ~~and regulations~~ to be  
32 followed in the development and implementation of a soil and water conservation  
33 program.

- 34 (1) The Soil and Water Conservation Commission has the following  
35 powers and duties:  
36 a. To approve petitions for soil conservation districts;  
37 b. To approve application for watershed plans; and  
38 c. Such other duties as specified in Chapter 139.
- 39 (2) The Commission shall adopt rules and regulations consistent with the  
40 provisions of this Chapter. All rules and regulations not inconsistent  
41 with the provisions of this Chapter heretofore adopted by the Soil and  
42 Water Conservation Committee shall remain in full force and effect  
43 unless and until repealed or superseded by action of the Soil and Water  
44 Conservation Commission. All rules and regulations adopted by the

1 Commission shall be enforced by the Department of ~~Natural Resources~~  
2 ~~and Community Development~~ Environment, Health, and Natural  
3 Resources."

4 Sec. 174. G.S. 143B-300 reads as rewritten:

5 **"§ 143B-300. Wastewater Treatment Plant Operators Certification Commission –**  
6 **creation; powers and duties.**

7 There is hereby created the Wastewater Treatment Plant Operators Certification  
8 Commission of the Department of ~~Natural Resources and Community Development~~  
9 Environment, Health, and Natural Resources with the power and duty to adopt rules ~~and~~  
10 ~~regulations~~ with respect to the certification of wastewater treatment plant operators as  
11 provided by Article 3 of Chapter 90A of the General Statutes of North Carolina.

12 The Commission is authorized and empowered to adopt such rules and regulations,  
13 not inconsistent with the laws of this State, as may be required by the federal  
14 government for grants-in-aid for programs concerned with the certification of  
15 wastewater treatment plant operators which may be made available to the State by the  
16 federal government. This section is to be liberally construed in order that the State and  
17 its citizens may benefit from such grants-in-aid."

18 Sec. 175. G.S. 143B-470.4(c) reads as rewritten:

19 "(c) The Treatment Commission shall submit to the General Assembly by January  
20 1, 1986, a comprehensive plan for the treatment of hazardous waste in North Carolina,  
21 including a plan to provide for a statewide hazardous waste collection system. The  
22 Governor's Waste Management Board, the ~~Solid and Hazardous Waste Branch of the~~  
23 ~~Division of Health Services of the Department of Human Resources~~ Department of  
24 Environment, Health, and Natural Resources, and other State agencies and departments  
25 shall cooperate with the Treatment Commission in preparation of the plan. If the  
26 Treatment Commission, in its report to the General Assembly, indicates that the needs  
27 of the State for treatment of hazardous waste are being met, the Treatment Commission  
28 shall cease to exist as of January 1, 1986. If not, the Treatment Commission shall report  
29 periodically to the General Assembly or, if the General Assembly is not in session, to  
30 the Joint Legislative Commission on Governmental Operations, on progress toward  
31 meeting the State's needs."

32 Sec. 176. G.S. 153A-225(b) reads as rewritten:

33 "(b) If a prisoner in a local confinement facility dies, the medical examiner and the  
34 coroner shall be notified immediately. Within five days after the day of the death, the  
35 administrator of the facility shall make a written report to the local or district health  
36 director and to the Secretary of ~~Human Resources~~ Environment, Health, and Natural  
37 Resources. The report shall be made on forms ~~provided by the [State Board of Health,~~  
38 ~~and the Board of Health]~~ shall develop and distribute these forms developed and  
39 distributed by the Department of Environment, Health, and Natural Resources."

40 Sec. 177. G.S. 153A-226(b) reads as rewritten:

41 "(b) The ~~[Commission for Health Services]~~ Commission for Health Services shall  
42 prepare a score sheet to be used by sanitarians of local or district health departments in  
43 inspecting local confinement facilities. The sanitarians shall inspect local confinement  
44 facilities as often as may be required by the Commission for Health Services. If an

1 inspector of the Department finds conditions that reflect hazards or deficiencies in the  
2 sanitation or food service of a local confinement facility, he shall immediately notify the  
3 local or district health department. The health department shall promptly cause a  
4 sanitarian to inspect the facility. After making his inspection, the sanitarian shall  
5 forward a copy of his report to the Department of Human Resources and to the unit  
6 operating the facility, on forms prepared by the ~~[Department]~~ Department of  
7 Environment, Health, and Natural Resources. The report shall indicate whether the  
8 facility and its kitchen or other place for preparing food is approved or disapproved for  
9 public health purposes. If the facility is disapproved, the situation shall be rectified  
10 according to the procedures of G.S. 153A-223."

11 Sec. 178. G.S. 159C-7 reads as rewritten:

12 **"§ 159C-7. Approval of project.**

13 No bonds may be issued by an authority unless the project for which the issuance  
14 thereof is proposed is first approved by the Secretary of the Department of Commerce.  
15 The authority shall file an application for approval of its proposed project with the  
16 Secretary of the Department of Commerce, and shall notify the Local Government  
17 Commission of such filing.

18 The Secretary shall not approve any proposed project unless he shall make all of the  
19 following, applicable findings:

- 20 (1) In the case of a proposed industrial project,  
21 a. That the operator of the proposed project pays, or has agreed to  
22 pay thereafter, an average weekly manufacturing wage (i)  
23 which is above the average weekly manufacturing wage paid in  
24 the county, or (ii) which is not less than ten percent (10%)  
25 above the average weekly manufacturing wage paid in the  
26 State, and  
27 b. That the proposed project will not have a materially adverse  
28 effect on the environment;
- 29 (2) In the case of a proposed pollution control project, that such project  
30 will have a materially favorable impact on the environment or will  
31 prevent or diminish materially the impact of pollution which would  
32 otherwise occur; and
- 33 (2a) In the case of a hazardous waste facility or low-level radioactive waste  
34 facility which is used as a reduction, recovery or recycling facility, that  
35 such project will further the waste management goals of North  
36 Carolina and will not have an adverse effect upon public health or a  
37 significant adverse effect on the environment.
- 38 (3) In any case (whether the proposed project is an industrial or a pollution  
39 control project), except a pollution control project for a public utility,  
40 a. That the jobs to be generated or saved, directly or indirectly, by  
41 the proposed project will be large enough in number to have a  
42 measurable impact on the area immediately surrounding the  
43 proposed project and will be commensurate with the size and  
44 cost of the proposed project,



- 1                   b.     That the proposed operator of the proposed project has  
2 demonstrated or can demonstrate the capability to operate such  
3 project, and  
4                   c.     That the financing of such project by the authority will not  
5 cause or result in the abandonment of an existing industrial or  
6 manufacturing facility of the proposed operator or an affiliate  
7 elsewhere within the State unless the facility is to be abandoned  
8 because of obsolescence, lack of available labor in the area, or  
9 site limitations.

10         In no case shall the Secretary of the Department of Commerce make the findings  
11 required by subdivisions (1)b and (2) of this section unless he shall have first received a  
12 certification from the Department of ~~Natural Resources and Community Development~~  
13 Environment, Health, and Natural Resources that, in the case of a proposed industrial  
14 project, the proposed project will not have a materially adverse effect on the  
15 environment and that, in the case of a proposed pollution control project, the proposed  
16 project will have a materially favorable impact on the environment or will prevent or  
17 diminish materially the impact of pollution which would otherwise occur. In no case  
18 shall the Secretary of Commerce make the findings required by subdivision (2a) unless  
19 he shall have first received a certification from the Department of ~~Human Resources~~  
20 Environment, Health, and Natural Resources that the proposed project is  
21 environmentally sound, will not have an adverse effect on public health and will further  
22 the waste management goals of North Carolina. In any case where the Secretary shall  
23 make all of the required findings respecting a proposed industrial project except that  
24 prescribed in subparagraph (1)a of this section, the Secretary may, in his discretion,  
25 approve the proposed project if he shall have received (i) a resolution of the governing  
26 body of the county requesting that the proposed project be approved notwithstanding  
27 that the operator will not pay an average weekly manufacturing wage above the average  
28 weekly manufacturing wage in the county and (ii) a letter from an appropriate State  
29 official, selected by the Secretary, to the effect that unemployment in the county is  
30 especially severe.

31         To facilitate his review of each proposed project, the Secretary may require the  
32 authority to obtain and submit such data and information about such project as the  
33 Secretary may prescribe. In addition, the Secretary may, in his discretion, request the  
34 authority to hold a public hearing on the proposed project for the purpose of providing  
35 the Secretary directly with the views of the community to be affected. The Secretary  
36 may also prescribe such forms and such rules and regulations as he shall deem  
37 reasonably necessary to implement the provisions of this section.

38         If the Secretary approves the proposed project, he shall prepare a certificate of  
39 approval evidencing such approval and setting forth his findings and shall cause said  
40 certificate of approval to be published in a newspaper of general circulation within the  
41 county. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B  
42 of the General Statutes of North Carolina only by an action filed, within 30 days after  
43 notice of such findings and approval shall have been so published, in the Superior Court  
44 of Wake County. Such superior court is hereby vested with jurisdiction to hear such

1 action, but if no such action is filed within the 30 days herein prescribed, the validity of  
2 such approval shall be conclusively presumed, and no court shall have authority to  
3 inquire into such approval. Copies of the certificate of approval of the proposed project  
4 will be given to the authority, the governing body of the county and the Secretary of the  
5 Local Government Commission.

6 Such certificate of approval shall become effective immediately following the  
7 expiration of such 30-day period or the expiration of any appeal period after a final  
8 determination by any court of any action timely filed pursuant to this section. Such  
9 certificate shall expire one year after its date unless extended by the Secretary who shall  
10 not extend such certificate unless he shall again approve the proposed project as  
11 provided in this section."

12 Sec. 179. G.S. 159D-7 reads as rewritten:

13 **"§ 159D-7. Approval of project.**

14 No bonds may be issued by the authority unless the project for which the issuance  
15 thereof is proposed is first approved by the Secretary of the Department of Commerce.  
16 The authority shall file an application for approval of its proposed project with the  
17 Secretary of the Department of Commerce, and shall notify the Local Government  
18 Commission of such filing.

19 The Secretary shall not approve any proposed project unless he shall make all of the  
20 following, applicable findings:

- 21 (1) In the case of a proposed industrial project,  
22 a. That the operator of the proposed project pays, or has agreed to  
23 pay thereafter, an average weekly manufacturing wage (i)  
24 which is above the average weekly manufacturing wage paid in  
25 the county in which the project is to be located or (ii) which is  
26 not less than ten percent (10%) above the average weekly  
27 manufacturing wage paid in the State; and  
28 b. That the proposed project will not have a materially adverse  
29 effect on the environment;
- 30 (2) In the case of a proposed pollution control project, that such project  
31 will have a materially favorable impact on the environment or will  
32 prevent or diminish materially the impact of pollution which would  
33 otherwise occur; and
- 34 (2a) In the case of a hazardous waste facility or low-level radioactive waste  
35 facility which is used as a reduction, recovery or recycling facility, that  
36 such project will further the waste management goals of North  
37 Carolina and will not have an adverse effect upon public health or a  
38 significant adverse effect on the environment; and
- 39 (3) In any case (whether the proposed project is an industrial or a pollution  
40 control project),  
41 a. That the jobs to be generated or saved, directly or indirectly, by  
42 the proposed project will be large enough in number to have a  
43 measurable impact on the area immediately surrounding the

1 proposed project and will be commensurate with the size and  
2 cost of the proposed project,

3 b. That the proposed operator of the proposed project has  
4 demonstrated or can demonstrate the capability to operate such  
5 project, and

6 c. That the financing of such project by the authority will not  
7 cause or result in the abandonment of an existing industrial or  
8 manufacturing facility of the proposed operator or an affiliate  
9 elsewhere within the State unless the facility is to be abandoned  
10 because of obsolescence, lack of available labor in the area, or  
11 site limitations.

12 In no case shall the Secretary of the Department of Commerce make the findings  
13 required by subdivisions (1)b and (2) of this section unless he shall have first received a  
14 certification from the Department of ~~Natural Resources and Community Development~~  
15 Environment, Health, and Natural Resources that, in the case of a proposed industrial  
16 project, the proposed project will not have a materially adverse effect on the  
17 environment and that, in the case of a proposed pollution control project, the proposed  
18 project will have a materially favorable impact on the environment or will prevent or  
19 diminish materially the impact of pollution which would otherwise occur. In no case  
20 shall the Secretary of Commerce make the findings required by subdivision (2a) unless  
21 he shall have first received a certification from the Department of ~~Human Resources~~  
22 Environment, Health, and Natural Resources that the proposed project is  
23 environmentally sound, will not have an adverse effect on public health and will further  
24 the waste management goals of North Carolina. In any case where the Secretary shall  
25 make all of the required findings respecting a proposed industrial project, except that  
26 prescribed in subdivision (1)a of this section, the Secretary may, in his discretion,  
27 approve the proposed project if he shall have received (i) a resolution of the governing  
28 body of the county in which the proposed project is to be located requesting that the  
29 proposed project be approved notwithstanding that the operator will not pay an average  
30 weekly manufacturing wage above the average weekly manufacturing wage in the  
31 county and (ii) a letter from an appropriate State official, selected by the Secretary, to  
32 the effect that unemployment in the county is especially severe.

33 To facilitate his review of each proposed project, the Secretary may require the  
34 authority to obtain and submit such data and information about such project as the  
35 Secretary may prescribe. In addition, the Secretary may, in his discretion, request the  
36 authority to hold a public hearing on the proposed project for the purpose of providing  
37 the Secretary directly with the views of the community to be affected. The Secretary  
38 may also prescribe such forms and such rules and regulations as he shall deem  
39 reasonably necessary to implement the provisions of this section.

40 If the Secretary approves the proposed project, he shall prepare a certificate of  
41 approval evidencing such approval and setting forth his findings and shall cause said  
42 certificate of approval to be published in a newspaper of general circulation within the  
43 county in which the proposed project is to be located. Any such approval shall be  
44 reviewable as provided in Article 4 of Chapter 150B of the General Statutes of North

1 Carolina only by an action filed, within 30 days after notice of such findings and  
2 approval shall have been so published, in the Superior Court of Wake County. Such  
3 superior court is hereby vested with jurisdiction to hear such action, but if no such  
4 action is filed within the 30 days herein prescribed, the validity of such approval shall  
5 be conclusively presumed, and no court shall have authority to inquire into such  
6 approval. Copies of the certificate of approval of the proposed project will be given to  
7 the authority, the governing body of the county in which the proposed project is to be  
8 located and the secretary of the Local Government Commission.

9 Such certificate of approval shall become effective immediately following the  
10 expiration of such 30-day period or the expiration of any appeal period after a final  
11 determination by any court of any action timely filed pursuant to this section. Such  
12 certificate shall expire one year after its date unless extended by the Secretary who shall  
13 not extend such certificate unless he shall again approve the proposed project as  
14 provided in this section. Any certificate of approval with respect to a project which has  
15 become effective pursuant to G.S. 159C-7 shall be deemed to satisfy the requirements  
16 of this section to the extent that the findings made by the Secretary pursuant to G.S.  
17 159C-7 are consistent with the findings required to be made by the Secretary pursuant  
18 hereto."

19 Sec. 180. G.S. 159G-3 reads as rewritten:

20 "**§ 159G-3. Definitions.**

21 As used in this Chapter, the following words shall have the meanings indicated,  
22 unless the context clearly requires otherwise:

- 23 (1) 'Administrative Account' means the Administrative Account in  
24 the Clean Water Revolving Loan and Grant Fund established in  
25 the Office of State Budget and Management under the provisions  
26 of this Chapter to cover administrative costs of the program.
- 27 (2) 'Applicant' means a local government unit that applies for a  
28 revolving loan or grant under the provisions of this Chapter.
- 29 (3) 'Clean Water Revolving Loan and Grant Fund' means the fund  
30 established in the Office of State Budget and Management to  
31 carry out the provisions of this Chapter, with various accounts  
32 therein as herein provided.
- 33 (4) 'Construction costs' means the actual costs of planning, designing  
34 and constructing any project for which a revolving loan or grant is  
35 made under this Chapter including planning; environmental  
36 assessment; wastewater system analysis, evaluation and  
37 rehabilitation; engineering; legal, fiscal, administrative and  
38 contingency costs for water supply systems, wastewater collection  
39 systems, wastewater treatment works and any extensions,  
40 improvements, remodeling, additions, or alterations to existing  
41 systems. Construction costs may include excess or reserve  
42 capacity costs, attributable to no more than 20-year projected  
43 domestic growth, plus ten percent (10%) unspecified industrial  
44 growth. In addition, construction costs shall include any fees

1 payable to the Environmental Management Commission or the  
2 ~~Division of Health Services~~ Division of Environmental Health for  
3 review of applications and grant of permits, and fees for  
4 inspections under G.S. ~~159G-314~~ [~~159G-14~~].—159G-14.  
5 Construction costs may also include the costs for purchase or  
6 acquisition of real property.

7 (5) 'Grant' means a sum of money given by the State to a local  
8 government unit to subsidize the construction costs of a project  
9 authorized by this Chapter, without any obligation on the part of  
10 such unit to repay such sum.

11 (6) 'Commission for Health Services' means the Commission for  
12 Health Services of the Department of ~~Human Resources~~.  
13 Environment, Health, and Natural Resources.

14 (6a) 'Debt instrument' means an instrument in the nature of a  
15 promissory note executed by a local government unit under the  
16 provisions of this Chapter, to evidence a debt to the State and  
17 obligation to repay the principal, plus interest, under stated terms.

18 (7) ~~'Division of Health Services' means the Division of Health~~  
19 ~~Services of the Department of Human Resources.~~ 'Division of  
20 Environmental Health' means the Division of Environmental  
21 Health of the Department of Environment, Health, and Natural  
22 Resources.

23 (8) 'Environmental Management Commission' means the  
24 Environmental Management Commission of the ~~Department of~~  
25 ~~Natural Resources and Community Development created by~~  
26 ~~Article 7, Part 4 of Chapter 143B of the General Statutes.~~  
27 Department of Environment, Health, and Natural Resources.

28 (9) 'Local Government Commission' means the Local Government  
29 Commission of the Department of the State Treasurer, established  
30 by Article 2 of Chapter 159 of the General Statutes.

31 (10) 'Local government unit' means a county, city, town, incorporated  
32 village, sanitary district, metropolitan sewerage district,  
33 metropolitan water district, county water and sewer district, water  
34 and sewer authority or joint agency created pursuant to Part 1 of  
35 Article 20 of Chapter 160A of the General Statutes.

36 (11) 'Office of State Budget and Management' means the Office of  
37 State Budget and Management established by law.

38 (12) 'Receiving agency' means the ~~Division of Health Services~~  
39 Division of Environmental Health with respect to receipt of  
40 applications for revolving loans and grants for water supply  
41 systems, and the Environmental Management Commission and  
42 the Division of Environmental Management with respect to  
43 receipt of applications for revolving loans and grants for  
44 wastewater systems.

- 1 (13) 'Revolving construction loan' means a sum of money loaned by  
2 the State to a local government unit to subsidize the construction  
3 costs of a project authorized by this Chapter, with an obligation  
4 on the part of such unit to repay such sum, the proceeds of such  
5 repayment to be deposited in the Water Pollution Control  
6 Revolving Fund.
- 7 (14) 'Revolving emergency loan' means a sum of money loaned by the  
8 State to a local government unit upon a certification, as provided  
9 in this Chapter, of a serious public health hazard, with an  
10 obligation on the part of such unit to repay such sum.
- 11 (15) 'Revolving loan' includes a revolving construction loan and an  
12 emergency loan.
- 13 (15a) 'State' means the State of North Carolina.
- 14 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant  
15 to Article III, Section 7 of the Constitution or his designated  
16 representative.
- 17 (16) 'Wastewater Accounts' means the various accounts in the Clean  
18 Water Revolving Loan and Grant Fund established in the Office  
19 of State Budget and Management under this Chapter for revolving  
20 loans and grants for wastewater treatment work and wastewater  
21 collection system projects.
- 22 (17) 'Wastewater collection system' means a unified system of pipes,  
23 conduits, pumping stations, force mains, and appurtenances other  
24 than interceptor sewers, for collecting and transmitting water-  
25 carried human wastes and other wastewater from residences,  
26 industrial establishments or any other buildings, and owned by a  
27 local government unit.
- 28 (18) 'Wastewater treatment works' means the various facilities and  
29 devices used in the treatment of sewage, industrial waste or other  
30 wastes of a liquid nature, including the necessary interceptor  
31 sewers, outfall sewers, phosphorous removal equipment,  
32 pumping, power and other equipment and their appurtenances.
- 33 (19) 'Water Supply Accounts' means the various accounts in the Clean  
34 Water Revolving Loan and Grant Fund established in the Office  
35 of State Budget and Management under this Chapter for revolving  
36 loans and grants for water supply system projects.
- 37 (20) 'Water supply system' means a public water supply system  
38 consisting of facilities and works for supplying, treating and  
39 distributing potable water including, but not limited to,  
40 impoundments, reservoirs, wells, intakes, water filtration plants  
41 and other treatment facilities, tanks and other storage facilities,  
42 transmission mains, distribution piping, pipes connecting the  
43 system to other public water supply systems, pumping equipment  
44 and all other necessary appurtenances, equipment and structures."

1           Sec. 181. G.S. 159G-6 reads as rewritten:

2   **"§ 159G-6. Distribution of funds.**

3       (a)   Revolving loans and grants.

4           (1)   All funds appropriated or accruing to the Clean Water Revolving Loan  
5               and Grant Fund, other than funds set aside for administrative expenses,  
6               shall be used for revolving loans and grants to local government units  
7               for construction costs of wastewater treatment works, wastewater  
8               collection systems and water supply systems and other assistance as  
9               provided in this Chapter.

10          (2)   The maximum principal amount of a revolving loan or a grant may be  
11               one hundred percent (100%) of the nonfederal share of the  
12               construction costs of any eligible project. The maximum principal  
13               amount of revolving loans made to any one local government unit  
14               during any fiscal year shall be three million dollars (\$3,000,000). The  
15               maximum principal amount of grants made to any one local  
16               government unit during any fiscal year shall be five hundred thousand  
17               dollars (\$500,000).

18          (3)   The State Treasurer shall be responsible for investing and distributing  
19               all funds appropriated or accruing to the Clean Water Revolving Loan  
20               and Grant Fund for revolving loans and grants under this Chapter. In  
21               fulfilling his responsibilities under this section, the State Treasurer  
22               shall make a written request to the Office of State Budget and  
23               Management to arrange for the appropriated funds to be (i) transferred  
24               from the appropriate accounts to a local government unit to provide  
25               funds for one or more revolving loans or grants or (ii) invested as  
26               authorized by this Chapter with the interest on and the principal of  
27               such investments to be transferred to the local government unit to  
28               provide funds for one or more revolving loans or grants.

29       (b)   Wastewater Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. 159G-4]  
30   159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be  
31   used to make revolving loans and grants to local government units as provided below.  
32   The Office of the State Budget and Management shall disburse no funds from the  
33   Wastewater Accounts except upon receipt of written approval of the disbursement from  
34   the Environmental Management Commission.

35           (1)   General Wastewater Revolving Loan and Grant Account. – The funds  
36               in the General Wastewater Revolving Loan and Grant Account shall  
37               be used exclusively for the purpose of providing for revolving  
38               construction loans or grants in connection with approved wastewater  
39               treatment work or wastewater collection system projects.

40           (2)   High-Unit Cost Wastewater Account. – The funds in the High-Unit  
41               Cost Wastewater Account shall be available for grants to applicants for  
42               high-unit cost wastewater projects. Eligibility of an applicant for such  
43               a grant shall be determined by comparing estimated average household  
44               user fees for water and sewer service, for debt service and operation

1 and maintenance costs, to one and one-half percent (1.5%) of the  
2 median household income in the county in which the project is located.  
3 The projects which would require estimated average household water  
4 and sewer user fees greater than one and one-half percent (1.5%) of the  
5 median household income are defined as high-unit cost wastewater  
6 projects and will be eligible for a grant equal to the excess cost, subject  
7 to the limitations in subsection (a)(2) of this section.

- 8 (3) Emergency Wastewater Revolving Loan Account. – The funds in the  
9 Emergency Wastewater Revolving Loan Account shall be available for  
10 revolving emergency loans to applicants in the event the  
11 Environmental Management Commission certifies that a serious public  
12 health hazard, related to the inadequacy of existing wastewater  
13 facilities, is present or imminent in a community.

14 (c) Water Supply Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-~~  
15 ~~4~~159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall  
16 be used to provide revolving loans and grants to local government units as provided  
17 below. The Office of State Budget and Management shall disburse no funds from the  
18 Water Supply Accounts except upon receipt of written approval of the disbursement  
19 from the ~~Division of Health Services~~ Division of Environmental Health.

- 20 (1) General Water Supply Revolving Loan and Grant Account. – The  
21 funds in the General Water Supply Revolving Loan and Grant Account  
22 shall be used exclusively for the purpose of providing for revolving  
23 construction loans and grants in connection with water supply systems  
24 generally and not upon a county allotment basis.

- 25 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit  
26 Cost Water Supply Account shall be available for grants to applicants  
27 for high-unit cost water supply systems, on the same basis as provided  
28 in G.S. ~~159G-306(b)(2)~~ [G.S. ~~159G-6(b)(2)~~] 159G-6(b)(2) for high-  
29 unit cost wastewater projects.

- 30 (3) Emergency Water Supply Revolving Loan Account. – The funds in the  
31 Emergency Water Supply Revolving Loan Account shall be available  
32 for revolving emergency loans to applicants in the event the ~~Division~~  
33 ~~of Health Services~~ Division of Environmental Health certifies that a  
34 serious public health hazard, related to the water supply system, is  
35 present or imminent in a community.

36 (d) Administrative Account. – The Office of State Budget and Management,  
37 from time to time, may allocate funds from the Administrative Account to meet the  
38 expenses of the Office of State Budget and Management, Local Government  
39 Commission, ~~Division of Health Services~~ Division of Environmental Health and  
40 Environmental Management Commission incurred in the administration of this Chapter  
41 in excess of normal operating expenses.

42 Each agency entitled to receive administrative expense funds from the  
43 Administrative Account shall prepare an itemized estimate of administrative funds  
44 required for the succeeding fiscal year, and the ~~Division of Health Services~~ Division of



1 Environmental Health, the Local Government Commission and the Environmental  
2 Management Commission shall deliver their estimates to the Office of State Budget and  
3 Management at least 45 days prior to the beginning of the fiscal year for which the  
4 funds are required. The Office of State Budget and Management shall determine the  
5 administrative expense funds available and, along with its recommendations, shall  
6 deliver the estimates of the ~~Division of Health Services~~, Division of Environmental  
7 Health, the Local Government Commission and of the Environmental Management  
8 Commission and its own estimate, if any, to the Advisory Budget Commission at least  
9 30 days prior to the beginning of the fiscal year for which the funds are required. Any  
10 administrative expense funds shall be disbursed by the Office of State Budget and  
11 Management to the appropriate agency. If the administrative expense funds disbursed  
12 to any agency shall prove insufficient, it may apply at any time during the fiscal year for  
13 additional funds in the manner above provided.

14 (e) Notwithstanding any other provision of this Chapter, funds in the Water  
15 Pollution Control Revolving Fund shall not be available as grants except to the extent  
16 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations  
17 thereunder."

18 Sec. 182. G.S. 159G-8 reads as rewritten:

19 "**§ 159G-8. Application; environmental assessment; notice; hearing.**

20 (a) Application. – All applications for revolving loans and grants for water  
21 supply systems shall be filed with the ~~Division of Health Services~~ Division of  
22 Environmental Health and all applications for revolving loans and grants for wastewater  
23 treatment works or wastewater collection systems shall be filed with the Environmental  
24 Management Commission. Every applicant shall also file with the Office of State  
25 Budget and Management such information concerning the application as the Office of  
26 State Budget and Management may require by rules or regulations adopted pursuant to  
27 this Chapter. Any application may be filed in as many categories as it is eligible for  
28 consideration under this Chapter. Applications for revolving construction loans or  
29 grants for wastewater treatment works and wastewater collection systems, except  
30 applications for emergency wastewater loans, shall first be submitted for a loan or grant  
31 from the Water Pollution Control Revolving Fund established by G.S. ~~159G-305(e)~~  
32 ~~[G.S. 159G-5(e)]~~ 159G-5(c). If the application is denied, the application shall then be  
33 considered for a revolving loan or a grant from the General Wastewater Revolving Loan  
34 and Grant account established under ~~159G-306(b)(1)~~ ~~[G.S. 159G-6(b)(1)]~~ 159-6(b)(1).

35 The Office of State Budget and Management, the ~~Division of Health Services~~  
36 Division of Environmental Health and the Environmental Management Commission  
37 may develop jointly and adopt a standard form of application under this Chapter. Any  
38 application for construction grants under the Federal Water Pollution Control Act may  
39 be considered as an application for revolving construction loans or grants under G.S.  
40 ~~159G-305(e)~~ ~~[G.S. 159G-5(e)]~~ 159G-5(c) and G.S. ~~159G-306(b)(1)~~ ~~[G.S. 159G-~~  
41 ~~6(b)(1)]~~ 159G-6(b)(1). The information required to be set forth in the application shall  
42 be sufficient to permit the respective agencies to determine the eligibility of the  
43 applicant and to establish the priority of the application, as set forth in this Chapter.

1 Any applicant shall furnish information in addition or supplemental to the  
2 information contained in its application upon request by the receiving agency.

3 (b) Environmental Assessment. – Every applicant shall file with its application  
4 an assessment setting forth the impact that the project for which funds are sought will  
5 have upon the environment of the area within which the project is proposed to be  
6 located. The assessment shall set forth the impact of the project upon water resources,  
7 other natural resources, land use pattern, and such other factors as the Commission for  
8 Health Services or the Environmental Management Commission shall require by duly  
9 adopted rules and regulations. Any environmental assessment required as part of an  
10 application for grants under the Federal Water Pollution Control Act shall satisfy the  
11 requirement of this provision. If, after reviewing the environmental assessment, the  
12 ~~Division of Health Services~~ Division of Environmental Health or the Environmental  
13 Management Commission concludes that an environmental impact statement is  
14 required, then the application shall receive no further consideration until a final  
15 environmental impact statement has been completed and approved as provided in  
16 Article 1 of Chapter 113A of the General Statutes.

17 (c) Hearing. – A public hearing may be held by the receiving agency at any time  
18 on any application filed pursuant to G.S. ~~159G-305(e)~~ [G.S. ~~159G-5(e)~~], ~~159G-306(b)~~  
19 [~~G.S. 159G-6(b)~~] or ~~159G-306(e)~~ [G.S. ~~159G-6(e)~~] 159G-5(c), 159G-6(b), or 159G-6(c)  
20 in accordance with the provisions of this subsection. A public hearing may be held by  
21 the receiving agency upon written request from any citizen or taxpayer who is a resident  
22 of the county or counties in which the project is proposed to be located if it appears that  
23 the public interest will be served by this hearing. The written request shall set forth  
24 each objection to the proposed project or other reason for requesting a hearing on the  
25 application and shall contain the name and address of the person(s) submitting it. The  
26 receiving agency may consider all written objections to the proposed project and other  
27 statements along with the application, including any significant adverse effects that the  
28 proposed project may have on the environment, and shall determine if the public interest  
29 will be served by a hearing. The determination by the receiving agency shall be  
30 conclusive; but all written requests for a hearing shall be retained as a permanent part of  
31 the records pertaining to the application, whether or not the request is granted."

32 Sec. 183. G.S. 159G-14 reads as rewritten:

33 "**§ 159G-14. Inspection.**

34 Inspection of a project for which a revolving loan or grant has been made under this  
35 Chapter may be performed by qualified personnel of the ~~Division of Health Services~~  
36 Division of Environmental Health or the Environmental Management Commission or  
37 may be performed by qualified professional engineers, registered in this State, who have  
38 been approved by the ~~Division of Health Services~~ Division of Environmental Health or  
39 the Environmental Management Commission; but no person shall be approved to  
40 perform inspections who is an officer or employee of the unit of government to which  
41 the revolving loan or grant was made or who is an owner, officer, employee or agent of  
42 a contractor or subcontractor engaged in the construction of the project for which the  
43 revolving loan or grant was made. For the purpose of payment of inspection fees,

1 inspection services shall be included in the term 'construction cost' as used in this  
2 Chapter."

3 Sec. 184. G.S. 159G-17 reads as rewritten:

4 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**  
5 **Operations.**

6 (a) The Office of State Budget and Management, the ~~Division of Health Services~~  
7 Division of Environmental Health and the Environmental Management Commission  
8 shall prepare and file on or before July 31 of each year with the Joint Legislative  
9 Commission on Governmental Operations a consolidated report for the preceding fiscal  
10 year concerning the allocation of revolving loans and grants authorized by this Chapter.

11 (b) Office of State Budget and Management. – The portion of the report prepared  
12 by the Office of State Budget and Management shall set forth for the preceding fiscal  
13 year itemized and total allocations from the Administrative Account for administrative  
14 expenses; itemized and total allocations from the Wastewater Accounts of revolving  
15 loans and grants authorized by the Environmental Management Commission; and  
16 itemized and total allocations from the Water Supply Accounts of revolving loans and  
17 grants authorized by the ~~Division of Health Services~~ Division of Environmental Health.  
18 The Office of State Budget and Management shall also prepare a summary report of all  
19 allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal  
20 year; the total funds received and allocations made; and unallocated funds on hand in  
21 each account as of the end of the preceding fiscal year.

22 (c) Environmental Management Commission and ~~Division of Health~~  
23 ~~Services~~ Division of Environmental Health. – The portions of the report prepared by the  
24 Environmental Management Commission and the ~~Division of Health Services~~ Division  
25 of Environmental Health shall include:

- 26 (1) Identification of each revolving loan and grant made by the receiving  
27 agency during the preceding fiscal year; the total amount of the  
28 revolving loan and grant commitments; the sums actually paid during  
29 the preceding fiscal year to each revolving loan and grant made and to  
30 each revolving loan and grant previously committed but unpaid; and  
31 the total revolving loan and grant funds paid during the preceding  
32 fiscal year.
- 33 (2) Itemization of expenditures of any administrative expense funds  
34 allocated from the Administrative Account during the preceding fiscal  
35 year.
- 36 (3) Summarization for all preceding years of the total number of revolving  
37 loans and grants made; the total funds committed to such revolving  
38 loans and grants; the total sum actually paid to such revolving loans  
39 and grants and the total expenditure of administrative expense funds  
40 allocated from the Administrative Account.
- 41 (4) Assessment and evaluation of the effects that approved projects have  
42 had upon water pollution control and water supplies within the  
43 purposes of this Chapter and with relation to the total water pollution  
44 control and water supply problem.

1 (d) The report shall be signed by each of the chief executive officers of the State  
2 agencies preparing the report."

3 Sec. 185. G.S. 162A-23(b) reads as rewritten:

4 "(b) Responsibility for carrying out the role of State government in regional water  
5 supply planning shall be assigned to the Department of ~~Human Resources and the~~  
6 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
7 ~~Community Development~~]. Environment, Health, and Natural Resources. ~~Promotion~~  
8 ~~and coordination of regional water supply systems shall be a shared function of the~~  
9 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
10 ~~Community Development~~] and the Department of Human Resources, with primary  
11 responsibility with regard to sources of raw water supply and transbasin or  
12 transwatershed diversions of water being allocated to the Department of Water and Air  
13 Resources [~~Department of Natural Resources and Community Development~~], and with  
14 primary responsibility with regard to other aspects of regional water supply systems  
15 being allocated to the Department of Human Resources."

16 Sec. 186. G.S. 162A-24(a) reads as rewritten:

17 "(a) There is established under the control and direction of the Department of  
18 Administration a Regional Water Supply Planning Revolving Fund, to consist of any  
19 moneys that may be appropriated for use through the fund by the General Assembly or  
20 that may be made available to it from any other source. The Department may make  
21 advances from the fund to any county, municipality, sanitary district, or to counties and  
22 municipalities acting collectively or jointly as a regional water authority, for the purpose  
23 of meeting the cost of advance planning and engineering work necessary or desirable  
24 for the development of a comprehensive plan for a regional water supply system as  
25 defined in this Article. Such advances shall be subject to repayment by the recipient to  
26 the Department from the proceeds of bonds or other obligations for the regional water  
27 supply system, or from other funds available to the recipient including grants, except  
28 when, in the judgment of the Department of ~~Human Resources and of the Department of~~  
29 ~~Water and Air Resources~~ [~~Department of Natural Resources and Community~~  
30 ~~Development~~] Environment, Health, and Natural Resources, a proposed plan for  
31 development and construction of a countywide or other regional water system is not  
32 feasible because of design and construction factors or because available sources of raw  
33 water supply are inadequate or because construction of a proposed system is not  
34 economically feasible, (but not if the applicant decides not to proceed with construction  
35 that has been planned and which the Department of ~~Human Resources and the~~  
36 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
37 ~~Community Development~~] Environment, Health, and Natural Resources have declared  
38 to be feasible)."

39 Sec. 187. G.S. 162A-24(b) reads as rewritten:

40 "(b) The Department of Administration shall not make any advance pursuant to  
41 this section without first referring the application and proposal to the Department of  
42 ~~Human Resources, the State agency responsible for public water supplies,~~ Environment,  
43 Health, and Natural Resources for determination as to whether the following conditions  
44 ~~set forth below have been met. met. In making such determinations, the Department of~~

1 ~~Human Resources shall obtain and be guided by the recommendations of the~~  
2 ~~Department of Water and Air Resources [Department of Natural Resources and~~  
3 ~~Community Development] on matters for which that Department has responsibility by~~  
4 ~~law:~~

- 5 (1) The proposed area is suitable for development of a regional water  
6 supply system from the standpoint of present and projected  
7 populations, industrial growth potential, and present and future sources  
8 of raw water.
- 9 (2) The applicant proposes to undertake long-range comprehensive  
10 planning to meet present and projected needs for high quality water  
11 service through the construction of a regional water supply system as  
12 defined in this Article. The determination by the Department of  
13 ~~Human Resources~~ Environment, Health, and Natural Resources that  
14 the proposed system would be a 'regional system,' as defined by this  
15 Article, shall be conclusive.
- 16 (3) The applicant proposes to coordinate planning of the regional water  
17 supply with land-use planning in the area, in order that both planning  
18 efforts will be compatible.
- 19 (4) The applicant proposes to employ an engineer licensed to practice in  
20 the State of North Carolina to prepare a comprehensive regional water  
21 supply plan, which plan will provide detailed information on source or  
22 sources of water to meet projected domestic and industrial water  
23 demands; proposed system, including raw water intake(s), treatment  
24 plant, storage facilities, distribution system, and other waterworks  
25 appurtenances; proposed interconnections with existing systems, and  
26 provisions for interconnections with other county, municipal and  
27 regional systems; phased development of systems to achieve ultimate  
28 objectives if economic feasibility is in question; projected water  
29 service areas; proposed equipment; estimates of cost and projected  
30 revenues; and methods of financing."

31 Sec. 188. G.S. 162A-25 reads as rewritten:

32 "**§ 162A-25. Construction of Article.**

33 This Article shall be construed as providing supplemental authority in addition to the  
34 powers of the Department of ~~Human Resources~~ Environment, Health, and Natural  
35 Resources under ~~General Statutes Chapter 130, Chapter 130A and Articles 21 and 38 of~~  
36 Chapter 143 of the General Statutes, the powers of the North Carolina Utilities  
37 Commission under ~~General Statutes Chapter 62, Chapter 62 of the General Statutes,~~  
38 ~~and the powers of the Department of Water and Air Resources [Department of Natural~~  
39 ~~Resources and Community Development] under Articles 21 and 38 of General Statutes~~  
40 Chapter 143, and any other provisions of law concerning local and regional water  
41 supplies."

42 Sec. 189. G.S. 162A-29(a) reads as rewritten:

43 "(a) There is established under the control and direction of the Department of  
44 Administration a Regional Sewage Disposal Planning Revolving Fund, to consist of any

1 moneys that may be appropriated for use through the fund by the General Assembly or  
2 that may be made available to it from any other source. The Department may make  
3 advances from the fund to any county, municipality, or sanitary district, or to counties  
4 and municipalities acting collectively or jointly as a regional sewer authority, for the  
5 purpose of meeting the cost of advance planning and engineering work necessary or  
6 desirable for the development of a comprehensive plan for a regional sewage disposal  
7 system as defined in this Article. Such advances shall be subject to repayment by the  
8 recipient to the Department from the proceeds of bonds or other obligations for the  
9 regional sewage disposal system, or from other funds available to the recipient  
10 including grants, except when, in the judgment of the Department of ~~Water and Air~~  
11 ~~Resources~~ ~~[Department of Natural Resources and Community~~  
12 ~~Development]~~ Environment, Health, and Natural Resources, a proposed plan for  
13 development and construction of a countywide or other regional sewage disposal system  
14 is not feasible because of design and construction factors, or because of the effect that  
15 the sewage disposal system discharge will have upon water quality standards, or  
16 because construction of a proposed system is not economically feasible, (but not if the  
17 applicant decides not to proceed with construction that has been planned and which the  
18 Department of ~~Water and Air Resources~~ ~~[Department of Natural Resources and~~  
19 ~~Community Development]~~ Environment, Health, and Natural Resources has declared to  
20 be feasible)."

21 Sec. 190. G.S. 162A-29(b) reads as rewritten:

22 "(b) The Department of Administration shall not make any advance pursuant to  
23 this section without first referring the application and proposal to the ~~State Department~~  
24 ~~of Water and Air Resources~~ ~~[Department of Natural Resources and Community~~  
25 ~~Development]~~, Department of Environment, Health, and Natural Resources ~~the State~~  
26 ~~agency responsible for water pollution control,~~ for determination as to whether the  
27 following conditions set forth below have been met:

- 28 (1) The proposed area is suitable for development of a regional sewage  
29 disposal system from the standpoint of present and projected  
30 populations, industrial growth potential, and present and future sources  
31 of sewage.
- 32 (2) The applicant proposes to undertake long-range comprehensive  
33 planning to meet present and projected needs for high quality sewage  
34 disposal through the construction of a regional sewage disposal system  
35 as defined in this Article. The determination by the Department of  
36 ~~Water and Air Resources~~ ~~[Department of Natural Resources and~~  
37 ~~Community Development]~~ Environment, Health, and Natural  
38 Resources, that the proposed system would be a 'regional system,' as  
39 defined by this Article, shall be conclusive.
- 40 (3) The applicant proposes to coordinate planning of the regional sewage  
41 disposal system with land-use planning in the area, in order that both  
42 planning efforts will be compatible.
- 43 (4) The applicant proposes to employ an engineer licensed to practice in  
44 the State of North Carolina to prepare a comprehensive regional

1 sewage disposal plan, which plan will provide detailed information on  
2 the source or sources of sewage; the proposed system, including all  
3 facilities and appurtenances thereto for the collection, transmission,  
4 treatment, purification and disposal of sewage; any proposed  
5 interconnection with existing systems, and provisions for  
6 interconnections with other county, municipal and regional systems;  
7 the phased development of systems to achieve ultimate objectives if  
8 economic feasibility is in question; projected sewage disposal service  
9 areas; proposed equipment; estimates of cost and projected revenues;  
10 and methods of financing."

11 Sec. 191. The phrase "Natural Resources and Community Development" is  
12 deleted and replaced by the phrase "Environment, Health, and Natural  
13 Resources" wherever it occurs in each of the following sections of the General Statutes:

- 14 (1) G.S. 7A-343.1. Distribution of copies of the appellate division  
15 reports. ♦
- 16 (2) G.S. 14-131. Trespass on land under option by the federal  
17 government.
- 18 (3) G.S. 14-137. Willfully or negligently setting fire to woods and  
19 fields.
- 20 (4) G.S. 15A-1343. Conditions of probation.
- 21 (5) G.S. 20-81. Official license plates. ♦
- 22 (6) G.S. 47-30. Plats and subdivisions; mapping requirements. ♦
- 23 (7) G.S. 53A-2. Incorporation authorized; information to be set forth;  
24 purposes; powers generally.
- 25 (8) G.S. 58-27.30. State Fire Commission created; membership.
- 26 (9) G.S. 66-58. Sale of merchandise by governmental units.
- 27 (10) G.S. 68-43. Authority of Secretary of Natural Resources and  
28 Community Development to remove or confine ponies on  
29 Ocracoke Island and Shackelford Banks.
- 30 (11) G.S. 69-25.5. Methods of providing fire protection.
- 31 (12) G.S. 74-38. Commission to file copies of bylaws with Department  
32 of Natural Resources and Community Development.
- 33 (13) G.S. 74-49. Definitions.
- 34 (14) G.S. 74-53. Reclamation plan.
- 35 (15) G.S. 74-76. Definitions.
- 36 (16) G.S. 75A-5.1. Commercial fishing boats; renewal of number.
- 37 (17) G.S. 75A-17. Enforcement of Chapter.
- 38 (18) G.S. 76-40. Navigable waters; certain practices regulated.
- 39 (19) G.S. 77-13. Obstructing streams a misdemeanor.
- 40 (20) G.S. 77-14. Obstructions in streams and drainage ditches.
- 41 (21) G.S. 87-85. Definitions.
- 42 (22) G.S. 87-94. Civil penalties.
- 43 (23) G.S. 90A-37. Classification of wastewater treatment facilities.
- 44 (24) G.S. 90A-38. Grades of certificates.

- 1 (25) G.S. 90A-39. Operator qualifications and examination.  
2 (26) G.S. 90A-43. Promotion of training and other powers.  
3 (27) G.S. 100-2. Approval of memorials before acceptance by State;  
4 regulation of existing memorials, etc.; "work of art" defined;  
5 highway markers.  
6 (28) G.S. 100-11. Duties.  
7 (29) G.S. 100-12. Roads, trails, and fences authorized; protection of  
8 property.  
9 (30) G.S. 100-13. Fees for use of improvements; fees for other  
10 privileges; leases; rules and regulations.  
11 (31) G.S. 100-14. Use of fees and other collections.  
12 (32) G.S. 100-15. Annual reports.  
13 (33) G.S. 102-1.1. Name and description in relation to 1983 North  
14 American Datum.  
15 (34) G.S. 102-8. Administrative agency.  
16 (35) G.S. 102-10. Prior work.  
17 (36) G.S. 102-15. Improvement of land records.  
18 (37) G.S. 102-17. County projects eligible for assistance.  
19 (38) G.S. 104G-22. Inter-Agency Committee.  
20 (39) G.S. 105-122. Franchise or privilege tax on domestic and foreign  
21 corporations.  
22 (40) G.S. 105-130.10. Amortization of air-cleaning devices, waste  
23 treatment facilities and recycling facilities.  
24 (41) G.S. 105-130.34. Credit for certain real property donations.  
25 (42) G.S. 105-147. Deductions.  
26 (43) G.S. 105-151.12. Credit for certain real property donations.  
27 (44) G.S. 105-277.7. Use-Value Advisory Board.  
28 (46) G.S. 106-202.14. Creation of Board; membership; terms;  
29 chairman; quorum; board actions; compensation.  
30 (47) G.S. 106-202.17. Creation of committee; membership; terms;  
31 chairman; meetings; committee action; quorum; compensation.  
32 (48) G.S. 113-1. Meaning of terms.  
33 (49) G.S. 113-28.4. Oaths required.  
34 (50) G.S. 113-44.4. Definitions.  
35 (51) G.S. 113-44.9. Definitions.  
36 (52) G.S. 113-60.14. Compact Administrator; North Carolina  
37 members of advisory committee.  
38 (53) G.S. 113-60.15. Agreements with noncompact states.  
39 (54) G.S. 113-60.22. Definition.  
40 (55) G.S. 113-60.32. Definitions.  
41 (56) G.S. 113-60.33. Standby duty.  
42 (57) G.S. 113-77.6. (Expires June 30, 1989) Definitions.  
43 (58) G.S. 113-128. Definitions relating to agencies and their powers.  
44 (59) G.S. 113-389. Definitions.



- 1 (60) G.S. 113A-52. Definitions.  
2 (61) G.S. 113A-74. Appalachian Trails System; connecting or side  
3 trails; coordination with the National Trails System Act.  
4 (62) G.S. 113A-75. Assistance under this Article with the National  
5 Trails System Act (PL 90-543).  
6 (63) G.S. 113A-85. Definitions.  
7 (64) G.S. 113A-104. Coastal Resources Commission.  
8 (65) G.S. 113A-107. State guidelines for the coastal area.  
9 (66) G.S. 113A-112. Planning grants.  
10 (67) G.S. 113A-134.2. Creation of program; administration; purpose.  
11 (68) G.S. 113A-134.3. Standards for beach access program.  
12 (69) G.S. 113A-153. North Carolina Land Policy Council.  
13 (70) G.S. 113A-164.3. Definitions.  
14 (71) G.S. 113A-166. Rules.  
15 (72) G.S. 113A-167. Existing billboards.  
16 (73) G.S. 113A-169. Condemnation procedure.  
17 (74) G.S. 113A-170. Violation a misdemeanor; injunctive relief.  
18 (75) G.S. 113A-177. Statement of purpose.  
19 (76) G.S. 113A-178. Definitions.  
20 (77) G.S. 113A-183. Forest Development Fund.  
21 (78) G.S. 113A-193. Duties of Secretaries.  
22 (79) G.S. 113A-194. Assessment rates.  
23 (80) G.S. 113A-208. Regulation of mountain ridge construction by  
24 counties and cities.  
25 (81) G.S. 113A-212. Assistance to counties and cities under ridge law.  
26 (82) G.S. 113B-3. Composition of Council; appointments; terms of  
27 members; qualifications.  
28 (83) G.S. 120-150. Creation; appointment of members.  
29 (84) G.S. 120-161. Facilities and staff.  
30 (85) G.S. 122E-4. North Carolina Housing Partnership created;  
31 compensation; organization.  
32 (86) G.S. 126-5. Employees subject to Chapter; exemptions.  
33 (87) G.S. 136-21. Drainage of highway; application to court;  
34 summons; commissioners.  
35 (88) G.S. 136-44.12. Construction and maintenance of roads in areas  
36 administered by the Division of State Parks.  
37 (89) G.S. 136-102.3. Filing record of results of test drilling or boring  
38 with Secretary of Administration and Secretary of Natural  
39 Resources and Community Development.  
40 (90) G.S. 139-5. Creation of soil and water conservation districts.  
41 (91) G.S. 139-7. District board of supervisors – appointive members;  
42 organization of board; certain powers and duties.  
43 (92) G.S. 139-8. Powers of districts and supervisors.  
44 (93) G.S. 139-13. Discontinuance of districts.

- 1 (94) G.S. 139-46. Recreational and related aspects of watershed  
2 improvement programs.
- 3 (95) G.S. 143-116.8. Motor vehicle laws applicable to State Parks and  
4 forests road system.
- 5 (96) G.S. 143-166.2. Definitions.
- 6 (97) G.S. 143-166.7. Applicability of Article.
- 7 (98) G.S. 143-166.13. Persons entitled to benefits under Article.
- 8 (99) G.S. 143-169. Limitations on publications.
- 9 (100) G.S. 143-177.3. Sources of funds.
- 10 (101) G.S. 143-211. Declaration of public policy.
- 11 (102) G.S. 143-212. Definitions applicable to Article.
- 12 (103) G.S. 143-215.3A. Use of application and permit fees.
- 13 (104) G.S. 143-215.3B. Wastewater Treatment Works Emergency  
14 Maintenance, Operation and Repair Fund.
- 15 (105) G.S. 143-215.16. Permits for water use within capacity use areas  
16 – duration, transfer, reporting, measurement, present use, fees and  
17 penalties.
- 18 (106) G.S. 143-215.18. Map or description of boundaries of capacity  
19 use areas.
- 20 (107) G.S. 143-215.40. Resolutions and ordinances assuring local  
21 cooperation.
- 22 (108) G.S. 143-215.70. Secretary of Natural Resources and Community  
23 Development authorized to accept applications.
- 24 (109) G.S. 143-215.77. Definitions.
- 25 (110) G.S. 143-240. Creation of Wildlife Resources Commission;  
26 districts; qualifications of members.
- 27 (111) G.S. 143-243. Organization of the Commission; election of  
28 officers; Robert's Rules of Order.
- 29 (112) G.S. 143-286.1. Nutbush Conservation Area.
- 30 (113) G.S. 143-289. Contributions from certain counties and  
31 municipalities authorized; other grants or donations.
- 32 (114) G.S. 143-323. Functions of Department of Natural Resources and  
33 Community Development.
- 34 (115) G.S. 143-350. Definitions.
- 35 (116) G.S. 143-355. Transfer of certain powers, duties, functions and  
36 responsibilities of the Department of Conservation and  
37 Development and of the Director of said Department.
- 38 (117) G.S. 143-370. Commission created; membership.
- 39 (118) G.S. 143A-11. Principal departments.
- 40 (119) G.S. 143B-2. Interim applicability of the Executive Organization  
41 Act of 1973.
- 42 (120) G.S. 143B-6. Principal departments.
- 43 (121) G.S. 143B-86. America's Four Hundredth Anniversary  
44 Committee – members; selection; quorum; compensation.

- 1 (122) G.S. 143B-115. John Motley Morehead Memorial Commission –  
2 members; selection; quorum; compensation.
- 3 (123) G.S. 143B-130. Roanoke Voyages and Elizabeth II Commission –  
4 powers and duties.
- 5 (124) G.S. 143B-131. Roanoke Voyages and Elizabeth II Commission –  
6 members; terms; vacancies; expenses; officers.
- 7 (125) G.S. 143B-181. Governor's Advisory Council on Aging –  
8 members; selection; quorum; compensation.
- 9 (126) G.S. 143B-280. Board of Natural Resources and Community  
10 Development – duties; members; selection; meetings; quorum;  
11 compensation; services.
- 12 (127) G.S. 143B-281. Wildlife Resources Commission – transfer;  
13 independence preserved; appointment of Executive Director and  
14 employees.
- 15 (128) G.S. 143B-282. Environmental Management Commission –  
16 creation; powers and duties.
- 17 (129) G.S. 143B-283. Environmental Management Commission –  
18 members; selection; removal; compensation; quorum; services.
- 19 (130) G.S. 143B-289.2. Definitions.
- 20 (131) G.S. 143B-289.3. Marine Fisheries Commission – creation;  
21 purpose and transfer of function.
- 22 (132) G.S. 143B-289.4. Marine Fisheries Commission – powers and  
23 duties.
- 24 (133) G.S. 143B-289.5. Marine Fisheries Commission – members;  
25 selection; removal; compensation; quorum; services.
- 26 (134) G.S. 143B-289.11. Jurisdictional questions.
- 27 (135) G.S. 143B-289.12. Rules of Department continued.
- 28 (136) G.S. 143B-295. Soil and Water Conservation Commission –  
29 members; selection; removal; compensation; quorum; services.
- 30 (137) G.S. 143B-298. Sedimentation Control Commission – creation;  
31 powers and duties.
- 32 (138) G.S. 143B-299. Sedimentation Control Commission – members;  
33 selection; compensation; meetings.
- 34 (139) G.S. 143B-301. Wastewater Treatment Plant Operators  
35 Certification Commission – members; selection; removal;  
36 compensation; quorum; services.
- 37 (140) G.S. 143B-305. Community Development Council – creation;  
38 powers and duties.
- 39 (141) G.S. 143B-306. Community Development Council – members;  
40 chairman; selection; removal; compensation; quorum; services.
- 41 (142) G.S. 143B-308. Forestry Council – creation; powers and duties.
- 42 (143) G.S. 143B-309. Forestry Council – members; chairman; selection;  
43 removal; compensation; quorum; services.

- 1 (144) G.S. 143B-311. Parks and Recreation Council – creation; powers  
2 and duties.
- 3 (145) G.S. 143B-312. Parks and Recreation Council – members;  
4 chairman; selection; removal; compensation; quorum; services.
- 5 (146) G.S. 143B-317. Air Quality Council – creation; powers and  
6 duties.
- 7 (147) G.S. 143B-318. Air Quality Council – members; chairman;  
8 selection; removal; compensation; quorum; services.
- 9 (148) G.S. 143B-333. North Carolina Trails Committee – creation;  
10 powers and duties.
- 11 (149) G.S. 143B-334. North Carolina Trails Committee – members;  
12 selection; removal; compensation.
- 13 (150) G.S. 143B-335. North Carolina Zoological Park Council –  
14 creation; powers and duties.
- 15 (151) G.S. 143B-336. North Carolina Zoological Park Council –  
16 members; selection; removal; chairman; compensation; quorum;  
17 services.
- 18 (152) G.S. 143B-407. North Carolina State Commission of Indian  
19 Affairs – membership; term of office; chairman; compensation.
- 20 (153) G.S. 143B-411.1. North Carolina Advisory Council on the  
21 Eastern Band of the Cherokee – creation; membership; terms of  
22 office.
- 23 (154) G.S. 143B-417. North Carolina Internship Council – creation;  
24 powers and duties.
- 25 (155) G.S. 143B-426.22. Governor's Management Council.
- 26 (156) G.S. 143B-437. Investigation of impact of proposed new and  
27 expanding industry.
- 28 (157) G.S. 146-8. Disposition of mineral deposits in State lands under  
29 water.
- 30 (158) G.S. 146-30. Application of net proceeds.
- 31 (159) G.S. 148-26. State policy on employment of prisoners.
- 32 (160) G.S. 156-59. Board of viewers appointed by clerk.
- 33 (161) G.S. 156-74. Adjudication upon final report.
- 34 (162) G.S. 156-76. Compensation of board of viewers.
- 35 (163) G.S. 156-83. Superintendent of construction.
- 36 (164) G.S. 161-22.2. Parcel identifier number indexes.
- 37 Sec. 192. The phrase "Human Resources" is deleted and replaced by the  
38 phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the  
39 following sections of the General Statutes:
- 40 (1) G.S. 20-4.01. Definitions.
- 41 (2) G.S. 20-139.1. Procedures governing chemical analyses;  
42 admissibility; evidentiary provisions; controlled-drinking  
43 programs.

- 1 (3) G.S. 48-29. Change of name; report to State Registrar; new birth  
2 certificate to be made.
- 3 (4) G.S. 48-36. Adoption of persons who are 18 or more years of age;  
4 change of name; clerk's certificate and record; notation on birth  
5 certificate; new birth certificate.
- 6 (5) G.S. 51-11. Who may execute certificate; form.
- 7 (6) G.S. 75-6. Violation a misdemeanor; punishment.
- 8 (7) G.S. 90A-21. Water Treatment Facility Operators Board of  
9 Certification.
- 10 (8) G.S. 90A-22. Classification of water treatment facilities;  
11 notification of users.
- 12 (9) G.S. 90A-23. Grades of certificates.
- 13 (10) G.S. 90A-24. Operator qualifications and examination.
- 14 (11) G.S. 90A-28. Promotion of training and other powers.
- 15 (12) G.S. 90A-30. Penalties; remedies; contested cases.
- 16 (13) G.S. 95-126. Short title and legislative purpose.
- 17 (14) G.S. 95-131. Development and promulgation of standards;  
18 adoption of federal standards and regulations.
- 19 (15) G.S. 97-61.1. First examination of and report on employee having  
20 asbestosis or silicosis.
- 21 (16) G.S. 104E-5. Definitions.
- 22 (17) G.S. 104E-7. Radiation Protection Commission – Creation and  
23 powers.
- 24 (18) G.S. 104E-8. Radiation Protection Commission – Members;  
25 selections; removal; compensation; quorum; services.
- 26 (19) G.S. 104E-9. Powers and functions of Department of Human  
27 Resources.
- 28 (20) G.S. 104E-10.1. Additional requirements for low-level  
29 radioactive waste facilities.
- 30 (21) G.S. 104E-15. Transportation of radioactive materials.
- 31 (22) G.S. 104E-17. Payments to State and local agencies.
- 32 (23) G.S. 104E-24. Administrative penalties.
- 33 (24) G.S. 104F-4. Advisory Committee.
- 34 (25) G.S. 104G-11. Technology, license application, and  
35 environmental impact statement.
- 36 (26) G.S. 104E-13. Administrative procedures and judicial review.
- 37 (27) G.S. 105-122. Franchise or privilege tax on domestic and foreign  
38 corporations.
- 39 (27a) G.S. 105-130.10. Amortization of air-cleaning devices, waste  
40 treatment facilities and recycling facilities.
- 41 (28) G.S. 105-147. Deductions.
- 42 (29) G.S. 105-275. Property classified and excluded from the tax base.
- 43 (30) G.S. 106-168.5. Duties of Commissioner upon receipt of  
44 application; inspection committee.

- 1 (31) G.S. 106-266.6. Definitions.  
2 (32) G.S. 115C-522. Provision of equipment for buildings.  
3 (33) G.S. 130A-310.8. Recordation of inactive hazardous substance or  
4 waste disposal sites.  
5 (34) G.S. 143-300.8. Defense of local sanitarians.  
6 (35) G.S. 148-10. Department of Human Resources to supervise  
7 sanitary and health conditions of prisoners.  
8 (36) G.S. 162A-33. Procedure for creation; resolutions and petitions  
9 for creation; notice to and action by Commission for Health  
10 Services; notice and public hearing; resolutions creating districts;  
11 actions to set aside proceeding.  
12 (37) G.S. 162A-35. Procedure for inclusion of additional political  
13 subdivision or unincorporated area; notice and hearing; elections;  
14 actions questioning validity of elections.  
15 (38) G.S. 166A-6.1. Emergency planning; charge.

16 Sec. 193. All statutory authority, powers, duties, functions, records,  
17 personnel, property, and unexpended balances of appropriations or other funds of any  
18 agency which is transferred pursuant to this act shall be transferred in their entirety.  
19 Any transfer affecting any agency to which this act applies which is not authorized by  
20 this act, including any transfer under subdivision (10) of Section 5 of Article III of the  
21 Constitution of North Carolina, is hereby specifically disapproved and is void.

22 Sec. 194. (a) The Environmental Review Commission may continue the  
23 study of environmental agency consolidation and reorganization. The study of  
24 environmental agency consolidation shall include, but is not limited to:

- 25 (1) Monitoring the implementation of this act;  
26 (2) Evaluation of the organization, programs, and operation of the  
27 Department of Environment, Health, and Natural Resources;  
28 (3) Evaluation of the organization, functions, powers, and duties of the  
29 components of the Department of Environment, Health, and Natural  
30 Resources, including boards, commissions, councils, and regional  
31 offices; and  
32 (4) Recodification of the General Statutes relating to the environment and  
33 environmental agencies.

34 (b) Notwithstanding any rule or resolution to the contrary, proposed  
35 legislation to implement any recommendation made by the Environmental Review  
36 Commission may be introduced and considered during any session of the General  
37 Assembly.

38 Sec. 195. This act shall not be construed to obligate the General Assembly to  
39 make any appropriation to implement the provisions of this act. Each department and  
40 agency to which this act applies shall implement the provisions of this act from funds  
41 otherwise appropriated to that department or agency.

42 Sec. 196. This act shall become effective 1 July 1989.